City Council Meeting

August 4, 2026 – Agenda

City Hall, 920 SE Cedar Falls Way, North Bend, Washington

7:00 PM – Call to Order, Roll Call, Flag Salute

Approval of August 4, 2026 Agenda

Consent Agenda:

1) **Minutes**
   a) City Council Meeting of July 21, 2026
2) **Payroll**
   a) **July 20, 2026 – 79215** through **79218,** in the amount of **$395,033.72**
3) **Checks**
   a) **August 4, 2026 – 79219** through **79267,** in the amount of **$602,859.90**
4) **AB26-063 -** Ordinance Authorizing Franchise Agreement with Comcast — Tom Mohr
5) **AB26-064 -** Ordinance Authorizing Franchise Agreement with Level 3 Communications — Tom Mohr
6) **AB26-065 -** Motion Authorizing Schedule 51 Lighting Removal Agreement with PSE for NB Way/NW 8th Street Roundabout Project — Tom Mohr
7) **AB26-066 -** Motion Authorizing 1st Amendment to FCS Group/Bowman Contract for Non-Residential Impact Fee Update — Martin Chaw
8) **AB26-067 -** Motion Authorizing 2026 Blanket Purchase Orders — Elaine Morse

Audience Participation: (Please restrict comments to 3 minutes)

Announcements, Presentations, Appointments:

9) **AB26-068 -** Youth Appointment to Parks Commission — Mayor Miller

Mayor, Council & Administrator Concerns and Initiatives: (Business and general information presented that may be deliberated upon by the Council. Formal Action may be deferred until a subsequent meeting; immediate action may be taken upon a vote of a majority of all members of the Council.)

Adjournment:

***Please Note:** Members of the public may choose to attend the meeting in person or by teleconference. Members of the public attending the meeting in-person will have an opportunity to provide public comment and if attending the meeting by teleconference may submit written comments via in-person drop off, mail, fax, or e-mail to Clerks@northbendwa.gov. All written comments must be received by 5 p.m. on the day of the scheduled meeting and may not exceed 350 words. If an individual requires accommodation to allow for remote oral comment because of a difficulty attending a meeting of the governing body, the City requests notice of the need for accommodation by 5:00 p.m. on the day of the scheduled meeting. Participants can request accommodation to be able to provide a remote oral comment by contacting the City Clerk's Office in person, by phone (425) 888-1211 or by email: Clerks@northbendwa.gov. No other remote public comment will be permitted.

Those wishing to access the meeting by teleconference will be required to have a registered Zoom account and display your full name to be admitted to the online meeting.

Zoom Meeting Information:
To Sign Up for a Zoom Account: https://zoom.us/join
Meeting ID: 409 007 2718
Call In Phone Number: 1-253-215-8782

NORTH BEND CITY COUNCIL MINUTES
July 21, 2026
City Hall, 920 SE Cedar Falls Way, North Bend, Washington

CALL TO ORDER, ROLL CALL:

Mayor Miller called the regular meeting to order at 7:00 p.m.

Councilmembers Present: Joselyn, Koellen, Rustik, Torguson and Tremolada. Councilmembers Elwood & McFarland were excused.

Councilmember Joselyn **MOVED,** seconded by Councilmember Rustik to approve the July 21, 2026 City Council meeting agenda. The motion **PASSED** 5-0.

Mayor Miller announced AB26-060 – Motion Authorizing Amendment No. 5 with Perteet (Ardurra) for Floodplain Management Support would be pulled from the Consent Agenda and placed on the Main Agenda for discussion.

CONSENT AGENDA:

Minutes – City Council Meeting of June 16, 2026 & City Council Workstudy of June 23, 2026
Payroll – June 18, 2026 – 79070 through **79073,** in the amount of **$303,289.14**
Payroll – July 2, 2026 – 79076 through **79079, 79142** through **79148**, in the amount of **$358,281.22**
Checks – July 7, 2026 – 79074 through **79075, 79080** through **79138,** in the amount of **$1,425,593.08**
Checks – July 21, 2026 – 79149 through **79214,** in the amount of **$1,445,693.43**
AB26-059 – Ordinance 1858 Authorizing Franchise Agreement with Forged Fiber 37, LLC

Councilmember Joselyn **MOVED,** seconded by Councilmember Rustik to approve the consent agenda as amended. The motion **PASSED** 5-0.

AUDIENCE PARTICIPATION:

Debra Landers, North Bend Art & Industry, shared the July monthly events and reported on the STEM summer camp program funded by a 4Culture grant that started this week.

Melissa Castillo, North Bend Art & Industry, provided an update on the Art in Nature Walk which features multiple art installation along the Snoqualmie Valley Trail in North Bend, Fall City and Carnation.

COMMISSION AND COMMITTEE REPORTS:

SnoValley Chamber of Commerce
Councilmember Torguson provided an update on Chamber activities.

Community & Economic Development Committee
Chair Councilmember Torguson provided a report of the July 21st meeting.

Public Health & Safety Committee
No report. The July 7th meeting was cancelled.

Transportation & Public Works Committee
Chair Councilmember Koellen provided a report of the June 23rd meeting.

Finance & Administration Committee
Chair Councilmember Rustik provided a report of the July 16th meeting.

Eastside Fire & Rescue Board Meeting
Councilmember Rustik provided a report of the July 9th meeting.

Council Workstudy
Mayor Pro Tem Tremolada provided a report of the June 23rd Workstudy.

Economic Development Commission
Senior Planner Burrell provided a report of the June 25th meeting.

Planning Commission
Senior Planner Burrell provided a report of the July 1st meeting.

Parks Commission
Senior Planner Burrell provided a report of the June 17th meeting.

Sound Cities Association Public Issues Committee
Councilmember Joselyn provided a report of the July 8th meeting.

INTRODUCTIONS:

AB26-061 – Ordinance Authorizing Franchise Agreement with Comcast **Audio: 21:51**

Public Works Director Mohr provided the staff report.

Councilmember Koellen **MOVED,** seconded by Councilmember Joselyn to approve AB26-061, setting for a second reading and consideration by the City Council the ordinance to approve a Franchise Agreement with Comcast Cable Communications Management, LLC at the regularly scheduled August 4, 2026, City Council meeting. The motion **PASSED** 5-0.

AB26-062 – Ordinance Authorizing Franchise Agreement with Level 3 Communications **Audio: 25:14**

Public Works Director Mohr provided the staff report.

Councilmember Koellen **MOVED,** seconded by Councilmember Joselyn to approve AB26-062, setting for a second reading and consideration by the City Council the ordinance to approve a Franchise Agreement with Level 3 Communications, LLC at the regularly scheduled August 4, 2026, City Council meeting. The motion **PASSED** 5-0.

AB26-060 – Motion Authorizing Amendment No. 5 with Perteet for Floodplain Management Support **Audio: 27:36**

Councilmember Joselyn **MOVED,** seconded by Councilmember Rustik to approve AB26-060, authorizing amendment No. 5 to the contract with Perteet for Floodplain Management Support Services, in a form and content acceptable to the City Attorney, in an amount not to exceed $50,000. The motion **PASSED** 5-0.

MAYOR, COUNCIL, AND ADMINISTRATOR CONCERNS AND INITIATIVES:

Councilmember Joselyn commented on the July 10th Haystack Festival and the July 18th Block Party and acknowledged staff and the city for all of their efforts bringing people into Downtown North Bend.

Councilmember Tremolada thanked Police Chief Hall for his response regarding a recent incident in his neighborhood and encouraged all to report suspicious activity to the police. Additionally, he commented on a recent e-bike incident in the city and mentioned Council might want to consider revisiting the issue in the future and concluded by sharing statistics related to mental health and reminded everyone of the importance of staying in touch with family and friends.

Councilmember Rustik echoed Councilmember Joselyn's comments regarding the Block Party and remarked on the Car Show which took place the next day.

Councilmember Koellen thanked the King County Sheriff's Office for encouraging local youth to wear helmets while riding e-scooters with their Safe Rider Citation Program. Additionally, she provided some helpful hints to those that encounter bears and encouraged all hiking in the area to stay on designated trails.

Councilmember Torguson echoed fellow Councilmember's comments regarding the Block Party and Car Show and noted The Trail Youth Coffee Home was now open at 8 a.m.

Additionally, she reported receiving public input regarding parking in town and suggested the city consider installing wayfinding signs for parking.

Acting City Administrator Chaw extended a thank you to staff on behalf of City Administrator Emery for setup and cleanup of the Block Party, working with FEMA for reimbursement of the 2025 floods, Administrative Services team for rollout of the Civic Clerk Agenda Management Portal, Administrative Services and Finance teams for the NeoGov Payroll Software, and Finance team for rollout of the Business and Occupation Tax Online Portal.

Mayor Miller spoke regarding the following items:

- Wildfire Ready Toolkits for homeowners
- Comp Plan cycle for public amendment proposals open through October 15th
- Yard Waste Recycling Program – July 25th 8 a.m. to Noon @ Public Works
- Acknowledgement of volunteers for recent events
- Current heat wave

ADJOURNMENT:

Councilmember Joselyn **MOVED** to adjourn, seconded by Councilmember Torguson. The motion **PASSED** 5-0.

The meeting adjourned at 7:39 p.m.

ATTEST:

Mary Miller, Mayor	Susie Oppedal, City Clerk

City Council Agenda Bill

Agenda Date:	**August 4, 2026**	**AB26-063**	
Subject:	**AB26-063 -** Ordinance Authorizing Franchise Agreement with Comcast		
Department/ Committee/ Individual:	Tom Mohr, Director	Cost Impact:	N/A
		Fund Source:	N/A
		Timeline:	Immediate

Attachments:
1. Ordinance Authorizing Franchise Agreement with Comcast
2. Exhibit A - Franchise Agreement with Comcast

Summary Statement:

In October 1999, the North Bend City Council adopted Ordinance No. 1081 granting a 10-year franchise agreement to TCI Cablevision of Washington, Inc., now Comcast Cable Communications Management LLC, The franchise, which expired in 2009, authorized Comcast to use city streets and other public rights of way for its poles, wires, lines, conduits, cables and accessory facilities to sell and distribute their systems. Since 2009, the city and Comcast have continued to operate in compliance with the franchise agreement. Comcast has continued to remit franchise fees to the city in an amount equal to 5% of gross annual revenues, which has averaged approximately $115,000 annually over the past 10 years.

The city's authority to grant and administer a cable franchise is governed by both state and federal law. Under Washington law, local governments may impose franchise fees and regulate the use of public rights-of-way only to the extent authorized by statute. Specifically, RCW 35.21.860 and RCW 35.99.040 limit the fees, charges, and requirements that may be imposed on telecommunications and cable providers. Federal law also restricts local authority in this area. Under 47 U.S.C. § 253, local regulations may not prohibit or have the effect of prohibiting the provision of telecommunications services, and 47 U.S.C. § 542(b) limits cable franchise fees to five percent (5%) of a cable operator's gross revenues derived from cable services. The proposed franchise agreement has been drafted to comply with these state and federal requirements while preserving the city's authority to manage its rights-of-way and collect lawful franchise fees.

The most significant changes from the 2009 franchise to the new franchise are as follows:

- Definitions – the previous franchise contained 17 defined terms and the new franchise contains 40 defined terms
- I-Net: in the previous franchise, Comcast I-Net provided services to city buildings and property. Following the expiration of the old franchise, the city contracted directly with King County I-Net for service to city buildings and property
- New 10-year term, with three five-year renewals

Comcast management and legal staff have reviewed and approved the attached franchise agreement.

The first reading of the Comcast Franchise Agreement occurred during the July 21, 2026 City Council meeting. A second and final reading is scheduled for the August 4, 2026 City Council meeting.

Applicable Brand Guidelines:

- Consistent delivery of quality basic services

Committee Review and Recommendation:

This item was reviewed by the Transportation and Public Works Committee during their June 23, 2026 meeting and was recommended for approval and placement on the Main Agenda for the July 21, 2026 City Council meeting and Consent Agenda for the second reading at the August 4, 2026 City Council meeting.

Recommended Action:

Motion to approve AB26-063, an ordinance authorizing a Franchise Agreement with Comcast Cable Communications Management, LLC, as a second and final reading.

Record of Council Action:

Meeting Date	Action	Vote
July 21, 2026	AB26-061 - 1st Reading & Cont. to 8/4/26 CC	5-0
August 4, 2026		

ORDINANCE

AN ORDINANCE OF THE CITY OF NORTH BEND, WASHINGTON, GRANTING A FRANCHISE TO COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, Comcast Cable Communications Management, LLC has requested a franchise with the City of North Bend; and

WHEREAS, attached hereto as Exhibit A is the franchise negotiated between the City of North Bend and Comcast Cable Communications Management, LLC; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Adoption: The City Council hereby approves and adopts the franchise set forth in Exhibit A attached hereto and by this reference fully incorporated herein.

Section 2. Severability: Should any section, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 3. Effective Date: This ordinance shall be published in the official newspaper of the City and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 4TH DAY OF AUGUST, 2026.

CITY OF NORTH BEND:

____

Mary Miller, Mayor

APPROVED AS TO FORM:

____

Kendra Rosenberg, City Attorney

ATTEST/AUTHENTICATED:

____

Susie Oppedal, City Clerk

Published:
Effective:

EXHIBIT A

<u>Table of Contents</u>.

EXHIBIT A

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ARTICLE 1. DEFINITIONS.

For the purposes of this Franchise and the Exhibits attached hereto, the following terms, phrases, words and their derivations where capitalized have the meanings given herein. Words not defined herein have the meaning given pursuant to such federal or State statutes, rules, or regulations that apply to and regulate the services provided by Grantee. Words not otherwise defined have their common and ordinary meaning. 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. The word "shall" is always mandatory and not merely directory. References to governmental entities (whether persons or entities) refer to those entities or their successors in authority. If specific provisions of law, regulation, or rule referred to herein are renumbered, then the reference is intended to refer to the renumbered provision.

"Access" or "Access Programming" includes Governmental Access 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.

"Access Channel" means any Channel or portion thereof, designated for Noncommercial Access purposes or otherwise made available to facilitate Access programming.

"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.

"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.

"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.

"Basic Service" means any Cable Service Tier that includes, at a minimum, the retransmission of local television Broadcast Signals.

"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.

"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.

EXHIBIT A

"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.

"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.

"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.

"Capital Contribution" means a fee required by this Franchise for government access facilities pursuant to 47 U.S.C 542(g)(2)(C).

"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.

"City" means the City of North Bend, Washington, a municipal corporation, of the State of Washington.

"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 Customer questions, receiving and processing payments, or performing other Customer service-related tasks.

"Designated Access Provider" means the entity or entities designated by the City to manage or co-manage Public, Educational or Governmental Access Channels and facilities. The City may be a Designated Access Provider.

"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.

"Expanded Basic Service" means cable programming services not included in the Basic Service and excluding premium or pay-per-view services.

"FCC" means the Federal Communications Commission or its lawful successor.

"Fiber Optic" means a transmission medium of optical fiber cable, along with all associated electronics and equipment capable of carrying electric Lightwave pulses.

"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.

"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.

"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:

> 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 Subscribers);
>
> Capital costs that are required by this Franchise to be incurred by Grantee for Educational or Governmental Access facilities, including the support required in Section 9.5;
>
> Requirements or charges incidental to the awarding or enforcing of this Franchise, including but not limited to, payments for bonds, security funds, letters of credit, insurance, indemnification, penalties or liquidated damages; or
>
> Any fee imposed under Title l7, United States Code.

"Governmental Access" means Access where governmental institutions, or their designees are the primary users having editorial control over programming and services.

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

"Gross Revenues" means any and all revenue 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 as calculated in accordance with Generally Accepted Accounting Principles ("GAAP"). Gross Revenues include, by way of illustration and not limitation, monthly and other fees charged Subscribers for Cable Services including Basic Service, Expanded 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 and recognized as revenue under GAPP, 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 (i) 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; or (ii) 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 (iii) fees imposed by any municipality, state, or other governmental unit on Grantee, including but not limited to Educational and Governmental (EG) Fees. 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.

"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, equipment for the interconnection of the System with adjacent Systems and interconnection of any networks which are part of the System, and all other related equipment and facilities.

"Leased Access Channel" means any Channel or portion of a Channel commercially available for programming in accordance with Section 612 of the Cable Act.

EXHIBIT A

"Locally Scheduled Original Programming" means Governmental Access or Educational Access programming that is created by the City or their designated access provider(s) including edited coverage of live programming. Such Locally Scheduled Original Programming shall not be considered as qualifying as such programming after three (3) cablecasts (initial, first repeat and second repeat). Automated Video Programming filler, such as cablecasts of highways and roads, or video bulletin boards does not constitute Locally Scheduled Original Programming that qualifies herein.

"Noncommercial" means, in the context of Access Channels, those particular products and services that are not promoted or sold. This term shall not be interpreted to prohibit an Access Channel operator or programmer from soliciting and receiving contributions used to produce and transmit Video Programming on an Access Channel, or from acknowledging a contribution, in the manner of the Corporation for Public Broadcasting or some similar manner, subject to applicable law.

"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.

"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.

"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.

"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.

"Public Rights-of-Way" means the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, way, lane, public way, drive, circle, or other public right-of-way now or hereafter held by the City under any form of ownership or property right, within the corporate boundaries of the City as now or hereafter constituted for the purpose of public travel, and over which the City has authority to grant permits, licenses, or franchises for use thereof, or has regulatory authority over. "Public Rights-of-Way" also includes, but is not limited to, utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses, as per applicable federal law, now or hereafter held by the City in the Franchise Area, but excludes railroad rights-of-way, airports, harbor areas, buildings, parks, poles, conduits, and such similar facilities or property owned, maintained, or leased by the City in its proprietary capacity or as an operator of a utility.

"Service Interruption" means the loss of picture or sound on one or more Channels.

"State" means the State of Washington.

"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.

"Tier" means a category of Cable Services provided by Grantee for which a separate rate is charged.

"Video Programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station, or cable programming provider.

ARTICLE 2. FRANCHISE GRANT.

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 Public 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 Public Rights-of-Way; it does not provide Grantee any interest in any particular location within the Public Rights-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, Public Rights-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. 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 City ordinances provided that in the event of a conflict between the provisions of ordinances and this Franchise, the express provisions of this 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 Public Rights-of-Way users in connection with operations on or in Public 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.

2.2 Use of Public 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, though, below and along the Public 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 Public 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 Public Rights-of-Way, including the specific location of facilities in the Public Rights-of-Way. Grantee must in any event install Cable System facilities in a manner that minimizes interference with the use of the Public 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 Public 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 Public 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 Public 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 ten (10) years from and after the effective date of this Franchise, as specified in Article 19, subject to acceptance of this Franchise by Grantee pursuant to Section 18.16. This Franchise will automatically renew for three (3) additional five-year terms (resulting in a total term of 25 years) unless either party requests in writing to renegotiate any terms or conditions of this Franchise at least one (1) year prior to the expiration date of the then-current term. In the event such request to renegotiate is made by a party, this Franchise will not automatically renew, and the parties agree to negotiate in good faith to revise the relevant terms or conditions within one (1) year of the request, or such other period as the parties may mutually agree. If the parties are unable to reach agreement on the requested revisions, the City and Grantee shall renew this Franchise to comply with the provisions of Section 626 of the Cable Act, unless the procedures and substantive protections set forth therein shall be deemed to be preempted and superseded by the provisions of any subsequent provision of federal or State law.

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, Public Rights-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 Public 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 and support; 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 provide notice of such application to Grantee.

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, 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 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; and (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 this Franchise, Grantee:

(1) Acknowledges and accepts the City's legal right to issue and enforce this 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 this 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 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, to the extent that the exercise of such authority does not directly contravene any provision of this Franchise. 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 Public Rights-of-Way.

ARTICLE 3. FRANCHISE FEE AND FINANCIAL CONTROLS.

3.1 Franchise Fee.

As compensation for the use of the Public 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%) 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 forth-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 Payments.

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 and shall be drafted in accordance with GAAP.

3.4.2 Grantee shall, upon request and 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 $12,500 for the first year of the audit and $5,000 for the next two years of the audit period.

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 thirty (30) 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 the City to collection of a Franchise Fee of five percent (5%) of Gross Revenues in any twelve (12) month period. In the event that at any time throughout the term of this Franchise, the City is authorized to collect an amount in excess of five percent (5%) of Gross Revenues in any twelve (12) month period, the parties hereby agree to amend this Franchise after written notice to Grantee, and a public meeting to discuss same, provided that all wireline cable systems in the Franchise Area over which the City has jurisdiction are treated in an equivalent manner. In the event that at any time throughout the term of this Franchise, the City is limited by federal law to collecting an amount which is less than five percent (5%) of Gross Revenues in any twelve (12) month period, Grantee may reduce the Franchise Fee payments to the City in accordance with federal law and the parties hereby agree to amend this Franchise unless the City would be covered under grandfathered provisions under federal law to keep the Franchise Fee at five percent (5%) of Gross Revenues.

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 federal, State or local law including, without limitation, sales, use, utility, property, permits and other taxes, or business license fees.

ARTICLE 4. ADMINISTRATION AND REGULATION.

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.

4.1 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.

4.2 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, to the extent required by applicable law. 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 data transmission to governmental agencies or educational institutions; or

(4) The offering of bulk discounts for Multiple Dwelling Units.

4.3 Filing of Rates and Charges.

Upon request by the City throughout the term of this Franchise, 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.

4.4 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.

4.5 Performance Evaluation.

4.5.1 Special evaluation sessions may be held at any time upon request by the City during the term of this Franchise.

4.5.2 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. The City may notify Subscribers of evaluation sessions by announcement on its Access Channel.

4.5.3 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.

4.5.4 Grantee agrees to participate in such special evaluation sessions described in this Section 4.5.

4.6 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.

4.7 Late Fees.

4.7.1 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.

4.7.2 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.

ARTICLE 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, board members, commissioners, authorized agents, representatives, and employees, harmless from any action or claim for bodily injury, property 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 but not limited to 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 act 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, authorized agents, board members, commissioners, and employees, harmless for any damages, claims, additional costs, or expenses payable by the City related to, arising out of, or resulting from Grantee's failure to remove, adjust or relocate any of its facilities in the Public Rights-of-Way in a timely manner in accordance with any lawful relocation required by the City. Pursuant to subsection 5.1.1, the provisions of this subsection 5.1.2 shall specifically include, but are not limited to, claims for delay, damages, costs, and/or time asserted by any contractor 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 bodily injury, property damage, loss, liability, cost and expense, including attorneys' fees and expenses in any way arising out of any failure by Grantee to secure consent 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.

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 otherwise 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 subsection 5.1.9 have been mutually negotiated by the parties hereto.

5.1.10 Concurrent Negligence. Should a court of competent jurisdiction determine that a particular activity conducted under this Franchise is subject to RCW 4.24.115, this Section 5.1.10 shall apply in that instance. 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. Grantee shall maintain in full force and effect at its own cost and expense each of the following policies of insurance:

(1) Commercial General Liability coverage for bodily injury, and property damage with limits of no less than five million dollars ($5,000,000) per occurrence, five million dollars ($5,000,000) 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, stop gap liability, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract. There shall be no exclusion of the Commercial General Liability insurance for liability arising from explosion, collapse or underground property damage. The City shall be named 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 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing equivalent coverage.

(2) Commercial Automobile Liability Insurance with combined single limits of at least two million dollars ($2,000,000) each occurrence and five million dollars ($5,000,000) aggregate with respect to each of Grantee's owned vehicles, hired and non-owned vehicles, or any other vehicles assigned to or used in any activities authorized under or used in conjunction with this Franchise.

(3) Umbrella or excess liability insurance in the amount of 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.

5.2.2 Cancellation or Non-Renewal of Policy. Upon notice of cancellation from its insurer(s), Grantee shall provide the City with thirty (30) days prior written notice of any cancellation or non-renewal of any insurance policy, required pursuant to this subsection 5.2.2. 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 Public 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.

5.2.3 Endorsements. All policies shall contain the following provisions or shall be endorsed so that:

(1) The City, and the City's officers, officials, board members, commissioners, agents, representatives, and employees are to be covered as, and have the rights of, additional insureds 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, board members, commissioners, agents, and employees. Any insurance or self-insurance maintained by the City, the City Council and the City's officers, officials, board members, commissioners, agents, representatives, volunteers or employees shall be in excess of Grantee's insurance and shall not contribute to it.

(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 amendatory endorsements 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.

5.3 Security.

Grantee shall provide a performance bond ("Performance Bond") in the amount of fifty thousand dollars ($50,000) 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 Public Rights-of-Way and other property. The Performance Bond shall be in a standard industry form. 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 this 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.

ARTICLE 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.

6.3 Customer Service Agreement and Manual.

6.3.1 Grantee shall provide to Subscribers an accurate, comprehensive service agreement (currently called "the work order") and Customer installation packet (currently called "the Install Package") for use in establishing Subscriber service. This material shall, at a minimum, contain the following:

(1) Grantee's procedure for investigation and resolution of Subscriber service complaints;

(2) Services to be provided and rates for such services;

(3) Bill procedures;

(4) Service termination procedures;

(5) A description of the manner that will be used to provide notice of changes in rates, service or service terms and conditions;

(6) A complete statement of the Subscriber's right to privacy;

(7) An Equipment Policy;

(8) The name, address and phone number of the Customer care department that is responsible for handling Cable Service questions and complaints for Grantee. This information shall be prominently displayed in the Install Packet.

6.3.2 A copy of the Install Packet shall be available to each Subscriber at the time of initial installation and any reconnection or Cable Service upgrade requiring a home visit by Grantee (excluding reconnections to the same Subscriber within twelve (12) months), and at any time the Install Packet is requested by the Subscriber. Within thirty (30) days following material policy changes, information regarding the changes will be provided to Subscribers. Grantee shall make reasonable efforts to advise Customers of any material changes in cable operation policies.

ARTICLE 7. REPORTS AND RECORDS.

7.1 Open Records.

7.1.1 Books and Records. In addition to any other records that may be provided for under any other section of this Franchise, and without limiting the provisions of Article 10 of this Franchise, the City, including the City's Finance Director and Public Works Director or their designees, shall have access to, and the right to inspect, those books and records of Grantee, its parent corporations and Affiliates, which are reasonably related to the administration or enforcement of the terms of this Franchise, or Grantee's use and location within the Public Rights-of-Way. Records subject to this Section 7.1 include, without limitation, FCC filings on behalf of Grantee, its parent corporations, or Affiliates which directly relate to the operation of the Cable System in the City; SEC filings; listing of Cable Services, rates, and Channel line-ups; Cable Services added or dropped; Channel changes; all planned construction activity; Public Rights-of-Way route maps; beginning and ending plant miles; total homes passed for the previous twelve (12) months; and any significant technological changes occurring in the Cable System; federal and State reports; and reports of written Subscriber complaints to the City representative and how such complaints are resolved. 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, Affiliate, 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 (1) copy of all reports and records required under this or any other subsection 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 require that the City or its designee inspect them at Grantee's local offices. For purposes of clarity, any requirements to provide as-built maps shall not be considered too voluminous or unable to be copied for security purposes with respect to the provisions of this subsection. If any books or records of Grantee are not kept in a local office and are not made available in copies to the City or its designee upon written request as set forth above, and if the City determines that an examination of such records is necessary or appropriate for the performance of any of the City's duties, administration or enforcement of this Franchise, then all reasonable travel and related 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 this 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, 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) 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 Inspection of Facilities and Annual Meeting.

7.3.1 The City may inspect any of Grantee's facilities and equipment located in the Public Rights-of-Way or on other public property at any reasonable time during business hours upon at least twenty-four (24) hours' notice, or, in case of emergency, upon demand without prior notice. If an unsafe condition is found to exist, the City, in addition to taking any other action permitted under applicable law, may order Grantee to make the necessary repairs and alterations specified therein to correct the unsafe condition by a time the City establishes. The City has the right to inspect, repair and correct the unsafe condition if Grantee fails to do so in accordance with the time prescribed by the City, and to charge Grantee therefor.

7.3.2 Throughout the term of this Franchise, Grantee shall meet with the City on an annual basis upon thirty (30) days prior written notice from the City. Matters to be discussed include, but are not limited to Customer service, Cable System performance, technical issues and other matters related to Grantee's operation of the Cable System.

7.4 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 or otherwise.

ARTICLE 8. PROGRAMMING.

8.1 Broad Programming Categories.

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

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.

Upon request by any Subscriber, Grantee shall make available a parental control or lockout device, traps or filters or any other electronic means 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 parental control at the time of their initial subscription and periodically thereafter.

8.6 New Technology.

8.6.1 If there is a new technology, Cable Service program offering, programming delivery method or other such new development that Grantee in its sole discretion decides to beta test or trial on a limited basis in the marketplace, and such a test or trial is suited to the size and demographics of the City, Grantee shall be allowed by the City to conduct the trial or beta test in the City so long as such a test is technically feasible.

8.6.2 If there is a new technology that in the City's opinion would enhance substantially the quality or quantity of programming available to Subscribers on the Cable System, Grantee shall, at the request of the City, investigate the feasibility of implementing said technology and report to the City the results of such investigation within ninety (90) days from the date of such request.

ARTICLE 9. GOVERNMENTAL ACCESS.

9.1 Access Channels.

9.1.1 At all times during the term of this Franchise, Grantee shall make available, as part of the Basic Service package, at no charge, one (1) Access Channel for Governmental Access Programming to be made available as part of the Channel lineup in accordance with applicable law. As of the effective date of this Franchise, the Governmental Access Channel is being programmed by the City.

9.1.2 The City acknowledges that the Grantee's Cable System provides additional benefits to Access programming needs beyond the requirements set forth in subsection 9.1.1. This is accomplished through the inclusion of other regional Access programming within the regional Channel line-up that is available within the Franchise Area.

9.1.3 The Grantee will use reasonable efforts to minimize the movement of the Access Channel assignment. The Grantee shall provide to the City a minimum of ninety (90) days' notice prior to any relocation of the Access Channel unless the movement is required by federal law, in which case Grantee will provide the maximum amount of notice possible.

9.2 Management and Control of Access Channel.

9.2.1 The City may authorize Designated Access Providers to control, operate, and manage the use of any and all Access Facilities provided by Grantee under this Franchise, including, without limitation, the operation of the Access Channel. The City or its designee may formulate rules for the operation of the Access Channel, consistent with this Franchise, the FCC, federal and State law. Nothing herein shall prohibit the City from authorizing itself to be a Designated Access Provider.

9.2.2 Grantee shall cooperate with the City and Designated Access Providers in the use of the Cable System and Access Facilities for the provision of Access Channel.

9.2.3 The City shall have the sole and exclusive responsibility for identifying the Designated Access Providers, including itself for Access purposes, to control and manage the use of any or all Access Facilities provided by Grantee under this Franchise. As used in this Section, such "Access Facilities" includes the Channels, services, facilities, equipment, technical components and/or financial support provided under this Franchise, which is used or useable by and for Governmental Access.

9.3 Access Channel Return Line.

As of the effective date of this Franchise, Grantee maintains all existing return line(s) to facilitate the City's current Access connectivity to Grantee's Headend and hubs. Grantee shall maintain connectivity of the return lines in compliance with applicable law. If the City desires to relocate or expand the return line(s) to new location(s) during the term of this Franchise, upon one hundred twenty (120) days written request by the City and at the City's cost for Grantee's reasonable time and materials, the Grantee shall construct the requested return line(s).

9.4 Support for Access Capital Costs.

As of the effective date of this Franchise, there is no Capital Contribution being collected and remitted by the Grantee to the City. As determined by the City Council and upon sixty (60) days written request from the City, if Access programming is necessary and a Capital Contribution for capital expenditures is required, Grantee shall collect and remit a monthly Capital Contribution to the City for Access purposes including, without limitation, for equipment purchases, construction and relocation costs. The Capital Contribution shall not exceed $.25 per Subscriber per month throughout the remaining term of this Franchise. Payment of said Capital Contribution to the City shall follow the Franchise's required franchise fee payment schedule. If the remaining term of this Franchise does not accommodate the full capital needs of the City, both parties may review the possibilities of extending the term of the Franchise, as per the Franchise, to potentially increase the Capital Contribution collected and paid to the City. Grantee shall not be responsible for paying the Capital Contribution with respect to gratis or Bad Debt accounts. The City shall have discretion to allocate the Capital Contribution in accordance with applicable law. To the extent the City makes Access capital investments using City funds prior to receiving the monthly Capital Contribution funds, the City is entitled to apply the monthly Capital Contribution payments from Grantee toward such City capital investments. The City agrees that the Capital Contribution may be treated as external costs under applicable federal law. Once implemented, on an annual basis, the City or its designee shall provide Grantee a statement showing the Capital Contribution account balance, the amount expended including a detailed list of purchases, and the interest earned. The City shall dedicate the time, personnel and other resources needed to operate the Government Access Channel designated herein.

9. 5 Technical Quality.

Grantee shall maintain the Access Channel as required by FCC standards.

9.6 Return Connectivity

Prior to the effective date of this Franchise, Grantee constructed a fiber optic return lines from the City's facility at 211 Main Ave North to the Grantee's Headend. Grantee shall maintain, consistent with applicable law, this existing fiber optic return line throughout the term of this Franchise, to enable the distribution of Access Programming to Subscribers on the Cable System. Costs associated with maintenance and repair may be paid out of the EG Contribution set forth in Section 9.4. If the City desires to relocate or expand the fiber optic return line(s) to new location(s) over the term of this Franchise, upon one hundred twenty (120) days written request by the City and at the City's cost for Grantee's reasonable time and materials, the Grantee shall construct the requested new fiber optic return line(s). Grantee shall provide at its cost and expense the new Fiber Optic return line in accordance with Applicable Law. Grantee shall be entitled to recover maintenance and repair costs of return lines in a manner consistent with applicable law.

9.7 Institutional Network -, The City has discontinued use of the I-Net provided under the prior franchise agreement between City and Grantee. Grantee has confirmed the City has completed any necessary transition of connectivity to another service prior to reclaiming the fiber for other uses. All City owned equipment attached to the I-Net on the City's side of the demarcation point shall remain the property of the City.

ARTICLE 10. GENERAL PUBLIC 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 Public Rights-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 Public Rights-of-Way, proper restoration of such Public 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 Public Rights-of-Way. All construction and maintenance of any and all of Grantee's facilities within the Public 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 Public 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 Public Rights-of-Way upon written notice as determined by the City, to discuss options regarding scheduling and coordinating construction in the Public Rights-of-Way.

10.1.3 Grantee may make excavations in Public 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 Public 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 one (1) business day after discovery of the emergency.

10.2 Location of Facilities.

Prior to any digging or excavating in the Public 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 Chapter 19.122 RCW. 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 Public 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 Public Rights-of-Way.

10.3.1 When any opening is made by Grantee in a hard surface pavement in any Public 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 existed prior to the opening being made. The Grantee shall protect public and private property within the Public Rights-of-Way from damage.

10.3.2 If Grantee excavates the surface of any Public Rights-of-Way, Grantee shall be responsible for restoration in accordance with applicable regulations regarding the Public 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 Public Rights-of-Way, and the expense thereof shall be paid by Grantee. In the event Grantee does not repair a Public Right-of-Way or an improvement in or to a Public Right-of-Way in a prompt timeframe or as agreed to by the Public Works Director 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 The Cable System shall be constructed and maintained in such a 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 Public 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 Public Rights-of-Way, or other public property.

10.4.4 Grantee shall give reasonable notice, of at least seven (7) business days, to private property owners of underground construction work in adjacent Public Rights-of-Way.

10.5 Acquisition of Facilities.

Upon Grantee's acquisition of facilities in any Public Rights-of-Way, or upon the addition or annexation 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 Public Rights-of-Way.

10.6.1 Relocation of Cable System for Public Works or Improvements. 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 Public Right-of-Way when reasonably necessary for construction, alteration, repair, or improvement of the Public 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. Should Grantee fail to remove, adjust or relocate its facilities by the date established by the City's written notice to Grantee, the City may affect such removal, adjustment or relocation, and the expense thereof shall be paid by Grantee.

10.6.2 Movement of Cable System For and By the City. The City may remove or disconnect Grantee's facilities and equipment located in Public Rights-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 Public 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. If Grantee fails to complete this work within the 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. In the case of relocation projects where the City hires and designates an independent contractor to accommodate and coordinate the conversion of overhead utilities within a City capital improvement project, if the Grantee decides to participate in the joint trench opportunity then the Grantee shall enter into a separate agreement with the City that, at a minimum, requires the Grantee to pay all design, permitting, administration, coordination, and construction costs incurred by the City associated with the proportionate share of the joint trench utilized by the Grantee and the level of effort required to design, permit, administer, coordinate, and construct the joint utility trench to accommodate the Grantee's facilities.

10.6.3 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.

10.6.4 Reimbursement of Costs. Grantee specifically reserves any rights it may have under applicable law for reimbursement of costs related to undergrounding or relocation of the Cable System, and nothing herein shall be construed as a waiver of such rights.

10.7 Public Rights-of-Way Vacation.

If any Public 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 Public Rights-of-Way, Grantee shall, without delay or expense to the City, remove its facilities from such Public Rights-of-Way, and restore, repair or reconstruct the Public Rights-of-Way where such removal has occurred and place the Public Right-of-Way in such condition as it existed prior to Grantee's removal of its facilities. In the event of failure, neglect or refusal of Grantee, after thirty (30) days' notice by the City, to restore, repair or reconstruct such Public Rights-of-Way, the City may perform such work, or cause it to be performed, 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 Public 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 Public 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 maintenance of the Public 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 Public Rights-of-Way.

10.9.2 Upon reasonable notice to Grantee, the City may inspect Grantee's facilities in the Public 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. 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 Public 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 Section.

(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 promptly restore the property to its former condition. Public 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 Public 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 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.

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 the 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 Public 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 Public 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 of 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 shall 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.

10.15 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. A stop work order shall:

(1) Be in writing;

(1) Be given to the Person doing the work, or posted on the work site;

(2) Be sent to Grantee by mail at the address given herein;

(3) Indicate the nature of the alleged violation or unsafe condition; and

(4) Establish conditions under which work may be resumed.

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, subcontractors must clearly state their connection to Grantee.

10.18 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 Public 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.

10.19 Strand Mounted WiFi Facilities.

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

10.19.2 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 Public 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.

10.19.3 The deployment of these strand mounted WiFi facilities shall not be considered small wireless facilities. To the extent Grantee performs work in the Public 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 subsection 10.1.1. Further, such strand mounted facilities must be operated as part of the Cable System.

ARTICLE 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. The Cable System is capable of delivering high quality signals that meet or exceed FCC technical quality standards regardless of any 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 this Franchise.

11.2 Closed Captioning.

Grantee shall install equipment so that all closed-captioned programming received by the Cable System includes 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 be consistent with applicable law.

ARTICLE 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.

12.2.1 Grantee shall provide to the City a copy of its current written process for resolving written complaints about the quality of the video programming services signals delivered to Subscriber and shall provide the City with any amendments or modifications to the process at such time as they are made.

12.2.2 Grantee shall, at Grantee's expense, maintain all aggregate data of Subscriber complaints related to the quality of the video programming service signals delivered by Grantee in the City for a period of at least one (1) year, and individual Subscriber complaints from the City for a period of at least three (3) years, and make such information available to the City at Grantee's office upon reasonable request.

12.2.3 Grantee shall maintain written records of all results of its Cable System tests performed by or for Grantee. Copies of such test results shall be provided to the City upon reasonable request.

12.2.4 Grantee shall perform any tests required by the FCC.

12.3 Additional Tests.

Where there exists other evidence that in the judgment of the City casts doubt upon the reliability or technical quality of the Cable Service, the City shall have the right and authority to require Grantee to test, analyze and report on the performance of the Cable System within thirty (30) days of a request. Grantee shall fully cooperate with the City in performing such testing and shall prepare the results and a report, if requested, within thirty (30) days after testing. Such report shall include the following information:

(1) The nature of the complaint or problem which precipitated the tests;

(2) The Cable System component tested;

(3) The equipment used, and procedures employed in testing;

(4) The method, if any, in which such complaint or problem was resolved; and

(5) Any other information pertinent to said tests and analysis which may be required.

ARTICLE 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 subsection, 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, from the nearest engineered connection point, 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.

(3) At non-discriminatory monthly rates for all Subscribers, excepting commercial Subscribers, multiple dwelling unit bulk Subscribers and other lawful exceptions.

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 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. 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.

ARTICLE 14. STANDBY POWER AND EMERGENCY ALERT SYSTEM.

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 in compliance with Homeland Security requirements or applications and any local EAS, if applicable.

14.2.2 Grantee shall ensure that the EAS is functioning properly at all times in accordance with FCC regulations. It will test the EAS system periodically, in accordance with FCC regulations.

ARTICLE 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 City's hearing examiner, in accordance with subsection 15.1.2 below, to determine whether additional time beyond the thirty (30) day period to cure specified in this Section is in fact necessary, 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 provided in subsection 15.1.1, or by the projected completion date set forth in subsection 15.1.1 (3), or if Grantee denies the default and requests a hearing in accordance with subsection 15.1.1 (1), or if the City sets a hearing in accordance with subsection 15.1.1 (3), the hearing examiner shall 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, in writing, Grantee to correct or remedy the default or breach within fourteen (14) days of the hearing examiner's order or within such other reasonable timeframe as the hearing examiner shall determine. In the event Grantee does not cure the default within the time period set forth in the hearing examiner's order, the hearing examiner may:

(1) Recommend to the City Council termination of this Franchise; or

(2) Recommend to the City Council that the City 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 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 from 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 subsection 15.1.3 (1) or the City Council pursuant to subsections 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 competent 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 this 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, board members, commissioners, 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 members, commissioners, 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.

Subject to Section 5.3:

15.3.1 The Performance Bond shall provide that funds will be paid to the City in an amount equal to liquidated damages charged by the City resulting from payment for Grantee's material acts or material omissions pursuant to this Franchise or resulting from 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 this 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 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 $150 per day for each day, or part thereof, such failure occurs or continues.

(2) For a material breach of the Customer Service Standards set forth in Section 6.1, the liquidated damages shall be $150 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 other City ordinance for which liquidated damages is not otherwise specifically provided pursuant to this subsection (3), the liquidated damages shall be up to $350 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 The City and Grantee recognize the delays, expense and unique difficulties involved in proving in a legal preceding 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 <u>Collection of Liquidated Damages.</u>

(1) The Performance Bond 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 to the amount required under this Franchise. Grantee's maintenance of the Performance Bond 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 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 this 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 this Franchise is not cured pursuant to Section 15.1, or in the event that:

(1) Grantee fails to perform any material obligation under this Franchise;

(2) 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;

(3) Grantee makes a material misrepresentation of fact in the negotiation of this Franchise;

(4) Grantee abandons the Cable System, or terminates the Cable System's operations;

(5) Grantee or an Affiliate challenge the legality or enforceability of this Franchise in a judicial or administrative (for example, FCC) proceeding;

(6) 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

(7) Grantee becomes insolvent, unable or unwilling to pay its debts, or is adjudged bankrupt, or 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 this 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.

15.5 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 (a) operate the Cable System; or (b) designate another entity to operate the Cable System temporarily until Grantee restores service under conditions acceptable to the City, or until this 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 the 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.

15.5.3 Grantee shall have no obligation to remove the Cable System where it utilizes the system to provide other, permitted and lawful, non-cable services and or has obtained or is in the process of obtaining a franchise or other local authority to maintain facilitates in the public rights-of-way, or where Grantee is able to find a purchaser of the Cable System who holds such authorization.

ARTICLE 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 law and the City.

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 this 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 this 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 this 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 this 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.

ARTICLE 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. 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.

All notices shall be in writing and shall be sufficiently given and served upon the other party by hand delivery, first class, registered or certified mail, return receipt requested, postage prepaid, or by email or other reputable overnight courier service and addressed as follows:

at the effective date of this Franchise:

Grantee's address shall be:

Government Affairs

Comcast Cable Communications Management, LLC
900 132nd Street SW
Everett, WA 98204

City's address shall be:

Director of Public Works
City of North Bend
920 SE Cedar Falls Way
North Bend, WA 98045

With a Copy To:

Kendra Rosenberg, City Attorney
Kenyon Disend, PLLC
11 Front Street South
Issaquah, WA 98027

ARTICLE 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.

This Franchise is governed by and shall be construed under the laws of the State of Washington, excluding its choice-of-law rules. Any action arising out of or relating in any way to this Franchise shall be initiated in the Superior Court of King County, Washington or the Federal Court of the Western District of Washington.

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. Except as provided in Section 2.3.2 or otherwise in this Franchise, Ordinance No. 1081 is hereby repealed and of no further force or effect. To the extent there is a conflict between this Franchise and any City ordinance or resolution, the terms and provisions of this Franchise shall control.

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 in this Franchise creates or is intended to create any partnership, joint venture, or principal-agent relationship or other arrangement between Grantee and the City. Neither party is authorized to nor act toward third Persons or the public in any manner that would indicate any such relationship with the other. The parties intend that the rights, obligations, and covenants in this Franchise and its collateral instruments are enforceable exclusively by the City and Grantee, and their successors and assigns. No term or provision of this Franchise has been included for the benefit of any Person not a party hereto, and no such Person has a right or cause of action hereunder, unless explicitly provided herein. Further, Grantee is not granted any express or implied right or authority to assume or create any obligation or responsibility on behalf of or in the name of the City. Nothing in this Section 18.8 precludes an assignment as provided for at Section 16.1 of this Franchise.

18.9 Waiver.

The failure of the City at any time to require performance by Grantee of any provision hereof shall in no way affect the right of the City hereafter to enforce the same. Nor shall the waiver by the City 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 word, article, section, subsection, paragraph, provision, condition, clause, or sentence set forth herein, or its application to any person or circumstance (collectively referred to as "Term"), is found by a court or agency of competent jurisdiction to be illegal, invalid, or unconstitutional for any reason, the remaining Terms of this Franchise shall remain in full force and effect unless to do so would be inequitable or would result in a material change in the rights and obligations of the parties hereunder.

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.

In the event Grantee is prevented or delayed in the performance of any of its obligations herein due to unforeseen circumstances beyond its control, including, but not limited to, acts of God, acts of terrorism, war, riots, civil disturbances, natural disasters, floods, tornadoes, earthquakes, severe weather conditions, employee strikes, and unforeseen labor conditions not attributable to Grantee's employees, Grantee may not be held in default or subject to liability for delay and associated damages of any provisions of this Franchise affected thereby.

If Grantee believes that circumstances beyond its control or by reason of a force majeure occurrence have prevented or delayed its compliance with the provisions of this Franchise, Grantee shall provide documentation as reasonably required by the City to substantiate the Grantee's claim. Grantee may thereafter have a reasonable time, under the circumstances, to perform the affected obligation under this Franchise or to procure a substitute for such obligation which is reasonably satisfactory to the City, but Grantee shall nonetheless perform to the maximum extent it is able to perform and shall take reasonable steps within its power to correct such cause(s) in as expeditious a manner as possible and bring itself back into compliance with this Franchise without unduly endangering the health, safety, and integrity of the Grantee's employees or property, or the health, safety, and integrity of the public, Public Rights-of-Way, public property, or private property.

18.13 Entire Agreement.

This Franchise contains all covenants and agreements between the City and Grantee relating in any manner to this Franchise, use and occupancy of the Public Rights-of-Way, and other matters set forth in this Franchise. No prior agreements or understanding pertaining to the same, written or oral, are valid or of any force or effect, and the covenants and agreement of this Franchise may not be altered, modified, or added to except in writing signed by the City and Grantee and approved by the City in the same manner as the original Franchise was approved.

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 of competent jurisdiction.

18.15 Action of the City or Grantee.

In any action mandated or permitted under the terms of this Franchise, City and Grantee shall act in a reasonable and timely manner. Furthermore, in any instance where approval or consent is required under the terms of this Franchise, 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 the terms, provisions and conditions of this Franchise, in a form substantially similar to Exhibit B 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 shall then be voidable at the discretion of the City.

ARTICLE 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.

[REST OF PAGE INTENIONALLY LEFT BLANK]

EXHIBIT A

IN WITNESS WHEREOF, this Franchise Agreement has been executed by the duly authorized representatives of the parties as set forth below, as of the date set forth below:

For Franchising Authority:

______________________________ ____________________
Mary Miller, Mayor Date
City of North Bend, WA

For Comcast Cable Communications Management, LLC:

_____________________________________ ____________________
Keith Turner, Regional Senior Vice President Date
Pacific Northwest Region

EXHIBIT A

EXHIBIT "B"

(*Acceptance of Franchise*)

Franchise issued pursuant to Ordinance No. ______.

I, ________________________, am the __________________________________, and am the authorized representative to accept the above-referenced Franchise on behalf of Comcast Cable Communications Management LLC_________________________________. In my capacity as _____________________________, and not individually, I certify that this Franchise and all terms and conditions thereof are accepted by Comcast Cable Communications Management, LLC, without qualification or reservation and that Comcast Cable Communications Management, LLC unconditionally guarantee(s) performance of all such terms and conditions.

DATED this _____ day of ________________, 2026___.

____
By____________________________________
Its ___________________________________

City Council Agenda Bill

Agenda Date:	**August 4, 2026**	**AB26-064**	
Subject:	**AB26-064 -** Ordinance Authorizing Franchise Agreement with Level 3 Communications		
Department/ Committee/ Individual:	Tom Mohr, Director	Cost Impact: Fund Source: Timeline:	N/A N/A Immediate

Attachments:
1. Ordinance Authorizing Franchise Agreement with Level 3 Communications
2. Exhibit A - Franchise Agreement with Level 3 Communications

Summary Statement:

In March of 2000, the North Bend City Council approved a Master use Permit/Agreement No. 1378 which allowed Level 3 Communications, LLC, to use city streets and other public rights of way for its poles, wires, lines, conduits, cables and accessory facilities to sell and distribute their systems. The agreement had a 20-year term and expired in 2020.

The City Attorney has reviewed and negotiated the attached Franchise Agreement with Level 3 Communications, LLC. The agreement establishes standards for operation, maintenance, permitting, safety, insurance, and compliance with city codes while allowing Level 3 Communications, LLC to continue operating its facilities within the ROW. The franchise does not grant exclusive rights and does not impose a financial cost to the city.

The attached new franchise agreement reflects updates to the substantive terms of the agreement with Level 3 Communications, LLC. Section 2.3 of the franchise agreement sets forth a 10-year term, commencing on the effective date of the enabling ordinance before the City Council.

Level 3 Communications, LLC management and legal staff have reviewed and approved the attached franchise agreement.

The first reading of the Level 3 Communications Franchise Agreement occurred during the July 21, 2026 City Council meeting. A second and final reading is scheduled for the August 4, 2026 City Council meeting.

Applicable Brand Guidelines:

- Consistent delivery of quality basic services

Committee Review and Recommendation:

This item was reviewed by the Transportation and Public Works Committee during their June 23, 2026 meeting and was recommended for approval and placement on the Main Agenda for the July 21, 2026 City Council meeting and Consent Agenda for the second reading at the August 4, 2026 City Council meeting.

Recommended Action:

Motion to approve AB26-064, an ordinance authorizing a Franchise Agreement with Level 3 Communications, LLC, as a second and final reading.

Record of Council Action:		
Meeting Date	**Action**	**Vote**
July 21, 2026	AB26-062 - 1st Reading & Cont. to 8/4/26 CC	5-0
August 4, 2026		

ORDINANCE

AN ORDINANCE OF THE CITY OF NORTH BEND, WASHINGTON, GRANTING A FRANCHISE TO LEVEL 3 COMMUNICATIONS, LLC; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, Level 3 Communications, LLC has requested a franchise with the City of North Bend; and

WHEREAS, attached hereto as Exhibit A is the franchise negotiated between the City of North Bend and Level 3 Communications, LLC; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Adoption: The City Council hereby approves and adopts the franchise set forth in Exhibit A attached hereto and by this reference is fully incorporated herein.

Section 2. Severability: Should any section, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 3. Effective Date: This ordinance shall be published in the official newspaper of the City and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 4TH DAY OF AUGUST, 2026.

CITY OF NORTH BEND:

____

Mary Miller, Mayor

APPROVED AS TO FORM:

____

Kendra Rosenberg, City Attorney

ATTEST/AUTHENTICATED:

____

Susie Oppedal, City Clerk

Published:
Effective:

TELECOMMUNICATIONS FRANCHISE

between the City of North Bend and Level 3 Communications, LLC

THIS TELECOMMUNICATIONS FRANCHISE (this "Franchise") is entered into on _________________________, 2026, by and between the City of North Bend (the "City") and Level 3 Communications, LLC, a limited liability company ("Grantee").

Section 1. Grant of Franchise.

The City hereby grants to Grantee, its heirs, successors, legal representatives, and assigns, subject to the terms and conditions hereinafter set forth, the right, privilege, and authority to construct, operate, maintain, restore, replace, acquire, sell, and lease its Facilities within the Public Ways of the City.

A. "Facilities" as used in this Franchise means authorized plant equipment, fixtures, appurtenances, and other facilities necessary to furnish and deliver telecommunications services, including but not limited to wires, lines, conduits, cables, communication and signal lines, braces, poles, guys, anchors, cabinets, manholes, handholes, pedestals, vaults, and all attachments, appurtenances, and appliances necessary or incidental to the distribution and use of Services (as hereinafter defined).

B. "Public Ways" means land acquired or dedicated for public roads and streets, but does not include: (1) State highways; (2) land dedicated for roads, streets, and highways not opened and not improved for motor vehicle use by the public; (3) structures, including poles and conduits, located within the right-of-way; (4) federally granted trust lands or Forest Board trust lands; (5) lands owned or managed by the State Parks and Recreation Commission; or (6) federally granted railroad rights-of-way acquired under 43 USC 912 and related provisions of federal law that are not open for motor vehicle use.

C. Location of Franchise Area. The authority granted herein is to occupy and use the Public Ways throughout the City (the "Franchise Area"). The Grantee is authorized to place its Facilities in the Public Ways only consistent with this Franchise, the North Bend Zoning Code, the Comprehensive Plan, the Design and Construction Standards and the North Bend Municipal Code as they now exist and are hereinafter amended (collectively the "Codes"). As described in Section 5, construction is not authorized without the appropriate City permits. Nothing contained herein shall be construed to grant or convey any right, title, or interest in the Public Ways of the City to the Grantee other than for the purpose of providing telecommunications services, and this franchise shall not be construed as any warranty of title. Grantee hereby agrees that it plans to provide "Services" and defined to mean "telecommunications service" as that term is defined under applicable federal and Washington law, including the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received, using wireline, fiber-optic, or other similar transmission facilities. Services may include, without limitation, high-speed data transport, fiber-based transmission services, internet protocol-enabled transmission services, conduit and dark fiber leasing, and data transport services, to the extent such offerings constitute telecommunications services and not cable services or information services under applicable law.

D. Terms, Conditions, and Provisions of the NBMC. All rights granted hereunder are subject to the terms, conditions, and requirements of certain Chapters of the North Bend Municipal Code, or hereinafter referred to as "NBMC" including NBMC 12.24 and NBMC 19.06 concerning work in the right-of-way and franchised utilities in the right-of-way, respectively, unless this Franchise specifically provides to the contrary. In the event that a conflict exists between the terms of this Franchise and the terms of NBMC Chapters 12.24 and 19.06, the terms of this Franchise shall control.

E. No Wireless Communications Facilities or Cable Services. This Franchise does not grant Grantee the right to install and/or operate Wireless Communication Facilities. As used herein, "Wireless Communications Facilities" means those wireless communication facilities as defined in NBMC Chapter 18.70.040(K). Any entity that seeks to install and/or operate such Wireless Communication Facilities must have an independent franchise to use the Public Ways outside of this Franchise. Further, this Franchise does not grant the right to offer cable services as defined in 47 U.S.C. § 522(6). Any entity that seeks to install and/or operate such cable services must have an independent franchise to use the Public Ways outside of this Franchise.

F. No Access to City-Owned Property. No right to install any facility, infrastructure, wires, lines, cables, or other equipment, on any City property other than the Public Ways, or upon private property without the owner's consent, or upon any City, public or privately owned poles or conduits is granted herein. Nothing contained within this Franchise shall be construed to grant or convey any right, title, or interest in the Public Way of the City to Grantee other than for the purpose of providing the Services, or to subordinate the primary use of the right-of-way as a public thoroughfare. If Grantee desires to expand the Services provided within the City in a manner inconsistent with this Franchise, it shall request a written amendment to this Franchise. If Grantee desires to use City owned property, including poles and structures within the Public Ways, it shall enter into a separate lease or license agreement with the City.

G. Leased Capacity. Grantee shall have the right, without prior City approval, to offer or provide fiber capacity or bandwidth to other carriers, resellers, customers, or subscribers consistent with this Franchise; provided, however, that Grantee shall remain responsible for compliance with this Franchise.

H. Nonexclusive Grant.

This Franchise shall not in any manner prevent the City from constructing, operating, and/or maintaining telecommunication systems or facilities of its own or entering into other similar agreements or franchises in, under, on, across, over, through, along or below any Public Ways of the City. Further, this Franchise shall in no way prevent or prohibit the City, consistent with applicable law, from using any of its Public Ways or affect its jurisdiction over them or any part of them, and the City shall retain power to make all necessary changes, relocations, repairs, maintenance, establishment, improvements, and dedication of the same as the City may deem fit, including the dedication, establishment, maintenance, and improvement of all new Public Ways.

Section 2. Term of Franchise.

The term of this Franchise shall be for a period of ten (10) years from the Effective Date and shall automatically renew for two (2) five-year renewal terms, unless either party provides at least 90 days written notice not to renew prior to the expiration of the then current renewal term.

Section 3. Location of Telecommunications Network Facilities.

A. Location of Facilities. Grantee may locate its Facilities anywhere within the Franchise Area consistent with the City's applicable Code requirements and the City's Design and Construction Standards. Grantee shall not be required to amend this Franchise to construct or acquire Facilities within the Franchise Area, provided that Grantee does not expand its Services beyond those described in Section 1.A.

Section 4. Relocation of Facilities.

A. Relocation Requirement. To the extent required by law, including RCW 35.99.060, Grantee agrees and covenants at its sole cost and expense, to protect, support, temporarily disconnect (where doing so will not cause a customer service outage or disrupt 911 service, and, if required, upon approval of the Washington Utilities and Transportation Commission), relocate, or remove from any Public Way any of its Facilities when so required by the Public Works Director upon his/her determination that such relocation or removal of Facilities is necessary for (1) the construction, repair, maintenance or installation of any City or other public improvement in or upon the Public ways or (2) the operations of the City or other governmental entity in or upon the Public Ways. The City shall provide Grantee at least ninety (90) days written notice prior to such relocation or removal of Facilities.

B. Notice and Relocation Process. If the City determines that the Public Improvement Project necessitates the relocation of Grantee's existing Facilities, the City shall provide Grantee in writing with a date by which the relocation shall be completed (the "Relocation Date") consistent with RCW 35.99.060(2). For purposes of herein, "Public Improvement Project" shall mean a capital improvement project within the Franchise Area that requires the relocation of Facilities within the Franchise Area, is funded by the City (either with its own funds or with other public monies obtained by the City for such capital improvement project) and is undertaken by the City. In calculating the Relocation Date, the City shall consult with Grantee and consider the extent of Facilities to be relocated, the services requirements, and the construction sequence for the relocation, within the City's overall project construction sequence and constraints, to safely complete the relocation. Grantee shall complete the relocation by the Relocation Date, unless the City or a reviewing court establishes a later date for completion, as described in RCW 35.99.060(2). To provide guidance on this notice process, the City will make reasonable efforts to involve Grantee in the predesign and design phases of any Public Improvement Project. After receipt of the written notice containing the Relocation Date, Grantee shall relocate such Facilities to accommodate the Public Improvement Project consistent with the timeline provided by the City and at no charge or expense to the City, except as otherwise permitted by RCW 35.99.060. Such timeline may be extended by a mutual agreement.

C. Locate Facilities. Upon request of the City or of a third-party performing work on behalf of the City in the Public Ways and in order to facilitate the design of the Public Ways, Grantee agrees, at City's sole cost and expense, to locate and, if reasonably determined necessary by the City, to excavate and expose its Facilities for inspection, subject to reasonable scheduling, safety considerations, and mutual coordination between the City and Grantee, so that the Facilities' location may be taken into account in the improvement design. The decision as to whether any Facilities need to be relocated in order to accommodate the Public Improvement Project shall be made by the City upon review of the location and construction of Grantee's Facilities. The City shall provide Grantee at least sixty (60) days' written notice prior to any excavation or exposure of Facilities.

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D. Third Party Requests for Relocation. The provisions of this Section shall in no manner preclude or restrict Grantee from making any arrangements it may deem appropriate when responding to a request for relocation of its Facilities for projects that are not Public Improvement Projects, including recovering costs for relocation from private parties or other entities that do not control the Public Ways. Grantee shall not be required to pay for the relocation of Grantee's equipment, and may require advance payment for costs and expense from a third party, to the extent such removal or relocation is made at the request or in support of the activities of such third party; the City shall make the same a permitting condition of the third party's permit(s).

E. Contractor Delay Claims. Grantee agrees to work cooperatively with the City, other franchisees and/or utilities, and the City's third-party contractor with respect to the Public Improvement Project. Upon a notification of a delay due solely to Grantee's actions or inactions, Grantee agrees to work cooperatively with the City, other Grantees and utilities, and the City's third-party contractor to resolve such issues. Except in the case of a Force Majeure Event, if Grantee breaches its obligations under Section 4 with respect to relocating its Facilities within the Franchise Area by the Relocation Date, and to the extent such breach causes a delay in the work being undertaken by the Public Improvement Project that results in a claim by the City's third party contractor(s) for costs, expenses and/or damages that are directly caused by such delay and are legally required to be paid by the City (each, a "Contractor Delay Claim"), the City may at its sole option: (1) tender the Contractor Delay Claim to Grantee for defense and indemnification in accordance with Section 4.F and Section 9; or (2) require that Grantee reimburse the City for any such actual and documented costs, expenses, and/or damages that are legally required to be paid by the City to its third-party contractor(s) as a direct result of the Contractor Delay Claim; provided that, if the City requires reimbursement by Grantee under this subsection, the City shall first give Grantee written notice of the Contractor Delay Claim and give Grantee the opportunity to work with the third-party contractor(s) to resolve the Contractor Delay Claim provided that Grantee shall not be liable for consequential, speculative, or indirect damages.

F. Indemnification. Except to the extent caused by the City, its elected and appointed officers, officials, employees, agents, engineers, consultants, volunteers, and representatives, Grantee will indemnify, defend, and hold harmless the City, in accordance with the provisions of Section 9, against any and all claims, suits, actions, damages, or liabilities for delays on City construction projects to the extent caused by or arising out of the failure of Grantee to remove or relocate its Facilities in a timely manner and that are not caused by a Force Majeure Event.

G. City's Costs. If Grantee fails, neglects, or refuses to remove or relocate its Facilities as directed by the City as described in this Section 4, except for in Section 4.D, then, after providing Grantee an additional thirty (30) days' notice and Grantee's continued failure to comply as directed, the City may perform such work or cause it to be done, and the City's costs shall be paid by Grantee pursuant to Section 7.

H Survival. The provisions of this Section 4 shall survive the expiration or termination of this Franchise for so long as Grantee continues to have Facilities in the Public Ways.

Section 5. Work in the Public Ways.

A. All work performed shall be in compliance with all local, state, and federal laws, including but not limited to the requirements in NBMC Chapters 12.24 and 19.06. Permits, including but not limited to rights-of-way permits, must be obtained from the City and if applicable, the state and or federal agencies for any work performed in the Public Ways. Grantee shall provide the City with at least ten (10) working days' advance notice prior to commencing any non-emergency work in the Public Ways, unless otherwise stated in the permit. Grantee shall not unnecessarily obstruct the passage or proper use of the Public Ways, and all work by Grantee in any area covered by this Franchise and as described in this Section shall be performed in accordance with applicable Codes.

B. During any period of relocation, construction, or maintenance, all surface structures, if any, shall be erected and used in such places and positions within the Public Ways and other public properties so as to interfere as little as is reasonably possible with the free passage of traffic (including but not limited to motor vehicles, pedestrians, and bicycles) and the free use of adjoining property. Grantee shall at all times post and maintain proper site safety including but not limited to the use of barricades, traffic control devices, and temporary paving, and make reasonable efforts to comply with all applicable safety and American Disability Act regulations during such period of construction as required by NBMC 12.24.070, general ordinances of the City or state of federal laws, including RCW 39.04.180 for the construction of trench safety systems.

C. Grantee's contractors and subcontractors shall be licensed and bonded in accordance with the City's ordinances, regulations, and requirements. Work by contractors and subcontractors is subject to the same restrictions, limitations, and conditions as if the work were performed by a grantee. Grantee shall be responsible for all work performed by its contractors and subcontractors and others performing work on its behalf as if the work were performed by it and shall ensure that all such work is performed in compliance with this Franchise and applicable law.

D. Upon request, Grantee shall provide the City with a schedule of their proposed construction activities in, around, or that may affect the rights-of-way. Grantee shall meet with the City and other franchise holders and users of the rights-of-way annually or upon written notice as determined by the City, to schedule and coordinate construction in the rights-of-way. All construction locations, activities, and schedules shall be coordinated, as ordered by the City to minimize public inconvenience, disruption or damages.

Section 6. Restoration After Construction.

A. Grantee shall comply with the restoration requirements provided in NBMC 12.24.230 and otherwise as described in the applicable permit(s). The Public Works Director or designee shall have final approval of the completeness of all restoration work and Grantee shall warrant said restoration work for a period of 2 years.

B. In the event Grantee damages a Public Way or improvement in or to a Public Way and does not repair a Public Way or an improvement in or to a Public Way or if such work does not comply with the permit, then after providing Grantee with thirty (30) days prior notice and Grantee's continued failure to repair the damage, the City may repair the damage and shall be reimbursed its actual cost within thirty (30) days of submitting an invoice to Grantee.

C. Whenever the construction, installation or excavation of Facilities authorized by this Franchise has caused or contributed to a condition that appears to substantially impair the lateral support of the adjoining street or public place, or endangers the public, an adjoining public place, street utilities or City property, the Public Works Director may provide Grantee written notice and direct Grantee, at Grantee's own expense, to take reasonable action to protect the public, adjacent public places, City property or street utilities, and such action may include compliance within a prescribed time. In the event that Grantee fails or refuses to promptly take the actions directed by the City, or fails to fully comply with such directions, or if emergency conditions exist which require immediate action, before the City can timely provide written notice to Grantee to request that Grantee effect the immediate repair, the City may access the Facilities and take such reasonable actions as are necessary to protect the public, the adjacent streets, or street utilities, or to maintain the lateral support thereof, or reasonable actions regarded as necessary safety precautions, and Grantee shall be liable to the City for the costs thereof.

7. Recovery of Costs.

A. To the extent permitted under applicable law, Grantee shall be subject to all permit fees associated with activities undertaken through the authority granted in this Franchise or under the laws of the City. Where the City incurs reasonable costs and expenses for review, inspection, or supervision of activities undertaken through the authority granted in this Franchise or any ordinances relating to the subject for which a permit fee is not established, including but not limited to outside attorneys, consultants, City staff and City Attorney's office, then, to the extent permitted by applicable law, Grantee shall reimburse the City directly for any and all costs within thirty (30) days after receiving an invoice documenting said costs and expenses in sufficient detail to demonstrate that they were necessary to perform the aforementioned actions. As used in this

Agreement, the word "costs" or "expenses" shall mean the actual, reasonable and documented costs or expenses incurred.

B. Grantee shall pay a fee for the actual administrative expenses incurred by the City that are related to the receiving and approving this Franchise pursuant to RCW 35.21.860, including the costs associated with the City's legal costs incurred in drafting and processing this Franchise. To the extent permitted by applicable law, Grantee shall pay all costs of publication of this Franchise and any and all notices prior to any public meeting or hearing in connection with this Franchise.

C. Grantee shall reimburse the City for any costs incurred by the City in performing work for Grantee that Grantee is obligated to perform under this Franchise, including acting in response to an emergency involving Grantee's Facilities, if Grantee's failure continues after Grantor has provided Grantee at least thirty (30) days prior written notice and opportunity to cure.

D. To the extent permitted by applicable law, Grantee shall reimburse the City for the Grantee's proportionate share of all actual expenses incurred by the City in planning, constructing, installing, repairing or altering any City facility as a result of the construction or the presence in the Public Way of the Grantee's telecommunications facilities.

E. The time of City employees shall be charged at their respective rate of salary, including overtime if applicable, plus benefits and reasonable overhead. Any other costs will be billed proportionately on an actual cost basis. All billings will be itemized so as to specifically identify the costs and expenses for each project for which the City claims reimbursement. A charge for the actual costs incurred in preparing the billing may also be included in said billing. The billing may be on a monthly basis, and the City shall provide Grantee with the City's itemization of costs at the conclusion of each project for information and reimbursement purposes.

F. All costs reimbursable to the City pursuant to this Agreement shall be paid within sixty (60) days after Grantee's receipt of an itemized invoice documenting such costs and expenses in sufficient detail to demonstrate that they were necessary to perform the aforementioned action.

Section 8. Reservation of Rights.

A. Grantee hereby warrants that its operations as authorized under this Franchise are those of a service provider as defined in RCW 35.21.860. As a result, the City will not impose a franchise fee under the terms of this Franchise. The City hereby reserves its right to impose a franchise fee on Grantee if Grantee's operations as authorized by this Franchise change such that the statutory prohibitions of RCW 35.21.860 no longer apply, or if statutory prohibitions on the imposition of such fees are removed; provided that (i) the City will give one hundred eighty (180) days' notice to invoke this provision, (ii) the parties agree to follow the modification procedure in Section 12, and (iii) any franchise fee under this section shall be prospective in nature. In either instance, the City also reserves its right to require that Grantee obtain a separate Franchise for its change in use. Nothing contained herein shall preclude Grantee from challenging any such new fee or separate agreement under applicable federal, state, or local laws.

B. Grantee agrees that, if, in the future, Grantee provides telephone business services or wireless telephone services under this Franchise that are taxable, the Grantee shall pay to the City the rate applicable to such taxable services under NBMC 5.06.090 and 5.06.100, respectively and consistent with state and federal law. The parties agree that if there is a dispute regarding tax payments that the process in NBMC 5.05.140 shall control. In that event, the City may not enforce remedies under Section 13 or commence a forfeiture or revocation process pursuant to Section 15 until the dispute is finally resolved either consistent with NBMC 5.05.140 or by judicial action and then only if the Grantee does not comply with such resolution. The parties agree however, that nothing in this Franchise shall limit the City's power of taxation as may exist now or as later imposed by the City as may be permitted by law. This provision does not limit the City's power to amend NBMC 5.05 or 5.06 as may be permitted by law.

Section 9. Indemnification.

A. Except to the extent caused by the City, its elected and appointed officers, officials, employees, agents, engineers, consultants, volunteers, and representatives, Grantee hereby releases, and agrees to indemnify, defend and hold harmless the City, its elected and appointed officers, officials, employees, agents, engineers, consultants, volunteers, and representatives from any and all claims, costs, judgments, awards, or liability to any person, for injury or death of any person or damage to property to the extent caused by or arising out of the negligent acts or omissions of Grantee, its agents, servants, officers, or employees by virtue of Grantee’s exercise of the rights granted herein, or in any franchise or permit. These indemnification obligations shall extend to claims that are not reduced to a suit and any claims that may be compromised, prior to the culmination of any litigation or the institution of any litigation.

B. Inspection or acceptance by the City of any work performed by Grantee at the time of completion of construction shall not be grounds for avoidance of any of these covenants of indemnification. Provided that Grantee has been given prompt written notice by the City of any such claim, said indemnification obligations shall extend to claims which are not reduced to a suit and any claims which may be compromised prior to the culmination of any litigation or the institution of any litigation. The City has the right to defend or participate in the defense of any such claim at its own costs and has the right to approve any non-monetary settlement or other compromise of any such claim.

C. Should a court of competent jurisdiction determine that the franchise is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Grantee and the City, its officers, officials, employees, and volunteers, the Grantee’s liability shall be only to the extent of the Grantee’s negligence. It is further specifically and expressly understood that the indemnification provided constitutes the Grantee’s waiver of immunity under Industrial Insurance, RCW Title 51, solely for the purposes of this indemnification. The obligations of Grantee under this subsection shall be mutually negotiated by the parties, and Grantee shall acknowledge that the City would not enter into a franchise without Grantee’s waiver.

D. The City shall promptly notify Grantee of any claim or suit and request in writing that Grantee indemnify the City. Grantee may choose counsel to defend the City subject to the City's consent which shall not be unreasonably withheld and consistent with this subsection. City's failure to 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 that Grantee refuses the tender of defense in any suit or any claim, as required pursuant to this Franchise, and said refusal is subsequently determined by a court having jurisdiction (or such other tribunal that the parties shall agree to decide the matter), to have been a wrongful refusal on the part of Grantee, Grantee shall pay all of the City's reasonable costs for defense of the action, including all expert witness fees, costs, and attorney's fees, and including costs and fees incurred in recovering under this indemnification provision.

E. 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, then the Grantee and City shall immediately meet and confer and determine whether alternative counsel or other alternative is possible to resolve the concern. If no alternative is agreeable to the parties, upon the prior written approval and consent of Grantee that such a conflict requires the City to retain separate counsel, the City shall have the right to employ separate counsel in any action or proceeding and to participate in the investigation and defense thereof, and

Grantee shall pay the reasonable fees and expenses of such separate counsel, except that Grantee shall not be required to pay the fees and expenses of separate counsel on behalf of the City for the City to bring or pursue any counterclaims or interpleader action, equitable relief, restraining order or injunction. The City's fees and expenses shall include all out-of-pocket expenses, such as consultants and expert witness fees, and shall also include the reasonable value of any services rendered by the counsel retained by the City but shall not include outside attorneys' fees for services that are unnecessarily duplicative of services provided the City by Grantee. Grantee and the City shall cooperate and cause their employees and agents to cooperate with each other in the defense of any such claim and the relevant records of each party shall be available to the other party with respect to any such defense.

F. Notwithstanding any other provisions of this section, Grantee assumes the risk of damage to its Facilities located in the Public Ways from activities conducted by the City, its officials, officers, agents, employees and contractors, except to the extent any such damage or destruction is caused by or arises from the negligence or malicious act on the part of the City, its officials, officers, agents, employees or contractors. Except for the indemnity obligations under this Franchise, in no event shall the City or Grantee be liable for any indirect, incidental, special, consequential, exemplary, or punitive damages, including by way of example and not limitation lost profits, lost revenue, loss of goodwill, or loss of business opportunity in connection with its performance or failure to perform under the Franchise.

G. The provisions of this Section 9 shall survive the expiration, revocation, or termination of this Franchise.

Section 10. Insurance.

A. Grantee shall secure and maintain the following liability insurance policies insuring Grantee and including the City as an additional insured as their interest may appear under this Agreement against claims for injuries to persons, death or damages to property which may arise from or in connection with the exercise of the rights, privileges and authority granted to Grantee:

1. Commercial general liability insurance with limits of $3,000,000 per occurrence for bodily injury and property damage and $10,000,000 general aggregate including premises-operations, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured contract and liability arising from explosion, collapse or underground property damage. The policy shall have limits of:

2. Commercial Automobile liability insurance in the amount of $2,000,000 combined single limit each accident for bodily injury and property damage covering all owned, non-owned, hired and leased vehicles.

3. Worker's compensation within statutory limits and employer's liability insurance with limits of $1,000,000 each accident/disease/policy limit.

4. Contractors Pollution liability insurance with a limit of $2,000,000 per occurrence, and $2,000,000 in the aggregate. Grantee may self-insure for Contractors Pollution liability insurance.

B. The liability insurance policies required by this Franchise shall be maintained by Grantee throughout the term of the Franchise, and such other period of time during which the Grantee is operating in the Public Ways without a franchise or is engaged in the removal of its Facilities. The commercial general liability and commercial automobile liability insurance policies shall include the City, and its elected and appointed officers, officials, agents, employees, representatives, engineers, consultants and volunteers as additional insureds as their interest may appear under this Agreement. The Grantee shall provide a certificate of insurance (COI), together with the blanket additional insured endorsement(s) to the City, upon acceptance of the Franchise. Payment of deductibles and self-insured retentions shall be the sole responsibility of the Grantee. The insurance required by this Franchise shall apply separately to each insured against whom a claim is made or suit is brought. Grantee's insurance shall be primary insurance with respect to the City, its officers, officials, employees, agents, consultants, and volunteers. Any insurance, self insurance, or self-insured pool coverage maintained by the City shall be excess of Grantee's insurance and shall not contribute with it. Receipt by the City of any certificate or evidence of insurance showing less coverage than required is not a waiver of Grantee's obligations to fulfill the requirements.

D. Grantee's maintenance of insurance or its scope of coverage as required herein shall not be construed to limit the liability of the Grantee to the specific coverage provided by such insurance or otherwise limit the City's recourse to any remedy available at law or in equity. Further, Grantee's maintenance of insurance policies required by this Franchise shall not be construed to excuse unfaithful performance by Grantee.

E. As of the Effective Date of this Franchise, Grantee is not self-insured except for pollution insurance. Should Grantee wish to become self-insured at the levels outlined in this Franchise at a later date for insurance coverage other than pollution liability insurance and property damage insurance, Grantee must provide the City with thirty (30) days advanced written notice of its intent to self-insure. Grantee shall comply with the following:

(i) provide the City, upon request, a copy of Grantee's most recent audited financial statements;

(ii) Grantee is responsible for all payments within the self-insured retention; and

(iii) Grantee assumes all defense and indemnity obligations as outlined in the indemnification section of this Franchise.

F. The City may review all insurance limits once every calendar year during the Term, and may make reasonable adjustments in the limits upon thirty (30) days' prior written notice to Grantee. Grantee shall then issue a certificate or other evidence of insurance to the City showing compliance with these adjustments.

Section 11. Security; Bonds. Security Fund. Grantee shall establish a security fund ("Security Fund") in the amount of $10,000.00 by providing a bond reasonably acceptable to the City to guarantee the full and complete performance of the requirements of this Franchise, the requirements of NBMC Chapter 19.06, and to guarantee payment of any costs, expenses, damages, or loss the City pays or incurs, including civil penalties, because of any failure attributable to Grantee to comply with the codes, ordinances, rules, regulations, or permits of the City.

12. Modification. The City and Grantee reserve the right to modify the terms and conditions of this Franchise upon written agreement of both parties to such modification. The City reserves the right at any time to request Grantee to agree to amend this Franchise to conform to any hereafter enacted, amended, or adopted federal or state statute or regulation relating to the public health, safety, and welfare, or relating to roadway regulation, or a City ordinance enacted pursuant to such federal or state statute or regulation upon providing Grantee with thirty (30) days written notice of its action setting forth the full text of the amendment and identifying the statute, regulation, or ordinance requiring the amendment. If the parties do not reach agreement as to the terms of the amendment within six (60) days of the call for negotiations unless the parties mutually agree to extend such timeline, the parties shall submit the issue to non-binding mediation. If such mediation is unsuccessful, the parties may then submit the issue to a court of competent jurisdiction.

Section 13. Remedies to Enforce Compliance.

A. In addition to any other remedy provided in this Franchise or within NBMC Chapter 19.06, the City and Grantee reserve the right to pursue any remedy to compel the other party and/or its successors and assigns to comply with the terms hereof, and the pursuit of any right or remedy shall not prevent them from thereafter declaring a default, or revocation for breach of the conditions herein as provided in the North Bend Municipal Code or as allowed by law. All rights and remedies provided herein shall be in addition to and cumulative with any and all other rights and remedies available to the City or Grantee. Such rights and remedies shall not be exclusive, 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. The parties reserve the right to seek and obtain injunctive relief with respect to this Franchise to the extent authorized by applicable law and that the execution of this Franchise shall not constitute a waiver or relinquishment of such right. The parties agree that in the event a party obtains injunctive relief, neither party shall be required to post a bond or other security and the parties agree not to seek the imposition of such a requirement.

B. If Grantee violates or fails to comply with any of the material provisions of this Franchise, or should Grantee fail to heed or comply with any notice given to Grantee under the provisions of this Franchise, the City shall provide Grantee with written notice and an opportunity to cure such violation as follows: the City shall provide Grantee with written notice specifying with reasonable particularity the nature of any such breach and the Grantee shall undertake all commercially reasonable efforts to cure such breach within thirty (30) days of receipt of notification. If Grantee does not cure the breach within thirty (30) days, then the Public Works Director or the City Council may elect that in lieu of revocation and without any prejudice to any other legal rights and remedies, to pursue other remedies, the City may: (1) suspend the issuance of additional permits; (2) obtain an order from the Superior Court having jurisdiction compelling Grantee to comply with the provisions of this Franchise; or (3) pursue other remedies as permitted by law. To the extent permitted by applicable law, the rights granted under this Franchise may be revoked or forfeited.

C. If the City shall violate or fail to comply with any of the provisions of this Franchise, the Grantee shall provide the City with written notice specifying with reasonable particularity the nature of any such breach and the City shall undertake all commercially reasonable efforts to cure such breach within thirty (30) days of receipt of notification. If the breach is not cured within the specified time, or the City does not comply with the specified conditions, the Grantee may, at its discretion, (1) terminate this Franchise, or (2) pursue other remedies as permitted by law.

D. If the parties reasonably determine the breach cannot be cured within (30) thirty days, the parties may agree to a longer cure period.

Section 14. Non-Waiver. The failure of a party to insist upon strict performance of any of the covenants and agreements of this Franchise or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such covenants, agreements or option or any other covenants, agreements or option.

Section 15. Survival. All of the obligations, conditions and requirements of Section 1.C Section 5, Section 6, Section 10, Section 11, Section 12, Section 25 and Section 27.B of this Franchise arising by reason of any occurrence taking place during the term of this Franchise shall survive the expiration or termination of this Franchise, and any renewals or extensions thereof.

Section 16. Severability. In the event that any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provisions of this Franchise.

Section 17. Notice. Any notice required or permitted under this Franchise shall be in writing, and shall be delivered personally, delivered by a nationally recognized overnight courier, or sent by registered or certified mail, return receipt requested, to the other party at the address listed below. If such notice, demand or other communication shall be served personally, service shall be conclusively deemed made at the time of such personal service. If such notice, demand or other communication is given by overnight delivery, it shall be conclusively deemed given the day after it was sent to the party to whom such notice, demand or other communication is to be given. If such notice, demand or other communication is given by mail, it shall be conclusively deemed given three (3) days after it was deposited in the United States mail addressed to the party to whom such notice, demand or other communication is to be given. City: City of North Bend, Attn: Director of Public Works, 920 SE Cedar Falls Way, North Bend, WA 98045. Grantee: Level 3 Communications, LLC, Attn: AT&T Legal Department, 931 14th Street, Denver, CO 80202.

Section 18. Entire Agreement. This Franchise constitutes the entire understanding and agreement between the parties as to the subject matter herein and no other agreements or understandings, written or otherwise, shall be binding upon the parties upon execution of this Franchise.

Section 19. Eminent Domain. This Franchise is subject to the power of eminent domain. In any proceeding under eminent domain, this Franchise itself shall have no value.

Section 20. Vacation. If at any time the City, by ordinance, vacates all or any portion of the area affected by this Franchise, the City shall not be liable for any damages or loss to the Grantee by reason of such vacation; provided, however, that the City shall notify the Grantee in writing not less than sixty (60) days before considering such vacation and shall work with Grantee where possible in securing an easement to allow the Facilities to remain in place. Upon Grantee's entry into an easement for the Facilities, this Franchise shall no longer apply with respect to such vacated area. If an easement cannot be retained, or any other accommodation made for the Facilities to remain (e.g., a ground lease or license agreement) Grantee's relocation from the affected parcel shall be governed by section 4 of this Agreement.

Section 21. Signs and Symbols. Except for labels marking equipment, all signs or symbols placed by Grantee shall be subject to the prior approval of the City. In the event Grantee shall place signs or symbols where they are visible from the street and not acceptable to the City, the City may demand the immediate removal of such signs or symbols and the refusal of Grantee to comply with such demand within will constitute a breach of this Franchise, thereby entitling the City to exercise any available legal remedy and to remove the signs or symbols. Grantee is not permitted to install any lighting on its Facilities unless required by the FAA or FCC.

Section 22. Compliance with All Applicable Laws. The parties agree to comply with all present and future federal and state laws, ordinances, rules and regulations. Nothing herein shall be deemed to restrict the City's ability to adopt and enforce all necessary and appropriate ordinances regulating the performance of the conditions of this Franchise, including any valid ordinance made in the exercise of its police powers in the interest of public safety and for the welfare of the public.

The City shall have the authority at all times to reasonably control by appropriate regulations the location, elevation, manner of construction and maintenance of Facilities by Grantee, and Grantee shall promptly conform with all such regulations, unless compliance would cause Grantee to violate other requirements of law or the terms of this Franchise. Grantee further expressly acknowledges that following the approval of this Franchise, the City may modify its Codes and such Code modifications shall apply to Grantee's Facilities, except that existing Facilities may be maintained by Grantee per regulations in effect at the time of installation as approved in the permit and plan for said installation. In the event of a conflict between the provisions of this Franchise and any other generally applicable ordinance(s) enacted under the City's police power authority, such other ordinances(s) enacted under the City's police powers shall take precedence over the provisions set forth herein.

Section 23. Attorneys' Fees. If a suit or other action is instituted in connection with any controversy arising out of this Franchise, the prevailing party shall be entitled to recover all of its costs and expenses, including such sum as the court may judge as reasonable for attorneys' fees, costs, expenses and attorneys' fees upon appeal of any judgment or ruling.

Section 24. Hazardous Substances. Grantee shall not introduce or use any hazardous substances (chemical or waste), in violation of any applicable law or regulation, nor shall Grantee allow any of its agents, contractors or any person under its control to do the same. Except to the extent caused by the City, its elected and appointed officers, officials, employees, agents, engineers, consultants, volunteers, and representatives, Grantee will be solely responsible for and will defend, indemnify and hold the City, its agents and employees harmless from and against any and all direct claims, costs and liabilities including reasonable attorneys' fees and costs, to the extent arising out of or in connection with the cleanup or restoration of the property associated with Grantee's use, storage, or disposal of hazardous substances or the use, storage or disposal of such substances by Grantee's agents, contractors or other persons acting under Grantee's control.

Section 25. Licenses, Fees, and Taxes. Prior to constructing the Facilities, Grantee shall obtain a business or utility license from the City, if so required by the NBMC and applicable law. Except as otherwise provided in this Franchise or any applicable law, Grantee shall pay promptly and before they become delinquent, all taxes on personal property and improvements owned or placed by Grantee and shall pay all license fees and public utility charges relating to the conduct of its business; shall pay for all permits, licenses, and zoning approvals, shall pay any other applicable tax unless documentation of exemption is provided to the City and shall pay utility taxes and license fees imposed by the City.

Section 26. Assignment or Transfers of Grant. Ownership or control of a telecommunication system or franchise may, directly or indirectly, be transferred or assigned or disposed of by sale, lease, merger, consolidation or other act of the Grantee, by operation of law or otherwise, without the prior written consent of City, but written notice to the City is required. In the event that a transfer, assignment, or disposal of Grantee's ownership is approved by the Washington Utilities and Transportation Commission ("WUTC"), the City will be deemed to have consented to such transfer for purposes of any WUTC case docket or other proceeding. Grantee will provide City with a copy of any such WUTC approval.

Section 27. Miscellaneous.

A. City and Grantee respectively represent that its signatory is duly authorized and has full right, power, and authority to execute this Franchise.

B. This Franchise shall be construed in accordance with the laws of the State of Washington. Venue for any dispute related to this Franchise shall be the United States District Court for the Western District of Washington, or King County Superior Court.

C. Section captions and headings are intended solely to facilitate the reading thereof. Such captions and headings shall not affect the meaning or interpretation of the text herein.

D. Where the context so requires, the singular shall include the plural and the plural includes the singular.

E. Grantee shall be responsible for obtaining all other necessary approvals, authorizations and agreements from any party or entity from whom it is leasing utility poles.

F. This Franchise may be enforced at both law and equity.

G. This Franchise may be executed in counterparts, each of which shall be deemed an original.

H. Grantee acknowledges that it, and not the City, shall be responsible for Grantee's Facilities' compliance with all marking and lighting requirements of the FAA and the FCC. Except to the extent caused by the City, its elected and appointed officers, officials, employees, agents, engineers, consultants, volunteers, and representatives, Grantee shall indemnify, defend and hold the City harmless from any fines or other liabilities to the extent caused by Grantee's failure to comply with such requirements. Should Grantee or the City be cited by either the FCC or the FAA because the Grantee's Facilities is not in compliance and should Grantee fail to cure the conditions of noncompliance within the timeframe allowed by the citing agency, then, after providing Grantee with thirty (30) days prior written notice and opportunity to cure and Grantee's continued failure to cure, the City may either terminate this Franchise immediately on notice to Grantee or proceed to cure the conditions of noncompliance at Grantee's expense.

I. Neither party shall be required to perform any covenant or obligation in this Franchise, or be liable in damages to the other party, so long as the performance of the covenant or obligation is delayed, caused or prevented by a Force Majeure Event. A "Force Majeure Event" is defined for purposes of this Franchise as circumstances that are beyond a party's reasonable control, and include strikes, lockouts, sit-down strike, unusual transportation delays, riots, floods, washouts, explosions, earthquakes, fire, storms, weather (including inclement weather which prevents construction), acts of the public enemy, wars, terrorism, insurrections, pandemics, and any other similar event.

J. All of the provisions, conditions, regulations and requirements contained in this Franchise shall further be binding upon the heirs, successors, executors, administrators, legal representatives and assigns of Grantee and all privileges, as well as all obligations and liabilities of Grantee shall inure to its heirs, successors and assigns equally as if they were specifically mentioned wherever Grantee is named herein.

Section 28. Acceptance. This Franchise and the rights, privileges and authority granted hereunder shall take effect and be in force from and after the Effective Date of this Franchise. Unless executed by Grantee prior to the City's execution, Grantee shall execute this Franchise within sixty (60) days after the City's execution of this Franchise. Such written acceptance shall be accompanied by the memorandum of insurance and additional insured endorsement specified in Section 10, the bonding requirements in Section 11, and the reimbursement to the City pursuant to Section 7.B. This Franchise is voidable unless accepted in writing with the required memorandum of insurance, bond, and reimbursement by Grantee within this sixty (60) days.

Section 29. 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

IN WTINESS WHEREOF, the parties have executed this License Agreement as of the date first written above.

Level 3 Communications, LLC	**City of North Bend**
By:____________________________	**By:__________________________**
Name: Jamie Nickerson	**Name:**
Title: Director, ROW & Dark Fiber	**Title:**
Date:	**Date:**

City Council Agenda Bill

Agenda Date: **August 4, 2026** **AB26-065**

Subject:	**AB26-065 -** Motion Authorizing Schedule 51 Lighting Removal Agreement with PSE for NB Way/NW 8th Street Roundabout Project		
Department/ Committee/ Individual:	Tom Mohr, Director	Cost Impact: Fund Source: Timeline:	$27,484.20 NTE 310 Project Budget Immediate

Attachments:
1. Exhibit A PSE Lighting Removal Contract
2. Exhibit B Lighting Removal Plans

Summary Statement:

To accommodate the North Bend Way/NW 8th Street Roundabout Project construction, removal of the existing light poles must be completed by Puget Sound Energy (PSE). City staff worked concurrently with PSE to prepare lighting removal plans that supplemented the project civil construction plans. The city has been working with PSE for the past several months and the final Schedule 51 Lighting Removal Agreement is attached. Work shall include removal of 7 light poles, arms, and lumineers.

Staff recommends approving this Schedule 51 Lighting Removal Agreement with PSE.

As a side note, the PSE Schedule 74 lighting installation agreement for the North Bend Way / NW 8th Street Roundabout Project will be included in the August TPW meeting and brought forward to full City Council in September 2026. This agreement will be for placement of new lights for the roundabout by PSE.

Applicable Brand Guidelines:

- Consistent delivery of quality basic services

Committee Review and Recommendation:

The Transportation and Public Works Committee reviewed this item at their July 28, 2026 meeting and recommended approval and placement on the Consent Agenda.

Recommended Action:

Motion to approve AB26-065, authorizing the Mayor to execute a Schedule 51 Lighting Removal Agreement with PSE for the North Bend Way/NW 8th Street Roundabout Project, in a form and content acceptable to the City Attorney, in an amount not to exceed $27,484.20.

Record of Council Action:

Meeting Date	Action	Vote
August 4, 2026		

EXHIBIT A

Form of Custom Street Lighting Order

PROJECT NAME: **South Fork Ave Extension Project-Removals Only** Order #: **108182578**

LOCATION: **Road extension between Bendigo Blvd S & North Bend Way, North Bend**

CUSTOM STREET LIGHTING ORDER – SCHEDULE 51

This Custom Street Lighting Order (this "Order"), dated **July 2, 2026**, is made and entered into by and between PUGET SOUND ENERGY, INC. ("PSE") and **City of North Bend** ("Customer") (each a "Party," and collectively the "Parties") under and pursuant to the terms of that certain Master Lighting Services Agreement No. **0174**, dated **9/28/18**, between the Parties (the "Agreement"). This Order covers certain Lighting and Construction Services authorized by this Order and is, along with the associated Schedule, incorporated into and made a part of the Agreement. Unless specifically defined otherwise herein, terms used in this Order with initial letters capitalized have the meanings given them in the Agreement. The Parties agree as follows:

ASSOCIATED SCHEDULE:

This Order is also entered into between the Parties in accordance with PSE's Schedule 51, Electric Tariff G, and any future modifications of or changes to such Schedule as may be approved by the WUTC.

LIGHTING SERVICES DESCRIPTION:

The **estimated** cost for Removing these lighting units is $**27,484.20.**

Description:

Remove:

5 ea 100W HPS Lum
2 ea 250W HPS Lum
7 ea street light poles

CONSTRUCTION SERVICES DESCRIPTION:

1. PSE will remove poles, arms, luminaire.

2. Unforeseen soil and pavement conditions are not included, and it is your responsibility to reimburse PSE these costs.

4. If unforeseen permits or flaggers are required for present construction it is your responsibility to reimburse PSE these costs.

CONSTRUCTION SERVICES AND COSTS BILLING:

________ Upon completion of the Construction Services, PSE shall provide the Customer with an invoice for the Construction Costs incurred by PSE. Customer shall remit payment to PSE for the Construction Costs within thirty (30) days of receiving the invoice. If the actual Construction Costs either exceed, or are below, the estimated Construction Costs, the Customer will be billed or credited the difference between the estimated Construction Costs and the actual Construction Costs

MONTHLY BILLING:

Billing under this Order will be in accordance with the terms and conditions contained in the terms & conditions of Schedule 51, Electric Tariff G, and the Agreement, and any future modifications of or changes to such Schedule as may be approved by the WUTC. Refer to Schedule 51 on PSE.com for current rates.

PSE's standard installation includes Smart Street Light Controls on all LED lights. If this installation includes Smart LEDs, the monthly energy charge will be calculated as measured kWh x rate. If the installation does not include Smart LEDs, the monthly rate is a flat rate based on wattage.

Monthly facilities cost is equal to the Value of the System (VOS) x facilities rate. VOS is the estimated installation cost less applicable taxes.

Value of System: $**NA** Facilities Rate: .00166 Total Monthly Facilities Charge: $**NA**

Total monthly cost is equal to the energy cost plus the facilities charge.

SERVICE TERM/REMOVAL AND SALVAGE COSTS:

Service under this Order is effective for a minimum of fifteen (15) years from the date of this Order (the "Base Term") unless earlier terminated as provided for in the Agreement. If this Order is terminated for any reason during the Base Term, the Customer shall be responsible for all costs of removal of any Facilities associated with the Services, as well as any costs associated with PSE's efforts to salvage the removed Facilities, as set forth in the applicable Schedule. After the expiration of the Base Term, this Order shall continue on a year-to-year basis until terminated by either Party upon at least one (1) year's notice in writing (each, an "Extended Term" and, together with the Base Term, the "Term") unless earlier terminated as provided for elsewhere in this Agreement. The Term may be adjusted by PSE in writing for existing systems purchased by PSE, based on the estimated remaining life and purchase price. If this Order is terminated during any Extended Term, the Customer shall not be responsible for the costs of removal of any Facilities associated with the Services, or any costs associated with PSE's efforts to salvage the removed Facilities.

ADDITIONAL TERMS:

1. To transfer the energy and maintenance monthly billing, the new billing party must contact PSE in writing.

2. Non-standard facilities are not kept in PSE inventory for the purpose of maintenance; therefore replacement of non-standard components may not be within the same time as replacement of standard components.

   Are non-standard components included in this Order? Yes ☐ No ☒

3. The monthly billing party for the energy and maintenance will be:

   Billing Party Name: **City of North Bend**
   Billing Address:

This Order, executed by Customer's duly authorized representative as of the date first written above, is for the Lighting

Services described above delivered under PSE's Schedule 51.

Customer: **City of North Bend**

Signature:______________________________________ Date: ____________________

Printed Name: _________________________________

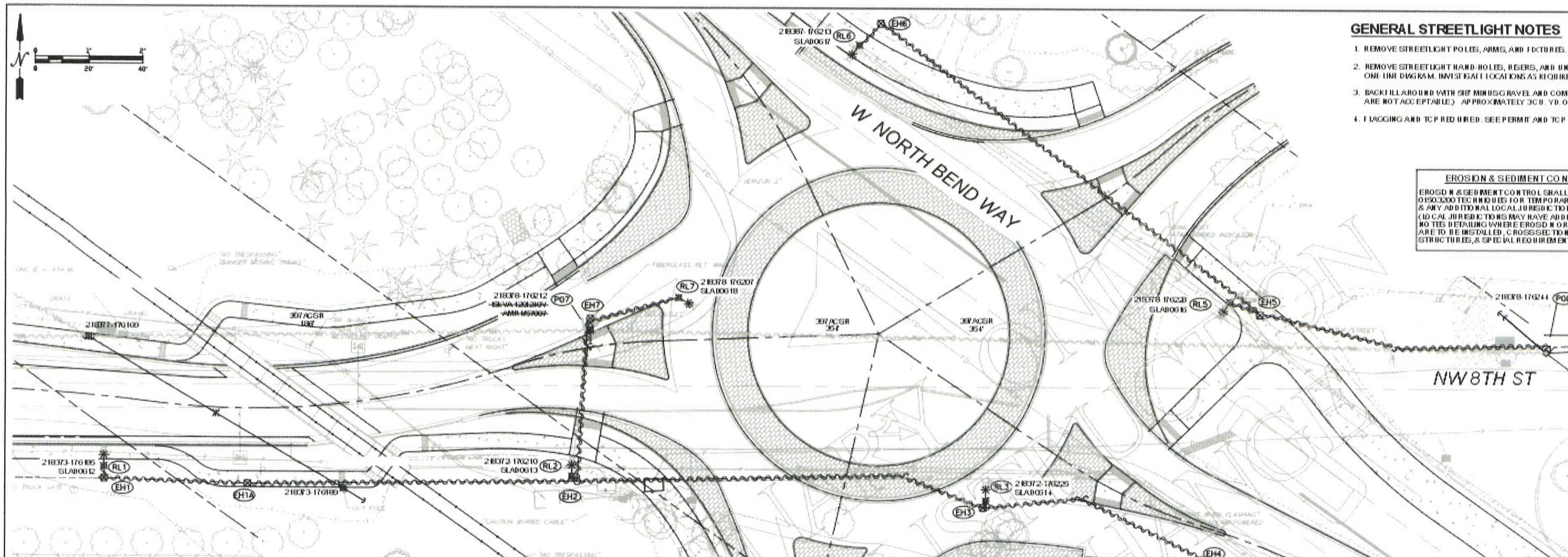
Title: ________________________________

Company: **Puget Sound Energy, Inc.**

Signature: *Lyndsey Goldsmith* Date: 7/2/26

Printed Name: Lyndsey Goldsmith

Title: Account Manager



REMOVAL SITE PLAN
SCALE: 1" = 20'

GENERAL STREETLIGHT NOTES

1. REMOVE STREETLIGHT POLES, ARMS, AND FIXTURES.
2. REMOVE STREETLIGHT HAND-HOLES, RISERS, AND UNDERGROUND SECONDARY CABLES. SEE TABLE AND ONE LINE DIAGRAM. INVESTIGATE LOCATIONS AS REQUIRED.
3. BACKFILL AROUND WITH 5/8" MINUS GRAVEL AND COMPACT IN 6" LIFTS. (PEA GRAVEL AND NATIVE SOILS ARE NOT ACCEPTABLE.) APPROXIMATELY 3 CU. YD. OF 5/8" MINUS CRUSHED ROCK WILL BE REQUIRED.
4. FLAGGING AND TCP REQUIRED. SEE PERMIT AND TCP PLANS.

EROSION & SEDIMENT CONTROL REQUIREMENTS

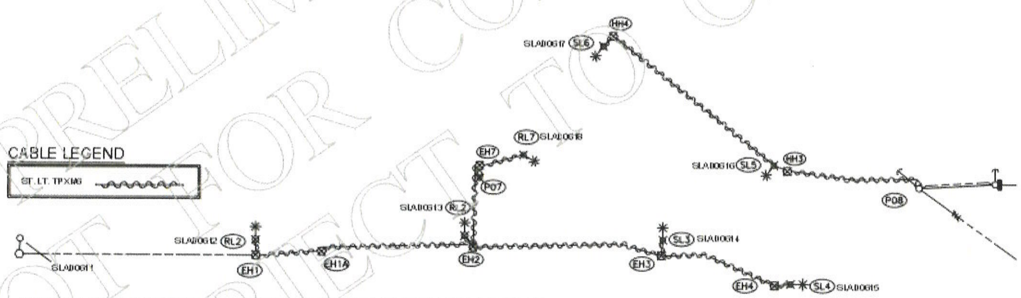
EROSION & SEDIMENT CONTROL SHALL BE PER PSE STANDARD PRACTICE 0150.3200 TECHNIQUES FOR TEMPORARY EROSION & SEDIMENT CONTROL & ANY ADDITIONAL LOCAL JURISDICTION REQUIREMENTS.
(LOCAL JURISDICTIONS MAY HAVE ADDITIONAL REQUIREMENTS INCLUDING NOTES DETAILING WHERE EROSION OR SEDIMENT CONTROL STRUCTURES ARE TO BE INSTALLED, CROSS SECTION DETAILS OF THE TYPICAL EROSION STRUCTURES, & SPECIAL REQUIREMENTS FOR WORK IN SENSITIVE AREAS.)

CABLE/WIRE REMOVAL TABLE - 108182578

SPAN				ACTUAL LENGTH	REMARKS
FROM	TO	CABLE TYPE	LENGTH		
RL1	EH1	#6 TPX	15'		
EH1	EH1A	#6 TPX	55'		
EH1A	EH2	#6 TPX	125'		
EH2	RL2	#6 TPX	15'		
EH2	EH3	#6 TPX	160'		
EH3	RL3	#6 TPX	15'		
EH3	EH4	#6 TPX	100'		
EH4	RL4	#6 TPX	15'		
P08	EH5	#6 TPX	140'		
EH5	RL5	#6 TPX	15'		
EH5	EH6	#6 TPX	180'		
EH6	RL6	#6 TPX	15'		
EH2	EH7	#6 TPX	65'		
EH7	P07	#6 TPX	40'		
EH7	RL7	#6 TPX	35'		
TOTAL FEET #6 TPX REMOVED			990'		

CABLE LEGEND

ST. LT. TPX #6



STREETLIGHT REMOVAL UNDERGROUND CIRCUIT ONE-LINE DIAGRAM
NOT TO SCALE

STREET LIGHT TABLE - REMOVAL

SITE #	POLE						LUMINAIRE			TUBE		POLE BASE TYPE (Direct Buried or Basemount)	WO #	BILLING SCH.	STREET LIGHT VOLTAGE	NOTES
	GRID #	TAG #	SMART STREET LIGHT NODE	TYPE	MTG HT.	ARM	ORIGINAL INSTALL DATE	WATTS	STYLE	TUBE LENGTH	TUBE DIAMETER					
RL1	218373 176185	SLA00612		RND FG	35'	6'	2020	59W	CHILLED	5'	18"	DIRECT BURIED	108182578	53	120/240	
RL2	218372 176210	SLA00613		RND ALUM	35'	6'	2020	59W	CHILLED	5'	18"	BASE MOUNTED	108182578	53	120/240	
RL3	218372 176225	SLA00614		RND WOOD	30'	10'	1991	237W	CHILLED	5'	18"	DIRECT BURIED	108182578	53	120/240	
RL4	218367 176236	SLA00615		RND ALUM	35'	8'	2020	59W	CHILLED	5'	18"	BASE MOUNTED	108182578	53	120/240	
RL5	218378 176228	SLA00616		RND ALUM	35'	6'	2020	237W	CHILLED	5'	18"	BASE MOUNTED	108182578	53	120/240	
RL6	218367 176213	SLA00617		RND ALUM	35'	8'	1991	59W	CHILLED	5'	18"	BASE MOUNTED	108182578	53	120/240	
RL7	218378 176207	SLA00618		RND ALUM	35'	6'	2020	59W	CHILLED	5'	18"	BASE MOUNTED	108182578	53	120/240	

REMOVAL SITE SPECIFIC NOTES

P07: *EXISTING 1990 50FT CL3 GRID # 218378-176212*
TO BE REMOVED BY PSE PL

P08: *EXISTING 1965 45FT CL3 GRID # 218378-176244*
EXISTING PRIMARY POLE TO REMAIN
REMOVE EXISTING 2" STREETLIGHT RISER AND #6 SEC UG CABLE

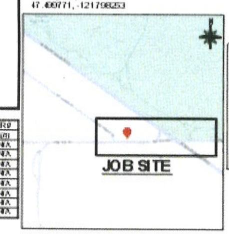
EH1 - EH7, EH1A:
REMOVE EXISTING STREET LIGHT POLY HANDHOLE

RL1 - RL7: *EXISTING STREETLIGHT BASE-MOUNTED POLE*
RETIRE EXISTING STREETLIGHT POLE, ARM, AND FIXTURE. RETURN TO PSE
SEE TABLE FOR DETAILS
FLAGGING REQUIRED
VAC TRUCK REQUIRED

RL3: *EXISTING STREETLIGHT 30' WOOD POLE*
RETIRE EXISTING STREETLIGHT POLE, ARM, AND FIXTURE. RETURN TO PSE
REMOVE EXISTING 2" RISER

FOREMAN (CHECK BOX WHEN COMPLETED)

Vicinity Map
47.499771, -121.798253



Owner / Developer Contact Info

South Fork Ave Extension Project
STREETLIGHT REMOVAL
NORTH BEND, WA

DESIGNED BY PSE

City Council Agenda Bill

Agenda Date:	**August 4, 2026**	**AB26-066**	
Subject:	**AB26-066 -** Motion Authorizing 1st Amendment to FCS Group/Bowman Contract for Non-Residential Impact Fee Update		
Department/ Committee/ Individual:	Martin Chaw, Director	Cost Impact:	$15,000
		Fund Source:	General Fund 001, (100%)
		Timeline:	Immediate

Attachments:
1. Work Scope for Amendment
2. AB25-107 Motion Authorizing Bowman Agreement Non-Res Impact Fees Update
3. FCS Group (Bowman) Contract #2025-58 Non-Res Impact Fee Study

Summary Statement:

Washington State law authorizes cities, such as North Bend, that plan under the Growth Management Act to impose impact fees on development activity as part of the financing for public facilities (RCW 36.70A.040). Following the completion of the 2024 Comprehensive Plan and an update to the Capital Facilities Element, an associated update to impact fees is necessary to ensure compliance with RCW 82.02.050(5), which requires cities to update their impact fees to fund the additional demands and public facility improvements required to serve new development.

In October 2025, the City Council approved AB25-107, authorizing FCS Group - A Bowman Company to prepare a review of the City's Transportation and Parks impact fees (last updated in 2015 and 2016, respectively) with the following study deliverables:
1. Impact Fee Requirements and Methods Technical Memorandum to include the proportionate impact fee requirements of RCW 82.02.060(1);
2. North Bend Impact Fee Alternatives Analysis and Presentation;
3. Draft Impact Fee Methodology Report and Procedures; and
4. Adoption of Final Impact Fee Methodology and Procedures and separate report on methodology as it relates to RCW 82.02.060(1).

This amendment to the aforementioned contract, if approved, would: a) extend the project completion from June 1, 2026 to December 31, 2026 with a contract extension to June 30, 2027, and b) expand the study scope of work to include a review of the City's Bike/Pedestrian Mitigation Fee Calculation, which is a separate impact fee, as it relates to the update to the Parks element of the Comprehensive Plan.

The total value of the contract with Bowman is increased by $15,000 from $77,500 to $92,500. A copy of AB25-107 and original Bowman agreement is attached.

Recommendation: Staff recommends the City Council approve the project extension and expanded scope of work, as described above.

Applicable Brand Guidelines:

- Sustainably managed growth

Committee Review and Recommendation:

This item was reviewed by the Finance and Administration Committee at their July 16, 2026 meeting with a recommendation for approval and placement on the Consent Agenda.

Recommended Action:

Motion to approve AB26-066, authorizing a 1st amendment to the agreement with FCS Group, Inc./A Bowman Company for a Non-Residential Impact Fees Update, in a form and content acceptable to the City Attorney, in an amount not to exceed $15,000.

Record of Council Action:		
Meeting Date	**Action**	**Vote**
August 4, 2026		

FCS
a Bowman company

May 8, 2026

Martin Chaw, Finance Manager, City of North Bend

Re: 2026 Non-Residential Development Impact Fee Study Amendment Request

Dear Mr. Chaw,

This letter includes our request to amend the current contract between the City of North Bend and FCS to perform the 2026 Non-Residential Development Impact Fee Study.

1.Project Schedule Amendment for Project Completion: Due to unforeseen circumstances beyond the control of either party, this amendment is needed to extend the project schedule from June 15, 2026 to December 31, 2026. This will allow the City adequate time to prepare and adopt new Capital Improvement Programs for parks, transportation and bike/pedestrian facilities, and enable FCS to address work under existing tasks 1-4 and new task 5 (see below).

2. Work Scope Amendment to Update Bike/Pedestrian Facility Mitigation Fee: The City desires to expand the work scope to include a new **Task 5: Bike/Pedestrian Mitigation Fee calculation**. Task 5 will include the following activities:

5.1 Coordination meetings with city staff to review prior and new proposed methodology

5.2 Update facilities plan and eligible project costs

5.3 Update growth forecasts

5.4 Calculate new bike/pedestrian facility mitigation fee by land use classification

5.5 Assist city with presenting results to elected officials at one (1) council meeting

Task 5 Budget amendment: $15,000.

Your signature below will allow us to get started with the work described herein, as we solidify the professional contract amendment, with total budget revised from $77,500 to $92,500.

Respectfully,

Todd Chase, ACIP, LEED
Principal
(503) 313-6360
ToddC@fcsgroup.com

Approved________________________________

City Council Agenda Bill

SUBJECT:	Agenda Date: October 7, 2025 AB25-107	
Motion Authorizing Agreement with Bowman (formerly FCS GROUP) for a Non-Residential Impact Fees Update	Department/Committee/Individual	
	Mayor Mary Miller	
	City Administrator – Amber Emery	
	City Attorney – Kendra Rosenberg	
	City Clerk – Susie Oppedal	
	Administrative Services – Lisa Escobar	
	Comm & Economic Development – James Henderson	
Cost Impact: $77,500	Finance – Martin Chaw	X
Fund Source: General Fund	Public Works – Mark Rigos	
Timeline: immediate	Information Technology – Phillip Davenport	
Attachments: Bowman Scope of Work		

SUMMARY STATEMENT:

Introduction:
Washington State law authorizes cities, such as North Bend, that plan under the Growth Management Act, to impose impact fees on development activity as part of the financing for public facilities (RCW 36.70A.040). Following the completion of the 2024 Comprehensive Plan and an update to the Capital Facilities Element, an associated update to impact fees is necessary to ensure compliance with RCW 82.02.050(5), which requires cities to update their impact fees to fund the additional demands and public facility improvements required to serve new development.

What are impact fees?
Impact fees are a one-time fee paid as a condition for new development. Specifically, RCW 82.02.050 specifies that impact fees:
(a) can be imposed for system improvements that are reasonably related to the new development;
(b) cannot exceed a proportionate share of the costs of system improvements that are reasonably related to the new development; and
(c) should be used for system improvements that will reasonably benefit the new development.

Proposed scope of work:
Bowman (formerly FCS GROUP) is a well-respected financial and public policy consultancy based in Redmond, WA. Bowman has extensive experience preparing impact fee analyses and calculation methodologies that are cost-based and meet the requirements of State law.

Bowman's proposed scope of work will include a review of the City's Transportation and Parks impact fees (last updated in 2015 and 2016, respectively), and includes the following study deliverables:

1. Impact Fee Requirements and Methods Technical Memorandum to include the proportionate impact fee requirements of RCW 82.02.060(1);
2. North Bend Impact Fee Alternatives Analysis and Presentation;
3. Draft Impact Fee Methodology Report and Procedures; and
4. Adoption of Final Impact Fee Methodology and Procedures and separate report on methodology as it relates to RCW 82.02.060(1).

If approved, Bowman expects to begin work during the 4th quarter of 2025 and complete its technical analysis, and the final report will be issued in the 3rd quarter of 2026.

Staff recommendation:
Staff recommends the City Council approve the scope of work and authorize the Mayor to execute a professional services agreement with Bowman related to the impact fee study.

City Council Agenda Bill

APPLICABLE BRAND GUIDELINES: Economic viability, Balanced budget.
COMMITTEE REVIEW AND RECOMMENDATION: This item has been reviewed by two committees. - The Finance and Administration Committee reviewed this item at its August 12, 2025, meeting, and recommended approval and referred this item to the Community and Economic Development Committee which met on September 16, 2025. - The Community and Economic Development Committee reviewed this item at its September 16, 2025, meeting, and recommended approval and placement on the Main Agenda for discussion.
RECOMMENDED ACTION: **Motion to approve AB25-107, authorizing the Mayor to execute and administer a professional services agreement with Bowman in the amount of $77,500 for a non-residential impact fee study and alternatives, in a form and content acceptable to the City Attorney.**

RECORD OF COUNCIL ACTION

Meeting Date	***Action***	***Vote***
October 7, 2025	Passed	4-1 (Torguson)

PROFESSIONAL SERVICES AGREEMENT
BY AND BETWEEN THE CITY OF NORTH BEND
AND FCS GROUP, INC. / A BOWMAN COMPANY

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is entered into this 13 day of November, 2025 by and between the City of North Bend, a municipal corporation of the State of Washington ("City") and FCS Group, Inc / a Bowman Company, a corporation ("Consultant") in consideration of the mutual benefits and conditions contained herein.

WHEREAS, City has determined a need to have certain services performed for its citizens; and

WHEREAS, Consultant is in the business of performing such services, which are described below; and

NOW, THEREFORE, the parties hereby agree as follows:

1. **Scope of Services**. Consultant shall perform those services described on **Exhibit A** attached hereto, which is incorporated by this reference as if fully set forth. All such services will be rendered with the degree of skill and care exercised by members of Consultant's profession practicing under similar circumstances at the same time and in the same or similar locale, and in compliance with all federal, state, and local statutes, rules, and ordinances applicable to the performance of such services and the handling of any funds used in connection therewith.

2. **Compensation and Method of Payment**. Consultant will invoice City monthly based upon the fee schedule set forth in **Exhibit B** attached hereto, which is incorporated by this reference as if fully set forth. Consultant shall be paid a total amount not to exceed SEVENTY-SEVEN THOUSAND, FIVE HUNDRED DOLLARS AND 00/100 ($77,500.00) without written modification of this Agreement signed by City. City shall pay Consultant for services rendered under this Agreement within ten (10) days after City Council voucher approval. Consultant agrees to complete and return the attached **Exhibit C** (Taxpayer Identification Number) to City prior to or along with the first invoice.

3. **Duration of Agreement**. This Agreement shall be in full force and effect for a period commencing October 9, 2025 and ending December 31, 2026 unless earlier terminated in accordance with Section 11 herein or extended by written amendment in accordance with Section 14 herein.

4. **Ownership, Form, and Use of Documents**. All documents, drawings, specifications, and other materials produced by Consultant in connection with the services rendered under this Agreement shall be the property of City whether the project for which they are made is executed or not. Except as otherwise stated in Exhibit A, Consultant shall provide to City all final documents, reports, or studies in printed and electronic form. Unless otherwise directed in writing by City, all final documents, reports, or studies shall be provided to City in both a PDF and Word format. Where applicable, all Complete Plan Set Drawings shall include all Specifications and shall be submitted to City in the most updated version of AutoCAD in an unrestricted format and in accordance with City Code. Consultant shall not be responsible for any use or modifications of said documents, drawings, specifications, or other materials by City or its representatives for any purpose other than the project specified in this Agreement.

5. **Independent Contractor**. City and Consultant agree that Consultant is an independent contractor with respect to the services provided pursuant to this Agreement. Nothing in this Agreement shall be considered to create an employer-employee relationship between the parties hereto. Neither Consultant nor any of Consultant's employees shall be entitled, by virtue of the services provided

under this Agreement, to any benefits afforded to City employees. City shall not be responsible for paying, withholding, or otherwise deducting any customary state or federal payroll deductions, including but not limited to FICA, FUTA, state industrial insurance, state workers' compensation, or for otherwise assuming the duties of an employer with respect to Consultant or Consultant's employees.

6. **Indemnification**. Consultant shall indemnify, defend, and hold harmless City, its officers, officials, employees and volunteers from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of 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 bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of Consultant and City, its officers, officials, employees, and volunteers, Consultant's liability hereunder—including the duty and cost to defend—shall be only to the extent of Consultant's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes 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 provisions of this section shall survive the expiration or termination of this Agreement.

7. **Insurance**. Consultant shall procure and maintain for the duration of this 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 Consultant, its agents, representatives, or employees. Consultant's maintenance of insurance as required by this Agreement shall not be construed to limit Consultant's liability to the coverage provided by such insurance, or otherwise limit City's recourse to any remedy available at law or in equity.

   A. Minimum Scope of Required Insurance. Consultant shall maintain insurance of the types and coverage described below:

      1. **Automobile liability insurance**, with a minimum combined single limit for bodily injury and property damage of $1,000,000 per accident, covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01.

      2. **Commercial general liability insurance**, written with limits no less than $2,000,000 each occurrence, $2,000,000 general aggregate, which 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. City shall be named as an additional insured under Consultant's Commercial General Liability insurance policy with respect to the work performed for City, using an additional insured endorsement at least as broad as ISO endorsement form CG 20 26.

      3. **Professional liability insurance** appropriate to Consultant's profession, written with limits no less than $2,000,000 per claim and $2,000,000policy aggregate limit.

      4. **Workers' compensation coverage** as required by the Industrial Insurance laws of the State of Washington.

B. Additional Insurance Provisions. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII. Consultant's automobile liability and commercial general liability insurance policies are to contain, or be endorsed to contain, that they shall be primary insurance as respects City. Any insurance, self-insurance, or self-insured pool coverage maintained by City shall be excess of Consultant's insurance and shall not contribute with it. Consultant shall provide City with written notice of any policy cancellation within two (2) business days of Consultant's receipt of such notice.

C. Certificates of Insurance. Consultant shall deliver original certificates and a copy of amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Agreement before commencement of the work.

D. Failure to Maintain Insurance. Consultant's failure to maintain insurance as required shall constitute a material breach of this Agreement, upon which City may, after giving five (5) business days' notice to Consultant to correct the breach, immediately terminate this Agreement or, at its sole discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to City on demand, or at the sole discretion of City, offset against funds due Consultant from City.

E. Full Availability of Consultant Limits. If Consultant maintains higher insurance limits than the minimums shown above, City shall be insured for the full available limits of Commercial General and excess or umbrella liability maintained by Consultant, irrespective of whether such limits maintained by Consultant are greater than those required by this Agreement or whether any certificate of insurance furnished to City evidences limits of liability lower than those maintained by Consultant.

8. Recordkeeping and "Red Flag" Rules.

A. Consultant shall maintain accounts and records, including personnel, property, financial, and programmatic records, which sufficiently and properly reflect all direct and indirect costs of any nature expended and services performed pursuant to this Agreement. Consultant shall also maintain such other records as may be deemed necessary by City to ensure proper accounting of all funds contributed by City to the performance of this Agreement and of the parties' compliance with this Agreement.

B. These records shall be maintained for a period of seven (7) years after termination hereof unless permission to destroy them is granted by the Office of the Archivist in accordance with Chapter 40.14 RCW and by City.

C. Consultant acknowledges receipt of and agrees to adhere to City's Identity Theft Prevention Program ("Red Flag" rules), a copy of which is attached hereto as **Exhibit D**.

9. Taxes, Licenses and Permits.

A. Consultant shall procure and maintain a City business license in accordance with Chapter 5.04 NBMC, *Business Licenses and Business and Occupation Tax*, prior to beginning work under this Agreement. Consultant assumes responsibility for and ensures that all contractors, subcontractors and suppliers shall also obtain a City business license.

B. Consultant acknowledges that it is responsible for the payment of all charges and taxes applicable to the services performed under this Agreement, including taxes and fees assessed pursuant to

Chapters 5.04 and 5.05 NBMC, and Consultant agrees to comply with all applicable laws regarding the reporting of income and maintenance of records, and with all other requirements and obligations imposed pursuant to applicable law. If City does not receive, or is assessed, made liable, or responsible in any manner for such charges or taxes, Consultant shall reimburse and hold City harmless from such costs, including attorneys' fees. Consultant shall also require all contractors, subcontractors and suppliers to pay all charges and taxes in accordance with this Section 9.

C. In the event Consultant fails to pay any taxes, assessments, penalties, or fees imposed by City or any other governmental body, then Consultant authorizes City to deduct and withhold and/or pay over to the appropriate governmental body those unpaid amounts upon demand by the governmental body. This provision shall, at a minimum, apply to taxes and fees imposed by City ordinance. Any such payments shall be deducted from Consultant's total compensation.

10. **Audits and Inspections**. The records and documents with respect to all matters covered by this Agreement shall be subject at all times to inspection, review, or audit by law during the term of this Agreement. City shall have the right to conduct an audit of Consultant's financial statement and condition and to a copy of the results of any such audit or other examination performed by or on behalf of Consultant.

11. **Termination**. This Agreement may be terminated by City at any time upon thirty (30) days' written notice; provided, that if Consultant's insurance coverage is canceled for any reason, City shall have the right to terminate this Agreement as provided in Subsection 7(D) herein.

12. **Discrimination Prohibited**. Consultant shall not discriminate against any employee, applicant for employment, or any person seeking Consultant's services under this Agreement on the basis of race, color, religion, creed, sex, age, national origin, marital status, or presence of any sensory, mental, or physical handicap.

13. **Assignment and Subcontract**. Consultant shall not assign or subcontract any portion of the services contemplated by this Agreement without the prior written consent of City.

14. **Entire Agreement; Modification**. This Agreement contains the entire agreement between the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind any of the parties hereto. Proposed changes which are mutually agreed upon shall be incorporated by written amendments or addenda signed by both parties.

15. **Notices**. Notices required hereunder shall be delivered via certified U.S. mail to the addresses below:

To the City of North Bend: Martin Chaw, Finance Director
City of North Bend
920 SE Cedar Falls Way
North Bend, Washington 98045
Phone: (425) 888-1211

To Consultant: Diane Harmon
Accounting Manager
FCS Group, Inc.
7525 166th Ave NE, Suite D-215
Redmond, WA 98052
Diane.harmon@bowman.com
Phone: 425-336-1779

16. **Security**. Consultant will protect confidential information provided by City pursuant to this Agreement by adhering to policies governing physical, electronic, and managerial safeguards against unauthorized access to an unauthorized disclosure of confidential information. Security standards shall meet or exceed Washington State Office of the Chief Information Officer Standard No. 141.10. Only authorized employees of Consultant shall have access to City's confidential information, and only for the purposes specified in this Agreement. Consultant shall, within 24 hours of discovery, report to City any use, access to or disclosure of City's confidential information not previously authorized by City.

17. **Applicable Law; Venue; Attorneys' Fees**. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Agreement, the parties specifically understand and agree that venue shall be properly and exclusively in King County, Washington. The prevailing party in any such action shall be entitled to its costs of suit, including attorneys' fees and expert witness fees.

BY THEIR SIGNATURES BELOW, the authorized agents of the parties enter into this Agreement as of the day and year first written above.

CITY OF NORTH BEND

By: Mary Miller
Mary Miller, Mayor

FCS GROUP/A BOWMAN COMPANY

By: John Ghilarducci

Printed Name: John Ghilarducci

Title: Principal / President

Attest/Authenticated:

Susie Oppedal
Susie Oppedal, City Clerk

Approved As To Form:

Kendra Rosenberg
Kendra Rosenberg, City Attorney

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a Bowman company

EXHIBIT A

Exhibit A: Scope of Work

TASK PLAN V2

Purpose

The purpose of this assignment is to update the methodology used to calculate the City of North Bend's Transportation Impact Fee and Park Impact Fee. Primary focus will be on establishing a new methodology for calculating non-residential impact fees. The Impact Fee Capital Project List and new impact fees will be identified to meet the long-range land use growth goals articulated in the *North Bend Comprehensive Plan (Amended 2023).*

The new methodology will consider alternative approaches to calculating the fees for future office, industrial, and hotel development in a manner that takes into account city-wide transportation and parks impacts and also long-term general fund revenue impacts.

Additionally, the new impact fee methodology shall be designed in a manner that is consistent with the recently adopted scaled impact fee methodology for residential development, and encourages development of middle housing and early learning facilities within the City. Per RCW 82.02.050.* Impact fees (a) can be imposed for system improvements that are reasonably related to the new development; (b) cannot exceed a proportionate share of the costs of system improvements that are reasonably related to the new development, and (c) should be used for system improvements that will reasonably benefit the new development.

Major Deliverables of this project shall include:

1. Deliverable 1. Impact Fee Requirements and Methods Technical Memorandum to include the proportionate impact fee requirements of RCW 82.02.060(1)*
2. Deliverable 2. North Bend Impact Fee Alternatives Analysis and Presentation to include the proportionate impact fee requirements of RCW 82.02.060(1)*
3. Deliverable 3. Draft Impact Fee Methodology Report and Procedures to include the proportionate impact fee requirements of RCW 82.02.060(1)*
4. Deliverable 4. Adoption of Final Impact Fee Methodology and Procedures and separate report on methodology as it relates to RCW 82.02.060(1) *

*Regarding residential uses, this work plan assumes that the previously adopted residential impact fee scaling method will be applied to the new impact fees. For this analysis, RCW 82,02,060(1) shall primarily apply to non-residential uses specified by the state, such as early learning facilities.

7525 166th Ave. NE, Ste D-215, Redmond, WA 98052
P: 425.867.1802
fcsgroup.com | bowman.com

PROPOSED WORK PLAN

Task 1 – Project Kickoff and Data Collection

Steps to Get There

1.1 Set up project and provide monthly invoices with progress reports.

1.2 Provide a data needs list to the City in advance of the kickoff meeting. Review data, to be provided electronically by the City. This shall include prior studies and planning documents regarding future growth and development. City shall provide summary and maps depicting current and planned improvements for major city roads, park land and park facilities.

1.3 Meet remotely with City staff to discuss initial data questions, identify and agree on key policy issues to be addressed, discuss policy objectives, and kickoff the study. Key policy issues to be addressed could include some or all of the following:

- Impact Fee Capital Planning Period (20 years)
- Priorities for future system improvements.
- Funding resource (revenue) assumptions for future system improvements
- Creditable vs. Non-Creditable Impact Fee Assumptions for private-constructed improvements.
- Methodology for charging/adjusting parks impact fees to hotels and RV Park developments.
- Methodology for updating impact fees using current ITE Handbook trip generation rates.
- Methodology for charging fees on changes in development that do not add building square feet, such as parking lots, outdoor storage, etc.
- Defensible approaches for calculating existing and future levels of service.
- Approaches for determining capacity added by planned transportation, parks, capital projects to maintain current levels of service.
- Discussion of "business enhancement factors" that would reduce fees for specified development types (i.e., hotels, restaurants, high tech) based upon general fund revenues that they contribute over time.

Deliverables

Monthly invoices with progress reports

Data needs list. The City shall provide the following assumptions early in the study process:

Prior Adopted Impact Fee Methodology and Ordinance.

Relevant studies and planning documents regarding future growth and development.

System Plans and Capital Cost Estimates, descriptions and maps of planned transportation, parks, police and fire facilities or needs to accommodate growth.

Priorities for future transportation, and park land/facilities (may be refined during the study process).

Existing and Projected Trip Generation estimates (based on current ITE Handbook) and Level of Service Analysis for signalized intersections in the City.

Existing Level of Service measures for parks and trails (e.g., current and planned acres and linear feet of trails).

Historic financial data depicting how prior capital improvements have been funded.

Current fund balances for impact fees.

Summary of prior five years of new construction activity permitted by the City depicting approved non-residential development by square feet of floor area, if available.

Internal Kickoff meeting #1

Task 2 – Impact Fee Policy Analysis

Steps to Get There

2.1 Identify policy options. The policy discussion during the kickoff meeting (Task 1.3) will sensitize us to the City's policy needs and concerns. We will seek policy solutions that meet the City's needs while being consistent with state statute.

2.2 Summarize findings, methodology alternatives and recommendations in a policy technical memorandum. This memorandum will constitute our advice to the City in the development of the update to the current impact fee methodology and resulting ordinance.

2.3 Review policy analysis and preliminary recommendations at an on-site meeting with City staff and jointly determine the policies that will inform the technical analyses.

Deliverables

Policy Issues and Recommendations Technical Memorandum. The memorandum shall include a separate section for transportation, parks, police and fire impact fees, and contents shall include the following:

Purpose

Overview of Relevant WA State Legal Requirements

Background and Current Practice by the City of North Bend

Methodology Options Under Consideration

- Growth Assumptions
- Capital Improvement Assumptions
- Evaluation of Policy Options
- Designing Impact Fees by Development or Land Use Type
- Caclulation of "business enhancement factors" and other "discount factors" for specific types of new developments

Preliminary Analysis and Recommendations

Task 3 – Technical Analysis

Steps to Get There

3.1 Estimate existing and future customer base to determine the quantity of growth to be served by existing and future facilities. This calculation will include growth in both population and employment (to facilitate possible charging of non-residential developments).

3.2 Estimate the eligible cost of existing facilities. To the extent that the City has available capacity in its parks system, at least a portion of the cost of that available capacity can be recovered in the impact fee.

3.3 Estimate the eligible cost of planned projects. To the extent that planned parks projects will serve new users (rather than cure existing deficiencies), at least a portion of the cost of those projects can be recovered in the impact fee. Any deviations from the existing capital facilities plan element of the City's comprehensive plan will be identified for further action amending that plan.

3.4 Calculate the impact fee schedule and funding plan.

3.5 Comparison of impact fees among peer jurisdictions

3.5 Review the technical analysis with City staff at up to two on-site meetings.

3.6 Revise analysis after review with City staff.

Deliverables

Analysis spreadsheet

Task 4 – Methodology Report and Communication

Steps to Get There

4.1 Deliver draft report. The draft report will document all findings and recommendations related to the calculation of the park impact fee. The City will have an opportunity to review the document and suggest refinements.

4.2 Present findings and recommendations. We will distill the draft report to a set of PowerPoint slides and deliver up to three presentations to audiences of the City's choice. For example, one presentation could be to a stakeholder group such as the master builders, and another two presentations could be to the City Council (perhaps once at a work session and once at the public hearing for adoption).

4.3 Draft ordinance. Draft the implementing ordinance that would establish the code section and park impact fee methodology. The draft ordinance will be reviewed and finalized by the City attorney. If the methodology includes any deviations from the City's adopted capital facilities plan element of the comprehensive plan, those will be noted for Council action amending the plan.

4.4 Deliver final report. The final version will reflect the feedback that was solicited in Task 4.1.

Deliverables

Draft Impact Fee Methodology report and final report

Draft ordinance

Presentation slides and council meeting participation (assumes FCS staff to attend up to 2 in in-person meetings)

FCS
a Bowman company

EXHIBIT B

BUDGET

We propose to complete this scope of work at a cost not to exceed $77,500 for the three facility types (transportation, parks and multimodal). Below is a detailed budget by task and individual:

Estimated Budget by Task and Key Staff

Task Detail	On Site	Chase Principal	Wood PC	Tryon Sr. Analyst	Admin Support	Total Hours	Budget Estimate
Task 1: Project Kickoff and Data Collection							
1.1 Set up and manage project		2	16		4	22	$4,850
1.2 Request and review data.		2	4	16		22	$4,470
1.3 Facilitate remote kickoff meeting.	1	2	2	2		6	$1,480
Task 1 Subtotal	1	6	22	18	4	50	$10,800
Task 2: Policy Analysis							
2.1 Identify policy options.		6	8	4		18	$4,550
2.2 Summarize policy analysis in memo.		4	8	4	2	18	$4,120
2.3 Review memo with City staff and assess options.	1	4	6	4		14	$3,430
Task 2 Subtotal	1	14	22	12	2	50	$12,100
Task 3: Technical Analysis							
3.1 Estimate existing and future customer base (growth).		4	6	4		14	$3,430
3.2 Estimate eligible cost of existing assets.		2	4	6		12	$2,670
3.3 Estimate eligible cost of planned projects.		4	12	24		40	$8,440
3.4 Calculate impact fee schedule and funding plan.		4	12	24		40	$8,440
3.5 Review technical analysis with City staff	2	8	16	12		36	$8,520
3.6 Revise analysis after review with City staff.		4	6	16		26	$5,590
Task 3 Subtotal	2	26	56	86	0	168	$37,090
Task 4: Communication							
4.1 Deliver draft report		2	8	14		24	$5,050
4.2 Present findings and recommendations.	3	8	16	8		32	$7,800
4.3 Draft ordinance		2	2			4	$1,120
4.4 Deliver final report		2	6	4	2	14	$3,000
Task 4 Subtotal	3	14	32	26	2	74	$16,970
Labor Total		$19,500	$31,020	$25,560	$880		$76,960
Expenses							$540
Budget Estimate							**$77,500**
Cost Summary							
Total Hours		60	132	142	8	342	
Billing Rate		$325	$235	$180	$110		

Additional meetings and presentation may be added as mutually agreed.

FCS
a Bowman company

Major Deliverable and Tentative Schedule

Deliverable	Schedule
Deliverable 1. Impact Fee Requirements and Methods Technical Memorandum to include the proportionate impact fee requirements of RCW 82.02.060(1)	Draft Tech. Memo.: Oct. 15, 2025 Final Tech. Memo: Nov. 15, 2025
Deliverable 2. North Bend Impact Fee Alternatives Analysis and Presentation to include the proportionate impact fee requirements of RCW 82.02.060(1)	Draft Tech. Memo.: Dec.15, 2025 Final Tech. Memo: Jan. 15, 2025
Deliverable 3. Draft Impact Fee Methodology Report and Procedures to include the proportionate impact fee requirements of RCW 82.02.060(1)	Draft Tech. Report.: Feb.15, 2025 Final Tech. Report: March. 15, 2026
Deliverable 4. Adoption of Final Impact Fee Methodology and Procedures and separate report on methodology as it relates to RCW 82.02.060(1)	Draft Report/Pres.: April 15, 2026 Final Report/Pres.: June 15, 2026

Our normal billing practice is to bill based on time and materials actually expended, not to exceed the total budget. We would be more than happy to negotiate the appropriate level of effort for this project if we have scaled our approach out of line with the City's needs or expectations.

7525 166th Ave. NE, Ste D-215, Redmond, WA 98052
P: 425.867.1802
fcsgroup.com | bowman.com

EXHIBIT C:

TAXPAYER IDENTIFICATION NUMBER

CITY OF NORTH BEND
920 SE Cedar Falls Way
North Bend, WA 98045
Phone: (425) 888-1211
FAX: (425) 831-6200

In order for you to receive reimbursement from the City of North Bend, we must have either a Taxpayer Identification Number or a Social Security Number. The Internal Revenue Code requires a Form 1099 for payments to every person or organization other than a corporation for services performed in the course of trade or business. Further, the law requires us to withhold 20% on reportable amounts paid to unincorporated persons who have not supplied us with their correct Tax Identification Number or Social Security Number.

Please complete the following information request form and return it to the City of North Bend before or along the submittal of the first billing voucher.

Please check the appropriate category:

___ Corporation ___ Partnership ___ Government Agency

___ Individual/Sole Proprietor ___ Other (please explain)

TIN#: __ __-__ __ __ __ __ __ __

SS#: __ __ __-__ __-__ __ __ __

Print Name: ______________________________

Print Title: ______________________________

Business Name: ______________________________

Business Address: ______________________________

Business Phone: ______________________________

EXHIBIT D:

CITY OF NORTH BEND
IDENTITY THEFT PREVENTION PROGRAM

I. PROGRAM ADOPTION

The City of North Bend developed this Identity Theft Prevention Program ("Program") pursuant to the Federal Trade Commission's Red Flags Rule ("Rule"), which implements Sections 114 and 315 of the Fair and Accurate Credit Transactions Act of 2003. This Program was developed with the oversight and approval of the City's Finance Director. After consideration of the size and complexity of the City's operations and account systems, and the nature and scope of the City's activities, the City Council determined that this Program was appropriate for the City, and therefore approved this Program by the adoption of Ordinance No.1351 on the 21 day of April, 2009.

II. PROGRAM PURPOSE AND DEFINITIONS

A. Fulfilling Requirements of the Red Flags Rule. Under the Red Flags Rule, every financial institution and creditor is required to establish an identity theft prevention program tailored to its size, complexity and the nature of its operation. The Program must contain reasonable policies and procedures to:

- Identify relevant red flags as defined in the Rule and this Program for new and existing covered accounts, and incorporate those red flags into the Program;
- Detect red flags that have been incorporated into the Program;
- Respond appropriately to any red flags that are detected to prevent and mitigate identity theft; and
- Update the Program periodically to reflect changes in risks to customers or to the safety and soundness of the City from identity theft.

B. Red Flags Rule Definitions Used in this Program. For the purposes of this Program, the following definitions apply:

"Account" means a continuing relationship established by a person with a creditor to obtain a product or service for personal, family, household or business purposes.

"Covered account" means:

1. Any account the City offers or maintains primarily for personal, family or household purposes, that involves multiple payments or transactions; and
2. Any other account the City offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the City from identity theft.

"Creditor" has the same meaning as defined in Section 701 of the Equal Credit Opportunity Act, 15 U.S.C. 1691a, and includes a person or entity that arranges for the extension, renewal or continuation of credit, including the City.

"Customer" means a person or business entity that has a covered account with the City.

"Financial institution" means a state or national bank, a state or federal savings and loan association, a mutual savings bank, a state or federal credit union, or any other entity that holds a "transaction account" belonging to a customer.

"Identifying information" means any name or number that may be used, alone or in conjunction with any other information, to identity a specific person, including name, address, telephone number, social security number, date of birth, government passport number, employer or taxpayer identification number or unique electronic identification number.

"Identity theft" means fraud committed using the identifying information of another person.

"Red flag" means a pattern, practice, or specific activity that indicates the possible existence of identity theft.

"Service provider" means a person or business entity that provides a service directly to the City relating to or in connection with a covered account.

III. IDENTIFICATION OF RED FLAGS

In order to identify relevant red flags, the City shall review and consider the types of covered accounts that it offers and maintains, the methods it provides to open covered accounts, the methods it provides to access its covered accounts, and its previous experiences with identity theft. The City identifies the following red flags, in each of the listed categories:

A. Notification and Warnings from Credit Reporting Agencies – Red Flags.

- Report of fraud accompanying a credit report;
- Notice or report from a credit agency of a credit freeze on a customer or applicant;
- Notice or report from a credit agency of an active duty alert for an applicant; and
- Indication from a credit report of activity that is inconsistent with a customer's usual pattern or activity.

B. Suspicious Documents – Red Flags.

- Identification document or card that appears to be forged, altered or inauthentic;
- Identification document or card on which a person's photograph or physical description is not consistent with the person presenting the document;
- Other document with information that is not consistent with existing customer information (such as a person's signature on a check appears forged); and
- Application for service that appears to have been altered or forged.

C. Suspicious Personal Identifying Information – Red Flags.

- Identifying information presented that is inconsistent with other information the customer provides (such as inconsistent birth dates);
- Identifying information presented that is inconsistent with other sources of information (for instance, an address not matching an address on a driver's license);
- Identifying information presented that is the same as information shown on other applications that were found to be fraudulent;
- Identifying information presented that is consistent with fraudulent activity (such as an invalid phone number or fictitious billing address);
- Social security number presented that is the same as one given by another customer;
- An address or phone number presented that is the same as that of another person;

- Failing to provide complete personal identifying information on an application when reminded to do so (however, by law social security numbers must not be required); and
- Identifying information which is not consistent with the information that is on file for the customer.

D. Suspicious Account Activity or Unusual Use of Account – Red Flags.

- Change of address for an account followed by a request to change the account holder's name;
- Payments stop on an otherwise consistently up-to-date account;
- Account used in a way that is not consistent with prior use (such as very high activity);
- Mail sent to the account holder is repeatedly returned as undeliverable;
- Notice to the City that a customer is not receiving mail sent by the City;
- Notice to the City that an account has unauthorized activity;
- Breach in the City's computer system security; and
- Unauthorized access to or use of customer account information.

E. Alerts from Others – Red Flag.

- Notice to the City from a customer, a victim of identity theft, a law enforcement authority or other person that it has opened or is maintaining a fraudulent account for a person engaged in identity theft.

IV. DETECTING RED FLAGS

A. New Accounts. In order to detect any of the red flags identified above associated with the opening of a **new account,** City personnel will take the following steps to obtain and verify the identity of the person opening the account:

- Require certain identifying information such as name, date of birth, residential or business address, principal place of business for an entity, driver's license or other identification;
- Verify the customer's identity (for instance, review a driver's license or other identification card);
- Review documentation showing the existence of a business entity; and
- Independently contact the customer.

B. Existing Accounts. In order to detect any of the red flags identified above for an **existing account,** City personnel will take the following steps to monitor transactions with an account:

- Verify the identification of customers if they request information (in person, via telephone, via facsimile, via email);
- Verify the validity of requests to change billing addresses; and
- Verify changes in banking information given for billing and payment purposes.

V. PREVENTING AND MITIGATING IDENTITY THEFT

In the event City personnel detect any identified red flags, such personnel shall take one or more of the following steps, depending on the degree of risk posed by the red flag:

A. Prevent and Mitigate Identity Theft.

- Monitor a covered account for evidence of identity theft;

- Contact the customer with the covered account;
- Change any passwords or other security codes and devices that permit access to a covered account;
- Not open a new covered account;
- Close an existing covered account;
- Reopen a covered account with a new number;
- Not attempt to collect payment on a covered account;
- Notify the Finance Director for determination of the appropriate step(s) to take;
- Notify law enforcement; or
- Determine that no response is warranted under the particular circumstances.

B. Protect Customer Identifying Information. In order to further prevent the likelihood of identity theft occurring with respect to City accounts, the City shall take the following steps with respect to its internal operating procedures to protect customer identifying information:

- Secure the City website but provide clear notice that the website is not secure;
- Undertake complete and secure destruction of paper documents and computer files containing customer information;
- Make office computers password protected and provide that computer screens lock after a set period of time;
- Keep offices clear of papers containing customer identifying information;
- Request only the last 4 digits of social security numbers (if any);
- Maintain computer virus protection up to date; and
- Require and keep only the kinds of customer information that are necessary for City purposes.

VI. PROGRAM ADMINISTRATION

A. Oversight. The Finance Director or other designated city employee at the level of senior management shall be responsible for developing, implementing, and updating the Program.

The Finance Director shall also be responsible for the Program administration, for appropriate training of City staff on the Program, for reviewing the annual staff report required under the Program, as well as any other staff reports regarding the detection of red flags and the steps for preventing and mitigating identity theft, determining which steps of prevention and mitigation should be taken in particular circumstances, and considering periodic changes to the Program.

B. Staff Training and Reports. City staff responsible for implementing the Program shall be trained either by or under the direction of the Finance Director in the detection of red flags, and the responsive steps to be taken when a red flag is detected. Additionally, a compliance report shall be provided annually to the Finance Director. The annual compliance report shall at a minimum address the following:

1. The effectiveness of the City's policies and procedures in addressing the risk of identity theft in connection with the opening of covered accounts and with respect to existing covered accounts;
2. Service provider arrangements;
3. Significant incidents involving identity theft and the City's response; and
4. Recommendations for material changes to the Program.

C. Service Provider Arrangements. In the event the City engages a service provider to perform an activity in connection with one or more covered accounts, the City shall take the following steps to require that the service provider performs its activity in accordance with reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft.

- Require, by contract, that service providers acknowledge receipt and review of the Program and agree to perform their activities with respect to City covered accounts in compliance with the terms and conditions of the Program and with all instructions and directives issued by the Finance Director relative to the Program; or
- Require, by contract, that service providers acknowledge receipt and review of the Program and agree to perform their activities with respect to City covered accounts in compliance with the terms and conditions of the service provider's identity theft prevention program and will take appropriate action to prevent and mitigate identity theft; and that the service providers agree to report promptly to the City in writing if the service provider in connection with a City covered account detects an incident of actual or attempted identity theft or is unable to resolve one or more red flags that the service provider detects in connection with a covered account.

D. Customer Identifying Information and Public Disclosure. The identifying information of City customers with covered accounts shall be kept confidential and shall be exempt from public disclosure to the maximum extent authorized by law, including RCW 42.56.230(4). The City Council also finds and determines that public disclosure of the City's specific practices to identity, detect, prevent, and mitigate identify theft may compromise the effectiveness of such practices and hereby direct that, under the Program, knowledge of such specific practices shall be limited to the Finance Director and those City employees and service providers who need to be aware of such practices for the purpose of preventing identity theft.

VII. PROGRAM UPDATES

The Program will be periodically reviewed and updated to reflect changes in risks to customers and to the safety and soundness of the City from identity theft. The Finance Director shall at least annually review the annual compliance report and consider the City's experiences with identity theft, changes in identity theft methods, changes in identity theft detection and prevention methods, changes in types of accounts the City maintains and changes in the City's business arrangements with other entities and service providers. After considering these factors, the Finance Director shall determine whether changes to the Program, including the listing of red flags, are warranted. If warranted, the Finance Director shall present the recommended changes to the City Council for review and approval.

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 8/22/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Foundation Risk Partners, Corp.
P.O. Box 219
Timonium MD 21094

CONTACT NAME: Certificates Team
PHONE (A/C, No, Ext): 410-832-7600
FAX (A/C, No): (410) 832-1849
E-MAIL ADDRESS: certsprorisk@foundationrp.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : The Charter Oak Fire Insurance Company	25615
INSURER B : The Travelers Indemnity Company of America	25666
INSURER C : Travelers Property Casualty Company of America	25674
INSURER D : Berkshire Hathaway Specialty Insurance Company	22276
INSURER E : Beazley Insurance Company, Inc.	37540
INSURER F :	

INSURED BOWMCON-03
FCS, A Bowman Company
FCS Group; Bowman Consulting Group, LTD
12355 Sunrise Valley Drive, Suite 520
Reston VA 20191

COVERAGES **CERTIFICATE NUMBER:** 1545281452 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY			630A3238719	8/31/2025	8/31/2026	EACH OCCURRENCE	$ 1,000,000
	CLAIMS-MADE; X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 1,000,000
							MED EXP (Any one person)	$ 10,000
							PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,000
	POLICY; X PRO-JECT; LOC						PRODUCTS - COMP/OP AGG	$ 2,000,000
	OTHER:							$
B	AUTOMOBILE LIABILITY			810-5880B353	8/31/2025	8/31/2026	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY; SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	HIRED AUTOS ONLY; NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
C	X UMBRELLA LIAB; X OCCUR			CUP6J395074	8/31/2025	8/31/2026	EACH OCCURRENCE	$ 25,000,000
	EXCESS LIAB; CLAIMS-MADE						AGGREGATE	$ 25,000,000
	DED; X RETENTION $ 0							$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N			UB6J317115	8/31/2025	8/31/2026	X PER STATUTE; OTH-ER	
	ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) N	N / A					E.L. EACH ACCIDENT	$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000
D	Primary Professional & Poll Liab			47-EPP-330666-03	8/31/2025	8/31/2026	Each Claim/Aggregate	$5M/$5M
E	Excess Professional & Poll Liab			V3349C250401	8/31/2025	8/31/2026	Excess Each Claim/Agg	$5M/$5M

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
If required by an insured written contract, executed prior to any loss, the certificate holder is an Additional Insured on a primary and non-contributory basis under the General and Auto Liability Policies. If required by an insured written contract, executed prior to any loss, Waiver of Subrogation is provided for General, Auto, and Workers Compensation Policies. Umbrella Policy follows form over General, Auto, and Employer's Liability Policies. 30 day notice of cancellation, 10 day for non-payment.

CERTIFICATE HOLDER
City of North Bend
920 SE Cedar Falls Way
North Bend WA 98045

CANCELLATION
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Charles H. Fogleh

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City Council Agenda Bill

Agenda Date: August 4, 2026 **AB26-067**

Subject:	**AB26-067 -** Motion Authorizing 2026 Blanket Purchase Orders		
Department/ Committee/ Individual:	Elaine Morse, Deputy Finance Director	Cost Impact: Fund Source: Timeline:	See Exhibit A Various Funds Immediate

Attachments: 1. Exhibit A

Summary Statement:

A Blanket Purchase Order is a purchase order that is used for routine or normal operating supplies and services purchased on a repetitive basis from the same vendor. The City's current purchasing policies require City Council approval for any contract or purchase order exceeding $25,000. Staff estimates that it will spend more than $25,000 on routine purchases from the vendors listed in Exhibit A during 2026.

Staff is requesting approval of blanket purchase orders with the vendors listed in Exhibit A in amounts not to exceed those listed for the 2026 calendar year. Sufficient funds have already been appropriated within the existing budget for these purchases.

Exhibit A includes a comparison of 2026 blanket purchase order limits vs. 2025 actual purchase order amounts.

Applicable Brand Guidelines:

- Economic viability/balanced budget

Committee Review and Recommendation:

This item was reviewed by the Finance and Administration Committee at their July 16, 2026 meeting with a recommendation for approval and placement on the Consent Agenda.

Recommended Action:

Motion to approve AB26-067, authorizing Blanket Purchase Orders with the vendors listed in Exhibit A, in amounts not to exceed those listed in Exhibit A.

Record of Council Action:

Meeting Date	Action	Vote
August 4, 2026		

Exhibit A

2026 Purchase Order Limit vs 2025 Expenditures

VENDOR	PURPOSE	2026 AMOUNT NOT TO EXCEED	Amount Spent In 2025	Difference - 2026 vs 2025
Amazon Capital Services	Operating Supplies	$40,000	$32,092	$7,908
Amtest	Lab Testing	$25,000	$13,865	$11,135
CalPortland Company	Sand & Roadway Aggregate	$25,000	$21,206	$3,794
Core & Main	Meter Replacement Program	$180,000	$189,371	-$9,371
HD Fowler	Water Repair & Maintenance Supplies	$50,000	$39,439	$10,561
Inland Environmental Resources, INC (IER)	Magnesium Hydroxide for WWTP	$25,000	$19,019	$5,981
James Oil Company	Fuel	$60,000	$50,056	$9,944
Liftoff, LLC	Technology & Software (Xtra File Storage)	$45,000	$38,072	$6,928
NCL of Wisconsin Inc	Lab Supplies	$30,000	$1,757	$28,243
Staples Business Advantage	Office & Operating Supplies	$25,000	$22,658	$2,342
Tech Power Solutions	Technology Purchases (Hardware & Software Support)	$35,000	$25,697	$9,303
		$540,000	$453,233	$86,767

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City Council Agenda Bill

Agenda Date: August 4, 2026 **AB26-068**

Subject:	**AB26-068 -** Youth Appointment to Parks Commission		
Department/ Committee/ Individual:	Mayor Miller	Cost Impact: Fund Source: Timeline:	N/A N/A Immediate

Attachments: None

Summary Statement:

In 2007 the Council passed Ordinance 1277 which amended Parks Commission membership and established a youth position as set forth below.

Section 1. NBMC 2.24.020 (Membership), Amended: North Bend Municipal Code Section 2.24.020 (Membership) reads in part:

2.24.020 Membership.
"One member shall be a resident of the Snoqualmie Valley School District enrollment area, shall be between the ages of 16 and 18 years at the time of appointment, and shall have full voting rights."

On September 2, 2025 Eyleen Eusebio was appointed to Parks Commission Youth Member Position No. 5 to fill the vacancy left as a result of the expiring term of Ethan Eusebio. Since that time, Ms. Eusebio has enthusiastically served in her position and has indicated she would like to continue to serve her community for another term as Youth Member to the Parks Commission.

Mayor Miller is recommending the reappointment of Eyleen Eusebio to Youth Position No. 5 on the Parks Commission, term expiring August 31, 2027.

Applicable Brand Guidelines:

- Commitment to invest in the City and foster community engagement and pride

Committee Review and Recommendation:

N/A

Recommended Action:

Motion to approve AB26-068, confirming the reappointment of Eyleen Eusebio to Youth Member Position No. 5 on the Parks Commission, term expiring August 31, 2027.

Record of Council Action:

Meeting Date	Action	Vote
August 4, 2026		