



BOARD OF TRUSTEES
March 12, 2024
6:30 PM

Leeper Center, 3800 Wilson Avenue, Wellington, CO

Regular Meeting Agenda

Individuals wishing to make public comments must attend the meeting in person or may submit comments by sending an email to muhse@wellingtoncolorado.gov. The email must be received by 4:00 p.m. on the day of the meeting. The comments will be provided to the Trustees and added as an addendum to the packet. Emailed comments will not be read during the meeting.

The Zoom information below is for online viewing and listening only.

Please click the link below to join the webinar:

<https://us06web.zoom.us/j/84871162393?pwd=UkVaaDE4RmhJaERnallEK1hvNHJ5Zz09>

Passcode: 726078

Or One tap mobile :

US: +17207072699,,84871162393# or +17193594580,,84871162393#

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Dial(for higher quality, dial a number based on your current location):

US: +1 720 707 2699 or +1 719 359 4580 or +1 669 444 9171 or +1 253 205 0468 or +1 253 215 8782 or +1 346 248 7799 or +1 386 347 5053 or +1 507 473 4847 or +1 564 217 2000 or +1 646 558 8656 or +1 646 931 3860 or +1 689 278 1000 or +1 301 715 8592 or +1 305 224 1968 or +1 309 205 3325 or +1 312 626 6799 or +1 360 209 5623

Webinar ID: 848 7116 2393

A. CALL TO ORDER

1. Pledge of Allegiance
2. Roll Call
3. Amendments to Agenda
4. Conflict of Interest

B. COMMUNITY PARTICIPATION

1. Public Comment
2. Community Services Center

- Mark Gabbert, Community Services Center Board of Directors Chair

C. LIQUOR LICENSE AUTHORITY BOARD

1. Green Events Special Event Liquor Permit Amendment
 - Presentation: Ethan Muhs, Town Clerk

D. CONSENT AGENDA

1. February 27, 2024 Regular Meeting Minutes

- Presentation: Ethan Muhs, Town Clerk

E. ACTION ITEMS

1. Continued - Resolution No. 10-2024 (Formerly 07-2024): Approving an Intergovernmental Agreement Between the Town of Wellington, the Town of Berthoud and the Town of Timnath Concerning a Joint Agreement for Animal Control Services with NOCO Humane

- Presentation: Patti Garcia, Town Administrator

2. Continued - Resolution No. 08-2024: Approving a Joint Agreement for Animal Control Services with NOCO Humane

- Presentation: Patti Garcia, Town Administrator

3. Ordinance No. 05-2024: An Ordinance of the Board of Trustees of the Town of Wellington, Colorado Awarding Comcast of Colorado IX, LLC a Ten (10) Year Nonexclusive Revocable Franchise to Construct, Operate, Maintain, Construct and Build a Cable System within the Town of Wellington

- Presentation: Patti Garcia, Town Administrator

F. REPORTS

1. Town Attorney
2. Town Administrator
3. Staff Communications
 - a. Strategic Plan Update
4. Board Reports

G. ADJOURN

The Town of Wellington will make reasonable accommodations for access to Town services, programs, and activities and special communication arrangements. Individuals needing special accommodation may request assistance by contacting at Town Hall or at 970-568-3380 ext. 110 at least 24 hours in advance.



Board of Trustees Meeting

Date: March 12, 2024
Subject: Community Services Center

- **Mark Gabbert, Community Services Center Board of Directors Chair**

BACKGROUND / DISCUSSION

STAFF RECOMMENDATION

ATTACHMENTS

1. Letter from Community Services Center
2. CSC Case Statement_December 2023_digital



C/O Grace Village
P.O Box 918
Wellington, Colorado 80549

*OUR MISSION: Connecting
our neighbors with uplifting
and life-enhancing resources...*

TO: Wellington Board of Trustees

FROM: Mark Gabbert, *Community Services Center* Board of Directors Chair

March 7, 2024

I am writing to submit a grant request on behalf of the Community Services Center (CSC) Project, a vital initiative aimed at addressing the pressing need for accessible public services within the Town of Wellington and its surrounding areas.

The CSC Project, under the umbrella of the Grace Village 501(c) non-profit organization, is dedicated to constructing a facility that will serve as a permanent hub for non-profits and essential public services. Our envisioned center will offer a range of crucial services including Larimer County Human Services, SummitStone Mental Health Partners, counseling and mental health assistance, income tax and financial guidance, educational support services, and space for community groups and youth activities. It will be a place where individuals and groups can find support, guidance, and a sense of community connection.

Currently, there is a significant gap in public transportation to services such as the Longview Campus – Behavioral Health Services facility, leaving many individuals and families without access to essential care. Wellington has been described as a "mental health desert" by staff at the Wellington Middle High School, emphasizing the urgent need for local support services. Commuting to Fort Collins for specialized care places an undue burden on those in need, highlighting the necessity for accessible services within our community.

The commitment from SummitStone Mental Health and Larimer County Human Services to utilize space within our facility underscores the critical importance of the CSC Project. Larimer County Human Services plays a pivotal role in assisting individuals and families in achieving self-sufficiency and security through various public assistance programs and referrals to community agencies. Additionally, the CSC Project aligns with the strategic goals of the Board of Trustees in promoting the development of community gathering spaces, with three such spaces available for public use.

In seeking a grant of \$10,000 from your Board's Discretionary Funds, we aim to contribute towards the construction of this essential public service building. It is our fervent belief that this grant will not only fill a significant void in public services but also contribute to the overall well-being and inclusivity of our community. This grant will help fund the installation of an elevator within the facility. By doing so, we will ensure equitable access for individuals of all abilities, thereby promoting a more inclusive and supportive environment.

At Grace Village, we uphold principles of inclusivity and non-discrimination, ensuring that our services are accessible to all residents regardless of race, religion, gender, age, disability, or any other characteristic. We do not engage in proselytization or impose any conditions on our assistance, maintaining an environment of openness and respect for diverse beliefs.

Should our grant request be successful, we pledge to provide the Board of Trustees with regular annual reports on the progress and impact of the Community Services Center Project, ensuring transparency and accountability in our endeavors.

We sincerely thank you for considering our grant request and for your ongoing commitment to the well-being of the Town of Wellington and its residents.



BUILD WITH US

A CASE IN SUPPORT OF



COMMUNITY
SERVICES CENTER
Wellington Region



Dear Potential Partner -

This “Case Statement” summarizes our plans to creatively and collaboratively address some critical needs of folks in the Wellington area. As part of Grace Village, a 501(c)-3 nonprofit, the **Community Services Center (CSC)** will provide a “one-stop” facility for individuals and families to get help with food and clothing from our new pantry, and/or to connect with the services of a number of other nonprofits and service agencies. Services will include the pantry, financial, personal, spiritual, and family counseling; employment services, case management, learning support, senior assistance; and more.

Our goal is to provide a hand-up to our neighbors.

As you will read in what follows, we intend to raise all of the funds needed to build and equip this facility. To cover the ongoing operating costs of the CSC, we will rely on continuing donations and grants, as well as lease income from the offices we are making available. Working together, we can make this happen!

Please read this “Case Statement” and consider joining us in this exciting and important venture.

Thank you!

Mark Gabbert

Mark Gabbert
Grace Village BOD Chair

IMAGINE A PLACE WHERE...

Children, seniors, and families can get the help they need in times of crisis.

Social service agencies share the same goals under the same roof.

Volunteers contribute their time, resources, and talents to helping fellow community members.

Community members can gather to socialize, learn, create, and grow.

ALL AVAILABLE RIGHT IN WELLINGTON!

THIS PLACE IS THE
COMMUNITY SERVICES CENTER
AND IT'S ABOUT TO COME TO LIFE IN WELLINGTON



**COMMUNITY
SERVICES CENTER**
Wellington Region

OUR VISION

Connecting our neighbors with uplifting and life-enhancing resources

OUR MISSION

The Community Services Center (CSC) is part of “GRACE VILLAGE,” a faith-based 501-(c)-3 nonprofit organization dedicated to meeting the needs of all within our reach. Our CSC will be home to the Wellington Food & Clothing Pantry and other non-profits and county service agencies.

As able, we will provide emergency and basic needs services, offering a hand-up to those who are struggling in various areas of life. Services will include the Pantry, financial, personal, spiritual, and family counseling; employment services, case management; senior assistance; and more.

Our desire to serve is fueled by our calling to respond to God’s blessings of love and grace by lovingly and graciously serving all our neighbors in need. We very much value the dignity of all people and our mission is to promote their independence.



These drawings are the proprietary work product and property of Associates in Building and Design LTD., developed for the exclusive use of Zion Church. Use of these drawings and concepts contained therein without the written permission of Associates in Building and Design LTD. is prohibited.

With about 7,200 square feet of space to accommodate the most-needed social service agencies, in addition to a home for the Food and Clothing Pantry, this will be a model facility to serve our community and surrounding area.

THE NEED

6.1%

of Wellington residents had income below poverty level in 2019. That is over **700 PEOPLE** in just Wellington and over **1,200 PEOPLE** in the Wellington area.

7.5%

of the children in Wellington live in poverty.

10.8%

of the people in Wellington lack health insurance.

Source: US Census Bureau, 2020 data: <https://data.census.gov/cedsci/>

FROM OUR PARTNERS AT THE FOOD BANK FOR LARIMER COUNTY



Hunger in Larimer County often goes unnoticed. We live in a great community, so it's easy to overlook hunger when it doesn't touch you or someone you love. That's because hunger hides behind closed doors. It lives in the home of a single mother who skips dinner to make sure her children have enough to eat. It lives in the apartment of the grandfather who has to choose between a meal and taking his medicine. It lives in the bedroom of a young child who has to make it all night without food until the next school day when she knows she will be fed.



10.9%

of Larimer County residents live at or below the Federal Poverty guideline.



38,040

Larimer County residents are food insecure.



21.6%

of single mothers live in poverty.



8.4%

of seniors are food insecure.



32%

of school-aged children in Larimer County receive free or reduced meals.

BREAKING THE CHAINS OF POVERTY

THE FACES OF POVERTY IN OUR COMMUNITY ARE VARIED.

They are children, youth, seniors, the disabled and mentally ill. They are veterans, formerly middle class, and those on the brink of homelessness.

The number of people living in poverty has increased with population growth in the area. As a result, the demands for social services have escalated. Every day, clients are unable to access those life changing social services for a variety of reasons. For a person or family in crisis, this can be devastating. The struggle of transportation and time away from work and family is impossible for some. We are working hard to keep them from falling through the cracks, that is where the CSC model comes in.

WHAT WILL THE COMMUNITY SERVICES CENTER INCLUDE?

1

Along with the Wellington Food & Clothing Pantry, this facility will serve as permanent home for non-profits & services such as:

- Larimer County Human Services, including Office on Aging
- Summitstone Health Partners
- Counseling & mental health
- Income tax & financial assistance

2

Provide space for community groups and youth activities.

3

A place where groups of people “can just come to talk.”

4

Educational support services.

AN ASSET TO THE COMMUNITY

The purpose of CSC is the gathering of non-profits in the same building to open doors of opportunity to our community’s most vulnerable.

The needs of the community can be met in a “one-stop” facility where families and individuals can receive all the services they need. Clients can access food, clothing, rental and housing assistance, education/tutoring and other basic needs with a goal of independence. The CSC will also be a great place for people of all ages from the community to volunteer and find meaningful ways to care for their neighbors.

THE CSC WILL BE A HUB OF ACTIVITY FOR CHILDREN, YOUTH, INDIVIDUALS, FAMILIES AND SENIOR CITIZENS.



THE TIME IS NOW

THE NEED IS GREAT.

The need for services to the community is increasing as the town and area grows. Many community members that need the services are unable to access them due to challenging transportation limits.

PARTNERSHIPS ARE IN PLACE

Several non-profits and Larimer County agencies are anxious to partner with CSC and are looking for and need space locally to offer their services.

THE OPPORTUNITY IS HERE

CSC has the land in place due to a 50-year, one dollar per year lease from Zion Lutheran Church. A central location with easy access to the community.

MAKING IT A REALITY

- ✓ **PHASE 1: ACQUISITION OF LAND TO LOCATE THE BUILDING (COMPLETED)**
- ✓ **PHASE 2: DESIGN AND CONSTRUCT A 7,200 SQUARE FOOT BUILDING AT A COST OF \$2,300,000.**
- ✓ **PHASE 3: CREATE AN ENDOWMENT FUND FOR ONGOING OPERATIONAL COSTS**

OUR PLAN:

Our strategy is to secure 100% funding for CSC from a combination of public and private support. A goal of \$2,300,000 has been set for the building with plans to fund start-up and ongoing operations costs through generous donations. We are confident that with YOUR support we will attain that goal.

There will be NO borrowed funds.

Monthly income cover ongoing operating costs will come from:



Modest rent for non-profit
office space



Rental income from
community groups and
functions



Recurring donor
contribution



Regularly scheduled fund-
raising projects



Benevolent foundations

GIVING LEVELS & BENEFITS

\$100 - \$499

- 4" x 8" brick with name at front entrance

\$500 - \$9,999

- 8" x 16" brick with name at front entrance

\$10,000 - \$49,999

- 8" x 16" brick with name at front entrance
- Name on large, permanent plaque at front entrance

\$50,000 - \$99,999

- Office naming rights
- 8" x 16" brick with name at front entrance
- Name on large, permanent plaque at front entrance

\$100,000 - \$149,999

- Gathering room naming rights
- 8" x 16" brick with name at front entrance
- Name on large, permanent plaque at front entrance

\$150,000 - \$249,999

- Clothing pantry naming rights
- 8" x 16" brick with name at front entrance
- Name on large, permanent plaque at front entrance

\$250,000 - \$499,999

- Food pantry naming rights
- 8" x 16" brick with name at front entrance
- Name on large, permanent plaque at front entrance

\$500,000 - \$999,999

- Naming rights for one level
- 8" x 16" brick with name at front entrance
- Name on large, permanent plaque at front entrance

\$1,000,000+

- Naming rights for the entire building
- 8" x 16" brick with name at front entrance
- Name on large, permanent plaque at front entrance

HOW TO GIVE

By making a gift to the campaign for the new Community Service Center, you are making a gift to our entire community. Not only will you make it possible for more people to receive help, but your contribution will also help break the chains of poverty that hold so many people back.



GIVE ONLINE

Visit www.WellingtonCSC.org to donate or scan the QR code



WRITE A CHECK

Make a check payable, in any amount, to Grace Village and denote CSC in the memo line. Checks can be mailed to: Grace Village, 8322 2nd St, Wellington, CO 80549

THE WELLINGTON FOOD BANK: A HISTORY OF SERVICE

Back in the late 1980s, a group of people, many from Zion Lutheran Church in Wellington, became aware of a need in the community and decided to do something about it. Thus, the Wellington Food Bank was born, providing vital help to those in need. Soon a partnership was formed with the Food Bank for Larimer County, which continues to this day.

For these many decades, the Food Bank has served as a means through which the people of Wellington have taken care of one another. All the churches of the community have been supportive, with the Wellington Community Church providing a home for the ministry for around twenty years. River of Life has graciously provided a temporary home for the past year. But now a new and permanent home is needed.

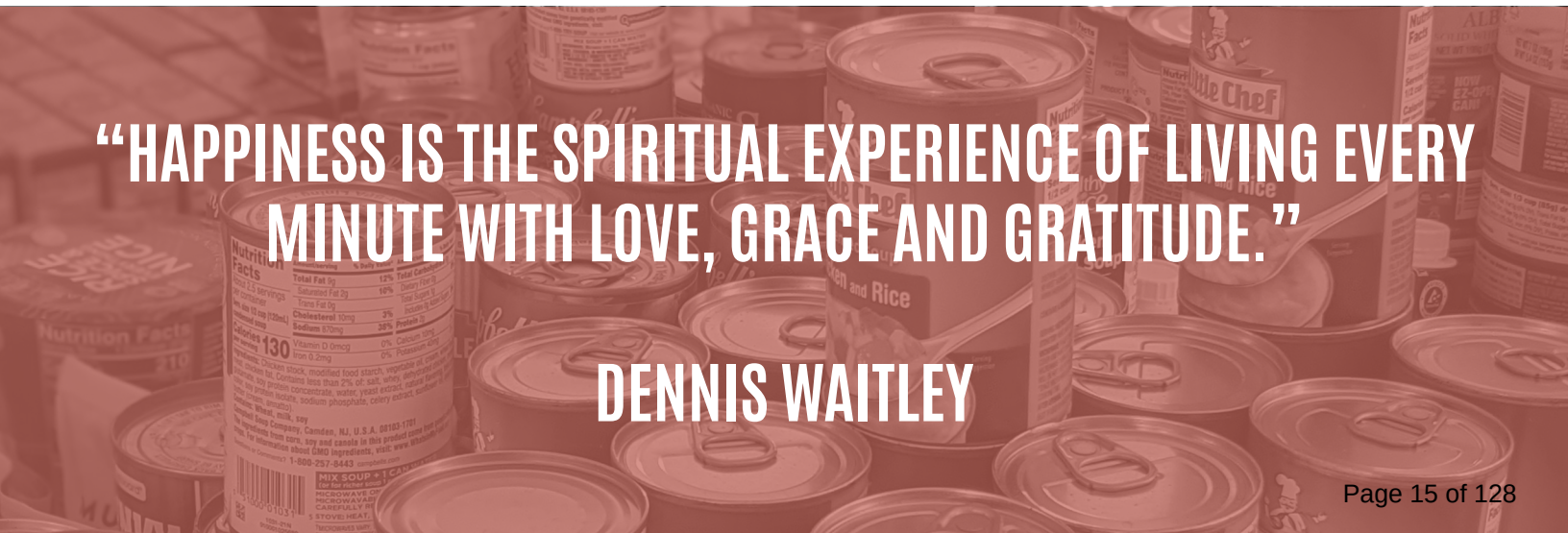
The Food Bank has since its inception been run by a long list of wonderful volunteers from throughout the area. Other individuals and organizations have supported the Food Bank, including all of the schools, the Chamber of Commerce, local businesses, Scouts, 4-H, and many more. And for a long time, Ridley's Market has been very generous in their support, as has John Slutsky and LaLuna Dairy. All of this has proven Wellington to be a community which cares!

All of this has proven Wellington to be a community which cares!

In the last two decades, as the town has expanded, so has the importance of the Wellington Food Bank. Fifteen years ago, a dozen or so families would come to pick up food. Now the Food Bank averages 70-80 families receiving food each time it is open. Around the holidays, over 120 families are served.

A new home for what will be known as the "Wellington Food & Clothing Pantry" will make it possible to help what is expected to be at least double the number of "food insecure" families receiving assistance. Expanded hours and accessibility will be made possible at the Community Services Center.

To find out more about the history of the Wellington Food Bank, read this North Forty News article from November 2014: <https://northyfortynews.com/category/uncategorized/wellington-food-bank-fills-increasing-needs>



"HAPPINESS IS THE SPIRITUAL EXPERIENCE OF LIVING EVERY MINUTE WITH LOVE, GRACE AND GRATITUDE."

DENNIS WAITLEY



COMMUNITY SERVICES CENTER

Wellington Region

www.WellingtonCSC.org



Design of this Case Statement was donated by M Rock Creative | www.MRockCreative.com

Board of Trustees Meeting

Date: March 12, 2024
Subject: Green Events Special Event Liquor Permit Amendment

- **Presentation:** Ethan Muhs, Town Clerk

BACKGROUND / DISCUSSION

Green Events Inc applied and was approved for a Special Event Liquor Permit at the Regular Meeting on February 13, 2024 (currently approved diagram is attachment 3 to this item). The applicant has requested an amendment to their license that would permit the event to occur in a parking lot close to the original premise in case of inclement weather. The applicant has permission from the property owner for use of the contingency premises and plans to conduct a weather call ahead of the event. In accordance with the Wellington Municipal Code, notice has been posted conspicuously on the premises for 10 days prior to this hearing.

STAFF RECOMMENDATION

Staff have identified the following options for Board consideration:

1. Approve the proposed amendment for a contingency premises to the special event liquor permit application.
2. Approve the proposed amendment for a contingency premises to the special event liquor permit application with amendments as the Board deems necessary.
3. Deny the proposed amendment for a contingency premises to the special event liquor permit application.

ATTACHMENTS

1. Weather Contingency - Beer Garden Plan Spring Equinox 2024
2. Spring Equinox Event Permission Letter 2024 HM Enterprises (002)
3. Spring Equinox Beer Garden Diagram - Current Approved

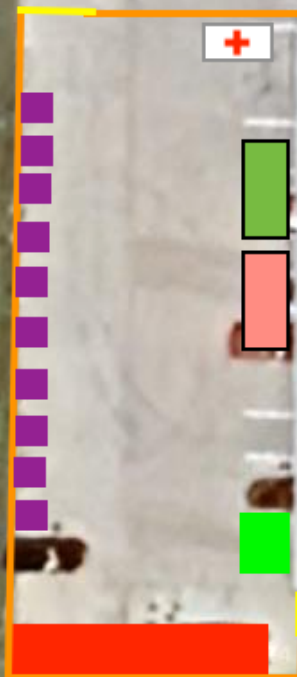
E County Rd 60

GW Bush Ave

E County Rd 60

Weather Contingency Plan Beer Garden Site Map

If there is snow/rain making the dirt field muddy, beer garden will be setup on the pavement in the parking lot.



	Fencing
	Entrance/Exit Gates No Alcohol beyond this point signs posted
	Beer Tent
	Portable toilets
	Tents
	Sponsor/Vendor Booths
	Food
	Coffee Truck
	EMS/Ambulance

February 29, 2024

To Whom It May Concern:

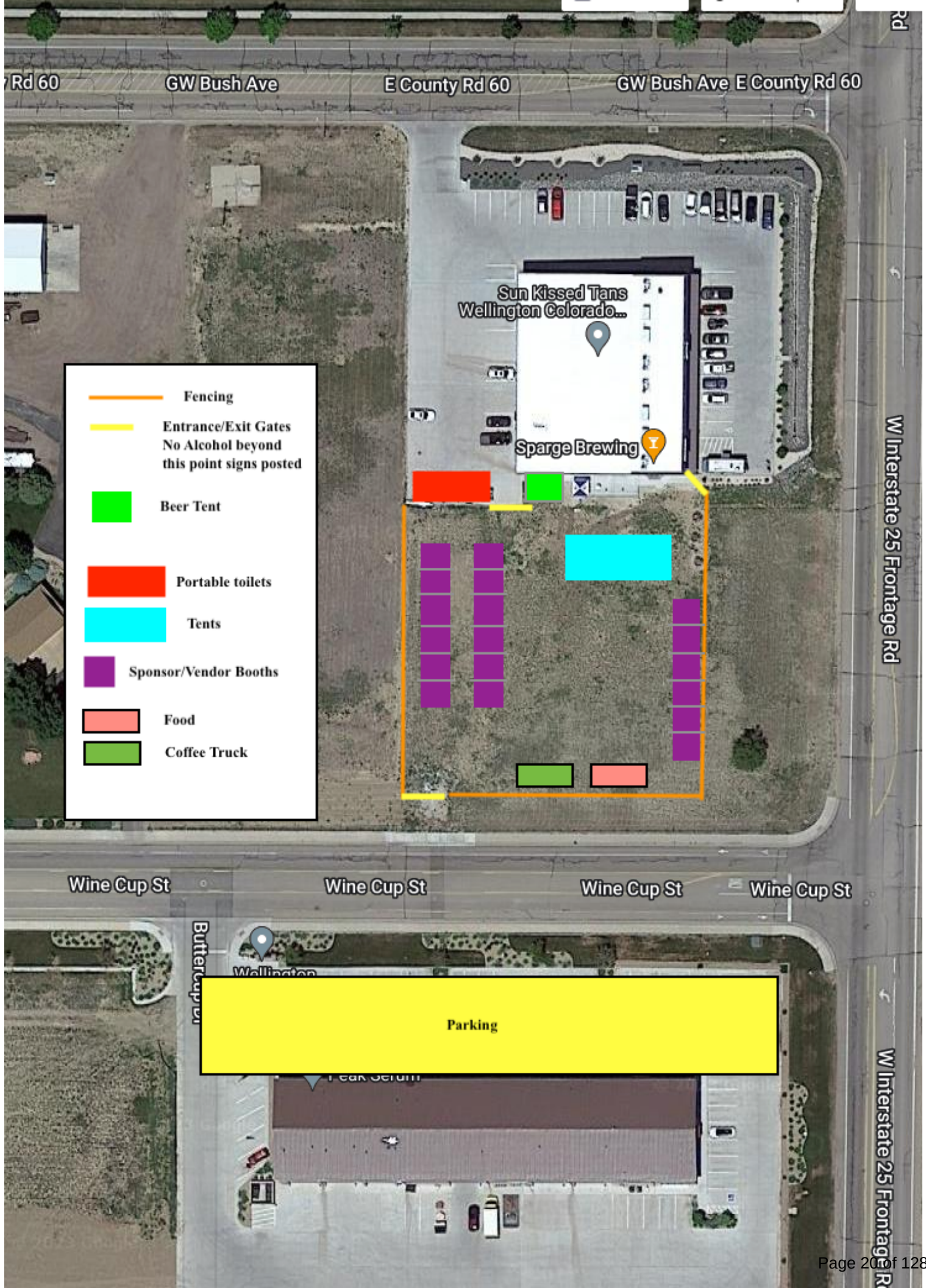
I approve for Green Events to use the back parking lot located to the west of the building at 3999 GW Bush Ave, Wellington CO 80549 for the Spring Equinox event on March 24, 2024.

I also approve of the serving beer/alcohol at the event on March 24, 2024 from 9:00 am to 2:00 pm.

Sincerely,

Monica Pollen

Owner
H and M Enterprises



- Fencing
- Entrance/Exit Gates
No Alcohol beyond
this point signs posted
- Beer Tent
- Portable toilets
- Tents
- Sponsor/Vendor Booths
- Food
- Coffee Truck

Board of Trustees Meeting

Date: March 12, 2024
Subject: February 27, 2024 Regular Meeting Minutes

- **Presentation: Ethan Muhs, Town Clerk**

BACKGROUND / DISCUSSION

Minutes from the February 27, 2024 Regular Meeting.

STAFF RECOMMENDATION

Staff have identified the following for Board consideration:

1. Approve the February 27, 2024 Regular Meeting Minutes with the Consent Agenda.
2. Remove the February 27, 2024 Regular Meeting Minutes from the Consent Agenda and further consider as an action item.

ATTACHMENTS

1. 02.27.24 Minutes



BOARD OF TRUSTEES
February 27, 2024
6:00 PM

Leeper Center, 3800 Wilson Avenue, Wellington, CO

Work Session and Regular Meeting Minutes

A. WORK SESSION

1. Comcast Franchise Discussion

B. CALL TO ORDER

Mayor Chaussee called the meeting to order at 6:30 p.m.

1. Pledge of Allegiance

Mayor Chaussee asked all to rise for the Pledge of Allegiance.

2. Roll Call

The Clerk noted a quorum with the following roll call:

Dailey – present

Gaiter – virtual attendance noted

Mason – present

Tietz – present

Wiegand – present

Macdonald – absent; joined meeting in-person at 6:51 p.m.

Chaussee – present

3. Amendments to Agenda

Mayor Chaussee asked if there were any amendments to the agenda; there were none.

4. Conflict of Interest

Mayor Chaussee asked if there were any conflicts of interest on agenda items; there were none.

C. COMMUNITY PARTICIPATION

1. Public Comment

Mayor Chaussee invited public comment on non-agenda items; there was none.

D. LIQUOR LICENSE AUTHORITY BOARD

Mayor Chaussee closed the Regular Meeting and opened the Liquor License Authority Board at 6:31 p.m.

The Clerk noted a quorum with the following roll call:

Dailey – present

Gaiter – absent (not participating in quasi-judicial actions due to virtual attendance)

Mason – present

Tietz – present

Wiegand – present

Macdonald – absent

Chaussee - present

1. Consent Agenda

a. Kum & Go DBA Change Application

Mayor Chaussee called for a motion on the Liquor License Authority Board Consent Agenda.

Trustee Dailey moved to approve the Liquor License Authority Board Consent Agenda. Trustee Mason seconded.

Yeas: Dailey, Mason, Tietz, Wiegand, Chaussee

Nays: N/A

The motion was carried unanimously, and the Liquor License Authority Board Consent Agenda was approved.

Mayor Chaussee closed the Liquor License Authority Board and reopened the Regular Meeting at 6:32 p.m.

E. PRESENTATION

1. Larimer County Behavioral Health Presentation

Mayor Chaussee invited Ms. Laura Walker, Larimer County Human & Economic Health Director, to present this item. Ms. Walker presented this item and responded to questions from the Board.

2. Boxelder Basin Regional Stormwater Authority (BBRSA) Presentation

Mayor Chaussee invited BBRSA Board Town Appointees, Mr. Tim Singewald and Mr. Richard Seaworth, to present this item. Mr. Singewald and Mr. Seaworth presented this item and responded to questions from the Board.

3. Town of Wellington 2023 Annual Report

Mayor Chaussee invited Ms. Patti Garcia, Town Administrator, to present this item. Ms. Garcia presented this item and responded to questions from the Board.

4. Larimer County Sheriff's Office 2023 Annual Report

Mayor Chaussee invited Deputy Matthew Cherry with the Larimer County Sheriff's Office to present this item. Deputy Cherry presented this item and responded to questions from the Board of Trustees.

F. CONSENT AGENDA

1. February 13, 2024 Regular Meeting Minutes

2. Resolution No. 11-2024: A Resolution Amending the Fees Charged for Research and Retrieval of Public Records and Amending the Town's Policy Regarding the Colorado Open Records Act

Mayor Chaussee called for a motion on the Consent Agenda.

Trustee Dailey moved to approve the Consent Agenda. Mayor Pro Tem Macdonald seconded.

Yeas: Dailey, Macdonald, Gaiter, Mason, Wiegand, Tietz, Chaussee

Nays: N/A

The motion was carried unanimously, and the Consent Agenda was approved.

G. ACTION ITEMS

1. Resolution No. 12-2024 - A Resolution Adjusting Appropriations of the Town of Wellington, Colorado for the Fiscal Years Beginning January 1, 2023 and Ending on December 31, 2023, and January 1, 2024 and Ending on December 31, 2024.

Mayor Chaussee invited Mr. Don Rhoads, Finance Director/Treasurer, to present this item. Mr. Rhoads presented this item and responded to questions from the Board.

Mayor Chaussee called for public comment on this item. Karen Eifert provided public comment.

Mayor Chaussee called for additional deliberations from the Board on this item. The Board discussed this item and the 2021 Financial Audit with Mr. Rhoads.

Mayor Chaussee called for a motion on this item.

Trustee Tietz moved to approve Resolution No. 12-2024. Trustee Wiegand seconded.

Yeas: Tietz, Wiegand, Mason, Gaiter, Dailey, Macdonald, Chaussee

Nays: N/A

The motion was carried unanimously, and Resolution No. 12-2024 was approved.

2. Ordinance No. 04-2024: An Ordinance Authorizing Collections and Collections Fees for Municipal Court Assessments

Mayor Chaussee invited Mr. Ethan Muhs, Town Clerk, to present this item. Mr. Muhs presented this item and responded to questions from the Board along with the Town Attorney, Mr. Dan Sapienza.

Mayor Chaussee called for public comment on this item. Karen Eifert provided public comment.

Mayor Chaussee called for additional deliberations from the Board on this item. The Board further discussed this item with the Town's staff.

Mayor Chaussee called for a motion on this item.

Trustee Dailey moved to approve Ordinance No. 04-2024. Trustee Mason seconded.

Yeas: Dailey, Mason, Tietz, Gaiter, Wiegand, Macdonald, Chaussee

Nays: N/A

The motion was carried unanimously, and Ordinance No. 04-2024 was approved.

H. REPORTS

Mayor Chaussee called for reports.

1. Town Attorney
No report.

2. Town Administrator

Ms. Garcia reported on animal control services and the history of staff's responsibilities in this program and responded to questions from the Board.

3. Staff Communications

- a. Monthly Utility Report through 1/31/2024
- b. December 2023 Report of Bills
- c. Preliminary December 2023 Treasurer's Report

4. Board Reports

Members of the Board presented reports, and the Board discussed the reports.

I. ADJOURN

Mayor Chaussee called for a motion to adjourn. With a motion duly noted and seconded, and with unanimous consent, Mayor Chaussee adjourned the meeting at 9:52 p.m.

Ethan Muhs, Town Clerk

The Town of Wellington will make reasonable accommodations for access to Town services, programs, and activities and special communication arrangements. Individuals needing special accommodation may request assistance by contacting at Town Hall or at 970-568-3380 ext. 110 at least 24 hours in advance.

Board of Trustees Meeting

Date: March 12, 2024
Subject: Continued - Resolution No. 10-2024 (Formerly 07-2024): Approving an Intergovernmental Agreement Between the Town of Wellington, the Town of Berthoud and the Town of Timnath Concerning a Joint Agreement for Animal Control Services with NOCO Humane

- **Presentation: Patti Garcia, Town Administrator**

BACKGROUND / DISCUSSION

- At its January 23, 2024 meeting, the Board of Trustees was presented with a resolution and Intergovernmental Agreement (IGA) between the Town of Berthoud, CO and the Town of Timnath, CO agreeing to allow Wellington to enter into a Joint Agreement for Animal control services with Berthoud and Timnath and NOCO Humane (formerly "Larimer County Humane Society").
 - The Board postponed consideration of the resolution and IGA to Feb. 13, 2024.
 - A special meeting was held January 30, 2024 for consideration and adoption of a temporary agreement for animal control services. The temporary agreement expires March 31, 2024.
 - At the Feb. 13, 2024 Regular Meeting, the Board postponed consideration of this resolution and IGA to the March 12, 2024 Regular Meeting.
 - The Board held a Work Session for discussion of Animal Control Services in Town on February 20, 2024.
 - The resolution and IGA are included for reference.
 - The meeting agenda packet from the January 23, 2024 meeting can be accessed on the Town website at <https://www.wellingtoncolorado.gov/Archive.aspx?ADID=871>.
 - The meeting agenda packet from the February 20, 2024 work session can be accessed on the Town website at <https://www.townofwellington.com/Archive.aspx?ADID=887>.

STAFF RECOMMENDATION

Town staff has identified the below motion options for the Board of Trustees to consider.

1. Move to approve Resolution No. 10-2024 (Formerly 07-2024) approving the Intergovernmental Agreement for Animal Control Services.
2. Move to approve Resolution No. 10-2024 (Formerly 07-2024) approving the Intergovernmental Agreement for Animal Control Services, with amendments.
3. Move to postpone consideration of Resolution No. 10-2024 (Formerly 07-2024).
4. Move to deny Resolution No. 10-2024 (Formerly 07-2024).

ATTACHMENTS

1. Resolution No. 10-2024 (formerly 07-2024): Approving an Intergovernmental Agreement for Animal Control Services
2. Intergovernmental Agreement for Animal Control Services

TOWN OF WELLINGTON

RESOLUTION NO. 10-2024

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON, COLORADO APPROVING ENTERING INTO AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF BERTHOUD, COLORADO AND THE TOWN OF TIMNATH, COLORADO CONCERNING A JOINT AGREEMENT FOR ANIMAL CONTROL SERVICES WITH NOCO HUMANE (FORMERLY LARIMER HUMANE SOCIETY)

WHEREAS, the Town of Berthoud, Colorado and the Town of Timnath, Colorado previously entered into an Agreement for animal control services with NOCO Humane (formerly Larimer Humane Society) (the “Agreement”); and

WHEREAS, the Town of Wellington desires to become a party to Agreement to expand Animal Control Services within the Town and as a means to reduce costs for services for all parties to the Agreement; and

WHEREAS, the Town of Berthoud, Colorado and the Town of Timnath, Colorado and NOCO Humane (formerly Larimer Humane Society) all consent to the Town of Wellington entering into the Agreement; and

WHEREAS, the Town of Wellington’s Board of Trustees desires to collaborate with the Parties to the Agreement, agrees to the proposed Agreement, and wishes to memorialize this agreement.

NOW, THEREFORE, be it resolved by the Board of Trustees of the Town of Wellington, Colorado, as follows:

1. The Agreement is hereby approved.
2. A copy of the Agreement is attached hereto and made a part hereof.
3. The Mayor is hereby authorized to execute the Agreement on behalf of the Town.

Upon a motion duly made, seconded and carried, the foregoing Resolution was adopted this ____ day of _____, 2024.

TOWN OF WELLINGTON

By: _____
Calar Chaussee, Mayor

ATTEST:

Ethan Muhs, Town Clerk

**SECOND AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT
BETWEEN THE TOWN OF BERTHOUD AND THE TOWN OF TIMNATH
CONCERNING A JOINT AGREEMENT FOR ANIMAL CONTROL SERVICES
WITH LARIMER HUMANE SOCIETY**

THIS SECOND AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF BERTHOUD AND THE TOWN OF TIMNATH CONCERNING A JOINT AGREEMENT FOR ANIMAL CONTROL SERVICES WITH LARIMER HUMANE SOCIETY (the “Second Amendment”) is entered into on this ____ day of _____, 2024, by and between the TOWN OF BERTHOUD (“BERTHOUD”), the TOWN OF TIMNATH (“TIMNATH”), and the TOWN OF WELLINGTON (“WELLINGTON”). BERTHOUD, TIMNATH, and WELLINGTON are referred to herein collectively as the “Parties” or the “Towns” or individually as a “Party” or a “Town”.

RECITALS:

WHEREAS, BERTHOUD is a municipality located in both Larimer County, Colorado and Weld County, Colorado;

WHEREAS, TIMNATH is a municipality located in both Larimer County, Colorado and Weld County, Colorado;

WHEREAS, WELLINGTON is a municipality located in Larimer County, Colorado;

WHEREAS, at the present time, BERTHOUD, TIMNATH, and WELLINGTON provide some of their own animal control services, and each Town also has an arrangement with NOCO HUMANE (formerly known as the Larimer Humane Society) that NOCO HUMANE will provide certain animal-related services to the Town the Towns;

WHEREAS, NOCO HUMANE is a non-profit entity under 501(c)(3) of the Internal Revenue Code serving Northern Colorado communities through a broad range of animal-related issues, such as animal control, care, sheltering, impound, lost and found, and licensing;

WHEREAS, the Parties want to achieve shared efficiencies and benefits by collaborating and cost-sharing as to the animal control services described herein, as well as state their intent, agreement, rights, and obligations related thereto;

WHEREAS, the Colorado Constitution (Article XIV, Section 18) and Colorado statutes (Title 29, Article 1, Part 2) permit and encourage governments to make the most efficient and effective use of their powers and responsibilities by cooperating and contracting with each other;

WHEREAS, under C.R.S. § 29-1-203, the Parties entered into an Intergovernmental Agreement Between the Town of Berthoud and the Town of Timnath Concerning a Joint Agreement for Animal Control Services with Larimer Humane Society in 2022 (the Original Agreement”) as amended by the First Amendment to Intergovernmental Agreement Between the Town of Berthoud and the Town of Timnath Concerning a Joint Agreement for Animal Control Services with Larimer Humane Society entered into in or around December 2022 (“First Amendment” and together with the Original Agreement, the “Agreement”);

WHEREAS, the Town of Berthoud and the Town of Timnath wish to include the Town of Wellington as a party to the Agreement;

WHEREAS, the Agreement states that the Towns will annually agree on how to split the costs of Animal Control Services from the NOCO Humane (the “Society”); and

WHEREAS, the Parties would like to agree to an updated split of fees for 2024. Any provisions of the Agreement not addressed in this Second Amendment shall remain unchanged.

Now therefore for good and valuable consideration, the Parties agree as follows.

1. The Title of the Agreement is hereby amended to read: THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF BERTHOUD, THE TOWN OF TIMNATH, AND THE TOWN OF WELLINGTON CONCERNING A JOINT AGREEMENT FOR ANIMAL CONTROL SERVICES WITH LARIMER HUMANE SOCIETY (NOW KNOWN AS NOCO HUMANE).

2. Paragraph 4 of the Agreement is hereby amended to read in its entirety:

4. Cost and information sharing. The Parties shall each fund the total annual obligation set forth in the Joint Agreement in their respective annual budget based on a split to which they will agree annually, with the split in 2024 as follows:

Berthoud	\$52,256.00
Timnath	\$27,353.00
Wellington	\$19,694.00

Any report that the NOCO Humane provides a Party pursuant to the Joint Agreement is not confidential and shall be shared between the Parties.

3. The Agreement shall continue in full force and effect except as hereby amended.

IN WITNESS WHEREOF, the parties hereto have caused this Second Amendment to be executed the day and year first written above.

TOWN OF BERTHOUD

By _____
William Karspeck, Mayor

ATTEST:

Christian Samora, Town Clerk

APPROVED AS TO FORM:

Erin Smith, Attorney for Town

TOWN OF TIMNATH

By _____
Brett Hansen, Mayor Pro Tem

ATTEST:

Milissa Peters-Garcia, Town Clerk

APPROVED AS TO FORM:

Carolyn R. Steffl, Attorney for Town

TOWN OF WELLINGTON

By _____
Calar Chaussee, Mayor

ATTEST:

Ethan Muhs, Town Clerk

APPROVED AS TO FORM:

Dan Sapienza, Legal Advisors LLC,
Attorney for Town

Board of Trustees Meeting

Date: March 12, 2024
Subject: Continued - Resolution No. 08-2024: Approving a Joint Agreement for Animal Control Services with NOCO Humane

- **Presentation:** Patti Garcia, Town Administrator

BACKGROUND / DISCUSSION

- At its January 23, 2024 meeting, the Board of Trustees was presented with a resolution and Joint Agreement for Animal control services with NOCO Humane (formerly "Larimer County Humane Society").
 - The Board postponed consideration of the resolution and Joint Agreement to Feb. 13, 2024.
 - A special meeting was held January 30, 2024 for consideration and adoption of a temporary agreement for animal control services. The temporary agreement expires March 31, 2024.
 - At the Feb. 13, 2024 Regular Meeting, the Board postponed consideration of this resolution and Joint Agreement to the March 12, 2024 Regular Meeting.
 - The Board held a Work Session for discussion of Animal Control Services in Town on February 20, 2024.
 - The resolution and Joint Agreement are included for reference.
 - The meeting agenda packet from the January 23, 2024 meeting can be accessed on the Town website at <https://www.wellingtoncolorado.gov/Archive.aspx?ADID=871>.
 - The meeting agenda packet from the February 20, 2024 work session can be accessed on the Town website at <https://www.townofwellington.com/Archive.aspx?ADID=887>.

STAFF RECOMMENDATION

Town staff has identified the below motion options for the Board of Trustees to consider.

1. Move to approve Resolution No. 08-2024 approving a Joint Agreement for Animal Control Services with NOCO Humane.
2. Move to approve Resolution No. 08-2024 approving a Joint Agreement for Animal Control Services, with amendments.
3. Move to postpone consideration of Resolution No. 08-2024.
4. Move to deny Resolution No. 08-2024.

ATTACHMENTS

1. Resolution No. 08-2024: Approving a Joint Agreement for Animal Control Services
2. Joint Agreement for Animal Control Services

TOWN OF WELLINGTON

RESOLUTION NO. 08-2024

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON, COLORADO APPROVING AN AMENDED AND RESTATED JOINT AGREEMENT FOR ANIMAL CONTROL SERVICES

WHEREAS, the Town of Wellington entered into an Agreement for animal control services (the “Agreement”) with the Town of Berthoud, Colorado, the Town of Timnath, Colorado and NOCO Humane (formerly Larimer Humane Society) (the “Parties”), in 2024; and

WHEREAS, the Parties have proposed an Amended and Restated Joint Agreement for Animal Control Services (the “Joint Agreement”); and

WHEREAS, the Town of Wellington’s Board of Trustees desires to collaborate with the Parties, agrees to the Joint Agreement, and wishes to memorialize this agreement.

NOW, THEREFORE, be it resolved by the Board of Trustees of the Town of Wellington, Colorado, as follows:

1. The proposed Joint Agreement is hereby approved.
2. A copy of the Joint Agreement is attached hereto and made a part hereof.
3. The Town Administrator of the Town is hereby authorized to execute the Joint Agreement on behalf of the Town.

Upon a motion duly made, seconded and carried, the foregoing Resolution was adopted this _____ day of _____, 2024.

TOWN OF WELLINGTON

By: _____
Calar Chaussee, Mayor

ATTEST:

Ethan Muhs, Town Clerk

AMENDED AND RESTATED JOINT AGREEMENT FOR ANIMAL CONTROL SERVICES

THIS AMENDED AND RESTATED JOINT AGREEMENT ("Agreement") is made and entered into effective the 1st day of January, 2024 (the "Effective Date"), by and between the Parties, who are: the TOWN OF BERTHOUD ("BERTHOUD"), the TOWN OF TIMNATH ("TIMNATH"), and the TOWN OF WELLINGTON ("WELLINGTON") together on the one hand, and NOCO Humane, formerly known as Larimer Humane Society, a Colorado non-profit corporation, on the other hand. BERTHOUD, TIMNATH and WELLINGTON are referred to collectively as "the Towns" and individually as "Town."

WHEREAS, NOCO Humane is dedicated to the safe and humane treatment of animals consistent with each Town's respective Municipal Code ("the applicable Municipal Code") and policies; and

WHEREAS, the NOCO Humane employs trained, qualified persons to handle animals within its custody; and

WHEREAS, Berthoud and Timnath desired to jointly engage NOCO Humane to furnish animal-control services for the Towns within their respective borders and entered into a Joint Agreement for Animal Control Services with NOCO Humane in February of 2022 ("Joint Agreement"), as well as a corresponding Intergovernmental Agreement between Berthoud and Timnath to share the cost of the Joint Agreement for Animal Control Services ("the IGA"), and the Joint Agreement and the IGA have been in effect since February 2022;

WHEREAS, Wellington recently expressed interest in becoming a party to the Joint Agreement and to the IGA;

WHEREAS, Berthoud, Timnath, and NOCO Humane have agreed that Wellington may become a party to the Joint Agreement and to the IGA and therefor enter into this Agreement, which shall replace the Joint Agreement as to any actions and responsibilities from and after the Effective Date;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

1. Initial Term and Renewal. This Agreement shall be effective, nunc pro tunc, from January 1, 2024 until December 31, 2024 ("the Initial Term"), unless earlier terminated or extended as provided herein. Upon expiration the Initial Term, this Agreement will be deemed to automatically renew for four (4) successive one-year terms subject to paragraphs 16 and 20.a, unless any Town gives written notice to NOCO Humane of intent not to renew at least ninety (90) days prior to expiration. Upon termination, NOCO Humane shall be due and owing all amounts due for services rendered in accordance with this Agreement through the effective date of termination.
2. Services. During the term of this Agreement, NOCO Humane shall:

- a. Provide the Towns with animal shelter services as set forth in paragraph 6, below.
- b. Engage the services of a doctor of veterinary medicine licensed to practice in the State of Colorado to provide twenty-four (24) hour emergency services to animals impounded from the Towns.
- c. Provide an animal control officer to serve the Towns per an enforcement schedule described in paragraph 5.
- d. Provide the animal-control officer with a uniform that clearly identifies the officer as such.
- e. Provide and maintain equipment, instruments, and supplies necessary to the effective, efficient performance of the animal control officer and operation of the shelter.
- f. Provide a public education program in each Town to its residents regarding NOCO Humane's services and each Town's animal-control ordinances.
- g. Furnish to each Town's residents humane animal traps for trapping domestic animals, and, at the discretion of NOCO Humane, trapping wild animals, subject to the residents' payment of a deposit, daily rental fee, and availability.
- h. Retrieve and dispose of dead animals weighing less than one hundred pounds (100 lbs) from public areas, including streets and parks. For purposes of this Agreement, public areas include Town owned property held open and made accessible to the public for recreational activities. Private property and open spaces owned and maintained by private citizens, businesses, associations, and corporations are specifically excluded from this paragraph.
- i. Upon the payment of a pre-determined fee based on the animal's weight, dispose of dead dogs, cats, and other animals of similar size that are brought to NOCO Humane's facilities by each Town's residents.
- j. Respond to calls regarding livestock within each Town and remove livestock from roadways and temporarily confine or restrain livestock, if possible, pending action by the applicable Town's Police Department or State Brand Inspector.
- k. Retrieve sick, injured, and orphaned wildlife of a size smaller than an adult coyote.
- l. Establish procedures to address each Town's residents' complaints regarding NOCO Humane's services and correct deficiencies, if any. Such procedures shall provide that complaints be reviewed by NOCO Humane's personnel not directly involved in the situation giving rise to the complaint and, if a satisfactory resolution cannot be reached, for mediation by a disinterested third party. Each Town shall immediately forward all residents' complaints to

NOCO Humane for resolution according to the procedures established pursuant to this subparagraph.

3. Compensation. In consideration of the services provided by NOCO Humane hereunder, the Towns shall pay NOCO Humane the total sum of ninety-nine thousand three hundred and three dollars (\$99,303), per the terms of the IGA. Said sum shall be paid in twelve (12) monthly installments of eight thousand two hundred and seventy-five dollars and twenty-five cents (\$8,275.25) on or before the 15th day of the month for which such installment is owed.
4. Commission to Enforce Ordinances. Each Town's Chief of Police, or its equivalent, shall commission NOCO Humane's animal-control officers to enforce the Town's animal-control ordinances in the applicable Municipal Code. All costs associated with such commissions shall be paid by the applicable Town. The commissioned animal-control officers shall be authorized to serve summonses and complaints, which shall be filed in the local municipal court. Each Town shall instruct said officers regarding enforcement of the Town's animal-control ordinances. Said officers shall not enforce or be authorized to enforce any Town ordinance other than those related to animal control.
5. Enforcement Schedule.
 - a. Regular Schedule. One (1) animal-control officer and vehicle shall be in service eight (8) hours per day, five (5) days per week on a schedule mutually agreed upon by the Parties (the "Regular Schedule"), provided, however, that this requirement may be waived for exigent circumstances (e.g., weather conditions). NOCO Humane shall notify the Towns as soon as practicable when unable to place an animal control officer in service due to exigent circumstances. Service schedules shall be based upon call load studies of NOCO Humane's animal control activities within the Towns and shall be flexible to enable NOCO Humane to provide animal control services to the Towns in the most effective and efficient manner. Notwithstanding anything herein to the contrary, NOCO Humane shall not be required to provide services on Christmas, Thanksgiving, or New Year's Day if designated as a holiday pursuant to subparagraph 5.c, below.
 - b. Emergencies. As set forth below, NOCO Humane shall provide the Towns with services outside of the Regular Schedule for Emergencies, as defined below. Time spent on Emergencies may be flexed from regular duty hours. An animal control officer shall not be required to be within the Towns while on call to provide emergency services, provided, however, that such officer must be able to respond to Emergencies within the Towns in a timely manner. The following shall constitute Emergencies requiring services:
 - (i) Injured domestic animals. NOCO Humane shall attempt to provide emergency medical treatment to all injured domestic animals. Injured animals that, in the opinion of a licensed veterinarian, have sustained terminal injuries and are suffering may be euthanized prior to the end

of the impoundment period set forth by applicable statute or Municipal Code.

- (ii) Animals acting in a vicious manner, if defined in the applicable Municipal Code.
 - (iii) An animal whose owner has been detained by law-enforcement officials or any governmental agency and whose welfare depends on being placed into protective custody. If the owner is arrested, impoundment fees may apply. Where protective custody is taken of an animal in the event of an emergency or natural disaster, impoundment fees may be waived.
 - (iv) Any other situation reasonably deemed to be an emergency by the applicable Police Chief or its equivalent and approved by NOCO Humane's Chief Executive Officer or Director of Animal Protection and Control and reasonably related to the services provided hereunder.
 - (v) Pick up of stray domestic animals in custody when another solution cannot be found.
 - (vi) Pick up sick and/or injured wild animals (coyote or smaller) which pose a health or safety risk to the public.
- c. Holidays. NOCO Humane may designate up to ten (10) days per year as holidays on which calls relating to animal control shall be handled on an emergency basis only, provided, however, that no two days in a row shall be designated as holidays unless one of the two days is Christmas Day or Thanksgiving Day, and provided further, that the Fourth of July shall not be designated as a holiday due to the many animal-related problems that occur on that day.

6. Animal Shelter Operation.

- a. NOCO Humane shall operate an animal shelter at 3501 East 71st Street, Loveland, Colorado. In operating the shelter, NOCO Humane shall:
- (i) Comply with all applicable laws, regulations, ordinances, and administrative directives.
 - (ii) Provide and maintain such facilities, instruments, and equipment necessary to operate the shelter in a sanitary, safe, and efficient manner.
 - (iii) Accept from the Towns dogs, cats, and other animals of similar size for impoundment.
 - (iv) Establish, keep, and maintain a daily register and case history of all animals impounded from the Towns and released from the shelter on

forms mutually acceptable to the Parties. Said registry shall meet the requirements of the applicable Municipal Code.

- b. NOCO Humane shall not release or otherwise dispose of any non-suffering animal impounded at the shelter before the impoundment periods prescribed by the applicable statute or Municipal Code have been satisfied.
- c. In the event any animal is held for the purpose of observation for the presence of rabies, the animal shall be held for such time as directed by the Town, which time shall not be less than ten (10) days or such greater time as may be provided in the applicable Municipal Code and Colorado Revised Statutes. Any compensation received by a Town from an owner for the holding of an animal as provided in this paragraph shall be paid to NOCO Humane.
- d. No animal shall be released to its owner by NOCO Humane unless all requirements of the applicable Municipal Code, including owner's payment of impoundment fees and license fees, have been complied with. Notwithstanding the above, NOCO Humane shall be entitled to waive impoundment fees in the case of hardship or protective custody.
- e. NOCO Humane shall submit reports to the Towns on a quarterly and annual basis that include the following information, by Town, in regard to the previous quarter or year, as applicable:
 - (i) Number of licenses issued.
 - (ii) Number of calls for NOCO Humane services.
 - (iii) Average response time per call for non-priority calls and priority calls.
 - (iv) Number of animals impounded.
 - (v) Number of impound days for animals impounded.
 - (vi) Number of hours spent by NOCO Humane personnel on priority and non-priority calls.
 - (vii) Number of animals euthanized on premises.
 - (viii) Number of residents participating in NOCO Humane educational programs.
 - (ix) Number of complaints received from residents regarding enforcement or other services provided by NOCO Humane and the disposition of such complaints.
- f. NOCO Humane shall provide the Towns with quarterly and annual financial reports by Town that shall include, without limitation, an accounting of all license and impoundment fees collected hereunder.

- g. NOCO Humane shall routinely send to the Towns copies of all special reports or studies that NOCO Humane provides to its members or the public.
- 7. Audits.
 - a. NOCO Humane shall cause an independent accounting audit to be performed by a certified public accountant on an annual basis at NOCO Humane's sole cost. A copy of the audit shall be available to the Towns.
 - b. NOCO Humane agrees to make its financial and statistical records available to the Towns upon request for the purpose of conducting an audit to assess NOCO Humane's performance of the terms of this Agreement. Such audit shall be conducted during NOCO Humane's normal business hours on NOCO Humane's premises at the sole cost of the Towns.
- 8. Weapons.
 - a. The animal control officer shall not carry guns, rifles, or firearms, other than tranquilizer guns, while working within the Towns. In the event the animal control officer finds it necessary to use a weapon to destroy a vicious animal, the officer shall notify the applicable Police Department to respond and assist prior to the animal's destruction.
 - b. The animal-control officer may carry collapsible batons and pepper spray for the sole purpose of defending themselves against vicious animals. Said officer shall be required to attend and successfully complete training on the use of collapsible batons and pepper spray.
- 9. License and Impoundment Fees. NOCO Humane shall charge and collect all license fees established by each Town's Board or Council. All other fees, including impoundment fees and cost of care fees, related to NOCO Humane's operation shall be established pursuant to the applicable Municipal Code, as amended from time to time. NOCO Humane shall be entitled to retain all license, impoundment, and cost of care fees collected hereunder.
- 10. Legal Process. When appropriate, NOCO Humane shall write and serve legal process upon persons desiring to reclaim impounded animals.
- 11. Court Fines. The parties understand and agree that all fines collected by the applicable Municipal Court resulting from a criminal violation of the applicable Municipal Code shall be retained by the Towns.
- 12. Timely Performance. The parties understand and agree that the timely performance of the provisions of this Agreement is of the essence, and the failure of any party to so perform shall constitute a breach of this Agreement.
- 13. Applicable Municipal Code. NOCO Humane shall comply with all provisions of the Municipal Code applicable in each Town, as amended from time to time, and available

via the Town's website. The parties acknowledge that the terms and conditions of this Agreement are, in part, based upon NOCO Humane's expectation that the Town's ordinances in the applicable Municipal Code authorizing license and impoundment fees shall remain in effect and that NOCO Humane may retain said fees in accordance with paragraph 9 above.

14. Monitoring and Evaluation. The Towns reserve the right to monitor and evaluate NOCO Humane's performance to ensure that the terms of this Agreement are being satisfactorily met in accordance with their and other applicable monitoring and evaluating criteria and standards. NOCO Humane shall cooperate with the Towns relating to such monitoring and evaluation.
15. Independent Contractor. The parties agree that NOCO Humane shall be an independent contractor and shall not be an employee, agent, or servant of the Towns. **NOCO Humane is not entitled to workers' compensation benefits from the Towns and is obligated to pay federal and state income tax on any money earned pursuant to this Agreement, if applicable.** NOCO Humane shall be solely responsible for NOCO Humane's employees' compensation and benefits.
16. Appropriation. This Agreement shall be subject to annual appropriation and budget by each Town. The Towns shall have no obligation to continue this Agreement in any fiscal year in which no such appropriation is made. NOCO Humane shall have no obligation to continue this Agreement in any fiscal year in which any Town fails to make such appropriation.
17. Insurance.
 - a. Comprehensive General Liability Insurance. NOCO Humane shall procure and keep in force during the duration of this Agreement a policy of comprehensive general liability insurance insuring NOCO Humane and naming each Town as an additional insured against any liability for personal injury, bodily injury, or death arising out of the performance of the services with at least Two Million Dollars (\$2,000,000) each occurrence.
 - b. Comprehensive Automobile Liability Insurance. NOCO Humane shall procure and keep in force during the duration of this Agreement a policy of comprehensive automobile liability insurance insuring NOCO Humane and naming each Town as an additional insured against any liability for personal injury, bodily injury, or death arising out of the use of motor vehicles and covering operations on or off the site of all motor vehicles controlled by NOCO Humane which are used in connection with this Agreement, whether the motor vehicles are owned, non-owned, or hired, with a combined single limit of at least Two Million Dollars (\$2,000,000).
 - c. Other Insurance. During the term of this Agreement, NOCO Humane shall procure and keep in force workers' compensation insurance and all other insurance required by any applicable law.
 - d. Terms of Insurance.

- (i) Insurance required by this Agreement shall be with companies qualified to do business in the State of Colorado with a general policyholder's financial rating of not less than A+ as set forth in the most current edition of "Best's Insurance Reports" and may provide for deductible amounts as NOCO Humane deems reasonable for the Services, but in no event greater than Twenty Thousand Dollars (\$20,000). No such policies shall be cancelable or subject to reduction in coverage limits or other modification except after thirty (30) days prior written notice to the Towns. NOCO Humane shall identify whether the type of coverage is "occurrence" or "claims made." If the type of coverage is "claims made," which at renewal NOCO Humane changes to "occurrence," NOCO Humane shall carry a 182 day tail. NOCO Humane shall not do or permit to be done anything that shall invalidate the policies.
 - (ii) The policies described in subparagraphs 17.a and b above shall be for the mutual and joint benefit and protection of NOCO Humane and the Towns. Such policies shall provide that the Towns, although named as an additional insured, shall nevertheless be entitled to recovery under said policies for any loss occasioned to it, its officers, employees, and agents by reason of negligence of NOCO Humane, its officers, employees, agents, subcontractors, or business invitees. Such policies shall be written as primary policies not contributing to and not in excess of coverage the Towns may carry.
 - e. Evidence of Coverage. Before commencing work under this Agreement, NOCO Humane shall furnish to the Towns certificates of insurance policies evidencing insurance coverage required by this Agreement. NOCO Humane understands and agrees that the Towns shall not be obligated under this Agreement until NOCO Humane furnishes such certificates of insurance.
- 18. Governmental Immunity Act. Nothing herein shall be deemed to be a waiver of any sovereign immunity or the limitations on liability or the protections afforded each Town as set forth in the Colorado Governmental Immunity Act or other applicable laws granting similar protection.
- 19. Termination.
 - a. For Convenience. Upon expiration the Initial Term, this Agreement will be deemed to automatically renew for four (4) successive one-year terms subject to paragraphs 16 and 20.a, unless the Towns give written notice to NOCO Humane of intent not to renew at least ninety (90) days prior to expiration. Upon termination, NOCO Humane shall be due and owing all amounts due for services rendered in accordance with this Agreement through the effective date of termination.
 - b. For Cause. If, through any cause, any party fails to fulfill its obligations under this Agreement in a timely and proper manner, violates any provision of this

Agreement, or violates any applicable law, any non-breaching party shall have the right to terminate this Agreement for cause upon thirty (30) days written notice; provided, however, that the breaching party shall have the right to cure such breach within said thirty (30) day period. In the event of such termination by any Town or by NOCO Humane, the Towns shall be liable to pay their respective payment amounts pursuant to the IGA to NOCO Humane for services performed as of the effective date of termination. In no event shall any Town be liable to pay amounts owed by another Town pursuant to this Agreement.

20. Renewal.

- a. The Towns and NOCO Humane shall annually renegotiate the compensation due under paragraph 3 based upon the prior year's experience so that the Towns can budget and appropriate for the next fiscal year.
- b. If the parties are unable to reach an agreement for the next year by the end of the year covered by this Agreement, then upon the expiration of the term of this Agreement, and notwithstanding the requirement in Sec. 19.a. for 180 days notice, the parties may agree to extend this Agreement on a month-to-month basis, and the Towns shall pay to NOCO Humane their respective payment amounts (pursuant to the IGA) of the monthly sum set forth in paragraph 3 above for each month the services are performed.

21. Notices. Written notices required under this Agreement, and all other correspondence between the parties shall be directed to the following and shall be deemed received when hand-delivered or three (3) days after being sent by certified mail, return receipt requested:

If to the Towns:

Chris Kirk, Town Administrator
Town of Berthoud
807 Mountain Avenue
Berthoud, CO 80513
Phone: (970) 344-5819
E-Mail: CKirk@berthoud.org

Aaron Adams, Town Manager
4750 Signal Tree Drive
Timnath CO, 80547

Patti Garcia, Town Administrator
Town of Wellington
P.O. Box 127
Wellington, CO, 80549

If to NOCO Humane:

Chief Executive Officer
NOCO Humane
3501 East 71st Street
Loveland, CO 80538

22. Miscellaneous.

- a. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado, and venue shall be in the County of Larimer, State of Colorado.
- b. Assignability. NOCO Humane shall not assign this Agreement without the prior written consent of the Towns.
- c. No Waiver. No waiver of any breach of this Agreement shall be held or construed to be a waiver of any subsequent breach thereof.
- d. Severability. In the event a court of competent jurisdiction holds any provision of this Agreement invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision of this Agreement.
- e. Headings. Paragraph headings used in this Agreement are for convenience of reference and shall in no way control or affect the meaning or interpretation of any provision of this Agreement.
- f. Binding Effect. This Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective successors and assigns.
- g. Entire Agreement. This Agreement contains the entire agreement and supersedes any prior agreement of the parties relating to the subject matter hereof and, except as provided herein, may not be modified or amended except by written agreement of the parties.
- h. No Third-Party Beneficiaries. The Parties to this Agreement do not intend to benefit any person not a party to this Agreement. No person or entity, other than the Parties to this Agreement, shall have any right, legal or equitable, to enforce any provision of this Agreement.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement the day and year first above written.

(Signature page to follow)

TOWN OF BERTHOUD

By _____
Christopher Kirk, Town Administrator

ATTEST:

Christian Samora, Town Clerk

APPROVED AS TO FORM:

Erin Smith, Attorney for Town

TOWN OF TIMNATH

By _____
Aaron Adams, Town Manager

ATTEST:

Milissa Peters-Garcia, Town Clerk

APPROVED AS TO FORM:

Carolyn Steffl, Attorney for Town

TOWN OF WELLINGTON

By _____
Patti Garcia, Town Administrator

ATTEST:

Ethan Muhs, Town Clerk

APPROVED AS TO FORM:

Dan Sapienza, Legal Advisors LLC,
Attorney for Town

NOCO HUMANE

By: _____
Judy Calhoun, CEO

ATTEST:

Rigo Neira,
Director of Animal Protection & Control

APPROVED AS TO FORM:

Tracy Oldemeyer, Attorney for NOCO Humane

Board of Trustees Meeting

Date: March 12, 2024
Subject: Ordinance No. 05-2024: An Ordinance of the Board of Trustees of the Town of Wellington, Colorado Awarding Comcast of Colorado IX, LLC a Ten (10) Year Nonexclusive Revocable Franchise to Construct, Operate, Maintain, Construct and Build a Cable System within the Town of Wellington

- **Presentation: Patti Garcia, Town Administrator**

BACKGROUND / DISCUSSION

This ordinance grants Comcast of Colorado IX a cable television franchise, which authorizes Comcast to use Town-owned rights of way and easements for the installation and operation of a cable system in the Town of Wellington. Attached to the ordinance is the text of the franchise agreement, which includes a variety of regulations on the use of those rights of way as well as customer services requirements for Comcast.

This franchise agreement was discussed at the February 27, 2024 Work Session of the Board of Trustees, which may be watched at this link: <https://www.youtube.com/watch?v=V9MUMIS65KE>. That work session was attended by Brandon Dittman of Wilson Williams Fellman Dittman, who has represented the Town in negotiations on the agreement, and representatives of Comcast, who spoke about deployment plans.

Comcast plans to begin its deployment of its cable system, including broadband internet services, in the south part of the Town along Highway 1 and work its way north. It expects to be able to provide service to as many as 1,600 addresses before the end of 2024. As part of the agreement, Comcast will ensure that town-owned facilities will receive service and will provide a grant to the Town to improve streaming and recording of public meetings.

STAFF RECOMMENDATION

Staff have identified the following motions for Board consideration:

1. Move to approve Ordinance No. 05-2024 - An Ordinance of the Board of Trustees of the Town of Wellington, Colorado Awarding Comcast of Colorado IX, LLC a Ten (10) Year Nonexclusive Revocable Franchise to Construct, Operate, Maintain, Construct and Build a Cable System within the Town of Wellington
2. Move to approve Ordinance No. 05-2024 with amendments as deemed necessary by the Board of Trustees.
3. Move to postpone consideration of Ordinance No. 05-2024 to a future date.
4. Move to deny Ordinance No. 05-2024.

ATTACHMENTS

1. Ordinance 05-2024 - Approving Grant of Franchise
2. Franchise Agreement

TOWN OF WELLINGTON, COLORADO

ORDINANCE NO. 05-2024

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON COLORADO AWARDING COMCAST OF COLORADO IX, LLC A TEN (10) YEAR NONEXCLUSIVE REVOCABLE FRANCHISE TO CONSTRUCT, OPERATE, MAINTAIN, CONSTRUCT AND BUILD A CABLE SYSTEM WITHIN THE TOWN OF WELLINGTON

WHEREAS, the Town of Wellington, Colorado (the “Town”) is authorized by applicable law to grant one or more nonexclusive franchises to construct, operate, maintain, construct and build cable systems within the boundaries of the Town; and

WHEREAS, Comcast of Colorado IX, LLC (the “Company”) has indicated a desire to negotiate a cable television franchise agreement (the “Agreement”) with the Town; and

WHEREAS, the Town has a legitimate and necessary role in ensuring the availability of cable service and reliability of cable systems in its jurisdiction, the availability of local programming, and quality customer service; and

WHEREAS, the Town Board of Trustees desires to grant to the Company, and the Company desires to accept the terms and conditions set forth herein for the use of Town-owned rights of way and easements, and rights of way and easements dedicated and accepted for public use, installing and operating a cable system in the Town, in accordance with applicable laws and provisions of the Agreement between the Town and the Company; and

WHEREAS, the Town has identified the future cable-related needs and interests of the Town and its citizens, has considered the financial, technical and legal qualifications of Comcast of Colorado IX, LLC, and has determined that the Company’s plans for constructing, operating, maintaining, reconstructing and rebuilding its system within the Town are adequate; and

WHEREAS, the public has had adequate notice and opportunity to comment on the Company’s proposal to provide cable television services within the Town; and

WHEREAS, the Town Board of Trustees has determined it is in the best interest of the Town and the community to grant a franchise to the Company for the term provided in the Agreement; and

WHEREAS, the Town Board of Trustees finds and determines that it is in the best interest of the inhabitants of the Town that a nonexclusive, revocable franchise be granted to Comcast of Colorado IX, LLC in accordance with the terms, conditions and limitations contained in the Cable Franchise Agreement between the Town of Wellington, Colorado and Comcast of Colorado IX, LLC dated _____.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON, COLORADO AS FOLLOWS:

1. Grant of Nonexclusive, Revocable Franchise. The Town of Wellington, Colorado hereby approves the Cable Franchise Agreement between the Town and Comcast of

- Colorado IX, LLC in the form attached as *Exhibit 1*.
2. Term. The term of the franchise granted by the Town pursuant to this Ordinance shall be for a period of ten (10) years from and after the effective date unless sooner terminated pursuant to law.
 3. Effective Date. The franchise granted pursuant to this Ordinance together with the rights, privileges and authorities granted thereby shall take effect and be enforced from and after 30 days following publication of this Ordinance.
 4. Franchise Area. The franchise area is that area within the jurisdictional boundaries of the Town of Wellington, Colorado including any areas annexed by the Town during the term of the franchise.
 5. Validity. The Board of Trustees hereby declares that should any section, paragraph, sentence, word or other portion of this ordinance or the rules and regulations adopted herein be declared invalid for any reason, such invalidity shall not affect any other portion of this ordinance or said rules and regulations, and the Board of Trustees hereby declares that it would have passed all other portions of this ordinance and adopted all other portions of said rules and regulations, independent of the elimination here from of any such portion which may be declared invalid.
 6. Necessity. In the opinion of the Board of Trustees of the Town of Wellington, this ordinance is necessary for the preservation and protection of the health, safety, welfare and property of the inhabitants and owners of property in the Town of Wellington.
 7. Certification. The Town Clerk shall certify to the passage of this ordinance and make not less than three copies of the adopted ordinance available for inspection by the public during regular business hours.

PASSED AND ADOPTED by the Board of Trustees of the Town of Wellington, Colorado and ordered published this 12th day of March, 2024 and ordered to become effective 30 days from the date of publication.

TOWN OF WELLINGTON, COLORADO

Calar Chausee, Mayor

ATTEST:

Ethan Muhs, Town Clerk

**COMCAST OF COLORADO IX, LLC, AND
THE TOWN OF WELLINGTON, COLORADO**

CABLE FRANCHISE AGREEMENT

Table of Contents

CABLE FRANCHISE AGREEMENT	6
SECTION 1. DEFINITIONS AND EXHIBITS	6
(A) DEFINITIONS	6
(B) EXHIBITS	11
SECTION 2. GRANT OF FRANCHISE	12
2.1 Grant	12
2.2 Use of Rights-of-Way	13
2.3 Effective Date and Term of Franchise	13
2.4 Franchise Nonexclusive	14
2.5 Police Powers	14
2.6 Competitive Equity	14
2.7 Familiarity with Franchise	16
2.8 Effect of Acceptance	16
SECTION 3. FRANCHISE FEE PAYMENT AND FINANCIAL CONTROLS	16
3.1 Franchise Fee	16
3.2 Payments	16
3.3 Acceptance of Payment and Recomputation	16
3.4 Quarterly Franchise Fee Reports	16
3.5 Annual Franchise Fee Reports	17
3.6 Audits	17
3.7 Late Payments	17
3.8 Underpayments	17
3.9 Alternative Compensation	18
3.10 Maximum Legal Compensation	18
3.11 Tax Liability	18
3.12 Financial Records	18
3.13 Payment on Termination	18
SECTION 4. ADMINISTRATION AND REGULATION	19

4.1	Authority.....	19
4.2	Rates and Charges	19
4.3	Rate Discrimination.....	19
4.4	Filing of Rates and Charges.....	20
4.5	Cross Subsidization	20
4.6	Reserved Authority.....	20
4.7	Franchise Amendment Procedure.....	20
4.8	Performance Evaluations.....	21
4.9	Late Fees.....	21
4.10	Force Majeure.....	22
SECTION 5. FINANCIAL AND INSURANCE REQUIREMENTS		22
5.1	Indemnification.....	22
5.2	Insurance.....	23
5.3	Deductibles / Certificate of Insurance.....	2
5.4	Letter of Credit	3
SECTION 6. CUSTOMER SERVICE.....		4
6.1	Customer Service Standards	4
6.2	Subscriber Privacy	4
6.3	Subscriber Contracts.....	4
6.4	Advance Notice to Grantor.....	5
6.5	Identification of Local Franchise Authority on Subscriber Bills	5
SECTION 7. REPORTS AND RECORDS		5
7.1	Open Records	5
7.2	Confidentiality	5
7.3	Records Required	6
7.4	Annual Reports	6
7.5	Copies of Federal and State Reports.....	7
7.6	Complaint File and Reports	7
7.7	Failure to Report.....	8
7.8	False Statements	8
SECTION 8. PROGRAMMING.....		8
8.1	Broad Programming Categories.....	8
8.2	Deletion or Reduction of Broad Programming Categories.....	9
8.3	Obscenity	9

8.4	Parental Control Device.....	9
8.5	Continuity of Service Mandatory	9
8.6	Services for the Disabled	10
SECTION 9. GENERAL RIGHT-OF-WAY USE AND CONSTRUCTION		10
9.1	Right to Construct.....	11
9.2	Right-of-Way Meetings	11
9.3	Joint Trenching/Boring Meetings	11
9.4	General Standard	11
9.5	Permits Required for Construction	11
9.6	Emergency Permits.....	12
9.7	Compliance with Applicable Codes	12
9.8	GIS Mapping	12
9.9	Minimal Interference	12
9.10	Prevent Injury/Safety	13
9.11	Hazardous Substances	13
9.12	Locates.....	13
9.13	Notice to Private Property Owners	14
9.14	Underground Construction and Use of Poles.....	14
9.15	Undergrounding of Multiple Dwelling Unit Drops	15
9.16	Burial Standards	15
9.17	Cable Drop Bonding.....	15
9.18	Prewiring	16
9.19	Repair and Restoration of Property	16
9.20	Acquisition of Facilities.....	16
9.21	Discontinuing Use/Abandonment of Cable System Facilities	16
9.22	Movement of Cable System Facilities For Grantor Purposes.....	17
9.23	Movement of Cable System Facilities for Other Franchise Holders	18
9.24	Temporary Changes for Other Permittees	18
9.25	Reservation of Grantor Use of Right-of-Way.....	18
9.26	Tree Trimming.....	18
9.27	Inspection of Construction and Facilities	18
9.28	Stop Work.....	19
9.29	Work of Contractors and Subcontractors.....	19
SECTION 10. CABLE SYSTEM, TECHNICAL STANDARDS AND TESTING		19
10.1	Subscriber Network	19
10.2	Technology Assessment	20

10.3	Standby Power	20
10.4	Emergency Alert Capability	21
10.5	Technical Performance	21
10.6	Cable System Performance Testing	21
10.7	Additional Tests	21
SECTION 11. SERVICE AVAILABILITY		22
SECTION 12. FRANCHISE VIOLATIONS		23
12.1	Procedure for Remedying Franchise Violations	23
12.2	Revocation	23
12.3	Procedures in the Event of Termination or Revocation	23
12.4	Purchase of Cable System	23
12.5	Receivership and Foreclosure	23
12.6	No Monetary Recourse Against the Grantor	23
12.7	Alternative Remedies	23
12.8	Assessment of Monetary Damages	23
12.9	Effect of Abandonment	23
12.10	What Constitutes Abandonment	23
SECTION 13. FRANCHISE RENEWAL AND TRANSFER		26
13.1	Renewal	27
13.2	Transfer of Ownership or Control	27
SECTION 14. SEVERABILITY		29
SECTION 15. MISCELLANEOUS PROVISIONS		29
15.1	Preferential or Discriminatory Practices Prohibited	29
15.2	Notices	29
15.3	Descriptive Headings	30
15.4	Publication Costs to be Borne by Grantee	30
15.5	Binding Effect	30
15.6	No Joint Venture	30
15.7	Waiver	30
15.8	Reasonableness of Consent or Approval	30
15.9	Entire Agreement	30
15.10	Jurisdiction	31

**COMCAST OF COLORADO IX, LLC, AND
TOWN OF WELLINGTON, COLORADO**

CABLE FRANCHISE AGREEMENT

SECTION 1. DEFINITIONS AND EXHIBITS

(A) DEFINITIONS

For the purposes of this Franchise, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Words not defined shall be given their common and ordinary meaning. The word "shall" is always mandatory and not merely directory.

1.1 “Access Programming” means the creation and distribution of video programming and other services and signals where governmental institutions or their designees are the primary users having editorial control over programming and services.

1.2 “Activated” means the status of any capacity or part of the Cable System in which any Cable Service requiring the use of that capacity or part is available without further installation of system equipment, whether hardware or software.

1.3 “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 with, Grantee.

1.4 “Applicable Law” means any statute, ordinance, judicial decision, executive order or regulation having the force and effect of law, that determines the legal standing of a case or issue.

1.5 “Bad Debt” means amounts lawfully billed to a Subscriber and owed by the Subscriber for Cable Service and accrued as revenues on the books of Grantee, but not collected after reasonable efforts have been made by Grantee to collect the charges.

1.6 “Basic Service” is the level of programming service which includes, at a minimum, all Broadcast Channels, and any additional Programming added by the Grantee, and is made available to all Cable Services Subscribers in the Franchise Area.

1.7 “Broadcast Channel” means local commercial television stations, qualified low power stations and qualified local noncommercial educational television stations, as referenced under 47 USC § 534 and 535.

1.8 “Broadcast Signal” means a television or radio signal transmitted over the air to a wide geographic audience, and received by a Cable System by antenna, microwave, satellite dishes or any

other means.

1.9 “Cable Act” means Title VI of the Communications Act of 1934, as amended.

1.10 “Cable Operator” means any Person or groups of Persons, including Grantee, who provide(s) Cable Service over a 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 such a Cable System.

1.11 “Cable Service” means the one-way transmission to Subscribers of video programming or other programming service, and Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

1.12 “Cable System” means any facility, including Grantee’s, consisting of a set of closed transmissions paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within a community, but such term does not include (A) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility that serves Subscribers without using any Right-of-Way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the federal Communications Act (47 U.S.C. 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. 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; (D) an open video system that complies with federal statutes; or (E) any facilities of any electric utility used solely for operating its electric utility systems.

1.13 “Channel” means a portion of the electromagnetic frequency spectrum which is used in the Cable System and which is capable of delivering a television channel (as television channel is defined by the FCC by regulation).

1.13 “Town Board of Trustees” or “Town Board” means the Wellington Board of Trustees, or its successor, the governing body of the Town of Wellington, Colorado.

1.14 “Colorado Communications and Utility Alliance” or “CCUA” means the non-profit entity formed by franchising authorities and/or local governments in Colorado or its successor entity, whose purpose is, among other things, to communicate with regard to franchising matters collectively and cooperatively.

1.15 “Commercial Subscribers” means any Subscribers other than Residential Subscribers.

1.16 “Designated Access Provider” means the entity or entities designated now or in the future by the Grantor to manage or co-manage Public, Education, and Government Access Channels and facilities. The Grantor may be a Designated Access Provider.

1.17 “Digital Starter Service” means the Tier of optional video programming services, which is the

level of Cable Service received by most Subscribers above Basic Service and does not include Premium Services.

1.18 “Downstream” means carrying a transmission from the Headend to remote points on the Cable System or to Interconnection points on the Cable System.

1.19 “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. Buildings with more than one set of facilities for cooking shall be considered Multiple Dwelling Units unless the additional facilities are clearly accessory.

1.20 “FCC” means the Federal Communications Commission.

1.21 “Fiber Optic” means a transmission medium of optical fiber cable, along with all associated electronics and equipment, capable of carrying Cable Service by means of electric lightwave impulses.

1.22 “Franchise” means the document in which this definition appears, *i.e.*, the contractual agreement, executed between the Grantor and Grantee, containing the specific provisions of the authorization granted, including references, specifications, requirements and other related matters.

1.24 “Franchise Area” means the area within the jurisdictional boundaries of the Grantor, including any areas annexed by the Grantor during the term of this Franchise.

1.25 “Franchise Fee” means that fee payable to the Grantor described in subsection 3.1.

1.26 “Grantee” means Comcast of Colorado IX, LLC, or its lawful successor, transferee or assignee.

1.27 “Grantor” or “Town” or “Town of Wellington” is the Town of Wellington, Colorado, a body politic and corporate under the laws of the State of Colorado.

1.28 “Gross Revenues” means, and shall be construed broadly to include all revenues derived directly or indirectly by Grantee and/or an Affiliated Entity that is the cable operator of the Cable System, from the operation of Grantee’s Cable System to provide Cable Services within the Town. Gross revenues include, by way of illustration and not limitation:

- monthly fees for Cable Services, regardless of whether such Cable Services are provided to residential or commercial customers, including revenues derived from the provision of all Cable Services (including but not limited to pay or premium Cable Services, digital Cable Services, pay-per-view, pay-per-event and video-on-demand Cable Services);
- installation, reconnection, downgrade, upgrade or similar charges associated with changes in subscriber Cable Service levels;
- fees paid to Grantee for channels designated for commercial/leased access use and shall be

allocated on a pro rata basis using total Cable Service subscribers within the Town of Wellington;

- converter, remote control, and other Cable Service equipment rentals, leases, or sales;
- Advertising Revenues as defined herein;
- late fees, convenience fees and administrative fees which shall be allocated on a pro rata basis using Cable Services revenue as a percentage of total subscriber revenues within the Town;
- revenues from program guides;
- Franchise Fees;
- FCC Regulatory Fees; and,
- commissions from home shopping channels and other Cable Service revenue sharing arrangements which shall be allocated on a pro rata basis using total Cable Service subscribers within the Town.

(A) “Advertising Revenues” shall mean revenues derived from sales of advertising that are made available to Grantee’s Cable System subscribers within the Town and shall be allocated on a pro rata basis using total Cable Service subscribers reached by the advertising. Additionally, Grantee agrees that Gross Revenues subject to franchise fees shall include all commissions, rep fees, Affiliated Entity fees, or rebates paid to National Cable Communications (“NCC”) and Comcast Spotlight (“Spotlight”) or their successors associated with sales of advertising on the Cable System within the Town allocated according to this paragraph using total Cable Service subscribers reached by the advertising.

(B) “Gross Revenues” shall not include:

- actual bad debt write-offs, except any portion which is subsequently collected which shall be allocated on a *pro rata* basis using Cable Services revenue as a percentage of total subscriber revenues within the Town;
- any taxes and/or fees on services furnished by Grantee imposed by any municipality, state or other governmental unit, provided that Franchise Fees and the FCC regulatory fee shall not be regarded as such a tax or fee;
- fees imposed by any municipality, state or other governmental unit on Grantee including but not limited to Public, Educational and Governmental (PEG) Fees;
- launch fees and marketing co-op fees; and,
- unaffiliated third-party advertising sales agency fees which are reflected as a deduction from revenues.

(C) 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, it is expressly understood that equipment may be subject to inclusion in the bundled price at full rate card value. This calculation shall be applied to every bundled service package containing Cable Service from which Grantee derives revenues in the Town of Wellington. The Grantor reserves its right to review and to challenge Grantee's calculations.

(D) Grantee reserves the right to change the allocation methodologies set forth in this Section 1.28 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 Grantor within three (3) months of making such changes, and as part of any audit or review of franchise fee payments, and any such changes shall be subject to 1.27(E) below.

(E) 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 generally accepted accounting principles ("GAAP") 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"). Notwithstanding the forgoing, the Grantor reserves its right to challenge Grantee's calculation of Gross Revenues, including the interpretation of GAAP as promulgated and defined by the FASB, EITF and/or the SEC.

1.29 "Headend" means any facility for signal reception and dissemination on a Cable System, including cables, antennas, wires, satellite dishes, monitors, switchers, modulators, processors for Broadcast Signals, equipment for the Interconnection of the Cable System with adjacent Cable Systems and Interconnection of any networks which are part of the Cable System, and all other related equipment and facilities.

1.30 "Leased Access Channel" means any Channel or portion of a Channel commercially available for video programming by Persons other than Grantee, for a fee or charge.

1.31 "Manager" means the Town Manager of the Grantor or designee.

1.32 "Person" means any individual, sole proprietorship, partnership, association, or corporation, or any other form of entity or organization.

1.33 "Premium Service" means programming choices (such as movie Channels, pay-per-view programs, or video on demand) offered to Subscribers on a per-Channel, per-program or per-event basis.

1.34 “Residential Subscriber” means any Person who receives Cable Service delivered to Dwelling Units or Multiple Dwelling Units, excluding such Multiple Dwelling Units billed on a bulk-billing basis.

1.35 “Right-of-Way” means each of the following which have been dedicated to the public or are hereafter dedicated to the public and maintained under public authority or by others and located within the Town: streets, roadways, highways, avenues, lanes, alleys, bridges, sidewalks, easements, rights-of-way and similar public property and areas. Parks, trails and open space are not considered Right-of-Way.

1.36 “State” means the State of Colorado.

1.37 “Subscriber” means any Person who or which elects to subscribe to, for any purpose, Cable Service provided by Grantee by means of or in connection with the Cable System and whose premises are physically wired and lawfully Activated to receive Cable Service from Grantee's Cable System, and who is in compliance with Grantee's regular and nondiscriminatory terms and conditions for receipt of service.

1.38 “Subscriber Network” means that portion of the Cable System used primarily by Grantee in the transmission of Cable Services to Residential Subscribers.

1.39 “Telecommunications” means 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 (as provided in 47 U.S.C. Section 153(43)).

1.40 “Telecommunications Service” means the offering of Telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used (as provided in 47 U.S.C. Section 153(46)).

1.41 “Tier” means a group of Channels for which a single periodic subscription fee is charged.

1.42 “Town Administrator” means the individual so designated by the Town Board or such Town Administrator's designee in such individual's official capacity on behalf of the Town.

1.43 “Town Staff” means Town employees and contractors overseen by the Town Administrator as well as Town officers.

1.44 “Two-Way” means that the Cable System is capable of providing both Upstream and Downstream transmissions.

1.45 “Upstream” means carrying a transmission to the Headend from remote points on the Cable System or from Interconnection points on the Cable System.

(B) EXHIBITS

The following documents, which are occasionally referred to in this Franchise, are formally

incorporated and made a part of this Franchise by this reference:

- 1) ***Exhibit A***, entitled Customer Service Standards.
- 2) ***Exhibit B***, entitled Report Form.

SECTION 2. GRANT OF FRANCHISE

2.1 Grant

(A) The Grantor hereby grants to Grantee a nonexclusive authorization to make reasonable and lawful use of the Rights-of-Way within the Town of Wellington to construct, operate, maintain, reconstruct and rebuild a Cable System for the purpose of providing Cable Service subject to the terms and conditions set forth in this Franchise and in any prior utility or use agreements entered into by Grantee with regard to any individual property. This Franchise shall constitute both a right and an obligation to provide the Cable Services required by, and to fulfill the obligations set forth in, the provisions of this Franchise.

(B) Nothing in this Franchise shall be deemed to waive the lawful requirements of any generally applicable Grantor ordinance existing as of the Effective Date, as defined in subsection 2.3. Nothing in this Franchise shall be deemed to waive the right of the Grantee to offer such other services as may be permitted by Applicable Law.

(C) Each and every term, provision or condition herein is subject to the provisions of State law, federal law, any Charter that may be adopted by the Grantor, and the ordinances and regulations of the Grantor. The Charter and Municipal Code of the Grantor, as the same may be amended from time to time, are hereby expressly incorporated into this Franchise as if fully set out herein by this reference. Notwithstanding the foregoing, the Grantor may not unilaterally alter the material rights and obligations of Grantee under this Franchise.

(D) This Franchise shall not be interpreted to prevent the Grantor from imposing additional lawful conditions for use of the Rights-of-Way.

(E) Grantee promises and guarantees, as a condition of exercising the privileges granted by this Franchise, that any Affiliate of the Grantee directly involved in the offering of Cable Service in the Franchise Area, or directly involved in the management or operation of the Cable System in the Franchise Area, will also comply with the obligations of this Franchise.

(F) 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 Town of Wellington that may be required by the Grantor's ordinances and laws;

(2) Any permit, agreement, or authorization required by the Grantor for Right-of-Way users in connection with operations on or in Rights-of-Way or public property including, by way of example and not limitation, street cut permits; or

(3) Any permits or agreements for occupying any other property of the Grantor or private entities to which access is not specifically granted by this Franchise including, without limitation, permits and agreements for placing devices on poles, in conduits or in or on other structures.

(G) This Franchise is intended to convey limited rights and interests only as to those Rights-of-Way in which the Grantor has an actual interest. It is not a warranty of title or interest in any Right-of-Way; it does not provide the Grantee with any interest in any particular location within the Right-of-Way; and it does not confer rights other than as expressly provided in the grant hereof.

2.2 Use of Rights-of-Way

(A) Subject to the Grantor's supervision and control, Grantee may erect, install, construct, repair, replace, reconstruct, and retain in, on, over, under, upon, across, and along the Rights-of-Way within the Town of Wellington such wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of a Cable System within the Town of Wellington. Grantee, through this Franchise, is granted extensive and valuable rights to operate its Cable System for profit using the Grantor's Rights-of-Way in compliance with all applicable Grantor construction codes and procedures. As trustee for the public, the Grantor is entitled to fair compensation as provided for in Section 3 of this Franchise to be paid for these valuable rights throughout the term of the Franchise.

(B) Grantee must follow Grantor established nondiscriminatory requirements for placement of Cable System facilities in Rights-of-Way, including the specific location of facilities in the Rights-of-Way, and must in any event install Cable System facilities in a manner that minimizes interference with the use of the Rights-of-Way by others, including others that may be installing communications facilities. Within limits reasonably related to the Grantor's role in protecting public health, safety and welfare, the Grantor 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 Right-of-Way; may deny access if Grantee is not willing to comply with Grantor's requirements; and may remove, or require removal of, any facility that is not installed by Grantee in compliance with the requirements established by the Grantor, or which is installed without prior Grantor approval of the time, place or manner of installation, and charge Grantee for all the costs associated with removal; and may require Grantee to cooperate with others to minimize adverse impacts on the Rights-of-Way through joint trenching and other arrangements.

2.3 Effective Date and Term of Franchise

This Franchise and the rights, privileges and authority granted hereunder shall take effect on _____, 2024 (the "Effective Date"), and shall terminate on _____, 2034 unless terminated sooner as hereinafter provided.

2.4 Franchise Nonexclusive

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

2.5 Police Powers

Grantee's rights hereunder are subject to the police powers of the Grantor to adopt and enforce ordinances necessary to the safety, health, and welfare of the public, and Grantee agrees to comply with all laws and ordinances of general applicability enacted, or hereafter enacted, by the Grantor or any other legally constituted governmental unit having lawful jurisdiction over the subject matter hereof. The Grantor shall have the right to adopt, from time to time, such ordinances as may be deemed necessary in the exercise of its police power; provided that such hereinafter enacted ordinances shall be reasonable and not materially modify the terms of this Franchise. Any conflict between the provisions of this Franchise and any other present or future lawful exercise of the Grantor's police powers shall be resolved in favor of the latter.

2.6 Competitive Equity

(A) The Grantee acknowledges and agrees that the Grantor reserves the right to grant one (1) or more additional franchises or other similar lawful authorization to provide Cable Services within the Franchising Area. If the Grantor grants such an additional franchise or other similar lawful authorization containing material terms and conditions that differ from Grantee's material obligations under this Franchise, then the Grantor agrees that the obligations in this Franchise will, pursuant to the process set forth in this Section, be amended to include any material terms or conditions that it imposes upon the new entrant, or provide relief from existing material terms or conditions, so as to insure 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 support; customer service standards; required reports and related record keeping; competitive equity (or its equivalent) and notice and opportunity to cure breaches. The parties agree that this provision shall not require a word for word identical franchise or authorization for a competitive entity so long as the regulatory and financial burdens on each entity are materially equivalent. Video Programming services (as defined by the Cable act) delivered over wireless broadband networks are specifically exempted from the requirements of this Section. Nothing in this section 2.6(A) shall allow the Grantee to seek amendment of this Franchise based on (a) any term of any existing Franchise granted by the Grantor to a third party or (b) the absence of any term or terms from an existing Franchise granted by the Grantor to a third party.

(B) The modification process of this Franchise as provided for in Section 2.6 (A) shall only be initiated by written notice by the Grantee to the Grantor regarding specified franchise obligations. Grantee's notice shall address the following: (1) identifying the specific terms or conditions in the competitive cable services franchise which are materially different from Grantee's obligations under this Franchise; (2) identifying the Franchise terms and conditions for which Grantee is seeking amendments; (3) providing text for any proposed Franchise amendments to the Grantor, with a written explanation of why the proposed amendments are necessary and consistent.

(C) Upon receipt of Grantee's written notice as provided in Section 2.6 (B), the Grantor and Grantee agree that they will use best efforts in good faith to negotiate Grantee's proposed Franchise modifications, and that such negotiation will proceed and conclude within a ninety (90) day time period, unless that time period is reduced or extended by mutual agreement of the parties. If the Grantor and Grantee reach agreement on the Franchise modifications pursuant to such negotiations, then the Grantor shall amend this Franchise to include the modifications.

(D) In the alternative to Franchise modification negotiations as provided for in Section 2.6 (C), or if the Grantor and Grantee fail to reach agreement in such negotiations, Grantee may, at its option, elect to replace this Franchise by opting into the franchise or other similar lawful authorization that the Grantor grants to another provider of Cable Services, with the understanding that Grantee will use its current system design and technology infrastructure to meet any requirements of the new franchise so as to insure that the regulatory and financial burdens on each entity are equivalent. If Grantee so elects, the Grantor shall immediately commence proceedings to replace this Franchise with the franchise issued to the other Cable Services provider.

(E) Notwithstanding anything contained in this Section 2.6(A) through (D) to the contrary, the Grantor shall not be obligated to amend or replace this Franchise unless the new entrant makes Cable Services available for purchase by Subscribers or customers under its franchise agreement with the Town of Wellington.

(F) Notwithstanding any provision to the contrary, at any time that a wireline facilities based entity, legally authorized by state or federal law, makes available for purchase by Subscribers or customers, Cable Services or multiple Channels of video programming within the Franchise Area without a franchise or other similar lawful authorization granted by the Grantor, then:

- (1) Grantee may negotiate with the Grantor to seek Franchise modifications as per Section 2.6(C) above; or
- (2) the term of Grantee's Franchise shall, upon ninety (90) days written notice from Grantee, be shortened so that the Franchise shall be deemed to expire on a date eighteen (18) months from the first day of the month following the date of Grantee's notice; or,
- (3) Grantee may assert, at Grantee's option, that this Franchise is rendered "commercially impracticable," and invoke the modification procedures set forth in Section 625 of the Cable Act.

2.7 Familiarity with Franchise

The Grantee acknowledges and warrants by acceptance of the rights, privileges and agreements 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 lawful and reasonable risks of the meaning of the provisions, terms and conditions herein. The 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.

2.8 Effect of Acceptance

By accepting the Franchise, the Grantee: (1) acknowledges and accepts the Grantor's legal right to issue and enforce the Franchise; (2) accepts and agrees to comply with each and every provision of this Franchise subject to Applicable Law; and (3) agrees that the Franchise was granted pursuant to processes and procedures consistent with Applicable Law, and that it will not raise any claim to the contrary.

SECTION 3. FRANCHISE FEE PAYMENT AND FINANCIAL CONTROLS

3.1 Franchise Fee

As compensation for the benefits and privileges granted under this Franchise and in consideration of permission to use the Grantor's Rights-of-Way, Grantee shall continue to pay as a Franchise Fee to the Grantor, throughout the duration of and consistent with this Franchise, an amount equal to five percent (5%) of Grantee's Gross Revenues.

3.2 Payments

Grantee's Franchise Fee payments to the Grantor shall be computed quarterly for the preceding calendar quarter ending March 31, June 30, September 30, and December 31. Each quarterly payment shall be due and payable no later than forty-five (45) days after said dates.

3.3 Acceptance of Payment and Recomputation

No acceptance of any payment shall be construed as an accord by the Grantor 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 Grantor may have for further or additional sums payable or for the performance of any other obligation of Grantee.

3.4 Quarterly Franchise Fee Reports

Each payment shall be accompanied by a written report to the Grantor, or concurrently sent under separate cover, verified by an authorized representative of Grantee, containing an accurate statement in summarized form, as well as in detail, of Grantee's Gross Revenues and the computation

of the payment amount. Such reports shall detail all Gross Revenues of the Cable System.

3.5 Annual Franchise Fee Reports

Grantee shall, within sixty (60) days after the end of each year, furnish to the Grantor a statement stating the total amount of Gross Revenues for the year and all payments, deductions and computations for the period.

3.6 Audits

On an annual basis, upon thirty (30) days prior written notice, the Grantor, including the Grantor's Auditor or his/her authorized representative, shall have the right to conduct an independent audit/review of Grantee's records reasonably related to the administration or enforcement of this Franchise. Pursuant to subsection 1.28, as part of the Franchise Fee audit/review the Grantor shall specifically have the right to review relevant data related to the allocation of revenue to Cable Services in the event Grantee offers Cable Services bundled with non-Cable Services. For purposes of this section, "relevant data" shall include, at a minimum, Grantee's records, produced and maintained in the ordinary course of business, showing the subscriber counts per package and the revenue allocation per package for each package that was available for Grantor subscribers during the audit period. To the extent that the Grantor does not believe that the relevant data supplied is sufficient for the Grantor to complete its audit/review, the Grantor may require other relevant data. For purposes of this Section 3.6, the "other relevant data" shall generally mean all: (1) billing reports, (2) financial reports (such as General Ledgers) and (3) sample customer bills used by Grantee to determine Gross Revenues for the Franchise Area that would allow the Grantor to recompute the Gross Revenue determination. If the audit/review shows that Franchise Fee payments have been underpaid by five percent (5%) or more (or such other contract underpayment threshold as set forth in a generally applicable and enforceable regulation or policy of the Grantor related to audits), Grantee shall pay the total cost of the audit/review, such cost not to exceed five thousand dollars (\$5,000) for each year of the audit period. The Grantor's right to audit/review and the Grantee's obligation to retain records related to this subsection shall expire three (3) years after each Franchise Fee payment has been made to the Grantor.

3.7 Late Payments

In the event any payment due quarterly is not received within forty-five (45) days from the end of the calendar quarter, Grantee shall pay interest on the amount due (at the prime rate as listed in the Wall Street Journal on the date the payment was due), compounded daily, calculated from the date the payment was originally due until the date the Grantor receives the payment.

3.8 Underpayments

If a net Franchise Fee underpayment is discovered as the result of an audit, Grantee shall pay interest at the rate of the eight percent (8%) per annum, compounded quarterly, calculated from the date each portion of the underpayment was originally due until the date Grantee remits the underpayment to the Grantor.

3.9 Alternative Compensation

In the event the obligation of Grantee to compensate the Grantor through Franchise Fee payments is lawfully suspended or eliminated, in whole or part, then Grantee shall comply with any other Applicable Law related to the right to occupy the Grantor's Rights-of-Way and compensation therefor.

3.10 Maximum Legal Compensation

The parties acknowledge that, at present, applicable federal law limits the Grantor to collection of a maximum permissible Franchise Fee of five percent (5%) of Gross Revenues. In the event that at any time during the duration of this Franchise, the Grantor is authorized to collect an amount in excess of five percent (5%) of Gross Revenues, then this Franchise may be amended unilaterally by the Grantor through the same process that the Franchise was adopted to provide that such excess amount shall be added to the Franchise Fee payments to be paid by Grantee to the Grantor hereunder, provided that Grantee has received at least ninety (90) days prior written notice from the Grantor of such amendment, so long as all cable operators in the Grantor are paying the same Franchise Fee amount.

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 in general by any law of the Grantor, the State or the United States including, without limitation, sales, use and other taxes, business license fees or other payments. Payment of the Franchise Fees under this Franchise shall not exempt Grantee from the payment of any other license fee, permit fee, tax or charge on the business, occupation, property or income of Grantee that may be lawfully imposed by the Grantor. Any other license fees, taxes or charges shall be of general applicability in nature and shall not be levied against Grantee solely because of its status as a Cable Operator, or against Subscribers, solely because of their status as such.

3.12 Financial Records

Grantee agrees to meet with a representative of the Grantor 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 Grantor deems necessary for reviewing reports and records.

3.13 Payment on Termination

If this Franchise terminates for any reason, the Grantee shall file with the Grantor 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 the Grantee since the end of the previous fiscal year. The Grantor reserves the right to satisfy any remaining financial obligations of

the Grantee to the Grantor by utilizing the funds available in the letter of credit or other security provided by the Grantee.

3.14 Additional Commitments Not Franchise Fee Payments

The Public, Educational, and Governmental Capital Contribution pursuant to Section 9.2, as well as any charges incidental to the awarding or enforcing of this Franchise (including, without limitation, payments for bonds, security funds, letters of credit, insurance, indemnification, penalties or liquidated damage) and Grantee's costs of compliance with Franchise obligations (including, without limitation, compliance with customer service standards and build out obligations) shall not be offset against Franchise Fees. Furthermore, the Grantor and Grantee agree that any local tax of general applicability shall be in addition to any Franchise Fees required herein, and there shall be no offset against Franchise Fees.

SECTION 4. ADMINISTRATION AND REGULATION

4.1 Authority

(A) The Grantor shall be vested with the power and right to reasonably regulate the exercise of the privileges permitted by this Franchise in the public interest, or to delegate that power and right, or any part thereof, to the extent permitted under Federal, State and local law, to any agent including, but not limited to, the CCUA, in its sole discretion.

(B) Nothing in this Franchise shall limit nor expand the Grantor's right of eminent domain under State law.

4.2 Rates and Charges

All of Grantee's rates and charges related to or regarding Cable Services shall be subject to regulation by the Grantor to the full extent authorized by applicable federal, State and local laws.

4.3 Rate Discrimination

All of Grantee's rates and charges shall be published (in the form of a publicly available rate card) and be non-discriminatory as to all Persons and organizations of similar classes, under similar circumstances and conditions. Grantee shall apply its rates in accordance with Applicable Law, with identical rates and charges for all Subscribers receiving identical Cable Services, without regard to race, color, ethnic or national origin, religion, age, sex, sexual orientation, marital, military or economic status, or physical or mental disability or geographic location within the Town of Wellington. Grantee shall offer the same Cable Services to all Residential Subscribers at identical rates to the extent required by Applicable Law and to Multiple Dwelling Unit Subscribers to the extent authorized by FCC rules or applicable Federal law. Grantee shall permit Subscribers to make any lawful in-residence connections the Subscriber chooses without additional charge nor penalizing the Subscriber therefor. However, if any in-home connection requires service from Grantee due to signal quality, signal leakage or other factors, caused by improper installation of such in-home wiring or

faulty materials of such in-home wiring, the Subscriber may be charged reasonable service charges by Grantee. Nothing herein shall be construed to prohibit:

(A) The temporary reduction or waiving of rates or charges in conjunction with valid promotional campaigns; or,

(B) The offering of reasonable discounts to senior citizens or economically disadvantaged citizens; or,

(C) The offering of rate discounts for Cable Service; or,

(D) The Grantee from establishing different and nondiscriminatory rates and charges and classes of service for Commercial Subscribers, as allowable by federal law and regulations.

4.4 Filing of Rates and Charges

(A) Throughout the term of this Franchise, Grantee shall maintain on file with the Grantor 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.

(B) Upon request of the Grantor, 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. The schedule shall include a description of the price, terms, and conditions established by Grantee for Leased Access Channels.

4.5 Cross Subsidization

Grantee shall comply with all Applicable Laws regarding rates for Cable Services and all Applicable Laws covering issues of cross subsidization.

4.6 Reserved Authority

Both Grantee and the Grantor reserve all rights they may have under the Cable Act and any other relevant provisions of federal, State, or local law.

4.7 Franchise Amendment Procedure

Either party may at any time seek an amendment of this Franchise by so notifying the other party in writing. Within thirty (30) days of receipt of notice, the Grantor and Grantee shall meet to discuss the proposed amendment(s). If the parties reach a mutual agreement upon the suggested amendment(s), such amendment(s) shall be submitted to the Board of Trustees for its approval. If so approved by the Board of Trustees and the Grantee, then such amendment(s) shall be deemed part of this Franchise. If mutual agreement is not reached, there shall be no amendment.

4.8 Performance Evaluations

(A) The Grantor may hold performance evaluation sessions upon ninety (90) days written notice, provided that such evaluation sessions shall be held no more frequently than once every two (2) years. All such evaluation sessions shall be conducted by the Grantor.

(B) Special evaluation sessions may be held at any time by the Grantor during the term of this Franchise, upon ninety (90) days written notice to Grantee.

(C) All regular evaluation sessions shall be open to the public and announced at least two (2) weeks in advance in any manner within the discretion of the Grantor. Grantee shall also include with or on the Subscriber billing statements for the billing period immediately preceding the commencement of the session, written notification of the date, time, and place of the regular performance evaluation session, and any special evaluation session as required by the Grantor, provided Grantee receives appropriate advance notice.

(D) Topics which may be discussed at any evaluation session may include, but are not limited to, Cable Service rate structures; Franchise Fee payments; liquidated damages; free or discounted Cable Services; application of new technologies; Cable System performance; Cable Services provided; programming offered; Subscriber complaints; privacy; amendments to this Franchise; judicial and FCC rulings; line extension policies; and the Grantor or Grantee's rules; provided that nothing in this subsection shall be construed as requiring the renegotiation of this Franchise.

(E) During evaluations under this subsection, Grantee shall fully cooperate with the Grantor and shall provide such information and documents as the Grantor may reasonably require to perform the evaluation.

4.9 Late Fees

(A) For purposes of this subsection, any assessment, charge, cost, fee or sum, however characterized, that the Grantee imposes upon a Subscriber solely for late payment of a bill is a late fee and shall be applied in accordance with the Grantor's Customer Service Standards, as the same may be amended from time to time by the Board of Trustees acting by ordinance or resolution, or as the same may be superseded by Applicable Law.

(B) Nothing in this subsection shall be deemed to create, limit or otherwise affect the ability of the Grantee, if any, to impose other assessments, charges, fees or sums other than those permitted by this subsection, for the Grantee's other services or activities it performs in compliance with Applicable Law, including FCC law, rule or regulation.

(C) The Grantee's late fee and disconnection policies and practices shall be consistent with Applicable Law.

4.10 Force Majeure

In the event Grantee is prevented or delayed in the performance of any of its obligations under this Franchise by reason beyond the control of Grantee, Grantee shall 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 satisfactory to the Grantor. Those conditions which are not within the control of Grantee include, but are not limited to, natural disasters, civil disturbances, work stoppages or labor disputes, pandemics, power outages, telephone network outages, and severe or unusual weather conditions which have a direct and substantial impact on the Grantee's ability to provide Cable Services in the Town of Wellington and which was not caused and could not have been avoided by the Grantee which used its best efforts in its operations to avoid such results.

If Grantee believes that a reason beyond its control has prevented or delayed its compliance with the terms of this Franchise, Grantee shall provide documentation as reasonably required by the Grantor to substantiate the Grantee's claim. If Grantee has not yet cured the deficiency, Grantee shall also provide the Grantor with its proposed plan for remediation, including the timing for such cure.

SECTION 5. FINANCIAL AND INSURANCE REQUIREMENTS

5.1 Indemnification

(A) General Indemnification. Grantee shall indemnify, defend and hold the Grantor, its officers, officials, boards, commissions, agents and employees, harmless from any action or claim for injury, damage, loss, liability, cost or expense, including court and appeal costs and reasonable attorneys' fees or reasonable expenses, arising from any casualty or accident to Person or property, including, without limitation, copyright infringement, defamation, and all other damages in any way arising out of, or by reason of, any construction, excavation, operation, maintenance, reconstruction, or any other act done under this Franchise, by or for Grantee, its agents, or its employees, or by reason of any neglect or omission of Grantee. Grantee shall consult and cooperate with the Grantor while conducting its defense of the Grantor. Grantee shall not be obligated to indemnify the Grantor to the extent of the Grantor's negligence or willful misconduct.

(B) Indemnification for Relocation. Grantee shall indemnify the Grantor for any damages, claims, additional costs or reasonable expenses assessed against, or payable by, the Grantor arising out of, or resulting from, directly or indirectly, Grantee's failure to remove, adjust or relocate any of its facilities in the Rights-of-Way in a timely manner in accordance with any relocation required by the Grantor.

(C) Additional Circumstances. Grantee shall also indemnify, defend and hold the Grantor harmless for any claim for injury, damage, loss, liability, cost or expense, including court and appeal costs and reasonable attorneys' fees or reasonable expenses in any way arising out of:

(1) The lawful actions of the Grantor in granting this Franchise to the extent such actions are consistent with this Franchise and Applicable Law.

(2) Damages arising out of any failure by Grantee to secure consents from the owners, authorized distributors, or licensees/licensors of programs to be delivered by the Cable System, whether or not any act or omission complained of is authorized, allowed or prohibited by this Franchise.

(D) Procedures and Defense. If a claim or action arises, the Grantor or any other indemnified party shall promptly tender the defense of the claim to Grantee, which defense shall be at Grantee's expense. The Grantor may participate in the defense of a claim, but if Grantee provides a defense at Grantee's expense then Grantee shall not be liable for any attorneys' fees, expenses or other costs that Grantor may incur if it chooses to participate in the defense of a claim, unless and until separate representation as described below in Paragraph 5.1(F) is required. In that event the provisions of Paragraph 5.1(F) shall govern Grantee's responsibility for Town's attorney's fees, expenses or other costs. In any event, Grantee may not agree to any settlement of claims affecting the Grantor without the Grantor's approval.

(E) Non-waiver. 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 subsection.

(F) Expenses. If separate representation to fully protect the interests of both parties is or becomes necessary, such as a conflict of interest between the Grantor and the counsel selected by Grantee to represent the Grantor, Grantee shall pay, from the date such separate representation is required forward, all reasonable expenses incurred by the Grantor in defending itself with regard to any action, suit or proceeding indemnified by Grantee. Provided, however, that in the event that such separate representation is or becomes necessary, and Grantor desires to hire counsel or any other outside experts or consultants and desires Grantee to pay those expenses, then Grantor shall be required to obtain Grantee's consent to the engagement of such counsel, experts or consultants, such consent not to be unreasonably withheld. The Grantor's expenses shall include all reasonable out-of-pocket expenses, such as consultants' fees, and shall also include the reasonable value of any services rendered by the Grantor Attorney or his/her assistants or any employees of the Grantor or its agents but shall not include outside attorneys' fees for services that are unnecessarily duplicative of services provided the Grantor by Grantee.

5.2 Insurance

(A) Grantee shall maintain in full force and effect at its own cost and expense each of the following policies of insurance, but in no event shall occurrence basis minimum limits be less than provided for by C.R.S. §24-10-114(1)(b):

(1) Commercial General Liability insurance with limits of no less than two million dollars (\$2,000,000.00) per occurrence for bodily injury and property damage and four million dollars (\$4,000,000.00) annual aggregate. Such insurance shall cover liability for premises, operations, independent contractors, products/completed operations, personal and advertising injury, and the tort liability of another assumed in

a business contract. Such policy shall provide completed operations coverage for additional insured and shall have cross liability coverage either by way of a separation of insureds clause or otherwise. There shall be a waiver of subrogation and rights of recovery against the Grantor, its officers, officials and employees. Coverage shall apply as to claims between insureds on the policy, if applicable.

(2) Commercial Automobile Liability insurance with minimum single limits for bodily injury and property damage of two million dollars (\$2,000,000.00) each accident with respect to each of Grantee's owned, hired and non-owned vehicles assigned to or used in the operation of the Cable System in the Town. These requirements can be satisfied by providing either excess liability or umbrella liability coverage consistent with the requirements described in subsection (1) above. The policy shall contain a severability of interests provision.

(B) The insurance shall not be canceled or materially changed so as to be out of compliance with these requirements without thirty (30) days' written notice first provided to the Grantor, via certified mail, and ten (10) days' notice for nonpayment of premium. If the insurance is canceled or materially altered so as to be out of compliance with the requirements of this subsection within the term of this Franchise, Grantee shall provide a replacement policy. Grantee agrees to maintain continuous uninterrupted insurance coverage, in at least the amounts required, for the duration of this Franchise and, in the case of the Commercial General Liability, for at least one (1) year after expiration of this Franchise..

5.3 Deductibles / Certificate of Insurance

Any deductible of the policies shall not in any way limit Grantee's liability to the Grantor.

(A) Endorsements.

(1) All policies shall contain, or shall be endorsed so that:

(a) The Grantor, its officers, officials, boards, commissions, employees and agents 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 or repair, or ownership of the Cable System;

(b) Grantee's insurance coverage shall be primary insurance with respect to the Grantor, its officers, officials, boards, commissions, employees and agents. Any insurance or self-insurance maintained by the Grantor, its officers, officials, boards, commissions, employees and agents shall be in excess of the Grantee's insurance and shall not contribute to it; and

(c) 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.

(B) Acceptability of Insurers. The insurance obtained by Grantee shall be placed with insurers with a Best's rating of no less than "A VII."

(C) Verification of Coverage. The Grantee shall furnish the Grantor with certificates of insurance and endorsements or a copy of the page of the policy reflecting blanket additional insured status. The certificates and endorsements for each insurance policy are to be signed by a Person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements for each insurance policy are to be on standard forms or such forms as are consistent with standard industry practices.

5.4 Letter of Credit

(A) If there is a claim by the Town Administrator of an uncured breach by Grantee of a material provision of this Franchise or pattern of repeated violations of any provision(s) of this Franchise, then the Town Administrator may require and Grantee shall establish and provide within thirty (30) days from receiving notice from the Town Administrator, to the Grantor as security for the faithful performance by Grantee of all of the provisions of this Franchise, a letter of credit from a financial institution satisfactory to the Town Administrator in the amount of twenty-five thousand dollars (\$25,000).

(B) In the event that Grantee establishes a letter of credit pursuant to the procedures of this Section, then the letter of credit shall be maintained twenty-five thousand dollars (\$25,000) until the allegations of the uncured breach have been resolved.

(C) As an alternative to the provision of a Letter of Credit to the Grantor as set forth in Subsections 5.4 (A) and (B) above, if the Grantor is a member of CCUA, and if Grantee provides a Letter of Credit to CCUA in an amount agreed to between Grantee and CCUA for the benefit of its members, in order to collectively address claims reference in 5.4 (A), Grantee shall not be required to provide a separate Letter of Credit to the Grantor.

(D) After completion of the procedures set forth in Section 12.1 or other applicable provisions of this Franchise, the letter of credit may be drawn upon by the Grantor at the direction of the Town Administrator for purposes including, but not limited to, the following:

- (1) Failure of Grantee to pay the Grantor sums due under the terms of this Franchise;
- (2) Reimbursement of costs borne by the Grantor to correct Franchise violations not corrected by Grantee;

(3) Monetary remedies or damages assessed against Grantee due to default or breach of Franchise requirements; and,

(4) Failure to comply with the Customer Service Standards of the Grantor, as the same may be amended from time to time by the Board of Trustees acting by ordinance or resolution.

(E) The Town Administrator shall give Grantee written notice of any withdrawal under this subsection upon such withdrawal. Within seven (7) days following receipt of such notice, Grantee shall restore the letter of credit to the amount required under this Franchise.

(F) Grantee shall have the right to appeal to the Board of Trustees for reimbursement in the event Grantee believes that the letter of credit was drawn upon improperly. Grantee shall also have the right of judicial appeal if Grantee believes the letter of credit has not been properly drawn upon in accordance with this Franchise. Any funds the Grantor erroneously or wrongfully withdraws from the letter of credit shall be returned to Grantee with interest, from the date of withdrawal at a rate equal to the prime rate of interest as quoted in the Wall Street Journal.

SECTION 6. CUSTOMER SERVICE

6.1 Customer Service Standards

Grantee shall comply with Customer Service Standards of the Grantor, as the same may be amended from time to time by the Board of Trustees in its sole discretion, acting by ordinance. Any requirement in Customer Service Standards for a “local” telephone number may be met by the provision of a toll-free number. The Customer Services Standards in effect as of the Effective Date of this Franchise are attached as Exhibit A. Grantee reserves the right to challenge any customer service ordinance which it believes is inconsistent with its contractual rights under this Franchise.

6.2 Subscriber Privacy

Grantee shall fully comply with any provisions regarding the privacy rights of Subscribers contained in federal, State, or local law.

6.3 Subscriber Contracts

Grantee shall not enter into a contract with any Subscriber which is in any way inconsistent with the terms of this Franchise, or any Exhibit hereto, or the requirements of any applicable Customer Service Standard. Upon request, Grantee will provide to the Grantor a sample of the Subscriber contract or service agreement then in use.

6.4 Advance Notice to Grantor

The Grantee shall use reasonable efforts to furnish information provided to Subscribers or the media in the normal course of business to the Grantor in advance.

6.5 Identification of Local Franchise Authority on Subscriber Bills

Within sixty (60) days after written request from the Grantor, Grantee shall place the Grantor's phone number on its Subscriber bills, to identify where a Subscriber may call to address escalated complaints.

SECTION 7. REPORTS AND RECORDS

7.1 Open Records

Grantee shall manage all of its operations in accordance with a policy of keeping its documents and records open and accessible to the Grantor. The Grantor, including the Grantor's Auditor or his/her authorized representative, shall have access to, and the right to inspect, any 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. Grantee shall not deny the Grantor 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 Grantor 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 Grantor, at the sole expense of Grantee. If the requested books and records are too voluminous, or for security reasons cannot be copied or removed, then Grantee may request, in writing within ten (10) days, that the Grantor inspect them at Grantee's local offices. If any books or records of Grantee are not kept in a local office and not made available in copies to the Grantor upon written request as set forth above, and if the Grantor determines that an examination of such records is necessary or appropriate for the performance of any of the Grantor'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.

7.2 Confidentiality

The Grantor agrees to treat as confidential any books or records that constitute proprietary or confidential information under federal or State law, to the extent Grantee makes the Grantor aware of such confidentiality. Grantee shall be responsible for clearly and conspicuously stamping the word "Confidential" on each page that contains confidential or proprietary information and shall provide a brief written explanation as to why such information is confidential under State or federal law. If the Grantor believes it must release any such confidential books and records in the course of enforcing this Franchise, or for any other reason, it shall advise Grantee in advance so that Grantee may take appropriate steps to protect its interests. If the Grantor receives a demand from any Person for disclosure of any information designated by Grantee as confidential, the

Grantor shall, so far as consistent with Applicable Law, advise Grantee and provide Grantee with a copy of any written request by the party demanding access to such information within a reasonable time. Until otherwise ordered by a court or agency of competent jurisdiction, the Grantor agrees that, to the extent permitted by Applicable Law, it shall deny access to any of Grantee's books and records marked confidential as set forth above to any Person. Grantee shall reimburse the Grantor for all reasonable costs and attorney's fees incurred in any legal proceedings pursued under this Section.

7.3 Records Required

(A) Grantee shall at all times maintain, and shall furnish to the Grantor upon 30 days written request and subject to Applicable Law:

(1) A complete set of maps showing the exact location of all Cable System equipment and facilities in the Right-of-Way but excluding detail on proprietary electronics contained therein and Subscriber drops. As-built maps including proprietary electronics shall be available at Grantee's offices for inspection by the Grantor's authorized representative(s) or agent(s) and made available to such during the course of technical inspections as reasonably conducted by the Grantor. These maps shall be certified as accurate by an appropriate representative of the Grantee;

(2) A copy of all FCC filings on behalf of Grantee, its parent corporations or Affiliates which relate to the operation of the Cable System in the Town;

(3) Current Subscriber Records and information;

(4) A log of Cable Services added or dropped, Channel changes, number of Subscribers added or terminated, all construction activity, and total homes passed for the previous twelve (12) months; and

(5) A list of Cable Services, rates and Channel line-ups.

(B) Subject to subsection 7.2, all information furnished to the Grantor is public information, and shall be treated as such, except for information involving the privacy rights of individual Subscribers.

7.4 Annual Reports

Within sixty (60) days of the Grantor's written request, Grantee shall submit to the Grantor a written report, in a form acceptable to the Grantor, which shall include, but not necessarily be limited to, the following information for the Grantor:

(A) A Gross Revenue statement, as required by subsection 3.5 of this Franchise;

(B) A summary of the previous year's activities in the development of the Cable System, including, but not limited to, Cable Services begun or discontinued during the reporting year, and the number of Subscribers for each class of Cable Service (*i.e.*, Basic, Digital Starter, and Premium);

(C) The number of homes passed, beginning and ending plant miles, any services added or dropped, and any technological changes occurring in the Cable System;

(D) A statement of planned construction, if any, for the next year; and,

(E) A copy or hyperlink of the most recent annual report Grantee filed with the SEC or other governing body.

The parties agree that the Grantor's request for these annual reports shall remain effective and need only be made once. Such a request shall require the Grantee to continue to provide the reports annually, until further written notice from the Grantor to the contrary.

7.5 Copies of Federal and State Reports

Within thirty (30) days of a written request, Grantee shall submit to the Grantor copies of all pleadings, applications, notifications, communications and documents of any kind, submitted by Grantee or its parent corporation(s), to any federal, State or local courts, regulatory agencies and other government bodies if such documents directly relate to the operations of Grantee's Cable System within the Town. Grantee shall not claim confidential, privileged or proprietary rights to such documents unless under federal, State, or local law such documents have been determined to be confidential by a court of competent jurisdiction, or a federal or State agency.

7.6 Complaint File and Reports

(A) Grantee shall keep an accurate and comprehensive file of any complaints regarding the Cable System, in a manner consistent with the privacy rights of Subscribers, and Grantee's actions in response to those complaints. These files shall remain available for viewing to the Grantor during normal business hours at Grantee's local business office.

(B) Within thirty (30) days of a written request, Grantee shall provide the Grantor a quarterly executive summary in the form attached hereto as Exhibit B, which shall include the following information from the preceding quarter:

(1) A summary of service calls, identifying the number and nature of the requests and their disposition;

(2) A log of all service interruptions;

(3) A summary of customer complaints referred by the Grantor to Grantee; and,

- (4) Such other information as reasonably requested by the Grantor.

The parties agree that the Grantor's request for these summary reports shall remain effective and need only be made once. Such a request shall require the Grantee to continue to provide the reports quarterly, until further written notice from the Grantor to the contrary.

7.7 Failure to Report

The failure or neglect of Grantee to file any of the reports or filings required under this Franchise or such other reports as the Grantor may reasonably request (not including clerical errors or errors made in good faith), may, at the Grantor's option, be deemed a breach of this Franchise.

7.8 False Statements

Any false or misleading statement or representation in any report required by this Franchise (not including clerical errors or errors made in good faith) may be deemed a material breach of this Franchise and may subject Grantee to all remedies, legal or equitable, which are available to the Grantor under this Franchise or otherwise.

SECTION 8. PROGRAMMING

8.1 Broad Programming Categories

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

- (A) Educational programming;
- (B) Colorado news, weather & information;
- (C) National and international news, weather, & information;
- (D) Colorado Sports;
- (E) National and international sports;
- (F) General entertainment (including movies);
- (G) Children/family-oriented;
- (H) Arts, culture and performing arts;
- (I) Foreign language;

(J) Science/documentary; and

(K) Public, Educational and Government Access, to the extent required by this Franchise, if any.

8.2 Deletion or Reduction of Broad Programming Categories

(A) Grantee shall not delete or so limit as to effectively delete any broad category of programming within its control without the prior written consent of the Grantor.

(B) In the event of a modification proceeding under federal law, the mix and quality of Cable Services provided by Grantee on the Effective Date of this Franchise shall be deemed the mix and quality of Cable Services required under this Franchise throughout its term.

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, or violates any provision of, Applicable Law relating to obscenity, and is not protected by the Constitution of the United States. Grantee shall be deemed to have transmitted or permitted a transmission of obscene programming only if a court of competent jurisdiction has found that any of Grantee's officers or employees or agents have permitted programming which is obscene under, or violative of, any provision of Applicable Law relating to obscenity, and is otherwise not protected by the Constitution of the United States, to be transmitted over any Channel subject to Grantee's editorial control. Grantee shall comply with all relevant provisions of federal law relating to obscenity.

8.4 Parental Control Device

Upon request by any Subscriber, Grantee shall make available a parental control or lockout device, traps or filters to enable a Subscriber to control access to both the audio and video portions of any or all Channels. Grantee shall inform its Subscribers of the availability of the lockout device at the time of their initial subscription and periodically thereafter. Any device offered shall be at a rate, if any, in compliance with Applicable Law.

8.5 Continuity of Service Mandatory

(A) It shall be the right of all Subscribers to continue to receive Cable Service from Grantee insofar as their financial and other obligations to Grantee are honored. The Grantee shall act so as to ensure that all Subscribers receive continuous, uninterrupted Cable Service regardless of the circumstances. For the purposes of this subsection, "uninterrupted" does not include short-term outages of the Cable System for maintenance or testing.

(B) In the event of a change of grantee, or in the event a new Cable Operator acquires the Cable System in accordance with this Franchise, Grantee shall cooperate with the Grantor, new franchisee or Cable Operator in maintaining continuity of Cable Service to all Subscribers. During any transition period, Grantee shall be entitled to the revenues for any period during which it operates the Cable System and shall be entitled to reasonable costs for its services when it no longer operates the Cable System.

(C) In the event Grantee fails to operate the Cable System for four (4) consecutive days without prior approval of the Manager, or without just cause, the Grantor may, at its option, operate the Cable System itself or designate another Cable Operator until such time as Grantee restores service under conditions acceptable to the Grantor or a permanent Cable Operator is selected. If the Grantor is required to fulfill this obligation for Grantee, Grantee shall reimburse the Grantor for all reasonable costs or damages that are the result of Grantee's failure to perform.

8.6 Services for the Disabled

Grantee shall comply with the Americans with Disabilities Act and any amendments thereto.

SECTION 9. ACCESS

9.1 Designated Access Providers

The Town shall have the sole and exclusive responsibility for identifying the Designated Access Providers, including itself for Access Programming 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 services, facilities, equipment, technical components and/or financial support provided under this Franchise, which is used or useable by and for Access Programming.

9.2 Support for Access Programming Capital Costs

In recognition of the Town's demonstration of the community needs and interests related to the startup of an online Access Programming operation, Grantee agrees to provide an Access Programming capital equipment grant of forty thousand dollars (\$40,000) ("Grant"). The Grant shall be delivered to the Town within one hundred eighty (180) days of written request made. Grantee shall be entitled to recover the Grant in any manner consistent with Applicable Law.

9.3 Access Programming Support Not Franchise Fees

Grantee agrees that capital support for Access Programming costs set forth in Section 9.2 shall in no way modify or otherwise affect Grantee's obligations to pay Franchise Fees to the Town.

Grantee agrees that although the sum of Franchise Fees plus the payments set forth in Section 9.2 may total more than five percent (5%) of Grantee's Gross Revenues in any 12-month period, the Grant shall not be offset or otherwise credited in any way against any Franchise Fee payments under this Franchise Agreement so long as such support is used for capital related to Access Programming purposes.

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

10.1 Right to Construct

Subject to Applicable Law, regulations, rules, resolutions and ordinances of the Grantor and the provisions of this Franchise, Grantee may perform all construction in the Rights-of-Way for any facility needed for the maintenance or extension of Grantee's Cable System.

10.2 Right-of-Way Meetings

Grantee will regularly attend and participate in meetings of the Grantor, of which the Grantee is made aware, regarding Right-of-Way issues that may impact the Cable System.

10.3 Joint Trenching/Boring Meetings

Grantee will regularly attend and participate in planning meetings of the Grantor, of which the Grantee is made aware, to anticipate joint trenching and boring. Whenever it is possible and reasonably practicable to joint trench or share bores or cuts, Grantee shall work with other providers, licensees, permittees, and franchisees so as to reduce so far as possible the number of Right-of-Way cuts within the Grantor.

10.4 General Standard

All work authorized and required hereunder shall be done in a safe, thorough and workmanlike manner. All installations of equipment shall be permanent in nature, durable and installed in accordance with good engineering practices.

10.5 Permits Required for Construction

Prior to doing any work in the Right-of Way or other public property, Grantee shall apply for, and obtain, appropriate permits from the Grantor. As part of the permitting process, the Grantor may impose such conditions and regulations as are necessary for the purpose of protecting any structures in such Rights-of-Way, proper restoration of such Rights-of-Way and structures, the protection of the public, and the continuity of pedestrian or vehicular traffic. Such conditions may also include the provision of a construction schedule and maps showing the location of the facilities to be installed in the Right-of-Way. Grantee shall pay all applicable fees for the requisite Grantor permits received by Grantee.

10.6 Emergency Permits

In the event that emergency repairs are necessary, Grantee shall immediately notify the Grantor of the need for such repairs. Grantee may initiate such emergency repairs and shall apply for appropriate permits within forty-eight (48) hours after discovery of the emergency.

10.7 Compliance with Applicable Codes

(A) Grantor Construction Codes. Grantee shall comply with all applicable Grantor construction codes, including, without limitation, the Uniform Building Code and other building codes, the Uniform Fire Code, the Uniform Mechanical Code, the Electronic Industries Association Standard for Physical Location and Protection of Below-Ground Fiber Optic Cable Plant, and zoning codes and regulations.

(B) Tower Specifications. Antenna supporting structures (towers) shall be designed for the proper loading as specified by the Electronics Industries Association (EIA), as those specifications may be amended from time to time. Antenna supporting structures (towers) shall be painted, lighted, erected and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration and all other applicable federal, State, and local codes or regulations.

(C) Safety Codes. Grantee shall comply with all federal, State and Grantor safety requirements, rules, regulations, 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 shall comply with the National Electric Code, National Electrical Safety Code and Occupational Safety and Health Administration (OSHA) Standards.

10.8 GIS Mapping

Grantee shall comply with any generally applicable ordinances, rules and regulations of the Grantor regarding geographic information mapping systems for users of the Rights-of-Way.

10.9 Minimal Interference

Work in the Right-of-Way, on other public property, near public property, or on or near private property shall be done in a manner that causes the least interference with the rights and reasonable convenience of property owners and residents. Grantee's Cable System shall be constructed and maintained in such manner as not to interfere with sewers, water pipes, or any other property of the Grantor, or with any other pipes, wires, conduits, pedestals, structures, or other facilities that may have been laid in the Rights-of-Way by, or under, the Grantor's authority. The Grantee's Cable System shall be located, erected and maintained so as not to endanger or interfere with the lives of Persons, or to interfere with new improvements the Grantor may deem proper to make or to unnecessarily hinder or obstruct the free use of the Rights-of-Way or other

public property, 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. In the event of such interference, the Grantor may require the removal or relocation of Grantee's lines, cables, equipment and other appurtenances from the property in question at Grantee's expense.

10.10 Prevent Injury/Safety

Grantee shall provide and use any equipment and facilities necessary to control and carry Grantee's signals so as to prevent injury to the Grantor'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 good repair, and safe and presentable condition. All excavations made by Grantee in the Rights-of-Way shall be properly safeguarded for the prevention of accidents by the placement of adequate barriers, fences or boarding, the bounds of which, during periods of dusk and darkness, shall be clearly designated by warning lights.

10.11 Hazardous Substances

(A) Grantee shall comply with any and all Applicable Laws, statutes, regulations and orders concerning hazardous substances relating to Grantee's Cable System in the Rights-of-Way.

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

(C) Grantee agrees to indemnify the Grantor against any claims, costs, and expenses, of any kind, whether direct or indirect, incurred by the Grantor arising out of a release of hazardous substances caused by Grantee's Cable System.

10.12 Locates

Prior to doing any work in the Right-of-Way, Grantee shall give appropriate notices to the Grantor and to the notification association established in C.R.S. Section 9-1.5-105, as such may be amended from time to time.

Within forty-eight (48) hours after any Grantor bureau or franchisee, licensee or permittee notifies Grantee of a proposed Right-of-Way excavation, Grantee shall, at Grantee's expense:

(A) Mark on the surface all of its located underground facilities within the area of the proposed excavation;

(B) Notify the excavator of any unlocated underground facilities in the area of the

proposed excavation; or

(C) Notify the excavator that Grantee does not have any underground facilities in the vicinity of the proposed excavation.

10.13 Notice to Private Property Owners

Grantee shall give notice to private property owners of work on or adjacent to private property in accordance with the Grantor's Customer Service Standards, as the same may be amended from time to time by the Board of Trustees acting by Ordinance or resolution.

10.14 Underground Construction and Use of Poles

(A) When required by general ordinances, resolutions, regulations or rules of the Grantor or applicable State or federal law, Grantee's Cable System shall be placed underground at Grantee's expense unless funding is generally available for such relocation to all users of the Rights-of-Way. Placing facilities underground does not preclude the use of ground-mounted appurtenances.

(B) Where electric, telephone, and other above-ground utilities are installed underground at the time of Cable System construction, or when all such wiring is subsequently placed underground, all Cable System lines shall also be placed underground with other wireline service at no expense to the Grantor or Subscribers unless funding is generally available for such relocation to all users of the Rights-of-Way. Related Cable System equipment, such as pedestals, must be placed in accordance with the Grantor's applicable code requirements and rules. In areas where either electric or telephone utility wiring is aerial, the 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.

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

(D) In the event Grantee cannot obtain the necessary poles and related facilities pursuant to a pole attachment agreement, and only in such event, then it shall be lawful for Grantee to make all needed excavations in the Rights-of-Way for the purpose of placing, erecting, laying, maintaining, repairing, and removing poles, supports for wires and conductors, and any other facility needed for the maintenance or extension of Grantee's Cable System. All poles of Grantee shall be located as designated by the proper Grantor authorities.

(E) This Franchise does not grant, give or convey to the Grantee the right or privilege to install its facilities in any manner on specific utility poles or equipment of the Grantor or any other Person. Copies of agreements for the use of poles, conduits or other utility facilities must be

provided upon request by the Grantor.

10.15 Undergrounding of Multiple Dwelling Unit Drops

In cases of single site Multiple Dwelling Units, Grantee shall minimize the number of individual aerial drop cables by installing multiple drop cables underground between the pole and Multiple Dwelling Unit where determined to be technologically feasible in agreement with the owners and/or owner's association of the Multiple Dwelling Units.

10.16 Burial Standards

(A) Depths. Unless otherwise required by law, Grantee, and its contractors, shall comply with the following burial depth standards. In no event shall Grantee be required to bury its cable deeper than electric or gas facilities, or existing telephone facilities in the same portion of the Right-of-Way, so long as those facilities have been buried in accordance with Applicable Law:

Underground cable drops from the curb shall be buried at a minimum depth of twelve (12) inches, unless a sprinkler system or other construction concerns preclude it, in which case, underground cable drops shall be buried at a depth of at least six (6) inches.

Feeder lines shall be buried at a minimum depth of eighteen (18) inches.

Trunk lines shall be buried at a minimum depth of thirty-six (36) inches.

Fiber Optic cable shall be buried at a minimum depth of thirty-six (36) inches.

In the event of a conflict between this subsection and the provisions of any customer service standard, this subsection shall control.

(B) Timeliness. Cable drops installed by Grantee to residences shall be buried according to these standards within one calendar week of initial installation, or at a time mutually-agreed upon between the Grantee and the Subscriber. When freezing surface conditions prevent Grantee from achieving such timetable, Grantee shall apprise the Subscriber of the circumstances and the revised schedule for burial, and shall provide the Subscriber with Grantee's telephone number and instructions as to how and when to call Grantee to request burial of the line if the revised schedule is not met.

10.17 Cable Drop Bonding

Grantee shall ensure that all cable drops are properly bonded at the home, consistent with applicable code requirements.

10.18 Prewiring

Any ordinance or resolution of the Grantor which requires prewiring of subdivisions or other developments for electrical and telephone service shall be construed to include wiring for Cable Systems.

10.19 Repair and Restoration of Property

(A) The Grantee shall protect public and private property from damage. If damage occurs, including damage to any underground facility as such is defined in section 9-1.5-102 of the Colorado Revised Statutes, the Grantee shall promptly notify the property owner within twenty-four (24) hours in writing.

(B) Whenever Grantee disturbs or damages any Right-of-Way, other public property or any private property, Grantee shall promptly restore the Right-of-Way or property to at least its prior condition, normal wear and tear excepted, at its own expense.

(C) Rights-of-Way and Other Public Property. Grantee shall warrant any restoration work performed by or for Grantee in the Right-of-Way or on other public property in accordance with Applicable Law. If restoration is not satisfactorily performed by the Grantee within a reasonable time, the Grantor may, after prior notice to the Grantee, or without notice where the disturbance or damage may create a risk to public health or safety, cause the repairs to be made and recover the cost of those repairs from the Grantee. Within thirty (30) days of receipt of an itemized list of those costs, including the costs of labor, materials and equipment, the Grantee shall pay the Grantor.

(D) Private Property. Upon completion of the work which caused any disturbance or damage, Grantee shall promptly commence restoration of private property, and will use best efforts to complete the restoration within seventy-two (72) hours, considering the nature of the work that must be performed. Grantee shall also perform such restoration in accordance with the Grantor's Customer Service Standards, as the same may be amended from time to time by the Board of Trustees acting by ordinance or resolution.

10.20 Acquisition of Facilities

Upon Grantee's acquisition of Cable System-related facilities in any Grantor Right-of-Way, or upon the addition to the Grantor of any area in which Grantee owns or operates any such facility, Grantee shall, at the Grantor's request, submit to the Grantor a statement describing all such 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. Such Cable System-related facilities shall immediately be subject to the terms of this Franchise.

10.21 Discontinuing Use/Abandonment of Cable System Facilities

Whenever Grantee intends to discontinue using any facility within the Rights-of-Way, Grantee shall submit for the Grantor's approval 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 Grantor permit it to remain in place. Notwithstanding Grantee's request that any such facility remain in place, the Grantor may require Grantee to remove the facility from the Right-of-Way or modify the facility to protect the public health, welfare, safety, and convenience, or otherwise serve the public interest. The Grantor 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 Grantor. Until such time as Grantee removes or modifies the facility as directed by the Grantor, or until the rights to and responsibility for the facility are accepted by another Person having authority to construct and maintain such facility, Grantee shall be responsible for all necessary repairs and relocations of the facility, as well as maintenance of the Right-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 Grantor may choose to use such facilities for any purpose whatsoever including, but not limited to, Access purposes.

10.22 Movement of Cable System Facilities For Grantor Purposes

The Grantor shall have the right to require Grantee to relocate, remove, replace, modify or disconnect Grantee's facilities and equipment located in the Rights-of-Way or on any other property of the Grantor for public purposes, in the event of an emergency, or when the public health, safety or welfare requires such change (for example, without limitation, by reason of traffic conditions, public safety, Right-of-Way vacation, Right-of-Way construction, change or establishment of Right-of-Way grade, installation of sewers, drains, gas or water pipes, or any other types of structures or improvements by the Grantor for public purposes). Such work shall be performed at the Grantee's expense. Except during an emergency, the Grantor shall provide reasonable notice to Grantee, not to be less than forty-five (45) business days, and allow Grantee with the opportunity to perform such action. In the event of any capital improvement project exceeding \$500,000 in expenditures by the Grantor which requires the removal, replacement, modification or disconnection of Grantee's facilities or equipment, the Grantor shall provide at least sixty (60) days' written notice to Grantee. Following notice by the Grantor, Grantee shall relocate, remove, replace, modify or disconnect any of its facilities or equipment within any Right-of-Way, or on any other property of the Grantor. If the Grantor requires Grantee to relocate its facilities located within the Rights-of-Way, the Grantor shall make a reasonable effort to provide Grantee with an alternate location within the Rights-of-Way. If funds are generally made available to users of the Rights-of-Way for such relocation, Grantee shall be entitled to its pro rata share of such funds.

If the Grantee fails to complete this work within the time prescribed and to the Grantor's satisfaction, the Grantor may cause such work to be done and bill the cost of the work to the Grantee, including all costs and expenses incurred by the Grantor due to Grantee's delay. In such event, the Grantor shall not be liable for any damage to any portion of Grantee's Cable System. Within thirty (30) days of receipt of an itemized list of those costs, the Grantee shall pay the Grantor.

10.23 Movement of Cable System Facilities for Other Franchise Holders

If any removal, replacement, modification or disconnection of the Cable System is required to accommodate the construction, operation or repair of the facilities or equipment of another Grantor franchise holder, Grantee shall, after at least thirty (30) days' advance written notice, take action to effect the necessary changes requested by the responsible entity. Grantee shall require that the costs associated with the removal or relocation be paid by the benefited party.

10.24 Temporary Changes 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 expense of such temporary changes must be paid by the permit holder, and Grantee may require a reasonable deposit of the estimated payment in advance.

10.25 Reservation of Grantor Use of Right-of-Way

Nothing in this Franchise shall prevent the Grantor or public utilities owned, maintained or operated by public entities other than the Grantor from constructing sewers; grading, paving, repairing or altering any Right-of-Way; laying down, repairing or removing water mains; or constructing or establishing any other public work or improvement. All such work shall be done, insofar as practicable, so as not to obstruct, injure or prevent the use and operation of Grantee's Cable System.

10.26 Tree Trimming

Grantee may prune or cause to be pruned, using proper pruning practices, any tree in the Grantor's Rights-of-Way which interferes with Grantee's Cable System. Grantee shall comply with any general ordinance or regulations of the Grantor regarding tree trimming. Except in emergencies, Grantee may not prune trees at a point below thirty (30) feet above sidewalk grade until one (1) week written notice has been given to the owner or occupant of the premises abutting the Right-of-Way in or over which the tree is growing. The owner or occupant of the abutting premises may prune such tree at his or her own expense during this one (1) week period. If the owner or occupant fails to do so, Grantee may prune such tree at its own expense. For purposes of this subsection, emergencies exist when it is necessary to prune to protect the public or Grantee's facilities from imminent danger only.

10.27 Inspection of Construction and Facilities

The Grantor may inspect any of Grantee's facilities, equipment or construction at any time upon at least twenty-four (24) hours notice, or, in case of emergency, upon demand without prior notice. The Grantor shall have the right to charge generally applicable inspection fees therefore.

If an unsafe condition is found to exist, the Grantor, in addition to taking any other action permitted under Applicable Law, may order Grantee, in writing, to make the necessary repairs and alterations specified therein forthwith to correct the unsafe condition by a time the Grantor establishes. The Grantor has the right to correct, inspect, administer and repair the unsafe condition if Grantee fails to do so, and to charge Grantee therefore.

10.28 Stop Work

(A) On notice from the Grantor that any work is being performed contrary to the provisions of this Franchise, or in an unsafe or dangerous manner as determined by the Grantor, or in violation of the terms of any applicable permit, laws, regulations, ordinances, or standards, the work may immediately be stopped by the Grantor.

(B) The stop work order shall:

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

10.29 Work of Contractors and Subcontractors

Grantee's contractors and subcontractors shall be licensed and bonded in accordance with the Grantor'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 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 other Applicable Law, and shall be jointly and severally liable for all damages and correcting all damage 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 Law governing the work performed by them.

SECTION 11. CABLE SYSTEM, TECHNICAL STANDARDS AND TESTING

11.1 Subscriber Network

(A) Grantee's Cable System within the Town shall consist of a mix of fiber to the premises and HFC and shall provide Activated Two-Way capability. The Cable System shall be

capable of supporting video and audio. The Cable System shall deliver no less than two hundred (200) Channels of digital video programming services to Subscribers, provided that the Grantee reserves the right to use the bandwidth in the future for other uses based on market factors.

(B) Equipment must be installed so that all closed captioning programming received by the Cable System shall include the closed caption signal so long as the closed caption signal is provided consistent with FCC standards. Equipment must be installed so that all local signals received in stereo or with secondary audio tracks (broadcast and Access) are retransmitted in those same formats.

(C) All construction shall be subject to the Grantor's permitting process.

(D) Grantee and Grantor shall meet, at the Grantor's request, to discuss the progress of the design plan and construction.

(E) Grantee will take prompt corrective action if it finds that any facilities or equipment on the Cable System are not operating as expected, or if it finds that facilities and equipment do not comply with the requirements of this Franchise or Applicable Law.

(F) Grantee's construction decisions shall be based solely upon legitimate engineering decisions and shall not take into consideration the income level of any particular community within the Franchise Area.

11.2 Technology Assessment

(A) The Grantor may notify Grantee on or after five (5) years after the Effective Date, that the Grantor will conduct a technology assessment of Grantee's Cable System. The technology assessment may include, but is not limited to, determining whether Grantee's Cable System technology and performance are consistent with current technical practices and range and level of services existing in the fifteen (15) largest U.S. cable systems owned and operated by Grantee's Parent Corporation and/or Affiliates pursuant to franchises that have been renewed or extended since the Effective Date.

(B) Grantee shall cooperate with the Grantor to provide necessary non-confidential and proprietary information upon the Grantor's reasonable request as part of the technology assessment.

(C) At the discretion of the Grantor, findings from the technology assessment may be included in any proceeding commenced for the purpose of identifying future cable-related community needs and interests undertaken by the Grantor pursuant to 47 U.S.C. §546.

11.3 Standby Power

Grantee's Cable System Headend shall be capable of providing at least twelve (12) hours

of emergency operation. 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 four (4) hours. This outage plan and evidence of requisite implementation resources shall be presented to the Grantor no later than thirty (30) days following receipt of a request.

11.4 Emergency Alert Capability

(A) Grantee shall provide an operating Emergency Alert System ("EAS") throughout the term of this Franchise in compliance with FCC standards. Grantee shall test the EAS as required by the FCC. Upon request, the Grantor shall be permitted to participate in and/or witness the EAS testing up to twice a year on a schedule formed in consultation with Grantee. If the test indicates that the EAS is not performing properly, Grantee shall make any necessary adjustment to the EAS, and the EAS shall be retested.

11.5 Technical Performance

The technical performance of the Cable System shall meet or exceed all applicable federal (including, but not limited to, the FCC), State and local technical standards, as they may be amended from time to time, regardless of the transmission technology utilized. The Grantor shall have the full authority permitted by Applicable Law to enforce compliance with these technical standards.

11.6 Cable System Performance Testing

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

(B) 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 Grantor for a period of at least one (1) year, and individual Subscriber complaints from the Grantor for a period of at least three (3) years, and make such information available to the Grantor upon reasonable request.

(C) Grantee shall maintain written records of all results of its Cable System tests, performed by or for Grantee. Copies of such test results will be provided to the Grantor upon reasonable request.

(D) Grantee shall perform any tests required by the FCC.

11.7 Additional Tests

Where there exists other evidence which in the judgment of the Grantor casts doubt upon the reliability or technical quality of Cable Service, the Grantor shall have the right and authority to require Grantee to test, analyze and report on the performance of the Cable System. Grantee shall fully cooperate with the Grantor 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:

- (A) the nature of the complaint or problem which precipitated the special tests;
- (B) the Cable System component tested;
- (C) the equipment used and procedures employed in testing;
- (D) the method, if any, in which such complaint or problem was resolved; and
- (E) any other information pertinent to said tests and analysis which may be required.

SECTION 12. SERVICE AVAILABILITY

(A) Grantee has shared with the Grantor its Cable System deployment plans which include the projected dates when deployment of the Cable System will be completed and activated in various parts of the Town, which have been found to be acceptable to the Grantor. Grantee commits to using its commercially reasonable efforts to construct its Cable System within the Grantor in accordance with those plans and will meet with the Grantor, at a minimum biannually, to update the Grantor on the current status of construction and anticipated timeline to completion. Nothing in this Franchise, however, requires Grantee to build-out and serve all areas of the Grantor if, in Grantee's good faith estimation, build-out and service activation cannot be completed in a commercially reasonable fashion.

(B) In General. Once the Cable System construction is complete in a given area within the Town and Cable Service is available, Grantee intends to provide Cable Service within seven (7) days of a request by any Person within the Franchise Area. For purposes of this Section, a request shall be deemed made on the date of signing a service agreement, receipt of funds by Grantee, receipt of a written request by Grantee or receipt by Grantee of a verified verbal request. Except as otherwise provided herein, Grantee intends to provide such service:

(1) With no line extension charge except as specifically authorized elsewhere in this Franchise Agreement.

(2) At a non-discriminatory installation charge for a standard installation, consisting of a 125 foot drop connecting to an inside wall for Residential Subscribers, with additional charges for non-standard installations computed according to a non-discriminatory methodology for such installations, adopted by Grantee and provided in writing to the City;

- (3) At non-discriminatory monthly rates for Residential Subscribers.

(C) Service to Multiple Dwelling Units. Consistent with this Section 12, once the Cable System construction is complete in a given area within the Town and Cable Service is available, the Grantee intends to offer the individual units of a Multiple Dwelling Unit all Cable Services offered to other Dwelling Units in the City and shall individually wire units upon request of the property owner or renter who has been given written authorization by the owner; provided, however, that any such offering is conditioned upon the Grantee having legal access to said unit. The City acknowledges that the Grantee cannot control the dissemination of particular Cable Services beyond the point of demarcation at a Multiple Dwelling Unit.

(D) Customer Charges for Extensions of Service. Once the Cable System construction is complete in a given area within the Town and Cable Service is available, Grantee intends to extend its Cable System to all persons living in areas with a residential density of twenty (25) residences per mile of Cable System plant. If the residential density is less than twenty (25) residences per 5,280 cable-bearing strand feet of trunk or distribution cable, service may be made available on the basis of a capital contribution in aid of construction, including cost of material, labor and easements. Customers who request service hereunder will bear the remainder of the construction and other costs on a pro rata basis. The Grantee may require that the payment of the capital contribution in aid of construction borne by such potential customers be paid in advance.

SECTION 13. FRANCHISE VIOLATIONS

13.1 Procedure for Remedying Franchise Violations

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

(1) respond to the Grantor, contesting the Grantor's assertion that a default has occurred, and requesting a meeting in accordance with subsection (B), below;

(2) cure the default; or,

(3) notify the Grantor 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 Grantor in writing and in detail as to the exact steps that will be taken and the projected completion date. In such case, the Grantor may set a meeting in accordance with subsection (B) below to determine whether additional time beyond the thirty (30) days specified above is indeed needed, and whether Grantee's proposed completion schedule and steps are reasonable.

(B) If Grantee does not cure the alleged default within the cure period stated above, or by the projected completion date under subsection (A)(3), or denies the default and requests a meeting in accordance with (A)(1), or the Grantor orders a meeting in accordance with subsection (A)(3), the Grantor shall set a meeting to investigate said issues or the existence of the alleged default. The Grantor shall notify Grantee of the meeting in writing and such meeting shall take place no less than thirty (30) days after Grantee's receipt of notice of the meeting. At the meeting, Grantee shall be provided an opportunity to be heard and to present evidence in its defense.

(C) If, after the meeting, the Grantor determines that a default exists, the Grantor shall order Grantee to correct or remedy the default or breach within fifteen (15) days or within such other reasonable time frame as the Grantor shall determine. In the event Grantee does not cure within such time to the Grantor's reasonable satisfaction, the Grantor may seek any legal or equitable remedy available under this Franchise or any Applicable Law, including without limitation, revocation of this Franchise. Grantee reserves all rights to assert any defenses to any claims that may be made by Grantor.

(D) D. It shall not be a violation of this Franchise if Grantee decides, on a company-wide basis, to cease providing Cable Services. Grantee shall provide a minimum of one year's written notice to Grantor of the termination date, and upon that date all rights, duties and obligations of this Franchise shall terminate except for those that by their nature, should survive termination.

13.2 Procedures in the Event of Termination or Revocation

(A) If this Franchise expires without renewal after completion of all processes available under this Franchise and federal law or is otherwise lawfully terminated or revoked, the Grantor may, subject to Applicable Law:

(I) Allow Grantee to maintain and operate its Cable System on a month-to-month basis or short-term extension of this Franchise for not less than six (6) months, unless a sale of the Cable System can be closed sooner or Grantee demonstrates to the Grantor's satisfaction that it needs additional time to complete the sale; or

(2) Purchase Grantee's Cable System in accordance with the procedures set forth in subsection 13.3, below.

(B) In the event that a sale has not been completed in accordance with subsections (A)(I) and/or (A)(2) above, the Grantor may order the removal of the above-ground Cable System facilities and such underground facilities from the Town at Grantee's sole expense within a reasonable period of time as determined by the Grantor. In removing its plant, structures and equipment, Grantee shall refill, at its own expense, any excavation that is made by it and shall leave all Rights-of-Way, public places and private property in as good condition as that prevailing prior to Grantee's removal of its equipment without affecting the electrical or telephone cable wires or attachments. The indemnification

and insurance provisions and the letter of credit shall remain in full force and effect during the period of removal, and Grantee shall not be entitled to, and agrees not to request, compensation of any sort therefore.

(C) If Grantee fails to complete any removal required by subsection 13.2 (B) to the Grantor's satisfaction, after written notice to Grantee, the Grantor may cause the work to be done and Grantee shall reimburse the Grantor for the costs incurred within thirty (30) days after receipt of an itemized list of the costs, or the Grantor may recover the costs through the letter of credit provided by Grantee.

(D) The Grantor may seek legal and equitable relief to enforce the provisions of this Franchise.

13.3 Receivership and Foreclosure

(A) At the option of the Grantor, subject to Applicable Law, 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 whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless:

(1) The receivership or trusteeship is vacated within one hundred twenty (120) days of appointment; or

(2) The receivers or trustees have, within one hundred twenty (120) days after their election or appointment, fully complied with all the terms and provisions of this Franchise, and have remedied all defaults under the Franchise. Additionally, the receivers or trustees shall have executed an agreement duly approved by the court having jurisdiction, by which the receivers or trustees assume and agree to be bound by each and every term, provision and limitation of this Franchise.

(B) If there is a foreclosure or other involuntary sale of the whole or any part of the plant, property and equipment of Grantee, the Grantor 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 Grantor has approved the transfer of the Franchise, in accordance with the procedures set forth in this Franchise and as provided by law; and

(2) The purchaser has covenanted and agreed with the Grantor to assume and be bound by all of the terms and conditions of this Franchise.

13.4 No Monetary Recourse Against the Grantor

Grantee shall not have any monetary recourse against the Grantor or its officers, officials,

boards, commissions, agents or employees for any loss, costs, expenses or damages arising out of any provision or requirement of this Franchise or the enforcement thereof, in accordance with the provisions of applicable federal, State and local law. The rights of the Grantor under this Franchise are in addition to, and shall not be read to limit, any immunities the Grantor may enjoy under federal, State or local law.

13.5 Alternative Remedies

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

13.6 Effect of Abandonment

If the Grantee abandons its Cable System during the Franchise term, or fails to operate its Cable System in accordance with its duty to provide continuous service, the Grantor, at its option, may operate the Cable System; designate another entity to operate the Cable System temporarily until the Grantee restores service under conditions acceptable to the Grantor, or until the Franchise is revoked and a new franchisee is selected by the Grantor; or obtain an injunction requiring the Grantee to continue operations. If the Grantor is required to operate or designate another entity to operate the Cable System, the Grantee shall reimburse the Grantor or its designee for all reasonable costs, expenses and damages incurred.

13.7 What Constitutes Abandonment

The Grantor shall be entitled to exercise its options in subsection 13.7 if:

(A) The Grantee fails to provide Cable Service in accordance with this Franchise over a substantial portion of the Franchise Area for four (4) consecutive days, unless the Grantor authorizes a longer interruption of service; once that substantial portion of the Franchise Area is constructed and providing Cable Service; or

(B) The Grantee, for any period, willfully and without cause refuses to provide Cable Service in accordance with this Franchise.

For purposes of this Section, a "substantial portion of the Franchise Area" means an area within the Town in which twenty percent (20%) or more of the Town's residential structures are located.

SECTION 14. FRANCHISE RENEWAL AND TRANSFER

14.1 Renewal

(A) The Grantor and Grantee agree that any proceedings undertaken by the Grantor that relate to the renewal of the Franchise shall be governed by and 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.

(B) In addition to the procedures set forth in said Section 626(a), the Grantor agrees to notify Grantee of the completion of its assessments regarding the identification of future cable-related community needs and interests, as well as the past performance of Grantee under the then current Franchise term. Notwithstanding anything to the contrary set forth herein, Grantee and Grantor agree that at any time during the term of the then current Franchise, while affording the public adequate notice and opportunity for comment, the Grantor and Grantee may agree to undertake and finalize negotiations regarding renewal of the then current Franchise and the Grantor may grant a renewal thereof. Grantee and Grantor consider the terms set forth in this subsection to be consistent with the express provisions of Section 626 of the Cable Act.

(C) Should the Franchise expire without a mutually agreed upon renewed Franchise Agreement and Grantee and Grantor are engaged in an informal or formal renewal process, the Franchise shall continue on a month-to-month basis, with the same terms and conditions as provided in the Franchise, and the Grantee and Grantor shall continue to comply with all obligations and duties under the Franchise.

14.2 Transfer of Ownership or Control

(A) 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 or consolidation; 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 Grantor, which consent shall be by the Board of Trustees, acting by ordinance.

(B) The Grantee shall promptly notify the Grantor of any actual or proposed change in, or transfer of, or acquisition by any other party of control of the 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 the Grantee shall make this Franchise subject to cancellation unless and until the Grantor shall have consented in writing thereto.

(C) The parties to the sale or transfer shall make a written request to the Grantor for its approval of a sale or transfer and furnish all information required by law and the Grantor.

(D) In seeking the Grantor's consent to any change in ownership or control, the proposed transferee 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 or a broadband 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, along with any other data that the Grantor may reasonably require; and

(5) Has the financial, legal and technical capability to enable it to maintain and operate the Cable System for the remaining term of the Franchise.

(E) The Grantor shall act by ordinance on the request within one hundred twenty (120) days of the request, provided it has received all information required by this Franchise and/or by Applicable Law. The Grantor and the Grantee may by mutual agreement in writing, at any time, extend the 120 day period. Subject to the foregoing, if the Grantor 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 Grantor agree to an extension of time.

(F) Within thirty (30) days of any transfer or sale, if approved or deemed granted by the Grantor, Grantee shall file with the Grantor 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, and the transferee 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 the Grantee is not replaced by another entity, the Grantee will continue to be bound by all of the provisions of the Franchise, subject to Applicable Law, and will not be required to file an additional written acceptance.

(G) In reviewing a request for sale or transfer, the Grantor may inquire into the legal, technical and financial qualifications of the prospective controlling party or transferee, and Grantee shall assist the Grantor in so inquiring. The Grantor may condition said sale or transfer upon such terms and conditions as it deems reasonably appropriate, in accordance with Applicable Law.

(H) Notwithstanding anything to the contrary in this subsection, the prior approval of the Grantor shall not be required for any sale, assignment or transfer of the Franchise or Cable System to an entity controlling, controlled by or under the same common control as Grantee, provided that the proposed assignee or transferee must show financial responsibility as may be determined necessary by the Grantor and must agree in writing to comply with all of the provisions

of the Franchise. Further, Grantee may pledge the assets of the Cable System for the purpose of financing without the consent of the Grantor; provided that such pledge of assets shall not impair or mitigate Grantee's responsibilities and capabilities to meet all of its obligations under the provisions of this Franchise.

SECTION 15. SEVERABILITY

If any Section, subsection, paragraph, term or provision of this Franchise is determined to be illegal, invalid or unconstitutional by any court or agency of competent jurisdiction, such determination shall have no effect on the validity of any other Section, subsection, paragraph, term or provision of this Franchise, all of which will remain in full force and effect for the term of the Franchise.

SECTION 16. MISCELLANEOUS PROVISIONS

16.1 Preferential or Discriminatory Practices Prohibited

NO DISCRIMINATION IN EMPLOYMENT. In connection with the performance of work under this Franchise, the Grantee agrees not to refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any Person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and the Grantee further agrees to insert the foregoing provision in all subcontracts hereunder. Throughout the term of this Franchise, Grantee shall fully comply with all equal employment or non-discrimination provisions and requirements of federal, State and local laws, and in particular, FCC rules and regulations relating thereto.

16.2 Notices

Throughout the term of the Franchise, each party shall maintain and file with the other a local address for the service of notices by mail. All notices shall be sent overnight delivery postage prepaid to such respective address and such notices shall be effective upon the date of mailing. These addresses may be changed by the Grantor or the Grantee by written notice at any time. At the Effective Date of this Franchise:

Grantee's address shall be:

Comcast of Colorado IX, LLC
8000 E. Iliff Ave.
Denver, CO 80231
Attn: Government Affairs

The Grantor's address shall be:

Town of Wellington

Comcast of Colorado IX, LLC/ Town of Wellington
For Informal Negotiation Purposes Only, Pursuant to Section 626(h) of the Cable Act

8225 Third Street
Wellington, CO
80549

16.3 Descriptive Headings

The headings and titles of the Sections and subsections of this Franchise are for reference purposes only and shall not affect the meaning or interpretation of the text herein.

16.4 Publication Costs to be Borne by Grantee

Grantee shall reimburse the Grantor for all costs incurred in publishing this Franchise, if such publication is required.

16.5 Binding Effect

This Franchise shall be binding upon the parties hereto, their permitted successors and assigns.

16.6 No Joint Venture

Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties, and neither party is authorized to, nor shall either party act toward third Persons or the public in any manner which would indicate any such relationship with the other.

16.7 Waiver

The failure of the Grantor at any time to require performance by the Grantee of any provision hereof shall in no way affect the right of the Grantor hereafter to enforce the same. Nor shall the waiver by the Grantor 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.

16.8 Reasonableness of Consent or Approval

Whenever under this Franchise “reasonableness” is the standard for the granting or denial of the consent or approval of either party hereto, such party shall be entitled to consider public and governmental policy, moral and ethical standards as well as business and economic considerations.

16.9 Entire Agreement

This Franchise and all Exhibits represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and supersede all prior oral negotiations between the parties.

16.10 Jurisdiction

Venue for any judicial dispute between the Grantor and Grantee arising under or out of this Franchise shall be in Weld County District Court, Colorado, or in the United States District Court in Denver.

IN WITNESS WHEREOF, this Franchise is signed in the name of the Town of Wellington, Colorado this _____ day of _____, 2023.

ATTEST:

TOWN OF WELLINGTON, COLORADO:

Town Clerk

Mayor

APPROVED AS TO FORM:

RECOMMENDED AND APPROVED:

Town Attorney

Town Administrator

Accepted and approved this _____ day of _____, 2024.

COMCAST OF COLORADO IX, LLC

Name/Title: John D. Kelly
Regional VP -

EXHIBIT A: CUSTOMER SERVICE STANDARDS

I. POLICY

The Cable Operator should resolve citizen complaints without delay and interference from the Franchising Authority.

Where a given complaint is not addressed by the Cable Operator to the citizen's satisfaction, the Franchising Authority should intervene. In addition, where a pattern of unremedied complaints or noncompliance with the Standards is identified, the Franchising Authority should prescribe a cure and establish a reasonable deadline for implementation of the cure. If the noncompliance is not cured within established deadlines, monetary sanctions should be imposed to encourage compliance and deter future non-compliance.

These Standards are intended to be of general application, and are expected to be met under normal operating conditions; however, the Cable Operator shall be relieved of any obligations hereunder if it is unable to perform due to a region-wide natural emergency or in the event of force majeure affecting a significant portion of the franchise area. The Cable Operator is free to exceed these Standards to the benefit of its Customers and such shall be considered performance for the purposes of these Standards.

These Standards supercede any contradictory or inconsistent provision in federal, state or local law (Source: 47 U.S.C. § 552(a)(1) and (d)), provided, however, that any provision in federal, state or local law, or in any original franchise agreement or renewal agreement, that imposes a higher obligation or requirement than is imposed by these Standards, shall not be considered contradictory or inconsistent with these Standards. In the event of a conflict between these Standards and a Franchise Agreement, the Franchise Agreement shall control.

These Standards apply to the provision of any Cable Service, provided by a Cable Operator over a Cable System, within the Town of Wellington.

II. DEFINITIONS

When used in these Customer Service Standards (the "Standards"), the following words, phrases, and terms shall have the meanings given below.

"Adoption" shall mean the process necessary to formally enact the Standards within the Franchising Authority's jurisdiction under applicable ordinances and laws.

"Affiliate" shall mean any person or entity that is owned or controlled by, or under common ownership or control with, a Cable Operator, and provides any Cable Service or Other Service.

"Applicable Law" means, with respect to these standards and any Cable Operator's privacy

policies, any statute, ordinance, judicial decision, executive order or regulation having the force and effect of law, that determines the legal standing of a case or issue.

"Cable Operator" shall mean any person or group of persons (A) who provides Cable Service over a Cable System and directly or through one or more affiliates owns a significant interest in such cable system, or (B) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a Cable System. Source: 47 U.S.C. § 522(5).

"Cable Service" shall mean (A) the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and (B) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service. Source: 47 U.S.C. § 522(6). For purposes of this definition, "video programming" is programming provided by, or generally considered comparable to programming provided by a television broadcast station. Source: 47 U.S.C. § 522(20). "Other programming service" is information that a Cable Operator makes available to all subscribers generally. Source: 47 U.S.C. § 522(14).

"Cable System" shall mean 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 which includes video programming and which is provided to multiple subscribers within a community, but such term does not include (A) a facility that serves only to retransmit the televisions signals of one or more television broadcast stations, or (B) a facility that serves subscribers without using any public right of way. Source: 47 U.S.C. § 522(7).

"City" ("County") shall mean the Town of Wellington, Colorado.

"Colorado Communications and Utilities Alliance" or "CCUA" shall mean an association comprised primarily of local governmental subdivisions of the State of Colorado, or any successor entity. The CCUA may, on behalf of its members, be delegated the authority to review, investigate or otherwise take some related role in the administration and/or enforcement of any functions under these Standards.

"Contractor" shall mean a person or entity that agrees by contract to furnish materials or perform services for another at a specified consideration.

"Customer" shall mean any person who receives any Cable Service from a Cable Operator.

"Customer Service Representative" (or "CSR") shall mean any person employed with or under contract or subcontract to a Cable Operator to assist, or provide service to, customers, whether by telephone, writing service or installation orders, answering customers' questions in person, receiving and processing payments, or performing any other customer service-related tasks.

"Escalated complaint" shall mean a complaint that is referred to a Cable Operator by the Franchising Authority.

"Franchising Authority" shall mean the Town of Wellington.

"Necessary" shall mean required or indispensable.

"Non-cable-related purpose" shall mean any purpose that is not necessary to render or conduct a legitimate business activity related to a Cable Service or Other Service provided by a Cable Operator to a Customer. Market research, telemarketing, and other marketing of services or products that are not related to a Cable Service or Other Service provided by a Cable Operator to a Customer shall be considered Non-Cable-related purposes.

"Normal business hours" shall mean those hours during which most similar businesses in the community are open to serve customers. In all cases, "normal business hours" must include at least some evening hours one night per week, and include some weekend hours. Source: 47 C.F.R. § 76.309.

"Normal operating conditions" shall mean those service conditions which are within the control of a Cable Operator. Conditions which are not within the control of a Cable Operator include, but are not necessarily limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Conditions which are ordinarily within the control of a Cable Operator include, but are not necessarily limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods and maintenance or upgrade to the Cable System.

"Other Service(s)" shall mean any wire or radio communications service provided using any of the facilities of a Cable Operator that are used in the provision of Cable Service.

"Personally Identifiable Information" shall mean specific information about an identified Customer, including, but not be limited to, a Customer's (a) login information for the use of Cable Service and management of a Customer's Cable Service account, (b) extent of viewing of video programming or Other Services, (c) shopping choices, (d) interests and opinions, (e) energy uses, (f) medical information, (g) banking data or information, or (h) any other personal or private information. "Personally Identifiable Information" shall not mean any aggregate information about Customers which does not identify particular persons, or information gathered by a Cable Operator necessary to install, repair or service equipment or Cable System facilities at a Customer's premises.

"Service interruption" or "interruption" shall mean (i) the loss or substantial impairment of picture and/or sound on one or more cable television channels.

"Service outage" or "outage" shall mean a loss or substantial impairment in reception on all channels.

“Subcontractor” shall mean a person or entity that enters into a contract to perform part or all of the obligations of another's contract.

"Town" shall mean the Town of Wellington, Colorado

“Writing” or “written” as the term applies to notification shall include electronic communications.

Any terms not specifically defined in these Standards shall be given their ordinary meaning, or where otherwise defined in applicable federal law, such terms shall be interpreted consistent with those definitions.

III. CUSTOMER SERVICE

A. Courtesy

Cable Operator employees, contractors and subcontractors shall be courteous, knowledgeable and helpful and shall provide effective and satisfactory service in all contacts with customers.

B. Accessibility

1. A Cable Operator shall provide customer service centers/business offices (“Service Centers”) which are conveniently located, and which are open during Normal Business Hours. Service Centers shall be fully staffed with Customer Service Representatives offering the following services to Customers who come to the Service Center: bill payment, equipment exchange, processing of change of service requests, and response to Customer inquiries and request.

Unless otherwise requested by the Town of Wellington, a Cable Operator shall post a sign at each Service Center, visible from the outside of the Service Center, advising Customers of its hours of operation and of the telephone number at which to contact the Cable Operator if the Service Center is not open at the times posted.

The Cable Operator shall use commercially reasonable efforts to implement and promote “self-help” tools and technology, in order to respond to the growing demand of Customers who wish to interact with the Cable Operator on the Customer’s own terms and timeline and at their own convenience, without having to travel to a Service Center. Without limitation, examples of self-help tools or technology may include self-installation kits to Customers upon request; pre-paid mailers for the return of equipment upon Customer request; an automated phone option for Customer bill payments; and equipment exchanges at a Customer’s residence in the event of damaged equipment. A Cable Operator shall provide free exchanges of faulty equipment at the customer's address if the equipment has not been damaged in any manner due to the fault or negligence of the customer.

2. A Cable Operator shall maintain local telephone access lines that shall be available twenty-four (24) hours a day, seven (7) days a week for service/repair requests and billing/service inquiries.

3. A Cable Operator shall have dispatchers and technicians on call twenty-four (24) hours a day, seven (7) days a week, including legal holidays.

4. If a customer service telephone call is answered with a recorded message providing the customer with various menu options to address the customer's concern, the recorded message must provide the customer the option to connect to and speak with a CSR within sixty (60) seconds of the commencement of the recording. During Normal Business Hours, a Cable Operator shall retain sufficient customer service representatives and telephone line capacity to ensure that telephone calls to technical service/repair and billing/service inquiry lines are answered by a customer service representative within thirty (30) seconds or less from the time a customer chooses a menu option to speak directly with a CSR or chooses a menu option that pursuant to the automated voice message, leads to a direct connection with a CSR. Under normal operating conditions, this thirty (30) second telephone answer time requirement standard shall be met no less than ninety (90) percent of the time measured quarterly.

5. Under normal operating conditions, a customer shall not receive a busy signal more than three percent (3%) of the time. This standard shall be met ninety (90) percent or more of the time, measured quarterly.

C. Responsiveness

1. Guaranteed Seven-Day Residential Installation

a. A Cable Operator intends to complete all standard residential installations or modifications to service requested by customers within seven (7) business days after the order is placed, unless a later date for installation is requested. "Standard" residential installations are those located up to one hundred twenty five (125) feet from the existing distribution system. If the customer requests a nonstandard residential installation, or the Cable Operator determines that a nonstandard residential installation is required, the Cable Operator intends to provide the customer in advance with a total installation cost estimate and an estimated date of completion.

b. All underground cable drops to the home shall be buried at a depth of no less than twelve inches (12"), or such other depth as may be required by the Franchise Agreement or local code provisions, or if there are no applicable Franchise or code requirements, at such other depths as may be agreed to by the parties if other construction concerns preclude the twelve inch requirement, and within no more than one calendar week from the initial installation, or at a time mutually agreed upon between the Cable Operator and the customer.

2. Residential Installation and Service Appointments

a. The “appointment window” alternatives for specific installations, service calls, and/or other installation activities will be either a specific time, or at a maximum, a four (4) hour time block between the hours of 8:00 a.m. and 6:00 p.m., six (6) days per week. A Cable Operator may schedule service calls and other installation activities outside of the above days and hours for the express convenience of customers. For purposes of this subsection “appointment window” means the period of time in which the representative of the Cable Operator must arrive at the customer’s location.

b. A Cable Operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment, unless the customer’s issue has otherwise been resolved.

c. If a Cable Operator is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the Cable Operator shall take reasonable efforts to contact the customer promptly, but in no event later than the end of the appointment window. The appointment will be rescheduled, as necessary at a time that is convenient to the customer, within Normal Business Hours or as may be otherwise agreed to between the customer and Cable Operator.

d. A Cable Operator shall be deemed to have responded to a request for service under the provisions of this section when a technician arrives within the agreed upon time, and, if the customer is absent when the technician arrives, the technician leaves written notification of arrival and return time, and a copy of that notification is kept by the Cable Operator. In such circumstances, the Cable Operator shall contact the customer within forty-eight (48) hours.

3. Residential Service Interruptions

a. In the event of system outages resulting from Cable Operator equipment failure, the Cable Operator shall correct such failure within 2 hours after the 3rd customer call is received.

b. All other service interruptions resulting from Cable Operator equipment failure shall be corrected by the Cable Operator by the end of the next calendar day.

c. Records of Complaints.

i. A Cable Operator shall keep an accurate and comprehensive file of any complaints regarding the cable system or its operation of the cable system, in a manner consistent with the privacy rights of customers, and the Cable Operator’s actions in response to those complaints. These files shall remain available for viewing by the Franchising Authority during normal business hours at the Cable Operator’s business office, and shall be retained by the Cable Operator for a period of at least three (3) years.

ii. Upon written request a Cable Operator shall provide the Franchising Authority an executive summary quarterly, which shall include information concerning customer complaints referred by the Franchising Authority to the Grantee and any other requirements of a Franchise Agreement but no personally identifiable information. These summaries shall be provided within fifteen (15) days after the end of each quarter. Once a request is made, it need not be repeated and quarterly executive summaries shall be provided by the Cable Operator until notified in writing by the Franchising Authority that such summaries are no longer required.

iii. Upon written request a summary of service requests, identifying the number and nature of the requests and their disposition, shall also be completed by the Cable Operator for each quarter and submitted to the Franchising Authority by the fifteenth (15th) day of the month after each calendar quarter. Once a request is made, it need not be repeated and quarterly summary of service requests shall be provided by the Cable Operator until notified in writing by the Franchising Authority that such summaries are no longer required. Complaints shall be broken out by the nature of the complaint and the type of Cable Service subject to the complaint.

d. Records of Service Interruptions and Outages. A Cable Operator shall maintain records of all outages and reported service interruptions. Such records shall indicate the type of cable service interrupted, including the reasons for the interruptions. A log of all service interruptions shall be maintained and provided to the Franchising Authority quarterly, upon written request, within fifteen (15) days after the end of each quarter. Such records shall be submitted to the Franchising Authority with the records identified in Section 3.c.ii above if so requested in writing, and shall be retained by the Cable Operator for a period of three (3) years.

e. All service outages and interruptions for any cause beyond the control of the Cable Operator shall be corrected within thirty-six (36) hours, after the conditions beyond its control have been corrected.

4. TV Reception

a. A Cable Operator shall provide clear television reception that meets or exceeds technical standards established by the United States Federal Communications Commission (the "FCC"). A Cable Operator shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Scheduled interruptions shall be preceded by notice and shall occur during periods of minimum use of the system, preferably between midnight and six a.m. (6:00 a.m.).

b. If a customer experiences poor video or audio reception attributable to a Cable Operator's equipment, the Cable Operator shall:

i. Assess the problem within one (1) day of notification;

ii. Communicate with the customer regarding the nature of the problem and the expected time for repair;

iii. Complete the repair within two (2) days of assessing the problem unless circumstances exist that reasonably require additional time.

c. If an appointment is necessary to address any video or audio reception problem, the customer may choose a block of time described in Section III.C.2.a. At the customer's request, the Cable Operator shall repair the problem at a later time convenient to the customer, during Normal Business Hours or at such other time as may be agreed to by the customer and Cable Operator. A Cable Operator shall maintain periodic communications with a customer during the time period in which problem ascertainment and repair are ongoing, so that the customer is advised of the status of the Cable Operator's efforts to address the problem.

5. Problem Resolution

A Cable Operator's customer service representatives shall have the authority to provide credit for interrupted service, to waive fees, to schedule service appointments and to change billing cycles, where appropriate. Any difficulties that cannot be resolved by the customer service representative shall be referred to the appropriate supervisor who shall contact the customer within four (4) hours and resolve the problem within forty eight (48) hours or within such other time frame as is acceptable to the customer and the Cable Operator.

6. Billing, Credits, and Refunds

a. In addition to other options for payment of a customer's service bill, a Cable Operator shall make available a telephone payment option where a customer without account irregularities can enter payment information through an automated system, without the necessity of speaking to a CSR.

b. A Cable Operator shall allow at least thirty (30) days from the beginning date of the applicable service period for payment of a customer's service bill for that period. If a customer's service bill is not paid within that period of time the Cable Operator may apply an administrative fee to the customer's account. The administrative fee must reflect the average costs incurred by the Cable Operator in attempting to collect the past due payment in accordance with applicable law. If the customer's service bill is not paid within forty-five (45) days of the beginning date of the applicable service period, the Cable Operator may perform a "soft" disconnect of the customer's service. If a customer's service bill is not paid within fifty-two (52) days of the beginning date of the applicable service period, the Cable Operator may disconnect the customer's service, provided it has provided two (2) weeks' notice to the customer that such disconnection may result.

c. The Cable Operator shall issue a credit or refund to a customer within 30 days after determining the customer's entitlement to a credit or refund.

d. Whenever the Cable Operator offers any promotional or specially priced service(s) its promotional materials shall clearly identify and explain the specific terms of the promotion, including but not limited to manner in which any payment credit will be applied.

7. Treatment of Property

To the extent that a Franchise Agreement does not contain the following procedures for treatment of property, Operator shall comply with the procedures set forth in this Section.

a. A Cable Operator shall keep tree trimming to a minimum; trees and shrubs or other landscaping that are damaged by a Cable Operator, any employee or agent of a Cable Operator during installation or construction shall be restored to their prior condition or replaced within seven (7) days, unless seasonal conditions require a longer time, in which case such restoration or replacement shall be made within seven (7) days after conditions permit. Trees and shrubs on private property shall not be removed without the prior permission of the owner or legal tenant of the property on which they are located. This provision shall be in addition to, and shall not supersede, any requirement in any franchise agreement.

b. A Cable Operator shall, at its own cost and expense, and in a manner approved by the property owner and the Franchising Authority, restore any private property to as good condition as before the work causing such disturbance was initiated. A Cable Operator shall repair, replace or compensate a property owner for any damage resulting from the Cable Operator's installation, construction, service or repair activities. If compensation is requested by the customer for damage caused by any Cable Operator activity, the Cable Operator shall reimburse the property owner one hundred (100) percent of the actual cost of the damage.

c. Except in the case of an emergency involving public safety or service interruption to a large number of customers, a Cable Operator shall give reasonable notice to property owners or legal tenants prior to entering upon private premises, and the notice shall specify the work to be performed; provided that in the case of construction operations such notice shall be delivered or provided at least twenty-four (24) hours prior to entry, unless such notice is waived by the customer. For purposes of this subsection, "reasonable notice" shall be considered:

- i. For pedestal installation or similar major construction, seven (7) days.
- ii. For routine maintenance, such as adding or dropping service, tree trimming and the like, reasonable notice given the circumstances. Unless a Franchise Agreement has a different requirement, reasonable notice shall require, at a minimum, prior notice to a property owner or tenant, before entry is made onto that person's property.
- iii. For emergency work a Cable Operator shall attempt to contact the property owner or legal tenant in person, and shall leave a door hanger notice in the event

personal contact is not made. Door hangars must describe the issue and provide contact information where the property owner or tenant can receive more information about the emergency work.

Nothing herein shall be construed as authorizing access or entry to private property, or any other property, where such right to access or entry is not otherwise provided by law.

d. Cable Operator personnel shall clean all areas surrounding any work site and ensure that all cable materials have been disposed of properly.

D. Services for Customers with Disabilities

1. For any customer with a disability, a Cable Operator shall deliver and pick up equipment at customers' homes at no charge unless the malfunction was caused by the actions of the customer. In the case of malfunctioning equipment, the technician shall provide replacement equipment, hook it up and ensure that it is working properly, and shall return the defective equipment to the Cable Operator.

2. A Cable Operator shall provide either TTY, TDD, TYY, VRS service or other similar service that are in compliance with the Americans With Disabilities Act and other applicable law, with trained operators who can provide every type of assistance rendered by the Cable Operator's customer service representatives for any hearing-impaired customer at no charge.

3. A Cable Operator shall provide free use of a remote control unit to mobility-impaired (if disabled, in accordance with Section III.D.4) customers.

4. Any customer with a disability may request the special services described above by providing a Cable Operator with a letter from the customer's physician stating the need, or by making the request to the Cable Operator's installer or service technician, where the need for the special services can be visually confirmed.

E. Cable Services Information

1. At any time a customer or prospective customer may request, a Cable Operator shall provide the following information, in clear, concise written form, easily accessible and located on Cable Operator's website (and in Spanish, when requested by the customer):

- a. Products and services offered by the Cable Operator, including its channel lineup;
- b. The Cable Operator's complete range of service options and the prices for these services;
- c. The Cable Operator's billing, collection and disconnection policies;

- d. Privacy rights of customers;
 - e. All applicable complaint procedures, including complaint forms and the telephone numbers and mailing addresses of the Cable Operator, and the FCC;
 - f. Use and availability of parental control/lock out device;
 - g. Special services for customers with disabilities;
 - h. Days, times of operation, and locations of the service centers;
2. At a Customer's request, a Cable Operator shall make available either a complete copy of these Standards and any other applicable customer service standards, or a summary of these Standards, in a format to be approved by CCUA and the Franchising Authority, which shall include at a minimum, the URL address of a website containing these Standards in their entirety; provided however, that if the CCUA or Franchising Authority does not maintain a website with a complete copy of these Standards, a Cable Operator shall be under no obligation to do so;
- If acceptable to a customer, Cable Operator may fulfill customer requests for any of the information listed in this Section by making the requested information available electronically, such as on a website or by electronic mail.
3. Upon written request, a Cable Operator shall meet annually with the Franchising Authority to review the format of the Cable Operator's bills to customers. Whenever the Cable Operator makes substantial changes to its billing format, it will contact the Franchising Authority at least thirty (30) days prior to the time such changes are to be effective, in order to inform the Franchising Authority of such changes.
4. Copies of notices provided to the customer in accordance with subsection 5 below shall be filed (by fax or email acceptable) concurrently with the Franchising Authority and the CCUA.
5. A Cable Operator shall provide customers with written notification of any change in rates for nondiscretionary cable services, and for service tier changes that result in a deletion of programming from a customer's service tier, at least thirty (30) days before the effective date of change. For purposes of this section, "nondiscretionary" means the subscribed tier and any other Cable Services that a customer has subscribed to, at the time the change in rates are announced by the Cable Operator.
6. All officers, agents, and employees of the Cable Operator or its contractors or subcontractors who are in personal contact with customers and/or when working on public property, shall wear on their outer clothing identification cards bearing their name and photograph and identifying them as representatives of the Cable Operator. The Cable Operator shall account for all identification cards at all times. Every vehicle of the Cable Operator shall be clearly visually identified to the public as working for the Cable Operator. Whenever a Cable Operator work

crew is in personal contact with customers or public employees, a supervisor must be able to communicate clearly with the customer or public employee. Every vehicle of a subcontractor or contractor shall be labeled with the name of the contractor and further identified as contracting or subcontracting for the Cable Operator.

7. Each CSR, technician or employee of the Cable Operator in each contact with a customer shall state the estimated cost of the service, repair, or installation orally prior to delivery of the service or before any work is performed, and shall provide the customer with an oral statement of the total charges before terminating the telephone call or before leaving the location at which the work was performed. A written estimate of the charges shall be provided to the customer before the actual work is performed.

F. Customer Privacy

1. Cable Customer Privacy. In addition to complying with the requirements in this subsection, a Cable Operator shall fully comply with all obligations under 47 U.S.C. Section 551.

2. Collection and Use of Personally Identifiable Information.

a. A Cable Operator shall not use the Cable System to collect, monitor or observe Personally Identifiable Information without the prior affirmative written or electronic consent of the Customer unless, and only to the extent that such information is: (i) used to detect unauthorized reception of cable communications, or (ii) necessary to render a Cable Service or Other Service provided by the Cable Operator to the Customer and as otherwise authorized by applicable law.

b. A Cable Operator shall take such actions as are necessary using then-current industry standard practices to prevent any Affiliate from using the facilities of the Cable Operator in any manner, including, but not limited to, sending data or other signals through such facilities, to the extent such use will permit an Affiliate unauthorized access to Personally Identifiable Information on equipment of a Customer (regardless of whether such equipment is owned or leased by the Customer or provided by a Cable Operator) or on any of the facilities of the Cable Operator that are used in the provision of Cable Service. This subsection F.2.b shall not be interpreted to prohibit an Affiliate from obtaining access to Personally Identifiable Information to the extent otherwise permitted by this subsection F.

c. A Cable Operator shall take such actions as are necessary using then-current industry standard practices to prevent a person or entity (other than an Affiliate) from using the facilities of the Cable Operator in any manner, including, but not limited to, sending data or other signals through such facilities, to the extent such use will permit such person or entity unauthorized access to Personally Identifiable Information on equipment of a Customer (regardless of whether such equipment is owned or leased by the Customer or provided by a Cable Operator) or on any of the facilities of the Cable Operator that are used in the provision of Cable Service.

3. Disclosure of Personally Identifiable Information. A Cable Operator shall not disclose Personally Identifiable Information without the prior affirmative written or electronic consent of the Customer, unless otherwise authorized by applicable law.

a. A minimum of thirty (30) days prior to making any disclosure of Personally Identifiable Information of any Customer for any Non-Cable related purpose as provided in this subsection F.3.a, where such Customer has not previously been provided the notice and choice provided for in subsection III.F.9, the Cable Operator shall notify each Customer (that the Cable Operator intends to disclose information about) of the Customer's right to prohibit the disclosure of such information for Non-cable related purposes. The notice to Customers may reference the Customer to his or her options to state a preference for disclosure or non-disclosure of certain information, as provided in subsection III.F.10.

b. A Cable Operator may disclose Personally Identifiable Information only to the extent that it is necessary to render, or conduct a legitimate business activity related to, a Cable Service or Other Service provided by the Cable Operator to the Customer.

c. To the extent authorized by applicable law, a Cable Operator may disclose Personally Identifiable Information pursuant to a subpoena, court order, warrant or other valid legal process authorizing such disclosure.

4. Access to Information. Any Personally Identifiable Information collected and maintained by a Cable Operator shall be made available for Customer examination within thirty (30) days of receiving a request by a Customer to examine such information about himself or herself at the local offices of the Cable Operator or other convenient place within the City/County/City and County/Town designated by the Cable Operator, or electronically, such as over a website. Upon a reasonable showing by the Customer that such Personally Identifiable Information is inaccurate, a Cable Operator shall correct such information.

5. Privacy Notice to Customers

a. A Cable Operator shall annually mail or provide a separate, written or electronic copy of the privacy statement to Customers consistent with 47 U.S.C. Section 551(a)(1), and shall provide a Customer a copy of such statement at the time the Cable Operator enters into an agreement with the Customer to provide Cable Service. The written notice shall be in a clear and conspicuous format, which at a minimum, shall be in a comparable font size to other general information provided to Customers about their account as it appears on either paper or electronic Customer communications.

b. In or accompanying the statement required by subsection F.5.a, a Cable Operator shall state substantially the following message regarding the disclosure of Customer information: "Unless a Customer affirmatively consents electronically or in writing to the disclosure of personally identifiable information, any disclosure of personally identifiable

information for purposes other than to the extent necessary to render, or conduct a legitimate business activity related to, a Cable Service or Other Service, is limited to:

- i. Disclosure pursuant to valid legal process authorized by applicable law.
- ii. Disclosure of the name and address of a Customer subscribing to any general programming tiers of service and other categories of Cable Services provided by the Cable Operator that do not directly or indirectly disclose: (A) A Customer's extent of viewing of a Cable Service or Other Service provided by the Cable Operator; (B) The extent of any other use by a Customer of a Cable Service; (C) The nature of any transactions made by a Customer over the Cable System; or (D) The nature of programming or websites that a Customer subscribes to or views (i.e., a Cable Operator may only disclose the fact that a person subscribes to a general tier of service, or a package of channels with the same type of programming), provided that with respect to the nature of websites subscribed to or viewed, these are limited to websites accessed by a Customer in connection with programming available from their account for Cable Services."

The notice shall also inform the Customers of their right to prohibit the disclosure of their names and addresses in accordance with subsection F.3.a. If a Customer exercises his or her right to prohibit the disclosure of name and address as provided in subsection F.3.a or this subsection, such prohibition against disclosure shall remain in effect, unless and until the Customer subsequently changes their disclosure preferences as described in subsection F.9 below.

6. Privacy Reporting Requirements. The Cable Operator shall include in its regular periodic reports to the Franchising Authority required by its Franchise Agreement information summarizing:

- a. The type of Personally Identifiable Information that was actually collected or disclosed by Cable Operator during the reporting period;
- b. For each type of Personally Identifiable Information collected or disclosed, a statement from an authorized representative of the Cable Operator certifying that the Personally Identifiable Information collected or disclosed was: (A) collected or disclosed to the extent Necessary to render, or conduct a legitimate business activity related to, a Cable Service or Other Service provided by the Cable Operator; (B) used to the extent Necessary to detect unauthorized reception of cable communications; (C) disclosed pursuant to valid legal process authorized by applicable law; or (D) a disclosure of Personally Identifiable Information of particular subscribers, but only to the extent affirmatively consented to by such subscribers in writing or electronically, or as otherwise authorized by applicable law.
- c. The standard industrial classification (SIC) codes or comparable identifiers pertaining to any entities to whom such Personally Identifiable Information was disclosed, except that a Cable Operator need not provide the name of any court or governmental entity to which such disclosure was made pursuant to valid legal process authorized by applicable law;

d. The general measures that have been taken to prevent the unauthorized access to Personally Identifiable Information by a person other than the Customer or the Cable Operator. A Cable Operator shall meet with Franchising Authority if requested to discuss technology used to prohibit unauthorized access to Personally Identifiable Information by any means.

7. Nothing in this subsection III.F shall be construed to prevent the Franchising Authority from obtaining Personally Identifiable Information to the extent not prohibited by Section 631 of the Communications Act, 47 U.S.C. Section 551 and applicable laws.

8. **Destruction of Personally Identifiable Information.** A Cable Operator shall destroy any Personally Identifiable Information if the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to such information under subsection 4 of this subsection III.F, pursuant to a court order or other valid legal process, or pursuant to applicable law.

9. **Notice and Choice for Customers.** The Cable Operator shall at all times make available to Customers one or more methods for Customers to use to prohibit or limit disclosures, or permit or release disclosures, as provided for in this subsection III.F. These methods may include, for example, online website “preference center” features, automated toll-free telephone systems, live toll-free telephone interactions with customer service agents, in-person interactions with customer service personnel, regular mail methods such as a postage paid, self-addressed post card, an insert included with the Customer’s monthly bill for Cable Service, the privacy notice specified in subsection III.F.5, or such other comparable methods as may be provided by the Cable Operator. Website “preference center” features shall be easily identifiable and navigable by Customers, and shall be in a comparable size font as other billing information provided to Customers on a Cable Operator’s website. A Customer who provides the Cable Operator with permission to disclose Personally Identifiable Information through any of the methods offered by a Cable Operator shall be provided follow-up notice, no less than annually, of the Customer’s right to prohibit these disclosures and the options for the Customer to express his or her preference regarding disclosures. Such notice shall, at a minimum, be provided by an insert in the Cable Operator’s bill (or other direct mail piece) to the Customer or a notice or message printed on the Cable Operator’s bill to the Customer, and on the Cable Operator’s website when a Customer logs in to view his or her Cable Service account options. The form of such notice shall also be provided on an annual basis to the Franchising Authority. These methods of notification to Customers may also include other comparable methods as submitted by the Cable Operator and approved by the Franchising Authority in its reasonable discretion.

G. Safety

A Cable Operator shall install and locate its facilities, cable system, and equipment in compliance with all federal, state, local, and company safety standards, and in such manner as shall not unduly interfere with or endanger persons or property. Whenever a Cable Operator receives notice that an unsafe condition exists with respect to its equipment, the Cable Operator

shall investigate such condition immediately, and shall take such measures as are necessary to remove or eliminate any unsafe condition.

H. Cancellation of New Services

In the event that a new customer requests installation of Cable Service and is unsatisfied with their initial Cable Service, and provided that the customer so notifies the Cable Operator of their dissatisfaction within 30 days of initial installation, then such customer can request disconnection of Cable Service within 30 days of initial installation, and the Cable Operator shall provide a credit to the customer's account consistent with this Section. The customer will be required to return all equipment in good working order; provided such equipment is returned in such order, then the Cable Operator shall refund the monthly recurring fee for the new customer's first 30 days of Cable Service and any charges paid for installation. This provision does not apply to existing customers who request upgrades to their Cable Service, to discretionary Cable Service such as PPV or movies purchased and viewed On Demand, or to customer moves and/or transfers of Cable Service. The service credit shall be provided in the next billing cycle.

IV. COMPLAINT PROCEDURE

A. Complaints to a Cable Operator

1. A Cable Operator shall establish written procedures for receiving, acting upon, and resolving customer complaints, and crediting customer accounts and shall have such procedures printed and disseminated at the Cable Operator's sole expense, consistent with Section III.E.1.e of these Standards.
2. Said written procedures shall prescribe a simple manner in which any customer may submit a complaint by telephone or in writing to a Cable Operator that it has violated any provision of these Customer Service Standards, any terms or conditions of the customer's contract with the Cable Operator, or reasonable business practices. If a representative of the Franchising Authority notifies the Cable Operator of a customer complaint that has not previously been made by the customer to the Cable Operator, the complaint shall be deemed to have been made by the customer as of the date of the Franchising Authority's notice to the Cable Operator.
3. At the conclusion of the Cable Operator's investigation of a customer complaint, but in no more than ten (10) calendar days after receiving the complaint, the Cable Operator shall notify the customer of the results of its investigation and its proposed action or credit.
4. A Cable Operator shall also notify the customer of the customer's right to file a complaint with the Franchising Authority in the event the customer is dissatisfied with the Cable Operator's decision, and shall thoroughly explain the necessary procedures for filing such complaint with the Franchising Authority.

5. A Cable Operator shall immediately report all customer Escalated complaints that it does not find valid to the Franchising Authority.

6. A Cable Operator's complaint procedures shall be filed with the Franchising Authority prior to implementation.

B. Complaints to the Franchising Authority

1. Any customer who is dissatisfied with any proposed decision of the Cable Operator or who has not received a decision within the time period set forth below shall be entitled to have the complaint reviewed by the Franchising Authority.

2. The customer may initiate the review either by calling the Franchising Authority or by filing a written complaint together with the Cable Operator's written decision, if any, with the Franchising Authority.

3. The customer shall make such filing and notification within twenty (20) days of receipt of the Cable Operator's decision or, if no decision has been provided, within thirty (30) days after filing the original complaint with the Cable Operator.

4. If the Franchising Authority decides that further evidence is warranted, the Franchising Authority shall require the Cable Operator and the customer to submit, within ten (10) days of notice thereof, a written statement of the facts and arguments in support of their respective positions.

5. The Cable Operator and the customer shall produce any additional evidence, including any reports from the Cable Operator, which the Franchising Authority may deem necessary to an understanding and determination of the complaint.

6. The Franchising Authority shall issue a determination within fifteen (15) days of receiving the customer complaint, or after examining the materials submitted, setting forth its basis for the determination.

7. The Franchising Authority may extend these time limits for reasonable cause and may intercede and attempt to negotiate an informal resolution.

C. Security Fund or Letter of Credit

A Cable operator shall comply with any Franchise Agreement regarding Letters of Credit. If a Franchise Agreement is silent on Letter of Credit the following shall apply:

1. Within thirty (30) days of the written notification to a Cable Operator by the Franchising Authority that an alleged Franchise violation exists, a Cable Operator shall deposit with an

escrow agent approved by the Franchising Authority fifty thousand dollars (\$50,000) or, in the sole discretion of the Franchising Authority, such lesser amount as the Franchising Authority deems reasonable to protect subscribers within its jurisdiction. Alternatively, at the Cable Operator's discretion, it may provide to the Franchising Authority an irrevocable letter of credit in the same amount. A letter of credit or cash deposit, with the approval of the Franchising Authority, may be posted jointly for more than one member of the CCUA, and may be administered, and drawn upon, jointly by the CCUA or drawn upon individually by each member; provided however that if such letter of credit or cash deposit is provided to CCUA on behalf of more than one of its members, the letter of credit or cash deposit may, in the sole discretion of CCUA and its effected members, be required in an amount not to exceed one hundred thousand dollars (\$100,000).

The escrowed funds or letter of credit shall constitute the "Security Fund" for ensuring compliance with these Standards for the benefit of the Franchising Authority. The escrowed funds or letter of credit shall be maintained by a Cable Operator at the amount initially required, even if amounts are withdrawn pursuant to any provision of these Standards, until any claims related to the alleged Franchise violation(s) are paid in full.

2. The Franchising Authority may require the Cable Operator to increase the amount of the Security Fund, if it finds that new risk factors exist which necessitate such an increase.

3. The Security Fund shall serve as security for the payment of any penalties, fees, charges or credits as provided for herein and for the performance by a Cable Operator of all its obligations under these Customer Service Standards.

4. The rights reserved to the Franchising Authority with respect to the Security Fund are in addition to all other rights of the Franchising Authority, whether reserved by any applicable franchise agreement or authorized by law, and no action, proceeding or exercise of a right with respect to same shall in any way affect, or diminish, any other right the Franchising Authority may otherwise have.

D. Verification of Compliance

A Cable Operator shall establish its compliance with any or all of the standards required through annual reports that demonstrate said compliance, or as requested by the Franchising Authority.

E. Procedure for Remedying Violations

1. If the Franchising Authority has reason to believe that a Cable Operator has failed to comply with any of these Standards, or has failed to perform in a timely manner, the Franchising Authority may pursue the procedures in its Franchise Agreement to address violations of these Standards in a like manner as other franchise violations are considered.

2. Following the procedures set forth in any Franchise Agreement governing the manner to address alleged Franchise violations, if the Franchising Authority determines in its sole discretion that the noncompliance has been substantiated, in addition to any remedies that may be provided in the Franchise Agreement, the Franchising Authority may:

a. Impose assessments of up to one thousand dollars (\$1,000.00) per day, to be withdrawn from the Security Fund in addition to any franchise fee until the non-compliance is remedied; and/or

b. Order such rebates and credits to affected customers as in its sole discretion it deems reasonable and appropriate for degraded or unsatisfactory services that constituted noncompliance with these Standards; and/or

c. Reverse any decision of the Cable Operator in the matter and/or

d. Grant a specific solution as determined by the Franchising Authority; and/or

e. Except for in emergency situations, withhold licenses and permits for work by the Cable Operator or its subcontractors in accordance with applicable law.

V. MISCELLANEOUS

A. Severability

Should any section, subsection, paragraph, term, or provision of these Standards be determined to be illegal, invalid, or unconstitutional by any court or agency of competent jurisdiction with regard thereto, such determination shall have no effect on the validity of any other section, subsection, paragraph, term, or provision of these Standards, each of the latter of which shall remain in full force and effect.

B. Non-Waiver

Failure to enforce any provision of these Standards shall not operate as a waiver of the obligations or responsibilities of a Cable Operator under said provision, or any other provision of these Standards.

EXHIBIT B

Report Form

Comcast
Quarterly Executive Summary - Escalated Complaints
Section 7.6 (B) of our Franchise Agreement
Quarter Ending _____, Year
Town of Wellington

<u>Type of Complaint</u>	<u>Number of Calls</u>
Accessibility	0
Billing, Credit and Refunds	0
Courtesy	0
Drop Bury	0
Installation	0
Notices/Easement Issues (Non-Rebuild)	0
Pedestal	0
Problem Resolution	0
Programming	0
Property Damage (Non-Rebuild)	0
Rates	0
Rebuild/Upgrade Damage	0
Rebuild/Upgrade Notices/Easement Issues	0
Reception/Signal Quality	0
Safety	0
Service and Install Appointments	0
Service Interruptions	0
Serviceability	0
<u>TOTAL</u>	0

Compliments

Board of Trustees Meeting

Date: March 12, 2024
Subject: Strategic Plan Update

BACKGROUND / DISCUSSION

The 2022-2024 Town of Wellington Strategic Plan includes four pillars: Fiscal Responsibility, Infrastructure, Planning and Development and Communication. Each pillar has subsequent goals and objectives which are reflected in the Strategic Plan Update. Many projects are listed as "In Progress" as the projects are ongoing such as implementation of utility rates which is something that is completed on an annual basis.

STAFF RECOMMENDATION

Review and retain report.

ATTACHMENTS

1. Strategic Plan 2024 Q1 Report

STRATEGIC PLAN TRACKING UPDATE



STRATEGIC PLAN SUMMARY 2022 - 2024



FISCAL RESPONSIBILITY

- Ensure financial viability of town infrastructure and services by retaining and attracting business.
- Maintain financial transparency and increase operational efficiency.
- Pursue funding sources for the positive direction of the community.
- Identify self-sustaining strategies to prioritize affordability for residents and implement a utility rate structure to align with community pricing objectives.



INFRASTRUCTURE

- Complete the Water Treatment Plant and Water Reclamation Facility expansion projects under budget and on time.
- Review and develop partnerships and enhance focus on transportation solutions, such as street, bridge, facilities, sidewalk, and accessibility improvements.
- Analyze and pursue stormwater solutions.
- Ensure adequate current and future water resources and inform users about wise ways to save treated drinking water.
- Prioritize organizational strength to retain, attract, and support Town staff.



PLANNING AND DEVELOPMENT

- Identify and promote development of community gathering spaces.
- Complete Downtown Master Plan and Parks Master Plan.
- Consider options for open space and buffer from surrounding communities.
- Promote small town feel through responsible growth and sound financial practices.



COMMUNICATION

- Assess opportunities and partners for emergency preparedness.
- Promote inclusive language and improve access to local government.
- Increase engagement and communications with local businesses, the senior community, and other partners in our town.

Mission Statement

We provide outstanding municipal services for our community of today and tomorrow.

Vision Statement

Wellington strives to be one of the best small towns in America to live and work, recognized as a great place to raise a family, own a unique business, and create memorable experiences through community.

Report - Fiscal Responsibility

	Primary	Project/Operation	Project Update Detail	Status
1	Fiscal Responsibility			
2	Apply for \$100K in grant funding	Secure grant funding	Current grant applications in progress, pending awards would total \$580k for various projects.	Completed
3	Business retention meetings	Retention meetings	Staff has met with 10 businesses so far - will continue this process as the year continues	In Progress
4	Implement utility rate structure to align with community pricing objectives	Implement utility rate structure to align with community pricing objectives	2024 rates adopted. 2025 rates review planned for Q3 2024.	In Progress
5	Successfully execute \$5.6M in current grant funding	Grant execution	Continued efforts on grant funding projects and project reporting.	In Progress
6	Maintain financial transparency and increase operational efficiency.	Onboarded new staff	Hired BakerTilly to assist with financial operations. Continue to training new staff member in finance.	In Progress
7	Collect marijuana tax	Marijuana Tax Discussion	Marijuana Tax Discussion has been completed with the Finance Committee and a board recommendation has been made.	In Progress
8	Create balanced budget in 2024	2024 Budget	Budget adopted December 12, 2024.	In Progress
9	Publish accurate and timely monthly expenditure reports	Reporting	Continue effort to update financial statements as the audit work continues and monthly reconciliations are being made.	In Progress
10	Evaluate and update fees to capture trust cost of service	Utility Fees	2024 fees adopted. 2025 fees review planned for Q3 2024.	In Progress
11	Add monthly financials to the website	Monthly financials accessible to public	Continual effort to update financial statements as the audit work continues and monthly reconciliations are being made.	In Progress
12	Place tools to inform community with financial understanding on the website	Financial tools and resources	Town staff completed a comprehensive 2024 budget and has updated the website with most recent financial statements and audits	In Progress
13	Host Budget Boo-nanza	Boonanza	Planned for October 2024	In Progress
14	Maintain financial transparency and increase operational efficiency.	Cost Recovery Model - Parks and Recreation	Started tracking on Trees in Park areas. Gaining pricing for ArcGIS mapping of all assets.	In Progress
15	Maintain financial transparency and increase operational efficiency.	Splash Pad Safety Upgrades	Drastically reduced overall cost of splashpad safety upgrades originally earmarked for CIP in 2023 by innovation and renovation of current operation. Removal of hazardous liquid chemicals on-site. Improved safety for staff and citizen. New operations will allow for real-time alert tracking.	In Progress
16	Maintain financial transparency and increase operational efficiency.	Implement Turf Tank Painter	Completely implemented and used weekly with amazing results.	Completed
17	Pursue funding sources for the positive direction of the community	CDE grant funding/Early Literacy/Buell Private Grant Funds	Launched Early Literacy/Pre-reader Programming and software through grant funding (Technology and programming for non-traditional caregivers purchased and distributed) Additional Programming Events	In Progress
18	Pursue funding sources for the positive direction of the community	Youth Council	Program Development through community sourced and funded Youth Council (2 new programs developed and launched)	In Progress

	Primary	Project/Operation	Project Update Detail	Status
19	Pursue funding sources for the positive direction of the community	AmeriCorps Digital Literacy Grant Participation	One year contact with Representative in-house for 18-20 hours weekly (Adaptive Technology funding diligence underway)	In Progress
20	Retain and attract businesses / Funding sources for positive direction of the community	Marijuana Ordinance	Adopted Ordinance No. 06-2023 Effective July 19, 2023	Completed
21	Affordability for residents	Housing Needs Assessment	RFP in progress	Delayed
22	Funding sources for positive direction of the community	Sell 6th street property	Pending coordination with land owners and community partners	Delayed
23	Affordability for residents	1MG & 2MG Treated Water Storage Tank Rehabilitation and Coating	Two projects were combined to lower total expenses. The 2 million gallon (MG) tank is complete. Work will begin on the 1 MG tank in March 2024.	In Progress
24	Grant funding	Viewpointe Lift Station	Grant funding secured.	In Progress
25	Grant funding	Cleveland Avenue Improvements Project	Grant funding from 3 sources secured.	Completed
26	Grant funding	Cleveland Avenue Outfall Project	Grant funding secured. Currently preparing IGA for project	Completed

	Primary	Project/Operation	Project Update Detail	Status
1	Infrastructure			
2	Review and develop partnerships and enhance focus on facilities and accessibility & Identify and promote development of community gathering spaces	Construct Armed Forces Memorial at WCP - Parks, Public Works, and Rec/PROST	Construction Planning and Searching for Funding. Volunteer rendering of site plan is complete. PROST is working on helping secure Architectural plans and cost for project.	In Progress
3	Inform users about wise ways to save treated drinking water	Grant funded demonstration garden	Main project is completed - minor updates to be implemented for usability and to increase community involvement	In Progress
4	Transportation solutions	CDOT intersection improvements at SH1 and CR9/CR62E	Coordination with CDOT for preliminary design considerations	In Progress
5	Transportation solutions	Transportation Master Plan and Road Impact Fee Study	Annexation agreements for Sage Farms Annexation secured \$100,000 of private investment to supplement \$100,000 of CIP funds to undertake this effort	Delayed
6	Complete water treatment plant on time and under budget	Water Treatment Facility Expansion	Project is on track to meet benchmark goal	In Progress
7	Complete water treatment plant on time and under budget	Property purchase from NPIC for Water Treatment Facility and expansion	Town of Wellington closed on purchase of the NPIC property on August 30, 2023	Completed
8	Inform users about wise ways to save treated drinking water	Garden in a Box through Resource Central	Executed a renewed contract for these services.	Completed
9	Inform users about wise ways to save treated drinking water	Slow the Flow program through Resource Central	Executed a renewed contract for these services.	Completed
10	Ensure adequate current and future water resources	Update Raw Water Dedication requirements	Currently under review for 2024	In Progress
11	Maintain financial transparency and increase operational efficiency.	Bulk Water Station Upgrade	Plumbing upgrades complete. Installation of new controller equipment planned for early 2024.	In Progress
12	Complete water reclamation facility plant on time and under budget	Water Reclamation Facility Expansion	Project is on track to meet benchmark goal	In progress
13	Complete water reclamation facility plant on time and under budget	Cooling system installation for electrical room	Project complete	Completed
14	Develop and evaluate partnership focused on transportation; street, bridge, facilities, sidewalk and accessibility improvements	Revitalizing Main Street Project	IGA for the Cleveland Avenue Improvements project is complete. Design contract to be awarded in Q1/Q2.	In Progress
15	Develop and evaluate partnership focused on transportation; street, bridge, facilities, sidewalk and accessibility improvements	Intersection Hwy1 @ LCR9/62E	Attending regular project team meetings with CDOT for improvements to the intersection of Hwy 1 @ LCR9/LCR62E	In Progress
16	Street Improvements	Old Town Streets	Old Town Streets project is underway	In Progress
17	Execute Safe Routes to School MOU	Safe Routes to School MOU	MOU anticipated for approval in Q2.	In Progress
18	Develop and evaluate partnership focused on transportation; street, bridge, facilities, sidewalk and accessibility improvements	Transit Pilot Program	Pilot program was completed - next steps to discuss solutions with active transportation programs	In Progress
19	Complete and present stormwater master plan	Stormwater Master Plan	Technical analyses are complete. Presentation of recommended project plan is scheduled for 2024.	In Progress

20

Primary	Project/Operation	Project Update Detail	Status
Improve drainage on Cleveland with grant funding	Cleveland Avenue Improvements Project	IGA for the Cleveland Avenue Improvements project is complete. Design contract to be awarded in Q1/Q2.	In Progress

Report - Planning and Development

	Primary	Project/Operation	Project Update Detail	Status
1	Planning and Development			
2	Community gathering space inventory by 2nd quarter 2023	Creating inventory	In the process of gathering data.	Delayed
3	Complete Parks Master Plan	Parks and Recreation Master Plan	Postponed for funding needs.	Delayed
4	Identify and promote development of community gathering spaces	Construct ADA accessible fishing access for the ponds at Wellville Park - Parks and Rec/PROST	Grant application submitted for funding.	In Progress
5	Development of community gathering spaces	Park dedications	Dedication of the Harvest park and takeover from Harvest Village/Hartford homes	In Progress
6	Promote small town feel through responsible growth and sound financial practices	Larimer County Strategic Planning Forum	Participation in 5/10 year LC Strategic Planning Initiative	In Progress
7	Promote small town feel through responsible growth	Official Zoning Map	Adopted Ordinance No. 03-2023 Effective May 11, 2023	Completed
8	Complete Downtown Master Plan	RFP and consultant selection	Pending CIP funding - 2026 and Cleveland Ave. re-design	Delayed
9	Options for open space and buffer from surrounding communities	IGA for Growth Managment Area with Larimer County	Potential for conversation in 2024	Delayed
10	Identify and promote development of community gathering spaces	Acquire/plan future parks and open spaces	Leverage opportunities available through development review and coordination	In Progress
11	Responsible growth and sound financial practices	Development review and coordination	Monitor residential and commercial developments in the development pipeline and manage buildable lots to available infrastructure resources	In Progress

Report - Communication

	Primary	Project/Operation	Project Update Detail	Status
1	Communication			
2	Promote inclusive language and improve access to local government	Website Redesign	Website redesign successfully launched.	Completed
3	Host four community town halls	Town Hall Meetings	2024 Town Hall topics currently being finalized.	In Progress
4	Emergency Plan Draft by 4th quarter 2023	Emergency Draft Plan	Met with LCOEM to begin planning a tabletop exercise. Met with the Colorado Resiliency Office's (CRO) to discuss resources of funding sources for plan development.	Delayed
5	Host joint work session with Senior Center in 2023 and Complete a Seniors Needs Assessment	Meeting held September 5, 2023.	Request for transportation funding support for 2023 and 2024.	In Progress
6	Improve access to local government	Develop and implement a records management policy (physical/digital)	Initial assessment of physical record keeping systems complete. Records policies will implement a distributed records management system. This project will remain a priority for several years until policies are fully developed and implemented for both physical and digital systems.	In Progress
7	Improve access to local government	Streamline systems/processes for Town Court and Cemetery efforts	Assessments of S/P implemented in neighboring communities is ongoing	In Progress
8	Improve access to local government	Set conditions for 2024 election	Initial planning efforts ongoing.	Completed
9	Improve access to local government	Conduct comprehensive Municipal Code Audit	Initial coordinating efforts conducted: Ch. 10 prioritized for 23Q3, administrative cleanup topics prioritized for 23Q4	In Progress
10	Improve access to local government	Conduct auxilliary audits for: Historical Ordinances and Resolutions, Liquor Licenses, Fee schedule, Town website	Initial planning efforts ongoing	In Progress
11	Increase engagement and communication with partner in our town	Initiate and Install "TeamSnap" - Recreation Program communication upgrade	Purchasing and Implementation	Completed
12	Increase engagement and communication with partner in our town	Update Park, Trail and Amenities Tri-Fold/Bike Map - Parks and Rec/PROST	Goal is to implement this in a digital form so it can be updated in real-time, as new assets across the Town are implemented	In Progress
13	Create memorable experiences through community	Community Collaboration	Literacy Project with Boys and Girls Club underway	In Progress
14	Opportunities and partners for emergency preparedness	Renovate Old Town Hall to provide improved office space and location for LCSO operations	LCSO has moved in and now operating in Old Town Hall	Completed
15	Increase engagement and communication with partner in our town	Implement Adaptable Recreation Opportunities	Plans for the first ARO and Inclusive event are under way. Coordination with WPL and local partners (COFC,ARC of Larimer County, Boys and Girls Club of Larimer County). Training Provided by City of Fort Collins to TOW Staff to improve understanding and operational opportunities.	In Progress
16	Increase engagement with partners at local, county, and state programs/departments	Local/County/State Integration	Unifying Front Range Libraries and Statewide Library Cohesion/Collaboration	In Progress