

**INSTITUTIONAL NETWORK ("I-NET")  
MAINTENANCE AND COLOCATION AGREEMENT**

THIS INSTITUTIONAL NETWORK MAINTENANCE AND COLOCATION AGREEMENT (the "**Agreement**") is made and entered into, to be effective as of the date set out on the signature page below (the "**Effective Date**"), by and between the City and County of Denver, a Colorado home rule municipal corporation (hereinafter "**City**"), and Comcast Cable Communications Management, LLC, on behalf of itself and its affiliates (hereinafter "**Comcast**").

WHEREAS, effective January 1, 2000, the City granted to Comcast's affiliate Mile High Cable Partners a cable television franchise by Ordinance No. 617, Series 1999 (together with any renewals or extensions, the "**Franchise**") which provided, among other things, for the building and maintenance of an Institutional Network (the "**I-Net**", as further defined in Section I.B. and Appendix A) and the annual payment of maintenance fees and expenses by the City; and

WHEREAS, Comcast has completed installation and continues to maintain the I-Net in full compliance with the Franchise;

WHEREAS, the parties entered into a Institutional Network Maintenance and Colocation Agreement (the "**Colocation Agreement**"), effective June 1, 2005, regarding City-owned equipment to work with the I-Net equipment occupying rack spaces in Comcast-owned locations (the "**Sites**"); and

WHEREAS, the parties mutually agree (1) to separate the terms and conditions regarding the I-Net and the Colocation Agreement from the Franchise, and to restate and amend such terms and conditions as provided herein, and (2) to establish the framework upon which the City may purchase additional products and services from Comcast, whether related to the I-Net or otherwise.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS HEREIN, THE PARTIES AGREE AS FOLLOWS:

**I. I-Net Scope and Definitions**

**A. Defined Terms.** All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Franchise.

**B. Private Network.** The I-Net is a private communications network built and maintained by Comcast for the benefit of the City, and consists of the circuits and interconnections described on Appendix A. Comcast grants the City the right to access and use the I-Net during the Term (as defined in Section V.A. below) only by employees, contractors and officials of the City, and certain business and legal representatives of the City for City governmental business only (together "Qualified I-Net Users"). Subject to Section I.C. below, and unless expressly prohibited by State or federal law, Qualified I-Net Users shall have the right to provide for the internal switching, routing and/or cross connection to telecommunications carriers of its choice, for the City's normal voice and data communications operations, including without limitation the following uses:

- (1) High-speed transmission of data to and from City departments and to and from other Qualified I-Net Users;
- (2) Transmitting live and stored instructional materials (whether in the form of data, video or otherwise) for distance learning and staff training purposes to and from Qualified I-Net

Users;

- (3) Providing videoconferencing among municipal locations and to other locations for municipal purposes;
- (4) Linking public libraries and providing terminals at library locations that allow members of the public to access library databases and other remote databases;
- (5) Providing for remote origination of Access programming;
- (6) Facilitating connections for telephone systems, security systems and other critical public entity communications applications, so long as such systems are not providing telecommunications services to any person or entity other than Qualified I-Net Users.

**C. Prohibited Uses.** The I-Net is for the municipal business operation of the City, and may not be used to provide commercial services to City residents or any third party. Neither the City nor any Qualified I-Net Users may resell or re-lease access to the I-Net. In addition, the I-Net will not be used in any way that will intentionally or unreasonably interfere with the signal quality and the normal operation of Comcast's Subscriber Network (as that term is defined in the Franchise). Without limiting the foregoing, the I-Net may not be used for providing telecommunications or multi-channel video services to any person or entity other than Qualified I-Net Users. The City agrees to require all Qualified I-Net Users to stipulate and agree to these limitations.

**D. Phase Out of Other I-Net Users.** Under previous versions of the Franchise, other entities related to the City had been granted the right to use the I-Net, including, the Colorado Museum of Natural History, the Water Board,, and all State-accredited public schools (including the Denver public school system) (together, "**Third Party Users**"). The City and Comcast agree that access to the I-Net by any Third Party Users shall cease on December 31, 2014 (the "**Cutoff Date**"). The City shall be responsible for informing each Third Party User of the Cutoff Date as soon as is reasonably possible after the Effective Date of this Agreement. After the Cutoff Date, Comcast shall have no responsibility for providing the I-Net or any related telecommunications services to any Third Party User unless such Third Party User has entered into a separate agreement with Comcast for such services.

**E. Network Equipment.** Working in cooperation, the City and Comcast shall determine the network equipment that is necessary for the operation of the I-Net from the Headend to the Demarcation Point at each I-Net site (excluding end user electronics), and Comcast shall install this equipment at appropriate points on the I-Net. Comcast shall not install or be responsible for any I-Net end user equipment past the Demarcation Point, unless through a separate agreement with the City; provided, however, that Comcast shall provide technical expertise as necessary to ensure that the end user equipment is compatible with the I-Net.

## **II. I-Net Service and Performance Standards**

Comcast shall be responsible for meeting these service and performance standards on the portion of the I-Net:

**A. Signal Quality.** The following standards presume that the I-Net will be constructed solely of Fiber Optics to the Demarcation Point at each Qualified I-Net User site, and that the I-Net will operate in an analog format up to 550 MHz, and in a digital format from 550-750 MHz. If the I-Net incorporates any coaxial cable or the bandwidth is used in a different manner than described above, the parties will negotiate

in good faith to modify these standards as appropriate to the circumstances. The I-Net shall achieve performance standards listed below under worst-case conditions for communications occurring between one Demarcation Point and any other Demarcation Point.

- (1) Noise. The I-Net will not add more than 4dB carrier-to-noise to transmissions, as measured from one Demarcation Point to another. Signal-to-noise or other interference measurements will be substituted for this standard where appropriate.
- (2) Data Communications. For any data communications link on the I-Net, the bit error ratio (BER) shall be equal to or better than  $1 \times 10$  to the minus 9.
- (3) Availability. I-Net availability shall be equal to or better than 99.965% (no more than 184 minutes of I-Net downtime) as measured on an annual basis. The I-Net shall be defined as “unavailable” or as an “I-Net Outage” under the standards in this subsection for Qualified I-Net Users when Qualified I-Net Users (i) cannot, because of an I-Net Problem, measured by SNMP software or other appropriate software and associated hardware, or through a failure of a Comcast-provided interconnect, transmit video, voice and/or data communications to, from, and/or on the I-Net; (ii) experience, due to an I-Net Problem, video, voice, and data transmissions that are below the standards set forth in this subsection; or (iii) experience, due to an I-Net Problem, a data communications packet loss of greater than ten percent (10%). For purposes of this subsection, an I-Net Problem is defined as those that result from the failure of any Comcast-provided I-Net component. I-Net Problems shall not include (i) infrequent scheduled preventative maintenance as long as the City's Technical Contact (as defined in Section II.B. below) is notified in advance; or (ii) those caused by force majeure, as set forth in Section IX.A. of this Agreement.

**B. Service Response.**

(1) Maintenance. As more fully described in Section II.D. of this Agreement, Comcast shall be responsible for the ongoing maintenance and performance of the I-Net from the Demarcation Point within a facility through the I-Net, including the Headend. Routine and preventative maintenance shall be performed on the I-Net to ensure that it meets all performance criteria detailed herein. Comcast will provide the City's Technical Contact with at least ten (10) business days advance notice of routine and preventative maintenance activities that may affect operation of the I-Net circuits.

(2) Demand Maintenance/Service and Repair. Response to I-Net Problems shall occur at all hours (24 X 365). Appropriate Comcast technical support shall respond and actively begin working on I-Net Problems within one (1) hour of either (a) Comcast identifying such I-Net Problem; or (b) Comcast receiving a call from the City's Technical Contact reporting an I-Net Problem. Comcast shall work continuously until the problem is resolved. If it is determined that the I-Net Problem is caused by the Qualified I-Net User's equipment or software, then the Qualified I-Net User shall correct the problem such that other Qualified I-Net Users are no longer affected. If the Qualified I-Net User does not correct the problem, then Comcast may disconnect the affected site from the I-Net until such time as the equipment or software is repaired.

(3) Staff Support. Comcast shall provide an appropriate complement of administrative, Headend and field personnel at all times to meet the performance criteria detailed herein.

(4) Service Call Processing and Tracking. Comcast will establish mechanisms and procedures for all Qualified I-Net Users to quickly and easily report I-Net Problems. All trouble or service calls will be documented, processed and completed in an expedient manner. Comcast will provide in-house

and/or contractor staff; spare and backup Headend and distribution equipment; test and maintenance equipment; and additional support as necessary to ensure that the I-Net performs reliably in accordance with all standards detailed herein.

**C. Performance Testing.** Comcast will conduct proof of performance testing on the I-Net two times per year, no less frequently than every six months. A minimum of one (1) test point location per twenty (20) I-Net sites will be established for the I-Net which are representative of worst-case performance of the I-Net. A representative sampling of activated upstream and downstream bandwidth shall be tested at each test point location. Testing shall be performed to ensure compliance with the I-Net performance specifications herein. Tests shall be performed using standard test methodologies as incorporated in the most recent version of the NCTA’s Recommended Practices for Measurement on a Cable Television System, or another test methodology as mutually agreed to by the City and Comcast. All tests will be documented and, upon request, filed with the City. At the City’s request, all testing processes will be conducted under the observation of a representative from the City.

**D. Maintenance; Service Trouble Calls and Escalation.** Comcast will perform routine maintenance, non-emergency and emergency repairs upon the I-Net fiber optic circuits and associated facilities and equipment from the Comcast side of the Demarcation Point. The City will appoint a designated person (the "**City's Technical Contact**") to serve as the point person for troubleshooting and notifying Comcast of any I-Net Problems. The City acknowledges that Comcast does not actively monitor the signal transmission upon the City-utilized I-Net fiber, and would have no notice of a service outage but for City-initiated notification. In the event of a system failure, the City's Technical Contact will notify Comcast by calling (720) 535-8841. This line shall be staffed at all hours (24 hours per day, 365 days per year). Comcast shall not be obligated to respond to maintenance or troubleshooting calls from any Qualified I-Net User other than the City's Technical Contact.

Response to I-Net problems shall occur at all hours (24 hours per day, 365 days per year) as set forth below.

In the event of a disruption or trouble with respect to any portion of the I-Net, Comcast shall provide maintenance and repairs in accordance with the response times set forth below (the "**Dispatch Period**"). Comcast shall notify the City's Technical Contact within the Dispatch Period that Comcast has dispatched its personnel or contractors to effect restoration and repair and shall provide the City with updates concerning the status of restoration at reasonable intervals.

<b>Severity Level</b>	<b>Network Condition</b>	<b>Response Time</b>	<b>Commitment</b>
CRITICAL	Network is down. No workaround is available.	1 hour	Comcast and City work to resolve situation 24 x 7.
HIGH	Network functionality is severely limited. No workaround is available.	2 hours	Comcast and City work to resolve situation 24 x 7.
MEDIUM	Limited functionality. Workaround is available.	12 hours	Comcast and City work to resolve situation during named business hours.
LOW	General questions, system enhancements, and/or documentation issues in the ordinary course of business.	24 hours	Comcast and City work to resolve situation during normal business hours.

For problems with a "High" or "Critical" severity level, the following escalation procedure will be followed:

1-2 Hours	Comcast system engineer or equivalent will be notified, will contact the City and roll crews to begin repairs. Comcast Director or equivalent will be notified.
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**III. Colocation of City Equipment for Use with I-Net**

**A. Colocation License.** Comcast grants the City the right and license to place Equipment in the Sites as described on Appendix B to this Agreement (the "**Leased Premises**"). Comcast shall provide the Leased Premises fully conditioned for use and powered with adequate electrical power. Pursuant to the terms and conditions contained herein, Comcast shall allow pre-approved City-specified personnel access into the Leased Premises and to the Equipment. For installation, tune-up, and testing, and ongoing maintenance, and/or relocation activities of or with respect to the Equipment, City-specified personnel shall be escorted by Comcast at all times. When emergency maintenance is required, the City will make best efforts to dispatch pre-approved personnel to the I-Net location. However, depending on circumstances, that cannot always be guaranteed, and the City shall always dispatch qualified personnel to the I-Net location where they shall be escorted by Comcast at all times.

**B. Colocation Term.**

(1) The colocation license shall begin on the Effective Date and shall continue in full force and effect until terminated or expired for any particular Site according to Section V.D. of this Agreement.

(2) If either party elects to terminate this Agreement with respect to any Site pursuant to Section E, City shall pay Rent on a pro-rated basis up to and until such time as all of City's Equipment has been removed from the Leased Premises and the space is returned to its original condition, normal wear and tear excepted.

**C. Obligations of the City.**

(1) City shall arrange access to any and all Sites and the Leased Premises by contacting Comcast, as set forth below, not less than 24 hours in advance, except in the case of emergency repair to City Equipment. In no event shall City personnel have access to the Leased Premises or City's I-Net equipment without a representative of Comcast present. In emergency repair situations when 24 hours advance notice is not possible, Comcast headend staff shall grant immediate verbal approval to the City for access to any and all Sites and Leased Premises, and notify the General Manager at the earliest opportunity for formal approval. City staff will contact the Comcast headend at 720-535-8841 in emergency situations to obtain the verbal approval, and Comcast agrees that authorized staff people will be available at that telephone number seven days a week, 24 hours a day.

(2) City shall be responsible for any installation, tune-up, and testing, on-going and emergency maintenance of the Equipment, and Comcast-directed relocation of the Equipment. Any relocation of City Equipment shall be coordinated through Comcast.

(3) City shall not perform any construction, repairs, alterations or modifications of the Equipment or the Sites ("**Construction**") without the prior written approval of Comcast, which shall not be unreasonably withheld, delayed or conditioned. In the case of Critical or High-level emergency repair, verbal permission shall be sufficient to allow access to Sites and Leased Premises. Written

approval shall be obtained at the earliest opportunity after verbal approval is given. City shall pay all costs and expenses of Construction caused by the City. If any liens or claims shall be filed against the Leased Premises as a result of Construction caused by the City, City promptly shall pay and discharge all such liens or claims. If any of Comcast's equipment or facilities are damaged in any way because of negligent or willful misconduct by City staff or contractors, then the City shall promptly pay all costs to repair and/or replace if necessary.

(4) The City shall communicate directly and exclusively through Comcast for any required contact or communication with the property manager, owner or lessor of any of the Leased Premises.

(5) Upon termination or expiration of the Colocation Term for any Site, the City shall be responsible for removal of the Equipment from the Leased Premises within thirty (30) days, at City's sole cost and expense. Comcast shall provide City with access to all Sites and Leased Premises for such removal of the Equipment.

**D. Interruption of Use.** In the event of any interruption of use by City of any Site or power source, unless such interruption is solely caused by Comcast's willful misconduct or negligence, Comcast's sole obligation shall be to provide credit on a pro rata basis against City's obligation to make payments of Rent pursuant to Section IV.C. of this Agreement. Comcast's obligation to apply a credit shall not apply to any interruptions due to the fault of City.

#### **IV. Fees for Use and Maintenance of I-Net**

**A. Annual Maintenance Fee.** For all maintenance and technical support provided hereunder, the City shall pay Comcast an all-inclusive annual maintenance fee of \$500 per mile of I-Net fiber or other circuits. The Maintenance Fee shall be due and payable on a monthly basis on the 1st day (or the next business day if not a business day) of each calendar month in installments of 1/12 the annual maintenance fee.

**B. Colocation Fee.** City shall pay Comcast, in consideration for its use of the Leased Space as provided in this Agreement, a lease rate of \$500.00 per rack per month ("**Rent**") per Site (for a total payment of \$48,000.00 per year assuming the current racks remain the same). The fee currently includes rent for Denver Public Schools rack space. After December 31, 2014, the City shall not be responsible for paying DPS's rack space costs, adjusting to a total of \$24,000 per year. Rent shall include all costs for utilities, electricity, and telephone line usage. Rent shall be due and payable monthly on the 1st day (or the next business day if not a business day) of each calendar month. Rent shall be pro-rated for any portion of a month for Sites that are terminated by the City.

**C. Payment of Bills.** Comcast will invoice the City in advance for the I-Net maintenance and colocation fees arising under the Agreement. The Parties shall negotiate in good faith to resolve any billing dispute. Comcast will refund/credit all valid disputes resolved in the City's favor as of the date the disputed charges first appeared on the Customer's invoice.

**D. Taxes and Government-Related Costs and Fees.**

(1) Except to the extent City provides a valid tax exemption certificate, City shall be responsible for the payment of any and all applicable local, state, and federal taxes or fees (however designated).

(2) Comcast reserves the right to invoice City for any fees or payment obligations in connection with I-Net or its colocation services imposed by governmental or quasi-governmental bodies in connection with the sale, installation, use, or provision of I-Net or colocation services, including, without limitation, applicable franchise fees, right of way fees and Universal Service Fund charges (if any), regardless of whether Comcast or its affiliates pay the fees directly or are required by an order, rule, or regulation of a taxing jurisdiction to collect them from City. Taxes and other government-related fees and surcharges may be changed with or without notice, In the event that any newly adopted law, rule, regulation or judgment increases Comcast's costs of providing its services, City shall pay Comcast's additional costs of providing its services under the new law, rule, regulation or judgment.

**V. Additional Services**

**A. Terms Limited to Exiting I-Net.** The City acknowledges and agrees that the terms and conditions in Sections I through IV above apply only to the I-Net as it is currently described on Appendix A and existing as of the Effective Date of this Agreement. Any new or additional products or services purchased by the City shall be subject to terms set forth below. "Dark Fiber" solutions of the type provided for the existing I-Net will not be available; rather, the City shall be entitled to purchase additional circuits on a managed-services basis subject to Comcast's monthly fees for such services. Any additional circuits will remain owned by Comcast subject to the rights granted to the City herein, even if such circuits are used in conjunction with the existing I-Net.

**B. Additional Products and Services.** Comcast shall make available the same products and services to the City as to other enterprise class customers, at the discounted fees provided for in Section V.C. below, and subject to the terms in this Agreement. The current list of products/services available for purchase by the City is on Appendix C, which may be updated from time to time by Comcast to reflect Comcast's then-current general product offerings. In some cases the additional products and services will have additional terms and conditions which will be set forth in the order form or product schedule ("Additional Terms"), provided that (1) such Additional Terms will be the same as to those provided generally to other enterprise class customers as part of Comcast's standard offering, and (2) in the event of any conflict between the Additional Terms and any terms or conditions in this Agreement, this Agreement shall be controlling.

**C. Fees; Discount.** Any additional products or services purchased by the City (including circuits added or upgrades to the I-Net requested by the City) shall be billed at Comcast's enterprise class then-standard rates less a discount of thirty percent (30%), plus expenses.

**D. Payment of Bills.** The City's Prompt Payment Ordinance, §§ 20-107 to 20-118, D.R.M.C., applies to invoicing and payment under this Agreement. Comcast will invoice the City in advance for any additional products and services purchased hereunder. . Any charges not paid to Comcast within such period will be considered past due. No acceptance of partial payment(s) by Comcast shall constitute a waiver of any rights to collect the full balance owed under the Agreement. The Parties shall negotiate in good faith to resolve any billing dispute. Comcast will refund/credit all valid disputes resolved in the City's favor as of the date the disputed charges first appeared on the Customer's invoice.

**E. Taxes and Government-Related Costs and Fees.** Except to the extent City provides a valid tax exemption certificate, City shall be responsible for the payment of any and all applicable local, state, and federal taxes or fees (however designated). Taxes and other government-related fees and surcharges may be changed with or without notice In the event that any newly adopted law, rule, regulation or judgment increases Comcast's costs of providing its services, City shall pay Comcast's additional costs of providing its services under the new law, rule, regulation or judgment.

## **VI. General Obligations of the City and Comcast**

**A. Access.** In order to deliver certain services to the City, Comcast may require access, right-of-way, conduit, and/or common room space ("Access"), both within and/or outside each location to which service is being provided. The City shall provide an adequate environmentally controlled space and such electricity as may be required for installation, operation, and maintenance of the Comcast Equipment (as defined below) used to provide the services within each such location(s). The City shall be responsible for securing, and maintaining on an initial and ongoing basis Term and/or Renewal Term, such Access within each location unless Comcast has secured such access prior to this Agreement. In the event that the City, fails to secure or maintain such Access within a particular location, Comcast may cancel or terminate affected service at such location, without further liability, upon written notice to the City. Any other failure on the part of the City to be ready to receive and Comcast service, or any refusal on the part of the City to receive such service, shall not relieve the City of its obligation to pay charges for any service that is otherwise available for use.

**B. Hazardous Materials.** If the presence of asbestos or other hazardous materials exists or is detected at a location or within the building where the City requests service, Comcast may immediately stop providing services until such a time as such materials are removed. Alternatively the City may notify Comcast to install the applicable portion of the service in areas of any such location not containing such hazardous material. Any additional expense incurred by Comcast as a result of encountering hazardous materials, including but not limited to, any additional equipment shall be borne by the City.

**C. Comcast Equipment.** As used herein, "Comcast Equipment" means any and all facilities, equipment or devices provided by Comcast or its authorized contractors that are used to deliver any of the Services under this Agreement, including, but not limited to, all terminals, wires, modems, lines, circuits, ports, routers, gateways, switches, channel service units, data service units, cabinets, and racks. Notwithstanding the above, inside telephone wiring within the City's premises, whether or not installed by Comcast, shall not be considered Comcast Equipment. At any time Comcast may remove or change Comcast Equipment in its sole discretion in connection with providing the services. The City shall not move, rearrange, disconnect, remove, attempt to repair, or otherwise tamper with any Comcast Equipment or permit others to do so, and shall not use the Comcast Equipment for any purpose other than that authorized by the Agreement. Comcast shall maintain Comcast Equipment in good operating condition during the term of this Agreement; provided, however, that such maintenance shall be at Comcast's expense only to the extent that it is related to and/or resulting from the ordinary and proper use of the Comcast Equipment. The City is responsible for damage to, or loss of, Comcast Equipment caused by its acts or omissions, and its noncompliance with this Agreement, or by fire, theft or other casualty at the City's service location(s), unless caused by the gross negligence or willful misconduct of Comcast.

**D. Ownership, Impairment and Removal of Network.** The Comcast Equipment, facilities, fiber optic cable associated with electronics and other equipment used to provide the services hereunder (the "Network") is and shall remain the property of Comcast regardless of whether installed within or upon the City's premises or property and whether installed overhead, above, or underground, and shall not be considered a fixture or an addition to the land or the buildings on which it is located. The City agrees that it shall take no action that directly or indirectly impairs Comcast's title to the Network, or any portion thereof, or exposes Comcast to any claim, lien, encumbrance, or legal process, except as otherwise agreed in writing by the Parties. Nothing in this Agreement shall preclude Comcast from using the Network for services provided to other Comcast customers as long as service to the City remains within the contracted specifications or service levels. For a period of twelve (12) months following Comcast's discontinuance of any service to any City location, Comcast retains the right to remove the Network including, but not limited to, that portion of the Network that is located in such location. To the extent Comcast removes such portion of the Network it shall be responsible for returning the location(s) to its prior condition, reasonable wear and tear excepted.



**E. City-Provided Equipment.** As used herein, "City Equipment" means any and all facilities, equipment or devices supplied by the City for use in connection with the services provided by Comcast hereunder. Comcast shall have no obligation to install, operate, or maintain City Equipment. The City shall have sole responsibility for providing maintenance, repair, operation and replacement of all City Equipment, inside telephone wiring and other City Equipment. Neither Comcast nor its employees, affiliates, agents or contractors will be liable for any damage, loss, or destruction to City Equipment, unless caused by the gross negligence or willful misconduct of Comcast. City Equipment shall at all times be compatible with the Network as determined by Comcast in its sole discretion. In addition to any other service charges that may be imposed from time to time, the City shall be responsible for the payment of service charges for visits by Comcast's employees or agents to a service location when the service difficulty or trouble report results from the use of City Equipment or facilities provided by any party other than Comcast.

## **VII. Term and Termination**

**A. Term.** This Agreement shall commence upon the Effective Date hereof and, unless otherwise terminated earlier in accordance with this Agreement, shall remain in full force and effect for three (3) years (the "**Initial Term**"). City shall have two (2) consecutive options to extend the Initial Term for an additional period of one (1) year (each a "**Renewal Term**"), subject to the terms and conditions established in Section VII.B., below. The Initial Term and the Renewal Term (if any) shall collectively be referred to as the "**Term**".

### **B. Option to Renew.**

(1) The City's written election (the "**Election Notice**") to exercise its option to extend the Term of this Agreement shall be delivered to Comcast no later than ninety (90) days prior to the expiration of the Initial Term or Renewal Term, as applicable. If City either fails or elects not to exercise its option to renew by not timely delivering its Election Notice, then such option to extend shall be null and void. Further, the second option shall be void and of no force or effect if the first option is not exercised according to this Section VII.B.(1).

(2) Each Renewal Term shall commence immediately after the expiration of the immediately preceding Term. Each Renewal Term shall be upon and subject to the same terms and conditions of the immediately preceding Term.

### **C. Termination for Default.**

(1) Either party shall be in default under this Agreement if:

(a) such party fails to timely perform any material obligation under this Agreement, and such failure continues for a period of thirty (30) days after written notice of such failure given by the other party; or

(b) such party becomes the subject of any proceedings under any bankruptcy or insolvency laws provided that, in the case of any involuntary proceeding, such proceeding is not dismissed within sixty (60) days.

(2) In addition, Comcast shall be deemed to be in default if any officer or employee of Comcast that negotiated this Agreement or that is directly involved in providing services to the City hereunder is convicted, plead *nolo contendere*, enter into a formal agreement in which he or she admits guilt, enter a plea of guilty or otherwise admit culpability to criminal offenses of bribery, kick backs,

collusive bidding, bid-rigging, antitrust, fraud, undue influence, theft, racketeering, extortion or any offense of a similar nature in connection with Comcast's business related to this Agreement.

(3) Upon default, and at any time thereafter, the non-defaulting party may, at its option, declare this Agreement to be in default, and may terminate this Agreement upon written notice to the defaulting party and may pursue all other available remedies at law and in equity, all of which shall be cumulative. No express or implied waiver by either party of any event of default shall in any way be, or be construed to be, a waiver of any further or subsequent event of default. If the Agreement is terminated, the City is entitled to and will take possession of all materials, equipment, tools and facilities it owns that are in Comcast's possession, custody, or control by whatever method the City deems expedient.

**D. Termination of Colocation Services at Individual Sites.** The City may terminate Comcast's colocation services with respect to any particular Site at any time during the term of this Agreement upon sixty (60) days written notice. Such written notice shall specify the effective date of such termination for each Site.

**E. Termination for Convenience.** The City has the right to terminate the Agreement without cause upon twelve (12) months prior written notice to Comcast.

### **VIII. Warranties; Limitation of Liability; Disclaimers**

**A. Certain Covenants and Warranties of Comcast.** Comcast will perform all services under this Agreement using a degree of skill, care, and judgment consistent with customarily accepted best business practices in the industry. With respect to the Colocation Services, Comcast warrants to City the peaceable and quiet possession of the Leased Premises, subject only to the terms of this Agreement, and that (i) Comcast holds valid, enforceable rights to occupy the Leased Premises; (ii) Comcast's execution and delivery of this Agreement does not violate applicable law, rule or regulation or any agreements to which Comcast is a party or by which it is bound, or require any consent, authorization, or approval that has not been validly obtained by Comcast, including but not limited to the consent of the owner of the Leased Premises or any other parties that have granted Comcast any right to occupy the Leased Premises.

**B. Disclaimer of Warranties.**

(1) I-Net construction, I-Net maintenance, and colocation services shall be provided pursuant to the terms and conditions in this Agreement, and are in lieu of all other warranties, express, implied or statutory, including, but not limited to, the implied warranties of merchantability, fitness for a particular purpose, title, and non-infringement. **TO THE MAXIMUM EXTENT ALLOWED BY LAW, COMCAST EXPRESSLY DISCLAIMS ALL SUCH EXPRESS, IMPLIED AND STATUTORY WARRANTIES.**

(2) Without limiting the generality of the foregoing, Comcast does not warrant that any of its services, Comcast Equipment, software, or the City's use of the I-Net will be uninterrupted, error-free, or free of latency or delay, or that the services, Comcast Equipment, software or the City's use of the I-Net will meet the requirements of the City or its end-users, or that the services, Comcast Equipment, software, or the I-Net will prevent unauthorized access by third-parties.

(3) Comcast's services are not fail-safe and are not designed or intended for use in situations requiring fail-safe performance or in which an error or interruption in the services could lead to severe injury to business, persons, property or environment ("**High Risk Activities**"). These High Risk

Activities may include, without limitation, vital business or personal communications, or activities where absolutely accurate data or information is required.

(4) In no event shall Comcast be liable for any loss, damage or claim arising out of or related to: (i) stored, transmitted, or recorded data, files, or software; (ii) any act or omission of City, its users or third-parties; (iii) interoperability, interaction or interconnection of the services with applications, equipment, services or networks provided by City or third-parties; or (iv) loss or destruction of any City Equipment, City hardware, software, files or data resulting from any virus or other harmful feature or from any attempt to remove it. The City is advised to back up all data, files and software at regular intervals.

**C. Limitation of Liability.**

(1) THE AGGREGATE LIABILITY OF COMCAST FOR ANY AND ALL LOSSES, DAMAGES AND CAUSES ARISING OUT OF THE AGREEMENT, AND NOT OTHERWISE LIMITED HEREUNDER, WHETHER IN CONTRACT, TORT, IN LAW OR IN EQUITY, OR OTHERWISE, SHALL NOT EXCEED DIRECT DAMAGES EQUAL TO THE SUM TOTAL OF THREE TIMES THE PAYMENTS MADE BY CITY TO COMCAST DURING THE ONE YEAR PERIOD IMMEDIATELY PRECEDING THE EVENT FOR WHICH DAMAGES ARE CLAIMED. THIS LIMITATION SHALL NOT APPLY TO AMOUNTS PAID BY WAY OF INDEMNITY PURSUANT TO SECTION VII BELOW, OR TO THE CITY'S LIABILITY FOR THE FEES DUE FOR THE SERVICES HEREUNDER.

(2) NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, INDIRECT, SPECIAL, COVER, PUNITIVE OR CONSEQUENTIAL DAMAGES, WHETHER OR NOT FORESEEABLE, OF ANY KIND INCLUDING BUT NOT LIMITED TO ANY LOSS REVENUE, LOSS OF USE, LOSS OF BUSINESS, OR LOSS OF PROFIT WHETHER SUCH ALLEGED LIABILITY ARISES IN CONTRACT OR TORT HOWEVER, THAT NOTHING HEREIN IS INTENDED TO LIMIT CITY'S LIABILITY FOR THE FEES DUE FOR THE SERVICES HEREUNDER.

**IX. Defense; Indemnification and Responsibility for Damages**

**A.** Comcast hereby agrees to defend, indemnify, reimburse and hold harmless City, its appointed and elected officials, agents and employees for, from and against all liabilities, claims, judgments, suits or demands for damages to persons or property made by third parties ("Claims"), arising out of, resulting from, or relating to the work performed under this Agreement to the extent attributable to the negligence or willful misconduct of Comcast or any employee or contractor of Comcast. This indemnity shall not apply to the extent any such Claim is attributed to the negligence or willful misconduct of City. Comcast's duty to defend and indemnify the City shall arise at the time written notice of the Claim is first provided to Comcast by the City, regardless of whether Claimant has filed suit on the Claim. Comcast's duty to defend and indemnify City shall arise even if City is the only party sued.

**B. Process.** Comcast will defend any and all Claims covered by Section IX.A. above which may be brought or threatened against the City and will pay on behalf of the City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims. Such payments on behalf of the City shall be in addition to any other legal remedies available to the City and shall not be considered the City's exclusive remedy.

**C. Relationship to Insurance.** Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of Comcast under the terms of this indemnification obligation. Comcast shall obtain, at its own expense, any additional insurance that it deems necessary for the City's

protection.

**D. Responsibility for Damages.** The City will be responsible to Comcast, its parent, subsidiary and affiliated companies and entities and their officers, directors, employees, and agents for any claims, damages, liabilities, costs, and expenses (including reasonable attorneys' fees) caused by (i) the City's negligence or breach of contractual obligations, or (ii) arising out of any Qualified I-Net User's use of the I-Net provided under the Agreement, including without limitation with respect to libel, slander, infringement of copyright, or unauthorized use of trademark, trade name, or service mark arising out of communications via the I-Net. Notwithstanding the foregoing, nothing contained herein shall be considered or construed as a waiver of any of the coverages or protections of the Colorado Governmental Immunity Act, as amended.

**E. Survival.** This Section IX shall survive the expiration or earlier termination of this Agreement.

## **X. Confidential Information and Privacy**

**A. Definition of Confidential Information.** "Confidential Information shall mean all information regarding either party's business which has been marked or is otherwise communicated as being "proprietary" or "confidential" or which reasonably should be known by the receiving party to be proprietary or confidential information. Without limiting the generality of the foregoing, Confidential Information shall include, even if not marked, proposals, quotes, network upgrade information and schedules, network operation information (including without limitation information about outages and planned maintenance), as well as the parties' communications regarding such items. Comcast acknowledges and agrees that the terms of this Agreement are not Confidential Information.

**B. Disclosures and Use.** All Confidential Information disclosed by either party shall be kept by the receiving party in strict confidence and shall not be disclosed to any third-party without the disclosing party's express written consent. Notwithstanding the foregoing, such information may be disclosed (i) to the receiving party's employees, affiliates, and agents who have a need to know for the purpose of performing this Agreement (provided that in all cases the receiving party shall take appropriate measures prior to disclosure to its employees, affiliates, and agents to assure against unauthorized use or disclosure); or (ii) as otherwise authorized by this Agreement. Each party agrees to treat all Confidential Information of the other in the same manner as it treats its own proprietary information, but in no case using a degree of care less than a reasonable degree of care.

**C. Exceptions.** Notwithstanding the foregoing, each party's confidentiality obligations hereunder shall not apply to information that: (i) is already known to the receiving party without a pre-existing restriction as to disclosure; (ii) is or becomes publicly available without fault of the receiving party; (iii) is rightfully obtained by the receiving party from a third-party without restriction as to disclosure, or is approved for release by written authorization of the disclosing party; (iv) is developed independently by the receiving party without use of the disclosing party's Confidential Information; or (v) is required to be disclosed by law or regulation.

**D. Remedies.** Notwithstanding any other section of this Agreement, the non-breaching party shall be entitled to seek equitable relief to protect its interests pursuant to this Section VIII, including, but not limited to, injunctive relief.

**E. Monitoring of Services.** Comcast assumes no obligation to pre-screen or monitor the City's use of the I-Net or its other services, including without limitation postings and/or transmission.

However, the City acknowledges and agrees that Comcast and its agents shall have the right to monitor such use from time to time, without accessing any content transmitted by City, and to use and disclose such results to the extent necessary to operate its services properly, to ensure compliance with applicable use policies, to protect the rights and/or property of Comcast, or in emergencies when physical safety is at issue, and that Comcast may disclose the same to the extent necessary to satisfy any law, regulation, or governmental request. Comcast shall have no liability or responsibility for content received or distributed by City or its users through any use of I-Net or Comcast's other services. For the avoidance of doubt, the monitoring of data described in this Section X.E refers to aggregate data and types of traffic (protocol, upstream/downstream utilization, etc.). Comcast does not have access to the content of encrypted data transmitted across Comcast networks.

**F. Survival of Confidentiality Obligations.** The obligations of confidentiality and limitation of use described in this Section X shall survive the expiration and termination of the Agreement for a period of two (2) years (or such longer period as may be required by law).

## **XI. Miscellaneous Terms**

**A. Force Majeure.** Neither party (and in the case of Comcast, Comcast affiliates and subsidiaries) shall be liable to the other party for any delay, failure in performance, loss, or damage to the extent caused by force majeure conditions such as acts of God, fire, explosion, power blackout, cable cut, acts of regulatory or governmental agencies, unavailability of right-of-way or materials, or other causes beyond the party's reasonable control, except that City's obligation to pay under this Agreement shall not be excused. Changes in economic, business or competitive condition shall not be considered force majeure events.

**B. Publicity.** The Agreement provides no right to use any party's or its affiliates' trademarks, service marks, or trade names, or to otherwise refer to the other party in any marketing, promotional, or advertising materials or activities. Neither party shall issue any publication or press release relating to, or otherwise disclose the existence of, the terms and conditions of any contractual relationship between Comcast and the City, except as permitted by the Agreement or otherwise consented to in writing by the other party.

**C. Assignment or Transfer.** Neither party shall assign any right, obligation or duty, in whole or in part, or of any other interest hereunder, without the prior written consent of the other party, which shall not be unreasonably withheld. Notwithstanding the foregoing, Comcast may assign the Agreement without the City's consent to any affiliate or to any entity that acquires all or substantially all of the assets of Comcast relating to this Agreement (provided that such entity also assumes Comcast's obligations under the Franchise). All obligations and duties of either party under this Agreement shall be binding on all successors in interest and assigns of such party. Nothing herein is intended to limit Comcast's use of third-party consultants and contractors to perform under this Agreement.

**D. Entire Understanding.** The Agreement constitutes the entire understanding of the parties related to the subject matter hereof. The Agreement supersedes all prior agreements, proposals, representations, statements, or understandings, whether written or oral, concerning I-Net or colocation on the Leased Premises or the parties' rights or obligations relating to I-Net or colocation on the Leased Premises, including the Colocation Agreement and any terms contained in the Franchise. Any prior representations, promises, inducements, or statements of intent regarding I-Net or colocation on the Leased Premises that are not embodied in this Agreement are of no effect. No subsequent agreement among the

parties concerning I-Net or colocation on the Leased Premises shall be effective or binding unless it is made in writing by authorized representatives of the parties. Terms or conditions contained in any sales orders, or restrictive endorsements or other statements on any form of payment, shall be void and of no force or effect.

**E. Exports.** The City acknowledges that any products, software, and technical information (including, but not limited to, services and training) provided pursuant to the Agreement may be subject to U.S. export laws and regulations. City agrees that it will not use distribute, transfer, or transmit the products, software, or technical information (even if incorporated into other products) except in compliance with U.S. export regulations. If requested by Comcast, City also agrees to sign written assurances and other export-related documents as may be required for Comcast to comply with U.S. export regulations.

**F. Construction.** In the event that any portion of the Agreement is held to be invalid or unenforceable, the parties shall replace the invalid or unenforceable portion with another provision that, as nearly as possible, reflects the original intention of the parties, and the remainder of the Agreement shall remain in full force and effect.

**G. Survival.** The rights and obligations of either party that by their nature would continue beyond the termination or expiration of this Agreement shall survive termination or expiration of this Agreement.

**H. Choice of Law; Venue.** This Agreement shall be governed by the laws of the state of Colorado, without regard to the conflicts of laws principles thereof. Venue for any legal action relating to this Agreement shall lie in the District Court in and for the City and County of Denver.

**I. No Third-Party Beneficiaries.** This Agreement does not expressly or implicitly provide any third-party (including users) with any remedy, claim, liability, reimbursement, cause of action, or other right or privilege.

**J. Parties' Authority to Contract.** The persons whose signatures appear below are duly authorized to enter into the Agreement on behalf of the parties name therein.

**K. No Waiver; Etc.** No failure by either party to enforce any right(s) hereunder shall constitute a waiver of such right(s). This Agreement may be executed in counterpart copies.

**L. Independent Contractors.** The parties to this Agreement are independent contractors. Neither party is an agent, representative, or partner of the other party. Neither party shall have any right, power, or authority to enter into any agreement for, or on behalf of, or incur any obligation or liability of, or to otherwise bind, the other party. This Agreement shall not be interpreted or construed to create an association, agency, joint venture, or partnership between the parties or to impose any liability attributable to such a relationship upon either party.

**M. Headings.** The article and section headings used herein are for reference only and shall not limit or control any term or provision of this Agreement or the interpretation or construction thereof.

**N. Compliance with Laws.** Each of the parties agrees to comply with all applicable local, state and federal laws and regulations and ordinances in the performance of its respective obligations under this Agreement.

**O. Notices.** Unless otherwise provided herein, all notices and communications concerning this Agreement shall be in writing and effective when sent by facsimile (confirmed by first-class mail), or when delivered by overnight express or other express delivery service addressed to the other party as follows:

If to Comcast:

Comcast Business  
ATTN: Vice President of Business Services  
1601 Mile High Stadium Circle | Denver, CO 80204  
Office: [303-603-0947](tel:303-603-0947)

With copies to:

Comcast Business  
ATTN: Director of Business Operations  
1601 Mile High Stadium Circle | Denver, CO 80204  
Office: [303-603-0908](tel:303-603-0908)

and

Comcast Cable Communications Management, LLC  
Attention: Cable Law Department  
50<sup>th</sup> Floor,  
1701 JFK Blvd  
Philadelphia, PA 19103

If to City:

City and County of Denver  
Technology Services Department  
Attention: Chief Information Office  
201 W. Colfax Avenue, Department 301  
Denver, CO 80202  
Office: 720-913-4875

**P. Fraudulent Use of Services.** The City is responsible for all charges attributable to City with respect to its use of I-Net or its use of colocation services on the Leased Premises, even if incurred as the result of fraudulent or unauthorized use. Comcast may, but is not obligated to, detect or report unauthorized or fraudulent use of I-Net or colocation services to City. Comcast reserves the right to restrict, suspend or discontinue providing access and use of I-Net or its colocation services in the event of fraudulent use.

**Q. Reimbursable Expenses:** There are no reimbursable expenses allowed under the Agreement. All of Comcast's expenses are contained in the rates set forth herein or to be quoted as provided herein.

**R. Invoicing:** Comcast shall provide the City with a monthly invoice in a format and with a level of detail acceptable to the City including all supporting documentation required by the City. The City's Prompt Payment Ordinance, §§ 20-107 to 20-118, D.R.M.C., applies to invoicing and payment under this Agreement.

**S. Maximum Contract Amount:** Notwithstanding any other provision of the Agreement, the City's maximum payment obligation will not exceed Five Hundred Fifty Thousand Dollars (\$550,000) (the "Maximum Contract Amount"). The City is not obligated to execute an Agreement or any amendments for any further services, including any services performed by Comcast beyond those specifically described in this Agreement. The City's payment obligation, whether direct or contingent, extends only to funds appropriated annually by the Denver City Council, paid into the Treasury of the City, and encumbered for the purpose of the Agreement. The City does not by the Agreement irrevocably pledge present cash reserves for payment or performance in future fiscal years. The Agreement does not and is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City.

**T.** Comcast shall maintain the insurance policies as required by Appendix D for the term of the Agreement.

**U. EXAMINATION OF RECORDS:** Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access and the right to examine any pertinent books, documents, papers and records of Comcast, involving payments by the City related to the Agreement until the latter of three (3) years after the final payment under the Agreement or expiration of the applicable statute of limitations.

**V. NO AUTHORITY TO BIND CITY TO CONTRACTS:** Comcast lacks any authority to bind the City on any contractual matters. Final approval of all contractual matters that purport to obligate the City must be executed by the City in accordance with the City's Charter and the Denver Revised Municipal Code.

**W. NO DISCRIMINATION IN EMPLOYMENT:** In connection with the performance of work under the Agreement, Comcast may not 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. Comcast shall insert the foregoing provision in all subcontracts of its work under the Agreement.

**X. ADVERTISING AND PUBLIC DISCLOSURE:** Comcast shall not include any reference to the Agreement or to services performed pursuant to the Agreement in any of the Comcast advertising or public relations materials without first obtaining the written approval of the City. Any oral presentation or written materials related to services performed under the Agreement will be limited to services that have been accepted by the City. Comcast shall notify the City in advance of the date and time of any such presentation. Nothing in this provision precludes the transmittal of any information to City officials.

**Y. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS:** Comcast consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;  
SIGNATURE PAGES FOLLOW]**



**Appendix B**

**Leased Premises and Equipment**

Comcast Site	Address	Rack Location
TCP 01-TCC Denver	Comcast 1601 Mile High Stadium Circle Denver, CO 80204	11.01 10.01
TCS 41	Comcast 2901 W. Dartmouth Denver, CO 80207	03.03 03.04
TCS43	Comcast Johnson & Wales Campus 7190 E. Montview #A, Denver, CO 80210	04.03 05.03
TCS42	Comcast 5480 E. Evans Avenue Denver, CO 80231	03.03 03.04

## Appendix C

### Enterprise Class Products Services

- Ethernet Dedicated Internet Services
  - Ethernet Transport Services
  - Ethernet Intrastate Transport
  - Enterprise Trunk Services
  - Enterprise Voice Service (Business VoIP Services)
  - Enterprise Dedicated Internet
  - Comcast Business TV
  - Comcast Business Ethernet Services (including the following)
    - Ethernet Private Line
    - Ethernet Virtual Private Line
    - Ethernet Network Services
-

## Appendix D

### INSURANCE

(1) **General Conditions:** Comcast agrees to secure, at or before the time of execution of this Agreement, the following insurance covering all operations, goods or services provided pursuant to this Agreement. Comcast shall keep the required insurance coverage in force at all times during the term of the Agreement, or any extension thereof, during any warranty period. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-"VIII or better. Comcast shall provide written notice of cancellation, non-renewal and any reduction in coverage to the parties identified in the Notices section by certified mail, return receipt requested within three (3) business days of such notice by its insurer(s) and referencing the City's contract number. Comcast shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of Comcast. Comcast shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

(2) **Proof of Insurance:** Comcast may not commence services or work relating to the Agreement prior to placement of coverages required under this Agreement. Comcast certifies that its certificate of insurance, preferably an ACORD certificate, complies with all insurance requirements of this Agreement. The City requests that the City's contract number be referenced on the Certificate. The City's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of Comcast's breach of this Agreement or of any of the City's rights or remedies under this Agreement.

(3) **Additional Insureds:** For Commercial General Liability, Auto Liability and Excess Liability/Umbrella, Comcast and subcontractor's insurer(s) shall name the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.

(4) **Waiver of Subrogation:** For all coverages required under this Agreement, Comcast's insurer shall waive subrogation rights against the City.

(5) **Subcontractors and Subconsultants:** All subcontractors and subconsultants (including independent Comcasts, suppliers or other entities providing goods or services required by this Agreement) shall be subject to all of the requirements herein and shall procure and maintain the same coverages required of the Comcast. Comcast shall ensure that all such subcontractors and subconsultants maintain the required coverages. Comcast agrees to provide proof of insurance for all such subcontractors and subconsultants upon request by the City.

(6) **Workers' Compensation/Employer's Liability Insurance:** Comcast shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims. Comcast expressly represents to the City, as a material representation upon which the City is relying in entering into this Agreement, that none of the Comcast's officers or employees who may be eligible under any statute or law to reject Workers' Compensation Insurance shall effect such rejection during any part of the term of this Agreement, and that any such rejections previously effected, have been revoked as of the date Comcast executes this Agreement.

(7) **Commercial General Liability:** Comcast shall maintain a Commercial General Liability insurance policy with limits of \$1,000,000 for each occurrence, \$1,000,000 for each personal and advertising

injury claim, \$2,000,000 products and completed operations aggregate, and \$2,000,000 policy aggregate.

**(8) Business Automobile Liability:** Comcast shall maintain Business Automobile Liability with limits of \$1,000,000 combined single limit applicable to all owned, hired and non-owned vehicles used in performing services under this Agreement

**(9) Excess/Umbrella Liability:** Comcast shall maintain excess liability limits of \$500,000.00. Coverage must be written on a “follow form” or broader basis. Any combination of primary and excess coverage may be used to achieve required limits.

**(10) Additional Provisions:**

(a) For Commercial General Liability and Excess Liability, the policies must provide the following:

- (i) That this Agreement is an Insured Contract under the policy, which requirement may be met through a blanket contractual liability provision;
- (ii) Defense costs are outside the limits of liability;
- (iii) A severability of interests or separation of insureds provision (no insured vs. insured exclusion); and
- (iv) A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City, but only for losses caused by Comcast’s negligent acts or omissions, or assumed by Comcast hereunder.

(b) For claims-made coverage:

- (i) The retroactive date must be on or before the contract date or the first date when any goods or services were provided to the City, whichever is earlier

(c) Comcast shall advise the City in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limits. At their own expense, and where such general aggregate or other aggregate limits have been reduced below the required per occurrence limit, Comcast will procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.

**Appendix A**

**Denver I-Net Maintenance Chart**

City and County of Denver  
DIANE I-NET Network Maintenance Chart

Site Number	Site Location Name	Site Location	Total Mileage from Headend to Site Location (Strand + 10%)	Incremental I-Net Miles (Strand Miles)	Network Expense for one year = Strand Mile X \$500
<b>FIBER RING</b>					
NA	Fiber Ring (City Portion -DPS liable for \$2,635,000)			31.62	\$ 13,175.00
<b>NORTHWEST QUADRANT</b>					
1	Human Services	1200 Federal Blvd.	1.15	0.32	\$ 161.92
3	DRCG	2480 W. 26th Ave.	1.69	0.48	\$ 237.95
4	Fire Station 20	601 Knox Court	1.25	0.35	\$ 176.00
11	Fire Station No. 17	4500 Temynson St.	4.39	1.24	\$ 618.10
12	Fire Station No. 7	2195 W. 38th Ave.	3.23	0.91	\$ 454.77
14	Woodbury Branch Library	3265 Federal Blvd.	3.00	0.84	\$ 422.99
15	Police district No. 1 ( new location )	46th & Lapan	0.38	0.31	\$ 155.00
16	Fire Station No. 12	2575 Federal Blvd.	2.08	0.59	\$ 292.86
26	Motor Vehicle	3698 W. 44th Ave	5.27	1.48	\$ 742.00
35	PW Traffic Signal 1 of 2	2602 Sheridan	3.71	1.04	\$ 522.36
38	Police and PW	1390 Decatur	4.37	1.23	\$ 615.28
39	PW Traffic Signal 2 of 2	1399 Sheridan	4.16	1.17	\$ 585.71
41	Traffic Signal 1 of 3	3202 Federal Blvd.	2.95	0.83	\$ 415.95
45	Traffic Signal 2 of 3	3900 Fox St. Unit #45	7.69	2.17	\$ 1,082.73
47	Quigg Newton/La Casa	4430 Navajo	3.25	0.92	\$ 457.59
50	Smiley Library	4501 W. 46th Ave.	5.71	1.61	\$ 803.95
<b>SOUTHEAST QUADRANT</b>					
13	Decker Branch Library	1501 S. Logan Street	6.78	1.91	\$ 954.61
19	Eugene Field Branch Library	810 S. University Blvd.	5.07	1.43	\$ 713.84
21	Fire Department Warehouse	20 E. Center Avenue	7.23	2.04	\$ 1,017.97
23	Fire Station No. 16	1605 S. Ogdin Street	5.74	1.62	\$ 808.18
25	Fire Station No. 21	1580 E. Virginia Avenue	6.25	1.76	\$ 879.99
26	Fire Station No. 22	3530 S. Monaco Parkway	2.68	0.75	\$ 377.34
27	Fire Station No. 24	2695 S. Colorado Blvd.	2.76	0.78	\$ 388.60
*	Den Trff Tie SE	Hampden & Dahlia To SE Hub	2.75	1.83	\$ 915.00
41	Metro SWAT Unit	550 E. Iliff	4.99	1.41	\$ 702.58
52	Ross Branch Library	4310 E. Amherst	2.26	0.64	\$ 318.20
55	Ross Broadway Branch Library	33 E. Broadway Avenue	7.45	2.10	\$ 1,048.94
60	Police District No. 3 (Relocated)	1625 S. University Avenue	4.10	1.19	\$ 595.00
70	Traffic Signal 3 of 7	Hampden & Colorado Blvd.	3.12	0.88	\$ 439.29
72	Traffic Signal 5 of 7	Florida & University	4.06	1.14	\$ 571.64
73	Traffic Signal 6 of 7	Cherry Creek Dr. South & Colorado Blvd.	4.71	1.33	\$ 663.16
79	Ross Virginia Village Branch Library	1425 S. Holly Street	2.44	0.69	\$ 343.55
<b>SOUTHWEST QUADRANT</b>					
15	Hadley Branch Library	1890 S. Grove Street	3.20	0.90	\$ 450.38
17	Public Works - Osage	2021 S. Osage Street	5.05	1.42	\$ 710.76
20	Fire Station No. 28	4306 S. Wolf Street	8.45	2.38	\$ 1,189.29
28	Animal Shelter	678 S. Jason Street	1.16	1.16	\$ 580.00
30	Fire Station No. 23	850 S. Federal Blvd.	6.27	1.67	\$ 832.46
31	Fire Station No. 25	2504 S. Raleigh	2.24	0.63	\$ 315.27
39	Traffic Signal 4 of 5	Evans and Broadway	4.49	1.26	\$ 631.94
41	Athmar Park Branch Library	1055 S. Tejon Street	6.46	1.82	\$ 909.21
51	District 4 Police Station	2150 Clay Street	3.93	1.11	\$ 553.12
54	Traffic Signal 3 of 5	3098 S. Federal Blvd.	0.11	0.03	\$ 15.48
55	South West Motor Vehicle Office	3100 S. Sheridan	3.13	0.88	\$ 440.53
57	Traffic Signal 2 of 5	1305 S. Federal Blvd.	6.99	1.97	\$ 983.30
60	Ross-Barnham Library	3570 W. 1st Avenue	7.06	1.99	\$ 993.65
63	Fire Station No. 30	4898 S. Dudley Street	8.55	2.41	\$ 1,203.36
64	Bear Valley Library	5171 W. Dartmouth Avenue	3.13	0.88	\$ 440.53
65	PW Traffic Signal 5 of 5	5199 W. Warren Avenue	2.99	0.84	\$ 420.82
<b>NORTHEAST QUADRANT</b>					
3	911 Center	950 Josephine Street	6.67	1.90	\$ 950.00
10	Fire Station No. 11	40 W. 2nd Avenue	4.59	1.31	\$ 655.00
20	County Jail	10500 Smith Road	5.80	1.65	\$ 825.00
24	Fire Station No. 19	300 S. Ivy Street	4.42	1.26	\$ 630.00
28	Bvers Branch Library	675 Santa Fe Drive	2.99	0.85	\$ 425.00
30	Police District No. 14	1505 S. Clarkson	5.02	1.43	\$ 715.00
38	ISD	10 Gallapago	3.81	1.09	\$ 545.00
40	Fire Station No. 10	3200 Steele Street	4.90	1.40	\$ 700.00
41	Fire Station No. 14	1426 Oneida Street	1.40	0.40	\$ 200.00
43	Fire Station No. 15	1375 Harrison	6.62	1.88	\$ 940.00
46	Fire Station No. 3	2500 Washington Street	3.99	1.14	\$ 570.00
47	Fire Station No. 8	1612 Marion Street	6.17	1.76	\$ 880.00
49	Five Points Branch Library	2855 Tremont Place	4.00	1.14	\$ 570.00
50	DeProductions Facility	700 Kalamah St.	1.97	0.03	\$ 12.50
52	Ford Warren Branch Library	2825 High Street	5.19	1.48	\$ 740.00
53	Ross Cherry Creek Branch Library	305 Milwaukee Street	5.68	1.62	\$ 810.00
57	Fire Station No. 27	12927 Albrook Drive	9.96	2.84	\$ 1,420.00
63	Denver Health Medical Center	777 Bannock	3.21	0.91	\$ 455.00
70	Montbello Branch Library	12955 Albrook Drive	9.96	2.84	\$ 1,420.00
74	Traffic Signal 7 of 7	Alameda and Quebec	6.09	1.73	\$ 865.00
77	Motor Vehicle/DPD/DHS	4685 Peoria	9.56	2.72	\$ 1,360.00
86	Schlesman Branch Library	100 Poplar Street	3.60	1.02	\$ 510.00
94	Park Hill Branch Library	2000 Dexter Street	4.07	1.16	\$ 580.00
124	Fire Station No. 29	4800 Himalaya	15.59	4.44	\$ 2,220.00
129	Traffic Tie Montview & Quebec	Den Trff Tie NE Hub to Mont & Queb	0.67	0.19	\$ 95.00
133	Police District No. 2	3822 Holly Street	3.02	0.86	\$ 430.00
134	TV Services/498	2390 Syracuse	1.43	0.41	\$ 205.00
135	Pauline Robinson Branch Library	5575 E. 33rd Avenue	2.86	0.81	\$ 405.00
136	Valdez-Perry Branch Library	4690 Vine Street	7.98	2.27	\$ 1,135.00
137	Motor Vehicle Central Branch	2736 Welton	4.07	1.16	\$ 580.00
139	Traffic Signal	Martin Luther King and Downing	4.15	1.18	\$ 590.00
140	Traffic Signal	14th and Colorado	3.79	1.08	\$ 540.00
141	Traffic Signal	Boulevard	9.47	2.70	\$ 1,350.00
142	Traffic Signal	56th and Tower Road	12.77	3.64	\$ 1,820.00
143	City and County Annex II	414 14th Avenue	0.18	0.05	\$ 25.00
144	CCOB	201 W. Colfax	0.25	0.07	\$ 35.00
146	Fire Station No. 4	1890 W. Lawrence Street	2.44	0.69	\$ 345.00
147	Fire Station No. 1	745 W. Colfax	3.41	0.97	\$ 485.00
148	Fire Station No. 6	1300 Blake Street	1.65	0.47	\$ 235.00
149	African American Research Library	Welton & Park Avenue	3.54	1.01	\$ 505.00
Hub 1	City and County Building	1437 Bannock	3.46	0.98	\$ 490.00
	Denver Justice Center	Colfax & Elati	2.32	0.74	\$ 370.00
<b>Total City Maintenance Fee per year</b>					<b>\$ 71,014.91</b>

**Contract Control Number:**

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of

SEAL

**CITY AND COUNTY OF DENVER**

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_



**Contract Control Number:** TECHS-201313842-00

**Contractor Name:** COMCAST CABLE COMMUNICATIONS LLC

By: 

Name: Mark O'Leary  
(please print)

Title: VP Enterprise  
(please print)

**ATTEST: [if required]**

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

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)

