

CITY OF GRANITE FALLS

RESOLUTION NO. 03-06

A RESOLUTION OF THE CITY OF GRANITE FALLS  
APPROVING A FRANCHISE AGREEMENT WITH  
TELE-VUE SYSTEMS, INC., DBA COMCAST, FOR  
A TELEVISION CABLE SYSTEM WITHIN THE CITY  
OF GRANITE FALLS, WASHINGTON.

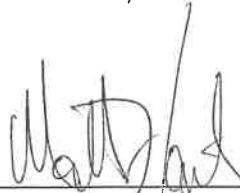
WHEREAS, the City of Granite Falls has historically entered into a nonexclusive Franchise Agreement which authorizes the Cable System to provide services, facilities, and equipment necessary to meet the current and future cable-related needs of its residents; and

WHEREAS, Tele-Vue Systems, Inc., dba Comcast, has provided this service under a Franchise Agreement, for and on behalf of the City and its residents; and

WHEREAS, it has been approved by the City Council to approve a Franchise Agreement with Tele-Vue Systems, Inc., dba Comcast for a period of fifteen (15) years.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and agreements contained herein (attached and incorporated by reference), it is agreed that the City shall enter into a Franchise Agreement with Tele-Vue Systems, Inc., dba Comcast for a period of fifteen (15) years.

ADOPTED by the City Council of the City of Granite Falls, Washington, at its regular meeting of June 25, 2003.



\_\_\_\_\_  
Matt Hartman, Mayor

Attest:

  
\_\_\_\_\_  
Benny James  
City Clerk

# **FRANCHISE AGREEMENT**

**Between**

**City of Granite Falls,  
Washington**

**And**

**Tele-View Systems, Inc.**

## FRANCHISE AGREEMENT

This Franchise Agreement ("Franchise") is between the City of Granite Falls hereinafter referred to as "Franchising Authority" and Tele-Vue Systems, Inc., dba AT&T Broadband, hereinafter referred to as "Grantee."

The Franchising Authority, having determined that the Grantee has substantially complied with the material terms of the current Franchise under applicable law, and that the financial, legal, and technical ability of the Grantee is reasonably sufficient to provide services, facilities, and equipment necessary to meet the future cable-related needs of the community, and having afforded the public adequate notice and opportunity for comment, desires to enter into this Franchise with the Grantee for the construction and operation of a cable system on the terms set forth herein.

### SECTION 1 Definition of Terms

**1.1 Terms.** For the purpose of this Franchise, the following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number:

- A. "Basic Cable" is the lowest priced tier of Cable Service that includes the retransmission of local broadcast television signals.
- B. "Cable Act" means Title VI of the Communications Act of 1934, as amended.
- C. "Cable Services" shall mean (1) the one-way transmission to Subscribers of (a) video programming, or (b) other programming service, and (2) Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.
- D. "Cable System" shall mean the Grantee's 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 the Service Area.

- E. "FCC" means Federal Communications Commission, or successor governmental entity thereto.
- F. "Franchising Authority" means the City of Granite Falls or the lawful successor, transferee, or assignee thereof.
- G. "Grantee" means Tele-View Systems, Inc., or the lawful successor, transferee, or assignee thereof.
- H. "Gross Revenues" means any revenue derived by the Grantee from the operation of the Cable System to provide Cable Services in the Service Area, provided, however, that such phrase shall not include: (1) any tax, fee or assessment of general applicability collected by the Grantee from Subscribers for pass-through to a government agency; (2) unrecovered bad debt; and (3) any PEG capital support recovered from or passed through to Subscribers. Grantee shall conduct its accounting activities, including the booking of revenue, in accordance with Generally Accepted Accounting Principles ("GAAP").
- I. "Person" means an individual, partnership, association, joint stock company, trust, corporation, or governmental entity.
- J. "Public Way" shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the Franchising Authority in the Service Area which shall entitle the Franchising Authority and the Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System. Public Way shall also mean any easement now or hereafter held by the Franchising Authority within the Service Area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the Franchising Authority and the Grantee to the use thereof for the purposes of installing and operating the Grantee's Cable System over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the Cable System.

- K. "Service Area" means the present boundaries of the Franchising Authority, and shall include any additions thereto by annexation or other legal means, subject to the exceptions in Section 3.9.
- L. "Standard Installation" is defined as 125 aerial feet from the nearest tap to the Subscriber's terminal.
- M. "Subscriber" means a Person who lawfully receives Cable Service via the Cable System with the Grantee's express permission.

## SECTION 2 Grant of Franchise

**2.1 Grant.** The Franchising Authority hereby grants to the Grantee a nonexclusive Franchise which authorizes the Grantee to construct and operate a Cable System in, along, among, upon, across, above, over, under, or in any manner connected with Public Ways within the Service Area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any Public Way such facilities and equipment as may be necessary or appurtenant to the Cable System.

**2.2 Other Ordinances.** The Grantee agrees to comply with the terms of any lawfully adopted generally applicable local ordinance, to the extent that the provisions of the ordinance do not have the effect of limiting the benefits or expanding the obligations of the Grantee that are granted by this Franchise. Grantee reserves the right to challenge provisions of any ordinance that conflicts with its contractual rights, either now or in the future. In the event of a conflict between any ordinance and this Franchise, the Franchise shall control, provided however that the Grantee agrees that it is subject to the lawful exercise of the police power of the Franchising Authority.

**2.3 Equal Protection.** The Franchising Authority shall not authorize or permit any Person to enter into the Franchising Authority's Public Ways for the purpose of constructing or operating a Cable System or providing Cable Service to any part of the Service Area on terms or conditions more favorable or less burdensome to such Person than those applied to the Grantee pursuant to this Franchise, in order that one operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law.

**2.4 Term.** The Franchise granted hereunder shall be for a term of 15 years commencing on the effective date of the Franchise as set forth in Section 8.6, unless otherwise lawfully terminated in accordance with the terms of this Franchise.

**SECTION 3**  
**Standards of Service**

**3.1 System Upgrade.** Within thirty-six (36) months of the effective date of this Franchise, the Grantee shall physically rebuild, upgrade or otherwise modify its Cable System to be capable of transmitting at least one hundred sixty-six (166) video programming choices, thirty (30) audio choices, and bi-directional on-line data services with access to the Internet, such as the programming provided through AT&T Broadband Internet service, to Subscribers. A rebuild, upgrade or modification of the Cable System shall be one means of satisfying this requirement. The Grantee may utilize alternative technologies (including compression or servers) to deliver such programming choices and options. Provided, however, that the requirements of this Section shall not apply if the Franchise Area is subject to effective competition as defined by applicable federal law.

If the Grantee rebuilds or upgrades the Cable System, the upgraded Cable System will use a fiber to the neighborhood node architecture. This will involve deployment of fiber optic cable from the headend to the node throughout those portions of the Cable System to be upgraded. The upgraded plant will tie into a hybrid fiber-coaxial Cable System already serving Subscribers.

As designed, upgraded and maintained, the facilities on the Cable System must be able to deliver high quality signals that meet, or exceed, FCC technical quality standards regardless of the particular manner in which the signal is transmitted.

**3.2 Conditions of Occupancy.** The Cable System installed by the Grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of Public Ways and with the rights and reasonable convenience of property owners who own property adjacent to any such Public Ways.

**3.3 Restoration of Public Ways.** If during the course of the Grantee's construction, operation, or maintenance of the Cable System there occurs a disturbance of any Public Way by the Grantee, at its expense Grantee shall replace and restore such Public Way to a condition reasonably comparable to the condition of the Public Way existing immediately prior to such disturbance. Grantee's restoration shall be guaranteed for one (1) year.

**3.4 Relocation at Request of the Franchising Authority.** Upon its receipt of reasonable advance written notice, to be not less than ten (10) business days, the Grantee, at its own expense, shall protect, support, temporarily disconnect, relocate in or remove from the Public Way, any property of the Grantee when lawfully required by the Franchising Authority by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of

sewers, drains, gas or water pipes, or any other type of structures or improvements by the Franchising Authority which are not used to compete with the Grantee's services. The Grantee shall in all cases have the right of abandonment of its property. If public funds are available to any Person using such Public Way for the purpose of defraying the cost of any of the foregoing, the Franchising Authority shall make application for such funds on behalf of the Grantee.

**3.5 Relocation at Request of Third Party.** The Grantee shall, on the request of any Person holding a building moving permit issued by the Franchising Authority, temporarily raise or lower its Cable System to permit the moving of such building, provided: (A) the expense of such temporary raising or lowering of the Cable System is paid by said Person, including, if required by the Grantee, making such payment in advance; and (B) the Grantee is given not less than ten (10) business days advance written notice to arrange for such temporary wire changes.

**3.6 Trimming of Trees and Shrubbery.** The Grantee shall have the authority to trim trees or other natural growth in order to access and maintain the Cable System.

**3.7 Safety Requirements.** Construction, operation, and maintenance of the Cable System shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with generally applicable federal, state, and local regulations and the National Electric Safety Code. The Cable System shall not endanger or unreasonably interfere with the safety of Persons or property in the Service Area.

**3.8 Underground Construction.** In those areas of the Service Area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, the Grantee likewise shall construct, operate, and maintain its Cable System underground. Nothing contained in this Section shall require the Grantee to construct, operate, and maintain underground any ground-mounted appurtenances.

**3.9 Access to Open Trenches.** The Franchising Authority agrees to include the Grantee in the platting process for any new subdivision. At a minimum, the Franchising Authority agrees to require as a condition of issuing a permit for open trenching to any utility or developer that (A) the utility or developer give the Grantee at least ten (10) days advance written notice of the availability of the open trench, and (B) that the utility or developer provide the Grantee with reasonable access to the open trench.

**3.10 Required Extensions of the Cable System.** Whenever the Grantee receives a request for Cable Service from a Subscriber in a contiguous unserved area where there are at least 15 residences within 1320 cable-bearing strand feet from the portion of Grantee's trunk or distribution cable which is to be extended, it shall extend its Cable System to

such Subscriber at no cost to said Subscriber for the Cable System extension, other than the published Standard/non-Standard Installation fees charged to all Subscribers. Notwithstanding the foregoing, the Grantee shall have the right, but not the obligation, to extend the Cable System into any portion of the Service Area where another operator is providing Cable Service, into any annexed area which is not contiguous to the present Service Area of the Grantee, or into any area which is financially or technically infeasible due to extraordinary circumstances, such as a runway or freeway crossing.

**3.11 Subscriber Charges for Extensions of the Cable System.** No Subscriber shall be refused service arbitrarily. However, if an area does not meet the density requirements of Section 3.9 above, the Grantee shall only be required to extend the Cable System to Subscriber(s) in that area if the Subscriber(s) are willing to share the capital costs of extending the Cable System. Specifically, the Grantee shall contribute a capital amount equal to the construction cost per mile, multiplied by a fraction whose numerator equals the actual number of residences per 1320 cable-bearing strand feet from Grantee's trunk or distribution cable, and whose denominator equals 15. Subscribers who request service hereunder shall bear the remaining cost to extend the Cable System on a *pro rata* basis. The Grantee may require that payment of the capital contribution in aid of construction borne by such potential Subscribers be paid in advance. Subscribers shall also be responsible for any Standard/non-Standard Installation charges to extend the Cable System from the tap to the residence.

**3.12 Emergency Use.** If the Grantee provides an Emergency Alert System ("EAS"), then the Franchising Authority shall permit only appropriately trained and authorized Persons to operate the EAS equipment and shall take reasonable precautions to prevent any use of the Grantee's Cable System in any manner that results in inappropriate use thereof, or any loss or damage to the Cable System. Except to the extent expressly prohibited by law, the Franchising Authority shall hold the Grantee, its employees, officers and assigns harmless from any claims arising out of use of the EAS, including, but not limited to, reasonable attorneys' fees and costs.

**3.13 Cable Service to Public Buildings.** The Grantee, upon request, shall provide without charge, a Standard Installation and one outlet of Basic Cable to those administrative buildings owned and occupied by the Franchising Authority, fire station(s), police station(s), and accredited K-12 public school(s) that are passed by its Cable System. Cable Service to the City described herein is a voluntary initiative of Grantee and is not a requirement under this Agreement. The Cable Service provided shall not be distributed beyond the originally installed outlet without authorization from Grantee. The Cable Service provided shall not be used for commercial purposes, and such outlets shall not be located in areas open to the public. The Franchising Authority shall take reasonable precautions to prevent any use of the Grantee's Cable System in any manner that results in the inappropriate use thereof or any loss or damage to the Cable System.



The Franchising Authority shall hold the Grantee harmless from any and all liability or claims arising out of the provision and use of Cable Service required by this Section. The Grantee shall not be required to provide an outlet to such buildings where a non-Standard Installation is required, unless the Franchising Authority or building owner/occupant agrees to pay the incremental cost of any necessary Cable System extension and/or non-Standard Installation. If additional outlets of Basic Cable are provided to such buildings, the building owner/occupant shall pay the usual installation and service fees associated therewith.

**3.14 Access Channels.** Upon completion of the Cable System upgrade described in Section 3.1, Grantee may, upon sixty (60) days written request, provide the City one (1) Public, Education, Government (PEG) Access Channel to be shared with other neighboring communities for non-commercial local government programming pursuant to the provisions of the Cable Act, Sect. 611 (47 USC §531) to be promoted and administered by the Franchising Authority or its designee.

**3.15 Capital Contribution.** For the purpose of achieving the objectives set forth in Section 3.14, the City reserves the right to require the Grantee to provide cablecasting equipment for City use. In the event that the City exercises its rights under this Section, the Grantee shall provide a recommended list of such equipment within thirty (30) days. The Grantee shall purchase this equipment, or its equivalent, or make funds available for this purpose, within sixty (60) days after written request by the City. The Grantee shall, within 60 days of request, also provide a character generator and access to its Cable System. Such expenditures may be considered as an external cost pass-through in the context of applicable federal regulations.

## **SECTION 4**

### **Regulation by the Franchising Authority**

#### **4.1 Franchise Fee.**

A. The Grantee shall pay to the Franchising Authority a franchise fee equal to five percent (5%) of Gross Revenues (as defined in Section 1.1 of this Franchise). The franchise fee payment shall be due quarterly and payable within 45 days after the close of the preceding calendar quarter. Each payment shall be accompanied by a brief report prepared by a representative of the Grantee showing the basis for the computation.

B. **Limitation on Franchise Fee Actions.** The period of limitation for recovery of any franchise fee payable hereunder shall be three (3) years from the date on which payment by the Grantee is due.

**4.2 Rates and Charges.** The Franchising Authority may regulate rates for the provision of Basic Cable and equipment as expressly permitted by federal or state law.

**4.3 Renewal of Franchise.**

A. The Franchising Authority and the Grantee agree that any proceedings undertaken by the Franchising Authority that relate to the renewal of the Grantee's 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 Franchising Authority agrees to notify the Grantee of all of its assessments regarding the identity of future cable-related community needs and interests, as well as the past performance of the Grantee under the then current Franchise term. The Franchising Authority further agrees that such assessments shall be provided to the Grantee promptly so that the Grantee has adequate time to submit a proposal under Section 626(b) of the Cable Act and complete renewal of the Franchise prior to expiration of its term.

C. Notwithstanding anything to the contrary set forth in this Section, the Grantee and the Franchising Authority agree that at any time during the term of the then current Franchise, while affording the public appropriate notice and opportunity to comment, the Franchising Authority and the Grantee may agree to undertake and finalize informal negotiations regarding renewal of the then current Franchise and the Franchising Authority may grant a renewal thereof.

D. The Grantee and the Franchising Authority consider the terms set forth in this Section to be consistent with the express provisions of Section 626 of the Cable Act.

**4.4 Conditions of Sale.** If a renewal or extension of the Grantee's Franchise is denied or the Franchise is lawfully terminated, and the Franchising Authority either lawfully acquires ownership of the Cable System or by its actions lawfully effects a transfer of ownership of the Cable System to another party, any such acquisition or transfer shall be at the price determined pursuant to the provisions set forth in Section 627 of the Cable Act.

The Grantee and the Franchising Authority agree that in the case of a final determination of a lawful revocation of the Franchise, the Grantee shall be given at least twelve (12) months to effectuate a transfer of its Cable System to a qualified third party. Furthermore, the Grantee shall be authorized to continue to operate pursuant to the terms of its prior Franchise during this period. If, at the end of that time, the Grantee is

unsuccessful in procuring a qualified transferee or assignee of its Cable System that is reasonably acceptable to the Franchising Authority, the Grantee and the Franchising Authority may avail themselves of any rights they may have pursuant to federal or state law. It is further agreed that the Grantee's continued operation of the Cable System during the twelve (12) month period shall not be deemed to be a waiver, nor an extinguishment of, any rights of either the Franchising Authority or the Grantee.

**4.5 Transfer of Franchise.** The Grantee's right, title, or interest in the Franchise shall not be sold, transferred, assigned, or otherwise encumbered, other than to an entity controlling, controlled by, or under common control with the Grantee, without the prior consent of the Franchising Authority, such consent not to be unreasonably withheld. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or Cable System in order to secure indebtedness. Within thirty (30) days of receiving a request for transfer, the Franchising Authority shall notify the Grantee in writing of any additional information it reasonably requires to determine the legal, financial and technical qualifications of the transferee. If the Franchising Authority has not taken action on the Grantee's request for transfer within one hundred twenty (120) days after receiving such request, consent by the Franchising Authority shall be deemed granted.

## **SECTION 5** **Books and Records**

The Grantee agrees that the Franchising Authority, upon thirty (30) days written notice to the Grantee, may review such of its books and records at the Grantee's business office, during normal business hours and on a nondisruptive basis, as is reasonably necessary to ensure compliance with the terms of this Franchise. Such notice shall specifically reference the Section of the Franchise that is under review, so that the Grantee may organize the necessary books and records for easy access by the Franchising Authority. Alternatively, if the books and records are not easily accessible at the local office of the Grantee, Grantee may, at its sole option, choose to pay the reasonable travel costs of the Franchising Authority's representative to view the books and records at the appropriate location. The Grantee shall not be required to maintain any books and records for Franchise compliance purposes longer than three (3) years. Notwithstanding anything to the contrary set forth herein, the Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature. The Franchising Authority agrees to treat any information disclosed by the Grantee as confidential and only to disclose it to employees, representatives, and agents thereof that have a need to know, or in order to enforce the provisions hereof. The Grantee shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act.

**SECTION 6**  
**Insurance and Indemnification**

**6.1 Insurance Requirements.** The Grantee shall maintain in full force and effect, at its own cost and expense, during the term of the Franchise, Commercial General Liability Insurance in the amount of \$1,000,000 combined single limit for bodily injury and property damage. The Franchising Authority shall be designated as an additional insured. Such insurance shall be noncancellable except upon thirty (30) days prior written notice to the Franchising Authority. Upon written request, the Grantee shall provide a Certificate of Insurance showing evidence of the coverage required by this Section.

**6.2 Indemnification.** The Grantee agrees to indemnify, save and hold harmless, and defend the Franchising Authority, its officers, boards and employees, from and against any liability for damages and for any liability or claims resulting from property damage or bodily injury (including accidental death), which arise out of the Grantee's construction, operation, or maintenance of its Cable System, provided that the Franchising Authority shall give the Grantee written notice of its obligation to indemnify the Franchising Authority within ten (10) days of receipt of a claim or action pursuant to this Section. If the Franchising Authority determines that it is necessary for it to employ separate counsel, the costs for such separate counsel shall be the responsibility of the Franchising Authority.

**6.3 Bonds and Other Surety.** Except as expressly provided herein, the Grantee shall not be required to obtain or maintain bonds or other surety as a condition of being awarded the Franchise or continuing its existence. The Franchising Authority acknowledges that the legal, financial, and technical qualifications of the Grantee are sufficient for compliance with the terms of the Franchise and the enforcement thereof. The Grantee and the Franchising Authority recognize that the costs associated with bonds and other surety may ultimately be borne by the Subscribers in the form of increased rates for services. In order to minimize such costs, the Franchising Authority agrees to require bonds and other surety only in such amounts and during such times as there is a reasonably demonstrated need therefor. The Franchising Authority agrees that in no event, however, shall it require a bond or other related surety in an aggregate amount greater than \$50,000, conditioned upon the substantial performance of the material terms, covenants, and conditions of the Franchise. Initially, no bond or other surety will be required. In the event that a bond or other surety is required in the future, the Franchising Authority agrees to give the Grantee at least sixty (60) days prior written notice thereof stating the reason for the requirement. Such reason must demonstrate a change in the Grantee's legal, financial, or technical qualifications that would materially prohibit or impair its ability to comply with the terms of the Franchise or afford compliance therewith.

**SECTION 7**  
**Enforcement and Termination of Franchise**

**7.1 Notice of Violation.** In the event that the Franchising Authority believes that the Grantee has not complied with the terms of the Franchise, the Franchising Authority shall informally discuss the matter with Grantee. If these discussions do not lead to resolution of the problem, the Franchising Authority shall notify the Grantee in writing of the exact nature of the alleged noncompliance.

**7.2 The Grantee's Right to Cure or Respond.** The Grantee shall have thirty (30) days from receipt of the notice described in Section 7.1: (A) to respond to the Franchising Authority, contesting the assertion of noncompliance, or (B) to cure such default, or (C) in the event that, by the nature of default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the Franchising Authority of the steps being taken and the projected date that they will be completed.

**7.3 Public Hearing.** In the event that the Grantee fails to respond to the notice described in Section 7.1 pursuant to the procedures set forth in Section 7.2, or in the event that the alleged default is not remedied within thirty (30) days or the date projected pursuant to 7.2(C) above, if it intends to continue its investigation into the default, then the Franchising Authority shall schedule a public hearing. The Franchising Authority shall provide the Grantee at least ten (10) days prior written notice of such hearing, which specifies the time, place and purpose of such hearing, and provide Grantee the opportunity to be heard.

**7.4 Enforcement.** Subject to applicable federal and state law, in the event the Franchising Authority, after the hearing set forth in Section 7.3, determines that the Grantee is in default of any provision of the Franchise, the Franchising Authority may:

- A. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages;
- B. Commence an action at law for monetary damages or seek other equitable relief; or
- C. In the case of a substantial default of a material provision of the Franchise, seek to revoke the Franchise in accordance with Section 7.5.

**7.5 Revocation.** Should the Franchising Authority seek to revoke the Franchise after following the procedures set forth in Section 7.1-7.4 above, the Franchising Authority shall give written notice to the Grantee of its intent. The notice shall set forth the exact nature of the noncompliance. The Grantee shall have ninety (90) days from such notice to object in writing and to state its reasons for such objection. In the event

the Franchising Authority has not received a satisfactory response from the Grantee, it may then seek termination of the Franchise at a public hearing. The Franchising Authority shall cause to be served upon the Grantee, at least thirty (30) days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to revoke the Franchise.

At the designated hearing, the Franchising Authority shall give the Grantee an opportunity to state its position on the matter, after which it shall determine whether or not the Franchise shall be revoked. The Grantee may appeal such determination to an appropriate court, which shall have the power to review the decision of the Franchising Authority *de novo*. Such appeal to the appropriate court must be taken within sixty (60) days of the issuance of the determination of the Franchising Authority.

The Franchising Authority may, at its sole discretion, take any lawful action that it deems appropriate to enforce the Franchising Authority's rights under the Franchise in lieu of revocation of the Franchise.

**7.6 Force Majeure.** The Grantee shall not be held in default under, or in noncompliance with, the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by circumstances reasonably beyond the ability of the Grantee to anticipate and control. This provision includes work delays caused by waiting for utility providers to service or monitor their utility poles to which the Grantee's Cable System is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary.

Furthermore, the parties hereby agree that it is not the Franchising Authority's intention to subject the Grantee to penalties, fines, forfeitures or revocation of the Franchise for violations of the Franchise where the violation was a good faith error that resulted in no or minimal negative impact on the Subscribers within the Service Area, or where strict performance would result in practical difficulties and hardship to the Grantee which outweigh the benefit to be derived by the Franchising Authority and/or Subscribers.

## **SECTION 8** **Miscellaneous Provisions**

**8.1 Actions of Parties.** In any action by the Franchising Authority or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

**8.2 Entire Agreement.** This Franchise constitutes the entire agreement between the Grantee and the Franchising Authority. Amendments to this Franchise shall be in writing and based on a mutually acceptable agreement between the parties.

**8.3 Notice.** Unless expressly otherwise agreed between the parties, every notice or response required by this Franchise to be served upon the Franchising Authority or the Grantee shall be in writing, and shall be deemed to have been duly given to the required party when placed in a properly sealed and correctly addressed envelope: a) upon receipt when hand delivered with receipt/acknowledgment, b) upon receipt when sent certified, registered mail, or c) within five (5) business days after having been posted in the regular mail.

The notices or responses to the Franchising Authority shall be addressed as follows:

The City of Granite Falls  
Attn: City Clerk  
P.O. Box 1440  
Granite Falls, WA 98252

The notices or responses to the Grantee shall be addressed as follows:

Tele-Vue Systems, Inc.  
Attn.: Area Director  
1525 75<sup>th</sup> St. S.W., Suite 200  
Everett, WA 98203

with a copy to:

Tele-Vue Systems, Inc.  
Attn.: Franchising  
22025 30<sup>th</sup> Ave. S.E.  
Bothell, WA 98021

The Franchising Authority and the Grantee may designate such other address or addresses from time to time by giving notice to the other in the manner provided for in this Section.

**8.4 Descriptive Headings.** The captions to Sections contained herein are intended solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text herein.

**8.5 Severability.** If any Section, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other Section, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Franchise.

**8.6 Effective Date.** The effective date of this Franchise is June 25, 2003, pursuant to the provisions of applicable law. This Franchise shall expire on June 25, 2018, unless extended by the mutual agreement of the parties.

Considered and approved this 25 day of June, 2003.

City of Granite Falls  
Signature: [Handwritten Signature]  
Name/Title: Matt Hartman, Mayor

Accepted this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, subject to applicable federal, state and local law.

Tele-Vue Systems, Inc.  
Signature: \_\_\_\_\_  
Name/Title: \_\_\_\_\_