

RESOLUTION R-5402

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING THE EXTENSION OF THE CABLE FRANCHISE HELD BY FRONTIER COMMUNICATIONS NORTHWEST INC. AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN EXTENSION AGREEMENT.

1           WHEREAS, Frontier Communications Northwest Inc.  
2 ("Franchisee"), a wholly owned subsidiary of Frontier  
3 Communications Corporation ("Frontier") currently provides cable  
4 services in the City of Kirkland pursuant to the terms of a  
5 Franchise Agreement with the City effective as of November 1,  
6 2008, together with that certain Transfer of Control Agreement  
7 which was executed and effective as of January 26, 2010, which  
8 modified certain terms of the Franchise Agreement (the Franchise  
9 Agreement together with the Transfer of Control Agreement, are  
10 referred to herein as the "Frontier Franchise Agreement"); and

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12           WHEREAS, the Frontier Franchise Agreement expired as of  
13 November 1, 2018, and has not been formally renewed or  
14 extended; and

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16           WHEREAS, the Franchisee has continued to perform its  
17 obligations under the Frontier Franchise Agreement since such  
18 expiration; and

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20           WHEREAS, the City has reached a proposed Extension  
21 Agreement with the Franchisee on terms and conditions under  
22 which the City would be willing to consent to a reinstatement and  
23 extension of the Frontier Franchise Agreement to November 1,  
24 2021, under modified terms; and

25  
26           WHEREAS, the City Council believes that the proposed  
27 terms and conditions contained in the Extension Agreement are  
28 reasonable and fair, and assures the City and its residents  
29 continued full performance of the Franchise obligations by the  
30 Franchisee.

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32           NOW, THEREFORE, be it resolved by the City Council of  
33 the City of Kirkland as follows:

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35           Section 1. The City Council hereby approves the extension  
36 of the Frontier Franchise Agreement as set forth in the Extension  
37 Agreement and subject to the acceptance and execution of the

38 Extension Agreement by the Franchisee and delivery of same to  
39 the City within 30 days of the date of this Resolution.

40  
41 Section 2. The City Manager is hereby authorized and  
42 directed to execute on behalf of the City an Extension Agreement  
43 substantially similar to the Agreement attached hereto as Exhibit  
44 "A."

45  
46 Passed by majority vote of the Kirkland City Council in open  
47 meeting this 19th day of November, 2019.

48  
49 Signed in authentication thereof this 19th day of  
50 November, 2019.

  
\_\_\_\_\_  
Penny Sweet, Mayor

Attest:

  
\_\_\_\_\_  
Kathi Anderson, City Clerk

## CABLE FRANCHISE EXTENSION AGREEMENT

THIS CABLE FRANCHISE EXTENSION AGREEMENT (the “Extension Agreement”), made this \_\_\_ day of \_\_\_\_\_, 2019, is entered into by and between the **City of Kirkland, Washington** (the “City”), and **Frontier Communications Northwest Inc.** (“Franchisee”), a corporation duly organized, validly existing, and in good standing under the applicable laws of the State of Washington.

WHEREAS, Franchisee, a wholly owned subsidiary of Frontier Communications Corporation (“Frontier”) currently provides cable services within the geographic boundaries of the City of Kirkland pursuant to the terms of a Franchise Agreement with the City effective as of November 1, 2008, together with that certain Transfer of Control Agreement which was executed and effective as of January 26, 2010, which modified certain terms of the Franchise Agreement (the Franchise Agreement together with the Transfer of Control Agreement, are referred to herein as the “Frontier Franchise Agreement”);

WHEREAS, the Frontier Franchise Agreement expired as of November 1, 2018, and has not been renewed or extended; and

WHEREAS, Franchisee and the City have continued to perform their respective obligations under the Frontier Franchise Agreement and have expressed a mutual desire to reinstate and extend the Frontier Franchise Agreement, subject to the modifications and the terms and conditions of this Extension Agreement.

NOW, THEREFORE, the City and Franchisee hereby agree as follows:

1. The original terms, conditions, and provisions of the Frontier Franchise Agreement are reinstated and in full force and effect as if the Frontier Franchise Agreement had not expired, and the Frontier Franchise Agreement, as amended hereby, shall remain in full force and effect until it expires or is terminated. Franchisee hereby confirms and reaffirms any and all representations set forth in the Frontier Franchise Agreement. Franchisee further represents and warrants that it is not in default under the Frontier Franchise Agreement, and no event has occurred which with notice or lapse of time or both would constitute a default under the Frontier Franchise Agreement.
2. Section 2.3 (*Term*) of the Frontier Franchise Agreement is hereby amended to delete the words “ten (10) years” and replace them with “thirteen (13) years.”
3. Section 5.1.2 of the Frontier Franchise Agreement is hereby amended to add the words “and the two (2) Government Access Channels in high definition (HD) digital format as set forth in Section 5.1.6,” to the first sentence just before the words “and shall reserve three (3) additional...”
4. Further, a new Section 5.1.6 shall be added following Section 5.1.5 of the Frontier Franchise Agreement, as follows:

5.1.6 *HD PEG Channels*: The Franchisee shall simulcast the two (2) Government Access Channels in high definition (HD) format under the following conditions:

5.1.6.1 On or before January 31, 2020, Franchisee shall activate both simulcast HD PEG Channels as directed by the City.

5.1.6.2 For the purpose of monitoring the HD PEG Channels, the Franchisee shall provide two (2) HD cable boxes to the City at the PEG Origination Site with no monthly cost for the HD service and equipment.

5.1.6.3 The Franchisee shall be responsible for all costs associated with activating the simulcast HD PEG Channels.

5.1.6.4 Upon activation of the simulcast HD PEG Channels, Franchisee shall own and maintain the encoder equipment used to transmit the HD signal from the PEG Origination Site.

5. Section 2.5 (*Franchise Subject to Federal Law*) of the Frontier Franchise Agreement is hereby amended by adding the following sentence to the end of that section: “Provided that, this section does not permit either party to unilaterally determine that any express obligation of this agreement violates federal law or regulations; and provided further, that before exercising any rights or making any claims Franchisee believes it may have regarding in-kind contributions under the Federal Communications Commission’s Third Report and Order (FCC-19-80) in MB Docket No. 05-311, 34 FCC Rcd 6844 (2019), the Franchisee agrees to provide the City a minimum of six (6) months’ advance written notice together with the particulars of the action the Franchisee proposes to take.”
6. Except as modified by this Extension Agreement, all other terms and conditions of the Franchise Agreement shall remain the same.
7. Franchisee agrees that this Extension Agreement shall be binding on each and all of its permitted assignees, transferees, and/or other successors in interest. Nothing in this Extension Agreement shall in any respect relieve the Franchisee or any of its permitted assignees, transferees, and/or other successors in interest of responsibility for past acts or omissions, known or unknown with respect to provision of cable service pursuant to the Frontier Franchise Agreement. Franchisee agrees that it shall be liable for any such acts and omissions, known and unknown, including liability for any and all previously accrued but unfulfilled obligations to the City under the Frontier Franchise Agreement and applicable law, for all purposes.

AGREED TO AS OF THE EFFECTIVE DATE ABOVE-WRITTEN.

CITY OF KIRKLAND

By: \_\_\_\_\_  
Kurt Triplett, City Manager

FRONTIER COMMUNICATIONS NORTHWEST INC.

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