

**ORDINANCE 2011-14**

**AN ORDINANCE OF THE TOWN OF EATONVILLE, WASHINGTON, GRANTING MASHEL TELECOM, INC. D/B/A RAINIER CONNECT, A NON-EXCLUSIVE FRANCHISE TO CONSTRUCT, INSTALL AND OPERATE, REPAIR, REPLACE AND MAINTAIN LINES, WIRES, COAXIAL CABLE AND APPURTENANCES FOR ORIGINATING, RECEIVING, DISTRIBUTING AND SUPPLYING RADIO, TELEVISION AND OTHER CABLE COMMUNICATION SERVICES ALONG, ACROSS AND UPON THE PUBLIC'S STREET, WAYS, ALLEYS AND PLACES WITHIN THE TOWN OF EATONVILLE, PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Eatonville owns right of way within its borders and is entitled to require a franchise agreement with users of its right of way for the privilege of placing structures within its right of way; and

**WHEREAS**, under a franchise agreement the Town is authorized by federal law to impose a franchisee fee on the gross receipts of the earnings of a cable provider, and to regulate certain aspects of the provision of cable services by a cable provider to its customers;

**WHEREAS**, the Town Council desires to enter into a franchise agreement with Mashel Telecom, Inc., and

**WHEREAS**, the Town Council held a hearing on October 10, 2011, accepted and makes findings described in Section 1 below:

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF EATONVILLE DO ORDAIN AS FOLLOWS:**

Section 1. Findings. After a public hearing held in accordance with EMC 2.04.006, the Council finds:

- (A). That the public will be benefited by the granting of a franchise to the Mashel Telecom, Inc.
- (B). That Mashel Telecom, Inc. has requisite financial and technical resources and capabilities to build, operate and maintain a cable television system in the area;
- (C). That Mashel Telecom, Inc has no conflicting interests, either financial or commercial, which will be contrary to the interests of the town;
- (D) That Mashel Telecom, Inc., will comply with all terms and conditions placed upon it by the Agreement attached as Exhibit A to this ordinance and also chapter 5.20 EMC; and
- (E) That Mashel Telecom, Inc. is capable of complying with all relevant federal, state, and local regulations pertaining to the construction, operation and maintenance of the facilities and systems incorporated in its application for a franchise.

Section 2. Authorization. The Mayor is authorized to execute the franchise agreement between the Town of Eatonville and Mashel Telecom, Inc., d/b/a Rainier Connect, attached hereto as Exhibit A, entitled "Town of Eatonville Franchise Agreement with Mashel Telecom, Inc.," the terms of which are incorporated herein by reference as if fully set forth.

Section 3. Acceptance Required. This franchise agreement shall be accepted by Mashel Telecom, Inc within thirty (30) days of receipt of the franchise agreement, after its execution by the Town, by filing with the Town Clerk an unconditional written acceptance of all of the terms, provisions, and conditions of the franchise agreement. The failure of Mashel Telecom, Inc. to file such an acceptance maybe deemed a rejection by Mashel Telecom, Inc., and this franchise may then be voidable at the discretion of the Town.

Section 4. Severability. Should any section, paragraph, sentence, clause, or clause of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 5. Effective Date. This ordinance shall take effect and be in full force five (5) days after adoption and publication subject to the provisions of Section 3, herein.

PASSED by the Council of the Town of Eatonville at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Ray Harper, Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Town Attorney

## EXHIBIT A

**FRANCHISE AGREEMENT BETWEEN TOWN OF EATONVILLE, WASHINGTON AND MASHEL TELECOM, INC.** This Franchise ("Franchise") is entered into in Eatonville, Washington, this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by and between the Town of Eatonville, Washington, a municipal corporation, (hereinafter "Town" or "the Town") and Mashel Telecom, Inc., d/b/a Rainier Connect (hereinafter "Operator" or "Franchisee"). The Town and Operator are sometimes referred to hereinafter collectively as the "Parties."

Section 1: Purpose.

This Non-exclusive franchise shall constitute an agreement between the Town and Operator. The Operator promises to construct, maintain, and operate a cable television system for the distribution of television and other electronic signals pursuant to the terms of this franchise. The Town agrees to grant the Operator all necessary rights and other electronic signals pursuant to the terms of this franchise. The Town agrees to grant the Operator all necessary rights and privileges to use public rights of way necessary for a cable television system. This agreement shall, as of its effective date, if previously accepted by the Operator, supersede and replace all existing franchises relating to Cable television only, previously granted by the Town of Eatonville to the Operator, or any of its predecessors, subsidiaries or affiliated companies.

Section 2: Length of Franchise.

The length of this franchise shall be for a term of fifteen (15) years, beginning on August 2, 2011.

Section 3: Service Area.

The Operator's service area shall be the entire incorporated area of the Town of Eatonville, in its present incorporated form or in any later reorganized, consolidated, enlarged, or re-incorporated form.

Section 4: Franchise Fee:

The Operator shall pay the Town quarterly, on or before the thirtieth (30<sup>th</sup>) day of each January, April, July, and October, a sum equal to five percent (5%) of the Operator's gross receipts as defined in EMC 5.20.010(W), now and as hereafter amended, for the immediately preceding calendar quarter.

(a) Amendment. In the event federal law, including but not limited to, the Cable Communications Policy Act of 1984, 47 U.S.C. § 521, *et seq.*, as amended, is amended by to permit an increase or decrease in the five percent (5%) franchise fee ceiling, the Town may increase or decrease its franchise fee to such an amount so allowed.

(b) Late Payment. Any quarterly franchise fee not paid by Operator within thirty (30) days of the end of a quarter shall bear interest at the rate of twelve percent (12%) per annum of the amount due, from the date due, accruing monthly, until paid.

- (c) Financial Reports. Each franchise fee payment shall be accompanied by a financial report showing the basis for the Operator's computation separately showing revenues received by Operator within the Town from basic service, pay TV service, other applicable sources of revenue, and such other information directly related to confirming the amount of the Operator's gross receipts as may be reasonably required by the Town.
- (d) Audit by Town. The Town shall have the right, upon written notice of not less than seven (7) days, to inspect the books and records of Operator, during normal business hours, for the purpose of ascertaining the actual gross receipts collected by Operator in the Town. In the event such audit shall disclose a discrepancy of more than ten percent (10%) between the financial report submitted by Operator with a quarterly payment, and the actual gross receipts collected by Operator, Operator agrees to pay to the Town the reasonable costs of such audit. In the event the audit results are disputed by the Operator, the Operator shall be entitled to a hearing before an Arbitrator, selected by both parties. Time is of the essence in resolving audit disputes and both parties agree to act within thirty (30) days of the date of the final audit report and the audit report should be issued within sixty (60) days from the time the audit was completed. In the event that such audit results in a determination that additional franchise fees are due the Town, the Operator further agrees to pay twelve percent (12%) interest per annum on such additional franchise fees computed from the date on which such additional franchise fees were due and payable.
- (e) Nonwaiver. No acceptance of any franchise fee payment by the Town shall be construed as an agreement by the Town that the franchise fee paid is in fact the correct amount, nor shall its acceptance of payment be construed as a release or waiver of any claim the Town may have for further or additional sums payable under the provisions of this franchise agreement.
- (f) Taxes. Nothing in this agreement shall limit the Operator's obligation to pay applicable local, state, or federal taxes. Operator agrees to pay any applicable amusement taxes, utility and property taxes.

Section 5: Independent Contractors.

This agreement shall not be construed to render the Operator as the agent or legal representative of the Town for any purpose whatsoever. Operator is not granted any express or implied right or authority to assume or create any obligation or responsibility on behalf of or in the name of the Town or to bind the Town in any manner or thing whatsoever.

Section 6: Entire Agreement:

This agreement, including the exhibits attached hereto and forming a part hereof (if any, which are hereby incorporated herein by reference) are all of the covenants, promises, agreements, and conditions, either oral or written, between the parties. This agreement is subject to the conditions set forth in the Eatonville Municipal Code, including but not limited to chapter 5.20 EMC, the provisions of which are incorporated herein by reference.

Section 7. Successors or Assignees.

Any successor(s) or assignee(s) of the Franchisee will comply with all sections of this franchise agreement, the Master Cable Ordinance or the Town of Eatonville, including the exhibits and addenda attached and forming a part hereof, the covenants, promises, agreements, and conditions, either oral or written, between the original signatory(s) and the town.

Section 8. Acceptance.

This grant of franchise and its terms and provisions shall be accepted by the Operator by the submission of the attached written instrument, executed and sworn to by a corporate officer of the Operator before a Notary Public, and filed with the Town Clerk within thirty (30) days after the effective date of this franchise agreement. Such instrument will constitute the unconditional acceptance of this franchise and the promise to comply with and abide by all of its provisions, terms and conditions.

Section 9. Counterpart Signatures.

The parties agree that this Agreement may be executed in counterparts. The parties further agree that a copy or facsimile reproduction of a signature shall have the same force and effect and be deemed the equivalent to an original.

Section 10. Notice.

Written notices shall be deemed to have been duly served if delivered in person to the individual or entity for whom it was intended, or if delivered at or sent by registered or certified United States mail to the last business address known to him who gives the notice.

All notices and requests shall be addressed to the Town of Eatonville and the Franchisee as follows:

Town:           Town Clerk  
                  Town of Eatonville  
                  P. O. Box 309  
                  Eatonville, Washington, 98328

Franchisee: Mashell Telecom, Inc. d/b/a Rainier Connect  
Attn: Mark Carrier, Regulatory & Compliance Manager  
P. O. Box 683  
Centralia, Washington 98531

With a Copy to:  
Mashell Telecom, Inc. d/b/a Rainier Connect  
Attn: Brian Haynes, CEO / President  
2516 Holgate St.  
Tacoma, Washington 98402

FOR THE TOWN OF EATONVILLE:

FOR MASHEL TELECOM, INC.

\_\_\_\_\_  
Ray Harper, Mayor

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

ATTEST

\_\_\_\_\_  
Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Town Attorney

ORDINANCE NO. 2006-27

AN ORDINANCE granting to Mashell Telecom, Inc., the franchise right and privilege to construct, operate and maintain a telephone system and business in the Town of Eatonville and in, along and across the streets and alleys therein and repealing any Ordinances in conflict herewith.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF EATONVILLE:

Section 1. That Mashell Telecom, Inc. is hereby granted for a period of fifteen (15) years from the passage of this Ordinance, a franchise right and privilege to erect poles and necessary supports, crossarms and fixtures, and to string wires and cables thereon, and to construct underground conduits together with the necessary manholes and other appliances, and to lay, place and stretch wires and cables therein and along, over, upon, under and across the streets and alleys of the Town of Eatonville, for the transmission of sounds, signals conversation and intelligence through and over said wires and cables by means of electricity, or any other means, and to construct, establish, equip, install, maintain and operate a telephone system and general telephone business within said Town of Eatonville.

Section 2. All conduits when practicable shall be laid in alleys and shall be placed not less than two feet below the established grade of a street or alley in which same are constructed. Conduits shall be located in conformity with such reasonable regulations as the Town Council shall prescribe. All excavations in connection therewith shall be done in compliance with the Ordinances and regulations of the Town in force at the time of the performance of such work, and in such a manner as not to cause undue interference except as may be necessarily incident to the prosecution of the work. Traps and manholes may be constructed along the line of said conduits, provided same are constructed in conformity with plans and specifications approved by the Town Public Works Director, and so as not to in any way interfere with the use of the streets and alleys by the public.

Section 3. All poles erected shall as far as practicable, be set in alleys and when erected on a street having a sidewalk, shall be placed inside of and adjoining the curb or such other location as designated by the Town. All poles shall not be less than thirty feet long and eighteen inches in circumference at the top, and shall be erected in accordance with this Ordinance and in the most approved manner. They shall be properly shaved and stenciled.

Section 4. In the event that a change of grade, lying of the sewer or water main, or the making of any public improvement in any of the streets or alleys in or along, under or across which conduits or poles may be placed, shall render necessary change in the position of said conduits or poles, traps, manholes, wires or appurtenances, the grantee herein or its successors and assigns, shall move the same at its own cost and expense in conformity with the necessities of such improvement; and in case the grantee, its successors or assigns, shall fail to comply with the provisions of this Ordinance in this regard within thirty days after notice in writing from the Town so to do, the Town may do the work required and render an account of the cost thereof to the grantee, its successors or assigns, which it and they by the acceptance of this franchise, hereby agree to pay.

Section 5. Notwithstanding the terms of the separate Agreement to Cooperate in the Construction of Facilities which exists between the grantor and grantee, there may be occasions where the Town wishes to eliminate utility poles which are jointly used by the Town and the grantee in order to place its utilities underground for beautification or other reasons. In such event and with appropriate notice, the grantee agrees to likewise, at its own cost, remove its utilities from the poles and install its cables underground in conduit within trenches excavated by the Town for the project. Reimbursement provisions contained in the Agreement to Cooperate in the Construction of Facilities shall not be applicable in circumstances referred to in this Section.

Section 6. The said grantee, its successors or assigns, during the construction, maintenance or repair of said conduits, manholes, traps, wires or appurtenances thereto, or any operation of them, shall indemnify and save harmless the Town from any and all cost and expense of any and all kinds whatsoever occasioned by such construction, maintenance, repairs or operation; and if suit or suits in law or equity shall be instituted against the Town because of any damages alleged to have been caused to any person or property on account thereof, said grantee, its successors or assigns, shall, upon notice in writing by the Town or its attorney, defend such suit or suits at its own cost and expense, and in case final judgment shall be entered in any such suit or suits against the Town, said grantee, its successors and assigns, will indemnify and save harmless the Town from the same and all expenses in connection therewith.

Section 7. Whenever any person has obtained permission to use any of the streets or alleys of the Town for the purpose of removing any building, said grantee, its successors and assigns, upon ten (10) days notice in writing from the Town Clerk, shall cut, raise or remove any

of the wires which may obstruct the removal of such building as to allow the free removal and passage of the same. In case said grantee, its successors or assigns, shall fail or refuse after such notice to comply therewith, the Town Clerk shall cut, raise and remove, or cause to be cut, raised or removed, such wires. The grantee, its successors and assigns, shall be entitled to receive, in advance, from private parties requiring the cutting, raising or removing of such wires all reasonable costs and expenses thereof.

Section 8. Grantor reserves the right to enforce such additional rules and regulations as may from time to time be deemed necessary to protect the interest, safety and welfare of the public in relation to the public rights-of-way.

Section 9. The grantee shall file an absolute and unconditional acceptance of this franchise with the Town Clerk of the Town of Eatonville within ninety (90) days after the passage of this ordinance and if said acceptance is not filed as aforesaid then this ordinance shall be null and void without any additional ordinance or act of any kind whatsoever on the part of the Town.

Section 10. Each right and privilege granted hereunder shall, without the passage of any resolution or ordinance by grantor, be null and void on the failure of grantee to comply with any of or all the terms and conditions specified herein. Grantee will be given thirty (30) days following receipt of written notice on noncompliance in which to make corrections or take other required actions. In the event of such noncompliance or default, the Grantor shall have the right to repair, correct or remedy said nonconformity or defect and charge the cost of such repair, correction or remedy to the Grantee.

Section 11. The Grantee, its successors and assigns, will make joint use of the existing light poles of Grantor where feasible to eliminate the necessity of erection of additional poles on the streets of the Grantor. The Grantee will extend the right of joint use to the Grantor on any poles erected by the Grantee. Joint use by the Grantee of Grantor's poles will be on a basis of equal value. If the joint use extended by the Grantor should exceed the joint use extended by the Grantee, an annual pole rental of \$ 10.00 per pole will be paid by the Grantee to the Grantor. If the joint use extended by the Grantee to the Grantor should exceed the joint use of Grantor's poles by the Grantee, then Grantor will pay to the Grantee an annual pole rental of like amount per pole of the Grantee jointly used by Grantor. Pole rental fees will be evaluated every three years and the parties agree to negotiate in good faith prior to each three-year anniversary of this

contract toward agreement on a new rate. Once an agreement is reached, new rates will take effect on the next yearly anniversary date following the date the new rate is agreed upon in writing.

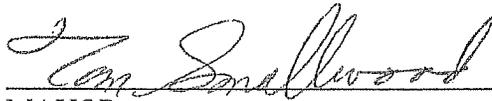
Section 12. Grantee shall at all times keep at its Eatonville office full and complete plans, maps and records showing the exact location of all underground or buried franchise equipment and facilities installed in the streets, alleys and other public rights-of-way within the corporate limits of Grantor. Grantee shall file with the Town Clerk, within 30 days after the effective date of this Ordinance and thereafter upon request but in no case more frequently than once per year, a current map, or set of maps, drawn to scale, showing the location of all underground buried franchise equipment and facilities installed in the streets, alleys and other public rights-of-way within the corporate limits of Grantor during the previous year, except that during the first year of the franchise, such filing shall include all such underground equipment previously installed or operated, either prior to or after the effective date of the franchise.

Section 13. The Grantor agrees to negotiate in good faith with Grantee for the use of a portion of the Town's Land if a suitable site exists, for the purpose of placing a future communications tower or for other purposes relating to the Grantee's telecommunications business in the event the Grantee should require the use of such a site during the term of this agreement.

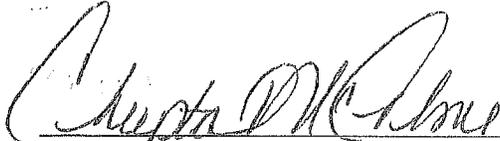
Section 14. The Grantor hereby further grants to the Grantee the exclusive right to renegotiate the franchise on mutually agreeable terms at a period of fifteen (15) years from the execution of this Agreement.

THIS ORDINANCE shall be deemed of special effect and not codified under the Eatonville Municipal Code. This Ordinance replaces and supersedes all previous telephone franchise Ordinances between Mashell Telecom and the Town of Eatonville.

PASSED by the Council of the Town of Eatonville this <sup>23</sup>~~1st~~ day of ~~NOVEMBER~~ <sup>October</sup>, 2006.

  
MAYOR

Attest:

  
Clerk

RECEIVED  
DEC -7 2006

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ACCEPTANCE OF FRANCHISE

TO THE MAYOR AND TOWN COUNCIL  
TOWN OF EATONVILLE

Gentlemen:

The undersigned hereby accepts the rights and privileges conferred by, and agrees to be bound by the terms, conditions and stipulations of Franchise 2006-27 granted to Mashell Telecom, Inc. by the Town Council at a regular scheduled meeting on the 23 day of October ~~November~~, 2006, granting to the undersigned a franchise right and privilege to erect poles and necessary supports, to string wires and cables upon, over, along and under the streets and alleys of the Town of Eatonville with the necessary underground conduits, manholes for the transmission of sounds by any means. This acceptance is filed in accordance with the terms of Section Nine (9) of said Franchise granted by the Town of Eatonville on October 23 ~~November 7~~, 2006.

Dated December 4, 2006

  
Eric Haynes President  
MASHELL TELECOM, INC.

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

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

PRODUCER: Propel Insurance, Tacoma Commercial Insurance, 1201 Pacific Ave, Suite 1000, Tacoma, WA 98402. CONTACT NAME: Christine Maden, PHONE: 800 499-0933, FAX: 866.577.1326, E-MAIL ADDRESS: CLM@propelinsurance.com. INSURER(S) AFFORDING COVERAGE: National Farmers Union P&C, NAIC #: 16217.

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

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

Table with columns: POLICY NUMBER, POLICY EFF (MM/DD/YYYY), POLICY EXP (MM/DD/YYYY), LIMITS. Rows include: GENERAL LIABILITY (1RU0426155), AUTOMOBILE LIABILITY (1RU0426155), UMBRELLA LIAB (1CB0426156), WORKERS COMPENSATION AND EMPLOYERS' LIABILITY (1RU0426155).

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, If more space is required) Ordinance #206-27 (Telephone Franchise Agreement) & Ordinances 95-10 & 95-11 (Cable TV Franchise Agreement)

CERTIFICATE HOLDER: Town of Eatonville, Attn: Town Clerk, 201 Center Street West, Eatonville, WA 98328-0000. CANCELLATION: SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE: [Signature]

## Certificate of Insurance

Effective immediately, **Propel Insurance** will no longer issue certificates of insurance not handled in accordance with statutory laws. We will only issue the most current edition of the ACORD® certificates of insurance. In addition, the only information allowed to be entered in the *Description of Operations* area of the ACORD® certificates of insurance are the description of operations, the locations and/or vehicles covered by the in-force policy.

The issuance or modification of a certificate of insurance that in any way misrepresents any material term, condition, coverage or other provision as set forth in the policy, or deliberately or falsely amends or alters the insurance policy or assists in such issuance or modification violates the state law and subjects the violator to civil and criminal penalties.

Please note a certificate of insurance is simply a summary of the designated insurance policy and does not / cannot modify or amend the referenced insurance policy or confer any right upon the certificate holder. In addition, the certificate holder is owed no duty to be notified in the event the insurance policy is cancelled.

For purposes of this notice, "certificate" or "certificate of insurance" means any ACORD® certificate of insurance, which is prepared or issued by an insurer or insurance agent as evidence of property or casualty insurance coverage but does not include an actual copy of the insurance policy or insurance binder.

Please contact your state department of insurance for further explanation or inquiries.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**CONTRACTORS BLANKET ADDITIONAL INSURED -  
WAIVER OF SUBROGATION ENDORSEMENT**

This endorsement modifies insurance provided under the following:

**RURAL UTILITIES INSURANCE PLAN**

- A. For the purposes of this endorsement only, the definition of **Insured** under **GENERAL DEFINITIONS APPLICABLE TO THIS POLICY** is amended by adding the following:  
any person or organization (called additional **insured**) whom **you** are required to add as an additional **insured** on this policy under a written contract or written agreement. The written contract or written agreement must be:
1. currently in effect or becoming effective during the term of this policy; and
  2. executed prior to the **bodily injury, property damage, personal injury or advertising injury**.
- B. The insurance provided to the additional **insured** is limited as follows:
1. That person or organization is an additional **insured** only with respect to liability for **bodily injury, property damage, personal injury or advertising injury** caused in whole or in part by:
    - a. **your** acts or omissions; or
    - b. the acts or omissions of those acting on **your** behalf.in the performance of **your** operations for the additional **insured**.
  2. The Limits of Insurance applicable to the additional **insured** are those specified in the written **contract** or written agreement or in the Declarations of this policy, whichever is less. These Limits of Insurance are inclusive of, and not in addition to, the Limits of Insurance shown in the Declarations.
  3. The coverage provided to the additional **insured** by this endorsement and the definition of **contract** under **GENERAL DEFINITIONS APPLICABLE TO THIS POLICY** do not apply to **bodily injury or property damage** arising out of the **products-completed operations hazard** unless required by the written **contract** or written agreement.
  4. The insurance provided to the additional **insured** does not apply to:  
**Bodily injury, property damage, personal injury or advertising injury** arising out of the rendering of, or failure to render, any professional architectural, engineering or surveying services, including:
    - a. the preparing, approving, or failure to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
    - b. supervisory, inspection, architectural or engineering activities.
  5. **We** have no duty to defend or indemnify an additional **insured** under this endorsement:
    - a. for any liability due to negligence attributable to any person or entity other than **you** or those acting on **your** behalf in the performance of **your** operations for the additional **insured**.
    - b. for any loss which occurs prior to **our** **named insured** commencing operations at the location of the **loss**.
    - c. until we receive written notice of a claim or suit from the additional **insured** as required in **LIABILITY AND RELATED COVERAGES, V. CONDITIONS APPLICABLE TO LIABILITY AND RELATED COVERAGES, A. YOUR DUTIES IN THE EVENT OF AN OCCURRENCE, CLAIM OR SUIT**.
- C. For the purposes of this endorsement only, **LIABILITY AND RELATED COVERAGES, V. CONDITIONS APPLICABLE TO LIABILITY AND RELATED COVERAGES, A. YOUR DUTIES IN THE EVENT OF AN OCCURRENCE, CLAIM OR SUIT** are amended as follows:

## MEMORANDUM

To: The Eatonville Town Council  
From: Nick Bond  
Date: October 13, 2011  
RE: Franchise Agreement Permitting Process

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At a recent council meeting, the Town Council requested information on permitting requirements for Rainier Connect and other providers when performing work in the town. The following is a step by step explanation of how the town determines what if any permits are required.

1. The town determines if any permits are required under town codes. Typically the only permit that is required for utility work is a right of way obstruction permit per EMC 12.08 in the event that the provider will be working in a public right of way.
2. When the town receives an application from Rainier Connect or some other provider it first reviews the action to determine if it is exempt from SEPA requirements under WAC 197-11-800. If the project is exempt, no threshold determination is required. If the project is not exempt, a checklist and other environmental information must be provided.
3. If the project is located in a shoreline or critical area or buffer, it is possible that additional permits would be needed. This issue rarely comes up, but if it did, critical areas review and a substantial shoreline permit could be required in addition to a right of way obstruction permit and a SEPA threshold determination.
4. Once the issue of SEPA has been resolved, the town may issue the right of way obstruction permit. Currently there is no charge for this permit as is not authorized by the EMC.