

CABLE TELEVISION FRANCHISE ORDINANCE

CITY OF PIPESTONE, MINNESOTA

AND

MIDCONTINENT COMMUNICATIONS

May 27, 2026

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CITY OF PIPESTONE
PIPESTONE COUNTY, MINNESOTA

ORDINANCE NO. 174, FOURTH SERIES

AN ORDINANCE GRANTING A FRANCHISE TO MIDCONTINENT COMMUNICATIONS, TO CONSTRUCT, OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM IN THE CITY OF PIPESTONE; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE; PROVIDING FOR REGULATION AND USE OF THE SYSTEM; AND PRESCRIBING LIQUIDATED DAMAGES FOR THE VIOLATION OF ITS PROVISIONS.

BE IT ORDAINED by the Council of the City of Pipestone;

SECTION 1. STATEMENT OF INTENT AND PURPOSE.

1.01 Statement of Intent and Purpose.

- A. City intends, by the adoption of this Franchise, to bring about the further development of a Cable System and the continued operation of it, including the deployment and operation of modern fiber-based communications infrastructure. Such development can contribute significantly to the communications needs and desires of the residents and citizens of City and the public generally. Further, City may achieve better utilization and improvement of public services and enhanced economic development with the development and operation of a Cable System.
- B. Adoption of this Franchise is, in the judgment of the City Council, in the best interests of City and its residents.

- 1.02 Franchising Costs. Grantee shall reimburse the City for all reasonable publication fees, expended in the soliciting, processing and awarding of the Franchise. Payment shall be made by Grantee at the time of acceptance of this Franchise as set forth in Section 15.02 hereof.

SECTION 2. SHORT TITLE.

This ordinance shall be known and cited as the “City of Pipestone Cable Television Franchise Ordinance.” Within this document it shall also be referred to as “this Franchise” or “the Franchise.”

SECTION 3. DEFINITIONS.

For the purpose of this Franchise, the following terms, phrases, words and their derivations

shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number. The words “shall” and “will” are mandatory and “may” is permissive. Words not defined shall be given their common and ordinary meaning.

3.01 “Applicable Laws” means any local law, or federal or state statute, law, regulation or other final legal authority governing any of the matters addressed in this Franchise.

3.02 “Basic Cable Service” means any Service tier which includes the lawful retransmission of local television broadcast signals and any public, educational, and governmental access programming required by the Franchise to be carried on the basic tier.

3.03 “Cable Service” means (A) the one-way transmission to Subscribers of (i) Video Programming or (ii) other programming service, and (B) Subscriber interaction, if any, which is required for the selection or use of such Video Programming or other programming service. Cable Service as defined herein shall not be inconsistent with the definition set forth in 47 U.S.C. § 522(6).

3.04 “Cable System” or “System” means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes Video Programming and which is provided to multiple Subscribers within a community, but such term does not include:

- A. a facility that serves only to retransmit the television signals of one (1) or more television broadcast stations;
- B. a facility that serves Subscribers without using any public right-of-way;
- C. a facility of common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. § 201 et seq., except that such facility shall be considered a Cable System (other than for purposes of 47 U.S.C. § 541(c)) to the extent such facility is used in the transmission of Video Programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services;
- D. an open video system that complies with 47 U.S.C. § 573; or
- E. any facilities of any electric utility used solely for operating its electric utility systems.

3.05 “Channel” or “Cable Channel” means a single programming service made available to all Subscribers, whether delivered via radio frequency, Internet Protocol, or other lawful transmission technology which is used in a Cable System.

3.06 “Class IV Channel” means a signaling path provided by System to transmit signals of any type from a Subscriber terminal to another point in the System.

3.07 “City” means the City of Pipestone, a municipal corporation in the State of Minnesota, its governing body, its delegations, officers, agents, employees and representatives.

3.10 “City Council” means the governing body of the City of Pipestone, Minnesota.

3.11 “Converter” means an electronic device which converts signals to a frequency not susceptible to interference within the television receiver of a Subscriber and by an appropriate selector also permits a Subscriber to view all Basic Cable Service signals delivered at designated Converter dial locations.

3.12 “Drop” means the fiber cable extending from the Grantee’s distribution facilities to the demarcation point or optical network terminal serving the Subscriber’s premises.

3.13 “FCC” means the Federal Communications Commission or a designated representative.

3.14 “Franchise” or “Cable Franchise” means this franchise ordinance and the regulatory and contractual relationship established hereby.

3.15 “Franchise Area” or “Service Area” means the entire geographic area within the City as it is now constituted or may in the future be constituted.

3.16 “Franchise Fee” includes any tax, fee, or assessment of any kind imposed by the City or other governmental entity on Grantee or Subscriber, or both, solely because of their status as such. It does not include any tax, fee, or assessment of general applicability (including any such tax, fee, or assessment imposed on both utilities and cable operators or their services but not including a tax, fee, or assessment which is unduly discriminatory against cable operators or cable Subscribers); capital costs which are required by the Franchise to be incurred by Grantee for public, educational, or governmental access facilities; requirements or charges incidental to the awarding or enforcing of the Franchise, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages; or any fee imposed under Title 17 of the United States Code.

3.17 “GAAP” means generally accepted accounting principles as promulgated and defined by the Financial Accounting Standards Board (“FASB”), Emerging Issues Task Force (“EITF”) and/or the U.S. Securities and Exchange Commission (“SEC”).

3.18 “Grantee” means Midcontinent Communications, its agents, employees, lawful successors, transferees or assignees.

3.19 “Gross Revenues” means any and all revenues derived by the Grantee from the operation of the Cable System to provide Cable Services in the Franchise Area. Gross Revenues shall

include, by way of example but not limitation, revenues from Basic Cable Service, all Cable Service fees, premium, pay-per-view, pay television, late fees, guides, home shopping revenue, Installation and reconnection fees, revenues from program guides and electronic guides, additional outlet fees, Franchise Fees required by this Franchise, upgrade and downgrade fees, advertising revenue, Converter rental fees and Lockout Device fees and any and all other revenue derived by the Grantee from the operation of Grantee's Cable System to provide Cable Services in the City. Copyright fees or other license fees paid by Grantee shall not be subtracted from Gross Revenues for purposes of calculating Franchise Fees. Gross Revenues shall include revenue received by any affiliated entity where that affiliated entity receives revenue from the operation of the Cable System to provide Cable Services in the Franchise Area. Revenues which are not directly attributable to specific customers, such as advertising revenue and home shopping commissions, shall be allocated to systems and jurisdictions on a per subscriber basis measured in a consistent manner from period to period. "Gross Revenues" shall not be net of (1) any operating expense; (2) any accrual, including, without limitation, any accrual for commissions; or (3) any other expenditure, regardless of whether such expense, accrual or expenditure reflects a cash payment. "Gross Revenues", however, shall not be double counted. Revenues of both Grantee and an affiliated entity that represent a transfer of funds between the Grantee and the affiliated entity, and that would otherwise constitute Gross Revenues of both the Grantee and the affiliated entity, shall be counted only once for purposes of determining Gross Revenues. Similarly, operating expenses of the Grantee which are payable from Grantee's revenue to an affiliated entity and which may otherwise constitute revenue of the affiliated entity, shall not constitute additional Gross Revenues for purposes of this Franchise. "Gross Revenues shall not include any taxes, fees or assessments of general applicability imposed or assessed by any Governmental Authority. A Franchise Fee is not such a tax, fee or assessment. The City acknowledges and accepts that Grantee shall maintain its books and records in accordance with GAAP.

3.20 "Installation" means the act of connecting the System from the distribution facilities to the point of demarcation at the Subscriber's premises, including Standard Installations and Non-Standard Installations with the Subscriber Converter or other terminal equipment.

3.21 "Lockout Device" means an optional mechanical or electrical accessory to a Subscriber's terminal or software which inhibits the viewing of a certain program, certain Channel, or certain Channels provided by way of the Cable System.

3.22 "Normal Business Hours" means those hours during which most similar businesses in City are open to serve customers. In all cases, "Normal Business Hours" must include some evening hours, at least one (1) night per week and/or some weekend hours.

3.23 "Normal Operating Conditions" means those Service conditions which are within the control of Grantee. Those conditions which are not within the control of Grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of Grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the Cable System.

3.24 “Other Programming Service” means information that a cable operator makes available to all Subscribers generally.

3.25 “Pay Television” means the delivery over the System of pay-per-channel or pay-per-program audio-visual signals to Subscribers for a fee or charge, in addition to the charge for Basic Cable Service or Other Programming Services.

3.26 “PEG” means public, educational and governmental.

3.27 “Person” means any individual or any association, firm, corporation, partnership, proprietorship or other legally recognized entity whether for-profit or not-for-profit.

3.28 “Public Property” means any real property other than a Street owned by any governmental unit.

3.29 “Service Interruption” means the loss of picture or sound on one (1) or more Cable Channels.

3.30 “Standard Installation” means any residential or commercial Installation which can be completed using a Drop of one hundred fifty (150) feet or less.

3.31 “Street” means the surface of and the space above and below any Street, road, highway, freeway, lane, path, way, alley, court, sidewalk, boulevard, parkway, drive or any easement or right-of-way now or hereafter held by the City which shall, within its proper use and meaning, in the sole opinion of the City, entitle Grantee to the use thereof for the purpose of installing or transmitting over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments and other property as may be ordinarily necessary and pertinent to a System.

3.32 “Subscriber” means any Person who lawfully receives Cable Service via the System. In the case of multiple office buildings or multiple dwelling units, the “Subscriber” means the lessee, tenant or occupant not the building owner.

3.33 “Two-Way System” means a system that can pass video, voice, and/or data signals in both directions simultaneously.

3.34 “Video Programming” means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

SECTION 4. GRANT OF AUTHORITY AND GENERAL PROVISIONS.

4.01 Grant of Franchise. This Franchise is granted pursuant to the terms and conditions contained herein. This Franchise shall comply with Minnesota Statutes Section 238.084 (as amended). Failure of Grantee to provide a System as described herein, or meet the obligations and comply with all provisions herein, shall be deemed a violation of this Franchise.

4.02 Criteria of Selection. The Grantee's technical ability, financial condition and legal qualifications and ability to meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests, were considered and approved by the City in full public proceedings which afforded reasonable notice and a reasonable opportunity to be heard.

4.03 Authority for Use of Streets.

- A. For the purpose of constructing, operating and maintaining a System in the City, Grantee may erect, install, construct, repair, replace, relocate, reconstruct and retain in, on, over, under, upon, across and along the Streets within the City such lines, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of the System, provided that all applicable permits are applied for and granted, all fees paid and all other City codes and ordinances are otherwise complied with.
- B. Prior to construction or alteration of cable or strand, Grantee shall, in each case, file plans with the City and utility companies and receive written approval of such plans which approval shall not be unreasonably withheld.
- C. Grantee shall construct and maintain the System so as not to interfere with other uses of Streets. Grantee shall make use of existing poles and other facilities available to Grantee. Grantee shall individually notify in writing all residents affected by proposed work prior to commencement of that work.
- D. Notwithstanding the above grant to use Streets, no Street shall be used by Grantee if the City, in its sole opinion, determines that such use is inconsistent with the terms, conditions or provisions by which such Street was created or dedicated, or presently used.

4.04 Lease or Assignment Prohibited. No Person may lease Grantee's System for the purpose of providing Cable Service until and unless such Person shall have first obtained and shall currently hold a valid franchise or other lawful authorization containing substantially similar burdens and obligations to this Franchise. Any assignment of rights under this Franchise shall be subject to and in accordance with the requirements of Section 12 of this Franchise. This provision shall not prevent Grantee from complying with any commercial leased access requirements or any other provisions of applicable local, state and federal law.

4.05 Franchise Term. This Franchise shall be in effect for a period of ten (10) years from the date of execution by City, unless sooner renewed, revoked or terminated as herein provided.

4.06 Previous Franchises. Upon acceptance by Grantee as required herein, this Franchise shall supersede and replace any previous ordinance granting a franchise to Grantee to own, operate and maintain a System within the City. Ordinance No. 85, Third Series is hereby expressly repealed.

4.07 Area Covered. This Franchise is granted for the territorial boundaries of the City. In the event of annexation by the City, or as development occurs, any new territory shall become part of the Franchise Area, provided, however, that there is a minimum of twenty (20) homes per mile. Grantee shall provide Service upon the same terms and conditions to any Person within the City requesting Service. Grantee shall be given a reasonable period of time to construct and activate cable plant to Service annexed or developed areas.

4.08 Police Powers. Grantee's rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety and welfare of the public. Grantee shall comply with all applicable general laws and ordinances enacted by the City pursuant to that power.

4.09 Use of Grantee Facilities. The City shall have the right to install and maintain, free of charge, upon the poles and within the underground pipes and conduits of Grantee, any wires and fixtures desired by the City to the extent that such installation and maintenance does not interfere with the existing operations of Grantee.

4.10 Written Notice. All notices, reports or demands required to be given in writing under this Franchise shall be deemed to be given when delivered personally to the Person designated below, or when forty-eight (48) hours have elapsed after it is deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid thereon, or on the next addressed business day if sent by express mail or overnight air courier addressed to the party to whom notice is being given, as follows:

If to City: City Administrator
119 Second Avenue Southwest
Pipestone, Minnesota 56164

If to Grantee: Midcontinent Communications
4020 W Cayman St
Sioux Falls, SD 57107

Such addresses may be changed by either party upon notice to the other party given as provided in this section.

4.11 Franchise Nonexclusive. The Franchise granted herein is nonexclusive. The City specifically reserves the right to grant, at any time, additional franchises for a System in accordance with state and federal law. The grant of any additional franchise shall not of itself be deemed to constitute a modification, revocation, or termination of rights previously granted to Grantee. Any additional cable franchise grants shall comply with Minnesota Statutes Section 238.08 and any other applicable federal level playing field requirements.

4.12 Compliance with Laws. This Franchise complies with the Minnesota franchise standards contained in Minnesota Statutes, Chapter 238.

SECTION 5. SYSTEM DESIGN PROVISIONS.

5.01 System Upgrade/Construction: Minimum Channel Capacity.

- A. Grantee shall develop, construct, operate and maintain for the term of this Franchise a System which may include a fiber-to-the-premises or Internet-Protocol-based architecture (not limited to hybrid fiber-coaxial network designs) with sufficient dedicated capacity to deliver all Cable Services authorized under the Franchise.
- B. Consistent with 47 C.F.R. § 76.1603, all final programming decisions remain the discretion of Grantee in accordance with this Franchise, provided that Grantee notifies City and Subscribers in writing thirty (30) days prior to any Channel additions, deletions, or realignments, and further subject to Grantee's signal carriage obligations hereunder and pursuant to 47 U.S.C. § 531-536, and further subject to City's rights pursuant to 47 U.S.C. § 545.

5.02 Two-Way System. Grantee shall provide a communications system capable of Two-Way transmission of video, voice, and data services.

5.03 Subscriber Network. Grantee shall maintain the existing Cable System.

5.04 Reserved.

5.05 Drops to Public Buildings. Grantee shall provide cable Drops without charge to the following city owned buildings: 1) the City Hall; 2) the Fire Hall; 3) Library; 4) Liquor Store; 5) Outdoor Pool; 6) Recreation Center; 7) Public Works Department; 8) Water Treatment Facility; and 9) Hiawatha Lodge.

5.06 Provision of Service. Grantee shall provide Service to any Person in the Franchise Area within seven (7) days from the date of request.

5.07 Technical Standards. The technical standards used in the operation of the System shall comply with all applicable federal, state, and local technical standards, including FCC regulations applicable to the services provided, based upon the network architecture.

5.08 System Inspection. Upon request of the City, the City and Grantee shall undertake an inspection of the System to ascertain the System performance at Subscriber locations selected by the City. In the absence of any City action taken to further exercise this right, the City and Grantee shall be subject to at least the procedures set forth below:

- A. The City shall give written notice to Grantee of the City's intention to undertake inspection of the System and the name of that Person who will participate for the City.
- B. Grantee shall, within two (2) days of receipt of the City notice, select one (1) Person

who will participate for Grantee and so notify the City.

- C. The representatives of the City and Grantee shall, within two (2) days of the selection of the Grantee representative, select a third representative. In the event Grantee fails to designate a representative or the City and Grantee cannot agree upon the third representative within the time allowed, then the City, at its sole discretion, shall select the representative.
- D. Within five (5) working days after the appointment of all representatives, the representatives shall commence an inspection of the System in accordance with the following procedures:
 - 1. The representatives shall commence the inspection of the System at the headend by viewing all or a representative portion of the programmed Channels and, by a decision of the majority, assign a rating of one (1) to five (5) for each Channel of programming viewed based upon the picture quality of that Channel.
 - 2. The representatives shall then view the System performance Subscriber locations selected by the City. The representatives shall view all or a representative portion of the programmed Channels at each location and, by decision of the majority, assign a rating of one (1) to five (5) for each Channel of programming so viewed.
 - 3. In assigning a rating for the picture quality of each Channel of programming so viewed, the representatives shall use the following scale:
 - 1 - Excellent picture, no visible impairment
 - 2 - Very good picture, small degree of impairment noticeable
 - 3 - Good picture, degradation noticeable
 - 4 - Fair picture, degradation a problem
 - 5 - Poor picture, unusable
- E. The representatives shall prepare and submit to the City and Grantee a written report of its findings and any appropriate recommendation.
- F. Upon request of the City, Grantee shall report to the City, at a regular or specially scheduled meeting of the City, what steps are being taken to correct deficiencies noted in the report or why corrective measures are not necessary. Notwithstanding anything to the contrary, the City may use the report submitted by the representatives as a basis for ordering special testing of the System pursuant to Section 5.09 hereof.

5.09 Special Testing. The City may at any time require additional tests, full or partial repeat tests, different test procedures or tests involving a specific Subscriber's Drop. Request for such additional tests shall be made on the basis of complaints received or other evidence indicating an unresolved controversy or significant non-compliance. Such tests shall be limited to the particular

matter in controversy. The City shall endeavor to so arrange its request for such special test so as to minimize hardship or inconvenience to Grantee or to the Subscribers. Before ordering said tests, Grantee shall be afforded thirty (30) days to correct problems or complaints upon which tests were ordered. The test shall be conducted by a qualified engineer selected by the City. *If* such special testing establishes that the System meets all required FCC technical standards set forth in Section 5, the City shall bear the expense for such special testing. If such special testing establishes that the System does not meet all required FCC technical standards set forth in Section 5, Grantee shall bear the expense for such special testing.

5.10 Emergency Requirements.

- A. In the case of emergency or disaster, Grantee shall, upon request of the City, make available its facilities to the City for emergency use at no cost to the City. Grantee shall continue to make available, without cost to the City, a dedicated telephone line for emergency use. The Grantee shall also make available to the City during the period of the emergency and without cost to the City such personnel as may be required to operate the facilities in order that the Mayor or his or her designated representative may communicate with the citizens of the City.
- B. The City may, at any time, in case of fire, disaster, or other emergency, as reasonably determined by the City, cut or move any of the wires, cables, fiber optic cable, and network electronics, or other parts of the System.

5.11 Testing Procedures. Grantee shall comply with all testing procedures required by local, state, and federal law. Grantee shall bear the expense of all such testing.

5.12 EAS/Emergency Use by City. At all times during the term of this Franchise, the Grantee shall provide and maintain an Emergency Alert System (EAS) consistent with applicable Federal law and regulation including 47 C.F.R., Part 11 and any applicable State/County Emergency Alert System Plan. In the case of an emergency or disaster, Grantee shall, at the request of City, make its System available to the City for providing information to the public regarding the emergency or disaster. City shall have authority to test the System and if the System fails to perform Grantee shall immediately make all repairs, at Grantee's sole cost, and shall retest the system to demonstrate compliance.

5.13 Home Wiring.

- A. Prior to a customer's termination of Cable Service, the Grantee will not restrict the ability of a Subscriber to remove, replace, rearrange or maintain any cable wiring located within the interior space of the Subscriber's dwelling unit, so long as such actions do not interfere with the ability of the Grantee to meet FCC technical standards or to provide services to, and collect associated revenues from, that customer or any neighboring customer *in* a multiple dwelling unit.

- B. The Grantee will provide Subscribers with a notification upon commencement of service, and annually thereafter, advising them of their rights relating to home wiring as expressed by the FCC. Such notice will advise customers that they may either; (i) remove, replace, rearrange or maintain the home wiring themselves, (ii) select a qualified third party contractor, or (iii) request that the Grantee provide such service at standard hourly installation rates, plus materials at actual cost plus a reasonable rate of return.
- C. Such notice will inform Subscribers that if any home wiring is improperly installed or rearranged by anyone other than the Grantee, and any harmful or improper signal leakage occurs as a result, the Subscriber may be held responsible for the actual cost of rectifying the problem. Pursuant to FCC rules, the Grantee recognizes that it is required to terminate service to any location where signal leakage problems are not corrected. Subscribers will be encouraged to use high quality home wiring materials to avoid signal leakage and to maintain signal quality. The Grantee will offer to supply such materials to Subscribers at actual cost plus a reasonable rate of return.
- D. In order to ensure consumer choice for all providers of multichannel video program distribution (“MVPD”), Grantee shall fully cooperate with all competitive providers of MVPD. Grantee shall further, upon request, provide all competitive providers of MVPD immediate access to all “home run” wiring in a multiple dwelling unit, provided however, that if the equipment is owned by Grantee, the competitive provider shall, in accordance with Minnesota Statutes § 238.25, and upon request, reimburse Grantee its pro rata cost of the home run wiring and installation, reduced to the extent of cumulative depreciation of the home run wiring at the time the competitive provider begins providing service. Exclusive contracts for the provision of Cable Service shall be prohibited and any existing exclusive contracts for the provision of Cable Service in the City shall be null and void as against public policy and contrary to the intent of the Federal Communications Act of 1934, as amended, and applicable FCC ruling and orders.

5.14 Customer Service Monitoring. The Grantee shall utilize such equipment and software and keep such records as are necessary or required to enable the City to determine whether the Grantee is complying with all telephone answering standards required by applicable customer service regulations and laws, as amended from time to time.

SECTION 6. SERVICE PROVISIONS.

6.01 Regulation of Service Rates. City may regulate rates for the provision of Cable Service, equipment, or any other communications service provided over the System in accordance with and as permitted by applicable federal law, in particular 47 C.F.R. Part 76 subpart N. In the event the City chooses to regulate rates it shall, in accordance with 47 C.F.R. § 76.910, obtain certification from the FCC, if applicable. The City shall follow all applicable FCC rate regulations and shall ensure that appropriate personnel are in place to administer such regulations. City reserves the

right to regulate rates for any future Services to the extent permitted by law.

6.02 Non-Standard Installations. Grantee shall install and provide Cable Service to any Person requesting other than a Standard Installation provided that said Cable Service can meet FCC technical specifications and all payment and policy obligations are met. In such case, Grantee may charge for the incremental increase in material and labor costs incurred beyond the Standard Installation.

6.03 Public, Educational and Government Access.

- A. Grantee shall continue to provide one (1) PEG Access Channel and one (1) additional PEG Access Channel shall be activated upon ninety (90) days prior written notice from City to Grantee. Notwithstanding anything to the contrary, Grantee shall be permitted to use the additional PEG Access Channel for the provision of other services until such time as City provides ninety (90) days' notice of its intent to program same. Nothing herein shall be construed to diminish the City's rights pursuant to Minn. Stat. § 238.084, incorporated herein by reference.
- B. No charges may be made for Channel time or playback of prerecorded programming on the specially designated noncommercial PEG Access Channel required by paragraph A. Personnel, equipment, and production costs may be assessed for live studio presentations exceeding thirty (30) minutes in length. Charges for such production costs and any fees for use of other PEG Access Channels shall be consistent with the goal of affording the public a low-cost means of television access.
- C. The City and Grantee shall establish rules pertaining to the administration of the specially designated PEG Access Channel(s).
- D. Permitted noncommercial uses of the PEG Access Channel shall include by way of example and not limitation: (1) the identification of financial supporters similar to what is provided on public broadcasting stations; or (2) the solicitation of financial support for the provision of PEG programming by the City or third party users for charitable, educational or governmental purposes; or (3) programming offered by accredited, non-profit, educational institutions which may, for example, offer telecourses over a PEG Access Channel.
- E. Grantee shall provide the PEG Channel on the Basic Cable Service tier. Upon written request by the City, Grantee shall provide one (1) PEG Channel in high definition (HD) on an HD tier then-available. The City shall be responsible for all equipment and associated costs of producing/providing HD programming on its side of the demarcation point, and the Grantee shall be responsible for all System equipment and costs associated with transmitting the HD channels on its side of the demarcation point. The demarcation point is the mechanical equipment room (or equivalent) in the City building where our Grantee fiber enters and City provides adequate rack space and

power to install the relevant equipment. Grantee shall maintain its Cable System in accordance with FCC Technical Standards so that PEG Channels and return lines are at the same level of technical quality and reliability as other commercial signals carried by Grantee, so long as the signal comes to Grantee at that level of quality. There shall be no significant deterioration in signal from the point of origination upstream to the point of reception downstream on the Cable System. All processing equipment used by Grantee for processing PEG signals will be of similar quality to the processing equipment used for other commercial Channels. Grantee will provide the PEG Channel to Subscribers in the City in the format set forth herein using compression rates and functionality equivalent to that employed by Grantee to deliver the primary signals of local television broadcast stations on its Cable System. The placement of the PEG Channel on the System shall not make the PEG Channel more vulnerable to interference or ingress than the primary signals of local broadcast stations.

- F. Within twenty-four (24) hours of a written request from City to the Grantee identifying a technical problem and requesting assistance, Grantee will provide technical assistance or diagnostic services to determine whether or not a problem with a PEG signal is the result of matters for which Grantee is responsible and if so, Grantee will take prompt corrective action. If the problem persists and there is a dispute about the cause, then the parties shall meet with engineering representation from Grantee and the City in order to determine the course of action to remedy the problem.
- G. Grantee shall collect, on behalf of City, a per Subscriber fee of twenty five cents (25¢) per month, solely to fund PEG access related expenditures (hereinafter "Access Fee"). Any increase in the Access Fee by City shall occur only once every year upon prior approval of the City Council and upon ninety (90) days advance written notice to Grantee. In no event shall the Access Fee exceed Fifty cents (50¢) per Subscriber per month during the term of this Franchise. Consistent with Section 4.11 of this Franchise, in no event shall the Access Fee be assessed in an amount different from that imposed upon any other franchised cable communications provider in the City. Any and all payments by Grantee to City in support of PEG access programming shall not be deemed "Franchise Fees" within the meaning of Section 622 of the Cable Act (47 U.S.C. Section 542).
- H. The Access Fee is not intended to represent part of the Franchise Fee and is intended to fall within one (1) or more of the exceptions in 47 U.S.C. § 542. The Access Fee may be categorized, itemized, and passed through to Subscribers as permissible, in accordance with 47 U.S.C. §542 or other Applicable Laws. Grantee shall pay the Access Fee to the City at the same time as the payment of Franchise Fees under Section 10.01 of the Franchise. Grantee agrees that it will not offset or reduce its payment of past, present or future Franchise Fees required as a result of its obligation to remit the PEG Fee.
- I. Any Access Fees owing pursuant to this Franchise which remain unpaid more than

ninety (90) Days after the date the payment is due shall be delinquent and shall thereafter accrue interest at one percent (1%) per month.

6.04 Service to Public Buildings. Grantee shall provide Basic Cable Service, to all public buildings listed within Section 5.05, subject to any legally permitted offset of the marginal cost of providing such services from the Franchise Fees payable, consistent with the Third Report and Order in MB Docket No. 05-311 adopted by the FCC on August 1, 2019, as modified by the Sixth Circuit Court of Appeals and any subsequent order(s)..

SECTION 7. CONSTRUCTION PROVISIONS.

7.01 Construction Standards.

- A. All construction practices shall be in accordance with all applicable sections of the Occupational Safety and Health Administration as well as all state and local codes where applicable.
- B. All installation of electronic equipment shall be of a permanent nature, durable and installed in accordance with the provisions of the National Electrical Safety Code (National Bureau of Standards) and National Electrical Code (National Bureau of Fire Underwriters) as amended.
- C. Antenna supporting structures (towers) shall be designed for the proper loading as specified in the Electronics Industry Association's R.S 3-22A Specifications.
- D. Antenna supporting structures (towers) shall be painted, lighted, erected and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration and all other applicable state or local codes and regulations.
- E. All of Grantee's plant and equipment, including but not limited to the antenna site, headend and distribution system, towers, house connections, structures, poles, wire, cable, coaxial cable, fixtures and appurtenances shall be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated in accordance with good engineering practices, performed by experienced maintenance and construction personnel so as not to endanger or interfere with improvements the City may deem appropriate to make, or to interfere in any manner with the rights of any property owner, or to unnecessarily hinder or obstruct pedestrian or vehicular traffic.
- F. Grantee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices preventing failures and accidents which are likely to cause damage, injury or nuisance to the public.

7.02 Construction Codes and Permits.

- A. Grantee shall obtain all necessary permits from the City before commencing any construction or extension of the System, including the opening or disturbance of any Street, or private or Public Property within the City. Grantee shall strictly adhere to all building and zoning codes currently or hereafter applicable to construction, operation or maintenance of the System in the City and give due consideration at all times to the aesthetics of the property.
- B. The City shall have the right to inspect all construction or Installation work performed pursuant to the provisions of this Franchise and to make such tests as it shall find necessary to ensure compliance with the terms of the Franchise and applicable provisions of local, state and federal law.

7.03 Repair of Streets and Property. Any and all Streets or Public Property or private property, including vegetation, which are disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance or reconstruction of the System shall be promptly repaired by Grantee, at its expense, to a condition as good as that prevailing prior to Grantee's work, as approved by the City. Any damage caused to the property of building owners or users or any other Person as a result of any action or omission by Grantee shall be promptly and fully repaired by Grantee.

7.04 Use of Existing Poles. No poles, conduits, or other wire-holding structures shall be erected or installed by Grantee without prior approval of the City with regard to the location, height, type and other pertinent aspects. The City may require Grantee to provide written justification should the use of such poles and other wire-holding structures be solely for the purpose of supporting Grantee's cable and wires. The location of any pole, conduit or wire-holding structure of the Grantee shall not be a vested right and such poles, conduits or other structures shall be removed or modified by Grantee at its own expense upon such order of the City.

7.05 Undergrounding of Cable.

- A. Except as hereinafter provided, in all areas of the City where the cables, wires and other like facilities of a public utility or public utility district are placed underground, Grantee shall construct and install its cables, wires and other facilities underground. Amplifier boxes and pedestal mounted terminal boxes may be placed above ground if existing technology reasonably requires, but shall be of such size and design and shall be so located as not to be unsightly or unsafe.
- B. In any area of the City where there are certain cables, wires and other like facilities of a public utility or public utility district underground and at least one operable cable, wire or like facility of a public utility or public utility district suspended above the ground from poles Grantee may construct and install its cables, wires and other facilities from the same pole.
- C. Grantee shall place cable underground in newly platted areas in concert with other

utilities unless this requirement is waived by the City.

7.06 Reservation of Street Rights.

- A. Nothing in this Franchise shall be construed to prevent the City from constructing, maintaining, repairing or relocating sewers; grading, paving, maintaining, repairing, relocating and/or altering any Street; constructing, laying down, repairing, maintaining or relocating any water mains; or constructing, maintaining, relocating, or repairing any sidewalk or other public work.
- B. All such work shall be done, insofar as practicable in such manner as not to obstruct, injure or prevent the free use and operation of the poles, wires, conduits, conductors, pipes or appurtenances of Grantee.
- C. If any such property of Grantee shall interfere with the construction or relocation, maintenance or repair of any Street or public improvement, whether it be construction, repair, maintenance, removal or relocation of a sewer, public sidewalk, or water main, Street or any other public improvement, thirty (30) days' notice shall be given to Grantee by the City and all such poles, wires, conduits or other appliances and facilities shall be removed or replaced by Grantee in such manner as shall be directed by the City so that the same shall not interfere with the said public work of the City, as determined by the City, and such removal or replacement shall be at the expense of Grantee.
- D. Nothing contained in this Franchise shall relieve any Person from liability arising out of the failure to exercise reasonable care to avoid injuring Grantee's facilities while performing any work connected with grading, regrading, or changing the line of any Street or public place or with the construction or reconstruction of any sewer or water system.

7.07 Trimming of Trees. Grantee shall have the authority to trim trees located upon and which overhang Streets, alleys, sidewalks and public places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of Grantee. Grantee shall give a minimum of forty-eight (48) hours advance notice to affected residents and the City Parks and Recreation Department. Upon request of the City, all trimming shall be done with the approval and under the supervision of the City and in accordance with any procedures or standards adopted by the City.

7.08 Street Vacation or Abandonment. In the event any Street or portion thereof used by Grantee shall be vacated by the City or the use thereof discontinued by Grantee, during the term of this Franchise, Grantee shall not be obligated to remove its facilities therefrom unless specifically requested by the City to do so, and on the removal thereof Grantee shall, at its own expense, restore, repair or reconstruct the Street area where such removal has occurred, and place the Street area where such removal has occurred, to a condition similar to that existing before such removal took place. In the event of failure, neglect or refusal of Grantee, after thirty (30) days' notice by the City

to remove the facilities or to repair, restore, reconstruct, improve or maintain such Street portion, the City may do such work or cause it to be done, and the cost thereof as found and declared by the City shall be paid by Grantee as directed by the City and collection may be made by any available remedy.

7.09 Movement of Facilities. In the event it is necessary temporarily to move or remove any of Grantee's wires, cables, poles, or other facilities placed pursuant to this Franchise, in order to lawfully move a large object, vehicle, building or other structure over the Streets of the City, upon forty-eight (48) hours' notice by the City to Grantee, Grantee shall move at the expense of the Person requesting the temporary removal such of facilities as may be required to facilitate such movements. Grantee may require payment in advance. Any service disruption provisions of this Franchise shall not apply in the event that the removal of Grantee's wires, cables, poles or other facilities results in temporary service disruptions.

SECTION 8. OPERATION AND ADMINISTRATION PROVISIONS.

8.01 Open Books and Records. Grantee shall manage all of its operations in accordance with a policy of totally open books and records. The City shall have the right to inspect, upon reasonable written notice, at any time during Normal Business Hours all books, records, maps, plans, financial statements, service complaint logs, performance test results, record of requests for service and other like materials of Grantee which relate to the System or this Franchise.

8.02 Communications with Regulatory Agencies. Copies of all petitions, applications, communications and reports submitted by Grantee or on behalf of or relating to Grantee to the FCC, Securities and Exchange Commission or any other federal or state regulatory commission or agency having jurisdiction in respect to any matters affecting the System authorized pursuant to this Franchise shall also be submitted simultaneously to the City. Copies of responses from the regulatory agencies to Grantee shall likewise be furnished to the City within ten (10) days of the receipt of the response.

8.03 Annual Reports. Upon written request from City, Grantee shall file with the City, a copy of the following information, in a form approved by the City, within ninety (90) days of the end of its fiscal year, including the year in which the Franchise becomes effective.

- A. A summary of the previous year's activities in the development of the System, including, but not limited to, services begun or discontinued during the reported year.
- B. A financial statement including a balance sheet, an income statement, a sources and uses of funds statement, a detail of operating expenses prepared in accordance with generally accepted accounting principles and certified by a financial officer of Grantee. The financial statement shall include a breakdown of revenues for the System serving City and expenses for the Pipestone, Minnesota management area which includes the City.

- C. A current copy of the Subscriber service agreement.
- D. A current list of names and addresses of each principal. For the purposes of this requirement the term “Principal” means any Person, firm, corporation, partnership or joint venture or other entity who or which owns or controls five percent (5%) or more of the voting stock (or any equivalent interest of a partnership or joint venture) of Grantee.
- E. A compilation summarizing the complaints received during the reported year, by category, and a discussion of any unresolved complaint.
- F. The results of the testing required pursuant to Section 5.09 hereof. Such test results shall be certified by an officer of Grantee.
- G. A certification of the Gross Revenues for the preceding year prepared by an independent certified public accountant.

8.04 Audit. The City and its agents and representatives shall have the authority, during Normal Business Hours, to arrange for and conduct an inspection of the books and records of Grantee and its equipment, related to Grantee’s performance of its obligations under this Franchise. Grantee shall first be given seven (7) days written notice of the audit request, the description of and purpose for the audit and description, to the best of the City’s ability, of the books, records, documents and equipment it wants to inspect. City acknowledges that some of the records which may be provided by Grantee may be classified as confidential and therefore may subject Grantee to competitive disadvantage if made public. City shall therefore maintain the confidentiality of any and all records provided to it by Grantee which are not required to be made public pursuant to local, state and federal laws. Grantee shall produce such books and records, related to Grantee’s performance of its obligations under this Franchise, for City’s inspection at Grantee’s local office within the Franchise Area or at such other mutually agreed upon location within the City. To the extent it is necessary for City to send representatives to a location outside of the City to inspect Grantee’s books and records, Grantee shall be responsible for all travel costs incurred by City representatives.

8.05 Additional Reports. Grantee shall prepare and furnish to the City, at the times and in the form prescribed, such additional reports with respect to its operations, affairs, transactions or property, which in the sole discretion of the City are necessary.

8.06 Maps. Grantee shall maintain on file with the City a current map or set of maps drawn to scale showing all System equipment installed and in place in Streets and other public places.

SECTION 9. CONSUMER PROTECTION PROVISIONS.

9.01 Sales Procedures. Grantee shall not exercise deceptive sales procedures when marketing any of its Services within City. In its initial communication or contact with a non-Subscriber or current Subscriber seeking alternative options, Grantee shall inform the non-Subscriber of all

levels of Service available, including the lowest priced Basic Cable Service tier and free Service tiers. Grantee shall have the right to market door-to-door during reasonable hours.

9.02 Consumer Protection and Service Standards. Grantee shall provide customer service, billing support, and equipment replacement through reasonable and commercially available means, which may include telephone, online, mail, and the direct shipment and return of Subscriber equipment. The Grantee shall comply with the standards and requirements for customer service set forth below and shall comply with all applicable regulations relating to customer service obligations, including any amendments to 47 C.F.R. § 76.309 during the term of this Franchise, that impose higher or additional customer service standards on a cable operator, and shall not contest any decision by the City to enforce the standards set forth herein or such other standards in accordance with local, state and federal laws.

A. Cable System office hours and telephone availability:

1. Grantee will maintain a local, toll-free or collect call telephone access line which will be available to its Subscribers twenty-four (24) hours a day, seven (7) days a week.

(1) Trained Grantee representatives will be available to respond to customer telephone inquiries during Normal Business Hours.

(2) After Normal Business Hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after Normal Business Hours must be responded to by a trained Grantee representative on the next business day.

2. Under Normal Operating Conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety percent (90%) of the time under Normal Operating Conditions, measured on a quarterly basis.

3. Grantee shall not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.

4. Under Normal Operating Conditions, the customer will receive a busy signal less than three percent (3%) of the time.

5. Customer service center and bill payment locations will be open at least during Normal Business Hours.

B. Installations, Outages and Service Calls. Under Normal Operating Conditions, each of the following standards will be met no less than ninety-five percent (95%) of the time

measured on a quarterly basis:

1. Standard Installations will be performed within seven (7) business days after an order has been placed. "Standard" Installations are those that are located up to one hundred fifty (150) feet from the existing distribution system.
2. Excluding conditions beyond the control of Grantee, Grantee will begin working on "Service Interruptions" promptly and in no event later than twenty-four (24) hours after the interruption becomes known. Grantee must begin actions to correct other Service problems the next business day after notification of the Service problem. Grantee shall resolve all Service Interruptions within forty-eight (48) hours under Nonna] Operating Conditions.
3. The "appointment window" alternatives for Installations, Service calls, and other Installation activities will be either a specific time or, at maximum, a four (4) hour time block during Normal Business Hours. (Grantee may schedule Service calls and other Installation activities outside of Normal Business Hours for the express convenience of the customer.)
4. Grantee may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.
5. If Grantee's representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted prior to the time of the scheduled appointment. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.
6. Under Normal Operating Conditions, if Grantee cannot perform Installations within the times specified in applicable customer standards, the Subscriber shall receive an automatic credit equal to the charge for a Standard Installation. For any Installation that is not a free Installation or a Standard Installation, Grantee shall provide the Subscriber with a written estimate of all charges within seven (7) days of a request by the Subscriber. Failure to comply will subject Grantee to appropriate enforcement actions. This section does not apply to the introduction of new products and services when Grantee is utilizing a phased introduction.

C. Communications between Grantee and Subscribers:

1. Notifications to Subscribers:

- (1) Grantee shall provide written information on each of the following areas at the time of Installation of Service, at least annually, to all Subscribers, and at any time upon request:

- i. Products and Services offered;
 - ii. Prices and options for programming Services and conditions of subscription to programming and other Services;
 - iii. Installation and Service maintenance policies;
 - iv. Instructions on how to use the Cable Service;
 - v. Channel positions of the programming carried on the System; and
 - vi. Billing and complaint procedures, including the address and telephone number of the City.
 - (2) Subscribers will be notified of any changes in rates, programming Services or Channel positions as soon as possible in writing. Notice must be given to Subscribers a minimum of thirty (30) days in advance of such changes if the changes are within the control of the Grantee. In addition, the Grantee shall notify Subscribers thirty (30) days in advance of any significant changes in the other information required by this Section 9.02(C)(1)(l). Grantee shall not be required to provide prior notice of any rate changes as a result of a regulatory fee, Franchise Fee or other fees, tax, assessment or charge of any kind imposed by any federal agency, state or City on the transaction between the operator and the Subscriber.
 - (3) All programming decisions remain the discretion of Grantee in accordance with this Franchise, provided that Grantee notifies City and Subscribers in writing thirty (30) days prior to any Channel additions, deletions, or realignments directed to each Subscriber individually through mailed notice or as an insert or addendum to the Subscriber's monthly bill, and further subject to Grantee's signal carriage obligations hereunder and pursuant to 47 U.S.C. § 531-536, and further subject to City's rights pursuant to 47 U.S.C. § 545.
2. Billing:
- (1) Bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium Service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.
 - (2) In case of a billing dispute, the Grantee must respond to a written complaint from a Subscriber within thirty (30) days.
3. Refunds: Refund checks will be issued promptly, but no later than either:

(1) The Subscriber's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or

(2) The return of the equipment supplied by Grantee if Service is terminated.

4. Credits: Credits for Service will be issued no later than the Subscriber's next billing cycle following the determination that a credit is warranted.

D. Upon written request of the City, Grantee shall provide City with a quarterly compliance report specific to the System in the Franchise Area, which report shall, at a minimum, describe in detail Grantee's compliance with each and every term and provision of this section and any additional customer service requirements contained in this Franchise.

9.03 Subscriber Contracts. Grantee shall file with City any standard form residential Subscriber contract utilized by Grantee. If no such written contract exists, Grantee shall file with the City a document completely and concisely stating the length and terms of the Subscriber contract offered to customers. The length and terms of any Subscriber contract(s) shall be available for public inspection during Normal Business Hours. A list of Grantee's current Subscriber rates and charges for Cable Service shall be maintained on a publicly facing website available for public inspection.

9.04 Refund Policy.

A. If a Grantee's Cable Service is interrupted or discontinued for twenty-four (24) or more consecutive hours, its Subscribers must be credited pro rata for such interruption. Credits must be issued no later than the Subscriber's next billing cycle following the determination that a credit is warranted. For this purpose, every month will be assumed to have thirty (30) days.

B. In the event a Subscriber establishes or terminates Service and receives less than one (1) full month of Service, Grantee shall prorate the monthly rate on the basis of the number of days in the period for which Service was rendered to the number of days in the billing. Refund checks will be issued promptly, but no later than the return of the equipment supplied by the Grantee if Cable Service is terminated.

9.05 Late Fees. Grantee shall comply with Applicable Laws with respect to any assessment, charge, cost, fee or sum, however characterized, that Grantee imposes upon a Subscriber for late payment of a bill. The City reserves the right to enforce Grantee's compliance with all Applicable Laws to the maximum extent legally permissible.

For purposes of this section any assessment, charge, cost, fee or sum, however characterized, that the Grantee imposes upon a Subscriber for late payment of a bill is a late fee and shall be subject to the following provisions:

- A. No such fee may be imposed until twenty-one (21) days have passed from the date a Subscriber bill is sent and the payment amount due has not been paid on such bill.
- B. Nothing in this section shall be deemed to create, limit, or otherwise affect the ability of Grantee, if any, to impose other assessments, charges, fees or sums other than those permitted by this section, for the Grantee's other services or activities it performs in compliance with Applicable Law, including FCC law, rule or regulation.
- C. The Grantee's late fee and disconnection policies and practices shall be nondiscriminatory and such policies and practices, and any fees imposed pursuant to this section, shall apply equally in all parts of the Franchise Area, without regard to the neighborhood or income level of the Subscriber.

9.06 Reserved.

9.07 Service Interruption.

- A. Grantee shall at all times maintain all parts of the System in good condition and repair through the term of this Franchise so as to provide Service to all Subscribers upon an uninterrupted basis.
- B. Grantee shall promptly notify the City of any significant interruption in the operation of the System. For the purposes of this Section 9.07 a "significant interruption in the operation of the System" shall mean any interruption of a duration of at least four (4) hours to at least five percent (5%) of the Subscribers. Grantee shall at all times keep an outage log in which all outages shall be regularly logged. The City shall have access to such log upon reasonable notice and at reasonable times.
- C. Grantee shall exercise its best efforts to limit any Service Interruption for the purpose of maintaining, repairing, or upgrading the System to periods of minimum use. Except in an emergency necessitating a more expedited procedure, Grantee may schedule a Service Interruption for a period of more than four (4) hours during any twenty-four (24) hour period only after the City and each affected Subscriber has received forty-eight (48) hours prior notice of the proposed interruption.
- D. For purposes of computing the duration of a Service Interruption, said period shall begin when Grantee receives a notice from a Subscriber that any Service has been interrupted or when Grantee has actual notice of said interruption, whichever is earlier, and shall cease when Service has been restored to said Subscriber.

9.08 Periodic Evaluation. The field of cable communications is a relatively new and rapidly changing one which may see many regulatory, technical, financial, marketing and legal changes during the term of this Franchise. Therefore, in order to provide for a maximum degree of flexibility in this Franchise, and to help achieve a continued advanced and modern System, the

following evaluation provisions will apply:

- A. The City reserves the right to adopt rules and regulations controlling the procedures as set forth below and subjects for evaluation sessions. In the absence of any City action taken to exercise these rights, Grantee shall be subject to at least the procedures and subjects described in this section.
- B. The City may require evaluation sessions at any time during the term of this Franchise, upon thirty (30) days written notice to Grantee, provided, however, there shall not be more than one review session during each two (2) year period commencing on the effective date of this Franchise.
- C. Topics which may be discussed at any evaluation session include, but are not limited to, application of new technologies, System performance, programming offered, access Channels, facilities and support, municipal uses of cable, customer complaints, amendments to this Franchise, judicial rulings, FCC rulings, line extension policies and any other topics the City or Grantee deem relevant. Discussion of a topic does not indicate any party acknowledges that a party has the right to regulate that particular topic.
- D. During an evaluation by the City, Grantee shall fully participate and cooperate with the City and shall provide without cost such information and documents as the City may reasonably request to perform the evaluation. To the extent consistent with Minnesota Statutes, Grantee may request confidential treatment of certain supplied Grantee-specific materials to which request the City shall label the materials as confidential and treat the materials as such.
- E. As a result of a periodic review or evaluation session, the City and Grantee may, in good faith, develop such changes and modifications to the terms and conditions of the Franchise, as mutually agreed upon and which are both economically and technically feasible.

SECTION 10. GENERAL FINANCIAL AND INSURANCE PROVISIONS.

10.01 Payment to City.

- A. Grantee shall pay to the City an annual amount equal to five percent (5%) of its annual Gross Revenues. The City retains the right to increase or decrease the percentage of the annual Gross Revenues to be paid to the City to the extent not inconsistent with local, state, or federal law. The City shall provide Grantee with ninety (90) day notice of any such increase. The foregoing payment shall be compensation for use of Streets and other Public Property. The amount is deemed fair and reasonable.
- B. Payments due the City under this provision shall be payable annually within ninety (90)

days of the end of Grantee's fiscal year. Each payment shall be accompanied by a brief report showing the basis for the computation in form and substance substantially the same as Exhibit A attached hereto.

- C. No acceptance of any payment shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of payment be construed as a release of any claim the City may have for further or additional sums payable under the provisions of this Franchise. All amounts paid shall be subject to audit and recomputation by City and acceptance of any payment shall not be construed as an accord that the amount paid is in fact the correct amount. In the event the City should conduct a review of Grantee's books and records pursuant to Section 8.04 of this Franchise and such review indicates a Franchise Fee underpayment of two percent (2%) or more, the Grantee shall assume all reasonable documented costs of such audit, and pay same upon demand by the City.
- D. Upon written request by the City Grantee shall provide the City with an unqualified certification of the accuracy of the Gross Revenues for the preceding year from an independent certified public accountant. This certification shall be used to determine the exact amount of payments due the City and to correct any overpayments or underpayments by Grantee.
- E. Any Franchise Fees owing pursuant to this Franchise which remain unpaid more than ninety (90) Days after the dates specified herein shall be delinquent and shall thereafter accrue interest at one percent (1%) per month.
- F. Grantee acknowledges and agrees that the Franchise Fees payable by Grantee to the City pursuant to Section 10.01 hereof shall take precedence over all other payments, contributions, Services, equipment, facilities, support, resources or other activities to be provided or performed by the Grantee pursuant to this Franchise and that the Franchise Fees provided for in Section 10.01 of this Franchise shall not be deemed to be in the nature of a tax, and shall be in addition to any and all taxes of general applicability and other fees and charges which the Grantee shall be required to pay to the City and/or to any other Governmental Authority, all of which shall be separate and distinct obligations of Grantee.
- G. Grantee shall not apply or seek to apply or make any claim that all or any part of the Franchise Fees or other payments or contributions to be made by Grantee to City pursuant to this Franchise and shall be deducted from or credited or offset against any taxes, fees or assessments of general applicability levied or imposed by the City or any other Governmental Authority, including any such tax, fee or assessment imposed on both utilities and cable operators or their services.
- H. Grantee shall not apply or seek to apply all or any part of any taxes, fees or assessments of general applicability levied or imposed by the City or any other Governmental

Authority (including any such tax, fee or assessment imposed on both utilities and cable operators or their services) as a deduction or other credit from or against any of the Franchise Fees or other payments or contributions to be paid or made pursuant by Grantee to City to this Franchise, each of which shall be deemed to be separate and distinct obligations of the Grantee.

10.02 Discounted Rates. If Grantee's Subscribers are offered what is, in effect, a discount for "bundled" services (i.e. Subscribers obtain Cable Services and some other, non-cable goods or service) then for the purpose of calculating Gross Revenues, the discount shall be applied proportionately to cable and non-cable goods and services, in accordance with the following example:

Assume a Subscriber's charge for a given month for Cable Service alone would be \$40, for local telephone service alone would be \$30, and for high-speed service alone would be \$30, for a total of \$100. In fact, the three (3) services are offered in effect at a combined rate where the Subscriber receives what amounts to a twenty percent (20%) discount from the rates that would apply to a service if purchased individually (i.e. \$80 per month for all three (3) services). The discount (here, \$20) for Gross Revenue computation purposes would be applied pro rata so that Gross Revenues for Cable Service are deemed to be \$32 (\$40 less 20% of \$40). The result would be the same if the Subscriber received a \$20 discount for telephone service on the condition that he or she also subscribes to Cable Service at standard rates.

In no event shall Grantee be permitted to evade or reduce applicable Franchise Fee payments required to be made to City due to discounted bundled services.

10.03 Not Franchise Fees. Grantee acknowledges and agrees that the Franchise Fees payable by Grantee to City pursuant to this section shall take precedence over all other payments, contributions, services, equipment, facilities, support, resources or other activities to be provided or performed by Grantee pursuant to this Franchise and that the Franchise Fees provided for in this section of this Franchise shall not be deemed to be in the nature of a tax, and shall be in addition to any and all taxes of general applicability and other fees and charges which Grantee shall be required to pay to City and/or to any other governmental authority, all of which shall be separate and distinct obligations of Grantee.

10.04 Letter of Credit.

- A. At the time of acceptance of this Franchise, Grantee shall deliver to City an irrevocable and unconditional letter of credit, in form and substance acceptable to City, from a National or State bank, in the amount of Ten Thousand and No/100 Dollars (\$10,000.00).
- B. The letter of credit shall provide that funds will be paid to City, upon written demand of City, and in an amount solely determined by City in payment for liquidated damages

charged pursuant to this section, in payment for any monies owed by Grantee to City or any Person pursuant to its obligations under this Franchise, or in payment for any damage incurred by City or any Person as a result of any acts or omissions by Grantee pursuant to this Franchise.

C. In addition to recovery of any monies owed by Grantee to City or any Person or damages to City or any Person as a result of any acts or omissions by Grantee pursuant to the Franchise, City in its sole discretion may charge to and collect from the letter of credit the following liquidated damages:

1. For failure to timely complete any required System upgrades as provided in this Franchise unless City approves the delay, the liquidated damage shall be Five Hundred and No/100 Dollars (\$500.00) per day for each day, or part thereof, such failure occurs or continues.
2. For failure to provide data, documents, reports or information or to cooperate with City during an application process or System review or as otherwise provided herein, the liquidated damage shall be Two Hundred Fifty and No/00 Dollars (\$250.00) per day for each day, or part thereof, such failure occurs or continues.
3. Fifteen (15) days following notice from City of a failure of Grantee to comply with construction, operation or maintenance standards, the liquidated damage shall be Five Hundred and No/J 00 Dollars (\$500.00) per day for each day, or part thereof, such failure occurs or continues.
4. For failure to provide the Services Grantee has proposed, including, but not limited to, the implementation and the utilization of the access Channels and the maintenance and/or replacement of the equipment and other facilities, the liquidated damage shall be Five Hundred and No/I 00 Dollars (\$500.00) per day for each day, or part thereof, such failure occurs or continues.
5. For Grantee's breach of any written contract or agreement with or to the City or its designee, the liquidated damage shall be Five Hundred and No/100 Dollars (\$500.00) per day for each day, or part thereof, such breach occurs or continues.
6. For failure to comply with any of the provisions of this Franchise, or other City ordinance for which a liquidated damage is not otherwise specifically provided pursuant to this subparagraph (C), the liquidated damage shall be Two Hundred Fifty and No/J 00 Dollars (\$250.00) per

day for each day, or part thereof, such failure occurs or continues.

- D. Each violation of any provision of this Franchise shall be considered a separate violation for which a separate liquidated damage can be imposed.
- E. Whenever City finds that Grantee has violated one (1) or more terms, conditions or provisions of this Franchise, or for any other violation contemplated in subparagraph (C) above, a written notice shall be given to Grantee informing it of such violation. At any time after thirty (30) days (or such longer reasonable time which, in the sole determination of City, is necessary to cure the alleged violation) following local receipt of notice, provided Grantee remains in violation of one or more terms, conditions or provisions of this Franchise, in the sole opinion of City, City may draw from the letter of credit all liquidated damages and other monies due City from the date of the local receipt of notice.
- F. Whenever the letter of credit is drawn upon, Grantee may, within seven (7) days of such draw, notify City in writing that there is a dispute as to whether a violation or failure has in fact occurred. Such written notice by Grantee to City shall specify with particularity the matters disputed by Grantee. All liquidated damages shall continue to accrue from the letter of credit during any appeal pursuant to this subparagraph (F).
 - 1. City shall hear Grantee's dispute within sixty (60) days and render a final decision within sixty (60) days thereafter.
 - 2. Upon the determination of City that no violation has taken place, City shall refund to Grantee, without interest, all monies drawn from the letter of credit by reason of the alleged violation.
- G. If said letter of credit or any subsequent letter of credit delivered pursuant thereto expires prior to thirty (30) months after the expiration of the term of this franchise, it shall be renewed or replaced during the term of this Franchise to provide that it will not expire earlier than thirty (30) months after the expiration of this Franchise. The renewed or replaced letter of credit shall be of the same form and with a bank authorized herein and for the full amount stated in subparagraph (a) of this section.
- H. If City draws upon the letter of credit or any subsequent letter of credit delivered pursuant hereto, in whole or in part, Grantee shall replace or replenish to its full amount the same within ten (10) days and shall deliver to City a like replacement letter of credit or certification of replenishment for the full amount stated in Section 10.4(A) as a substitution of the previous letter of credit. This shall be a continuing obligation for any draws upon the letter of credit.
- I. If any letter of credit is not so replaced or replenished, City may draw on said letter of credit for the whole amount thereof and use the proceeds as City determines in its sole

discretion. The failure to replace or replenish any letter of credit may also, at the option of the City, be deemed a default by Grantee under this Franchise. The drawing on the letter of credit by City, and use of the money so obtained for payment or performance of the obligations, duties and responsibilities of Grantee which are in default, shall not be a waiver or release of such default.

- J. The collection by City of any liquidated damages, monies or penalties from the letter of credit shall not affect any other right or remedy available to City, nor shall any act, or failure to act, by City pursuant to the letter of credit, be deemed a waiver of any right of City pursuant to this Franchise or otherwise.

10.05 Damages and Defense.

- A. Grantee shall be responsible for any damage or loss to any real or personal property of the City or any Person, and for injury to or death of any Person and any officers, boards, commissions, employees or agents of the City arising out of or in connection with the construction, operation, maintenance, repair, or removal of, or any other action of Grantee with respect to, the System, any service or related activity, or the distribution of any service over the System. Grantee shall, at its own cost and expense, reasonably replace, repair, or restore all such property to its prior condition and shall pay appropriate compensation in the event of any injury to or death of any Person.
- B. The City, its officers, boards, commissions, employees and agents shall not be liable for any loss or damage to any real or personal property of any Person, or for any injury to or death of any Person, arising out of or in connection with the construction, operation, maintenance, repair or removal of, or other action or event with respect to the System.
- C. Grantee shall defend, indemnify, and hold harmless the City, its officers, employees and agents, from and against all liability, special, incidental, consequential, punitive and all other damage, cost and expense (including reasonable attorneys' fees) arising out of or in connection with the construction, operation, maintenance, repair, or removal of, or any other action or event with respect to the System.
- D. In order for the City to assert its rights to be indemnified, defended, and held harmless, the City must:
 - 1. Promptly notify Grantee of any claim or legal proceeding which gives rise to such right;
 - 2. Afford Grantee the opportunity to participate in and fully control any compromise, settlement or other resolution or disposition of such claim or proceeding; unless, however, the City, in its sole discretion, determines that its interests cannot be represented in good faith by

Grantee; and

3. Fully cooperate with the reasonable requests of Grantee, at Grantee's expense, in its participation in, and control, compromise, settlement or resolution or other disposition of such claim or proceeding subject to paragraph (2) above.

- E. In the event the City, in its sole discretion, determines that its interests cannot be represented in good faith by Grantee, Grantee shall pay all expenses incurred by the City in defending itself with regard to all damages and penalties mentioned in paragraph (A) above. These expenses shall include all out-of-pocket expenses, such as attorney's fees and costs. City shall be liable for acts by the City, its officers, employees and agents.

10.06 Liability Insurance.

- A. Upon the effective date, Grantee shall, at its sole expense take out and maintain during the term of this Franchise commercial general liability insurance with a company licensed to do business in the state of Minnesota with a rating by A.M. Best & Co. of not less than "A" that shall protect the Grantee, City and its officials, officers, directors, employees and agents from claims which may arise from operations under this Franchise, whether such operations be by the Grantee, its officials, officers, directors, employees and agents or any subcontractors of Grantee. This liability insurance shall include, but shall not be limited to, protection against claims arising from bodily and personal injury and damage to property, resulting from Grantee's vehicles, products and operations. Grantee shall maintain, throughout the term of the Franchise, liability insurance insuring Grantee and the City in the minimum amounts of:
 1. Two Million and No/100 Dollars (\$2,000,000.00) for bodily injury or death to any one (1) Person;
 2. Two Million and No/100 Dollars (\$2,000,000.00) for bodily injury or death resulting from any one accident;
 3. Three Million and No/100 Dollars (\$3,000,000.00) in the form of an umbrella policy.
- B. The following endorsements shall be attached to the liability policy:
 1. The policy shall provide coverage on an "occurrence" basis.
 2. The policy shall cover personal injury as well as bodily injury.
 3. The policy shall cover blanket contractual liability subject to the

standard universal exclusions of contractual liability included in the carrier's standard endorsement as to bodily injuries, personal injuries and property damage.

4. Broad form property damage liability shall be afforded.
5. City shall be named as an additional insured on the policy.
6. An endorsement shall be provided which states that the coverage is primary insurance and that no other insurance maintained by the City will be called upon to contribute to a loss under this coverage.
7. Standard form of cross-liability shall be afforded.
8. An endorsement stating that the policy shall not be canceled without thirty (30) days' notice of such cancellation given to City.

- C. Grantee shall submit to City documentation of the required insurance, including a copy of the policy showing that the City is an additional insured, as well as all properly executed endorsements.

10.07 City's Right to Revoke. In addition to all other rights which the City has pursuant to law or equity, the City reserves the right to commence proceedings to revoke, terminate or cancel this Franchise, and all rights and privileges pertaining thereto if it is determined by City that after notice and an opportunity to cure as reordered herein:

- A. Grantee has violated any material provision(s) of this Franchise; or
- B. Grantee has attempted to evade any of the provisions of the Franchise; or
- C. Grantee has practiced fraud or deceit upon the City; or
- D. City may revoke this Franchise without the hearing otherwise required herein if Grantee is adjudged bankrupt; or
- E. Grantee misrepresents a material fact in the application for or negotiation of, or renegotiation of, or renewal of, the Franchise.

10.08 Procedures for Revocation.

- A. The City shall provide Grantee with a written notice of the cause for revocation and the intent to revoke and shall allow Grantee thirty (30) days subsequent to receipt of the notice in which to correct the violation or to provide adequate assurance of performance in compliance with the Franchise. The City shall provide Grantee with written findings of fact which are the basis of the revocation.

- B. Should the City determine to proceed with a revocation proceeding, Grantee shall be provided the right to a public hearing affording due process before the City prior to revocation, which public hearing shall follow the thirty (30) day notice provided in paragraph (A) above. City shall provide Grantee with written notice of its decision together with written findings of fact supplementing said decision.
- C. After the public hearing and upon determination by the City to revoke the Franchise, Grantee may appeal said decision with an appropriate state or federal court or agency.
- D. During the appeal period, the Franchise shall remain in full force and effect unless the term thereof sooner expires on unless continuation of the Franchise would endanger the healthy, safety, welfare or the public of any Person.

SECTION 11. FORECLOSURE, RECEIVERSHIP AND ABANDONMENT.

11.01 Foreclosure. Upon the foreclosure or other judicial sale of the System, Grantee shall notify the City of such fact and such notification shall be treated as a notification that a change in control of Grantee has taken place, and the provisions of this Franchise governing the consent to transfer or change in ownership shall apply without regard to how such transfer or change in ownership occurred.

11.02 Receivership. The City shall have the right to cancel this Franchise subject to any applicable provisions of Minnesota law, including the Bankruptcy Act, one hundred twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of Grantee, whether in receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred twenty (120) days, or unless:

- A. Within one hundred twenty (120) days after his election or appointment, such receiver or trustee shall have fully complied with all the provisions of this Franchise and remedied all defaults thereunder; and,
- B. Such receiver or trustee, within said one hundred twenty (120) days, shall have executed an agreement, duly approved by the Court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this Franchise.

11.03 Abandonment. Grantee may not abandon the System or any portion thereof without having first given three (3) months written notice to the City. Grantee may not abandon the System or any portion thereof without compensating the City for damages resulting from the abandonment. The City may recover from Grantee damages for the reasonable cost of removal of the System.

SECTION 12. REMOVAL, TRANSFER AND PURCHASE.

12.01 Removal After Revocation or Expiration.

- A. At the expiration of the term for which the Franchise is granted, or upon its revocation, as provided for, the City shall have the right to require Grantee to remove, at Grantee's expense, all or any portion of the System from all Streets and Public Property within the City. In so removing the System, Grantee shall refill and compact at its own expense, any excavation that shall be made and shall leave all Streets, Public Property and private property in as good a condition as that prevailing prior to Grantee's removal of the System, and without affecting, altering or disturbing in any way electric, telephone or utility, cables wires or attachments. The City shall have the right to inspect and approve the condition of such Streets and Public Property after removal. The performance bond, insurance, indemnity and liquidated damage provision of the Franchise shall remain in full force and effect during the entire term of removal.
- B. If, in the sole discretion of the City, Grantee has failed to commence removal of the System, or such part thereof as was designated, within thirty (30) days after written notice of the City's demand for removal is given, or if Grantee has failed to complete such removal within one (1) year after written notice of the City's demand for removal is given, the City shall have the right to exercise one of the following options:
 - 1. Declare all right, title and interest to the System to be in the City or its delegatee with all rights of ownership including, but not limited to, the right to operate the System or transfer the System to another for operation by it; or
 - 2. Declare the System abandoned and cause the System, or such part thereof as the City shall designate, to be removed at no cost to the City. The cost of said removal shall be recoverable from the performance bond, indemnity and liquidated damage section provided for in the Franchise or from Grantee directly.

12.02 City's Right to Purchase System. The City shall be entitled to a right of first refusal of any bona fide offer to purchase the System. Bona fide offer as used in this Section 12.02 shall mean an offer received by Grantee that it intends to accept subject to the City's rights under Section 12.04.

12.03 General Purchase Provisions.

- A. The City may, upon the payment of a fair valuation, purchase, take over and hold the property and plant of Grantee in whole or in part in the following circumstances:
 - 1. If such purchase or taking over be at the event of nonrenewal of the Franchise, such valuation shall be at fair market value determined on the basis of the System valued as a going concern, exclusive of the

value attributed to the Franchise itself.

2. If such purchase or taking over be at the revocation of the Franchise, such valuation shall be at an equitable price.

- B. In no event shall any valuation upon the purchase at expiration or revocation be given to the Franchise.

12.04 Sale or Transfer of Franchise.

- A. This Franchise or the System hereunder shall not be sold, assigned or transferred, either in whole or in part, or leased or sublet in any manner, nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass to or vest in any Person without full compliance with the procedure set forth in this section.
- B. The provisions of this section shall apply to the sale or transfer of all or a majority of Grantee's assets, merger, (including any parent and its subsidiary corporation) consolidation, creation of a subsidiary corporation or sale or transfer of stock in Grantee so as to create a new controlling interest in the System. The term "controlling interest" as used herein is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.
 1. The parties to the sale or transfer shall make a written request to the City for its approval of a sale or transfer. The City shall then make a determination pursuant to this Franchise as to the exercise of its first right of refusal to purchase the System.
 2. The City shall reply in writing within sixty (60) days of the request and shall indicate approval of the request or its determination that a public hearing is necessary due to potential adverse effect on Grantee's Subscribers. Denial of approval shall be accompanied by a justification of denial with a showing of how the transfer would adversely affect Grantee's Subscribers.
 3. If a public hearing is deemed necessary pursuant to paragraph (2) above, such hearing shall be conducted within thirty (30) days of such determination and notice of any such hearing shall be given fourteen (14) days prior to the hearing by publishing notice thereof. The notice shall contain the date, time and place of the hearing and shall briefly state the substance of the action to be considered by the City.
 4. Within thirty (30) days after the public hearing, the City shall approve or deny in writing the sale or transfer request. Denial of approval shall be accompanied by a justification of denial with a showing of how the

transfer would adversely affect Grantee's Subscribers.

5. Grantee, upon transfer, shall within sixty (60) days thereafter file with the City a copy of the deed, agreement, mortgage, lease or other written instrument evidencing such sale, transfer of ownership or control or lease, certified and sworn to as connect by the Grantee.
- C. In reviewing a request for sale or transfer pursuant to paragraph (A) above, the City may inquire into the technical, legal and financial qualifications of the prospective controlling party, and Grantee shall assist the City in so inquiring. The City may condition said transfer upon such terms and conditions as it deems reasonably appropriate. The City shall not unreasonably withhold its approval.
- D. In no event shall a transfer or assignment of ownership or control be approved without the transferee becoming a signatory to this Franchise.

SECTION 13. RIGHTS OF INDIVIDUALS PROTECTED.

13.01 Discriminatory Practices Prohibited.

- A. Grantee shall not deny service, deny access, or otherwise discriminate against Subscribers or general citizens on the basis of race, color, religion, national origin, sex, age, status as to public assistance, affectional preference or disability. Grantee shall comply at all times with all other applicable, federal, state and City laws, and all executive and administrative orders relating to nondiscrimination.
- B. Except as herein before provided, Grantee shall not, in its rates, charges, services, facilities, promotional campaigns, rules, regulations, or in any other respect, make or grant preferences or advantages to any Subscriber, or other user or potential user of the System, nor subject any Person to any prejudice or disadvantage.

13.02 Subscriber Privacy.

- A. No signal of a Class IV cable communications Channel may be transmitted from a Subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the Subscriber. The request for such permission shall be contained in a separate document with a prominent statement that the Subscriber is authorizing the permission in full knowledge of its provisions. Such written permission shall be for a limited period of time not to exceed one (1) year which shall be renewed at the option of the Subscriber. No liquidated damage shall be invoked for a Subscriber's failure to provide or renew such authorization. The authorization shall be revocable at any time by the Subscriber without liquidated damage of any kind whatsoever. Such permission shall be required for each type or classification of activity planned for the purpose of monitoring individual viewing patterns or practices.

- B. No lists of the names and addresses of such Subscribers or any lists that identify the viewing habits of Subscribers shall be sold or otherwise made available to any party other than to Grantee or its agents for Grantee's Service business use or to City for the purposes of Franchise administration, and also to the Subscriber subject of that information, unless Grantee has received specific written authorization from the Subscriber to make such data available. Such written permission shall be for a limited period of time not to exceed one (1) year which may be renewed at the option of the Subscriber. No liquidated damage shall be invoked for a Subscriber's failure to provide or renew such authorization. The authorization shall be revocable at any time by the Subscriber without liquidated damage of any kind whatsoever.
- C. Written permission from the Subscriber shall not be required for the conducting of system-wide or individually addressed electronic sweeps for the purpose of verifying System integrity or monitoring for the purpose of billing. Confidentiality of such information shall be subject to the provision set forth in paragraph (B) of this section.
- D. Subscribers and non-Subscribers may request to be put on a list to prevent solicitations from Grantee.
- E. Grantee shall not include any mandatory arbitration provisions of any kind in any Subscriber contracts.

SECTION 14. MISCELLANEOUS PROVISIONS.

14.01 Franchise Renewal. Any renewal of this Franchise shall be done in accordance with applicable federal, state and local laws and regulations.

14.02 Continuity of Service Mandatory. Upon expiration or the termination of this Franchise, the City may require Grantee to continue to operate the System for an extended period of time, not to exceed six (6) months. Grantee shall, as trustee for its successor in interest, continue to operate the System under the terms and conditions of this Franchise. In the event Grantee does not so operate the System, the City may take such steps as it, in its sole discretion, deems necessary to assure continued service to Subscribers.

14.03 Work Performed by Others.

- A. Grantee shall give notice to the City specifying the names and addresses of any other entity, other than Grantee, which performs services pursuant to this Franchise, provided, however, that all provisions of this Franchise remain the responsibility of Grantee, and Grantee shall be responsible for and hold the City harmless for any claims or liability arising out of work performed by persons other than Grantee.
- B. All applicable provisions of this Franchise shall apply to any subcontractor or others performing any work or services pursuant to the provisions of this Franchise, however,

in no event shall any such subcontractor or other performing work obtain any rights to maintain and operate a System or provide Cable Service. Grantee shall provide notice to City of the name(s) and address(es) of any entity, other than Grantee, which performs substantial services pursuant to this Franchise.

14.04 Amendment of Franchise Ordinance. The Grantee recognizes the right of the City to make reasonable amendments to this Franchise during the term of this Franchise upon sixty (60) days prior notice to the Grantee or without notice in the case of emergency amendments, provided, however, that any material changes will be made only with prior approval of Grantee.

14.05 Resolution of Disputes and Appeal Procedures. The City may do all things which are necessary and convenient in the exercise of its jurisdiction under this Franchise and may determine any question of fact which may arise during the existence of this Franchise. The City administrator is authorized and empowered to adjust, settle, or compromise any controversy or charge arising from the operations of Grantee, either on behalf of the City, or the Grantee, in the best interest of the public. If the Grantee is dissatisfied with the decision of the City administrator, an appeal may be taken to the City Council for hearing and final determination. The City Council may accept, reject, or modify the decision of the City administrator, and the City Council may adjust, settle, or compromise any controversy arising from the operations of the Grantee or from any provision of this Franchise. The decision of the City Council shall be final.

14.06 Compliance with Federal, State and Local Laws.

- A. If any federal or state law or regulation shall require or permit Grantee to perform any service or act or shall prohibit Grantee from performing any service or act which may be in conflict with the terms of this Franchise, then as soon as possible following knowledge thereof, Grantee shall notify the City of the point of conflict believed to exist between such law or regulation.
- B. If any term, condition or provision of this Franchise or the application thereof to any Person or circumstance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition or provision to persons or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Franchise and all the terms, provisions and conditions hereof shall, in all other respects, continue to be effective and to be complied with. In the event that such law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision which had been held invalid or modified is no longer in conflict with the law, rules and regulations then in effect, said provision shall thereupon return to full force and effect and shall thereafter be binding on Grantee and the City.
- C. Notwithstanding anything to the contrary, in the event that any court, agency, commission, legislative body or other authority of competent jurisdiction (i) declares any section, deemed by the City to be material, invalid, in whole or in part, or (ii)

requires Grantee either to (a) perform any act which is inconsistent with any section deemed by the City to be material, or (b) cease performing any act deemed by the City to be material, the City shall so notify Grantee. Grantee shall within thirty (30) days of receipt of said notice notify the City whether Grantee intends to exercise its rights pursuant to such declaration or requirement or, in the alternative, continue to comply with the requirement of the Franchise. In the event Grantee determines to exercise its rights pursuant to such declaration or requirement then the City may, upon sixty (60) days' notice terminate the Franchise.

14.07 Non-enforcement by City. Grantee shall not be relieved of its obligation to comply with any of the provisions of this Franchise by reason of any failure or delay of the City to enforce prompt compliance. Any waiver by the City of a breach or violation of any provision of this Franchise shall not operate as or be construed to be a waiver of any subsequent breach or violation.

14.08 Administration of Franchise.

- A. The City shall have continuing regulatory jurisdiction and supervision over the System and the Grantee's operation under the Franchise. The City may issue such reasonable rules and regulations concerning the construction, operation and maintenance of the System as are consistent with the provisions of the Franchise. The City reserves the right to delegate and re-delegate from time to time any of its rights and obligations under this Franchise.
- B. Grantee shall construct, operate and maintain the System subject to the supervision of all the authorities of the City who have jurisdiction in such matters and in strict compliance with all laws, ordinances, departmental rules and regulations affecting the System.
- C. The System and all parts thereof shall be subject to the right of periodic inspection by the City provided that such inspection shall not interfere with the operation of the System and such inspections take place during Normal Business Hours.

14.09 No Recourse Against the City. Grantee shall have no recourse whatsoever against the City or its officials, agents or employees for any loss, costs, expense, or damage arising out of any provision or requirement of this Franchise or because of the enforcement of the Franchise.

14.10 Rights Cumulative. All rights and remedies given to City by this Franchise shall be in addition to and cumulative with any and all other rights or remedies, existing or implied, now or hereafter available to the City, at law or inequity, and such rights and remedies shall not be exclusive, but each and every right and remedy specifically given by this Franchise or otherwise existing or given may be exercised from time to time and as often and in such order as may be deemed expedient by the City and the exercise of one or more rights or remedies shall not be deemed a waiver-of the right to exercise at the same time or thereafter any other right or remedy.

14.11 Captions. The section and paragraph captions in this Franchise are for convenience and reference purposes only and shall not affect in any way the meaning or interpretation of this Franchise.

14.12 Calculation of Time. Where the performance or doing of any act, duty, matter, payment or thing is required hereunder and the period of time or duration for the performance thereof is prescribed and fixed herein, the time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period or duration of time. When the last day of the period falls on Saturday, Sunday or a legal holiday, that day shall be omitted from the computation.

SECTION 15. EFFECTIVE DATE; PUBLICATION; AND TIME OF ACCEPTANCE.

15.01 Publication; Effective Date. This Franchise shall be published in accordance with applicable Minnesota law. This Franchise shall take effect from and after thirty (30) days from its adoption or upon acceptance by Grantee whichever is later.

15.02 Time of Acceptance and Exhibits.

- A. Grantee shall accept this Franchise in form and substance acceptable to the City within thirty (30) days of the adoption of this Franchise unless the time for acceptance is extended by the City. Such acceptance by Grantee shall be deemed the grant of this Franchise for all purposes. In the event acceptance does not take place, this Franchise and any and all rights previously granted to Grantee shall be null and void.
- B. Upon acceptance of this Franchise, Grantee shall be bound by all the terms and conditions contained herein. Grantee shall provide all services and offerings specifically set forth herein to provide Cable Services within the City.
- C. With its acceptance, Grantee shall assume the publication costs as shall be presented to the Grantee by the City Clerk after acceptance of this Franchise by the City, and appropriate publication has occurred.
- D. With its acceptance, Grantee shall also deliver any grant payments, letter of credit and insurance certificates required herein that have not previously been delivered.

Passed and adopted this ____ day of _____, 2026.

City of Pipestone, Minnesota

Dated: _____, 2026

By: _____

Its: Mayor _____

ATTEST:

By: _____

Its: City Clerk

ACCEPTED: This Franchise is accepted, and we agree to be bound by its terms and conditions.

Dated: _____, 2026

GRANTEE

By: _____

Its: _____

SWORN TO BEFORE ME this

_____ day of _____, 2026

Notary Public

EXHIBIT A FRANCHISE FEE PAYMENT WORKSHEET

TRADE SECRET – CONFIDENTIAL

	Month/Year	Month/Year	Month/Year	Total
Cable Service Revenue				
Installation Charge				
Home Shopping Revenue				
Other Revenue				
Equipment rental				
TOTAL				

Fee Factor: 5%

PEG Fee				

REVENUE SOURCES INCLUDE:

INSTALLATION:

Standard installation	Commonly occurring normal Installation
Additional Outlet	Installation on additional sets within a Subscriber's home
FM Service	Separate Installation of FM Service
VCR	Installation of Converter to a VCR
Reconnection of Service	Reconnection of cable to a Subscriber's address
A/B Switch	Separate Installation of an A/B Switch
Relocation	Moving an outlet within a Subscriber's home
Non-Standard	Usually Installation of a commercial type of account
Change of Service	Charge for upgrading or switching a premium service

BASIC SERVICE:

Basic Service	Revenue derived from Basic Service
Bulk Rates	Revenue derived from non-standard billings (i.e., apt. complex)
Reduced Promotional Basic	Revenue derived from a discounted Basic Service

PAY-PER-VIEW:

All Movies	Revenue derived from pay-per-view movies
Events	Revenue derived from special events (i.e., concerts, boxing matches, etc.)

ADVERTISING:

Sales	Revenue generated locally, regionally, or nationally
Ad Production	Revenue generated from the production of a locally produced commercial
Production Income	Revenue generated from the production of training tapes, studio rentals, personnel fees, or rental income from renting vans or equipment
Tape Duplication	Revenue generated from duplication of L.O. or access tapes
Bill Stuffer	Revenue generated as a result of providing a bill stuffer to an advertiser

OTHER:

Returned Check Fees	Revenue generated from charges on returned checks
Pre-wired Cable Purchases	Revenue generated from the sale of Cable Service to Subscribers who pre-wire their home
Antenna Rental	Any revenue derived from renting space on towers
A/B Switch	Revenue generated from sale of an A/B switch
Late Fee	Revenue generated from receiving a late fee

DOES NOT INCLUDE:

Reimbursements Revenues from the Department of Transportation or other government entities for mandatory relocations of Cable System.
Revenue from employee reimbursements for cash advances.

Verified and submitted this ____ day of _____ 2026

By: _____

Its: _____