

ORDINANCE NO. 79

AN ORDINANCE GRANTING A FRANCHISE TO MEDIACOM MINNESOTA LLC, TO CONSTRUCT, OPERATE, AND MAINTAIN A CABLE SYSTEM IN THE CITY OF BROWNTON, SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE; PROVIDING FOR REGULATION AND USE OF THE SYSTEM AND THE PUBLIC RIGHTS-OF-WAY, AND PRESCRIBING PENALTIES FOR THE VIOLATION OF THE PROVISIONS HEREIN;

The City of Brownton ("City") ordains:

STATEMENT OF INTENT AND PURPOSE

The City intends, by the adoption of this Franchise, to bring about the further development of a Cable System, and the continued operation of it. Such a development can contribute significantly to the communication needs and desires of residents of the Franchise Area. Further, the City may achieve better utilization and improvement of public services with the development and operation of a Cable System.

The City has considered the elements of a Cable System that, in the judgment of the City, will best meet the needs of the community. This has resulted in the preparation and adoption of this Franchise.

FINDINGS

In the review of the request for renewal submitted to the City by Mediacom Minnesota LLC ("Grantee"), and/or its predecessor-in-interest, and negotiations related thereto, and as a result of a public hearing, the City makes the following findings:

1. The Grantee's technical, financial, legal qualifications and ability, and character were considered and approved in a full public proceeding after due notice and a reasonable opportunity to be heard;
2. Grantee's plans for constructing, upgrading, and operating the System were considered and found adequate and feasible in a full public proceeding after due notice and a reasonable opportunity to be heard;
3. The Franchise granted to Grantee by the City complies with the existing applicable Minnesota Statutes, federal laws and regulations; and
4. The Franchise granted to Grantee is nonexclusive.

**SECTION 1.
SHORT TITLE AND DEFINITIONS**

1. Short Title. This Franchise Ordinance shall be known and cited as the Cable Communications Ordinance.
2. Definitions. For the purposes of this Franchise, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. The word "may" is directory and discretionary and not mandatory.
 - a. "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. Basic Cable Service as defined herein shall not be inconsistent with 47 U.S.C. § 543(b)(7).
 - b. "Cable System" or "System" means a system of antennas, cables, wires, lines, towers, waveguides, or other conductors, Converters, equipment, or facilities located in the City and designed and constructed for the purpose of producing, receiving, transmitting, amplifying, or distributing audio, video, and data. System as defined herein shall not be inconsistent with the definitions set forth in Minn. Stat. § 238.02, subd. 3 and 47 U.S.C. § 522(7).
 - c. "Cable Programming Service" means any video programming provided over a cable system, regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than:
 - i. Basic Cable Service;
 - ii. Video programming offered on a pay-per-channel or pay-per-program basis; or
 - iii. A combination of multiple channels of pay-per-channel or pay-per-program video programming offered on a multiplexed or time-shifted basis so long as the combined service: (1) consists of commonly-identified video programming; and (2) is not bundled with any regulated tier of service.Cable Programming Service as defined herein shall not be inconsistent with the definition as set forth in 47 U.S.C. § 543(1)(2) and 47 C.F.R. § 76.901(b).
 - d. "Cable Service" or "Service" means the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and; subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service. Such definition shall include cable modem, internet, and similar services to the extent provided by applicable law.
 - e. "Channel" means, a single video programming spectrum allocation.

- f. "City" means the City of Brownnton, Minnesota.
- g. "Class IV Channel" means a signaling path provided by a Cable System to transmit signals of any type from a Subscriber terminal to another point in the System.
- h. "Converter" means an electronic device which converts signals to a frequency acceptable to a television receiver of a Subscriber and by an appropriate selector permits a Subscriber to view all Subscriber signals included in the service.
- i. "Drop" means the cable that connects the ground block on the Subscriber's residence to the nearest feeder cable of the System.
- j. "FCC" means the Federal Communications Commission and any legally appointed, designated or elected agent or successor.
- k. "Franchise" or "Cable Franchise" means this ordinance and the contractual relationship established hereby.
- l. "Franchise Area" means the area within the municipal boundaries of the City, as may be expanded by annexation or other lawful addition.
- m. "Franchise Fee" means the fee or assessment imposed by the City on a Grantee solely because of its status as a recipient of a Cable Franchise. The term "Franchise Fee" does not include: (i) any tax, fee or assessment of general applicability; (ii) capital costs which are required by this Franchise; (iii) capital costs required by the Franchise to be incurred by the Grantee for public, educational, or governmental access facilities; (iv) requirements or charges incidental to awarding or enforcing this Franchise, including payments for bonds, security funds or letters of credit, insurance, indemnification, penalties or liquidated damages, or other regulatory costs specifically required herein in addition to the Franchise Fee; (v) any fee imposed under Title 17 of the United States Code.
- n. "Grantee" is Mediacom Minnesota LLC, its agents and employees, lawful successors, transferees or assignees.
- o. "Gross Revenues" means all revenue received directly or indirectly by the Grantee or its affiliates from the operation of its System within the Franchise Area including, but not limited to, Cable Service fees, late fees, interest, Installation and reconnection fees, upgrade and downgrade fees, advertising revenue, Franchise Fee receipts, revenues generated by sales on home shopping channel(s), leased channel fees, Subscriber equipment rental fees, Lockout Device fees, and other revenues generated for services provided via the System to the extent imposition of a Franchise Fee with respect to such services is not unlawful. Revenue derived from cable modems or from the provision of Internet access shall be included in "Gross Revenues" until such time as a binding court decision or express statutory enactment dictates that such services are not within the

definition of "Cable Service" or that the revenues derived from such services are not within the definition of "Gross Revenues", if ever. Further, the term Gross Revenues shall not include bad debt, or any taxes imposed by any municipality, state, or other governmental unit and collected by Grantee for such governmental unit.

- p. "Installation" means the connection of the System from feeder cable to the point of connection with the Subscriber Converter.
- q. "Lockout Device" means an optional mechanical or electrical accessory to a Subscriber's terminal which inhibits the viewing of a certain program, certain channel, or certain channels provided by way of the Cable Communication System.
- r. "Normal Business Hours" means those hours during which most similar businesses in the community are open to serve customers.
- s. "Normal Operating Conditions" means those service conditions that are within the reasonable 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 planned maintenance or upgrade of the System.
- t. "PEG Access" means public, educational and governmental programming channels, equipment, facilities, funding, or operations as the context may require
- u. "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 Cable Programming Services.
- v. "Person" is any person, firm, partnership, association, corporation, company, or other legal entity.
- w. "Right-of-Way" or "Rights-of-Way" means the area on, below, or above any real property in which the City has an interest, except property owned in fee. Rights-of-Way include, but are not limited to, streets, roads, highways, alleys, sidewalks, parkways, or any other places, areas, or real property under the control of the City or the City, including other dedicated Rights-of-Way for travel purposes and utility easements.
- x. "Right-of-Way Ordinance" means such ordinance adopted by the City creating requirements regarding regulation, management and use of Rights-of-Way, including registration and permitting requirements.
- y. "Standard Installation" means any residential installation which can be completed using a Drop of 150 feet or less.

- z. "Subscriber" means any Person who lawfully receives service via the System.

SECTION 2.
GRANT OF AUTHORITY AND GENERAL PROVISIONS

1. Franchise Required. It shall be unlawful for any Person to construct, operate or maintain a Cable System in the Franchise Area unless such Person shall have first obtained a Franchise.
2. Grant of Franchise. This Franchise is granted pursuant to the terms and conditions contained herein.
3. Grant of Nonexclusive Authority.
 - a. The Grantee shall have the right and privilege pursuant to this Franchise to construct, erect, maintain, and operate a Cable System in, upon, along, across, above, over and under the Rights-of-Way in the Franchise Area and shall have the right and privilege to provide Cable Service. The System constructed and maintained by Grantee or its agents shall not interfere with other uses of the Rights-of-Way. Grantee shall make use of existing poles and other above and below-ground facilities available to Grantee to the extent it is technically and economically feasible to do so.
 - b. Use of Rights-of-Way shall be subject to all legal requirements related to the use of such Rights-of-Way, including the terms and conditions of any applicable Right-of-Way Ordinance adopted by the City, and shall be consistent with the terms and conditions by which such Rights-of-Way were created or dedicated.
 - c. This Franchise shall be nonexclusive. Additional Cable Franchises granted by the City shall be granted on terms and conditions which, taken as a whole, are no more favorable nor less burdensome than those imposed in previously granted Franchises.
4. Lease or Assignment Prohibited. No Person may lease Grantee's System for the purpose of providing Service until and unless such Person shall have first obtained and shall currently hold a valid Franchise. This provision shall not apply to any agreements entered into by Grantee with a third-party to allow such third-party to use a portion of Grantee's system to provide only telecommunications services that are not subject to franchising by the City pursuant to applicable law. Any assignment of rights under this Franchise shall be subject to and in accordance with the requirements of Section 9, Paragraph 5.
5. Franchise Term. This Franchise shall be in effect for a period of ten (10) years from the date of acceptance by Grantee.

6. Previous Franchises. This Franchise shall supersede and replace any previous Franchise Ordinance granted by the City.
7. Compliance with Applicable Laws, Resolutions and Ordinances.
 - a. The terms of this Franchise shall define the contractual rights and obligations of Grantee with respect to the provision of Cable Service and operation of the System in the Franchise Area. However, the Grantee shall at all times during the term of this Franchise be subject to all lawful exercise of police powers, statutory rights, and eminent domain rights of the City and the City. A final determination that Grantee has violated a Right-of-Way Ordinance adopted by the City may be deemed a violation of this Franchise.
 - b. Notwithstanding Minn. Stat. § 237.163, Subd. 6(c), in the event of any conflict between this Franchise and any City's Right-of-Way Ordinance or other regulation which addresses usage of the Rights-of-Way, the conflicting term of this Franchise shall be superseded by such ordinance or regulation regardless of which requirement was first adopted unless such Right-of-Way Ordinance or other regulation is inconsistent with or preempted by applicable federal law.
8. Territorial Area Involved. This Franchise is granted for the boundaries of the Franchise Area, as it exists from time to time. In the event of annexation or as development occurs, any new territory shall become part of the territory for which this Franchise is granted provided, however, that Grantee shall not be required to extend Service beyond its present System boundaries unless there are a minimum of twenty five (25) dwelling units per cable mile. Grantee shall extend Service to any other areas or Persons requesting Service at a cost equal to the construction costs, including material, labor and any necessary easements, per mile multiplied by a fraction whose numerator equals the actual number of dwelling units per mile, and whose denominator equals twenty five (25) dwelling units. Those Persons wishing to become Subscribers and requesting Service will bear the remainder of the construction costs on a pro rata basis. The Grantee may require that the payment of these costs by such potential Subscribers be made in advance. Access to Cable Service shall not be denied to any group of potential residential cable Subscribers because of the income of the residents of the area in which such group resides. Grantee shall be given a reasonable period of time to construct and activate cable plant to service annexed or newly developed areas but in no event not to exceed twelve (12) months from notice thereof by City to Grantee.
9. 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 any officer of Grantee or the City's Administrator or forty-eight (48) hours after it is deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid thereon, addressed to the party to whom notice is being given, as follows:

If to City: City of Brownton
528 2nd Street North
P. O. Box 238
Brownton, MN 55312-0238

With copies to: Bob Vose, Esq.
Kennedy & Graven, Chartered
470 Pillsbury Center
200 South Sixth Street
Minneapolis, Minnesota 55402

If to Grantee: Mediacom Minnesota, LLC
1504 2nd Street S.E.
Waseca, MN 56093

With copies to: Mediacom Communications Corporation
100 Crystal Run Road
Middletown, NY 10941
Attn: Legal Department

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

10. Drops to Public Buildings. Grantee shall provide, free of charge, Installation of one (1) two-way capable cable Drop, one (1) cable outlet, and monthly Basic Cable Service and the next most highly penetrated tier of video service without charge to City Hall, Old City Hall, Fire Hall, Community Center (Grantee shall provide 3 outlets in the Community Center in locations identified by City), and any school, library or other public or educational institutions within the Franchise Area which the City may designate and which are within 150 feet of the System. No redistribution of such free Cable Service provided pursuant to this Section shall be allowed without the Grantee's prior written consent. Additional Drops and/or outlets in any of the above locations shall be provided by Grantee at the cost of Grantee's time and material. Alternatively, at the institution's request, said institution may add outlets at its own expense, as long as such Installation meets applicable FCC technical standards. Drops to subsequently designated institutions in excess of 150 feet shall be provided by the Grantee at the cost of Grantee's time and materials less the cost of the 150 feet closest to the building. Grantee shall have one (1) year from the date of the City designation of additional institution(s) to complete construction of the Drop and outlet.

SECTION 3. CONSTRUCTION STANDARDS

1. Registration, Permits and Construction Codes.

- a. Grantee shall strictly adhere to all state and local laws and building and zoning codes currently or hereafter applicable to location, construction, installation, operation or maintenance of the System in the Franchise Area.
 - b. The City shall have the right to inspect all construction or installation work performed pursuant to the provisions of the 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.
2. Repair of Rights-of-Way and Property. Any and all Rights-of-Way or public property or private property, which are disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance or reconstruction of the System shall be promptly and fully restored by Grantee, at its expense, to the same condition as that prevailing prior to Grantee's work. If Grantee fails to promptly perform the restoration required herein, the City shall have the right to enforce its own ordinances with regard thereto and, in the case where there is no applicable ordinance, the City may perform the restoration of the Rights-of-Way, public, or private property as required herein at Grantee's expense after notice to Grantee and an opportunity to cure any deficient restoration work.
3. Conditions on Right-of-Way Use.
- a. Nothing in this Franchise shall be construed to prevent the City from adopting and enforcing requirements for the usage of Rights-of-Way or from constructing, maintaining, repairing or relocating sewers; grading, paving, maintaining, repairing, relocating and/or altering any Right-of-Way; constructing, laying down, repairing, maintaining or relocating any water mains; or constructing, maintaining, relocating, or repairing any sidewalk or other public work.
 - b. All System transmission and distribution structures, lines and equipment erected by the Grantee shall be located so as not to obstruct or interfere with the use of Right-of-Way and to cause minimum interference with the rights of property owners who abut any of said Right-of-Way and not to interfere with existing public utility installations.
 - c. If at any time during the period of this Franchise the City shall elect to alter or change the grade or location of any Right-of-Way, the Grantee shall, upon reasonable notice by the City and in a manner consistent with the City's ordinances, remove and relocate its poles, wires, cables, conduits, manholes and other fixtures of the System, and in each instance comply with the standards and specifications of the City. If the City enters into an agreement to reimburse other occupants of the Right-of-Way for such relocation or removal, Grantee shall be likewise reimbursed.
 - d. The Grantee shall not place poles, conduits, or other fixtures of System above or

below ground where the same will interfere with any gas, electric, telephone, water or other utility fixtures and all such poles, conduits, or other fixtures placed in any Right-of-Way shall be so placed as to comply with all requirements of the City.

- e. The Grantee shall, upon request of any Person holding a moving permit issued by the City, temporarily move its wires or fixtures to permit the moving of buildings with the expense of such temporary removal to be paid by the Person requesting the same, and the Grantee shall be given not less than ten (10) days advance notice to arrange for such temporary changes.
 - f. The Grantee shall have the authority to trim any trees upon and overhanging the Rights-of-Way only to the extent necessary to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee.
 - g. Except in emergency circumstances, Grantee shall give reasonable prior notice to any private property owners who will be directly affected or impacted by Grantee's work in the Rights-of-Way.
4. Undergrounding of Cable. Unless the requirements of the City differ, Grantee must place newly constructed facilities underground in all areas of the Franchise Area where all other utility lines are placed 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, all pursuant to plans submitted with Grantee's permit application(s) and approved by the City as appropriate.
5. Drop Burial. Grantee shall bury all Drops in a reasonable time period which shall not exceed fifteen (15) business days, subject to weather conditions and the completion of required utility locates. In the event the ground is frozen, Grantee shall be permitted to delay burial until the ground is suitable for burial which in no event shall be later than June 30th of any given year.
6. Erection, Removal and Joint Use of Poles. No poles, conduits, amplifier boxes, pedestal mounted terminal boxes, similar structures, or other wire-holding structures shall be erected or installed by the Grantee without prior approval of the affected City with regard to location, height, type and other pertinent aspects.
7. Safety Requirements.
- a. The Grantee shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

- b. The Grantee shall install and maintain its System and other equipment in accordance with all federal, state and local laws and regulations, and the requirements of the latest edition of the National Electric Safety Code and in such manner that they will not interfere with private radio, police and fire communications or any installations of the City or of any public utility serving the City.
- c. All System structures, and lines, equipment and connections in, over, under and upon the Rights-of-Way, wherever situated or located, shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of the City, the City, or any Person.

SECTION 4. DESIGN PROVISIONS

1. System Upgrade; Minimum Channel Capacity.

- a. Within twenty four (24) months of the Effective Date of this Franchise, Grantee shall develop, construct and engineer, and activate a 750 MHz fiber/coaxial hybrid System (550 MHz analog and 200 digital) which initially delivers 50 channels and is capable of delivering a minimum of 80 video programmed channels. The System shall be designed with an average five hundred (500) homes per fiber node configuration as more fully detailed in Exhibit A attached.
- b. During the twenty four (24) month upgrade period, revenue derived from cable modem services and from the provision of Internet access shall not be included in "Gross Revenues."
- c. Grantee shall maintain an updated System and provide Services which are equivalent to those provided in comparable markets where Grantee operates. Upon written request by the City to update the System or introduce additional Services provided in a comparable market, Grantee shall, within a reasonable time, provide a timeline for implementing such request, or submit documentation of economic or technical infeasibility for refusing to implement such request. The inability to recover the initial investment and earn a reasonable rate of return during the remaining term of the Franchise shall constitute economic infeasibility.
- d. In the event the City determines that its request to update the System or introduce additional Services is feasible notwithstanding Grantee's submission of documentation concerning infeasibility, the City shall hold a public hearing offering the Grantee an opportunity to be heard. Notice of such hearing shall be provided to Grantee at least twenty (20) days prior to the hearing. The hearing may be continued from time to time. At the conclusion of the hearing, the City shall determine whether the request is feasible and make a written decision. Grantee may appeal this determination to a court of competent jurisdiction.

2. Programming. All programming decisions remain the discretion of Grantee; provided, however, that upon completion of the System upgrade Grantee shall offer at least two tiers of Cable Service; and further provided that any change in the broad categories of video programming or other information services shall require the approval of the City consistent with 47 U.S.C. § 544(b), which approval shall not be unreasonably withheld, and further provided that Grantee notifies the City and Subscribers in writing thirty (30) days prior to any channel additions, deletions, or realignments that are within the control of the Grantee, and further provided that Grantee may not eliminate, move or renumber any PEG access or other PEG Access channel required hereunder without prior approval of the City. Grantee shall conduct programming surveys from time to time to obtain input on programming decisions from Subscribers.
3. Operation and Maintenance of System. The Grantee shall render effective service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Such interruption, to the extent feasible, shall be preceded by notice in accordance with Section 2.9 herein and shall occur during periods of minimum use of the System.
4. Technical Standards. The technical standards used in the operation of the System shall comply with the technical standards promulgated by the FCC relating to Cable Systems pursuant to Title 47, Section 76.601 to 76.617, as may be amended or modified from time to time, which regulations are expressly incorporated herein by reference. Any failure to comply with the FCC technical standards shall be a violation of this Franchise.
5. Special Testing.
 - a. The City may require testing of a location or locations within the System or the System as a whole. Demand for such special tests may be made on the basis of complaints received or other evidence indicating an unresolved controversy or noncompliance. The City shall endeavor to so arrange its request for such special testing so as to minimize hardship or inconvenience to Grantee or to the Subscribers caused by such testing.
 - b. Before ordering such tests, Grantee shall be afforded thirty (30) days to correct problems or complaints upon which tests were ordered. If the thirty (30) days have elapsed without correction of the matter in controversy or unresolved complaints, the tests shall be conducted by a qualified engineer selected by City.
 - c. In the event that special testing determines that the System or Grantee is the source of technical difficulties in violation of the FCC technical specifications as required by this Franchise, the cost of said testing shall be reimbursed by the Grantee.
6. FCC Reports. The results of any tests required to be filed by Grantee with the FCC shall

also be filed with the City or its designee within ten (10) days of the filing of such tests with the FCC.

7. Nonvoice Return Capability. Grantee is required to use cable having the technical capacity for nonvoice return communications.
8. Lockout Device. Upon the request of a Subscriber, Grantee shall provide a Lockout Device.

SECTION 5. SERVICES PROVISIONS

1. Regulation of Service Rates.
 - a. The City may regulate rates for the provision of Cable Service, equipment, or any other service provided over the System to the extent allowed under federal or state law(s). The City reserves the right to regulate rates for any future services to the extent permitted by law.
 - b. A list of Grantee's current Subscriber rates and charges shall be maintained on file with the City and shall be available for public inspection. Grantee shall give the City and Subscribers written notice of any change in a rate or charge no less than thirty (30) days prior to the effective date of the change unless such change results from changes in regulatory fees, franchise fees, access costs or initiation of franchise imposed costs.
2. Sales Procedures. Grantee shall not exercise deceptive sales procedures when marketing any of its services within City. Grantee shall have the right to market door-to-door during reasonable hours consistent with local ordinances and regulation.
3. Subscriber Inquiry and Complaint Procedures.
 - a. Grantee shall have a publicly listed toll-free telephone number which shall be operated so as to receive Subscriber complaints and requests on a twenty-four (24) hour-a-day, seven (7) days-a-week basis. During normal business hours, trained representatives of Grantee shall be available to respond to Subscriber inquiries.
 - b. Grantee shall maintain adequate numbers of telephone lines and personnel to respond in a timely manner to schedule service calls and answer Subscriber complaints or inquiries in a manner consistent with regulations adopted by the FCC at 47 C.F.R. § 76.309. Grantee shall respond to written complaints with copy to the City within thirty (30) days.
 - c. Subject to Grantee's obligations pursuant to law to maintain the privacy of certain information, Grantee shall prepare and maintain written records of all complaints

received and the resolution of such complaints, including the date of such resolution. Such written records shall be on file at the office of Grantee. Upon request, Grantee shall provide the City with a written summary of such complaints and their resolution on a quarterly basis. Grantee and the City will discuss and agree upon the form and substance of such quarterly reports.

- d. Subscriber requests for repairs shall be performed within twenty-four (24) hours of the request unless conditions beyond the control of Grantee prevent such performance. Grantee may schedule appointments for Installations and other service call either at a specific time or, at a maximum, during a four hour time block during normal business hours. Grantee may also schedule service calls outside normal business hours for the convenience of customers. Grantee may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment. If the installer or technician is late and will not meet the specified appointment time, he/she must contact the customer and reschedule the appointment at the sole convenience of the customer. Service call appointments must be met 95% of the time, measured quarterly.
4. Billing. The the extent consistent with applicable federal regulation, Grantee must give Subscribers thirty (30) days advance written notice with copy to City before any changes in rates, programming services, or channel positions. Bills must be clear, concise, and understandable, with itemization of all charges for Basic and Cable Programming Services, equipment charges, and any optional services, charges, and other activity during the billing period.
5. Subscriber Contracts. Grantee shall file with the City any standard form 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.
6. Refund Policy. In the event a Subscriber establishes or terminates service and receives less than a full month's 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. If Service is interrupted or discontinued for a total period of more than twenty-four (24) hours, Subscribers shall be credited pro rata for such interruption beginning with the date of interruption.
7. Late Fees. Fees for the late payment of bills shall not accrue until the normal billing cut-off for the next month's service and in no event less than one (1) month after the unpaid bill in question was sent to the Subscriber.
8. Additional Customer Service Requirements. The City expressly reserves authority to adopt additional or modified customer service requirements to address subscriber concerns or complaints in accordance with federal law.

SECTION 6.
ACCESS CHANNEL(S) PROVISIONS

1. Public, Educational and Government Access.
 - a. The City is hereby designated to operate, administer, promote, and manage PEG Access established pursuant to this Section 6. The Grantee shall have no responsibility whatsoever for PEG Access except as provided herein.
 - b. Grantee shall dedicate one (1) channel for use solely by the City, with channel defined as a six (6) MHz spectrum allocation, for PEG Access use. All residential Subscribers who receive all or any part of the total services offered on the System shall be eligible to receive such channels at no additional charge. The channel(s) shall be activated upon the effective date of this Franchise and thereafter maintained. The City may rename, reprogram, or otherwise change the use of these channels in its sole discretion, provided such use is non-commercial and retains the general purpose of the provision of PEG Access. Nothing herein shall diminish the City's rights to secure additional channels pursuant to Minn. Stat. § 238.084, which is expressly incorporated herein by reference. The City shall provide ninety (90) days prior written notice to Grantee of City's intent to activate access channels and shall allow Grantee reasonable time to vacate said channel(s).
 - c. The VHF spectrum must be used for the PEG access channel(s) required in this Section. Grantee shall designate the channel locations of any other access channel(s) but may not move or otherwise change the channel number or location of any PEG access or community program channel without the written approval of the City.
2. Charges for Use. Channel time and playback of prerecorded programming on the PEG access and community program channel(s) must be provided without charge to the City and the public. The City may assess a charge for the costs of personnel, equipment and production for live studio presentations exceeding five (5) minutes in length. Charges will be consistent with the goal of affording the public a low-cost means of television access.
3. PEG Access Rules. The City may implement rules for use of any PEG Access channel(s).
4. PEG Access Support.
 - a. Upon acceptance of the Franchise, the Grantee shall provide the City with \$2000 for the purchase of PEG Access equipment. In addition, Grantee shall provide the City with new equipment sufficient to permit playback of pre-recorded programming from City Hall. Grantee shall ensure that the System is designed to permit cablecast of live or pre-recorded programming from the school and City

Hall.

- b. Upon 60 days notice, the City may require Grantee to pay to the City \$1000 per year for repair and maintenance of PEG Access equipment. The City may require this payment beginning upon the Effective Date of this Franchise. This payment may be separately itemized as a "PEG Fee" and passed through to Subscribers independent from rates regulated pursuant to FCC regulations.
5. Data Capacity and Internet Service. Grantee will provide installation of one (1) outlet and cable modem to the City Hall free of charge. Grantee will also provide Internet service free of charge at such location. Grantee shall make additional modems available for use at designated locations upon mutually acceptable terms and conditions. Grantee will not be obligated to provide such service and/or capacity until such time as Grantee upgrades the System and introduces such service commercially. Grantee may require City to enter into a lease or service agreement defining the level and terms of service. City may not assign or sublease any service or capacity nor shall allow use for any purpose other than non-commercial use.

SECTION 7. OPERATION AND ADMINISTRATION PROVISIONS

1. Administration of Franchise. The City shall have continuing regulatory jurisdiction and supervision over the System and the Grantee's operation under the Franchise. The City may delegate to any other body or Person authority to administer the Franchise and to monitor the performance of the Grantee pursuant to the Franchise. Grantee shall cooperate with any such delegatee of the City.
2. Franchise Fee.
 - a. During the term of the Franchise, Grantee shall pay to the City a Franchise Fee in an annual amount equal to five percent (5%) of its Gross Revenues.
 - b. Any payments due under this provision shall be payable quarterly. The payment shall be made within sixty (60) days of the end of each of Grantee's current fiscal quarters together with a report in form reasonably acceptable to City and Grantee and which shows the basis for the computation.
 - c. All amounts paid shall be subject to audit and recomputation by the City and acceptance of any payment shall not be construed as an accord that the amount paid is in fact the correct amount.
3. Access to Records. The City shall have the right to inspect, upon reasonable notice and during normal business hours, any records maintained by Grantee which relate to this Franchise or System operations including specifically Grantee's accounting and financial records, subject to the privacy provisions of 47 U.S.C. § 521 et seq.

4. Reports and Maps to be Filed with the City.

- a. Grantee shall file with the City, at the time of payment of the Franchise Fee, a report of all Gross Revenues certified by an officer of the Grantee.
- b. Grantee shall prepare and furnish to the City, at the times and in the form prescribed, such other reports with respect to the operations, affairs, transactions or property, as they relate to the System, which Grantee and the City may agree upon.
- c. Grantee shall furnish to and file with the City Administrator upon request the maps, plats, and permanent records of the location and character of all facilities constructed, including underground facilities.

5. Periodic Evaluation.

- a. The City may require evaluation sessions at any time during the term of this Franchise, upon thirty (30) days written notice to Grantee. All evaluation sessions shall be open to the public.
- b. Topics which may be discussed at any evaluation session may include, but are not limited to, application of new technologies, System performance, programming offered, PEG Access channel, facilities and support, municipal uses of the System, customer complaints, amendments to this Franchise, judicial rulings, FCC rulings, line extension policies and any other topics the City and Grantee deem relevant.
- c. As a result of a periodic review or evaluation session, the City or Grantee may an amendment to the Franchise to provide additional services or facilities to the extent provided in Section 4(1)(b) of this Franchise.

SECTION 8.

GENERAL FINANCIAL AND INSURANCE PROVISIONS

1. Performance Bond.

- a. At the time the Franchise becomes effective and at all times thereafter, until the Grantee has liquidated all of its obligations with the City, the Grantee shall furnish a bond to the City naming the City as additional obligees in the amount of Twenty Thousand Dollars (\$20,000.00) in a form and with such sureties as are reasonably acceptable to the City. This bond will be conditioned upon the faithful performance of the Grantee according to the terms of the Franchise and upon the further condition that in the event the Grantee shall fail to comply with any law, ordinance or regulation governing the Franchise, there shall be recoverable jointly and severally from the principal and surety of the bond any damages or loss

suffered by the City or its City as a result, including the full amount of any compensation, indemnification or cost of removal or abandonment of any property of the Grantee, plus a reasonable allowance for attorneys' fees and costs, up to the full amount of the bond, and further guaranteeing payment by the Grantee of claims, liens and taxes due the City or its City which arise by reason of the construction, operation, or maintenance of the System. The rights reserved by the City with respect to the bond are in addition to all other rights the City may have under the Franchise or any other law. The City may, from year to year, in its sole discretion, reduce the amount of the bond.

- b. The time for Grantee to correct any violation or liability, shall be extended by the City if the necessary action to correct such violation or liability is of such a nature or character as to require more than thirty (30) days within which to perform, provided Grantee provides written notice that it requires more than thirty (30) days to correct such violations or liability, commences the corrective action within the thirty (30) days period and thereafter uses reasonable diligence to correct the violation or liability.
- c. In the event this Franchise is canceled by reason of default of Grantee or revoked, the City shall be entitled to collect from the performance bond that amount which is attributable to any damages sustained by the City pursuant to said default or revocation. Grantee, however, shall be entitled to the return of such performance bond, or portion thereof, as remains at the expiration of the term of the Franchise.
- d. The rights reserved to the City with respect to the performance bond shall not be deemed an exclusive remedy and are in addition to all other rights of the City whether reserved by this Franchise or authorized by law, and no action, proceeding or exercise of a right with respect to the performance bond shall affect any other right the City may have.

2. Security Fund.

- a. At the time of acceptance of this Franchise, Grantee shall deliver to the City a Security Fund, in form and substance acceptable to the City, from a National or State bank approved by the City, in the amount of Two Thousand Dollars (\$2,000).
- b. The Security Fund shall provide that funds will be paid to the City, upon written demand of the City, and in an amount solely determined by the City in payment for penalties charged pursuant to this section, in payment for any monies owed by Grantee pursuant to its obligations under this Franchise, or in payment for any damage incurred 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 the City or City or

damages to the City or City as a result of any acts or omissions by Grantee pursuant to the Franchise, the City, in its sole discretion, may charge to and collect from the Security Fund for failure to comply with any provision of this Franchise a penalty of Two Hundred Dollars (\$200.00) per day for each day, or part thereof, such failure occurs or continues. Each violation of any provision of this Franchise shall be considered a separate violation for which a separate penalty can be imposed.

- d. Whenever the City finds that Grantee has violated one or more terms, conditions or provisions of this Franchise, a written notice shall be given to Grantee informing it of such violation. At any time after thirty (30) days following receipt of notice following receipt of notice, provided Grantee remains in violation of one or more terms, conditions or provisions of this Franchise, the City may draw from the Security Fund all penalties or monies due the City from the date of the local receipt of notice. Nothing herein shall prevent the City from agreeing to an extension of this cure period.
- e. Whenever notice of an alleged violation has been received by Grantee, Grantee may, within fifteen (15) days of receipt of such notice, notify the 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 the City shall specify with particularity the matters disputed by Grantee. All penalties shall continue to accrue and the City may draw from the Security Fund at the end of the thirty (30) day cure period notwithstanding Grantee's dispute regarding the violation.
- f. The City shall hear Grantee's dispute at the next regularly scheduled meeting. The City may hear Grantee's dispute at a meeting specially called for that purpose and shall, in such case, provide Grantee with written notice of the special meeting. The City shall supplement the decision to issue notice of violation with written findings of fact. In the event the City determines that a violation has taken place, such determination can be appealed by Grantee to a court of competent jurisdiction. In the event the City determines that no violation has taken place, the City shall rescind the notice of violation and refund to Grantee, without interest, all monies drawn from the Security Fund by reason of the alleged violation.
- g. If the City draws upon the Security Fund or any subsequent Security Fund delivered pursuant hereto, in whole or in part, Grantee shall replace the same within fifteen (15) days and shall deliver to the City a like replacement Security Fund for the full amount stated in Paragraph a of this section as a substitution of the previous Security Fund.
- h. If any Security Fund is not so replaced, the City may draw on said Security Fund for the whole amount thereof and hold the proceeds, without interest, and use the proceeds to pay costs incurred by the City or City in performing or paying any of the obligations, duties and responsibilities of Grantee under this Franchise that are

not performed or paid by Grantee pursuant hereto, including reasonable attorneys' fees incurred by the City or City in so performing and paying.

- i. The drawing on the Security Fund by the 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, nor shall be deemed an exclusive remedy.

3. Indemnification.

- a. The City and the City, and their officers, boards, committees, commissions, elected officials, 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 or as to any other action or event with respect to this Franchise except as may be caused by the willful act of the City or the City, or their officers, boards, committees, commissions, elected officials, employees and agents. Nothing in this Franchise shall be construed as a waiver or modification of immunity or limitation on liability to which the City and the City are entitled pursuant to Minn. Stat. § 466 or otherwise.
- b. Grantee shall indemnify, defend, and hold harmless the City and the City, and their officers, boards, committees, commissions, elected officials, employees and agents, from and against all liability, damages, and penalties which they may legally be required to pay as a result of the exercise, administration, or enforcement of the Franchise including, but not limited to, the reimbursement to City of any insurance deductible paid by City.
- c. Nothing in this Franchise relieves a Person, except the City and City, from liability arising out of the failure to exercise reasonable care to avoid injuring the Grantee's facilities while performing work connected with grading, regrading, or changing the line of a Right-of-Way or public place or with the construction or reconstruction of a sewer or water system.
- d. In order for City to assert its rights to be indemnified, defended, and held harmless, City must with respect to each claim:
 - i. Promptly notify Grantee in writing of any claim or legal proceeding which gives rise to such right;
 - ii. Afford Grantee the opportunity to participate in and fully control any compromise, settlement or other resolution or disposition of any claim or proceeding; and
 - iii. Fully cooperate with 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.

3. Insurance.

- a. Grantee shall file with its acceptance of this Franchise, and at all times thereafter maintain in full force and effect at its sole expense, a comprehensive general liability insurance policy, including broadcaster's/cablecaster's liability and contractual liability coverage, in protection of the Grantee, and the City and City, and their officers, elected officials, boards, commissions, agents and employees for any and all damages and penalties which may arise as a result of this Franchise. The policy or policies shall name the City as an additional insured, and in their capacity as such, the City officers, elected officials, boards, commissions, agents and employees.
- b. The policies of insurance shall be in the sum of not less than One Million Dollars (\$1,000,000.00) for personal injury or death of any one Person, and Two Million Dollars (\$2,000,000.00) for personal injury or death of two or more Persons in any one occurrence, One Million Dollars (\$1,000,000.00) for property damage to any one person and Two Million Dollars (\$2,000,000.00) for property damage resulting from any one act or occurrence.
- c. The policy or policies of insurance shall be maintained by Grantee in full force and effect during the entire term of the Franchise. Each policy of insurance shall contain a statement on its face that the insurer will not cancel the policy or fail to renew the policy, whether for nonpayment of premium, or otherwise, and whether at the request of Grantee or for other reasons, except after thirty (30) days advance written notice have been provided to the City.

SECTION 9.

SALE, ABANDONMENT, TRANSFER AND REVOCATION OF FRANCHISE

1. 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 revoke, terminate or cancel this Franchise, and all rights and privileges pertaining thereto, if after the hearing required by 9.2(b) herein, it is determined that:

- i. Grantee has violated any material provision of this Franchise; or
- ii. Grantee has attempted to evade any of the material provisions of the Franchise; or
- iii. Grantee has practiced fraud or deceit upon the City or Subscriber.

2. Procedures for Revocation.

- a. The City shall provide Grantee with written notice of a cause for revocation and the intent to revoke and shall allow Grantee sixty (60) 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. Together with the notice required herein, the City shall provide Grantee with written findings of fact which are the basis of the revocation.
 - b. 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 sixty (60) day notice provided in Subparagraph (a) above. The City shall provide Grantee with written notice of its decision together with written findings of fact supplementing said decision.
 - c. Only after the public hearing and upon written notice of the determination by the City to revoke the Franchise may Grantee 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.
4. Abandonment of Service. 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.
5. Removal After Abandonment, Termination or Forfeiture.
 - a. In the event of termination or forfeiture of the Franchise or abandonment of the System, the City shall have the right to require Grantee to remove all or any portion of the System from all Rights-of-Way and public property within the City, subject to the authority of the City; provided, however, that the Grantee shall not be required to remove the System if it is authorized to provide telecommunications service pursuant to state or federal law.
 - b. If Grantee has failed to commence removal of System, or such part thereof as was designated by the City, within one hundred twenty (120) days after written notice of the City demand for removal is given, or if Grantee has failed to complete such removal within twelve (12) months after written notice of the City demand for removal is given, the City shall have the right to apply funds secured by the Security Fund and Performance Bond toward removal and/or declare all right, title, and interest to the System to be in the City 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 pursuant to the provisions of 47 U.S.C. § 547.
6. Sale or Transfer of Franchise.

- a. No sale, transfer, or “fundamental corporate change”, as defined in Minn. Stat. § 238.083, of or in Grantee or this Franchise shall take place until the parties to the sale, transfer, or fundamental corporate change file a written request with the City for its approval and such approval is granted by the City, provided, however, that said approval shall not be required where Grantee grants a security interest in its Franchise and assets to secure an indebtedness.
- b. The City shall have such time as is permitted by applicable law in which to review a transfer request, but in no event less than one hundred and twenty (120) days.
- c. The Grantee shall reimburse City for all the legal, administrative, and consulting costs and fees associated with the City’s review of any request to transfer.
- d. In no event shall a sale, transfer, corporate change, or assignment of ownership or control pursuant to Subparagraph (a) or (b) of this Section be approved without the transferee becoming a signatory to this Franchise and assuming all rights and obligations hereunder, and assuming all other rights and obligations of the transferor to the City.
- e. In the event of any proposed sale, transfer, corporate change, or assignment pursuant to Subparagraph (a) or (b) of this Section, the City shall have the right to purchase the System as provided in Minn. Stat. § 238.084(aa). The City shall be deemed to have waived its rights under this Section in the following circumstances:
 - i. If it does not indicate to Grantee in writing, within thirty (30) days of notice of a proposed sale or assignment, its intention to exercise its right of purchase; or
 - ii. It approves the assignment or sale of the Franchise as provided within this Section.

SECTION 10. PROTECTION OF INDIVIDUAL RIGHTS

1. Discriminatory Practices Prohibited. 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 local laws, and all executive and administrative orders relating to nondiscrimination.
2. Subscriber Privacy.
 - a. Grantee shall comply with the subscriber privacy-related requirements of 47

U.S.C. § 551. No signals including signals of a Class IV 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. 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 penalty 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 penalty of any kind whatsoever. Such permission shall be required for each type or classification of Class IV Channel activity planned for the purpose of monitoring individual viewing patterns or practices.

- b. No lists of the names and addresses of 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 and its employees for internal business use, 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 penalty 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 penalty 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 Subparagraph (b) of this Section.

SECTION 11. UNAUTHORIZED CONNECTIONS AND MODIFICATIONS

1. Unauthorized Connections and Modifications Prohibited. It shall be unlawful for any firm, Person, group, company, corporation, or governmental body or agency, without the express consent of the Grantee to make or possess, or assist anybody in making or possessing, any connection, extension, or division, whether physically, acoustically, inductively, electronically, or otherwise, with or to any segment of the System.
2. Removal or Destruction Prohibited. It shall be unlawful for any firm, Person, group, company, corporation, or government body or agency to willfully interfere, tamper, remove, obstruct, or damage, or assist therein, any part of segment of the System for any purpose whatsoever.
3. Penalty. Any firm, Person, group, company, corporation, or government body or agency found guilty of violating this section may be fined not less than Twenty Dollars (\$20.00) and the costs of the action nor more than Five Hundred Dollars (\$500.00) and the costs of

the action for each and every subsequent offense. Each continuing day of the violation shall be considered a separate occurrence.

SECTION 12. MISCELLANEOUS PROVISIONS

1. Franchise Renewal. Any renewal of this Franchise shall be performed in accordance with applicable federal, state and local laws and regulations.
2. Amendment of Franchise Ordinance. Grantee and the City may agree, from time to time, to amend this Franchise. Such written amendments may be made subsequent to a review session pursuant to Section 7.6 or at any other time if the City and Grantee agree that such an amendment will be in the public interest or if such an amendment is required due to changes in federal, state or local laws, provided, however, nothing herein shall restrict the City's exercise of its police powers or Grantee's right to dispute the existence of such police powers.
3. Compliance with Federal, State and Local Laws.
 - a. If any federal or state law or regulation shall require or permit the City or Grantee to perform any service or act or shall prohibit the City or 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, either party shall notify the other of the point in conflict believed to exist between such law or regulation. Grantee and the City shall conform to state laws and rules regarding cable communications not later than one year after they become effective, unless otherwise stated, and to conform to federal laws and regulations regarding cable as they become effective.
 - 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 complied with provided the loss of the invalid or unenforceable clause does not substantially alter the agreement between the parties. In the event 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.
4. Force Majeure. In the event Grantee's performance of any of the terms, conditions, obligations or requirements of this Franchise is prevented due to a cause beyond Grantee's control, Grantee's failure to perform shall be excused during the period in

which the failure to perform results from such cause.

5. Nonenforcement by City. Grantee shall not be relieved of its obligations to comply with any of the provisions of this Franchise by reason of any failure or delay of the City to enforce prompt compliance. The City may only waive its rights hereunder by expressly so stating in writing. Any such written 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.
6. Rights Cumulative. All rights and remedies given to or retained by the City and the City pursuant to this Franchise shall be in addition to and cumulative with any and all other rights and remedies, existing or implied, now or hereafter available to the City and the City, at law or in equity, 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 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.
7. Grantee Acknowledgment of Validity of Franchise. Grantee acknowledges that it has had an opportunity to review the terms and conditions of this Franchise and that under current law Grantee believes that said terms and conditions are not unreasonable or arbitrary, and that Grantee believes the City has the power to make the terms and conditions contained in this Franchise.

SECTION 13.

PUBLICATION EFFECTIVE DATE; ACCEPTANCE AND EXHIBITS

1. Publication: Effective Date. This Franchise shall be published in accordance with applicable local and Minnesota law. This Franchise shall be effective upon publication and acceptance by Grantee in accordance with the provisions of this Section 13.2. Notwithstanding, the parties agree that the Effective Date of this Franchise shall be deemed to be the date of expiration of the prior Franchise, July 26, 2000.
2. Acceptance.
 - a. Grantee shall accept this Franchise in writing within sixty (60) days of its enactment by the City. Such acceptance by the Grantee shall be deemed the grant of this Franchise for all purposes provided.
 - b. Upon acceptance of this Franchise, Grantee shall be bound by all the terms and conditions contained herein
 - c. Grantee shall accept this Franchise in the following manner:

- i. This Franchise will be properly executed and acknowledged by Grantee and delivered to the City.
- ii. With its acceptance, Grantee shall also deliver any grant payments, performance bond, security fund, and insurance certificates required herein that have not previously been delivered.

Passed and adopted this 2nd day of January, 2001.

CITY OF BROWNTON

By: [Signature]

Its: Mayor

ACCEPTED: This Franchise is accepted and the undersigned agrees to be bound by its terms and conditions.

MEDIACOM MINNESOTA LLC

Dated: January 5, 2001

By: [Signature]

Its: V.P. Legal & Regulatory Affairs

EXHIBIT A

The System will be enhanced from current capacity to at least the capacity listed below. The purpose of the upgrade is to offer additional channel capacity and services, higher signal quality, more reliability and more features.

The Grantee shall upgrade and provide a System as follows:

1. 750 MHz fiber/coaxial hybrid System (550 MHz analog and 200 digital). The System will initially deliver 50 channels and be capable of delivering a minimum of eighty (80) video programmed channels. The electronics deployed in the System will be capable of delivering services over the full 750 MHz. All plant equipment utilized in the trunk and feeder portion of the cable, and all electronics components, will be capable of carrying 750 MHz of bandwidth. The System shall be constructed and configured so as to be capable of providing cable modem and Internet access services.
2. The System will utilize a hybrid fiber-coaxial architecture that incorporates fiber optic cable from the headend to nodes. The upgraded System will be expandable. There will be capacity available to serve new residents and businesses. Amplifier cascade will typically not exceed six (6) amplifiers.
3. As part of System upgrade, the Grantee will determine whether coaxial cable and drops must be replaced in order to pass the full, upgraded signal spectrum in accordance with applicable technical standards. The Grantee will repair or replace all coaxial plant that fails.
4. The System will accommodate and be capable of providing return signals in 5-40 MHz bandwidth. The return capability will permit transmission of both data and video, and may be used for insertion of locally-originated programming, and transmission of data from set-top terminals used for pay-per-view and other services.
5. Standby power will be in place for the master headend.
6. The System will have the capability to receive and pass through all local broadcast signals in digital format to the extent required by applicable federal rules and regulations and in compliance with applicable FCC mandated time lines.
7. Subscribers with cable-ready televisions will not need a converter to receive the lowest tier of video channels. Subscribers that require a converter will be provided an "addressable" set-top terminal to access programming carried on the network. Through the set-top terminal the customer will be able to purchase special programming, such as "pay-per-view."