CITY OF SAINT PETER, MINNESOTA
AGENDA AND NOTICE OF MEETING

Regular Workshop Session of Monday, April 3, 2017
Library Meeting Room – 5:30 p.m.
600 South Washington Avenue

I. CALL TO ORDER

II. DISCUSSION
A. Chamber of Commerce Tourism Agreement
B. Mediacom Franchise Renewal
C. City Hall Tour*
D. Others

III. ADJOURNMENT

**At approximately 6:00 p.m. the Council will take a transit bus to City Hall for a brief tour. Following the tour, the Council will officially adjourn. **
Memorandum

TO: Honorable Mayor Zieman
    Members of the City Council

FROM: Todd Prafke
      City Administrator

RE: Chamber of Commerce Agreement

ACTION/RECOMMENDATION

None needed. For your information and discussion only.

BACKGROUND

As you know the Chamber of Commerce Board of Directors has requested an increase in the administrative fee paid by the City for shepherding the Tourism and Visitor’s Bureau. The Bureau works to promote tourism in Saint Peter and is funded by the proceedings from the City’s lodging tax.

During the workshop discussion Councilmember Grams questioned the amount of the City’s lodging tax (3%) in relation to similar taxes imposed by area communities. Mankato, North Mankato and New Ulm also charge 3%.

The Chamber has undertaken this role since the inception of the lodging tax (and subsequently the Tourism Bureau); however no formal agreement outlining their role and responsibilities in this manner was ever executed. With the request for additional funding, I felt it was appropriate to formalize the agreement between the two entities and a draft agreement was developed and provided to the Chamber of Commerce.

In addition to specifying the reimbursement to the Chamber for their actions related to the Tourism Bureau, the agreement covers the following topics:

- Preparation of meeting agendas and packet
- Conducting the monthly meetings
- Compliance with Open Meeting laws and Records Retention regulations
- Providing annual budgets and quarterly financial reports to the City.
- Distribution of tourism grant funds for activities marketing and promoting the City as a tourist of convention center

The agreement also outlines that the Chamber must be accessible to the public for Tourism Bureau purposes during regular business hours and promptly reply to public information requests as outlined in State Statute. Finally, as with all contracts entered into by the City, this
agreement also outlines requirements for insurance coverage, default and how to remedy any default, the term of the agreement, and specifying where official notices relating to the agreement must be sent. Approval will mean a slight increase in the amounts paid to the Chamber for these services.

Ed Lee, the Chamber Executive, will be at your meeting to talk about some of the Tourism Board activities and work.

Please feel free to contact me if you have any questions or concerns on this agenda item.

TP/bal
CONTRACT FOR ADMINISTRATION OF TOURISM AND VISITORS BUREAU SERVICES BY AND BETWEEN THE CITY OF SAINT PETER AND SAINT PETER AREA CHAMBER OF COMMERCE

I. GENERAL DESCRIPTION. The work to be performed consists of serving as staff for the City of Saint Peter’s Tourism and Visitor’s Bureau including conducting meetings of the Bureau and financial administration of the Lodging Tax proceeds as distributed to the Chamber by the City and as outlined in the Saint Peter City Code.

II. DEFINITION OF TERMS. As used in the contract, the following terms shall have the following meanings:

A. “Administration Fee” means the fee established by the Saint Peter City Council to be provided to Chamber for its’ service as staff to Bureau.

B. “Chamber” shall mean St. Peter Area Chamber of Commerce.

C. “Bureau” means the City of Saint Peter’s Tourism and Visitors Bureau, the members of which shall be appointed by the Saint Peter City Council.

D. “City” shall mean the City of Saint Peter, Minnesota.

III. CHAMBER RESPONSIBILITIES: Chamber shall provide for the following actions:

1. Hold meetings on a regularly established date, time and location under the rules outlined in Minnesota law.

2. Prepare a Tourism and Visitors Bureau meeting agenda and packet for distribution to members, the City Administrator’s Office and the public no later than 72 hours prior to the scheduled, special, or emergency meeting as required by the Minnesota Open Meeting Law.

3. By December 31 of each year, develop an annual budget for the following year for the Tourism and Visitors Bureau activities and provide a copy to the City Council as required by the City Code.

4. As outlined in the City Code, provide the City Council a quarterly financial report detailing all expenditures of the Lodging Tax Proceeds allocated by the City.

5. Develop grant application forms for distribution to applicants. The forms shall require detailed information in a manner sufficient for Bureau members to review and verify the applicant’s request. Require grant recipients to provide a report on their use of funds including copies of documentation that verifies expenditures for the intended purpose.

6. Distribute grant funds to applicants for the sole purpose of marketing and promoting the City of Saint Peter as a tourist or convention center as authorized by State Statute M.S. 469.190.
7. Keep detailed minutes of all meetings of the Bureau in a manner prescribed by the City Administrator's Office and State law.

   A. Approve all meeting minutes at the next regularly scheduled Bureau meeting.

   B. A permanent copy of the minutes shall be printed and signed by the Bureau Chairperson and Chamber Executive Director as a permanent record of the Bureau's activity as required by City's record retention schedule and State Statute. A copy of approved minutes shall be placed on the Chamber's Web site or provided to the City in such a manner that will allow for placement on the City's Website.

8. Retain all documentation related to the activities of the Bureau as required by the City's Record Retention Schedule and State Statute.

9. Distribute grant funds in a manner as prescribed by the City of Saint Peter's Finance Director.

10. Keep detailed and accurate financial records of all Bureau actions and expenditures in such a manner that the records are accessible for public review and accepted by the City's auditors.

IV. CITY RESPONSIBILITIES: City shall provide for the following actions:

1. The City Council shall appoint members to the Tourism and Visitors Bureau and provide the member's contact information to the Chamber.

2. Distribute 95% of the Lodging Tax proceeds to Chamber for Tourism and Visitors Bureau use according to State Statute. The Chamber shall use $8,750 of the Lodging Tax distribution to pay for the services provided as articulate din this contract.

V. EMPLOYEES. All workers employed by CHAMBER shall be competent and skilled in the performance of tourism promotion work. CHAMBER shall be responsible for hiring, training, discipline, discharge, compensation and scheduling of its employees. All employees of CHAMBER shall be required to maintain confidentiality as needed and required under the Minnesota Data Practices Act. All employees of CHAMBER shall be required to follow the City's record retention schedule for all actions related to BUREAU.

VI. INSURANCE.

A. Liability Insurance. The Contractor shall provide and maintain in full force and effect during the entire term of this contract, public liability insurance naming the City as an additional insured. Existence of the insurance required herein shall be established by furnishing certificates of insurance issued by the insurers duly licensed in the State of Minnesota, in force on the date of commencement of any performance under this contract, and continuing for a policy period of at least one year and providing the following coverages: public liability insurance, including general liability, and automobile liability.
1. Bodily injury liability in the amount of at least $1,500,000 for injury or death of any one person in any one occurrence.

2. Bodily injury liability in the amount of at least $1,500,000 for injuries or death arising out of any one occurrence.

3. Property damage liability in the amount of at least $1,500,000 for any one occurrence.

Such general liability and automobile liability insurance policy or policies shall provide contractual liability insurance, specifically referring to and covering the obligation of CHAMBER to defend, indemnify, and save harmless the City, its officers, agents, and employees from alleged claims or causes of action of bodily injury or property damage for liability because of this contract.

Said policy of insurance shall contain a stipulation certifying that the insurance coverage herein required will not be cancelled, nor any material change effected without giving 30 days written notice to the City. Contractor shall, on each anniversary date of this agreement, furnish the City with proper evidence of the continuance of such insurance, signed by an authorized representative of the insurance carrier. Prior to the effective date of this contract, the Contractor shall file a copy of such policies with the City Administrator.

B. Worker's Compensation. Contractor shall provide worker's compensation insurance covering all his employees pursuant to Minnesota Statutes. The contractor may be required to produce evidence of compliance.

VII. ADDITIONAL SERVICES AND CONDITIONS

A. Office: The contractor shall be required to maintain an office and telephone with a Saint Peter telephone number or toll free number and such attendance as may be necessary to address the business of BUREAU during regular business hours, Monday through Friday (except holidays).

B. Public Information: CHAMBER shall reply to requests for public information related to BUREAU activities in a prompt manner and inform the City Administrator's Office of any Data Practices requests.

C. Default. For the purpose of this agreement the contractor shall not be deemed to be in default where its inability to perform any or all of the agreement is a result of conditions beyond the control of the contractor, including but not limited to civil disorders, acts of God, inclement weather severe enough that collection is excused by the City, provided, however, the contractor shall notify the City and exhaust every possible remedy to correct the conditions resulting in its non-performance.

D. Remedy. The exercise by the City of any of the rights contained herein shall not restrict the City from pursuing other remedies, either legal or equitable, available to it. The reservation by the City of any rights expressed in this agreement shall not constitute the only remedy of the City in the event of contractor's breach of any of the agreements set forth in this contract.
E. **Severance.** It is understood and agreed that this agreement is governed in all respects by the laws of the State of Minnesota.

F. **Term.** – Either party may terminate this agreement upon ninety (90) days written notice to the other party. Upon termination of the agreement, any and all materials and funds associated with the Bureau shall be immediately turned over to City.

G. **Notice.** All notices to be given with respect to this Agreement shall be in writing at the following addresses.

City of Saint Peter  
City Administrator’s Office  
227 South Front Street  
Saint Peter, MN 56082

Saint Peter Area Chamber of Commerce  
Attn: President  
101 South Front Street  
Saint Peter MN 56082

In witness whereof, the parties have hereunto set their hands this ______ day of __________, 2017.

**CITY OF SAINT PETER**

______________________________  
Charles Zieman  
Mayor

______________________________  
Todd Prafke  
City Administrator

Signed before me this ___ day of ____________ , 2017 by Mayor Charles Zieman and City Administrator Todd Prafke

**ST. PETER AREA**  
**CHAMBER OF COMMERCE**

______________________________  
Ed Lee  
Chamber President

______________________________  
Signed before me this ___ day of ____________ , 2007 by Chamber President Ed Lee and ________________________________

______________________________  
Notary Public

______________________________  
Notary Public
TO: Honorable Mayor Zieman
Members of the City Council

FROM: Todd Prafke
City Administrator

RE: Mediacom Franchise Agreement Renewal

ACTION/RECOMMENDATION

None needed. For your information and discussion only.

BACKGROUND

Members may recall that you have appointed Robert “Bob” Vose from Kennedy and Graven law firm as Special City Attorney to assist the Council and staff with work related to the renewal of franchises for both local cable service providers. Those providers are Consolidated Communications and Mediacom Minnesota LLC. Both existing agreements expired and all parties involved agreed to an extension to allow for further negotiation on the terms.

The Consolidated Communications agreement was approved for renewal by the City Council in September of 2016. Mr. Vose has continued to negotiate with Mediacom and just recently reached agreement with Mediacom’s counsel for a new agreement.

The Council has previously reviewed the pertinent issues related to these agreements and had indicated a “stay the course” position seems to be the most prudent. That position carried forward into the negotiations and Mediacom now seems ready to enter into a new agreement.

There are no significant changes from your past agreement with a couple of exceptions. Those exceptions include adding an annual CPI inflator to the PEG programming support payments, providing a connection to the new high school, and adding language to make sure franchise fees are fairly calculated when subscribers pay a single bill for cable and non-cable services. We conceded nothing from the prior franchise in exchange and held firm related to providing service to all locations within the municipal boundaries (i.e. no redlining or cherry picking).

There is one last housekeeping issue to note. It is something that you addressed in the Consolidated agreement approval in September and is something which I hope you will also provide for in the Mediacom agreement. In the past, the law required that franchise agreements of this type be adopted as an Ordinance. That law has changed and it is my intent to continue to ask that you approve the agreement by resolution which costs less (no publication costs for the ordinance) as is now allowed for under the law.

There is no general fund impact to execution of this agreement, but it does establish rules related to franchise fees that will be paid by Mediacom.

Please feel free to contact me if you have any questions or concerns about this agenda item.
FRANCHISE AGREEMENT

GRANTING A RENEWAL CABLE FRANCHISE TO MEDIACOM MINNESOTA LLC IN THE CITY OF SAINT PETER; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE RENEWAL FRANCHISE; PROVIDING FOR CERTAIN REGULATION OF THE SERVICE AND PRESCRIBING PENALTIES FOR THE VIOLATION OF THE PROVISIONS HEREIN AND ADOPTING CHAPTER 1 OF THE CITY CODE

This Franchise Agreement ("Franchise") is made and entered into this ______ day of ________, 2017, by and between the City of Saint Peter, a Minnesota municipal corporation ("City") and Mediacom Minnesota LLC ("Grantee") as follows:

Subd. 1. Statement of Intent and Purpose. The City intends, by the adoption of this Franchise, to renew the cable television franchise of Grantee. At the time of this grant, the City will have two entities franchised to provide cable services to the residents of the City.

Past studies by the City indicate, in the City’s judgment, that competitive choices in video services will benefit the community and will best meet the needs of the community. This determination has resulted in the preparation and adoption of this Franchise.

Subd. 2. Findings. In the review of the franchise renewal request by Grantee, and Grantee’s past performance and the future cable-related community needs and interests identified by the City, and negotiations related thereto, the City makes the following findings:

A. The Grantee’s technical, financial, legal qualifications and ability are approved;

B. This Franchise granted to Grantee by the City complies with the existing applicable Minnesota Statutes, federal laws and regulations; and

C. The Franchise granted to Grantee is nonexclusive.

Subd. 3. Short Title and Definitions.

A. Short Title. This Franchise shall be known and cited as the Mediacom Cable Franchise Agreement.

B. 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.

i. “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).

ii. “Cable System” or “System” means a system as defined in 47 U.S.C. § 522(7).

iii. “Cable Programming Service” means any video programming regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than:

a. Basic Cable Service;

b. Video programming offered on a pay-per-channel or pay-per-program basis; or

c. 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 consists of commonly-identified video programming and 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).

iv. “Cable 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.

v. “Channel” means a single full motion video channel.

vi. “City” means the City of Saint Peter, Minnesota.

vii. “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.

viii. “Drop” means the cable that connects the ground block on the Subscriber’s residence to the nearest distribution point. This term only applies to Grantee’s delivery of Cable Service.

ix. “Effective Competition” means the provision of Cable Service by two (2) or more franchised providers operating pursuant to franchise in the City.

x. “FCC” means the Federal Communications Commission and any legally appointed, designated or elected agent or successor.

xi. “Franchise” or “Cable Franchise” means this Agreement and the contractual relationship established hereby.

xii. “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 and shall have the same meaning as 47 USCS § 542. 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 related to the provision of public, educational, or governmental access facilities; (iii) 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; (iv) any fee imposed under Title 17 of the United States Code.

xiii. “Grantee” is Mediacom Minnesota LLC, its agents and employees, lawful successors, transferees or assignees.

xiv. “Installation” means the connection from the distribution point to the point of connection with the Subscriber Converter. This term only applies to Grantee’s delivery of Cable Service.

xv. “Normal Business Hours” means those hours during which most similar businesses in the community are open to serve customers. In all cases, Normal Business Hours must include some evening hours at least one night per week and/or some weekend hours.

xvi. “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 System.

xvii. “PEG Access” means public, educational, governmental and other public interest programming channels, equipment, facilities, funding, or operations as the context may require.
xvii. "Pay Television" means the delivery 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.

xix. "Person" is any person, firm, partnership, association, corporation, company, or other legal entity.

xx. "Right-of-Way" or "Rights-of-Way" means the area on, below, or above any real property in the Franchise Area in which the City has an interest including, but not limited to any street, road, highway, alley, sidewalk, parkway, park, skyway, or any other place, area, or real property owned by or under the control of the City, including other dedicated Rights-of-Way for travel purposes and utility easements.

xxi. "Right-of-Way Ordinance" means the ordinance adopted by the City creating requirements regarding regulation, management and use of Rights-of-Way, including registration and permitting requirements.

xxii. "Standard Installation" means any residential installation which can be completed using a Drop of 150 feet or less. This term only applies to Grantee's delivery of Cable Service.

xxiii. "Subscriber" means any Person who lawfully receives Cable Service from Grantee or over Grantee's network.

xxiv. "Subscriber Revenues" means all revenues received by the Grantee or its affiliates from fees paid by Subscribers for Cable Service, interest, upgrade and downgrade fees, revenues generated by sales or home shopping channel(s), leased channel fees and converter rental fees. The term Subscriber Revenue shall not include PEG Fee receipts, bad debt, or any taxes on services furnished by Grantee which are imposed by any municipality, state, or other governmental unit and collected by Grantee for such governmental unit.

Subd. 4. Grant of Authority and General Provisions.

A. Grant of Franchise.

1. This Franchise is granted pursuant to the terms and conditions contained herein.

2. The Grantee shall have the right and privilege pursuant to this Franchise to operate a Cable System and provide Cable Service in the City.

3. Use of the Rights-of-Way to provide Cable Service shall not be inconsistent with the terms and conditions by which such Rights-of-Way were created or dedicated and is subject to all legal requirements related to the use of such Rights-of-Way, including the terms and conditions of the Right-of-Way Ordinance.

4. This Franchise shall be nonexclusive. Any Cable Franchise issued by the City shall be granted and enforced on terms and conditions which, taken as a whole, are no more favorable nor less burdensome than those imposed in other Franchises issued by the City, including with respect to franchise fees as provided in Minn. Stat. § 238.08, subd. 1(b).

B. Lease or Assignment Prohibited. Other than for the provision of commercial leased access and/or provision of access over an open video system, no Person, except an affiliate under common ownership and control with Grantee, may lease Grantee's network for the purpose of providing Cable Service until and unless such Person shall have first obtained and shall currently hold a valid Franchise. Any assignment of rights under this Franchise shall be subject to and in accordance with the requirements of Section 11(E).

C. Franchise Term. This Franchise shall be in effect for a period of ten (10) years from the date of acceptance by Grantee. Notwithstanding, this Franchise shall be subject to periodic
evaluation not less than every five (5) years as provided in Subd. 9(F) herein.

D. Compliance with Applicable Laws, Resolutions and Ordinances. 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 any System in the City. However, the Grantee shall at all times during the term of this Franchise be subject to all lawful exercise of the police power, local ordinance-making authority, and eminent domain rights of the City.

E. Territorial Area Involved. This Franchise is granted for the corporate boundaries of the City, as it exists from time to time. In the event of annexation by City or as development occurs, any new territory shall become part of the territory for which this Franchise is granted. In addition, the City and Grantee acknowledge that as of the effective date of this Franchise, the Grantee intends to provide service to the entire Franchise Area.

F. 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 City's Administrator of this Franchise or three (3) business days 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 Grantor: City of Saint Peter
Attention: City Administrator
227 South Front Street
Saint Peter, Minnesota 56082-2513

With copies to: Robert J.V. Vose, Esq.
Kennedy & Graven, Chartered
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, Minnesota 55402

If to Grantee: Mediacom
Regional Vice President
1504 Second Street Southeast
Waseca, Minnesota 56093

With copies to: Mediacom Communications Corporation
One Mediacom Way
Mediacom Park, NY 10918
Attn: Vice President of Legal and Government Affairs

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

Subd. 5. Construction Standards

A. Registration, Permits and Construction Codes.

1. 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 facilities used to provide Cable Service in the City Franchise Area.

2. The City shall have the right to inspect all construction or installation work performed pursuant to the provisions of the Franchise and pursuant to Subd. 6(F) below, 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.

3. Nothing in this Franchise shall be construed to prevent the City from adopting and enforcing the Right of Way Ordinance provided, however, any Right-of-Way Ordinance shall not impose any fees in excess of the actual costs incurred by the City in managing the Grantee's use of
the Right of Way pursuant to Minn. Stat. § 237.163, subd. 6.

B. Grantee shall bury all Drops in a reasonable time period, which shall not exceed fifteen (15) business days, subject to weather conditions. 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.

C. Erection, Removal and Joint Use of Poles. No poles, conduits, amplifier boxes, similar structures, or other wire-holding structures shall be erected or installed by the Grantee on public property without prior approval of the City with regard to location, height, type and other pertinent aspects. Facilities located on public and private property shall be subject to applicable zoning and other land use regulations.

D. Safety Requirements.

1. 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.

2. The Grantee shall install and maintain its equipment and facilities in accordance with all federal, state and local laws and regulations, and the requirements 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 City or of any public utility serving City.

3. All facilities 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 or any Person.


A. Channel Capacity.

1. Grantee shall develop, construct and engineer, and activate and provide for the term of this Franchise a System offering, at a minimum, one hundred (100) video programmed channels.

2. All programming decisions remain the discretion of Grantee; provided, however, that any change in the broad categories of video programming shall require the approval of the City consistent with 47 U.S.C. § 544(b), and further provided that Grantee notifies the City and Subscribers in writing thirty (30) days prior to any channel additions, deletions, or realignments, in a manner consistent with federal law.

B. Service Availability/Density Requirement.

1. Grantee shall be required to extend Service to all dwelling units in the City where there are twenty-five (25) dwelling units or more per cable mile. Grantee shall not impose a special or individualized charge for the cost of such extension of Cable Service.

2. Grantee shall also extend Service to Persons requesting Service where the density is insufficient to require extension without any special or individualized charge. In such case, Grantee shall extend service at a cost not to exceed the construction costs per mile multiplied by a fraction whose numerator equals the actual number of dwelling units per mile, and whose denominator equals twenty-five (25). Those Persons 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 120 days, weather permitting, to construct and activate Cable Service to annexed or newly developed areas.
C. 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. In such case, Grantee may charge for the incremental increase in material and labor costs incurred beyond the Standard Installation.

D. Provision of Services. 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 to the City and Subscribers and shall occur during periods of minimum use of the Services, as determined by records of the Grantee.

E. Technical Standards. The technical standards used in the provision of Cable Service shall comply, at minimum, 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.

F. Performance Review and System Testing. In the event City finds that there are signal or System performance difficulties which may constitute violations of applicable FCC technical standards and this Franchise, Grantee shall be notified and afforded ten (10) days to correct problems or complaints or begin effecting remedies should the remedy involved reasonably require more than ten (10) days. If the performance difficulty is not resolved after the cure period has elapsed in City's sole determination, City may require Grantee to demonstrate compliance via testing or other means selected by the Grantee.

G. FCC Reports. Grantee shall file with City all required FCC technical reports which demonstrate the level of System performance and signal quality. Upon request, Grantee shall summarize and explain the results of any such testing provided to the City.

Subd. 7. Services Provisions.

A. Enforcement of Customer Service Standards. The City intends to stay enforcement of this Section 7 to the extent Effective Competition exists. Notwithstanding, the City may initiate enforcement of this Section by adoption of a Resolution of the City Council. The City may begin enforcement three (3) days after mailing a copy of such Resolution to Grantee. The Resolution shall indicate the basis for initiating enforcement. Such enforcement shall not commence until 15 days after providing Grantee with notice of the commencement of enforcement.

B. Regulation of Service Rates.

1. The City may regulate rates for the provision of Cable Service to the extent allowed under federal or state law(s).

2. A list of Grantee's current residential 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 in accordance with any applicable FCC requirements unless such change arises from changes in regulatory fees, franchise fees, access costs, or franchise imposed costs.

C. Sales Procedures. Grantee shall not exercise deceptive sales procedures when marketing any of its services within City. Grantee shall have the right to market consistent with local ordinances and other applicable laws and regulations.

D. Telephone Inquiries and Complaints.

1. Availability. Grantee will maintain local, toll-free or collect call telephone access lines which will be available to its Subscribers 24 hours a day, seven days a week. During Normal Business Hours, trained representatives of Grantee shall be available to respond to Subscriber inquiries. Grantee will ensure that: (1) an adequate number of trained company representatives will be available to respond to customer telephone inquiries during Normal Business Hours, and; (2) after Normal Business Hours, the access line will be answered by a trained company representative or a service or an automated response system such as an answering machine. Inquiries received after Normal Business
Hours must be responded to by a trained company representative on the next business day.

2. Telephone Answer Time and Busy Signals. 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 (90) percent of the time under Normal Operating Conditions, measured on a quarterly basis. Under Normal Operating Conditions, the customer will receive a busy signal less than three (3) percent of the time.

E. Installation, Outage and Service Calls. Under Normal Operating Conditions which will exclude the initial deployment period, each of the following standards will be met no less than ninety five (95) percent of the time measured on a quarterly basis: (1) Excluding conditions beyond the control of Grantee which prevent performance, Grantee will begin working on service interruptions promptly, and in no event later than twenty-four (24) hours after the interruption becomes known, and Grantee must begin actions to correct other service problems the next business day after notification of the service problem and resolve such problems as soon as is reasonably possible; (2) The “appointment window” alternatives for Installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during Normal Business Hours. The Grantee may schedule service calls and other installation activities outside of Normal Business Hours for the convenience of the customer; (3) Grantee may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment; (4) If a representative of Grantee 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. The appointment will be rescheduled, as necessary, at a time during Normal Business Hours which is convenient for the customer.

F. Complaint and Other Service Records. Subject to Grantee’s obligation 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 in a form mutually agreeable to City and Grantee. Grantee may be required to provide detailed compliance reports on a quarterly basis with respect to the objectively measurable service standards herein upon written demand by the City.

G. Subscriber Contracts. Grantee shall provide to City upon request any standard form Subscriber contract utilized by Grantee. If no such written contract exists, Grantee shall provide a document completely and concisely stating the length and terms of the Subscriber contract offered to customers.

H. Billing and Subscriber Communications. Grantee must give Subscribers thirty (30) days advance written notice with copy to City before any changes in rates, programming services, or channel positions, to the extent the changes are solely within Grantee’s control. Bills must be clear, concise, and understandable, with itemization including but not limited to, basic and premium charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates, and credits. In case of a billing dispute, the Grantee must respond to a written complaint from a Subscriber within 30 days.

I. Refunds and Credits. If Service is interrupted or discontinued for 24 or more consecutive hours and Grantee has notice of such interruption, Subscribers shall be credited pro rata for such interruption beginning with the date of notice of interruption. Credits for will be issued no later than the Subscriber's next billing cycle following the determination that a credit is warranted. 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. Refund checks will be issued promptly, but no later than the return of the equipment supplied by the Grantee if Service is terminated. Grantee shall not be held responsible for interruptions in programming caused by content providers.

J. Late Fees. Fees for the late payment of bills shall not accrue until the normal billing cut-off for the next month’s service approximately one (1) month after the unpaid bill in question was sent to the Subscriber. Payments at the cable operator’s drop-box location shall be deemed received on the date such payments are picked up by the cable operator which shall occur within 24
hours after every due date. The cable operators shall continue to provide a “grace period” of at least five (5) days after each due date.

K. Local Office/Drop Box. Grantee shall maintain a convenient local customer service or bill payment location for receiving Subscriber payments, provided; however, this section does not require Grantee to maintain an office in the City.

L. 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.

M. Violations. Any violation of these requirements after enforcement of this Section is initiated by Council Resolution shall be deemed a violation of this Franchise.

Subd. 8. Institutional Services Provisions

A. Public, Educational and Government Access.

1. PEG Responsibility. City or its designee is hereby designated to operate, administer, promote and manage PEG Access in accordance with this Subd. 8.

2. PEG Channels. Grantee shall dedicate two (2) channels for PEG Access use. 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. Grantee may not move or renumber the PEG Access channels without the written approval of the City.

3. PEG Availability. Grantee shall provide to each of its Subscribers who receive all, or part of, the total Cable Services offered over its network, reception on the PEG Access channel(s) at no additional charge. The specially designated access channel may be used by the public, local educational authorities and local government on a first-come, first-served, nondiscriminatory basis. During those hours that the specially designated access channel is not being used by the public, educational authorities or local government, the Grantee may lease time to commercial or noncommercial users on a first-come, first-served, nondiscriminatory basis if the demand for that time arises. Grantee may also use this specially designated access channel for local origination during those hours when the channel is not in use by the public, local educational authorities, local government, or commercial or noncommercial users who have leased time.

4. 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.

B. Access Equipment and Facilities.

1. Commencing in 2017, Grantee shall pay $7,500 annually to the City ("PEG Fee"). The PEG Fee payment amount shall be inflated each year thereafter by the increase in the consumer price index (CPI) for the prior year. The fee shall be payable in advance beginning on January 1st of each year. The fee shall be reviewed annually by the City and shall be reduced in the event the City finds that such funding is unnecessary to meet the community’s lawful PEG needs. The City shall calculate the annual payment amount, including the CPI increase, and provide written notice of such amount to Grantee on or before November 15th. Grantee reserves the right to recoup the PEG Fee in accordance with applicable law.

2. Grantee shall provide two-way activated capacity allowing live or recorded cable-cast of programming from City Hall, Gustavus Adolphus College, the new High School (which may be obtained via a cable/fiber link to City Hall provided by another franchised operator), and such other site(s) as may be mutually agreed to by Grantee and the City for location of community programming equipment.

3. The City, or its designee may implement rules for use of any access channel(s).
C. Service to Public Buildings. Subject to applicable law, Grantee shall provide, free of charge, monthly Cable Service, excluding premium channels or any pay-per-view services, to City Hall and those additional institutions listed in Exhibit A hereto, and such other sites as the City and Grantee may mutually agree. Drops to subsequently designated institutions in excess of 200 feet shall be provided by the Grantee at the cost to requesting institution, of Grantee's time and materials less the cost of the 200 feet closest to the building. Grantee shall complete construction of the Drop and outlet on a mutually agreeable schedule, weather permitting. Additional Drops and/or outlets 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. No redistribution of the free Service provided pursuant to this Subdivision shall be allowed without the Grantee's prior written consent.


A. Administration of Franchise. The City or its designee shall have continuing regulatory jurisdiction and supervision over the Services described herein and the Grantee's operation under the Franchise.

B. Delegated Authority. The City shall have authority to administer the Franchise and to monitor the performance of the Grantee pursuant to the Franchise and the City Council shall have the sole authority to enforce the Franchise. Subject to the foregoing, the City may delegate authority to administer the Franchise to the extent permitted by law. The City may withdraw or re-delegate such authority by giving Grantee written notice. Grantee shall cooperate with any such delegatee of the City.

C. Franchise Fee.

1. 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 Subscriber Revenues. Discounts for Cable Services bundled or packaged with non-Cable Services shall be apportioned to each service in proportion to Grantee's pricing of each service on a stand-alone basis using the published rate card or other publicly-available pricing of the component services in the bundled package of services. Revenues included in the calculation of Subscriber Revenues shall not be disproportionately reduced by over-allocating the discount on bundled service package to Cable Service revenues.

2. 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.

3. 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.

D. 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 Cable Service revenue records, subject to the privacy provisions of 47 U.S.C. § 521 et seq. Grantee shall be required to provide such requested documents to the City unless such documents are available for inspection at a location in City.

E. Reports to be Filed with the City. Grantee shall file with the City, at the time of payment of the Franchise Fee, a report of all Subscriber Revenues. Grantee shall prepare and furnish to the City such other reports with respect to the operations, affairs, transactions or property, as they relate to this Franchise or Cable Services as City may reasonably request and Grantee shall agree upon, such agreement shall not be unreasonably withheld. The form of such reports shall be mutually agreed upon by City and Grantee.

F. Periodic Evaluation.

1. The City may require evaluation sessions during the term of this
Franchise not more than annually, upon thirty (30) days written notice to Grantee. Grantee and City shall hold evaluation sessions after the fifth and tenth years of this franchise.

2. All evaluation sessions shall be open to the public. Grantee shall notify its Subscribers of all evaluation sessions by announcement of at least sixty (60) seconds in duration on at least one (1)-Basic Service channel of the System between the hours of 7:00 p.m. and 9:00 p.m. for five (5) consecutive days preceding each session.

3. Topics which may be discussed at any evaluation session may 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 and Grantee deem relevant.

4. As a result of a periodic review or evaluation session, the City may request Grantee to amend the Franchise to provide additional services or facilities as are mutually agreed upon and which are both economically and technically feasible taking into consideration the remaining life of the Franchise.


A. Performance Bond.

1. 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, in the amount of Ten Thousand Dollars ($10,000.00) in a form and with such sureties as are reasonably acceptable.

2. The bond must 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 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 which arise by reason of the construction, operation, or maintenance of the System.

3. 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.

4. The Grantee shall be given thirty (30) days' notice of any franchise violation, or other claim, liability or obligation giving rise to City's right to make a claim under the bond. In the event the violation, claim, liability, or obligation is not cured, corrected or satisfied within this thirty (30) day cure period, in City's determination, the City may make a claim pursuant to the bond. The City may grant additional time beyond the initial cure period before making a claim under the bond in the event Grantee requests additional time and the City determines that the Grantee has made a good faith effort towards cure and such additional time is necessary to completely cure the alleged violation.

5. In the event this Franchise is revoked or the rights hereunder relinquished or abandoned by Grantee, the City shall be entitled to collect from the performance bond any resultant damages, costs or liabilities incurred by the City.

6. Unless provided otherwise in this Franchise, 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.
B. Letter of Credit.

1. The City intends to stay enforcement of this Subd. 10(B) to the extent Effective Competition exists. Notwithstanding, in the event the City initiates enforcement of Subd. 7 above through adoption of a Resolution of the City Council and determines that additional security is necessary or desirable to secure compliance with this Franchise, or the City shall determine that Effective Competition has ceased, Grantee shall, upon written notice from the City, deliver to the City an irrevocable and unconditional Letter of Credit, in form and substance acceptable to the City, from a National or State bank approved by the City, in the amount of Five Thousand Dollars ($5,000).

2. The Letter of Credit 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 liquidated damages charged pursuant to this subdivision or in payment for any monies owed by Grantee pursuant to its obligations under this Franchise.

3. In addition to recovery of any monies owed by Grantee to the City, the City, in its sole discretion, after providing reasonable notice and public hearing as provided below, may charge to and collect from the Letter of Credit liquidated damages in an amount of up to Fifty Dollars ($50.00) per violation of any provision of this Franchise or applicable federal, state, or local law or regulations, pursuant to paragraph d,

4. 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. Grantee shall have thirty (30) days from receipt of such notice in which to cure such violation in which event no liquidated damages may be assessed. At any time after the cure period, provided Grantee remains in violation of one or more terms, conditions or provisions of this Franchise, in City’s sole determination, the City may draw from the Letter of Credit all assessments or monies due the City from the date of the notice. The City may grant additional time beyond the initial cure period in the event the City determines such additional time is necessary to cure the alleged violation.

5. Grantee may notify the City in writing during the cure period that there is a dispute as to whether a violation or failure has in fact occurred. Grantee shall specify with particularity the matters disputed and the basis for dispute. All timeframes and liquidated damages assessments shall be tolled until the City issues a decision following the hearing in Section 10. B.6. herein.

6. The City shall hear Grantee’s dispute at the next regularly scheduled meeting or within sixty (60) days of receipt of said notice of dispute, whichever is shorter.

7. In the event City determines that a violation has taken place, such determination shall be deemed final, subject to Grantee’s right to appeal such final determination to a court or forum of competent jurisdiction.

8. In the event City determines that no violation has taken place, the City shall rescind the notice of violation.

9. If said Letter of Credit or any subsequent Letter of Credit delivered pursuant thereto expires prior to 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 prior to the expiration of this Franchise. The renewed or replaced Letter of Credit shall be of the same form and amount and with a bank authorized herein.

10. If the City draws upon the Letter of Credit or any subsequent Letter of Credit delivered pursuant hereto, in whole or in part, Grantee shall replace the same within ten (10) days and shall deliver to the City a like replacement Letter of Credit for the full amount stated in Paragraph a of this section as a substitution of the previous Letter of Credit.

11. If any Letter of Credit is not so replaced, the City may draw on said Letter of Credit for the whole amount thereof and use the proceeds as the City determines in its sole discretion. The failure to replace 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 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.

12. The collection by the City of any monies or penalties from the Letter of Credit shall not be deemed an exclusive remedy and shall not affect any other right or remedy available to the City, nor shall any act, or failure to act, by the City pursuant to the Letter of Credit, be deemed a waiver of any right of the City pursuant to this Franchise or otherwise.

C. Indemnification of the City.

1. The City, its 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.

2. Grantee shall indemnify, defend, and hold harmless the City, its 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. Grantee’s obligations herein shall not include any alleged or actual liability arising from intentional acts or omissions or negligence on the part of City, or its officers, boards, committees, commissions, elected officials, employees and agents.

3. City shall indemnify, defend and hold harmless Grantee, its officers, directors, employees and agents, from and against all claims, liability, damages, and penalties which any of them may legally be required to pay as a result of the City’s operation or programming of PEG access channels, facilities or equipment.

4. Nothing in this Franchise relieves a Person from the liability arising out of the failure to exercise reasonable care to avoid injuring the Grantee’s facilities while performing work connected with grading, regarding, or changing the line of a Right-of-Way or public place or with the construction or reconstruction of a sewer or water system.

5. In order for City to assert its rights to be indemnified, defended, and held harmless, City must, with respect to each claim:

   a. Promptly notify Grantee in writing of any claim or legal proceeding which gives rise to such right.

   b. Afford Grantee the opportunity to participate in and fully control any compromise, settlement or other resolution or disposition of any claim or proceeding; and

   c. 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.

D. Insurance.

1. 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, in protection of the Grantee, and the City, its officers, elected officials, boards, commissions, agents and employees for damages which may arise as a result of this Franchise.

2. 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, Five Hundred Thousand Dollars ($500,000.00) 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.

3. 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 sixty (60) days advance written notice have been provided to the City.

Subd. 11. Sale, Abandonment, Transfer and Revocation of Franchise

A. 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 herein, if after the hearing required therein, it is determined that:

1. Grantee has violated any material provision of this Franchise and failed to timely cure; or
2. Grantee has attempted to evade any of the material provisions of the Franchise; or
3. Grantee has practiced legally actionable fraud or deceit upon the City or Subscriber.
4. The City may revoke this Franchise without the hearing required herein if Grantee files for bankruptcy.

B. Procedures for Revocation.

1. The City shall provide Grantee with written notice of intent to revoke the Franchise which shall identify the basis of the revocation. Grantee shall have thirty (30) days subsequent to receipt of the notice in which to cure the violation or to provide adequate assurance of performance in compliance with the Franchise.
2. City shall schedule a public hearing affording Grantee due process prior to revocation. The public hearing shall be scheduled after the end of the cure period and within ninety (90) days of the date of the notice of revocation. Notice of the hearing shall be provided to Grantee.
3. The City shall provide Grantee with written notice of its final decision together with written findings of fact supplementing said decision.
4. During the appeal period, the Franchise shall remain in full force and effect unless the term thereof sooner expires.

C. Abandonment of Service. Grantee may not discontinue providing video programming services without having first given three (3) months written notice to the City.

D. Removal After Abandonment, Termination or Forfeiture.

1. 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; 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.

2. 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 Letter of Credit 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.
E. Sale or Transfer of Franchise.

1. No sale, transfer, or corporate change of or in Grantee or the System, including, but not limited to, the sale of a majority of the entity's assets, a merger including the consolidation of a subsidiary and parent entity, or the creation of a subsidiary or affiliate entity, shall take place until the parties to the sale, transfer, or 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.

2. Any sale, transfer, exchange or assignment of stock or other equity interest in Grantee so as to create a new controlling interest shall be subject to the requirements of this Subd. 11(E). The term "controlling interest" as used herein means actual working control in whatever manner exercised.

3. The City shall have such time as is permitted by applicable federal law in which to review a transfer request.

4. In no event shall a sale, transfer, corporate change, or assignment of ownership or control pursuant to Subparagraph (1) or (2) 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.

5. In the event of any proposed sale, transfer, corporate change, or assignment pursuant to Subparagraph (1) or (2) of this Section, the City shall have the right to purchase the System as provided in Minn. Stat. § 238.084(aa).

6. The City shall be deemed to have waived its right to purchase under in the following circumstances:

   a. If it does not indicate to Grantee in writing, within sixty (60) days of notice of a proposed sale or assignment, its intention to exercise or reserve its right of purchase; or

   b. It approves the assignment or sale of the Franchise as provided within this Section.


A. Discriminatory Practices Prohibited. Grantee shall comply at all times with all other applicable federal, state, and local laws, and all executive and administrative orders relating to nondiscrimination.

B. Subscriber Privacy.

1. 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.

2. 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.

3. 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 (2) of this Subdivision.

**Subd. 13. Miscellaneous Provisions**

A. Franchise Renewal. Any renewal of this Franchise shall be performed in accordance with applicable federal, state and local laws and regulations. The term of any renewed Franchise shall be limited to a period not to exceed fifteen (15) years.

B. Work Performed by Others. All obligations 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 Person performing work obtain any rights to maintain and operate a System or provide Cable Service.

C. Amendment of Franchise. 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 Subdivision 7(E) 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.

D. 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 its control, such failure to perform shall be excused for the period of such inability to perform.

E. Compliance with Federal, State and Local Laws.

1. 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.

2. If any term, condition or provision of this Franchise shall, to any extent, be held to be invalid or unenforceable, the remainder and all the terms, provisions and conditions herein shall, in all other respects, continue to be effective 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.

F. 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.

G. Rights Cumulative. All rights and remedies given to the City by this Franchise or retained by the City shall be in addition to and not exclusive of any and all other rights and remedies, existing or implied, now or hereafter available to the City, at law or in equity.

H. 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 provided, however, that neither party waives any rights.

**Subd. 14. Effective Date; Acceptance and Exhibits.**
A. Effective Date. The Effective Date of this Franchise shall be the date of acceptance by Grantee in accordance with the provisions of this Subdivision 14(B).

B. Acceptance.

1. Grantee shall accept this Franchise within thirty (30) days of its approval by the City, unless the time for acceptance is extended by the City. Such acceptance by the Grantee shall be deemed the grant of this Franchise for all purposes provided. In the event acceptance does not take place, this Franchise and any and all rights previously granted to Grantee shall be null and void.

2. Upon acceptance of this Franchise, Grantee shall be bound by all the terms and conditions contained herein.

3. Grantee shall accept this Franchise by properly executing, acknowledging, and delivering the document to the City and, with its acceptance, Grantee shall also deliver any grant payments, performance bond and insurance certificates required herein that have not previously been delivered.

C. The Saint Peter City Code, Chapter 1 entitled "General Provisions" is incorporated by reference as though repeated herein verbatim.

Adopted by the City Council of the City of Saint Peter, Nicollet County, Minnesota, this ______ day of ___________, 2017.

ATTEST: 

______________________________  ______________________________
Todd Prafke                      Chuck Zieman
City Administrator               Mayor

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

GRANTEE

Dated: _________________________ 

By: _________________________

Its _________________________

EXHIBIT A

St. Peter Franchise

South Elementary  1405 S. 7th Street
High School       100 Lincoln Drive
John Ireland School 1801 W. Broadway Avenue
Minnesota Valley Education  801 Davis Street
North Elementary  815 N. 9th Street
Saint Peter Library 600 South Washington Avenue Street
City Hall          227 S. Front Street
Fire Dept.         227 W. Mulberry Street
Police Dept.       207 S. Front Street
Public Works       405 Saint Julien Street
Health Service     322 S. Minnesota Ave
TO: Honorable Mayor Zieman
Members of the City Council
FROM: Todd Prafke
City Administrator
RE: City Hall Tour

ACTION/RECOMMENDATION

None needed. For your information and discussion only.

BACKGROUND

Monday evening's Council workshop will conclude with a short tour of City Hall. As Members may remember, the 2017 budget includes approximately $50,000 in funding for improvements at City Hall. The tour is being provided as an opportunity for the Council to see some of the issues for which improvements could be made.

At approximately 6:00 p.m. Councilmembers will take a transit bus from the Library to City Hall for what I expect to be a short tour. The workshop will then be officially adjourned before the Council is once again transported via transit bus back to the Library.

Please feel free to contact me if you have any questions or concerns on this agenda item.

TP/bal