

**CABLE TELEVISION
FRANCHISE ORDINANCE**

**City of Missoula, Montana
and
TDS Metrocom, LLC**

June 29, 2022

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ORDINANCE NO. _____

AN ORDINANCE OF THE MISSOULA CITY COUNCIL GRANTING A NON-EXCLUSIVE FRANCHISE TO TDS METROCOM, LLC, TO CONSTRUCT, OPERATE, AND MAINTAIN A CABLE SYSTEM IN THE CITY OF MISSOULA, MONTANA 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 Council of the City of Missoula, Montana ordains:

STATEMENT OF INTENT AND PURPOSE

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

Adoption of this Franchise is, in the judgment of the City Council, in the best interests of City and its residents.

FINDINGS

In the review of the request for a franchise by TDS Metrocom, LLC (“Grantee”) and negotiations related thereto, and as a result of public input, the City Council makes the following findings:

1. The Franchise granted to Grantee by City complies with the existing applicable state statutes, federal laws, and regulations; and
2. 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 TDS Metrocom, LLC Missoula Cable Television Franchise Ordinance (“Cable Franchise” or “Franchise”).
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, and words in the plural number include the singular number. The word “shall” is always mandatory and not merely directory. The word “may” is directory and discretionary and not mandatory. Words not defined shall be given their common and ordinary meaning.
 - a. “Applicable Laws” means a) any local law or City Code; b) federal or state statute, law or regulation as may be amended, and c) any other final legal authority governing any of the matters addressed in this Franchise.
 - b. “Base Coverage Area” means an area comprised of seventy percent (70%) of the Dwelling Units in the Franchise Area, chosen for construction by the Grantee in its discretion.
 - c. “Basic Cable Service” means the most highly penetrated, separately priced Service tier that is available without the purchase of any other Service tier and 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 Cable Service tier. Basic Cable Service as defined herein shall not be inconsistent with 47 U.S.C. § 543(b)(7).

- d. "Cable Service" or "Service" means (A) the one-way transmission to Subscribers of (i) Video Programming or (ii) Other Programming Service, and (B) Subscriber interaction, if any, which is required for the selection or use of such Video Programming or Other Programming Service. Cable Service as defined herein shall not be inconsistent with the definition set forth in 47 U.S.C. § 522(6).
- e. "Cable System" or "System" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes Video Programming, and which is provided to multiple Subscribers within a community, but such term does not include:
 - i. a facility that serves only to retransmit the television signals of one (1) or more television broadcast stations;
 - ii. a facility that serves Subscribers without using any public Right-of-Way;
 - iii. a facility of common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. § 201 et seq., except that such facility shall be considered a Cable System (other than for purposes of 47 U.S.C. § 541(c)) to the extent such facility is used in the transmission of Video Programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services;
 - iv. an open video system that complies with 47 U.S.C. § 573; or
 - v. any facilities of any electric utility used solely for operating its electric utility systems.
- f. "Channel" or "Cable Channel" means a portion of the electromagnetic frequency spectrum which is used in a Cable System and which is capable of delivering a television Channel as defined by the FCC. For purposes of this Franchise, each stream of information delivering a discrete Video Programming service shall be considered a separate Channel.
- g. "City" means City of Missoula, a municipal corporation, in the State of Montana, acting by and through its City Council or its lawfully appointed designee.
- h. "City Code" or "Missoula Municipal Code" means the City Code of the City of Missoula, Montana.
- i. "City Council" means the governing body of the City of Missoula, Montana.
- j. "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.
- k. "Drop" means the cable that connects the ground block on the Subscriber's residence or institution to the nearest feeder cable of the System.
- l. "Dwelling Units" means all residential single family and multi-family homes or units in the Franchise Area.

- m. "FCC" means the Federal Communications Commission and any legally appointed, designated, or elected agent or successor.
- n. "Franchise" or "Cable Franchise" means this franchise ordinance and the regulatory and contractual relationship established hereby.
- o. "Franchise Fee" includes any tax, fee, or assessment of any kind imposed by the City or other governmental entity on Grantee or Subscriber, or both, solely because of their status as such. It does not include any tax, fee, or assessment of general applicability (including any such tax, fee, or assessment imposed on both utilities and cable operators or their services but not including a tax, fee, or assessment which is unduly discriminatory against cable operators or cable Subscribers); capital costs which are required by the Franchise to be incurred by Grantee for public, educational, or governmental access facilities; requirements or charges incidental to the awarding or enforcing of the Franchise, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages; or any fee imposed under Title 17 of the United States Code.
- p. "Grantee" is TDS Metrocom, LLC, its lawful successors, transferees, or assignees.
- q. "Gross Revenue" means any and all revenue derived directly or indirectly by Grantee, its affiliates, subsidiaries, parent, or any entity in which Grantee has a financial interest, from the operation of its Cable System within the City including, but not limited to, 1) all Cable Service fees, 2) Franchise Fees, 3) late fees, returned check charges, 4) Installation and reconnection fees, 5) any and all consideration earned by the Grantee from programmers for carriage of Cable Services or marketing support in connection with the Cable Services on the Cable System, but only to the extent such consideration constitutes "revenue" as determined in accordance with generally accepted accounting principles, 6) upgrade and downgrade fees, 7) advertising revenue with no deduction or offset for internal commissions earned by employees of Grantee or its affiliates, subsidiaries, parent, or any entity in which Grantee has a financial interest, and external commissions earned by advertising agencies/representation firms/brokers/etc. regardless of whether or not such commissions are withheld from remittances to the Grantee, 8) home shopping commissions, and 9) Converter and remote control rental fees. The term Gross Revenue shall not include bad debts, the Access Fee defined in Exhibit A, or any taxes on Services furnished by Grantee imposed upon Subscribers by any municipality, state, or other governmental unit and collected by Grantee for such governmental unit. A Franchise Fee is not such a tax.
- r. "Installation" means the connection of the Cable System from feeder cable to the point of connection including Standard Installations and custom Installations with the Subscriber Converter or other terminal equipment.
- s. "Normal Business Hours" means those hours during which most similar businesses in City are open to serve customers. In all cases, "Normal Business Hours" must include some evening hours, at least one (1) night per week and/or some weekend hours.
- t. "Normal Operating Conditions" means those Service conditions which are within the control of Grantee. Those conditions which are not within the control of Grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of Grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the Cable System.

- u. “Other Programming Service” means information that a cable operator makes available to all Subscribers generally.
- v. “PEG” means public, educational and governmental.
- w. “Penetration Level” means the percentage obtained by dividing (x) the number of Grantee’s Subscribers, by (y) the total number of Dwelling Units in Grantee’s Service Territory (e.g., x/y = Penetration Level percentage).
- x. “Person” is any Person, firm, partnership, association, corporation, company, limited liability entity or other legal entity.
- y. “Right-of-Way” or “Rights-of-Way” means the area on, below, or above any real property in City in which the City has an interest for travel purposes and utility easements including, but not limited to any street, road, highway, alley, sidewalk, skyway, or any other place, area, or real property owned by or under the control of City, including other dedicated Rights-of-Way for travel purposes and utility easements.
- z. “Right-of-Way Ordinance” means Title 12 of the City Code or any other ordinance codifying requirements regarding regulation, management and use of Rights-of-Way in City, including registration and permitting requirements.
- aa. “Section 621 Order” means the Third Report and Order in MB Docket No. 05-311 adopted by the FCC on August 1, 2019, as modified by any subsequent order.
- bb. “Service Area” or “Franchise Area” means the entire geographic area within the City as it is now constituted or may in the future be constituted.
- cc. “Service Territory” means any area of the City where Dwelling Units are passed by Grantee’s Cable System activated plant.
- dd. “Standard Installation” means any residential or commercial Installation which can be completed using a Drop of one hundred twenty-five (125) feet or less.
- ee. “Subscriber” means any Person who lawfully receives Cable Service via the System. In the case of multiple office buildings or multiple dwelling units, the “Subscriber” means each lessee, tenant, or occupant not the building owner.
- ff. “Unserved Area” means any area within the City where the Dwelling Units are not in the Grantee’s Service Territory.
- gg. “Video Programming” means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.
- hh. “Wireline MVPD” means any entity, including the City, that utilizes the Right of Way to install cable or fiber and is engaged in the business of making available for purchase, by Subscribers, multiple Channels of Video Programming in the City. For purposes of this Franchise, the term “Wireline MVPD” shall not be limited to entities defined by the FCC as “multichannel video programming distributors” and shall include entities that provide multiple Channels of Video Programming via open video systems, as defined by the FCC, but it is the intent of the Grantee and the City that the term Wireline MVPD shall not include small cell providers, unless the City has the legal authority under Applicable Law to regulate or to impose cable franchise obligations upon such small cell providers.

SECTION. 2. GRANT OF AUTHORITY AND GENERAL PROVISIONS

1. Grant of Franchise.

- a. This Franchise is granted pursuant to the terms and conditions contained herein and pursuant to Title 5, Chapter 80 of the Missoula Municipal Code. The provisions of Title 5, Chapter 80 of the Missoula Municipal Code are hereby incorporated by reference and Grantee agrees that by accepting this Franchise Grantee shall at all times comply with the provisions of Title 5, Chapter 80 of the Missoula Municipal Code. Failure of Grantee to provide a System as described herein or meet the obligations and comply with all provisions herein, shall be deemed a violation of this Franchise.
- b. It shall be unlawful for any Person to construct, operate or maintain a Cable System or to provide Cable Service or other competing multi-channel video services, in the City without a franchise, unless Applicable Law prohibits the City's enforcement of such a requirement or the Person was offering Cable Service on the effective date of this Franchise.

2. Competitive Equity.

- a. The City reserves the right to grant additional franchises or similar authorizations to provide Video Programming services via Cable Systems or other Wireline MVPDs. The City intends to treat Wireline MVPDs in a nondiscriminatory manner to the extent permissible under Applicable Law. If, following the effective date of this Franchise, the City grants such an additional franchise or authorization to a Wireline MVPD and Grantee believes the City has done so on terms materially more favorable than the obligations under this Franchise, then the provisions of this Section 2.2 will apply.
- b. As part of this Franchise, the City and Grantee have mutually agreed upon the following terms as a condition of granting the Franchise, which terms may place the Grantee at a significant competitive disadvantage if not required of a Wireline MVPD: the obligation to pay to the City a Franchise Fee consistent with Section 7.3 of this Franchise, Gross Revenues as provided for and defined in this Franchise, and the obligation to comply with requirements in this Franchise regarding complimentary services, PEG funding, PEG Access Channels, records and reports, security instruments, audits, dispute resolution, remedies, notice and opportunity to cure, and customer service obligations (hereinafter "Material Obligations"). The City and Grantee further agree that this provision shall not require a word for word identical franchise or authorization for competitive equity so long as the regulatory and financial burdens on each entity are materially equivalent.
- c. Within one (1) year of the adoption of a Wireline MVPD franchise or similar authorization, Grantee must notify the City in writing of the Material Obligations in this Franchise that exceed the Material Obligations of the wireline competitor's franchise or similar authorization. The City and Grantee agree that they will use best efforts in good faith to negotiate Grantee's proposed Franchise modifications, and that such negotiation will proceed and conclude within a ninety (90) day time period, unless that time period is reduced or extended by mutual agreement of the parties. If the City and Grantee reach agreement on the Franchise modifications pursuant to such negotiations, then the City shall amend this Franchise to include the modifications. If the City and Grantee fail to reach agreement in such negotiations, Grantee may, at its option, elect to replace this Franchise by opting into the franchise or other similar lawful authorization that the City grants to another Wireline MVPD (with the understanding that Grantee may use its current system design and technology infrastructure to meet any requirements of the new franchise), so as to ensure that the regulatory and financial burdens on each entity are equivalent. If Grantee so elects, the City shall immediately commence proceedings to replace this Franchise with the franchise issued to the other Wireline MVPD.

Notwithstanding anything contained in this section to the contrary, the City shall not be obligated to amend or replace this Franchise unless the new entrant makes Cable Services or similar downstream video programming service available for purchase by Subscribers or customers under its franchise agreement with or similar authorization from the City.

- d. In the event the City disputes that the Material Obligations are different, Grantee may bring an action in federal or state court for a determination as to whether the Material Obligations are different and as to what franchise amendments would be necessary to remedy the disparity. Alternatively, Grantee may notify the City that it elects to immediately commence the renewal process under 47 U.S.C. § 546 and to have the remaining term of this Franchise shortened to not more than thirty (30) months.
- e. Nothing in this Section 2.2 is intended to alter the rights or obligations of either party under Applicable Law, and it shall only apply to the extent permitted under applicable law and FCC orders. In no event will the City be required to refund or to offset against future amounts due the value of benefits already received.
- f. To the extent the City has legal authority to grant a franchise or similar authorization to a wireless provider of Cable Service, the competitive equity rights provided by this section shall apply with respect to Material Obligations imposed in such franchise or other similar agreement. In the event of a dispute regarding the City's legal authority, Franchisee shall have the burden to demonstrate that such authority exists.

3. Grant of Nonexclusive Authority.

- a. The Grantee shall have the right and privilege, subject to the permitting and other lawful requirements of the City Code, to construct, erect, and maintain, in, upon, along, across, above, over and under the Rights-of-Way in City a Cable System 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 commercially reasonable to do so.
- b. Notwithstanding the above grant to use Rights-of-Way, no Right-of-Way shall be used by Grantee if City determines that such use is inconsistent with the terms, conditions, or provisions by which such Right-of-Way was created or dedicated, or with the present use of the Right-of-Way.
- c. This Franchise shall be nonexclusive, and City reserves the right to grant use of said Rights-of-Way to any Person at any time during the period of this Franchise for the provision of Cable Service.

4. Lease or Assignment Prohibited. No Person may lease Grantee's System for the purpose of providing Cable Service until and unless such Person shall have first obtained and shall currently hold a valid franchise or other lawful authorization containing substantially similar burdens and obligations to this Franchise. Any assignment of rights under this Franchise shall be subject to and in accordance with the requirements of Section 9.5 of this Franchise. This provision shall not prevent Grantee from complying with any commercial leased access requirements or any other provisions of Applicable Law.

5. Franchise Term. This Franchise shall be in effect for a period of ten (10) years from the date of acceptance pursuant to Section 13.2 herein, unless sooner renewed, revoked, or terminated as herein provided.

SECTION. 3. CONSTRUCTION STANDARDS

1. Registration, Permits, Construction Codes, and Cooperation.
 - a. Grantee shall comply with the construction requirements of Applicable Laws including Section 2.7 of the Public Works Standards and Specifications Manual. See <http://www.ci.missoula.mt.us/DocumentCenter/View/58694/Chapter-2---Construction-Within-ROW>.
 - b. With the exception of routine, minor maintenance work, Grantee agrees to obtain a permit where required by the City's rules or regulations prior to constructing, removing, abandoning, relocating, or reconstructing, if necessary, any portion of its facilities. Notwithstanding the foregoing, City understands and acknowledges there may be instances when it is in Subscribers' interest for Grantee to make repairs that are of an emergency nature without first obtaining a permit. In the event Grantee undertakes such emergency repairs without first obtaining a permit, Grantee will notify City as soon as practicable after discovering the need for repairs and will apply for such permits as are necessary in a reasonable time after notification to City.
 - c. Grantee shall at all times comply with the requirements of Title 5, Chapter 5.80.070 of the Missoula Municipal Code.
 - d. Failure to obtain permits or comply with permit requirements shall subject Grantee to all enforcement remedies available to City under Applicable Laws or this Franchise.
 - e. Grantee will coordinate with City regarding the placement of appropriate coverings on above ground nodes installed by Grantee. Grantee shall install above-ground pedestals in alleyways only and will not install above-ground pedestals on street frontages. Grantee will use below grade hand-holes or overhead wires for all service connections along street frontages.
2. Underground Facilities. The facilities of Grantee shall be installed underground in those areas of City where existing cable television, telephone and electric services all are underground at the time of construction by Grantee. In areas where cable television, telephone or electric utility facilities are installed aerially at the time of System construction, Grantee may install its facilities aerially; however, at such time as the existing aerial cable television, telephone or electric utility facilities are placed underground, Grantee shall likewise place its facilities underground at its sole cost. If City requires all cable television service providers and telephone and electric utilities to bury lines which are currently overhead, and the City financially participates in said undergrounding, then the City will provide the same cost sharing to the Grantee as is provided to any other provider of cable television services.
3. Minimum Interference.
 - a. All transmission and distribution structures, lines and equipment erected by Grantee shall be located so as to cause minimum interference with the unencumbered use of Rights-of-Way and other public places and minimum interference with the rights and reasonable convenience of property owners who adjoin any of the Rights-of-Way and public places.
 - b. Grantee shall provide advance notice to any private property owner and shall obtain authorization prior to commencing work on private property.
4. Disturbance or damage. Any and all Rights-of-Way, or public or private property, which are disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance, expansion, extension, or reconstruction of the System shall be promptly and fully

restored by Grantee, at its expense, to a condition as good as that prevailing prior to Grantee's work. If Grantee shall fail to promptly perform the restoration required herein, after written request of City and reasonable opportunity to satisfy that request, City shall have the right to put the Rights-of-Way back into condition as good as that prevailing prior to Grantee's work. In the event City determines that Grantee is responsible for such disturbance or damage, Grantee shall be obligated to fully reimburse City for such restoration within thirty (30) days after its receipt of City's invoice thereof. Grantee's obligation under this paragraph will extend to the removal, disturbance, or damage to existing trees, shrubs and related City owned plantings located on public property absent the City's prior approval.

5. Relocation.

a. At any time during the period of the Franchise, Grantee shall, at its own expense, protect, relocate, support, temporarily disconnect any of its property when, (i) the same is required by reason of traffic conditions, public safety, Rights-of-Way vacation, freeway or Rights-of-Way construction, alteration to or establishment of any Rights-of-Way or any facility within the Rights-of-Way, sidewalk, or other public place, including but not limited to, installation of sewers, drains, waterlines, power lines, traffic signal lines or transportation facilities; or (ii) a City project or activity makes disconnection, removal, or relocation necessary for City.

b. Consistent with the parties' understanding of the requirement of the City Code, Section 5.080.70(D)(4), Grantee shall, on request of any Person holding a permit to move a building, temporarily raise or lower its wires to permit the movement of such buildings. The expense of such temporary removal or raising or lowering of wires shall be paid by the Person requesting the same, and Grantee shall have the authority to require such payment in advance. Grantee shall be given not less than thirty (30) days advance written notice to arrange such temporary wire alterations.

6. Emergency. Whenever, in case of fire or other emergency, it becomes necessary in the judgment of the City Clerk, police chief, fire chief, or their delegates, to remove or damage any of Grantee's facilities, no charge shall be made by Grantee against City for restoration, repair, or damages.

7. Tree Trimming. Grantee shall trim trees in accordance with Title 5, Chapter 5.80.090 of the Missoula Municipal Code and Chapter 12.32 of the Missoula Municipal Code and any other provisions of Applicable Law.

8. Protection of facilities. Nothing contained in this section shall relieve any Person from liability arising out of the failure to exercise reasonable care to avoid damaging Grantee's facilities while performing any work connected with grading, regrading, or changing the line of any Rights-of-Way or public place or the construction or reconstruction of any sewer or water system.

9. Installation records. Each Grantee shall keep accurate Installation records of the location of all facilities in the Rights-of-Way and public ways and furnish them to City upon request. Grantee shall cooperate with City to furnish such information in an electronic mapping format, if possible compatible with the then-current City electronic mapping format. Upon completion of new or relocation construction of underground facilities in the Rights-of-Way and public ways, Grantee shall provide City with Installation records in an electronic format, if possible compatible with the then-current City electronic mapping format showing the location of the underground and above ground facilities.

10. Locating facilities. Grantee shall comply with the State of Montana's One-call system for locating facilities in the Right-of-Way as set forth in MCA Sections 69-4-501 through 69-4-530. Grantee is obligated to furnish location information to the City in a timely manner, but in no case longer than thirty (30) days.

11. City's rights. Nothing in this Franchise shall be construed to prevent City 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.
12. Relocation delays.
 - a. If Grantee's relocation effort so delays construction of a public project causing City to be liable for delay damages, Grantee shall reimburse City for those damages attributable to the delay created by Grantee. In the event Grantee should dispute the amount of damages attributable to Grantee, the matter shall be referred to the City engineer for a decision. In the event that Grantee disagrees with the City engineer's decision, the matter shall be submitted to the City Clerk or the City Clerk's designee for determination, whose decision shall be final and binding upon Grantee as a matter of City review, but nothing herein waives any right of appeal to the courts.
 - b. In the event City becomes aware of a potential delay involving Grantee's facilities, City shall promptly notify Grantee of this potential delay.
13. Interference with City Facilities. The Installation, use, and maintenance of the Grantee's facilities within the Rights-of-Way and public ways authorized herein shall be in such a manner as not to interfere with City's placement, construction, use and maintenance of its Rights-of-Way and public ways, Rights-of-Way lighting, water pipes, drains, sewers, traffic signal systems or other City systems that have been, or may be, installed, maintained, used, or authorized by City.
14. Interference with Utility Facilities. Grantee agrees to exercise reasonable care in installing, maintaining or using any of its facilities in such a manner as will be expected not to damage or interfere with any existing facilities of another utility located within the Rights-of-Way and public ways of City and agrees to relocate its facilities, if necessary, to accommodate another facilities' relocation. Nothing in this section is meant to limit any rights Grantee may have under Applicable Laws to be compensated for the cost of relocating its facilities from the utility that is requesting the relocation.
15. Collocation. To maximize public and employee safety, to minimize visual clutter of aerial plant, and to minimize the amount of trenching and excavation in and along City Rights-of-Way and sidewalks for underground plant, Grantee shall make every commercially reasonable effort to collocate compatible facilities within the Rights-of-Way subject to the engineering requirements of the owners of utility poles and other facilities.
 - a. Safety Requirements. 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 or injuries.
 - b. Grantee shall install and maintain its System and other equipment in accordance with City's codes and the requirements of the National Electric Safety Code and all other applicable FCC, state, and local regulations, and in such manner that they will not interfere with City communications technology related to health, safety and welfare of the residents.
 - c. Cable System structures, and lines, equipment, and connections in, over, under and upon the Rights-of-Way of City, 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 City or any Person.

SECTION. 4. DESIGN PROVISIONS

1. Minimum Channel Capacity.
 - a. The Grantee shall construct an all fiber, fiber to the home, Cable System. Grantee shall provide a Cable System that shall be capable of providing a minimum of one hundred twenty (120) Channels of Video Programming to its Subscribers in the Franchise Area. Active and passive devices are capable of delivering high-quality digital video signals meeting or exceeding FCC technical quality standards. Cable System nodes are designed for future segmentation as necessary to maximize shared bandwidth. During the term of this Franchise, the Grantee agrees to maintain the Cable System in a manner consistent with these specifications or better.
 - b. This Franchise only authorizes the construction of a Cable System and the provision of Cable Services and nothing herein shall authorize the Grantee to install any other communications facilities or provide any other communications services. However, nothing in this Franchise shall be construed to prohibit the Grantee from providing services other than Cable Services as permitted by Applicable Law. The City hereby reserves all of its rights to regulate such other services to the extent not prohibited by Applicable Law. Nothing in this Section 4.1(b) shall be construed to limit or waive any right of either the City or Grantee.
 - c. All final programming decisions remain the discretion of Grantee in accordance with this Franchise, provided that Grantee notifies City and Subscribers in writing thirty (30) days prior to any Channel additions, deletions, or realignments, and further subject to Grantee's signal carriage obligations hereunder and pursuant to 47 U.S.C. § 531-536, and further subject to federal law regarding exceptions to the thirty (30) day notice requirements and further subject to 47 U.S.C. § 545. Location and relocation of the PEG Channels shall be governed by Section 6 and Exhibit A.
2. System Construction. Grantee acknowledges the City's desire for all residents in the Franchise Area to benefit from competitive Cable Service offerings and Grantee's obligation under Section 2.9 of this Franchise not to deny access to Cable Service to any group of potential residential cable Subscribers because of the income of the residents of the local area in which such group resides. The City acknowledges that requiring Grantee, as a second market entrant, to initially buildout all of the Franchise Area as a condition of receiving a cable franchise may be economically prohibitive and could be construed as a barrier to entry for competitive Cable Service in the City. Accordingly, the parties agree to implement the following procedure for the expansion of Grantee's Cable System within the Franchise Area.
 - a. Within sixty (60) days following the effective date of this Franchise, the City and Grantee shall establish a mutually agreeable construction start date that takes into account such time as is reasonably necessary for Grantee to issue requests for proposals relating to the construction of the Cable System. No later than five (5) years from the agreed upon construction start date, Grantee's Cable System shall be capable of providing Cable Service to all of the Dwelling Units in the Base Coverage Area requesting Cable Service, provided however that the Grantee may request, and the City shall not unreasonably withhold its approval of, extensions of this deadline based on construction delays caused or contributed to by unforeseen events outside Grantee's control, including but not limited to delays in the issuance by the City of required permits and events such as those described in Section 12.8.
 - b. After completion of the Base Coverage Area, the City may require Grantee to expand Grantee's Cable System into additional areas of the City, chosen by the Grantee in its discretion, in accordance with the terms of this Section 4.2. No more than once a year, after receipt of a written request from the City, Grantee shall provide a report showing the

current Penetration Level in Grantee's Service Territory. If the Penetration Level is thirty-five percent (35%) or greater, the City may require Grantee to expand its Cable System to cover an additional seven percent (7%) of the Unserved Area by delivering written notice to Grantee. Upon receipt of such notice, Grantee shall have twenty-four (24) months to meet such expansion requirement. Grantee shall determine which portion of the Unserved Area it will serve.

- c. Once Grantee has extended its Cable System to cover ninety-five percent (95%) of the Franchise Area in accordance with Section 4.2 above, the Grantee shall make available Cable Service distributed over the Cable System when Dwelling Units can be served by extension of the System past Dwelling Units equivalent to a density of seven (7) Dwelling Units per one-quarter (1/4) mile of cable contiguous to the System. Such extension shall be at Grantee's cost. In areas not meeting the requirements of seven (7) or more Dwelling Units per one-quarter (1/4) mile, for mandatory extension of Service, Grantee shall provide, upon the request of any potential Subscribers desiring Service, an estimate of the costs required to extend Service to such Subscribers. Grantee shall then extend Service upon request and upon payment of an amount equal to the reasonable value of actual time and materials to be incurred by Grantee for such extension. If such Dwelling Unit is located within one hundred twenty-five (125) feet of Grantee's feeder cable, the Cable Service will be provided at Grantee's published rate for Standard Installations.
 - d. Cable Service offered to Subscribers pursuant to this Franchise shall be conditioned upon Grantee having legal access to any such Subscriber's Dwelling Unit or other units wherein such Cable Service is provided.
3. Progress Reports. For the specific purpose of enabling the City to monitor and enforce the provisions of Section 4.2 above, the Grantee shall, during the first twelve (12) months following the agreed upon construction start date and, on an as-needed basis thereafter during the five (5) year period described in Section 4.2(a), meet with the City and provide reports and make available maps showing the City the Grantee's progress towards compliance with Section 4.2. The meeting shall occur no more frequently than once per calendar year quarter, upon request by the City, and within thirty (30) days of the request.
 4. Annexation. Consistent with the City Code, areas subsequently annexed shall be provided with Cable Service in accordance with the formula set forth in Section 4.2 herein.
 5. Standard Installation. Subject to the construction and buildout schedule agreed upon in Section 4.2, residents requesting Cable Service and living within a Standard Installation of one hundred twenty-five (125) feet shall have the cable installed at no more than the prevailing published Standard Installation rate. In the event a request is made for Cable Service and the residence is more than a Standard Installation of one hundred fifty (150) feet, such Installation shall be completed on a time and material cost basis for that portion of the service line extending beyond one hundred twenty-five (125) feet.
 6. Emergency Alert Capability. At all times during the term of this Franchise, Grantee shall provide and maintain an Emergency Alert System ("EAS") consistent with Applicable Law and regulations including 47 C.F.R., Part 11, and any Montana State EAS requirements.
 7. Technical Standards. Grantee shall at all times comply with Title 5, Chapter 5.80.080 of the Missoula Municipal Code as well as Section 2.7 of the Public Works Standards and Specifications Manual. See <http://www.ci.missoula.mt.us/DocumentCenter/View/58694/Chapter-2---Construction-Within-ROW>.

8. Special Testing.
 - a. City shall have the right to inspect all construction or Installation work performed pursuant to the provisions of the Franchise. In addition, City may require special testing of a location or locations within the System if there is a particular matter of controversy or unresolved complaints regarding such construction or Installation work or pertaining to such location(s). Demand for such special tests may be made on the basis of complaints received or other evidence indicating an unresolved controversy or noncompliance. Such tests shall be limited to the particular matter in controversy or unresolved complaints. City shall 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 following receipt of written notice to investigate and, if necessary, correct problems or complaints upon which tests were ordered. City shall meet with Grantee prior to requiring special tests to discuss the need for such and, if possible, visually inspect those locations which are the focus of concern. If, after such meetings and inspections, City wishes to commence special tests and the thirty (30) days have elapsed without correction of the matter in controversy or unresolved complaints, the tests shall be conducted at City's expense by a qualified engineer selected by City and Grantee, and Grantee shall cooperate in such testing. If after such testing, it is found that Grantee is not in compliance with the technical requirements of Section 4.7 above, then Grantee shall reimburse City for the direct, out-of-pocket costs associated with the testing. In no case shall City be responsible for any costs which Grantee may incur as part of any special testing.
9. FCC Reports. The results of any tests required to be filed by Grantee with the FCC shall upon request of City also be filed with City or its designee within ten (10) days of the conduct of such tests.
10. Annexation. Upon the annexation of any additional land area by the City, if the annexed area is not currently served by a cable operator it will be subject to the other provisions of this Section 4. If the annexed area is served by another cable operator, Grantee has the option to extend its Cable System to the newly annexed area if Grantee determines that it is economically feasible to do so. Upon the annexation of any additional land area by the City, the annexed area shall be subject to all the terms of this Franchise upon sixty (60) days of written notification by the City to Grantee. Any cable operator other than Grantee whose Cable System already passes homes in an annexed area shall not extend its Cable System beyond those homes which it passes at the time the annexation occurs unless it otherwise obtains a franchise from the City.

SECTION. 5. SERVICE PROVISIONS

1. Regulation of Service Rates. City may regulate rates for the provision of Cable Service, equipment, or any other communications service provided over the System in accordance with Applicable Law. In the event the City chooses to regulate rates it shall, in accordance with Applicable Law, obtain certification from the FCC, if applicable. The City shall follow all applicable FCC rate regulations and shall ensure that appropriate personnel are in place to administer such regulations. City reserves the right to regulate rates for any services other than Cable Service to the extent permitted by Applicable Law.
2. Non-Standard Installations. Grantee shall install and provide Cable Service to any Person requesting other than a Standard Installation provided that said Cable Service can meet FCC technical specifications and all payment and policy obligations are met. In such case, Grantee may charge for the incremental increase in material and labor costs incurred beyond the Standard Installation.

3. Sales Procedures. Grantee shall not exercise deceptive sales procedures when marketing any of its Services within City. In its initial communication or contact with a non-Subscriber or current Subscriber seeking alternative options, Grantee shall inform the non-Subscriber of all levels of Service available, including the lowest priced Basic Cable Service tier. Grantee shall have the right to market door-to-door during reasonable hours consistent with the City Code.
4. Consumer Protection and Service Standards. Grantee shall at all times comply with Title 5, Chapter 5.82 of the Missoula Municipal Code. In addition, once Grantee provides Cable Service to its first Subscriber in the City and, thereafter, throughout the term of this Franchise, Grantee shall also comply with the FCC Customer Service Rules at 47 C.F.R. §76.309, as may be amended. Notwithstanding the foregoing, no penalties shall be imposed on Grantee for violations of the rules that occur during the first three (3) months following the date on which Cable Service is provided to its first Subscriber in the City.
5. Subscriber Contracts. Grantee shall file with City any standard form residential Subscriber contract utilized by Grantee. If no such written contract exists, Grantee shall file with the City a document completely and concisely stating the length and terms of the Subscriber contract offered to customers. The length and terms of any Subscriber contract(s) shall be available for public inspection during Normal Business Hours. A list of Grantee's current Subscriber rates and charges for Cable Service shall be maintained on file with City and shall be available for public inspection.
6. Refund Policy. Grantee shall at all times comply with Title 5 Chapter 5.82.060(G) of the Missoula Municipal Code.
7. Disconnection. Grantee shall at all times comply with Title 5 Chapter 5.82.060(R) of the Missoula Municipal Code.
8. Local Office Policy. Grantee shall maintain a location in City for receiving Subscriber inquiries, bill payments, and equipment transfers. The location must be staffed by a Person capable of receiving inquiries and bill payments and the location shall be open a minimum of forty (40) hours per week. Grantee may seek, and City shall grant, a waiver of this requirement in whole or in part for good cause shown, including a lack of substantial use of such local office.

SECTION. 6. ACCESS CHANNEL(S) PROVISIONS

1. Grantee Support for PEG Access. Grantee shall provide the following support for PEG access usage within the Service Area:
 - a. Provision of the Channels designated in Exhibit A of this Franchise for local PEG programming and access use at no charge to City in accordance with the requirements of Exhibit A.
 - b. Support of PEG capital costs to the extent specified in Exhibit A of this Franchise.
 - c. Subject to the construction and buildout schedule of this Franchise, and as specified in Exhibit A of this Franchise, provision of free public building Installation and Cable Service and a fiber connection to the City's designated playback facility.
2. Compliance with Federal Law. Grantee and City agree that the Access Fee as defined in Exhibit A will not be deemed to be "Franchise Fees" within the meaning of Section 622 of the Cable Act (47 U.S.C. §542) provided the funds are expended solely for capital costs as defined by federal law, and in compliance therewith.

SECTION. 7. OPERATION AND ADMINISTRATION PROVISIONS

1. Administration of Franchise. The City Clerk or other designee shall have continuing regulatory jurisdiction and supervision over the System and the Grantee's operation under the Franchise; provided, however, that the City Council shall retain the sole authority to take enforcement action pursuant to this Franchise.
2. Delegated-Authority. The City may appoint a citizen advisory body or may delegate to any other body or Person authority to monitor the performance of Grantee pursuant to the Franchise; provided, however, that the City Council shall retain the sole authority to take enforcement action pursuant to this Franchise. Grantee shall cooperate with any such delegates of City.
3. Franchise Fee.
 - a. During the term of the Franchise, Grantee shall pay quarterly to City a Franchise Fee in an amount equal to five percent (5%) of its quarterly Gross Revenues.
 - b. Any payments due under this provision shall be payable quarterly. The payment shall be made within forty-five (45) days of the end of each of Grantee's fiscal quarters together with a report showing the basis for the computation in form and substance substantially the same as Exhibit B attached hereto. In the event that a Franchise Fee payment or other sum due is not received by the City on or before the date due, or is underpaid, Grantee shall pay in addition to the payment, or sum due, interest from the due date at an annual rate equal to the maximum rate permitted under state law, or twelve percent (12%) if no such rate is legally specified.
 - c. All amounts paid shall be subject to audit and recomputation by City and acceptance of any payment shall not be construed as an accord that the amount paid is in fact the correct amount. In the event the City should conduct a review of Grantee's books and records pursuant to Section 7.6 of this Franchise and if such audit indicates a Franchise Fee underpayment of three percent (3%) or more, the Grantee will assume all reasonable costs of the audit.
4. Discounted Rates. If Grantee's Subscribers are offered what is, in effect, a discount for "bundled" services (i.e., Subscribers obtain Cable Services and some other, non-cable goods or service) then for the purpose of calculating Gross Revenues, the discount shall be applied proportionately to cable and non-cable goods and services, in accordance with the following example:

Assume a Subscriber's charge for a given month for Cable Service alone would be \$40, for local telephone service alone would be \$30, and for high-speed service alone would be \$30, for a total of \$100. In fact, the three (3) services are offered in effect at a combined rate where the Subscriber receives what amounts to a twenty percent (20%) discount from the rates that would apply to a service if purchased individually (i.e., \$80 per month for all three (3) services). The discount (here, \$20) for Gross Revenue computation purposes would be applied pro rata so that Gross Revenues for Cable Service are deemed to be \$32 (\$40 less 20% of \$40). The result would be the same if the Subscriber received a \$20 discount for Cable Service on the condition that he or she also subscribes to telephone service at standard rates.
5. Not Franchise Fees.
 - a. Grantee acknowledges and agrees that the Franchise Fees payable by Grantee to City pursuant to this section shall take precedence over all other payments, contributions, services, equipment, facilities, support, resources or other activities to be provided or performed by Grantee pursuant to this Franchise and that the Franchise Fees provided

for in this section of this Franchise shall not be deemed to be in the nature of a tax, and shall be in addition to any and all taxes of general applicability and other fees and charges which Grantee shall be required to pay to City and/or to any other governmental authority, all of which shall be separate and distinct obligations of Grantee.

- b. Grantee shall not apply or seek to apply or make any claim that all or any part of the Franchise Fees or other payments or contributions to be made by Grantee to City pursuant to this Franchise shall be deducted from or credited or offset against any taxes, fees or assessments or general applicability levied or imposed by City or any other governmental authority.
 - c. Grantee shall not apply or seek to apply all or any part of any taxes, fees or assessments or general applicability levied or imposed by the City or any other governmental authority (including any such tax, fee or assessment imposed on both utilities and cable operators or their services) as a deduction or other credit from or against any of the Franchise Fees or other payments or contributions to be paid or made pursuant by Grantee to City to this Franchise which shall be deemed to be separate and distinct obligations of Grantee.
6. Access to Records. Upon no less than ten (10) business days written notice, the City shall have the right to inspect at a mutually agreeable time during Normal Business Hours, or, in the alternative, to require Grantee to provide, either physically or electronically at the Grantee's option, copies of any records maintained by Grantee which relate to System operations including specifically Grantee's accounting and financial records. City acknowledges that some of the records which may be provided by Grantee may be classified as confidential and therefore may subject Grantee to competitive disadvantage if made public. City shall therefore maintain the confidentiality of any and all records provided to it by Grantee which are not required to be made public pursuant to Applicable Laws and Grantee shall have the right to prohibit City from making and/or taking away copies of records Grantee deems confidential. Grantee shall produce such books and records for City's inspection at Grantee's local office within the Service Area or at such other mutually agreed upon location within the City. To the extent it is necessary for City to send representatives to a location outside of the City to inspect Grantee's books and records, Grantee shall be responsible for all travel costs incurred by City representatives.
7. Reports and Maps to be Filed with City.
- a. Grantee shall file with the City, at the time of payment of the Franchise Fee, a report of all Gross Revenues in substance comparable to Exhibit B attached hereto.
 - b. City and Grantee shall mutually agree, at the times and in the form prescribed, such other reasonable reports with respect to Grantee's operations pursuant to this Franchise.
 - c. If required by City, Grantee shall furnish to and file with City Clerk as-built maps, including the location of underground facilities, and Grantee shall file with City updates of such as-built maps, plats, and permanent records annually if changes have been made in the System.
 - d. Upon request of the City and in no event later than thirty (30) days from the date of receipt of such request, Grantee shall prepare and furnish to the City a report ensuring its compliance with Title 5 Chapter 5.82 of the Missoula Municipal Code.
8. Periodic Evaluation.
- a. City may require evaluation sessions at any time during the term of this Franchise, upon fifteen (15) days written notice to Grantee.

- 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, access Channels, facilities and support, municipal uses of cable, Subscriber rates, customer complaints, amendments to this Franchise, judicial rulings, FCC rulings, line extension policies and any other topics City deems relevant.
- c. As part of any periodic evaluation proceeding the City shall have the right to visit and/or inspect at its own expense the Grantee's headend facility, customer service center and any other facilities of Grantee whether or not located in the City to the extent such facilities are in any way related to Grantee's ability to provide Cable Services to the City.
- d. As a result of a periodic review or evaluation session, upon notification from City, Grantee shall meet with City and undertake good faith efforts to reach agreement on changes and modifications to the terms and conditions of the Franchise which are both economically and technically feasible as measured over the remaining life of the Franchise.

SECTION. 8. GENERAL FINANCIAL AND INSURANCE PROVISIONS

1. Performance Bond. Upon Grantee's acceptance of this Franchise, Grantee shall provide City with a Fifty Thousand Dollars (\$50,000) performance bond in a form and with such sureties as are mutually acceptable to the City and Grantee. The performance bond shall ensure the faithful performance by the Grantee of all the provisions of this Franchise, and compliance with all orders, permits and directions of the City and the payment by Grantee of any claim, penalties, damages, liens, and taxes due the City related thereto, or which arise by reason of the construction, operation, or maintenance of the Cable System. At such time as a majority of Grantee's construction is complete, the amount of the performance bond shall be reduced to Twenty-five Thousand Dollars (\$25,000) for the remainder of the Franchise term.
2. Recovery from Performance Bond for Certain Franchise Violations.
 - a. City in its sole discretion may charge to and collect from the Performance Bond:
 - i. Damages in the amount of Two Hundred Fifty and No/100 Dollars (\$250.00) per day for each day, or part thereof, for Grantee's failure to comply with any of the provisions of this Franchise or the City Code for which damages or a penalty is not otherwise specifically provided occurs or continues; and
 - ii. Any taxes due and unpaid to the City by Grantee and any penalties, damages, costs, or expenses which the City shall be compelled to pay by reason of any act or default of the Grantee and that Grantee fails to repay to the City.
 - b. Each violation of any provision of this Franchise shall be considered a separate violation for which a separate penalty or damages can be imposed.
3. Procedure for Franchise Enforcement. Whenever the City finds that Grantee has allegedly violated one (1) or more terms, conditions or provisions of this Franchise, a written notice shall be given to Grantee. The written notice shall describe in reasonable detail the alleged violation to afford Grantee an opportunity to remedy the violation. Grantee shall have thirty (30) days subsequent to receipt of the notice in which to correct the violation. Grantee may, within thirty (30) days of receipt of notice, notify the City that there is a dispute as to whether a violation or failure has, in fact, occurred. Such notice by Grantee shall specify with particularity the matters disputed by Grantee and shall stay the running of the above-described time.
 - a. City shall hear Grantee's dispute at the next regularly scheduled or specially scheduled Council meeting. Grantee shall have the right to speak and introduce evidence. The City

shall determine if Grantee has committed a violation and shall make written findings of fact relative to its determination. If a violation is found, Grantee may petition for reconsideration.

- b. If after hearing the dispute, the claim is upheld by the City, then Grantee shall have thirty (30) days within which to remedy the violation before the City may seek to draw on the performance bond.
 - c. Grantee may appeal any adverse decision by the City which shall stay the City's right to draw on the performance bond until such time as the action has been finally adjudicated by a court of competent jurisdiction.
4. Time for Correction of Violation. The time for Grantee to correct any alleged violation may be extended by the City if the necessary action to correct the alleged violation is of such a nature or character as to require more than thirty (30) days within which to perform provided Grantee commences corrective action within fifteen (15) days and thereafter uses reasonable diligence, as determined by the City, to correct the violation.
5. Replenishment of Performance Bond.
- a. If City draws upon the performance bond delivered pursuant hereto, in whole or in part, Grantee shall replace or replenish to its full amount the same within ten (10) days. This shall be a continuing obligation for any draws upon the performance bond.
 - b. The collection by City of any damages, monies, or penalties from the performance bond shall not affect any other right or remedy available to City, nor shall any act, or failure to act, by City pursuant to the performance bond, be deemed a waiver of any right of City pursuant to this Franchise or otherwise.
6. Liability Insurance.
- a. Upon the effective date, Grantee shall, at its sole expense take out and maintain during the term of this Franchise public liability insurance with a company licensed to do business in the state of Montana with a rating by A.M. Best & Co. of not less than "A" that shall protect the Grantee, City and its officials, officers, directors, employees and agents from claims which may arise from operations under this Franchise, whether such operations be by the Grantee, its officials, officers, directors, employees and agents or any subcontractors of Grantee. This liability insurance shall include, but shall not be limited to, protection against claims arising from bodily and personal injury and damage to property, resulting from Grantee's vehicles, products, and operations. The amount of insurance for single limit coverage applying to bodily and personal injury and property damage shall not be less than Two Million and No/100 Dollars (\$2,000,000.00).
 - b. The following endorsements shall be attached to the liability policy:
 - i. The policy shall provide coverage on an "occurrence" basis.
 - ii. The policy shall cover personal injury as well as bodily injury.
 - iii. The policy shall cover blanket contractual liability subject to the standard universal exclusions of contractual liability included in the carrier's standard endorsement as to bodily injuries, personal injuries, and property damage.
 - iv. Broad form property damage liability shall be afforded.

- v. City shall be named as an additional insured on the policy.
 - vi. An endorsement shall be provided which states that the coverage is primary insurance and that no other insurance maintained by the City will be called upon to contribute to a loss under this coverage.
 - vii. Standard form of cross-liability shall be afforded.
 - viii. An endorsement stating that the policy shall not be canceled without thirty (30) days' notice of such cancellation given to City.
- c. Grantee shall submit to City documentation of the required insurance, including a copy of the policy showing that the City is an additional insured, as well as all properly executed endorsements.

7. Indemnification.

- a. Grantee shall indemnify, defend and hold City, its officers, boards, commissions, agents and employees (collectively the "Indemnified Parties") harmless from and against any and all lawsuits, claims, causes or action, actions, liabilities, demands, damages, judgments, settlements, disability, losses, expenses (including attorney's fees and disbursements of counsel) and costs of any nature that any of the Indemnified Parties may at any time suffer, sustain or incur arising out of, based upon or in any way connected with the Grantee's operations, the breach of Grantee of its obligations under this Franchise and/or the activities of Grantee, its subcontractor, employees and agents hereunder. Grantee shall be solely responsible for and shall indemnify, defend, and hold the Indemnified Parties harmless from and against any and all matters relative to payment of Grantee's employees, including compliance with Social Security and withholdings. Grantee shall not be required to provide indemnification to the Indemnified Parties for programming cablecast over the PEG access Channels.
- a. The indemnification obligations of Grantee set forth in this Franchise are not limited in any way by the amount or type of damages or compensation payable by or for Grantee under workers' compensation, disability or other employee benefit acts, acceptance of insurance certificates required under this Franchise or the terms, applicability or limitations of any insurance held by Grantee.
- b. City does not, and shall not, waive any rights against Grantee which it may have by reason of the indemnification provided for in this Franchise, because of the acceptance by City, or the deposit with City by Grantee, of any of the insurance policies described in this Franchise.
- c. The indemnification of City by Grantee provided for in this Franchise shall apply to all damages and claims for damages of any kind suffered by reason of any of the Grantee's operations referred to in this Franchise, regardless of whether or not such insurance policies shall have been determined to be applicable to any such damages or claims for damages.
- d. Grantee shall not be required to indemnify the Indemnified Parties for negligence or misconduct on the part of City or its officials, boards, commissions, agents, or employees. City shall hold Grantee harmless, to the fullest extent allowed by law, for any damage resulting from the negligence or misconduct of the City or its officials, boards, commissions, agents, or employees in utilizing any PEG access Channels, equipment, or facilities and for any such negligence or misconduct by City in connection with work performed by City and permitted by this Franchise, on or adjacent to the Cable System.

8. Grantee's Insurance.

a. Grantee shall not commence any Cable System construction, reconstruction work or permit any subcontractor to commence work until all insurance required under this Franchise has been obtained. Said insurance shall be maintained in full force and effect until the expiration of this Franchise.

b. 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 subparagraph (ii) above.

SECTION. 9. SALE, ABANDONMENT, TRANSFER AND REVOCATION OF FRANCHISE

1. City's Right to Revoke.

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

- i. Grantee has violated material provisions(s) of this Franchise and has not cured; or
- ii. Grantee has attempted to evade any of the provisions of the Franchise; or
- iii. Grantee has practiced fraud or deceit upon City.

b. City may revoke this Franchise without the hearing otherwise required herein if Grantee is adjudged a bankrupt.

2. Procedures for Revocation.

a. City shall provide Grantee with written notice of a Franchise violation consistent with Section 8.3 of this Franchise and shall allow Grantee thirty (30) days subsequent to receipt of the notice in which to correct the violation or to provide adequate assurance of performance in compliance with the Franchise.

b. Should City determine to proceed with a revocation proceeding, Grantee shall be provided the right to a public hearing affording due process before the City Council prior to the effective date of revocation. 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 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 or unless continuation of the Franchise would endanger the health, safety and welfare of any Person or the public.
3. Abandonment of Service. Grantee may not abandon the System or any portion thereof without having first given three (3) months written notice to City. Grantee may not abandon the System or any portion thereof without compensating City for damages resulting from the abandonment, including all costs incident to removal of the System.
4. Removal after Abandonment, Termination or Forfeiture.
 - a. In the event of termination or forfeiture of the Franchise or abandonment of the System, 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 City.
 - b. If Grantee has failed to commence removal of System, or such part thereof as was designated by City, within thirty (30) days after written notice of City's demand for removal is given, or if Grantee has failed to complete such removal within twelve (12) months after written notice of City's demand for removal is given, City shall have the right to apply funds secured by the letter of credit toward removal and/or declare all right, title, and interest to the System to be in 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.
5. Sale or Transfer of Franchise. City and Grantee shall comply with the requirements of Title 5, Chapter 5.80.060 (D) of the Missoula Municipal Code. This Franchise shall not be sublet or assigned, nor shall any rights or privileges therein granted or authorized be leased, assigned, mortgaged, sold, transferred, pledged or disposed of either in whole or in part, either by forced or involuntary sale or by voluntary sale, merger, consolidation or otherwise, nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass to or vest in any person(s), except the Grantee or a company controlling, controlled by or under common control with the Grantee, either by act of the franchisee or by operation of law, without the consent of the City expressed by ordinance; provided, however, that no such consent shall be required for any transfer in trust, mortgage or other hypothecation, as a whole, to secure an indebtedness. The City hereby reserves the right to impose a guaranty requirement on any subsequent transferee should the City determine that the corporate structure, financial condition, or other factors warrant the requirement of a guaranty.

SECTION. 10. PROTECTION OF INDIVIDUAL RIGHTS

1. Discriminatory Practices Prohibited. Grantee shall not deny Service, deny access, or otherwise discriminate against Persons 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 Laws, and all executive and administrative orders relating to nondiscrimination. Nothing herein shall be construed to prohibit (a) the temporary reduction or waiving of rates or charges in conjunction with promotional campaigns; (b) the offering or provision of reasonable discounts to senior citizens or economically disadvantaged citizens; or (c) the offering or provision of bulk rate discounts, or of negotiated rates or charges for commercial accounts, to the extent consistent with Applicable Law.
2. Subscriber Privacy.
 - a. No signals 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 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 or its agents for Grantee's service business use or to City for the purpose of Franchise administration, and also to the Subscriber subject of that information, unless Grantee has received specific written authorization from the Subscriber to make such data available. Such written permission shall be for a limited period of time not to exceed one (1) year which may be renewed at the option of the Subscriber. No 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 or 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 unauthorized connection, extension, or division, whether physically, acoustically, inductively, electronically, or otherwise, with or to any segment of the System or receive Services of the System without Grantee's authorization.
- 2. Removal or Destruction Prohibited. It shall be unlawful for any firm, Person, group, company, or corporation to willfully interfere, tamper, remove, obstruct, or damage, or assist thereof, any part or segment of the System for any purpose whatsoever.
- 3. Penalty. Any firm Person, group, company, or corporation found guilty of violating this section may be subject to the maximum fines and other remedies available under Applicable Laws.

SECTION. 12. MISCELLANEOUS PROVISIONS

- 1. Franchise Renewal. Any renewal of this Franchise shall be performed in accordance with Applicable Laws. The term of any renewed Franchise shall be limited to a period not to exceed fifteen (15) years.
- 2. Work Performed by Others. All applicable 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 performing work obtain any rights to maintain and operate a System or provide Cable Service. Grantee shall provide notice to City of the name(s) and address(es) of any entity, other than Grantee, which performs substantial services pursuant to this Franchise.
- 3. Amendment of Franchise Ordinance. Grantee and 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 or at any other time if 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 City's exercise of its police powers.

4. Compliance with Federal, State and Local Laws.

a. If any federal or state law or regulation shall require or permit City or Grantee to perform any service or act or shall prohibit 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 City shall conform to state and federal laws and regulations and rules regarding cable communications 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 City.

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 City to enforce prompt compliance. City may only waive its rights hereunder by expressly so stating in writing. Any such written waiver by 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 City by this Franchise or retained by City herein shall be in addition to and cumulative with any and all other rights and remedies, existing or implied, now or hereafter available to 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 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 City has the power to make the terms and conditions contained in this Franchise.

8. Force Majeure. Neither party shall be liable for any failure of performance hereunder due to causes beyond its reasonable control including but not limited to; acts of God, fire, explosion, vandalism, storm, or other similar catastrophes; local or national declared emergencies, including local or national declared health emergencies; insurrection; riots; wars; or strikes, lockouts or work stoppages.

9. In-Kind Cable-Related Contributions.

- a. At any time after this Franchise is approved by the City Council, the Grantee may, if Grantee so chooses, provide the City with a written list of "in-kind cable-related contributions" (as that term is defined by the FCC in the Section 621 Order) that the Franchise requires Grantee to provide (including but not limited to the Complimentary Service and Complimentary Installation requirements in Exhibit A, paragraph 10) and the incremental cost(s) associated with the provision of the in-kind cable-related contributions. Within ninety (90) days of receiving the aforementioned list, the City will notify the Grantee whether, with respect to each identified in-kind cable-related contribution, the Grantee is relieved, or temporarily relieved, of its obligations or is required to comply, subject either to the Grantee taking an offset to the Franchise Fee payments payable under Section 7.3 as may be permitted by the Section 621 Order or to the Grantee and the City agreeing to a separately negotiated charge payable by the City to the Grantee.
- b. In the event the Section 621 Order is stayed or overturned in whole or in part by action of the FCC or through judicial review, the City and the Grantee will meet promptly to discuss what impact such action has on the provision of the in-kind cable-related contributions to which this section applies. It is the intent of the parties that the City shall be treated by the Grantee in a reasonably comparable manner as other jurisdictions with respect to any offsets or charges imposed by Grantee for the provision of Complimentary Service and Complimentary Installation. Nothing herein waives the City's right to enforce Grantee's compliance with all lawful obligations contained in this Franchise.

10. Entire Agreement. This Franchise constitutes the entire agreement between Grantee and the City and supersedes all prior or contemporaneous agreements, representations or understandings (whether written or oral) of the parties regarding the subject matter hereof.

SECTION. 13. PUBLICATION EFFECTIVE DATE; ACCEPTANCE AND EXHIBITS

1. Publication, Effective Date. This Franchise shall be published in accordance with Applicable Law. The effective date of this Franchise shall be the date of acceptance by Grantee in accordance with the provisions of Section 13.2.
2. Acceptance.
 - a. Grantee shall accept this Franchise within thirty (30) days of its enactment by the City Council unless the time for acceptance is extended by City. Such acceptance by the Grantee shall be deemed the grant of this Franchise for all purposes; provided, however, this Franchise shall not be effective until all City ordinance adoption procedures are complied with and all applicable timelines have run for the adoption of a City ordinance. In the event acceptance does not take place or should all ordinance adoption procedures and timelines not be completed, this Franchise and any and all rights granted hereunder to Grantee shall be null and void.
 - b. Upon acceptance of this Franchise, Grantee and City shall be bound by all the terms and conditions contained herein.
 - c. Grantee submitted the application fee with its application to the City. The City's application form provided that any unused portion of the application fee would be returned, and any additional legal or publication fees required to process the application and a franchise, beyond the application fee, would be assessed to the Grantee. Within thirty (30) days of City approval, the City shall provide Grantee with a letter specifying and providing documentation of such additional costs following approval of this Franchise

by the City. The Grantee shall therefore submit to the City at the time of acceptance of this Franchise, a check made payable to the City of Missoula, Montana for all additional fees and costs incurred by the City.

- d. Grantee shall accept this Franchise in the following manner:
 - i. This Franchise will be properly executed and acknowledged by Grantee and delivered to City.
 - ii. With its acceptance, Grantee shall also deliver any required payments performance bonds, letter of credit and insurance certificates as required herein, that have not previously been delivered.

Passed and adopted by the City Council this _____ day of _____, 2022.

ATTEST:

CITY OF MISSOULA, MONTANA

By: _____
Its: City Clerk

By: _____
Its: Mayor

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

TDS METROCOM, LLC

Date: _____, 2022

By: _____

Its: _____

SWORN TO BEFORE ME this
_____ day of _____, 2022

NOTARY PUBLIC

EXHIBIT A

GRANTEE COMMITMENT TO PEG ACCESS FACILITIES AND EQUIPMENT

1. PUBLIC, EDUCATIONAL AND GOVERNMENT (PEG) ACCESS CHANNELS

The City, or its designee, is hereby designated to operate, administer, promote, and manage the PEG programming to the Cable System established pursuant to this Franchise. Grantee shall dedicate three (3) Channels for PEG access use. Two (2) Channels shall be activated immediately, and the additional Channel shall be activated upon ninety (90) days prior written notice from City to Grantee. All residential Subscribers who receive all or any part of the total services offered on the Cable System shall be eligible to receive all of said three (3) PEG Channels at no additional charge. Use of the PEG Channels shall be determined in City's sole discretion and Grantee shall have no responsibility for the content operations or use of the PEG Channels other than as specified herein.

City and Grantee shall establish rules and procedures for such scheduling in accordance with Section 611 of the Cable Act (47 U.S.C. § 531).

2. NONCOMMERCIAL USE OF PEG CHANNELS

PEG Channels are to be promoted and administered by the City as allowed under Applicable Laws. It is the intent of the City and the Grantee that PEG Channels shall not be used for the presentation of commercial programming. For purposes of this provision, (1) the identification of financial supporters similar to what is provided on public broadcasting stations; or (2) the solicitation of financial support for the provision of PEG programming by the City or third party users for charitable, educational or governmental purposes; or (3) programming offered by accredited, non-profit, educational institutions which may, for example, offer telecourses over a PEG Channel shall not be considered noncommercial programming.

3. HD PEG CARRIAGE REQUIREMENTS

Grantee shall carry the PEG Channels as part of the Basic Cable Service tier. Nothing herein precludes the Grantee from charging for any equipment needed for Basic Cable Service.

For purposes of this Franchise, "HD Format" shall mean programming with a display resolution of 1080 lines (progressive). Grantee shall deliver to Subscribers in HD Format PEG programming received by Grantee in HD Format. PEG programming received by Grantee in a non-HD Format shall be delivered to Subscribers with the same quality and functionality as commercial channels of the same format. The Grantee and City shall cooperate to ensure that the quality of the PEG Channels meets the FCC technical standards including those applicable to the carriage of PEG Channels; provided however, that the Grantee is not responsible for the production quality of PEG programming. Grantee shall comply with Applicable Law regarding the carriage of PEG Channels.

The City acknowledges that receipt of an HD format Channel may require Subscribers to buy or lease special equipment or pay additional HD charges applicable to all HD services provided by Grantee. A Subscriber to the Basic Cable Service tier only who has Grantee's HD capable set-top box will be able to receive the HD PEG Channel on that outlet without any additional cost.

4. PEG OPERATIONS

City may, in its sole discretion, negotiate agreements with neighboring jurisdictions served by the same Cable System, educational institutions or others to share the expenses of supporting the PEG Channels.

5. TITLE TO PEG EQUIPMENT

City shall retain title to all PEG equipment currently in use for PEG purposes which was purchased by Grantee during the preceding Franchise term.

6. RELOCATION OF PEG CHANNELS

Grantee shall not relocate any PEG Channel from the Channel number to which it was first assigned by Grantee to a different Channel number unless specifically required by Applicable Laws or unless otherwise agreed to in writing by City. Grantee shall provide City and all Subscribers with at least sixty (60) days prior written notice of any legally required relocation. In the event the PEG Channels are relocated, Grantee shall reimburse City up to Five Thousand and No/100 Dollars (\$5,000.00) for all costs associated with such move including change of letterhead, promotion of the new Channel location and promotional spots for the new location and to inform Subscribers of the new Channel location through bill inserts, newspaper advertisements and shall list the new Channel locations on the on-air program guide. The placement of PEG Channels on the System shall not make these PEG Channels more vulnerable to interference or ingress than the primary signals of local broadcast stations that are delivered using similar transmission technology in City.

7. GUIDE SELECTION

The parties acknowledge that Grantee contracts with a third party or parties to provide on-screen and on-line program listings. Grantee shall include a listing, at City's cost, of the known programming to be cablecast on the PEG Channels in or on any electronic program guide of services for the Cable System, if technically possible. It shall be the responsibility of the City, or its designee, to provide such detailed program information to the third-party entity or entities that produce such listings for Grantee in accordance with each such entity's normal format and scheduling requirements and at the City's cost. Grantee agrees not to encrypt the PEG Channels differently than other commercial Channels available on the Cable System.

8. PEG TECHNICAL QUALITY

Upon request from the City, Grantee shall provide a direct landline or mobile telephone number (as opposed to a general public number) and email address for field services team personnel with knowledge of the City's PEG operations, who shall be available to the City for consultation on technical matters as the need may arise. The Grantee shall not impose any fees or charges to the City for this technical consultation. If such consultation is insufficient to diagnose the matter in question, within twenty-four (24) hours of a written request from City to the Grantee identifying a technical problem with a PEG Channel signal and requesting assistance, Grantee will provide, free of charge to City, diagnostic services to determine whether or not a problem with a PEG signal is the result of matters for which Grantee is responsible and if so, Grantee will take prompt corrective action, free of charge to City, subject to the limitations on Grantee's responsibilities outlined in herein. If the problem persists and there is a reasonable dispute about the cause, then the parties shall meet with engineering representation from Grantee and the City in order to mutually determine the course of action to remedy the problem. Nothing herein shall be construed to obligate Grantee to correct problems or take any other action caused by City's signal internal wiring, City's equipment, PEG access program content or other issues within City's reasonable control.

9. PEG ACCESS SUPPORT

- a. Upon commencement of Cable Service by Grantee to its first Subscriber in the City, and through the end of the term of this Franchise, Grantee shall collect, on behalf of City, one and one-half percent (1.5%) of Gross Revenues solely to fund PEG access capital costs as permitted by Applicable Law (hereinafter "Access Fee").

b. The City may, at any time, reduce the Access Fee, upon ninety (90) days written notice to Grantee.

c. Grantee agrees that if the City imposes a different Access Fee (higher or lower) upon any other franchised cable operator, Grantee shall match such Access Fee upon ninety (90) days advanced written notice from the City. The purpose of this provision is to ensure that all franchised cable operators in the City remit the same Access Fee to the City.

d. Grantee shall pay the Access Fee to the City quarterly, at the same time as the payment of Franchise Fees under Section 7.3 of this Franchise.

e. Any Access Fee amounts owing pursuant to this Franchise which remain unpaid more than forty-five (45) days after the date the payment is due shall be past due and subject to a late fee of not more than three-quarter percent (.75%) per month or the maximum amount permitted by law.

10. DROPS TO DESIGNATED BUILDINGS

a. At such time as the construction of Grantee's Cable System pursuant to the schedule described in Section 4.2 encompasses the location of an institution identified in Exhibit C attached hereto and made a part hereof, Grantee will arrange to provide such institution, at no charge to the City or the institution for the term of this Franchise, Grantee's Basic Service Tier ("Complimentary Service"), provided however that in the case of any of the schools listed in Exhibit C, the provision of Complimentary Service is subject to the Note to said Exhibit. Grantee also will provide such institution with one (1) Drop, one (1) cable outlet, and, to the extent necessary to receive Complimentary Service, one (1) converter. Such installation will be without charge to the City or the institution if Grantee's Cable System passes within one hundred twenty-five (125) feet of the institution ("Complimentary Installation"). Where an institution otherwise eligible to receive Complimentary Service is not eligible for Complimentary Installation, Grantee will be required to provide the institution with Complimentary Service only upon the payment by the City of the incremental cost of installation beyond one hundred and twenty-five (125) feet.

b. The City shall coordinate with all franchised cable operators providing Cable Service within the City to ensure that the requirements imposed on such cable operators with respect to Complimentary Service to designated institutions shall be no more favorable nor less burdensome to any one cable operator over the other and are not unduly discriminatory.

c. Grantee shall provide sixty (60) days advance written notice to the City, schools and library prior to discontinuing the provision of Complimentary Service under this paragraph.

d. The City shall have right to discontinue receipt of all or a portion of the Complimentary Service provided by Grantee in the event Grantee offsets the incremental cost of Complimentary Service as set forth in Section 12.9 of this Franchise.

11. PEG TRANSPORT

Grantee shall provide, free of charge, facilities for the transport of the PEG channels from the City's designated playback facility currently located at 455 East Main, to facilitate the exchange of programming, including live PEG cablecast programming on the Grantee's Cable System. Grantee shall further provide, free of charge, all existing interface equipment (modulator/demodulator) which allows the City to cablecast PEG programming to Grantee's headend for cablecast on Grantee's Cable System. The requirements of this Exhibit B, paragraph 11 are subject to Section 12.9 of this Franchise,

EXHIBIT B

FRANCHISE FEE PAYMENT WORKSHEET

BASIC

Calculation of Remittance

Service Types: Wireline

Gross collections/charges (excluding the tax)		Line 1
Gross collections/charges from exempt accounts		Line 2
Taxable collections/charges (Line 1 less Line 2)		Line 3
Tax due (0.05 of Line 3)		Line 4
Less Vendors Compensation		Line 5
Penalty		Line 6
Interest		Line 7
Total Tax Due (add Lines 4 - 7)		Line 8

I declare under penalty of perjury that, to the best of my knowledge and belief, the statements herein and on attachments are true, correct, and complete.

DETAILED

CITY OF _____

Summary of Gross Revenue Calculation Subject to Franchise Fees

Period From: _____ to _____

REVENUE LINE ITEMS	MONTH	MONTH	MONTH	TOTAL
Basic Cable Services				
Installation Charges				
Bulk Revenue				
Expanded Basic Service				
Pay Service				
Pay per View				
Guide Revenue				
Franchise Fee Revenue				
Advertising Revenue				
Home Shopping Revenue				
Digital Services				
Inside Wiring				
Other Revenue				
Equipment Rental				
Processing Fees				
Bad Debt (-)				
Fee Calculations (5%)				
FRANCHISE FEE OWED				

As required by Sections 7.3.b and 7.7.a, the Grantee shall file with the City, at the time of payment of the Franchise Fee, a report of all Gross Revenues in substance comparable to this Exhibit B. Nothing in this form is intended to modify the definition of Gross Revenues in Section 1.2.q of the Franchise Agreement.

EXHIBIT C

CABLE SERVICE TO PUBLIC BUILDINGS FOR THE PROVISION OF COMPLIMENTARY CABLE SERVICE

Note: The City and Grantee will work together to assess the need and interest in the provision of Drops and Complimentary Service to the below listed schools in the City. No such Drop or Complimentary Service shall be provided until Grantee receives a written request from the public school.

1. Street Department - 1305 Scott Street
2. Police station at City Hall
3. All fire stations in City
4. City Buildings:
 - a. City Hall
 - b. Health Department
 - c. MCAT
 - d. Vo-Tech Center
 - e. City Library and *new* City Library
 - f. County Court House
5. Public K-12 schools in City:
 - a. Sentinel High School
 - b. Big Sky High School
 - c. Hellgate High School
 - d. Washington
 - e. Cold Springs
 - f. Lewis & Clark
 - g. Meadow Hill
 - h. Russell
 - i. Franklin
 - j. District Administration Building
 - k. Willard
 - l. Lowell
 - m. Whittier
 - n. Paxon
 - o. Chief Charlo
 - p. Hawthorne
 - q. Target Range
 - r. Hellgate Elementary