

Council Chambers, Cloquet, Minnesota
7:00 P.M. September 15, 2015

Regular Meeting

Roll Call

Councilors Present: Bjerckness, Kolodge, Langley, Maki, Rock, Mayor Hallback

Councilors Absent: Wilkinson

AGENDA

MOTION: Councilor Langley moved and Councilor Maki seconded the motion to approve the Amended September 15, 2015 agenda. The motion carried unanimously (6-0).

MINUTES

MOTION: Councilor Langley moved and Councilor Kolodge seconded the motion to approve the minutes of the work session and regular meeting of September 1, 2015. The motion carried unanimously (6-0).

CONSENT AGENDA

MOTION: Councilor Bjerckness moved and Councilor Maki seconded the motion to adopt the consent agenda of September 15, 2015 approving the necessary motions and resolutions. The motion carried unanimously (6-0).

- a. Resolution No. 15-73, Authorizing the Payment of Bills
- b. New Therapeutic Massage Therapist License – Li Juan Liu
- c. Resolution No. 15-74, Approving Off-Site Gambling for the Wood City Riders Snowmobile Club to Conduct a Raffle at the Lumberjack Lounge

PUBLIC HEARINGS

There were none.

PRESENTATIONS

There were none.

ADOPTING THE PROPOSED 2016 PRELIMINARY BUDGET

MOTION: Councilor Kolodge moved and Councilor Bjerckness seconded the motion to adopt **RESOLUTION 15-71, A RESOLUTION ADOPTING THE PROPOSED 2016 BUDGET**. The motion carried unanimously (6-0).

WHEREAS, The City Administrator has prepared an annual budget and the City Council has reviewed the proposed 2016 budget; and

WHEREAS, Chapter 275, Section 065 of Minnesota Statutes requires that the City adopt a proposed 2016 levy and budget.

NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF CLOQUET, MINNESOTA, That there be and is hereby proposed to be set aside for the year 2016 for the following departments and funds:

<u>Fund</u>	<u>Revenues</u>	<u>Expenditures</u>
General	\$5,118,300	\$5,623,050
LDO Loan (EDA)	65,000	2,200
Federal CDGB Loan (EDA)	14,000	3,500
Economic Development Loan (City)	11,200	1,350
State SCDG/MIF (EDA)	3,000	2,650
Community Development Operating (City)	182,900	208,350
Small Cities Development (City)	535,000	535,000
Library	478,000	541,500
Tax Increment – Woodward/Daqota	30,000	30,000
Tax Increment – 14 th Street Apartments	20,000	20,000
Tax Increment – Oakwood Estates	55,000	55,000
Park	490,400	546,150
Senior Center	11,300	11,400
Landfill Host Fee	92,000	-
Cable Television	115,450	157,025
Business Park Bonds	36,000	246,950
Swimming Pond Bonds	115,000	108,900
Permanent Improvement	390,000	63,500
Facilities Planning	503,000	-
Public Works Reserve	207,000	105,000
Revolving Capital Projects	1,003,000	1,003,000
City Sales Tax Projects	1,015,000	1,180,000
Employee Severance Benefits	40,000	50,000
Water – Lake Superior Waterline	2,843,100	2,371,550
Water – In-Town System	1,208,800	1,756,500
Sewer Utility	1,652,300	1,642,500
Stormwater Utility	332,000	220,150
TOTAL:	<u>\$16,566,750</u>	<u>\$16,485,225</u>

ADOPTING OF SUMS OF MONEY PROPOSED TO BE LEVIED FOR LEVY YEAR 2015, PAYABLE IN 2016

MOTION: Councilor Langley moved and Councilor Rock seconded the motion to adopt **RESOLUTION NO. 15-72, A RESOLUTION ADOPTING SUMS OF MONEY PROPOSED TO BE LEVIED FOR LEVY YEAR 2015, PAYABLE IN 2016.** The motion carried unanimously (6-0).

BE IT RESOLVED, By the City Council of the City of Cloquet, Minnesota, that the following sums of money be levied for the levy year 2015, payable in 2016, upon taxable property in the City of Cloquet, for the following purposes:

<u>Fund</u>	<u>Levy</u>
General	\$1,425,000
Park	300,000
Sewer	30,000
Public Works Reserve	175,000
Library	400,000
Permanent Improvement	260,000
GO Swimming Pond Debt	115,000
Community Development	105,000
TOTAL LEVY	<u>\$2,810,000</u>

2016-2020 PRELIMINARY CAPITAL IMPROVEMENT PLAN

MOTION: Councilor Bjerkness moved and Councilor Langley seconded the motion to adopt the Preliminary Five (5) Year Capital Improvement Plan for 2016-2020. The motion carried unanimously (6-0).

SET DATE FOR ADOPTION OF FINAL 2016 BUDGET AND LEVY

MOTION: Councilor Rock moved and Councilor Langley seconded the motion to set the date for the adoption of the final 2016 budget and property tax levy for December 1, 2015 at 7:00 p.m. The motion carried unanimously (6-0).

REVISED DATA PRACTICES POLICY

MOTION: Councilor Bjerkness moved and Councilor Langley seconded the motion to adopt the revised Data Practices Policy. The motion carried unanimously (6-0).

CABLE FRANCHISE AGREEMENT

MOTION: Councilor Langley moved and Councilor Rock seconded the motion to adopt **ORDINANCE NO. 451A, AN ORDINANCE AMENDING CITY CODE 11.8 RENEWING THE CONTRACT OF A FRANCHISE AGREEMENT TO MEDIACOM MINNESOTA, LLC., TO OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM IN THE CITY OF CLOQUET SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE; PROVIDING FOR REGULATION AND USE OF THE SYSTEM; PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS; AND REPLACING ORDINANCE NO’s 223A AND 389A.** The motion carried unanimously (6-0).

The City Council of the City of Cloquet, Minnesota, does hereby ordain as follows:

RECITALS

The City of Cloquet, Minnesota (“Franchising Authority”), pursuant to applicable federal and state law, is authorized to grant one or more non-exclusive cable television franchises to construct, operate, maintain, and reconstruct cable television systems within the City limits.

Mediacom Minnesota LLC, a limited liability company duly organized and validly existing under the laws of the State of Delaware (“Grantee”) has operated a cable system in the City, under a cable television franchise granted pursuant to Ordinance No. 223A.

Negotiations between the Grantee and Franchise Authority have been completed and the franchise renewal process followed in accordance with the guidelines established by City Code, Minnesota Statutes Chapter 238, and the Cable Act (47 U.S.C. 546).

The City reviewed the legal, technical and financial qualifications of Grantee and, after a properly noticed public hearing, has determined that it is the best interest of the City and its residents to renew the Cable Television Franchise with Grantee.

NOW, THEREFORE, the City Council of the City of Cloquet does hereby ordain as follows:

That a franchise is hereby renewed and granted to Mediacom Minnesota, LLC to operate and maintain a cable system in the City upon the following terms and conditions:

**SECTION 1.
DEFINITIONS**

- 1.1) 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 used in the present tense include the future tense, 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.

- A. "Basic Cable Service" means any service tier which includes the lawful retransmission of local television broadcast signals and any public, educational, and governmental access programming required by the franchise to be carried on the basic tier. Basic Cable Service as defined herein shall not be inconsistent with 47 U.S.C. § 543(b)(7) (1993).
- B. "Cable Act" means Title VI of the Cable Act of 1934, as amended.
- C. "City" means City of Cloquet, a municipal corporation, in the State of Minnesota, acting by and through its City Council.
- D. "City Council" means the Cloquet, Minnesota City Council.
- E. "Cable Communications System" or "System" means a system of antennas, cables, wires, lines, towers, waveguides, or other conductors, converters, equipment or facilities located in City and designed and constructed for the purpose of producing, receiving, transmitting, amplifying, or distributing audio, video, and other forms of electronic signals in City. System as defined herein shall not be inconsistent with the definition as set forth in Minn. Stat. § 238.02, subd. 3 (1990) and 47 U.S.C. § 522 (6) (1993).
- F. "Cable Communications Service" means the provision of television reception, communications and/or entertainment services regulated pursuant to Minn. Stat. § 238.01 et seq. as may be amended from time to time for direct or indirect compensation, or as otherwise provided by this Franchise ordinance, and distributing the same over a Cable Communications System. This definition shall not include telephone services regulated pursuant to Minn. Stat. § 237.01 et seq. as may be amended from time to time.
- G. "Open Video Services or OVS" means any video programming Services provided to any person by a Franchisee certified by the FCC to operate an Open Video System pursuant to Section 47 U.S.C. 573, as may be amended, regardless of the Facilities used.
- H. "Class IV Cable Communications Channel" means a signaling path provided by a Cable Communications System to transmit signals of any type from a Subscriber terminal to another point in the System.
- I. "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.
- J. "Drop" means the cable that connects the ground block on the Subscriber's residence to the nearest feeder cable of the System.
- K. "FCC" means the Federal Communications Commission and any legally appointed, designated or elected agent or successor.
- L. "Gross Revenues" means all revenue received from Cable Communications Service, as defined, received directly or indirectly by the Grantee, its affiliates, subsidiaries, parent, or person in which Grantee has financial interest of five percent (5%) or more from the operation of its System including but not limited to Basic Cable Service fees, Cable Programming Service fees, Pay Television fees, Installation and reconnection fees, upgrade and downgrade fees, Converter rental, Lockout Device fees, advertising revenue or other services. The term Gross Revenues shall not include franchise fees, Access Fees, or any taxes or fees on services furnished by Grantee imposed directly on any Subscriber or user by any municipality, state, or other governmental unit and collected by Grantee for such governmental unit nor shall include revenues for signals originating in or passing through the franchise area unless Grantee receives revenue for such signal which has not already otherwise been directly or indirectly subject to a franchise fee or similar tax, in which case said revenues will be considered Gross Revenues for the purpose of this franchise.
- M. "Installation" means the connection of the System from feeder cable to the point of connection, including Standard Installations and custom installations.
- N. "Lockout Device" means an optional mechanical or electrical accessory to a subscriber's terminal which inhibits the viewing of a certain program, certain channel, or certain channels provided by way of the Cable Communications System.

- O. "Multichannel Video Program Distributor or MVPD" means a person such as, but not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, or a television receive-only satellite program distributor, who makes available for purchase, by subscribers or customers, multiple channels of video programming.
- P. "Pay Television" means the delivery over the System of pay-per-channel or pay-per-program audio-visual signals to Subscribers for a fee or charge, in addition to the charge for Basic Cable Service or Cable Programming Services.
- Q. "Person" is any person, firm, partnership, association, corporation, company, or other legal entity.
- R. "Service Area" means the present boundaries of the Franchising Authority, and shall include any additions thereto by annexation or other legal means.
- S. "Standard Installation" means any residential installation which can be completed using a Drop of one hundred fifty (150) feet or less.
- T. "Street" means the surface of, and the space above and below, any public street, road, highway, freeway, lane, alley, path, court, sidewalk, parkway, or drive, or any easement or right-of-way now or hereafter held by City.
- U. "Subscriber" means any Person who lawfully receives Cable Television Service, In the case of multiple office buildings or multiple dwelling units, the "Subscriber" means the lessee, tenant or occupant.

**SECTION 2.
GRANT OF AUTHORITY AND GENERAL PROVISIONS**

- 2.1) Franchise Required. It shall be unlawful for any Person to construct, operate or maintain a Cable Communications System in City unless such Person or the Person for who such action is being taken shall have first obtained and shall currently hold a valid Franchise. It shall also be unlawful for any Person to provide Cable Television Service in City unless such Person shall have first obtained and shall currently hold a valid Franchise. All Cable Communications Franchises granted by City shall contain comparable substantive terms and conditions.
- 2.2) Grant of Franchise. This Franchise is granted pursuant to the terms and conditions contained herein.
- 2.3) Grant of Non-exclusive Authority.
 - A. The Grantee shall have the right and privilege to maintain, construct, erect, and operate in, upon, along, across, above, over and under the Streets, alleys, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto in City, poles, wires, cables, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation in City of a Cable Communications System as herein defined. The Cable Communications System constructed and maintained by Grantee or its agents shall not interfere with other uses of Streets. Grantee shall make use of existing poles and other facilities available to Grantee to the extent it is technically and economically feasible to do so.
 - B. Notwithstanding the above grant to use Streets, no Street shall be used by Grantee or any other Cable Communications Service, OVS or utility provider if City, in its sole opinion, determines that such use is inconsistent with the terms, conditions, or provisions by which such Street was created or dedicated, or with the present use of the Street, so long as such determination is applied in a generally applicable, non-discriminatory manner.
 - C. This Franchise shall be non-exclusive, and City reserves the right to grant a similar use of said Streets, alleys, public ways and places, to any Person at any time during the period of this Franchise, provided, however, that any additional Cable Franchise grants shall be under the same substantive terms and conditions as this Franchise.
 - D. Grantee shall have the authority to use City easements, public rights-of-way, Streets and other conduits for the distribution of Grantee's System. The City may require all developers of future subdivisions to allow and accommodate the construction of the System as part of any provisions for utilities to serve such subdivisions.

- 2.4) Franchise Term. This Franchise shall be in effect for a period of fifteen (15) years from the date of acceptance by Grantee, unless renewed, revoked or terminated sooner as herein provided.
- 2.5) Previous Franchises. Upon acceptance by Grantee as required by Section 13 herein, this Franchise shall supersede and replace any previous Ordinance or Agreement granting a Franchise to Grantee to own, operate and maintain a Cable Communications System within City. Ordinance No's. 223A and 389A are hereby expressly repealed.
- 2.6) Compliance with Applicable Laws. Resolutions and Ordinances, The Grantee shall at all times during the life of this Franchise be subject to all lawful exercise of the police power, statutory rights and of eminent domain by City. This Franchise shall comply with the Minnesota franchise standards contained in Minn. Stat. § 238.01 and as amended.
- 2.7) Rules of Grantee. The Grantee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable said Grantee to exercise its rights and perform its obligation under this Franchise and to assure uninterrupted service to each and all of its Subscribers; provided that such rules, regulations, terms and conditions shall not be in conflict with provisions hereto, the rules of the FCC, the laws of the State of Minnesota, City, or any other body having lawful jurisdiction thereof.
- 2.8) Territorial Area Involved. This Franchise is granted for the corporate boundaries of the City, as it exists from time to time. Grantee shall extend service to all areas of the City where there is a minimum of twenty five (25) homes per cable mile. Grantee shall meet with City to review the proposed areas for System extension prior to the commencement of construction. If the proposed areas meet or exceed twenty-five (25) homes per cable mile, Grantee shall add them to the construction schedule and provide service thereto.

After the completion of construction herein and in the event of annexation by City, or as development occurs, any new territory shall become part of the area covered, provided, however, that Grantee shall not be required to extend service beyond its present System boundaries unless there is a minimum of forty (40) homes per cable mile. Access to cable service shall not be denied to any group of potential residential cable Subscribers because of the income of the residents of the area in which such group resides. Grantee shall be given a reasonable period of time to construct and activate cable plant to service annexed or newly developed areas.

- 2.9) Written Notice. All notices, reports, or demands required to be given in writing under this Franchise shall be deemed to be given when delivered personally to any officer of Grantee or City's Administrator of this Franchise or forty-eight (48) hours after it is deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid thereon, addressed to the party to whom notice is being given, as follows:

If to City: City of Cloquet
1307 Cloquet Avenue
Cloquet MN 55720-2657
Attn: City Administrator

With copies to: Rudy, Gassert, Yetka, Pritchett
& Hellwig, PA
813 Cloquet Avenue
Cloquet, MN 55720
Attn: Cloquet City Attorney

If to Grantee: Mediacom Minnesota, LLC
Attn: Legal Department
One Mediacom Way
Mediacom Park, NY 10918

With copies to: Mediacom Minnesota, LLC
Attn: Regional Vice President
1504 2nd Street SE
Waseca, MN 56093

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

- 2.10) Drops to Public Buildings Previously Committed. In prior franchise agreements with the City the Grantee agreed to provide at a minimum Installation of one (1) cable Drop, one (1) cable outlet, and monthly Basic Cable Service without charge to the following institutions and such other public or educational institutions which work has not been completed and which work Grantee now agrees to promptly install:

- Carlton County Historical Society Building (406 Cloquet Avenue, Cloquet, MN 55720)
- Carlton County Human Services Building (30 North 10th Street, Cloquet, MN 55720)
- Cloquet Area Recreation Center (Northwoods Arena) (1102 Olympic Drive, Cloquet, MN 55720)
- Cloquet Public Library (320 14th Street, Cloquet, MN 55720)
- Fond Du Lac Tribal and Community College (2101 14th Street, Cloquet, MN 55720)
- Garfield School Building (302 14th Street, Cloquet, MN 55720)
- Cloquet Public Safety Building (508 Cloquet Avenue, Cloquet, MN. 55720)
- Cloquet Senior Center (1100 Olympic Drive, Cloquet, MN 55720)

In addition, it is understood that the institutions listed above shall be provided return video capability, a digital converter box to facilitate, including audio for local access to the CAT-7 programming channel. It is anticipated by the parties that these would be two-way drops, which capability will be added as soon as practicable. Priority will be given to the Cloquet Area Recreation Center (Northwoods Arena) and Garfield School locations. Grantee shall have one (1) year from the date of the approval of the franchise by the City Council to complete construction of the Drops and outlets listed above.

- 2.11) Additional Drops to Public Buildings. In addition to the drops specifically delineated above, Grantee further agrees to provide at a minimum installation of one (1) cable Drop, one (1) cable outlet and monthly Basic Cable Service without charge to such other public or educational institutions located within two hundred and fifty (250) feet of the System which the City may designate. It is anticipated by the parties that all additional drops will be two-way drops such that they will have local access television transmission capability from the drop site.

No redistribution of the free cable service provided pursuant to this Section shall be allowed. Additional Drops and/or outlets in any of the above locations will be provided by Grantee at the cost of Grantee's time and material. Alternatively, at the institution's request, said institution may add outlets at its own expense, as long as such installation meets Grantee's standards and provided that any fees for Cable Communications Services are paid.

SECTION 3. CONSTRUCTION STANDARDS

- 3.1) Construction Standards. If the System, or any subsequent rebuilds are proposed for the Franchise area and consist of fewer than one hundred (100) plant miles of cable:
- A. Within ninety (90) days of the granting of the Franchise, the Grantee shall apply for the necessary governmental permits, licenses, certificates, and authorizations;
 - B. The energized trunk cable must be extended substantially throughout the authorized area within one (1) year after receipt of the necessary governmental permits, licenses, certificates, and authorizations and the Persons along the route of the energized cable shall have individual Drops as desired during the same period of time; and
 - C. The above-stated requirements may be waived by City only upon occurrence of acts beyond the reasonable control of Grantee or acts of God.
- 3.2) Construction Codes and Permits.
- A. Grantee shall obtain all necessary permits from City before commencing any construction upgrade or extension of the System, including the opening or disturbance of any Street, or private or public property within City. Grantee shall strictly adhere to all state and local laws and building and zoning codes currently or hereafter applicable to construction, operation or maintenance of the System in City and give due consideration at all times to the aesthetics of the property.
 - B. The City shall have the right to inspect all construction or installation work performed pursuant to the provisions of the Franchise and to make such tests at its own expense as it shall find necessary to ensure compliance with the terms of the Franchise and applicable provisions of local, state and federal law.

- 3.3) Repair of Streets and Property. Any and all Streets or public property or private property, which are disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance or reconstruction of the System shall be fully restored by Grantee, within 30 days or as soon as possible if weather delays, at its expense, to a condition as good as that prevailing prior to Grantee's work, as approved by City in the case of Streets and other public property. If Grantee shall fail to perform the restoration required herein, City shall have the right to put the streets, public, or private property back into good condition. City reserves its rights to pursue reimbursement for such restoration from Grantee.
- 3.4) Conditions on Street Use.
- A. 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 Street; constructing, laying down, repairing, maintaining or relocating any water mains; or constructing, maintaining, relocating, or repairing any sidewalk or other public work.
 - B. All System transmission and distribution structures, lines and equipment erected by the Grantee within City shall be located so as not to obstruct or interfere with the proper use of Streets, alleys and other public ways and places, and to cause minimum interference with the rights of property owners who abut any of the said Streets, alleys and other public ways and places, and not to interfere with existing public utility installations. The Grantee shall furnish to and file with City Administrator the maps, plats, and permanent records of the location and character of all facilities constructed, including underground facilities, and Grantee shall file with City updates of such maps, plats and permanent records annually if changes have been made in the System.
 - C. If at any time during the period of this Franchise, City shall elect to alter, or change the grade or location of any Street, alley or other public way, the Grantee shall, at its own expense, upon reasonable notice by City, not to be less than ten (10) business days, remove and relocate its poles, wires, cables, conduits, manholes and other fixtures of the System, and in each instance comply with the standards and specifications of City. If City reimburses other occupants of the Street, Grantee shall be likewise reimbursed.
 - D. The Grantee shall not place poles, conduits, or other fixtures of System above or below ground where the same will interfere with any gas, electric, telephone, water or other utility fixtures and all such poles, conduits, or other fixtures placed in any Street shall be so placed as to comply with all requirements of City.
 - E. The Grantee shall, on request of any Person holding a moving permit issued by City, temporarily move its wires or fixtures to permit the moving of buildings with the expense of such temporary removal to be paid by the Person requesting the same, and the Grantee shall be given not less than ten (10) business days advance notice to arrange for such temporary changes.
 - F. The Grantee shall have the authority to trim any trees upon and overhanging the Streets, alleys, sidewalks, or public easements of City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee.
 - G. Nothing contained in this Franchise shall relieve any Person from liability arising out of the failure to exercise reasonable care to avoid injuring Grantee's facilities.
- 3.5) Undergrounding of Cable.
- A. In all areas of City where all other utility lines are placed underground, Grantee shall construct and install its cables, wires and other facilities underground. Amplifier boxes and pedestal mounted terminal boxes may be placed above ground if existing technology reasonably requires, but shall be of such size and design and shall be so located as not to be unsightly or unsafe.
 - B. In any area of City where there are certain cables, wires and other like facilities of a public utility or public utility district underground and at least one operable cable, wire or like facility of a public utility or public utility district suspended above the ground from poles, Grantee may construct and install its cables, wires and other facilities from the same pole with the consent of the owner of the pole.
 - C. Grantee shall be granted access to any easements granted to a public utility, municipal utility or utility district in any areas annexed by City or new developments.

- D. No poles, conduits, or other wire-holding structures shall be erected or installed by the Grantee without prior approval of City with regard to location, height, type and other pertinent aspects.

3.6) Safety Requirements.

- A. The Grantee shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.
- B. The Grantee shall install and maintain its System wires, cables, fixtures and other equipment in accordance with the requirements of the National Electric Safety Code and all FCC, state and local regulations, and in such manner that they will not interfere with any installations of City or of any public utility serving City.
- B. All System structures and all System lines, equipment and connections in, over, under and upon the Streets, sidewalks, alleys, and public ways and places 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 any Person.

SECTION 4.
DESIGN PROVISIONS

- 4.1) Operation and Maintenance of System. The grantee shall render effective service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. For the purpose of construction, routine repairing or test of the Cable System, Grantee shall use its best efforts to interrupt service only during periods of minimum use. When necessary interruptions of more than twenty-four (24) hours can be anticipated, Grantee shall notify City in accordance with Section 2.9.
- 4.2) Technical Standards. The technical standards used in the operation of the System shall comply, at minimum, with the technical standards promulgated by the FCC relating to cable communications systems pursuant to the Federal Communications Commission's rules and regulations and found in Title 47, Section 76.601 to 76.617, as may be amended or modified from time to time, which regulations are expressly incorporated herein by reference.
- 4.3) Special Testing. City may require special testing of a location or locations within the System if there is a particular matter of controversy or unresolved complaints 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 test shall be limited to the particular matter in controversy or unresolved complaints. The City shall endeavor to so arrange its request for such special testing so as to minimize hardship or inconvenience to Grantee or to the Subscribers caused by such testing. Before ordering such tests, Grantee shall be afforded thirty (30) days to correct problems or complaints upon which tests were ordered. The 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 by a qualified engineer selected by City. In the event that special testing is required by City to determine the source of technical difficulties, the cost of said testing shall be borne by the Grantee if the testing reveals the source of the technical difficulty to be within Grantee's reasonable control. If the testing reveals the difficulties to be caused by factors which are beyond Grantee's reasonable control then the cost of said test shall be borne by City.
- 4.4) FCC Reports. Upon written request, Mediacom shall provide to the City, no later than thirty (30) days after such written request, the results of tests required to be filed by Grantee with the FCC.
- 4.5) Lockout Device. Upon the request of a Subscriber, Grantee shall provide by sale or lease a Lockout Device.

SECTION 5.
SERVICES PROVISIONS

5.1) Regulation of Service Rates.

- A. The City may regulate rates for the provision of Basic Cable service provided over the System to the extent allowed under federal or state law(s). In exercising its jurisdiction to regulate any such rates, City will adhere to regulations adopted by the Federal

Communications Commission at 47 C.F.R. 76.900 et seq. as they may be amended from time to time.

- B. A list of Grantee's current Subscriber rates and charges shall be maintained on file with City and shall be available for public inspection.

Grantee shall give City and Subscribers written notice of any change in a rate or charge no less than thirty (30) days prior to the effective date of the change.

- C. To the extent allowed under federal and/or state law, if the City elects to exercise its jurisdiction over Basic Cable rates, it shall, after notice, hold a public hearing for the consideration of views of interested parties with respect to initial rates filed and any subsequent proposed changes in rates.

- 5.2) Non Standard Installations. Grantee shall install and provide Cable Communications Service to any Person requesting other than a Standard Installation (beyond 150 feet) provided that said Cable Communications Service can meet FCC technical specifications, and, further provided that Grantee may collect full payment for said installation in advance. In such case, Grantee may charge for the incremental increase in material and labor costs incurred beyond the first one hundred fifty (150) feet.
- 5.3) Sales Procedures. Grantee shall comply with all applicable federal and state laws when marketing its Cable Television Services within City. Grantee shall have the right to market its cable services door-to-door during reasonable hours consistent with local ordinances and regulations.
- 5.4) Subscriber Inquiry and Complaint Procedures.
- A. Grantee shall comply with the customer service standards promulgated by the FCC under 47 C.F.R. 76.309.
- B. Grantee shall have a publicly listed toll-free or collect telephone number and be operated so as to receive Subscriber complaints and requests on a twenty-four (24) hour-a-day, seven (7) days-a-week basis.
- 5.5) Subscriber Contracts. Grantee shall submit any Subscriber contract utilized to City. If no written contract exists, Grantee shall file with the City Clerk a document completely and concisely stating the terms of the residential Subscriber contract offered to customers, specifically including the length of the Subscriber contract. The length and terms of any Subscriber contract shall be available for public inspection during normal business hours.
- 5.6) Refund Policy. Mediacom will provide Services in accordance with the terms stated in its Residential Customer and User Agreement, including the terms regarding its refund policy.
- 5.7) Office Policy. In the event the existing Cloquet business office is closed by Grantee, Grantee agrees to maintain a local drop box for receiving Subscriber payments and Grantee agrees to either maintain or arrange for a location where equipment can be dropped off or exchanged as is necessary or, in the alternative, establish a system for having the equipment picked up at the Subscriber residence. In all events, Grantee agrees to maintain a trained cable technician assigned to Cloquet.

SECTION 6. PUBLIC ACCESS PROVISIONS

- 6.1) Public, Educational and Government Access.
- A. City or its designee is hereby designated to operate, administer, promote, and manage access (public, education, and government programming, hereinafter "PEG access") to the cable system established pursuant to this Section 6. Grantee shall have no responsibility whatsoever for PEG access except as expressly stated in this Section 6.
- B. Grantee shall dedicate two (2) channels for PEG access use as for public and educational access, and government access. All residential Subscribers who receive all or any part of the total services offered on the System shall be eligible to receive all of said three access channels at no additional charge. One (1) channel shall be activated upon the Effective Date of this Franchise and thereafter maintained, with the one (1) additional channel to be activated upon City request after the completion of the System upgrade. However, nothing herein shall be construed to diminish the City's rights pursuant to Minn. Stat. S 238.084, incorporated herein by reference. City shall provide ninety (90) days' prior written notice to Grantee of City's intent to activate access channels and shall allow Grantee a reasonable time to vacate said channel (s) and/or rearrange program services to accommodate City's request.

- C. Pursuant to Section 6.1(B) herein, Grantee shall provide to each of its Subscribers who receive all, or part of, the total services offered on the System, reception on at least one (1) specially designated access channel available for use by the general public on a first-come, first-served, nondiscriminatory basis. The specially designated access channel may be used by local education authorities and local government on a first-come, first-served, nondiscriminatory basis during those hours when the channel is not in use by the general public. During those hours that the specially designated access channel is not being used by the general public, local educational authorities or local government, the Grantee shall lease time to commercial or noncommercial users on a first-come, first-served, nondiscriminatory basis if the demand for that time arises. The Grantee may also use the specially designated access channel for local origination during those hours when the channel is not in use by the general public, local educational authorities, local government or commercial or noncommercial users who have leased time. The VHF spectrum must be used for the first specially designated access channel required in the section. Grantee shall designate the channel locations of any other access channels. Grantee and City shall mutually agree on reasonable terms and conditions for providing adequate space in Grantee's head-end facility to accommodate playback equipment for cablecasting PEG access programming; provided, however, that Grantee shall not be obligated to expand its headend to accomplish this objective.
- D. Grantee agrees that there will be no change that will move the existing public access channel, CAT-7, from the Channel 7 location unless mutually agreed upon by the Franchising Authority and Grantee and, if offered only on an all digital platform, the channel location would be located at the lowest digital tier or service available.
- 6.2) Access Fee. Grantee shall collect the following fee on behalf of Franchising Authority solely to fund access programming (hereinafter "Access Fees");
- A per Subscriber access fee of Sixty-five Cents (\$.65) per month.
- Payments due Franchising Authority under this provision shall be payable quarterly. The payment shall be made within ninety (90) days of the end of Grantee's fiscal quarters together with a brief report showing the basis for the computation.
- 6.3) Periodic Evaluation. Upon written request from Franchising Authority to Grantee, Grantee and City shall meet to evaluate the effect of Section 6.2, above. Both parties agree to discuss any proposal for modification presented by the other party. Nothing herein shall presume or require consent to any such proposed modification. Modifications may only occur by mutual written consent of both parties. The notice and meeting contemplated herein shall be required to occur no more than every three (3) years after adoption of this Ordinance, however, nothing shall prevent mutually agreed upon negotiations between both parties at any time.

SECTION 7. OPERATION AND ADMINISTRATION PROVISIONS

- 7.1) Franchise Fee.
- A. Grantee shall pay to Franchising Authority a Franchise Fee equal to five percent (5%) of its annual Gross Revenues (as defined in Section 1(L).
- B. Payments due City under this provision shall be payable quarterly. The payment shall be made within ninety (90) days of the end of each of Grantee's fiscal quarters together with a brief report showing the basis for the computation.
- C. All amounts paid shall be subject to audit and re-computation by Franchising Authority and acceptance of any payment shall not be construed as an accord that the amount paid is in fact the correct amount due. The Franchising Authority shall have the right to audit the Grantee's accounting and financial records solely to calculate the Franchising Authority's franchise fees upon thirty (30) days prior written notice. The Grantee shall file annual reports with the Franchising Authority detailing Gross Revenues and other information the Franchising Authority deems appropriate; provided, however, such information shall be deemed a trade secret under applicable Minnesota law and shall not be disclosed by the Franchising Authority.
- 7.2) Access to Records. The Franchising Authority shall have the right to inspect, upon notice, at any time during normal business hours, those records by Grantee which relate to System operations and to Gross Revenues, the privacy provisions of 47 U.S.C. § 521 et seq, ("Cable Act").

SECTION 8.
GENERAL FINANCIAL AND INSURANCE PROVISION

8.1) Performance Bond.

- A. At the time the Franchise becomes effective and at all times thereafter, until the Grantee has liquidated all of its obligations with City, the Grantee shall furnish a bond to City in the amount of Ten Thousand Dollars (\$10,000) in a form and with such sureties as reasonably acceptable to City. This bond will be conditioned upon the faithful performance of the Grantee according to the terms of the Franchise and upon the further condition that in the event the Grantee shall fail to comply with any law, ordinance or regulation governing the Franchise, there shall be recoverable jointly and severally from the principal and surety of the bond any damages or loss suffered by City as a result, including the full amount of any compensation, indemnification or cost of removal or abandonment of any property of the Grantee, plus a reasonable allowance for attorneys' fees and costs, up to the full amount of the bond, and further guaranteeing payment by the Grantee of claims, liens and taxes due City which arise by reason of the construction, operation, or maintenance of the System. The rights reserved by City with respect to the bond are in addition to all other rights City may have under the Franchise or any other law. City may, from year to year, in its sole discretion, reduce the amount of the bond.
- B. If at any time Grantee undertakes additional construction of the System in City, by way of a line extension, rebuild, upgrade or otherwise, with a projected cost in excess of Seventy Thousand and no/100 Dollars (\$70,000.00), Grantee shall provide a bond to City in the amount equivalent to fifteen percent (15%) of the projected additional construction cost and shall maintain such bond during the term of said additional construction. Upon completion of said additional construction, Grantee shall provide written notice to City. Within thirty (30) days of receipt of notice of completion of said additional construction, City shall give written notice to Grantee indicating whether City agrees the construction is complete or specifying those items of construction which City determines are not complete. At such time as City and Grantee mutually agree that said additional construction of the System is complete, Grantee shall provide to City a bond in the amount equal to the bond existing immediately before the commencement of said additional construction. Nothing herein shall be construed to require Grantee to maintain more than one (1) bond with City.
- C. The time for Grantee to correct any violation or liability, shall be extended by City if the necessary action to correct such violation or liability is of such a nature or character as to require more than thirty (30) days within which to perform, provided Grantee provides written notice that it requires more than thirty (30) days to correct such violations or liability, commences the corrective action within the thirty (30) days period and thereafter uses reasonable diligence to correct the violation or liability.
- D. In the event this Franchise is canceled by reason of default of Grantee or revoked, City shall be entitled to collect from the performance bond that amount which is attributable to any damages sustained by City pursuant to said default or revocation. Grantee, however, shall be entitled to the return of such performance bond, or portion thereof, as remains at the expiration of the term of the Franchise.
- E. The rights reserved to City with respect to the performance bond are in addition to all other rights of City whether reserved by this Franchise or authorized by law, and no action, proceeding or exercise of a right with respect to the performance bond shall affect any other right City may have.

8.2) Letter of Credit.

- A. At the time of acceptance of this franchise and any renewal, Grantee shall deliver to City an irrevocable and unconditional Letter of Credit, in form and substance acceptable to City, from a National or State bank approved by City, in the amount of Five Thousand and 00/100 (\$5,000.00) Dollars.
- B. The Letter of Credit shall provide that funds will be paid to City, upon written demand of City, and in an amount solely determined by City in payment for penalties charged pursuant to this section, in payment for any monies owed by Grantee pursuant to its obligations under this Franchise, or in payment for any damage incurred as a result of any acts or omissions by Grantee pursuant to this Franchise.

- C. In addition to recovery of any monies owed by Grantee to City or damages to City as a result of any acts or omissions by Grantee pursuant to the Franchise, City in its sole discretion may charge to and collect from the Letter of Credit the following penalties:
1. For failure to complete system upgrade within three (3) years as provided herein, unless City approves the delay, the penalty shall be One Hundred Dollars (\$100) per day for each day, or part thereof, such failure occurs or continues.
 2. For failure to provide data, documents, reports or information or to cooperate with City during an application process or system review or as otherwise provided herein, the penalty shall be Fifty Dollars (\$50) per day for each day, or part thereof, such failure occurs or continues.
 3. For failure to comply with any of the provisions of this Franchise for which a penalty is not otherwise specifically provided pursuant to this paragraph C, the penalty shall be Fifty Dollars (\$50) per day for each day, or part thereof, such failure occurs or continues.
 4. For failure by Grantee to modify the System or to provide additional services within one hundred eighty (180) days after being required by binding arbitration the penalty shall be Fifty Dollars (\$50) per day for each day, or part thereof, such failure occurs or continues.
 5. Forty-five (45) days following notice from City of a failure of Grantee to comply with construction, operation or maintenance standards, the penalty shall be Fifty Dollars (\$50) per day for each day, or part thereof, such failure occurs or continues.
 6. For failure to provide the services Grantee has proposed, including, but not limited to, the implementation and the utilization of the access channels and the making available for use of the equipment and other facilities, the penalty shall be Fifty Dollars (\$50) per day for each day, or part thereof, such failure occurs or continues.
 7. Each violation of any provision of this Franchise shall be considered a separate violation for which a separate penalty can be imposed.
- D. Exclusive of the contractual penalties set out above in this section, a violation by Grantee of any provision of this Franchise is a misdemeanor.
- E. Whenever City finds that Grantee has violated one or more terms, conditions or provisions of this Franchise, a written notice shall be given to Grantee informing it of such violation. At any time after thirty (30) days (or such reasonable time which is necessary to cure the alleged violation) following local receipt of notice, provided Grantee remains in violation of one or more terms, conditions or provisions of this Franchise, in the sole opinion of City, City may draw from the Letter of Credit all penalties and other monies due City from the Date of the local receipt of notice.
- F. Whenever a penalty has been assessed, Grantee may, within thirty (30) days of local receipt of notice, notify City that there is a dispute as to whether a violation or failure has, in fact, occurred. Such notice by Grantee to City shall specify with particularity the matters disputed by Grantee.
1. City shall hear Grantee's dispute at the next regularly scheduled Council meeting. City shall supplement the Council decision with written findings of fact.
 2. Upon determination by City that no violation has taken place, City shall refund to Grantee, with interest and costs to Grantee of drawing on the Letter of Credit, all monies drawn from the Letter of credit by reason of the alleged violation.
- G. If said Letter of Credit or any subsequent Letter of Credit delivered pursuant thereto expires prior to fifteen (15) months after the expiration of the term of this Franchise, it shall be renewed or replaced during the term of this Franchise to provide that it will not expire earlier than fifteen (15) months after the expiration of this Franchise. The renewed or replaced Letter of Credit shall be on the same form and with a bank authorized herein and for the full amount stated in paragraph A of this section.
- H. If City draws upon the Letter of Credit or any subsequent Letter of Credit delivered pursuant hereto, in whole or in part, Grantee shall replace the same within fifteen (15)

days and shall deliver to City a like replacement Letter of Credit for the full amount stated in paragraph A of this section as a substitution of the previous Letter of Credit.

- I. If any Letter of Credit is not so replaced, City may draw on said Letter of Credit for the whole amount thereof and hold the proceeds, without interest, and use the proceeds to pay costs incurred by City in performing and paying for any or all of the obligations, duties and responsibilities of Grantee under this Franchise that are not performed or paid by Grantee pursuant hereof, including attorneys' fees incurred by the City in so performing and paying. The failure to replace any Letter of Credit may also, at the option of the City, be deemed a default by Grantee under this Franchise. The drawing on the Letter of Credit by City, and use of the money so obtained for payment or performance of the obligations, duties and responsibilities of Grantee which are in default, shall not be a waiver or release of such default.
- J. The collection by City of any damages, monies or penalties from the Letter of Credit shall not affect any other right or remedy available to City, nor shall any act, or failure to act, by City pursuant to the Letter of Credit, be deemed a waiver of any right of City pursuant to this Franchise or otherwise.

8.3) Indemnification of City.

- A. City, its officers, boards, committees, commissions, elected officials, employees and agents shall not be liable for any loss or damage to any real or personal property of any Person, or for any injury to or death of any Person, arising out of or in connection with the construction, operation, maintenance, repair or removal of, or other action or event with respect to the System.
- B. Grantee shall indemnify, defend, and hold harmless City, its officers, boards, committees, commissions, elected officials, employees and agents, from and against all liability, damages, and penalties which they may legally be required to pay as a result of the exercise of the franchise, except claims resulting from City's own programming or for any damages, liability or claims resulting solely from the willful misconduct or negligence of the City, its officers, boards, committees, commissions, elected officials, employees and agents.
- C. Nothing in this Franchise relieves a Person from liability arising out of the failure to exercise reasonable care to avoid injuring the Grantee's facilities while performing work connected with grading, re-grading, or changing the line of a Street or public place or with the construction or reconstruction of a sewer or water system.
- D. In order for City to assert its rights to be indemnified, defended, and held harmless, City must with respect to each claim:
 - 1. Promptly notify Grantee in writing of any claim or legal proceeding which gives rise to such rights;
 - 2. Afford Grantee the opportunity to participate in and fully control any compromise, settlement or other resolution or disposition of any claim or proceeding; and
 - 3. Fully cooperate with reasonable requests of Grantee, at Grantee's expense, in its participation in, and control, compromise, settlement or resolution or other disposition of such claim or proceeding subject to paragraph two (2) above.

8.4) Insurance.

- A. As a part of the indemnification provided in Section 8.3, but without limiting the foregoing, Grantee shall file with its acceptance of this Franchise, and at all times thereafter maintain in full force and effect at its sole expense, a comprehensive general liability insurance policy, including contractual liability coverage, in protection of City in its capacity as such, its officers, elected officials, boards, commissions, agents and employees. The policy or policies shall name as additional insured City, and their capacity as such, their officers, agents and employees.
- B. The policies of insurance shall be in the sum of not less than Three Hundred Thousand Dollars (\$300,000) for personal injury or death of any one Person, and One Million Dollars (\$1,000,000) for personal injury or death of two or more persons in any one occurrence Three Hundred Thousand Dollars (\$300,000) for property damage to any one person and One Million Dollars (\$1,000,000) for property damage resulting from any one act or occurrence. The policy or policies of insurance shall be maintained by Grantee in full force and effect during the entire term of the Franchise. Each policy of insurance shall contain a statement on its face that the insurer will not cancel the policy or fail to renew the policy, whether for

nonpayment of premium, or otherwise, and whether at the request of Grantee or for other reasons, except after thirty (30) days advance written notice have been provided to City,

SECTION 9.

SALE, ABANDONMENT, TRANSFER AND REVOCATION OF FRANCHISE

9.1) City's Right to Revoke.

In addition to all other rights which city has pursuant to law or equity, city reserves the right to revoke, terminate or cancel this Franchise, and all rights and privileges pertaining thereto, if after the hearing required by 9.2B herein, it is determined that:

1. Grantee has violated any material provision of this Franchise; or
2. Grantee has attempted to evade any of the material provisions or the Franchise; or
3. Grantee has practiced fraud or deceit upon City or Subscriber.

9.2) Procedures for Revocation.

- A. City shall provide Grantee with written notice of a cause for revocation and the intent to revoke and shall allow Grantee sixty (60) days subsequent to receipt of the notice in which to correct the violation or to provide adequate assurance of performance in compliance with the Franchise. Together with the notice required herein, City shall provide Grantee with written findings of fact which are the basis of the revocation.
- B. Grantee shall be provided the right to a public hearing affording due process before the City Council prior to revocation, which public hearing shall follow the sixty (60) day notice provided in paragraph (A) above. City shall provide Grantee with written notice of its decision together with written findings of fact supplementing said decision.
- C. After the public hearing and upon written determination by City to revoke the Franchise, Grantee may appeal said decision with an appropriate state or federal court or agency.
- D. During the appeal period, the Franchise shall remain in full force and effect unless the term thereof sooner expires.
- E. Upon satisfactory correction by Grantee of the violation upon which said notice was given as determined in the City's sole discretion, the initial notice shall become void.

9.3) 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.

9.4) Removal After Termination or Forfeiture.

- A. In the event of termination or forfeiture of the Franchise, City shall have the right to require Grantee to remove all or any portion of the System from all Streets and public property within the City; provided, however, if Grantee is providing services pursuant to Minn. Stat. § 237.01 et seq., City shall not require the removal of the System.
- B. If Grantee has failed to commence removal of System, or such part thereof as was designated by City, within one hundred twenty (120) 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 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 pursuant to the provisions of 47 U.S.C. § 547 (1989).

9.5) Sale or Transfer of Franchise.

- A. No sale, transfer, or "fundamental corporate change", as defined in Minn. Stat. § 238.083, of this Franchise shall take place until the parties to the sale, transfer, or fundamental corporate change files a written request with City for its approval, provided, however, that said approval shall not be required where Grantee grants a security interest in its Franchise and assets to secure an indebtedness.

- B. City shall have thirty (30) days from the time of the request to reply in writing and indicate approval of the request or its determination that a public hearing is necessary due to potential adverse affect on Grantee's Subscribers resulting from the sale or transfer. Such approval or determination shall be expressed by Council Resolution within thirty (30) days of receipt of said request, or the request shall be deemed approved as a matter of law.
- C. If a public hearing is deemed necessary pursuant to (B.) above, such hearing shall be commenced within thirty (30) days of such determination and notice of any such hearing shall be given in accordance with local law or fourteen (14) days prior to the hearing by publishing notice thereof once in a newspaper of general circulation in City. The notice shall contain the date, time and place of the hearing and shall briefly state the substance of the action to be considered by City.
- D. Within thirty (30) days after the closing of the public hearing, City shall approve or deny in writing the sale or transfer request. City shall set forth in writing with particularity its reason(s) for denying approval. City shall not unreasonably withhold its approval.
- E. The parties to the sale or transfer of the Franchise only, without the inclusion of the System in which substantial construction has commenced, shall establish that the sale or transfer of only the Franchise will be in the public interest.
- F. Any sale or transfer of stock in Grantee so as to create a new controlling interest in the System shall be subject to the requirements of this Section 9.5. The term "controlling interest" as used herein is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.
- G. In no event shall a transfer or assignment of ownership or control be approved without the transferee becoming a signatory to this Franchise and assuming all rights and obligations thereunder, and assuming all other rights and obligations of the transferor to the City.
- H. In the event of any proposed sale or assignment pursuant to paragraph (A.) of this Section City shall have the right of first refusal of any bona fide offer to purchase the System. Bona fide offer, as used in this section, means an offer received by the Grantee which it intends to accept subject to City's rights under this Section. This written offer must be conveyed to City along with the Grantee's written acceptance of the offer contingent upon the rights of City provided for in this Section.

City shall be deemed to have waived its rights under this Section in the following circumstances:

1. If it does not indicate to Grantee in writing, within 30 days of notice of a proposed sale or assignment, its intention to exercise its right of purchase; or
2. It approves the assignment or sale of the Franchise as provided within this Section.

SECTION 10. PROTECTION OF INDIVIDUAL RIGHTS

10.1) Discriminatory Practices Prohibited. Grantee shall not deny service, deny access, or otherwise discriminate against Subscribers or general citizens on the basis of race, color, religion, national origin, sex or age. Grantee shall comply at all times with all other applicable federal, state, and city laws, and all executive and administrative orders relating to nondiscrimination.

10.2) Subscriber Privacy.

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

- B. No information or data obtained by monitoring transmission of a signal from a Subscriber terminal, or any other means, including but not limited to lists of the names and addresses of such Subscribers or any lists that identify the viewing habits of subscribers shall be sold or otherwise made available to any party other than to Grantee and its employees for internal business use, and also to the Subscriber subject of that information, unless Grantee has received specific written authorization from the Subscriber to make such data available.
- C. Written permission from the Subscriber shall not be required for the conducting of System wide or individually addressed electronic sweeps for the purpose of verifying System integrity or monitoring for the purpose of billing. Confidentiality of such information shall be subject to the provision set forth in paragraph (B.) of this Section.

SECTION 11.

UNAUTHORIZED CONNECTIONS AND MODIFICATIONS

- 11.1) 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 connection, extension, or division, whether physically, acoustically, inductively, electronically or otherwise, with or to any segment of the System.
- 11.2) Removal or Destruction Prohibited. It shall be unlawful for any firm, Person, group, company, corporation, or governmental body or agency to willfully interfere, tamper, remove, obstruct, or damage, or assist thereof, any part or segment of the System for any purpose whatsoever.
- 11.3) Penalty. Any firm, Person, group, company, corporation or governmental body or agency found guilty of violating this section may be fined not less than Twenty Dollars (\$20.00) and the costs of the action nor more than Five Hundred Dollars (\$500.00) and the costs of the action for each and every subsequent offense. Each continuing day of the violation shall be considered a separate occurrence.

SECTION 12.

MISCELLANEOUS PROVISIONS

- 12.1) Franchise Renewal. Any renewal of this Franchise shall be done in accordance with applicable federal, state and local laws and regulations.
- 12.2) Work Performed by Others . All provisions of this Franchise shall apply to any subcontractor or others performing any work or services pursuant to the provisions of this Franchise. 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.
- 12.3) 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 review session pursuant to Section 12.7 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. City shall act pursuant to local law pertaining to the ordinance amendment process.
- 12.4) 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 laws and rules regarding cable communications not later than one (1) year after they become effective, unless otherwise stated, and to conform to federal laws and regulations regarding cable as they become effective.
 - B. If any term, condition or provision of this Franchise or the application thereof to any Person or circumstance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition or provision to Persons or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Franchise and all the terms, provisions and conditions hereof shall, in all other respects, continue to be effective and complied with provided the loss of the invalid or unenforceable clause does not substantially alter the agreement between the parties. In the event such law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision which had been held invalid or modified is no longer in conflict with the law, rules

and regulations then in effect, said provision shall thereupon return to full force and effect and shall thereafter be binding on Grantee and City.

- 12.5) Non-enforcement 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. Any 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.
- 12.6) Administration of Franchise. The City Administrator or other City designee shall have continuing regulatory jurisdiction and supervision over the System and the Grantee's operation under the Franchise. The City may issue such reasonable rules and regulations concerning the construction, operation and maintenance of the system as are consistent with the provisions of the Franchise and law.
- 12.7) Periodic Evaluation. The field of cable communications is rapidly changing and may see many regulatory, technical, financial, marketing and legal changes during the term of this Franchise. Therefore, in order to provide for a maximum degree of flexibility in this Franchise, and to help achieve a continued advanced and modern System, the following evaluation provisions shall apply:
- A. The City may require evaluation sessions at any time during the term of this Franchise, upon thirty (30) days written notice to Grantee, provided, however, there shall not be more than one review session during each four (4) year period commencing on the Effective Date of this Franchise.
 - B. All evaluation sessions shall be open to the public and notice of sessions published in the same way as a legal notice. Grantee shall notify its Subscribers of all evaluation sessions by announcement on at least one (1) Basic Service channel of the System between the hours of 7:00 p.m. and 9:00 p.m. for five (5) consecutive days preceding each session.
 - C. Topics which may be discussed at any evaluation session may include, but are not limited to, application of new technologies, System performance, programming offered, access channels, facilities and support, municipal uses of cable, customer complaints, amendments to this Franchise, judicial rulings, FCC rulings, line extension policies and any other topics City and Grantee deem relevant.
 - D. As a result of a periodic review or evaluation session, City and Grantee shall develop such changes and modifications to the terms and conditions of the Franchise, as are mutually agreed upon and which are both economically and technically feasible.
- 12.8) Rights Cumulative. All rights and remedies given to City by this Franchise shall be in addition to and cumulative with any and all other rights 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.
- 12.9) Grantee Acknowledgement 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.
- 12.10) Franchise Term and Effective Date. The Effective Date of this Franchise Agreement is the date of final adoption Of the Franchising Authority as set forth below subject to Grantee's acceptance by countersigning where indicated. This Franchise Agreement shall be for a term of Fifteen (15) years from such Effective Date.
- 12.11) Actions of Parties. With regard to any action that is anticipated, permitted or mandated under the terms of this Agreement, such party will act in a reasonable and timely manner.
- 12.12) Entire Agreement. This Franchise Agreement constitutes the entire agreement between the Grantee and the City and supersedes and replaces all prior agreements written and oral. Any amendments to this Agreement shall be mutually agreed to in writing by both parties to be effective.
- 12.13) Severability. If any Section, subsection, sentence, paragraph, term or provision in this Agreement is subsequently determined to be illegal, invalid, or unconstitutional, by any Court

of competent jurisdiction or by any state, Federal, regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any remaining provisions in this Agreement all of which will remain in full force and effect to the extent otherwise legally enforceable for the duration of the Agreement.

SECTION 13.
PUBLICATION EFFECTIVE DATE; ACCEPTANCE AND EXHIBITS

- 13.1) Publication: Effective Date. This Franchise shall be published in accordance with applicable Minnesota law. The effective date of this Franchise shall be the date official adoption by the Franchising Authority and the publication in accordance with law.

PUBLICATION OF SUMMARY OF ORDINANCE NO. 451A

MOTION: Councilor Langley moved and Councilor Rock seconded the motion to adopt **RESOLUTION NO. 15-76, A RESOLUTION AUTHORIZING PUBLICATION OF A SUMMARY OF ORDINANCE 451A, AN ORDINANCE AMENDING CHAPTER 11.8 OF THE MUNICIPAL CODE PERTAINING TO CABLE TELEVISION, AND REPLACING ORDINANCE NO. 223A AND 389A.** The motion carried unanimously (6-0).

WHEREAS, The City Council of the City of Cloquet has duly adopted Ordinance No. 451A, Amending City Code 11.8 Renewing the Contract of a Franchise Agreement to Mediacom Minnesota, LLC., Replacing Ordinance No.'s 223A and 389A.

WHEREAS, Minnesota Statutes 412.191 requires that ordinances shall be published at least once in the official newspaper; and

WHEREAS, The City Council has determined that the cost of publishing an entire section of the code as proposed to be adopted by the City Council would be extremely expensive given the number of pages to be published; and

WHEREAS, Minnesota Statutes 412.191, Subd. 4, authorizes a municipality to publish only the title and a summary of lengthy ordinances or ordinances which contain charts or maps if the City Council determines that such publications would clearly inform the public of the intent and effect of the ordinance; and

WHEREAS, It is the intent of the City Council to act in accordance with all local, state, and federal laws, to inform the public of changes in municipal laws, and to remain responsible financially with public funds.

NOW, THEREFORE, BE IT RESOLVED, THAT THE CITY COUNCIL OF THE CITY OF CLOQUET, MINNESOTA, Hereby authorizes the publication of a summary of Ordinance No. 451A; and

BE IT FURTHER RESOLVED, That a copy of Ordinance No. 451A shall be available for public viewing online at www.ci.cloquet.mn.us, at City Hall and at the Cloquet Public Library for a period of not less than thirty (30) days from the date of publication; and

BE IT FINALLY RESOLVED, That the summary published in the official newspaper shall be in the following form:

SUMMARY DESCRIPTION

NOTICE OF SUMMARY
PUBLICATION OF ORDINANCES

On September 15, 2015, at its regular meeting, the Cloquet City Council adopted Ordinance No. 451A, a 23 page ordinance which authorizes the City to grant one or more non-exclusive cable television franchises to construct, operate, maintain, and reconstruct cable television systems within the City limits. This Ordinance would renew the Franchise for cable

television service with Mediacom Minnesota, LLC.

The specific title of the ordinance is “**AN ORDINANCE AMENDING CITY CODE 11.8 RENEWING THE CONTRACT OF A FRANCHISE AGREEMENT TO MEDIACOM MINNESOTA, LLC., TO OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM IN THE CITY OF CLOQUET SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE; PROVIDING FOR REGULATION AND USE OF THE SYSTEM; PRESCRIBING PENALTIES FOR THE VIOLATION OF**

ITS PROVISIONS; AND REPLACING ORDINANCE NO’s 223A AND 389A.” The full ordinance is available to the public for inspection online at www.ci.cloquet.mn.us, or during regular office hours at the Cloquet Public Library or at Cloquet City Hall.

TAX INCREMENT FINANCING APPLICATION FEE INCREASE

MOTION: Councilor Bjerkness moved and Councilor Maki seconded the motion to approve an amendment to the City’s Tax Increment (TIF) Policy to increase the application fee from \$5,000 to \$10,000. The motion carried unanimously (6-0).

PURCHASE OF PRO WALL ICE RINK SYSTEM

MOTION: Councilor Langley moved and Councilor Kolodge seconded the motion to authorize the purchase of a Pro Wall ICE Rink System from Sport Resource Group in the amount of \$29,670.00. The motion carried unanimously (6-0).

WEST TAYLOR AVENUE PAVING PROJECT AWARD

MOTION: Councilor Rock moved and Councilor Langley seconded the motion to accept the proposal from Sinnott Blacktop, LLC., to complete the paving of West Taylor Avenue in the amount of \$68,131.50. The motion carried unanimously (6-0).

HARRIS DECHLORINATION BUILDING BID AWARD

MOTION: Councilor Rock moved and Councilor Maki seconded the motion to adopt **RESOLUTION NO. 15-75, A RESOLUTION AWARDDING THE HARRIS TANK DECHLORINATION BUILDING CONSTRUCTION BID** and accept the proposal from Wench & Associates in the amount of \$19,500 to manage the project. The motion carried unanimously (6-0).

WHEREAS, to meet certain water appropriation permit requires by the Minnesota Department of Natural Resources (DNR) regarding the operation of Cloquet’s Lake Superior Waterline, a dechlorination building is proposed to be built at the Harris Reservoir site; and

WHEREAS, Sappi Fine Paper (Sappi) contracted to prepare construction plans for this facility; and

WHEREAS, Sappi has requested the City of Cloquet construct, operate and maintain this facility as part of Cloquet’s Lake Superior Waterline operations; and

WHEREAS, Sappi has agreed to pay for the cost of constructing, operating and maintaining this facility through the monthly water rates charged by Cloquet to Sappi; and

WHEREAS, The City of Cloquet advertised and received the following bids for the project:

<u>Bidder</u>	<u>Bid Amount</u>
Rice Lake Construction Group	\$174,300.00
Stack Brothers Mechanical Contractors	\$198,000.00
Lakehead Constructions, Inc.	\$220,663.00
Ray Riihiluoma, Inc.	\$242,000.00

AND WHEREAS, The apparent low bid from Rice Lake Construction Group was found to meet the minimum bid requirements.

NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF CLOQUET, MINNESOTA, That the bid from Rice Lake Construction Group in the amount of \$174,300.00 is hereby accepted, with the condition that the City Administrator can come to agreement with Sappi as to how the project costs will be recovered, prior to the final award of a contract for construction.

PURCHASE OF WASHED SAND SUPPLY

MOTION: Councilor Bjerkness moved and Councilor Rock seconded the motion to authorize the purchase of the 2015-2016 washed sand supply from Omar's Sand and Gravel. The motion carried unanimously (6-0).

PUBLIC COMMENTS

There were none.

COUNCIL COMMENTS/UPDATES

On motion duly carried by a unanimous yea vote of all members present on roll call, the Council adjourned.

Brian Fritsinger, City Administrator