

SECTION 5

405.000. WINSTED TELEPHONE COMPANY DBA TDS TELECOM CABLE TELEVISION FRANCHISE.

405.001. INTRODUCTION. An Ordinance granting a franchise to Winsted Telephone Company dba TDS Telecom, a Minnesota Corporation, to construct operate and maintain a cable system in the City of Winsted, 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.

405.002. DEFINITIONS. For purposes of this Franchise, the following terms, phrases, words and their derivations shall have the meaning ascribed to them by the Cable Communications Policy Act of 1984, as amended from time to time (the “Cable Act”), unless otherwise defined herein. Words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. All capitalized terms used in the definition of any other term shall have their meaning as otherwise defined in this section. The words “shall” and “will” are mandatory and “may” is permissive. Words not defined shall be given their common and ordinary meaning.

- A. “Applicable Laws” means any and all generally applicable non-discriminatory local, state or federal law, or other order lawfully issued, executed, or entered by any Governmental Authority with competent jurisdiction which is not otherwise preempted.
- B. “Basic Cable Service” means any service tier which includes the lawful retransmission of local television broadcast signals. Basic Cable Service as defined herein shall be the definition set forth in 47 U.S.C. § 522(3).
- C. “Cable Act” means the Cable Communications Act of 1984 as amended, 47 U.S.C. §521 et. seq.
- D. “Cable Service” or “Service” means:
 - The one-way transmission to Subscribers of (i) Video Programming, or (ii) Other Programming Service; and
 - Subscriber interaction, if any, which is required for the selection or use of such Video Programming or Other Programming Service.Cable Service as defined herein shall be 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:

1. A facility that serves only to retransmit the television signals of one (1) or more television broadcast stations;
 2. A facility that serves Subscribers without using any public Streets;
 3. A facility of a 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;
 4. An open video system that complies with 47 U.S.C. § 573; or
 5. Any facilities of any electric utility used solely for operating its electric utility system.
 6. Cable System as defined herein shall be the definition set forth in 47 U.S.C. § 522(7).
- 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.
- G. “City” means the City of Winsted, Minnesota.
- H. “City Code” means the Municipal Code of the City of Winsted, Minnesota, as may be amended from time to time.
- I. “Converter” means an electronic device which converts signals to a frequency acceptable to a television receiver of a Subscriber.
- J. “Council” means the City Council of the City of Winsted, Minnesota.
- K. “Drop” means the cable that connects the ground block on the Subscriber’s residence to the nearest distribution point of the System.
- L. “Effective Date” shall mean November 17, 2015.
- M. “FCC” means the Federal Communications Commission and any legally appointed, designated or elected agent or successor.
- N. “Franchise” means this franchise and the regulatory and contractual relationship established hereby.

- O. “Franchise Fee” shall be the definition set forth in 47 U.S.C. § 542(g).
- P. “Governmental Authority” means any court or other federal, State, county, municipal or other governmental department, commission, board, agency or instrumentality.
- Q. “Grantee” is Winsted Telephone Company dba TDS Telecom, its lawful successors, transferees or assignees.
- R. “Gross Revenues” means any and all revenues actually received by the Grantee, as determined in accordance with generally accepted accounting principles (“GAAP”), from the operation of the Cable System to provide Cable Services in the City. Gross Revenues shall not include any taxes, fees or assessments of general applicability imposed or assessed by any Governmental Authority, launch fees, tower rent, network capacity and facilities rent for the provision of non-cable services (including but not limited to voice or data services), investment income, bad debt, credits, refunds, any amounts collected from Subscribers for deposits, FCC Fees or PEG Fees. A Franchise Fee is not such a tax, fee or assessment. The City acknowledges and accepts that Grantee shall maintain its books and records in accordance with GAAP.
- S. “Installation” means the connection of the System from distribution cable to the point of connection, including Standard Installations and custom Installations.
- T. “Normal Business Hours” means those hours during which most similar businesses in the 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. Cable System Normal Business Hours as defined herein shall be the definition set forth in 47 C.F.R. § 76.309.
- U. “Normal Operating Conditions” means those service conditions which are within the control of the Grantee. Those conditions which are not within the control of the 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 the 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. Normal Operating Conditions as defined herein shall be the definition set forth in 47 C.F.R. § 76.309.
- V. “PEG” means public, educational and governmental.
- W. “PEG Access Facilities” means:

1. Channel capacity designated for public, educational or governmental use; and
 2. Facilities and equipment for the use of such Channel capacity.
- X. "Person" means any individual or any association, firm, general partnership, limited partnership, joint stock company, joint venture, trust, corporation, limited liability company or other legally recognized entity, private or public, whether for-profit or not-for-profit.
- Y. "Service Area" means the entire geographic area within the City as it is now constituted or may in the future be constituted, unless otherwise specified in this Franchise.
- Z. "Service Interruption" means the loss of picture or sound on one (1) or more Cable Channels. Service Interruption as defined herein shall be the definition set forth in 47 C.F.R. § 76.309.
- AA. "Standard Installation" means any residential Installation which can be completed using an aerial Drop of one hundred twenty-five (125) feet.
- BB. "State" means the State of Minnesota.
- CC. "Street" means any street, alley, other land or waterway, dedicated or commonly used for utility purposes, including general or utility easements in which the City has the right and authority to authorize, regulate or permit the location of facilities other than those of the City. "Street" shall not include any real or personal City property that is not specifically described in the previous sentence and shall not include City buildings, fixtures and other structures or improvements, regardless of whether they are situated in the public right-of-way.
- DD. "Subscriber" means any Person who lawfully elects to subscribe to Cable Service via the System. Subscriber as defined herein shall be the definition set forth in 47 C.F.R. § 76.5(ee).

405.003. GRANT OF AUTHORITY AND GENERAL PROVISIONS.

A. Grant of Franchise.

1. This Franchise is granted pursuant to the terms and conditions contained herein. The Grantee shall have the right and privilege pursuant to this Franchise to construct, erect, maintain, and operate a Cable System in, upon, along, across, above, over and under the Streets and provide Cable Service. The System constructed and maintained by Grantee or its agents shall not interfere with other uses of the Streets. 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.

2. Notwithstanding the above grant to use Streets, use of such Streets shall not be inconsistent with the terms and conditions by which such Streets were created or dedicated and is subject to all legal requirements related to the use of such Streets, including the terms and conditions of any applicable Streets Ordinance.
 3. This Franchise shall be nonexclusive. Additional Cable Franchises granted by the City shall be granted on terms and conditions which are consistent with Applicable Law and Minnesota Statutes 238.08 subd. 1(b).
- B. Lease or Assignment Prohibited. Other than for the provision of commercial leased access, 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. Any assignment of rights under this Franchise shall be subject to and in accordance with the requirements of Section 405.010.E.
- C. Term. This Franchise shall be in effect until November 17, 2030. Notwithstanding, this Franchise shall be subject to periodic evaluation not less than every five (5) years as provided in Section 405.008.E.1. herein.
- D. Previous Franchises. Upon acceptance by Grantee as required by Section 405.013. Herein, this Franchise shall supersede and replace the previous ordinance granting a franchise to Grantee.
- E. Compliance with Applicable Laws, Resolutions and Ordinances. The terms of this Franchise shall define the contractual rights and obligations of Grantee with respect to the provision of Cable Service and operation of the System in the City. However, the Grantee shall at all times during the term of this Franchise be subject to Applicable Law.
- F. Territorial Area Involved. This Franchise is granted for the corporate boundaries of the City, as it exists from time to time. In the event of annexation by City or as development occurs, any new territory shall become part of the territory for which this Franchise is granted; provided, however, Grantee shall have no obligation to extend service if another provider is offering Video Programming or it is otherwise financially or technically unfeasible.
- G. 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 Grantor: City of Winsted
 City Administrator
 PO Box 126
 Winsted, MN 55395

If to Grantee: TDS Telecom
Attention: Manager – Video Services
525 Junction Road
Madison, WI 53717

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

405.004. CONSTRUCTION STANDARDS.

A. Registration, Permits and Construction Codes.

1. Grantee shall strictly adhere to Applicable Law regarding location, construction, installation, operation or maintenance of the System in the City.
2. The City shall have the right to inspect all construction or Installation work performed in Streets pursuant to the applicable provisions of MAR §7819.0050 et. seq.

B. Repair of Streets and Property. Any and all Streets, other public property, or private property which are disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance or reconstruction of the System shall be promptly and fully restored by Grantee consistent with Applicable Law. If Grantee fails to promptly perform the restoration required herein, the City may perform the restoration of the Streets, other public or private property as required consistent with Applicable Law.

C. Drop Burial. Grantee shall bury all Drops in a reasonable time period, which shall not exceed thirty (30) business days, subject to weather conditions. In the event the ground is frozen, Grantee shall be permitted to delay burial until the ground is suitable for burial which in no event shall be later than June 30th.

D. Conditions on Street Use.

1. Nothing in this Franchise shall be construed to prevent the City from adopting an ordinance governing the use of City rights-of-way which is consistent with Applicable Law.
2. Nothing in this Franchise shall be construed to prevent the City from constructing, maintaining, repairing or relocating sewers; grading, paving, maintaining, repairing, relocating and/or altering any Street; constructing, laying down, repairing, maintaining or relocating any water mains; or constructing, maintaining, relocating, or repairing any sidewalk or other public work.
3. All System transmission and distribution structures, lines and equipment erected by the Grantee shall be located consistent with Applicable Law.
4. If at any time during the period of this Franchise, City shall elect to alter or change the grade or location of any Streets, the Grantee shall, upon reasonable notice by

the City, remove and relocate its poles, wires, cables, conduits, manholes and other fixtures of the System consistent with Applicable Law.

5. The Grantee shall, upon 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) days advance notice to arrange for such temporary changes.
 6. The Grantee shall have the authority to trim any trees upon and overhanging the Streets consistent with Applicable Law.
 7. Except in emergency circumstances and only to the extent required by Applicable Law, Grantee shall use reasonable efforts to provide prior notice to those private property owners impacted by Grantee's work in the Rights-of-Way located on their property.
- E. Undergrounding of Cable. Grantee must place newly constructed facilities underground in areas where all other utility lines are placed underground. Amplifier boxes and pedestal mounted terminal boxes may be placed above-ground if existing technology reasonably requires, but shall be of such size and design and shall be so located as not to be unsightly or unsafe.
- F. Safety Requirements.
1. The Grantee shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.
 2. The Grantee shall install and maintain its System and other equipment in accordance with Applicable Law and the requirements of the National Electric Safety Code.

405.005. SYSTEM DESIGN AND EXTENSION PROVISIONS.

A. Channel Capacity.

1. Grantee currently operates and maintains a communications system which provides telecommunications and information services to residents and businesses ("Telecommunications Network") within the City pursuant to authority prescribed in the Certificate of Need issued by the Minnesota Public Utilities Commission. Utilizing its Telecommunications Network, Grantee shall maintain and operate within the City an Internet Protocol television (IPTV) application through which Internet Television services are delivered using the architecture and networking methods of Internet Protocol over a packet-switched network infrastructure system, generally referred to in this Franchise herein as a "Cable System"

providing a minimum of at least 75 video programmed Channels throughout the term of this Franchise.

2. Construction Timetable. Grantee shall complete any construction related to System enhancements required herein within sixty (60) months of the effective date of this Franchise as required by Minn. Stat Chapter 238. Failure to timely complete such construction shall be a violation of this Franchise
3. All programming decisions remain the discretion of Grantee; subject to the City's rights pursuant to 47 U.S.C. § 544(b). Grantee shall provide notice prior to any channel additions, deletions, or realignments, in a manner consistent with federal law.

B. System Extension/Density Requirement.

1. Grantee shall be required to extend Service beyond present System boundaries to dwelling units in the City that are not currently served in the event there are thirty (30) dwelling units or more per cable mile and such dwelling units are contiguous to the existing System.
2. Grantee shall also extend Service to Persons requesting Service where the density is insufficient to require extension without any special or individualized charge. In such case, Grantee shall extend Service at a mutually acceptable cost.

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

D. 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 Systems pursuant to Title 47, Section 76.601 to 76.617, as maybe amended or modified from time to time, which regulations are expressly incorporated herein by reference.

E. FCC Reports. Upon request, the results of any tests required by the FCC shall be made available to City which demonstrate the level of System performance and signal quality.

F. Lockout Device. Upon the request of a Subscriber, Grantee shall provide a Lockout Device.

405.006. SERVICES PROVISIONS.

A. Regulation of Service Rates.

1. The City may regulate rates for the provision of Cable Service, equipment, or any other service provided over the System to the extent allowed pursuant to Applicable Law.
 2. A list of Grantee's current residential Subscriber rates and charges shall be maintained on file with the City and shall be available for public inspection.
- B. Sales Procedures. Grantee shall not exercise deceptive sales procedures when marketing any of its services within City. Grantee shall have the right to market consistent with local ordinances and other applicable laws and regulations.
- C. Customer Service. Grantee shall comply with the provisions of the FCC Customer Services Rules attached hereto as Exhibit A.
- D. Complaint and Other Service Records. Subject to Grantee's obligation to maintain the privacy of certain information, Grantee shall prepare and maintain written records of all complaints received and the resolution of such complaints, including the date of such resolution. Such written records shall be on file at the office of Grantee. Grantee shall provide the City with a written summary of such complaints and their resolution on a quarterly basis and in a form mutually agreeable to City and Grantee. Grantee may be required to provide detailed compliance reports on a quarterly basis with respect to the objectively measurable service standards herein upon written demand by the City.
- E. Subscriber Contracts. Grantee shall file with the City any standard form Subscriber contract utilized by Grantee. If no such written contract exists, Grantee shall file With the City Administrator 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.
- F. Billing and Subscriber Communications. Grantee must give Subscribers thirty (30) days advance written notice with copy to City before any changes in rates, programming services, or channel positions. Bills must be clear, concise, and understandable, with itemization including but not limited to, basic and premium charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates, and credits. In case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within 30 days.
- G. Refunds and Credits. If Service is interrupted or discontinued for 24 or more consecutive hours and Grantee has notice of such interruption, Subscribers shall be credited pro rata for such interruption beginning with the date of interruption. Credits tor will be issued no later than the Subscriber's next billing cycle following the determination that a credit is warranted. In the event a Subscriber establishes or terminates Service and receives less than a full month's Service, Grantee shall prorate the monthly rate on the basis of the number of days in the period for which Service was rendered to the number of days in the billing. Refund checks will be issued promptly, but no later than the return of the equipment supplied by the Grantee if Service is terminated.

405.007. INSTITUTIONAL SERVICE PROVISIONS.

A. Public, Educational and Government Access.

1. Channel. Grantee shall dedicate one (1) channel for PEG Access use. Nothing herein shall diminish the City's rights to secure additional channels pursuant to Minn. Stat. § 238.084, which is expressly incorporated herein by reference.
2. Use of Channel(s). Grantee shall provide to each of its Subscribers who receive all, or part of the total services offered on the System, reception on the PEG Access Channel(s) free of charge. The specially designated access channel may be used by the public, local educational authorities and local government on a first-come, first-served, nondiscriminatory basis. During those hours that the specially designated access channel is not being used by the public, educational authorities or local government, the Grantee may lease time to commercial or noncommercial users on a first-come, first-served, nondiscriminatory basis if the demand for that time arises. Grantee may also use this specially designated access channel for local origination during those hours when the channel is not in use by the public, local educational authorities, local government, or commercial or noncommercial users who have leased time.
3. Charges for Use. Channel time and playback of prerecorded programming on the PEG access and community program channel(s) must be provided without charge to the City and the public.
4. PEG Fee.
 - a. Upon sixty (60) days prior written notice to all providers of Cable Service or Video Programming in the City, Grantee shall collect on behalf of City a per month Subscriber fee of up to One Dollar and no/100 (\$1.00) solely to fund PEG access expenditures as permitted by Applicable Law (hereinafter "PEG Fee").
 - b. The City may, at any time, reduce the PEG Fee upon sixty (60) Days written notice to Grantee.
 - c. Grantee shall pay the PEG Fee to the City quarterly, at the same time as the payment of Franchise Fees.
5. Access Rules. The City may implement rules for use of any access channel(s).
 - a. Service to Public Buildings.
 1. Upon request by the City and consistent with applicable federal law, Grantee shall provide, free of charge, Installation of one (1) Drop, one (1) cable outlet, and monthly Basic Cable Service to the institutions listed in Exhibit B, which are within two hundred (200) feet of the System. Drops to subsequently designated institutions in

excess of two hundred (200) feet shall be provided by the Grantee at the cost of Grantee's time and materials less the cost of the two hundred (200) feet closest to the building. Grantee shall have one (1) year from the date of the City's request to complete construction of the Drop and outlet. Additional Drops and/or outlets shall be provided by Grantee at the cost of Grantee's time and material. Alternatively, at the institution's request, said institution may add outlets at its own expense, as long as such Installation meets applicable FCC technical standards. No redistribution of the free Service provided pursuant to this Section shall be allowed without the Grantee's prior written consent.

2. Upon request by the City and consistent with applicable federal law, Grantee shall provide two-way activated capacity allowing live or recorded cable-cast of programming to the following site(s) listed in Exhibit C which are within two hundred (200) feet of the System. Drops to subsequently designated institutions in excess of two hundred (200) feet shall be provided by the Grantee at the cost of Grantee's time and materials less the cost of the two hundred (200) feet closest to the building. Grantee shall have one (1) year from the date of the City's request to complete construction.

405.008. OPERATION AND ADMINISTRATION PROVISIONS.

- A. Administration of Franchise. The City shall have continuing regulatory jurisdiction and supervision over the System and the Grantee's operation under the Franchise.
- B. Franchise Fee.
 1. During the term of the Franchise, Grantee shall pay to the City a Franchise Fee in an annual amount equal to five percent (5%) of its Gross Revenues subject to the same franchise fee requirement being imposed on all video service providers over whom the City has jurisdiction.
 2. Any payments due under this provision shall be payable quarterly. The payment shall be made within sixty (60) days of the end of each of Grantee's current fiscal quarters together with a report in form reasonably acceptable to City and Grantee and which shows the basis for the computation.
 3. All amounts paid shall be subject to audit and re-computation by the City and acceptance of any payment shall not be construed as an accord that the amount paid is in fact the correct amount.
- C. Access to Records. Grantee shall make available those records maintained by Grantee which relate to this Franchise or System operations including specifically Grantee's revenue records, subject to the privacy provisions of 47 U.S.C. § 521 et seq. and, in the case of confidential or proprietary records, a mutually acceptable nondisclosure agreement.

D. Reports and Maps to be filed with the City.

1. Grantee shall file with the City, at the time of payment of the Franchise Fee, a report of all Gross Revenues.
2. Grantee shall prepare and furnish to the City such other reports with respect to the operations, affairs, transactions or property, as they relate to this Franchise or System as shall be mutually agreed upon by City and Grantee.

E. Periodic Evaluation.

1. The City may require evaluation sessions during the term of this Franchise not more than annually, upon thirty (30) days written notice to Grantee. Grantee and City shall hold evaluation sessions after the fifth and tenth years of this franchise.
2. All evaluation sessions shall be open to the public. Grantee shall notify its Subscribers of all evaluation sessions by announcement of at least sixty (60) seconds in duration on at least one (1) Basic Service channel of the System between the hours of 7:00 p.m. and 9 00 p.m. for five (5) consecutive days preceding each session.
3. Topics which may be discussed at any evaluation session may include, but are not limited to, application of new technologies, System performance, programming offered, access channels, facilities and support, municipal uses of cable, customer complaints, amendments to this Franchise, judicial rulings, FCC rulings, line extension policies and any other topics the City and Grantee deem relevant.
4. As a result of a periodic review or evaluation session, the City may request Grantee to amend the Franchise to provide additional services or facilities as are mutually agreed upon and which are both economically and technically feasible taking into consideration the remaining life of the Franchise.

405.009. GENERAL FINANCIAL AND INSURANCE PROVISIONS.

A. Performance Bond.

1. At the time the Franchise becomes effective and at all times thereafter, until the Grantee has liquidated all of its obligations with the City, the Grantee shall furnish a bond to the City, in the amount of Twenty-two Thousand and No/100 (\$22,000) in a form and with such sureties as are reasonably acceptable.
2. If at any time Grantee undertakes material upgrade or material additional construction of the System, Grantee shall increase the bond to Seventy-Five Thousand and No/100 (\$75,000). Upon completion of said upgrade or additional construction, Grantee shall provide written notice to the City. At such time as the

upgrade or additional construction is complete, Grantee may decrease said bond to the original amount.

3. The bond must be conditioned upon the faithful performance of the Grantee according to the terms of the Franchise and upon the further condition that in the event the Grantee shall fail to comply with any law, ordinance or regulation governing the Franchise, there shall be recoverable jointly and severally from the principal and surety of the bond any damages or loss suffered by the City as a result, including the full amount of any compensation, indemnification or cost of removal or abandonment of any property of the Grantee, plus a reasonable allowance for attorneys' fees and costs, up to the full amount of the bond, and further guaranteeing payment by the Grantee of claims, liens and taxes due the City which arise by reason of the construction, operation, or maintenance of the System.
4. The rights reserved by the City with respect to the bond are in addition to all other rights the City may have under the Franchise or any other law. The City may, from year to year, in its sole discretion, reduce the amount of the bond.
5. The City may demand payment from the principal and surety of the bond for liquidated damages 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:
 - a. For violation of any other provision of this Franchise or applicable federal, state, or local law or regulation, One Hundred Forty and No/100 Dollars (\$140.00) per day for each day, or part thereof such violation continues.
 - b. Whenever the City finds that Grantee has violated one or more terms, conditions or provisions of this Franchise or the City makes a claim pursuant to the bond, a written notice shall be given thirty (30) days' notice of any franchise violation, or other claim, liability or obligation. Grantee shall have thirty (30) days from receipt of such notice in which to cure, correct, or satisfy the violation, claim, liability, or obligation. At any time after the cure period, provided Grantee remains in violation of one or more terms, conditions or provisions of this Franchise, the City may make a claim pursuant to the bond. The City may grant additional time beyond the initial cure period before making a claim under the bond in the event Grantee requests additional time and the City determines that the Grantee has made a good faith effort towards cure and such additional time is necessary to completely cure the alleged violation.
 - c. In the event this Franchise is revoked or the rights hereunder relinquished or abandoned by Grantee, the City shall be entitled to collect from the performance bond any resultant damages, costs or liabilities incurred by the City.

- d. The rights reserved to the City with respect to the performance bond shall not be deemed an exclusive remedy and are in addition to all other rights of the City whether reserved by this Franchise or authorized by law, and no action, proceeding or exercise of a right with respect to the performance bond shall affect any other right the City may have.

B. Indemnification of the City. The City, its officers, boards, committees, commissions, elected officials, employees and agents shall not be liable for any loss or damage to any real or personal property of any Person, or for any injury to or death of any Person, arising out of or in connection with the construction, operation, maintenance, repair or removal of, or other action or event with respect to the System or as to any other action or event with respect to this Franchise.

1. Grantee shall indemnify, defend, and hold harmless the City, its officers, boards, committees, commissions, elected officials, employees and agents, from and against all liability, damages, and penalties which they may legally be required to pay as a result of the exercise, administration, or enforcement of the Franchise including, but not limited to, the reimbursement to City of any insurance deductible paid by City. Grantee's obligations herein shall not include any alleged or actual liability which is based solely on City's operation of PEG access facilities or equipment or the programming provided via such PEG facilities or equipment.
2. 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, regarding, or changing the line of a Streets or public place or with the construction or reconstruction of a sewer or water system.
3. In order for City to assert its rights to be indemnified, defended, and held harmless, City must, with respect to each claim:
 - a. Promptly notify Grantee in writing of any claim or legal proceeding which gives rise to such right;
 - b. Afford Grantee the opportunity to participate in and fully control any compromise, settlement or other resolution or disposition of any claim or proceeding; and
 - c. Fully cooperate with reasonable requests of Grantee, at Grantee's expense, in its participation in, and control, compromise, settlement or resolution or other disposition of such claim or proceeding subject to Paragraph b. above.

C. Insurance.

1. Grantee shall file with its acceptance of this Franchise, and at all times thereafter maintain in full force and effect at its sole expense, a commercial general liability

insurance policy; including broadcaster's/cablecaster's liability and contractual liability coverage, in protection of the Grantee, and the City, its officers, elected officials, boards, commissions, agents and employees for damages and penalties which may arise as a result of this Franchise.

2. The policies of insurance shall be in the sum of not less than One Million Five Hundred Thousand Dollars (\$1,500,000.00) for personal injury or death or any one Person, and Three Million Dollars (\$3,000,000.00) for personal injury or death of two or more Persons in any one occurrence, Seven Hundred Fifty Hundred Thousand Dollars (\$750,000.00) for property damage to any one person and Three Million Dollars (\$3,000,000.00) for property damage resulting from any one act or occurrence.
3. The policy or policies of insurance shall be maintained by Grantee in full force and effect during the entire term of the Franchise. Each policy of insurance shall contain language outlining cancellation notice requirements. Grantee shall provide sixty (60) days prior to any cancellation.

405.010. SALE, ABANDONMENT, TRANSFER AND REVOCATION OF FRANCHISE.

- A. City's Right to Revoke. In addition to all other rights which the City has pursuant to law or equity, the City reserves the right to revoke, terminate or cancel this Franchise, and all rights and privileges pertaining thereto, if after the hearing required herein, it is determined that:

Grantee has violated any material provision of this Franchise and failed to timely cure; or

Grantee has attempted to evade any of the material provisions of the Franchise; or

Grantee has practiced fraud or deceit upon the City or Subscriber.

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

- B. Procedures for Revocation.

1. The City shall provide Grantee with written notice of intent to revoke the Franchise which shall identify the basis of the revocation. Grantee shall have thirty (30) days subsequent to receipt of the notice in which to cure the violation or to provide assurance of performance in compliance with the Franchise. Upon receipt of the violation notice from the City, the Grantee may within thirty (30) Days of such receipt notify City in writing that there is a dispute as to whether a violation or failure has in fact occurred. Such written notice by Grantee to City shall specify with particularity the matters disputed by Grantee. Such notice by Grantee shall toll the timeframes herein and the accrual of all alleged damages until the City issues a decision following the required hearing in this section.

2. City shall schedule a public hearing affording Grantee due process prior to revocation. The public hearing shall be scheduled after the end of the cure period and within ninety (90) days of the date of the notice of revocation. Notice of the hearing shall be provided to Grantee.
 3. The City shall provide Grantee with written notice of its final decision together with written findings of fact supplementing said decision.
 4. The Franchise shall remain in full force and effect during any appeal unless the term thereof sooner expires.
- C. Abandonment of Service. Grantee may not abandon the System or any portion thereof or discontinue providing video programming services without having first given six (6) months written notice to the City. Grantee may not abandon the System or any portion thereof without compensating the City for damages resulting from the abandonment. Notwithstanding the foregoing, Grantee shall have the right to terminate this Franchise upon six (6) months advance written notice to the City (“Termination Date”) and any such termination shall not impact Grantee’s right to continue the provision of Telecommunications services and broadband services over the Telecommunications Network. In the event the Franchise is terminated, Grantee shall be responsible to payment to the City up to the Termination Date for all PEG Fees required under Section 405.007 and all Franchise Fees required remit under Section 405.008.
- D. Removal After Abandonment, Termination or Forfeiture.
1. In the event of termination or forfeiture of the Franchise or abandonment of the System, the City shall have the right to require Grantee to remove all or any portion of the System from all Streets and public property within the City; provided; however, that the Grantee shall not be required to remove the System if it is authorized to provide non-Cable Service pursuant to state or federal law.
 2. If Grantee has failed to commence removal of System, or such part thereof as was designated by the City, within one hundred twenty (120) days after written notice of the City demand for removal is given, or if Grantee has failed to complete such removal within twelve (12) months after written notice of the City demand for removal is given, the City shall have the right to apply funds secured by the Performance Bond toward removal.
- E. Sale or Transfer of Franchise.
1. No sale, transfer, or corporate change of or in Grantee or the System, including, but not limited to, the sale of a majority of the entity's assets, a merger including the consolidation of a subsidiary and parent entity, or the creation of a subsidiary or affiliate entity, shall take place until the parties to the sale, transfer, or corporate change file a written request with the City for its approval and such approval is granted by the City, provided, however, that said approval shall not be required

where Grantee grants a security interest in its Franchise and assets to secure an indebtedness.

2. Any sale, transfer, exchange or assignment of stock or other equity interest in Grantee so as to create a new controlling interest shall be subject to the requirements of this Section 405.010.E. The term "controlling interest" as used herein means actual working control in whatever manner exercised.
3. The City shall have such time as is permitted by applicable law in which to review a transfer request.
4. In no event shall a sale, transfer, corporate change, or assignment of ownership or control pursuant to Subparagraph (1) or (2) of this Section be approved without the transferee becoming a signatory to this Franchise and assuming all rights and obligations hereunder, and assuming all other rights and obligations of the transferor to the City.
5. In the event of any proposed sale, transfer, corporate change, or assignment pursuant to Subparagraph (1) or (2) of this Section, the City shall have the right to purchase the System. In the event Grantee has received a bona fide offer for purchase of the System, the City shall have the right to purchase in accordance with the terms thereof. The Grantee must promptly convey such offer to the City along with any written acceptance. As used in this Section, "bona fide offer" means an offer to purchase the System received by the Grantee which it intends to accept. In any other event, the City shall have the right to purchase the System for an equitable price and upon commercially reasonable terms.
6. The City shall be deemed to have waived its right to purchase under in the following circumstances:
 - a. If it does not indicate to Grantee in writing, within sixty (60) days of notice of a proposed sale or assignment, its intention to exercise or reserve its right of purchase; or
 - b. It approves the assignment or sale of the Franchise as provided within this Section.

405.011. PROTECTION OF INDIVIDUAL RIGHTS.

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

B. Subscriber Privacy.

1. Grantee shall comply with the Subscriber privacy-related requirements of 47 U.S.C. § 551. No signals including signals of a Class IV Channel may be transmitted from a Subscriber terminal for purposes of monitoring individual

viewing patterns or practices without the express written permission of the Subscriber. Such written permission shall be for a limited period of time not to exceed one (1) year which may be renewed at the option of the Subscriber. No penalty shall be invoked for a Subscriber's failure to provide or renew such authorization. The authorization shall be revocable at any time by the Subscriber without penalty of any kind whatsoever. Such permission shall be required for each type or classification of Class IV Channel activity planned for the purpose of monitoring individual viewing patterns or practices.

2. No lists of the names and addresses of Subscribers or any lists that identify the viewing habits of Subscribers shall be sold or otherwise made available to any party other than to Grantee and its employees for internal business use, and also to the Subscriber subject of that information, unless Grantee has received specific written authorization from the Subscriber to make such data available. Such written permission shall be for a limited period of time not to exceed one (1) year which may be renewed at the option of the Subscriber. No penalty shall be invoked for a Subscriber's failure to provide or renew such authorization. The authorization shall be revocable at any time by the Subscriber without penalty of any kind whatsoever.
3. Written permission from the Subscriber shall not be required for the conducting of System wide or individually addressed electronic sweeps for the purpose of verifying System integrity or monitoring for the purpose of billing. Confidentiality of such information shall be subject to the provision set forth in Subparagraph (b) of this Section.

405.012. MISCELLANEOUS PROVISIONS.

- A. Franchise Renewal. Any renewal of this Franchise shall be performed in accordance with applicable federal, state and local laws and regulations. The term of any renewed Franchise shall be limited to a period not to exceed fifteen (15) years.
- B. Work Performed by Others. All obligations of this Franchise shall apply to any subcontractor or others performing any work or services pursuant to the provisions of this Franchise, however, in no event shall any such subcontractor or other Person performing work obtain any rights to maintain and operate a System or provide Cable Service. Grantee shall provide notice to the City of the name(s) and address(es) of any entity, other than Grantee, which performs services pursuant to this Franchise involving the Streets, public property or new System construction or System upgrade.
- C. Amendment of Franchise Ordinance. Grantee and the City may agree, from time to time, to amend this Franchise. Such written amendments may be made subsequent to a review session pursuant to Section 405.008.E. or at any other time if the City and Grantee agree that such an amendment will be in the public interest or if such an amendment is required due to changes in federal, state or local laws, provided, however, nothing herein shall restrict the City's exercise of its police powers.

- D. Force Majeure. In the event Grantee's performance of any of the terms, conditions, obligations or requirements of this Franchise is prevented due to a cause beyond its control, such failure to perform shall be excused for the period of such inability to perform.
- E. Compliance with Federal State and Local Laws.
1. Grantee and the City shall conform to state laws and rules regarding cable communications not later than one year after they become effective, unless otherwise stated, and to conform to federal laws and regulations regarding cable as they become effective.
 2. If any term, condition or provision of this Franchise shall, to any extent, be held to be invalid or unenforceable, the remainder and all the terms, provisions and conditions herein shall, in all other respects, continue to be effective provided the loss of the invalid or unenforceable clause does not substantially alter the agreement between the parties. In the event such law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision which had been held invalid or modified is no longer in conflict with the law, rules and regulations then in effect, said provision shall thereupon return to full force and effect and shall thereafter be binding.
- F. Nonenforcement by City. Grantee shall not be relieved of its obligations to comply with any of the provisions of this Franchise by reason of any failure or delay of the City to enforce prompt compliance. The City may only waive its rights hereunder by expressly so stating in writing. Any such written waiver by the City of a breach or violation of any provision of this Franchise shall not operate as or be construed to be a waiver of any subsequent breach or violation.
- G. Rights Cumulative. All rights and remedies given to the City by this Franchise or retained by the City shall be in addition to and not exclusive of any and all other rights and remedies, existing or implied, now or hereafter available to the City, at law or in equity.

405.013. PUBLICATION EFFECTIVE DATE; ACCEPTANCE AND EXHIBITS.

- A. Publication: Effective Date. This Franchise shall be published in accordance with applicable local and Minnesota law. The Effective Date of this Franchise shall be the date of acceptance by Grantee in accordance with the provisions of this Section 405.013.
- B. Acceptance. Grantee shall accept this Franchise within sixty (60) days of its enactment by the City, unless the time for acceptance is extended by the City. Such acceptance by the Grantee shall be deemed the grant of this Franchise for all purposes provided. In the event acceptance does not take place, or should all ordinance adoption procedures and timelines not be completed, this Franchise and any and all rights previously granted to Grantee shall be null and void.
1. Upon acceptance of this Franchise, Grantee shall be bound by all the terms and conditions contained herein.

2. Grantee shall accept this Franchise in the following manner:
 - a. This Franchise will be properly executed and acknowledged by Grantee and delivered to the City.
 - b. With its acceptance, Grantee shall also deliver any grant payments, performance bond and insurance certificates required herein that have not previously been delivered.

EXHIBIT A

Customer Service Standards

A. Cable System office hours and telephone availability:

1. Grantee will maintain a local, toll-free or collect call telephone access line which will be available to its Subscribers twenty-four (24) hours a day, seven (7) days a week.
2. Trained Grantee representatives will be available to respond to customer telephone inquiries during Normal Business Hours.
3. After Normal Business Hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after Normal Business Hours must be responded to by a trained Grantee representative on the next business day.
4. Under Normal Operating Conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety percent (90%) of the time under Normal Operating Conditions, measured on a quarterly basis.
5. The Grantee shall not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.
6. Under Normal Operating Conditions, the customer will receive a busy signal less than three percent (3%) of the time.
7. Customer service center will be open at least during Normal Business Hours.

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

1. Standard Installations will be performed within seven (7) business days after an order has been placed. "Standard" Installations are those that are located up to one hundred twenty-five (125) feet from the existing distribution system.
2. Excluding conditions beyond the control of the Grantee, the Grantee will begin working on "Service Interruptions" promptly and in no event later than twenty-four (24) hours after the interruption becomes known. The Grantee must begin actions to correct other Service problems the next business day after notification of the Service problem.

3. The "appointment window" alternatives for Installations, Service calls, and other Installation activities will be either a specific time or, at maximum, a four (4) hour time block during Normal Business Hours. (Grantee may schedule Service calls and other Installation activities outside of Normal Business Hours for the express convenience of the customer.)
 4. Grantee may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.
 5. If Grantee's representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.
- C. Communications between Grantee and Subscribers. Grantee shall comply with the provisions of 47 CFR § 76.1601-1604 in communicating with Subscribers in the City.
1. Grantee will provide written information on each of the following areas at the time of Installation of Service, at least annually to all Subscribers, and at any time upon request:
 - a. Products and Services offered;
 - b. Prices and options for programming services and conditions of subscription to programming and other services;
 - c. Installation and Service maintenance policies;
 - d. Instructions on how to use the Cable Service;
 - e. Channel positions of programming carried on the System; and
 - f. Billing and complaint procedures, including the address and telephone number of the City's cable office.
 2. Subscribers shall be advised of the procedures for resolution of complaints about the quality of the television signal delivered by the Grantee, including the address of the responsible officer of the City.
 3. Subscribers will be notified of any changes in rates, programming services or Channel positions as soon as possible in writing. Notice must be given to Subscribers a minimum of 30 days in advance of such changes if the change is within the control of the Grantee. In addition, the Grantee shall notify Subscribers 30 days in advance of any significant changes in the information required by Section (c) 1(A) – (F) of this Exhibit A.
 4. In addition to the requirement of subparagraph (2) of this section regarding advance notification to Subscribers of any changes in rates, programming services

or Channel positions, Grantee shall give 30 days' written notice to both Subscribers and the City before implementing any rate or Service change. Such notice shall state the precise amount of any rate change and briefly explain in readily understandable fashion the cause of the rate change (e.g., inflation, change in external costs or the addition/deletion of Channels). When the change involves the addition or deletion of Channels, each Channel added or deleted must be separately identified. For purposes of the carriage of digital broadcast signals, the Grantee need only identify for Subscribers, the television signal added and not whether that signal may be multiplexed during certain dayparts.

5. To the extent Grantee is required to provide notice of Service and rate changes to Subscribers, the Grantee may provide such notice using any reasonable written means at its sole discretion.
6. Notwithstanding any other provision of this section, Grantee shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, Franchise Fee, or any other fee, tax, assessment, or charge of any kind imposed by any federal agency, state, or City on the transaction between the Grantee and the Subscriber.

D. Refunds. Refund checks will be issued promptly, but no later than either:

1. The customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or
2. The return of the equipment supplied by the Grantee if Service is terminated.

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

F. Billing.

1. Consistent with 47 C.F.R. § 76.1619, bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, Basic Cable Service and premium Service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.
2. In case of a billing dispute, the Grantee must respond to a written complaint from a Subscriber within 30 days.

G. Grantee shall, upon request, provide City with information which shall describe in detail Grantee's compliance with each and every term and provision of this Exhibit A.

EXHIBIT B

DESIGNATED BUILDINGS FOR SUBSCRIBER NETWORK DROPS

BUILDINGS	ADDRESS
LIBRARY, WINSTED	180 MAIN AVE. W.
FIRE DEPT, WINSTED	431 6TH ST. S.
PUBLIC WORKS, WINSTED	433 6TH ST. N.
ELEM. SCHOOL, WINSTED	431 N 4TH ST.
LOCAL ACCESS, WINSTED	201 1ST ST N.
ELEMENTARY, TRINITY	211 N. 2ND ST
CITY OF WINSTED CITY HALL	201 1ST ST N.

EXHIBIT C

PUBLIC BUILDINGS WITH TWO-WAY CAPABILITY

CITY HALL	201 1ST N.
FIRE DEPT.	431 6TH ST. S.
PUBLIC WORKS	433 6TH ST. N.
LIBRARY	180 MAIN AVE. W.