

**AGENDA
OF THE CITY COUNCIL
CITY OF EAST GRAND FORKS
TUESDAY, NOVEMBER 17, 2015 - 5:00 P.M.**

CALL TO ORDER:

CALL OF ROLL:

DETERMINATION OF QUORUM:

PLEDGE OF ALLEGIANCE:

OPEN FORUM:

“An opportunity for members of the public to address the City Council on items not on the current Agenda. Items requiring Council action maybe deferred to staff or Boards and Commissions for research and future Council Agendas if appropriate.” If you would like to address the City Council, please come up to the podium to do so.”

APPROVAL OF MINUTES:

1. Consider approving the amended minutes from the “Regular Meeting for the East Grand Forks, Minnesota City Council of November 3, 2015.
2. Consider approving the minutes of the “Special Meeting” for the East Grand Forks, Minnesota City Council of November 10, 2015.
3. Consider approving the minutes of the “Work Session” for the East Grand Forks, Minnesota City Council of November 10, 2015.

SCHEDULED BID LETTINGS: NONE

SCHEDULED PUBLIC HEARINGS:

4. Public Hearing on proposed 2016 Assessment Job No. 2 – Paving & Sidewalk Construction in Riverview 9th & 10th Additions.

CONSENT AGENDA:

Items under the “Consent Agenda” will be adopted with one motion; however, council members may request individual items to be pulled from the consent agenda for discussion and action if they choose.

5. Consider adopting Resolution No. 15-11-124 appointing Josh Krostue to Equipment Operator at a salary of \$19.69 per hour.
6. Consider approving the Exempt Gambling Application for the Red River Valley Pheasants Forever to hold a raffle on March 26, 2016 at the Eagles Club located at 227 10th St NW East Grand Forks, MN 56721 and waive the 30-day waiting period.

7. Consider approving the Exempt Gambling Application for the Red River Valley Pheasants Forever to hold a raffle on May 21, 2016 at the Eagles Club located at 227 10th St NW East Grand Forks, MN 56721 and waive the 30-day waiting period.

ACKNOWLEDGE RECEIPT OF REPORTS OF OFFICERS, BOARDS, AND COMMISSIONS:

8. Regular meeting minutes of the Water, Light, Power, and Building Commission for October 15, 2015.
9. Regular meeting minutes of the Economic Development Authority Board for October 20, 2015.

COMMUNICATIONS:

10. Acknowledge the veto of the three year contract between the City of East Grand Forks and Widseth Smith Nolting for engineering services.

OLD BUSINESS:

11. Reconsider approving the agreement between the City of East Grand Forks and Widseth Smith Nolting for engineering services for a three year term.
12. Reconsider approving the agreement between the City of East Grand Forks and Widseth Smith Nolting for engineering services for a one year term.

NEW BUSINESS:

13. Consider adopting Resolution No. 15-11-125 approving and adopting the Bygland Road Study and recommendations and to include this information in the Long Range Transportation Plan.
14. Consider adopting Resolution No. 15-11-126 ordering improvements and preparation of plans and specifications for 2016 Assessment Job No. 2 – Paving & Sidewalk Construction – Riverview 9th & 10th Additions.
15. Consider approving Ordinance No. 16, 4th Series establishing requirements and procedures relating to the granting of cable services franchises for use of public right-of-ways within the City of East Grand Forks (1st Reading).
16. Consider approving the franchise agreement between the City of East Grand Forks and Midcontinent Communications.

CLAIMS:

17. Consider adopting Resolution No. 15-11-127 authorizing the City of East Grand Forks to approve purchases from Hardware Hank the goods referenced in check numbers 22850 for a total of \$1,083.99 whereas Council Member Buckalew is personally interested financially in the contract.
18. Consider authorizing the City Administrator/Clerk-Treasurer to issue payment of recommended bills and payroll.

COUNCIL/STAFF REPORTS:

ADJOURN:

Upcoming Meetings:

Work Session – November 24, 2015 – 5:00 PM – Training Room
Regular Council Meeting – December 1, 2015 – 5:00 PM – Council Chambers
Work Session – December 8, 2015 – 5:00 PM – Training Room
Special Council Meeting – December 8, 2015 – Council Chambers

**UNAPPROVED MINUTES
OF THE CITY COUNCIL
CITY OF EAST GRAND FORKS
TUESDAY, NOVEMBER 3, 2015 - 5:00 P.M.**

CALL TO ORDER:

The Regular Meeting of the East Grand Forks City Council for November 3, 2015 was called to order by Council President Mark Olstad at 5:00 P.M.

CALL OF ROLL:

On a Call of Roll the following members of the East Grand Forks City Council were present: Mayor Lynn Stauss, Council President Mark Olstad, Council Vice-President Chad Grassel, Council Members Clarence Vetter, Mike Pokrzywinski, Craig Buckalew, Henry Tweten, and Marc DeMers.

Karla Anderson, Finance Director; Brad Bail, City Engineer; Greg Boppre, City Engineer; Dan Boyce, Water & Light Manager; Nancy Ellis, City Planner; Steve Emery, City Engineer; Ron Galstad, City Attorney; Paul Gorte, EDA Director; Mike Hedlund, Police Chief; Charlotte Helgeson, Library Director; Gary Larson, Fire Chief; David Murphy, City Administrator/Clerk-Treasurer; Megan Nelson, Executive Assistant; and Jason Stordahl, Public Works Director.

DETERMINATION OF QUORUM:

The Council President Determined a Quorum was present

PLEDGE OF ALLEGIANCE:

OPEN FORUM:

“An opportunity for members of the public to address the City Council on items not on the current Agenda. Items requiring Council action maybe deferred to staff or Boards and Commissions for research and future Council Agendas if appropriate.” If you would like to address the City Council, please come up to the podium to do so.”

APPROVAL OF MINUTES:

1. Consider approving the amended minutes from the “Regular Meeting for the East Grand Forks, Minnesota City Council of October 6, 2015.
2. Consider approving the minutes of the “Regular Meeting” for the East Grand Forks, Minnesota City Council of October 20, 2015.
3. Consider approving the minutes of the “Work Session” for the East Grand Forks, Minnesota City Council of October 27, 2015.

A MOTION WAS MADE BY COUNCIL MEMBER VETTER, SECONDED BY COUNCIL

MEMBER TWETEN, TO APPROVE ITEMS ONE (1) THROUGH THREE (3).

Voting Aye: DeMers, Vetter, Pokrzywinski, Buckalew, Tweten, Olstad, and Grassel.

Voting Nay: None.

SCHEDULED BID LETTINGS: NONE

SCHEDULED PUBLIC HEARINGS: NONE

CONSENT AGENDA:

Items under the "Consent Agenda" will be adopted with one motion; however, council members may request individual items to be pulled from the consent agenda for discussion and action if they choose.

4. Consider approving the request to declare three police vehicles as surplus and to be used to trade in on for the purchase of a 2016 Ford Police SUV from Nelson Ford Motors, Inc in Fergus Falls in the amount of \$27,998.95.
5. Consider approving the request to use the budgeted \$9,000 for rebuilding a police car to be used to outfit the new police SUV for approximately \$7,000 with the remaining funds being used for vehicle maintenance.
6. Consider approving the lease agreement between the City of East Grand Forks and RDO Equipment for the lease of a motor grader for the 2015-2016 winter season at \$3,950 per month plus \$40 per hour after 50 hours.
7. Consider adopting Resolution No. 15-11-115 approving an extension of the New Home Tax Rebate program for newly constructed homes through 2021.
8. Consider adopting Resolution No. 15-11-116 approving the hiring of Jeremy King as the Public Works Supervisor at a salary of \$23.29 per hour.
9. Consider approving the Exempt Gambling Application for the Knights of Columbus Council #5341 to hold a raffle on April 1, 2016 at Sacred Heart Catholic Church located at 200 3rd St NW East Grand Forks, MN 56721 and waive the 30-day waiting period.

A MOTION WAS MADE BY COUNCIL MEMBER TWETEN, SECONDED BY COUNCIL MEMBER GRASSEL, TO APPROVE ITEMS FOUR (4) THROUGH NINE (9).

Voting Aye: DeMers, Vetter, Pokrzywinski, Buckalew, Tweten, Olstad, and Grassel.

Voting Nay: None.

ACKNOWLEDGE RECEIPT OF REPORTS OF OFFICERS, BOARDS, AND COMMISSIONS:

10. Regular meeting minutes of the Water, Light, Power, and Building Commission for October 1, 2015.

11. Regular meeting minutes of the Economic Development Authority Board for September 15, 2015.

COMMUNICATIONS: NONE

OLD BUSINESS: NONE

NEW BUSINESS:

12. Consider adopting Resolution No. 15-11-117 giving the project preliminary approval and setting the public hearing for December 1, 2015.

A MOTION WAS MADE BY COUNCIL MEMBER BUCKALEW, SECONDED BY COUNCIL MEMBER POKRZYWINSKI, TO ADOPT RESOLUTION NO. 15-11-117 GIVING THE PROJECT PRELIMINARY APPROVAL AND SETTING THE PUBLIC HEARING FOR DECEMBER 1, 2015.

Voting Aye: DeMers, Vetter, Pokrzywinski, Buckalew, Tweten, Olstad, and Grassel.

Voting Nay: None.

13. Consider adopting Resolution No. 15-11-118 awarding the General Obligation Bonds, Series 2015A to _____.

A MOTION WAS MADE BY COUNCIL MEMBER TWETEN, SECONDED BY COUNCIL MEMBER POKRZYWINSKI, TO ADOPT RESOLUTION NO. 15-11-118 AWARDING THE GENERAL OBLIGATION BONDS, SERIES 2015A TO _____.

Ms. Brenda Krueger informed the Council the bids had been opened that morning, there were seven bids which is a large number of bids, and the best offer was made by D.A. Davidson at 1.75% for a 15 year bond. She reviewed other bids and stated how the results were slightly better than what had been presented and reminded the Council that included with the process was the refunding of two separate bonds which will give a \$300,000 of present value benefit or reduce the interest payment by approximately \$50,000 per year. She added a credit rating from Moody's was also requested and the City was given an A1 rating which is the top in the single A category with positive attributes to a growing tax base and the stability of the City's reserves and financial condition. She said one challenge to the City was the concentration of funds that come from American Crystal through taxes and as a large customer to the Water and Light Department. She thanked both Mr. Murphy and Ms. Anderson for their help during this process and recommended the City award the bid to D.A. Davidson.

Discussion followed about what the City would need to do in order to move up in the Moody's category, how that was a big step, and that it would reduce the interest rate of bonds. Ms. Krueger explained there are four categories that are looked at and how areas that would help the City move categories would be continued economic growth and diversification in revenue. Council member Tweten asked if a higher reserve would help and if the Water and Light reserve also helps. Ms. Krueger stated it was a factor in the A1 rating.

A MOTION WAS MADE BY COUNCIL MEMBER TWETEN, SECONDED BY COUNCIL MEMBER POKRZYWINSKI, TO ADOPT RESOLUTION NO. 15-11-118 AWARDDING THE GENERAL OBLIGATION BONDS, SERIES 2015A TO D.A DAVIDSON & COMPANY.

Voting Aye: DeMers, Vetter, Pokrzywinski, Buckalew, Tweten, Olstad, and Grassel.

Voting Nay: None.

14. Consider adopting Resolution No. 15-11-119 approving the loan from the Water and Light Department in the amount of \$2,122,529 for 20 years at 1% interest for the 12CP6 Pool Renovation Project.

A MOTION WAS MADE BY COUNCIL MEMBER TWETEN, SECONDED BY COUNCIL MEMBER GRASSEL, TO ADOPT RESOLUTION NO. 15-11-119 APPROVING THE LOAN FROM THE WATER AND LIGHT DEPARTMENT IN THE AMOUNT OF \$2,122,529 FOR 20 YEARS AT 1% INTEREST FOR THE 12CP6 POOL RENOVATION PROJECT.

Mr. Murphy informed the Council that this resolution is necessary to start the process for sales tax and that this will also go before the Water and Light Commission for approval.

Voting Aye: DeMers, Vetter, Pokrzywinski, Buckalew, Tweten, Olstad, and Grassel.

Voting Nay: None.

15. Consider approving the agreement between the City of East Grand Forks and Widseth Smith Nolting for engineering services.

A MOTION WAS MADE BY COUNCIL MEMBER DEMERS, SECONDED BY COUNCIL MEMBER POKRZYWINSKI, TO APPROVE THE AGREEMENT BETWEEN THE CITY OF EAST GRAND FORKS AND WIDSETH SMITH NOLTING FOR ENGINEERING SERVICES.

Council member Buckalew stated it would be in the best interest of the constituents to have a three year contract with the same terms because of the commitment of this firm to the community as an employer and many being residents of, how this firm has helped the Council make decisions without forcing a decision of the Council, brought in experts in specific fields to help answer questions without being charged extra, and that the contract was negotiated over a five month period with the City Administrator and not a one hour meeting. He said the fees included are the same as other contracts the City had signed and WSN knows the system since they have helped design the system for the last 53 years. He asked if a consensus could be reached on what is needed for engineering services, laid out an estimated timeline on what it would be to hire another company and asked how long of a contract the Council would allow with a new firm. He added this was not the way to treat business partners or fellow constituents. He reviewed economic impact this firm has on this City and then asked to amend the motion.

A MOTION WAS MADE BY COUNCIL MEMBER BUCKALEW, SECONDED BY COUNCIL MEMBER GRASSEL, TO AMEND THE MOTION TO EXTEND THE SAME CONTRACT TERMS IN THE PROPOSED ONE YEAR CONTRACT TO A THREE YEAR

CONTRACT.

Council member Vetter stated the Council had agreed to a one year contract at the last work session. He said that he would have voted for a one year contract but with this amendment he will not be voting for either a three year or one year contract. He added how changing garbage collection saved the City over \$100,000 in five years but the City is not willing to look at changing engineering services so he will no longer vote for this. Council member Tweten stated he would not be voting for this. He said the City has reached the size where the City could save money and the Council has the responsibility to save money so it should not lock in with anyone. He added how there is differences of opinion on the Council but for the best interest of the City he will be voting no.

Council member Pokrzywinski said the engineering firm designed a system to treat sewage that saved the residents 25 million dollars and if anyone wants to know what the debate is about they should look at that how that vote went. Council member DeMers informed the Council that he is in favor of a three year contract because it is the in the best interest of the City, that it is the most cost effective route to go, and a year is not necessary for a cost analysis. He stated he had spoken with Ms. Anderson, received numbers of what had been paid to the firm since 2011. He said 2011 the City paid \$288,225, in 2012 the City paid \$418,428, in 2013 the City paid \$144,761, in 2014 the City paid \$594,947, and up to about July of 2015 the City had paid \$94,000. He said the approximate four year average was \$361,615.51 without including 2015 that is paid yearly to the engineering firm. He asked the Council to contrast that to the City opening up to their own engineering office, stated who may be employed with estimated salaries and costs to run the office along with other software and equipment which he estimated would cost approximately \$500,000 on an ongoing basis and challenged the idea the City would be saving money by hiring engineering staff. He added that he is in favor of a three year contract with the contracted business the City is currently using.

Council member Vetter stated he appreciated the numbers and pointed out if the City had a \$500,000 budget for engineering they could have saved \$21,000 just based on the project specific information provided by the engineers which are paid for through special assessments. He continued with general services that are paid for from the general fund for \$64,000. He said that Water and Light also had \$11,000 in general services so that could have been another \$75,000 saved, adding that to \$21,000 the City would have saved \$98,000 in one year if the budget was \$500,000. Council member DeMers said that 2014 was the most the City had spent and looking back further it was less per year. Council member Vetter said the Council had looked into other cities of similar size whose budgets ranged from \$300,000 up to \$700,000 and if the City took a year to look at this the budget could be closer to \$300,000. He added that none of the Council members are engineers and none of them know if the projects coming forward are what the City needs or are appropriate at that time. He said that is why the City needs an engineer on staff that can let the Council know what is needed and if it is necessary to hire another engineer who would then be supervised by the City Engineer. Council member DeMers said the City can turn down projects if the services are contracted where as if the City is not completing projects they will still have to pay for the engineer's salary. Council member Tweten stated there are many upcoming projects, the City will be having good years, and the question is it this is good business for the City.

Council Vice-President Grassel stated he was always in favor of the three year contract. He said the service speaks for itself. He added how all kinds of numbers can be thrown in but the bottom line is

that this firm has provided great service for the last 50 years and that he will be voting for the three year contract. Council President Olstad reminded the Council there was a motion on the floor to amend the motion to a three year contract.

Voting Aye: DeMers, Pokrzywinski, Buckalew, Olstad, and Grassel.

Voting Nay: Vetter and Tweten.

A MOTION WAS MADE BY COUNCIL MEMBER DEMERS, SECONDED BY COUNCIL MEMBER POKRZYWINSKI, TO APPROVE THE AGREEMENT BETWEEN THE CITY OF EAST GRAND FORKS AND WIDSETH SMITH NOLTING FOR ENGINEERING SERVICES FOR THREE YEARS.

Mayor Stauss informed the Council that he will be vetoing the three year contract. He stated how the City Administrator and Council members Vetter and Tweten had brought up items and questions that need to be looked into and answered. He added how there is nothing to say Widseth Smith Nolting won't get another contract with the City but the questions need to be answered and it won't hurt anyone going with a one year contract. Mayor Stauss said there wasn't a question about continuing services with the engineering firm regarding the interconnect project but at this time he is in favor of a one year contract. Discussion followed about what some of the questions were.

Council President Olstad commented that the contract contains the language regarding the 30 day notification to end services so there is still an out. He added how the three year contract is the way to go and is the best thing since there is language allowing a 30 day notice to terminate the contract. Council member DeMers commented how the last couple contracts had been for three years. Council President Olstad stated that if there were questions they should have been brought forward before now.

Voting Aye: DeMers, Pokrzywinski, Buckalew, Olstad, and Grassel.

Voting Nay: Vetter and Tweten.

16. Consider approving and authorizing Widseth Smith Nolting Engineers to continue and complete Phases One and Two of the Waste Water Interconnect and the decommissioning of the ponds.

A MOTION WAS MADE BY COUNCIL MEMBER BUCKALEW, SECONDED BY COUNCIL MEMBER GRASSEL, TO APPROVE AND AUTHORIZE WIDSETH SMITH NOLTING ENGINEERS TO CONTINUE AND COMPLETE PHASES ONE AND TWO OF THE WASTE WATER INTERCONNECT AND THE DECOMMISSIONING OF THE PONDS.

Voting Aye: DeMers, Vetter, Pokrzywinski, Buckalew, Olstad, and Grassel.

Voting Nay: Tweten.

17. Consider approving the request to hire a temporary seasonal laborer for the Public Works Department.

A MOTION WAS MADE BY COUNCIL MEMBER DEMERS, SECONDED BY COUNCIL MEMBER TWETEN, TO APPROVE THE REQUEST TO HIRE A TEMPORARY SEASONAL LABORER FOR THE PUBLIC WORKS DEPARTMENT.

Voting Aye: DeMers, Vetter, Pokrzywinski, Buckalew, Tweten, Olstad, and Grassel.

Voting Nay: None.

18. Consider approving the request to hire a temporary administrative assistant for the Police Department.

A MOTION WAS MADE BY COUNCIL MEMBER TWETEN, SECONDED BY COUNCIL MEMBER GRASSEL, TO APPROVE THE REQUEST TO HIRE A TEMPORARY ADMINISTRATIVE ASSISTANT FOR THE POLICE DEPARTMENT.

Voting Aye: DeMers, Vetter, Pokrzywinski, Buckalew, Tweten, Olstad, and Grassel.

Voting Nay: None.

19. Consider adopting Resolution No. 15-11-120 entering into an agreement between the City of East Grand Forks and the MN Department of Public Safety for traffic safety projects from November 16, 2015 through September 30, 2016.

A MOTION WAS MADE BY COUNCIL MEMBER VETTER, SECONDED BY COUNCIL MEMBER BUCKALEW, TO ADOPT RESOLUTION NO. 15-11-120 ENTERING INTO AN AGREEMENT BETWEEN THE CITY OF EAST GRAND FORKS AND THE MN DEPARTMENT OF PUBLIC SAFETY FOR TRAFFIC SAFETY PROJECTS FROM NOVEMBER 16, 2015 THROUGH SEPTEMBER 30, 2016.

Voting Aye: DeMers, Vetter, Pokrzywinski, Buckalew, Tweten, Olstad, and Grassel.

Voting Nay: None.

20. Consider adopting Resolution No. 15-11-121 authorizing the order that the following costs, with interest charged at 10% per year beginning on January 1, 2016 for mowing grass on the listed properties be certified to the County Auditor for collection with the 2016 real estate taxes.

A MOTION WAS MADE BY COUNCIL MEMBER BUCKALEW, SECONDED BY COUNCIL MEMBER TWETEN, TO ADOPT RESOLUTION NO. 15-11-121 AUTHORIZING THE ORDER THAT THE FOLLOWING COSTS, WITH INTEREST CHARGED AT 10% PER YEAR BEGINNING ON JANUARY 1, 2016 FOR MOWING GRASS ON THE LISTED PROPERTIES BE CERTIFIED TO THE COUNTY AUDITOR FOR COLLECTION WITH THE 2016 REAL ESTATE TAXES.

Voting Aye: DeMers, Vetter, Pokrzywinski, Buckalew, Tweten, Olstad, and Grassel.

Voting Nay: None.

CLAIMS:

21. Consider adopting Resolution No. 15-11-122 authorizing the City of East Grand Forks to approve purchases from Hardware Hank the goods referenced in check numbers 22758 for a total of \$242.00 whereas Council Member Buckalew is personally interested financially in the contract.

A MOTION WAS MADE BY COUNCIL MEMBER TWETEN, SECONDED BY COUNCIL MEMBER POKRZYWINSKI, TO ADOPT RESOLUTION NO. 15-11-122 AUTHORIZING THE CITY OF EAST GRAND FORKS TO APPROVE PURCHASES FROM HARDWARE HANK THE GOODS REFERENCED IN CHECK NUMBERS 22758 FOR A TOTAL OF \$242.00 WHEREAS COUNCIL MEMBER BUCKALEW IS PERSONALLY INTERESTED FINANCIALLY IN THE CONTRACT.

Voting Aye: DeMers, Vetter, Pokrzywinski, Tweten, Olstad, and Grassel.
Voting Nay: None.
Abstain: Buckalew.

22. Consider authorizing the City Administrator/Clerk-Treasurer to issue payment of recommended bills and payroll.

A MOTION WAS MADE BY COUNCIL MEMBER GRASSEL, SECONDED BY COUNCIL MEMBER DEMERS, TO AUTHORIZE THE CITY ADMINISTRATOR/CLERK-TREASURER TO ISSUE PAYMENT OF RECOMMENDED BILLS AND PAYROLL.

Voting Aye: DeMers, Vetter, Pokrzywinski, Buckalew, Tweten, Olstad, and Grassel.
Voting Nay: None.

COUNCIL/STAFF REPORTS:

Mayor Stauss said the Council had discussed implementing a sales tax and that it was important to get that passed. He added how there had also been discussion on including splash parks and that how research needs to be done to see if there should be one or two, what the costs of the project will be, as well as the operation costs. He said that he would go along with this it is done right and that they will have all of the necessary numbers.

Council Member Vetter informed the Council that all of the flower pots in Crookston had been sponsored by local businesses and found that interesting. He also reminded people to vote on the school referendum and that the polls were open until 8:00pm.

Council Member Pokrzywinski stated he was disappointed the mediation with the Boardwalk was delayed and that he is concerned that the uncertainty is harming their business and he is hoping to have this taken care of sooner rather than later.

Council Member Tweten commented how important the election was for the school, how the State has made things difficult and forced school referendums for funding. He mentioned many of the different kinds of taxes the State collects. He said that representatives from the City were going attend the Coalition of Greater Minnesota Cities Conference, that he is a strong believer in education, and urged the Council to support the expansion of Sacred Heart School. He encouraged people get out and vote.

Council member DeMers commented that it was important to get out and vote. He continued by asking for an agenda item requesting the City Engineers to put together a feasibility study for a splash park to be added to the work session agenda so the Council may give direction or take action.

Council President Olstad stated he would be attending the Coalition Meeting on November 12th and

13th and one of the agenda items to be discussed was LGA.

Mr. Boppre thanked the Council for their kind comments; they were appreciated, and if the Mayor did move forward with his veto and they would continue on a one year contract. He added he didn't take this lightly and if there was a one year contract they would continue to provide good service to the community.

ADJOURN:

A MOTION WAS MADE BY COUNCIL MEMBER BUCKALEW, SECONDED BY COUNCIL MEMBER DEMERS, TO ADJOURN THE NOVEMBER 3, 2015 COUNCIL MEETING OF THE EAST GRAND FORKS, MINNESOTA CITY COUNCIL AT 5:42 P.M.

Voting Aye: DeMers, Vetter, Pokrzywinski, Buckalew, Tweten, Olstad, and Grassel.

Voting Nay: None.

David Murphy, City Administrator/Clerk-Treasurer

**UNAPPROVED MINUTES
OF THE COUNCIL SPECIAL MEETING
CITY OF EAST GRAND FORKS
TUESDAY, NOVEMBER 10, 2015 - 5:00 P.M.**

CALL TO ORDER:

The Special Meeting of the East Grand Forks City Council for November 10, 2015 was called to order by Council President Mark Olstad at 5:00 P.M.

CALL OF ROLL:

On a Call of Roll the following members of the East Grand Forks City Council were present: Mayor Lynn Stauss, Council President Mark Olstad, Council Vice-President Chad Grassel, Council Members Clarence Vetter, Mike Pokrzywinski, Craig Buckalew, Henry Tweten, and Marc DeMers.

Dave Aker, Parks & Recreation Superintendent; Karla Anderson, Finance Director; Brad Bail, City Engineer; Greg Boppre, City Engineer; Dan Boyce, Water & Light Manager; Nancy Ellis, City Planner; Steve Emery, City Engineer; Ron Galstad, City Attorney; Paul Gorte, EDA Director; Mike Hedlund, Police Chief; Charlotte Helgeson, Library Director; Teri Kouba, MPO Planner; Gary Larson, Fire Chief; David Murphy, City Administrator/Clerk-Treasurer; and Megan Nelson, Executive Assistant.

DETERMINATION OF QUORUM:

The Council President Determined a Quorum was present

SCHEDULED PUBLIC HEARINGS:

1. Public Hearing regarding the special assessments for 2015 Assessment Job No. 3 – Street Improvements for a total assessment of \$713,096.30

A MOTION WAS MADE BY COUNCIL MEMBER GRASSEL, SECONDED BY COUNCIL MEMBER DEMERS, TO OPEN THE PUBLIC HEARING.

Voting Aye: Vetter, Pokrzywinski, Buckalew, Tweten, Olstad, Grassel, and DeMers.

Voting Nay: None.

Mr. Steve Emery gave an overview of the project, explained how the street maintenance is on a seven to ten year cycle, and the breakdown of the project costs that were going to be assessed to were \$197,885.19 for seal coat and \$515,211 for mill and overlay. He then asked for questions.

Council President Olstad asked those who like to speak to stand at the podium, state their name and address. Mr. Dave Upham, 2009 River Road NW, thanked President Olstad, Vice-President Grassel and members of WSN for meeting with him and some of his neighbors. He stated they aren't trying to get out of paying their fair share and asked why the length of the assessment

couldn't be ten years instead of seven. He also mentioned how there is a lot of traffic on this road and that speed is an issue. Mayor Stauss asked the engineers what could be done in regards to changing this to 10 years. Mr. Emery stated street maintenance projects usually are done every seven to ten years. Mayor Stauss said he would hate to agree with allowing a 10 year term and then need to complete a street maintenance project in seven years so the property owner would still be paying on the previous project. Mr. Emery explained that is why the City had set the policy of assessing street maintenance projects for seven years. He added the roads that had received a seal coat will more than likely receive a mill and overlay the next time and the mill and overlay streets would receive a seal coat. He ended by saying how these projects are better and more affordable than to replace the street itself. Mr. Upham commented that the road was in good shape before the project was completed.

Council member Pokrzywinski said the Council can't predict what future Councils will do, that he is not sure if the payments could be stretched out, and that it was a reasonable request. Discussion followed about how extending the payoff time would affect the bond payment and how some residents have already paid off their special assessments. Mr. Galstad stated he would have to look into this matter to determine what actions the Council would be allowed to take. Mr. Upham also commented that he hadn't received the first notice for this project and commented about the letter he had received informing him the City had failed to notify him about the initial hearing. He added that he can't do business like that and the City shouldn't be doing business like that. Council President Olstad stated that Mr. Upham should have been notified, he didn't know why he hadn't received a notice, and that he understands his frustration. More discussion followed about how River Road was a part of the state aid system. Mr. Galstad reminded those present at the meeting this was their opportunity to object and that they would have 30 days to appeal to the court system once the assessment roll was adopted.

Mr. Todd Schlieve, 1628 20th St NW, stated he had only received one registered letter and asked why the term couldn't be extended out to ten years. Council member DeMers asked if the seal coat and mill and overlay project could be split and to lengthen the term on the mill and overlay project. Mr. Galstad stated that this project had been advertised as one project so that is something he would have to check on. Council member DeMers added that extending the length of the term to 10 years may delay maintenance in the future. Mayor Stauss commented how everything is increasing, that he is very concerned, and the City should help if possible. Council Vice-President Grassel commented how there were only five people that attended the hearing and asked how many more people didn't attend. He added how the last project was done in 2006, this project was done better than the last one so it should last longer, and he did not see why the term couldn't be stretched out. He asked to see if the two projects could be split if possible.

Ms. Jolynn Vasichuk, 1303-1305 20th St NW, stated she owned the duplex and that they did not have any access onto the street just the alley. She asked if there was special consideration given to those who parked in the alley and didn't use the street. Council member Pokrzywinski stated both the fire department and police department would use the street if needed.

Mr. Upham asked how many streets had mill and overlay this year. Mr. Emery said there were 12 or 13 blocks that received a mill and overlay and there had been approximately 600 residents

that had been affected by this project. Council member DeMers commented how the Council had considered implementing a street maintenance fee and asked for input from residents on what they thought about that. Council member Buckalew explained what Council member DeMers was referring to was a street improvement district but currently State statutes do not allow this.

Mr. James Peltier, 2015 River Road NW, stated he lives across from both the Good Sam and the cemetery. He commented how the room was full at the first hearing, how it was said there were errors, he understood end benefit, but it would be better if everyone was paying the same in the neighborhood. Mr. Emery explained the City assessment policy was used to when figuring out the assessment roll. Mr. Peltier stated they didn't get all of the sheets of the assessment roll and that the explanation did not ease having to pay for sidewalks and driveways which they shouldn't have to pay for. Mr. Emery said there were state aid funds being used to pay for a portion of the mill and overlay project.

Mr. Justin Hallin, 2021 River Road NW, commented on the beet truck traffic that uses this road and asked why that traffic wouldn't use roads to the east. He also asked about lowering the speed limit on River Road. Council President Olstad stated he had talked with WSN and City staff to find answers to some of these questions. Mr. Emery added that since it is a state aid road they can't keep trucks off the road unless this stretch of road is taken off of the state aid system. Mr. Hallin said they were asking for ten years and what would happen if road maintenance is needed in five years instead of seven.

A MOTION WAS MADE BY COUNCIL MEMBER DEMERS, SECONDED BY COUNCIL MEMBER BUCKALEW, TO CLOSE THE PUBLIC HEARING.

Voting Aye: Vetter, Pokrzywinski, Buckalew, Tweten, Olstad, Grassel, and DeMers.
Voting Nay: None.

NEW BUSINESS:

2. Consider adopting Resolution No. 15-11-123 adopting the assessment roll #335 for 2015 Assessment Job No. 3 – Street Improvements – North Side of the City for a total assessment of \$713,096.30.

Discussion about how there is a limited amount of time to determine what the Council's options are and how residents are given 30 days from the time the assessment roll is adopted to pay their assessments. Council member DeMers asked how long it would take to determine what the Council's options are. Mr. Galstad stated he would be able to find the information the following day. More discussion followed about when the Council would be able to meet and adopt the assessment roll.

ADJOURN:

A MOTION WAS MADE BY COUNCIL MEMBER DEMERS, SECONDED BY COUNCIL MEMBER BUCKALEW, TO ADJOURN THE NOVEMBER 10, 2015

**SPECIAL MEETING OF THE EAST GRAND FORKS, MINNESOTA CITY COUNCIL
AT 5:46PM UNTIL 5:00PM ON THURSDAY, NOVEMBER 12TH, 2015 WHEN THE
MEETING WILL RECONVENE IN THE TRAINING ROOM AT CITY HALL.**

Voting Aye: Vetter, Pokrzywinski, Buckalew, Tweten, Olstad, Grassel, and DeMers.

Voting Nay: None.

David Murphy, City Administrator/Clerk-Treasurer

**UNAPPROVED MINUTES
OF THE CITY WORK SESSION
CITY OF EAST GRAND FORKS EAST GRAND FORKS
TUESDAY, NOVEMBER 10, 2015 – Following Special Meeting**

CALL TO ORDER:

The Work Session of the East Grand Forks City Council for November 10, 2015 was called to order by Council President Mark Olstad at 5:52 P.M.

CALL OF ROLL:

On a Call of Roll the following members of the East Grand Forks City Council were present: Mayor Lynn Stauss, Council President Mark Olstad, Council Vice-President Chad Grassel, Council Members Clarence Vetter, Mike Pokrzywinski, Craig Buckalew, Henry Tweten, and Marc DeMers.

Dave Aker, Parks & Recreation Superintendent; Karla Anderson, Finance Director; Dan Boyce, Water & Light Manager; Nancy Ellis, City Planner; Ron Galstad, City Attorney; Paul Gorte, EDA Director; Mike Hedlund, Police Chief; Charlotte Helgeson, Library Director; Teri Kouba, MPO Planner; Gary Larson, Fire Chief; David Murphy, City Administrator/Clerk-Treasurer; and Megan Nelson, Executive Assistant.

DETERMINATION OF A QUORUM:

The Council President Determined a Quorum was present

Council member Tweten introduced Mr. Charles Murphy to the Council and asked him a few questions. Mr. Murphy informed the Council that he has lived in the community for nine years, that he is thankful for living here, and explained the Fire Department helped save his life. He said they did good work, had good training, and the ambulance service was very complimentary of them also and wanted to praise them for a good job. Council member Pokrzywinski added it is a good service and how he had to call them for help recently for his father. A brief discussion followed about how the Fire Department had been on approximately 850 calls already for the year. Council member Buckalew commented that Mr. Murphy was a great example for the younger people of the community because of how he gives back to the community.

1. Downtown Tenant Parking Request – Megan Nelson

Ms. Nelson stated she was going to turn it over to Mr. Raymond. Mr. David Raymond introduced himself as the general manager of Whitey's. He explained the tenants that lived above Whitey's had parked in the Cabela's parking lot. He stated there had been an understanding with previous management of Cabela's but that was no longer allowed. He stated how there isn't a place to park downtown overnight without being ticketed or towed. Council member DeMers commented how he is not in favor of designating parking spots. Discussion followed about how currently there are not any areas in the downtown that allow overnight parking, how if there is overnight parking allowed they may be issues with snow removal, and how the parking lot just west of the Cabela's parking lot may be the location to use.

Mr. Murphy stated this area could be declared as overnight parking. Ms. Ellis asked that one side of that parking lot be allowed to have overnight parking. Mr. Galstad commented the Council may want to consider revisiting the parking ordinances at a future meeting. Chief Hedlund stated the only issue he sees is with maintenance which may cause more work for the Public Works Department. Council member Vetter asked to have an understanding that this area will not be ticketed, towed, or signed, and that they will work with Public Works regarding snow removal.

2. Bygland Road Study – Teri Kouba

Ms. Kouba reminded the Council recommendations were brought forward, that some had been changed some of the items to near term. She added that input from the public was included in the executive summary. She said she was asking the Council to move forward and adopt these items and include them with the long range transportation plan.

This item will be referred to a City Council Meeting for action.

3. Sunshine Terrace Purchase Offer – Nancy Ellis

Ms. Ellis informed the Council that a proposal had been received from the Northwest Minnesota Housing Authority regarding their interest to purchase the Sunshine Terrace. She said the City does not currently have a policy on selling property and that the EDA Board wanted to see if the City was interested in selling before moving forward with anything. Council member Tweten informed the Council about the establishment of the housing authority; that Ms. Ellis was handling things well, and the City should not sell Sunshine Terrace. Council Vice-President Grassel told the Council that the EDA Board didn't want to spend any money before making sure the Council would be interested in selling the building and they had voted six in favor with one opposing to sell Sunshine Terrace. He said the building is currently cash flowing but there may be things coming up since the building is aging. Discussion followed about how Sunshine Terrace is owned by the City, the City should make the decisions regarding if there should be a sale or not, if there are any stipulations that may prevent the sale of the property, and how the City would have to see an offer before moving forward with anything else.

4. Rental Lease Agreement with NWMNHRA – Nancy Ellis

Ms. Ellis reminded the Council how the Housing Authority had space in City Hall and the first year only paid for their IT, phone, and other utilities. She explained she had received a proposal from them to rent their current space for \$600 per month which was approximately \$7 per square foot and asked the Council for their input. Discussion followed about how the rent was going to be increasing at the Infill Building and other renters at City Hall were paying over \$10 per square foot. After some discussion staff was instructed to bring back what others were paying in the building.

5. 2016 City Budget Update – David Murphy

Mr. Murphy informed the Council that based on the proposed levy there was still going to be a shortfall of approximately \$50,000 in the budget. He stated staff had been working on ideas and there were four items that would be pushed back or reduced like the suburban for the fire department and publicity for the Park and Recreation Department. He said these reductions totaled \$56,700 which

covered the difference and asked for questions. Council Vice-President Grassel asked to have information brought forward on what impact the levy had over the last few years. Ms. Anderson stated she had handed the information about the tax rate out at a meeting but would get that information for the Council again.

6. Sales Tax Discussion – David Murphy

Mr. Murphy asked for final direction from Council in regards to the sales tax since it is close to the time when the City would need to notify the County about the election. Council member DeMers stated he had asked to have an agenda item added about the feasibility study for a splash park. Ms. Nelson apologized for not including that item on the agenda. Discussion followed about how the engineers had some information since a splash park had been included in one of the designs for a north end park, how the City could get information about the costs for the Grand Forks Splash parks, and that the City would need more specific numbers. Mayor Stauss added that the Council will also need to pick out a location to determine if other facilities such as a bathroom would also need to be included. Council member DeMers suggested building a splash park behind the VFW since there were already shelters and bathrooms available. More discussion followed about making sure the information includes an operations budget as well as a replacement budget. Council member Buckalew also suggested a location of Nash Park for a splash park.

7. Discussion about December 8th Meeting – David Murphy

Mr. Murphy reminded the Council that the City's truth and taxation hearing is usually the first Tuesday in December. He stated Polk County was scheduled to hold their truth and taxation hearing on the same day and asked the City to change days. He added the City will be holding its truth and taxation meeting on December 8th instead. Ms. Nelson also asked if the Council would like to hold the work session at the same time as the hearing or if they would like to hold the work session at the regular time and come back for the 7:00pm hearing. After a brief discussion the Council decided to hold the work session at the regular time and return for the hearing at 7:00pm.

ADJOURN:

A MOTION WAS MADE BY COUNCIL MEMBER DEMERS, SECONDED BY COUNCIL MEMBER VETTER, TO ADJOURN THE NOVEMBER 10, 2015 WORK SESSION OF THE EAST GRAND FORKS, MINNESOTA CITY COUNCIL AT 7:05 P.M.

Voting Aye: Vetter, Pokrzywinski, Buckalew, Tweten, Olstad, Grassel, and DeMers.

Voting Nay: None.

David Murphy, City Administrator/Clerk-Treasurer

Request for Council Action

Date: September 14, 2015

To: East Grand Forks City Council, Mayor Lynn Stauss, President Mark Olstad, Council Vice President Chad Grassel, Council Members: Clarence Vetter, Henry Tweten, Marc Demers, Craig Buckalew and Mike Pokrzywinski.

Cc: File

From: Steve Emery, P.E.

RE: Report of Feasibility
Concrete Paving and Sidewalk Construction Riverview Lane
Riverview 9th & 10th Addition

Background:

We would like to file the Report of Feasibility for the above referenced project. As per the discussions from the 9/08/15 Work Session we have added into the Report Concrete Sidewalk Construction.

Recommendation:

Approve the Report of Feasibility and set Date for an Improvement Hearing.

Enclosures:

Report of Feasibility with project map
Engineers Estimate of Project Costs
Preliminary Assessment Roll



East Grand Forks
1600 Central Avenue NE
East Grand Forks, MN 56721-1570

218.773.1185 
218.773.3348 
EastGrandForks@wsn.us.com 

WidethSmithNolting.com

September 14, 2015

Honorable Mayor and City Council
City of East Grand Forks
PO Box 373
East Grand Forks, MN 56721

RE: Report of Feasibility
Estimate of Cost and Areas Proposed to be Assessed
Concrete Paving and Sidewalk Construction – Riverview 9th and 10th Addition
East Grand Forks, MN

Dear Members of the Council:

We have as directed by the Developer made an investigation as to the feasibility of paving Riverview Lane within the Riverview 9th and 10th Addition. As per the development agreement (dated July 17, 2012) all streets shall be completed within 3 years of the signed agreement. Also included as part of this study is construction of concrete sidewalks. We have identified the project needs as follows:

Concrete Paving

The proposed project will involve salvaging of the existing gravel driving surface and furnishing and placement of 7" non-reinforced concrete paving. Also, as part of the project the existing concrete curb and gutter would be reviewed and any damaged or settled curb and gutter would be replaced prior to the concrete paving being completed.

The estimated total project costs for the concrete paving is \$408,921.92. The estimated total project cost to be assessed is \$395,621.60 as salvaging of the in place aggregate surfacing is not assessed and will be given to the City Public Works Department. The estimated assessment rate is \$135.00 per front foot benefit.

Sidewalk Construction

As part of the project those lots which do not currently have sidewalk will receive sidewalk and shall be assessed for the overall project costs. The construction plan would include excavation, 2" aggregate base, 4" concrete sidewalk (5' wide) and reseeding of all disturbed areas.

The estimated total project cost for the concrete sidewalk construction is \$26,025.89. The estimated assessment rate is \$12.64 per front foot benefit.

Areas Proposed to be Assessed

Riverview 10th Addition

Block 1 Lots 1-19

Block 2 Lots 1-12

Riverview 9th Addition

Block 2 Lot 11

Block 3 Lots 1 & 2

Project Financing

As part of the development agreement the city shall assess the cost of the public involvements, together with administrative, planning, engineering, capitalized interest, legal and bonding costs.

The city may reimburse itself for all or a portion of the project costs from the sale of tax exempt bonds.

Conclusions and Recommendations

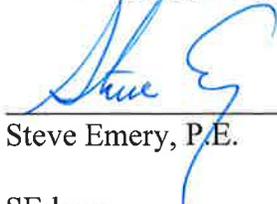
From the results of the Feasibility Study it can be concluded that:

1. The project as described is feasible as it relates to general engineering principles, practices and construction procedures.
2. The proposed improvements will provide improved drainage of the street surface, an improvement in all weather access as well as an improvement in aesthetics and an overall increase in property value.

Therefore, it is our recommendation that the City Council approve the Report of Feasibility and proceed with an Improvement Hearing.

If you have any questions, or if additional information is needed, please contact our office.

Respectfully yours,
Widseth Smith Nolting & Associates, Inc.



Steve Emery, P.E.

SE:kmu

ENGINEERS ESTIMATE
Concrete Paving
RiverView Lane
Riverview 9th & 10th Addition
East Grand Forks, MN

8/26/2015

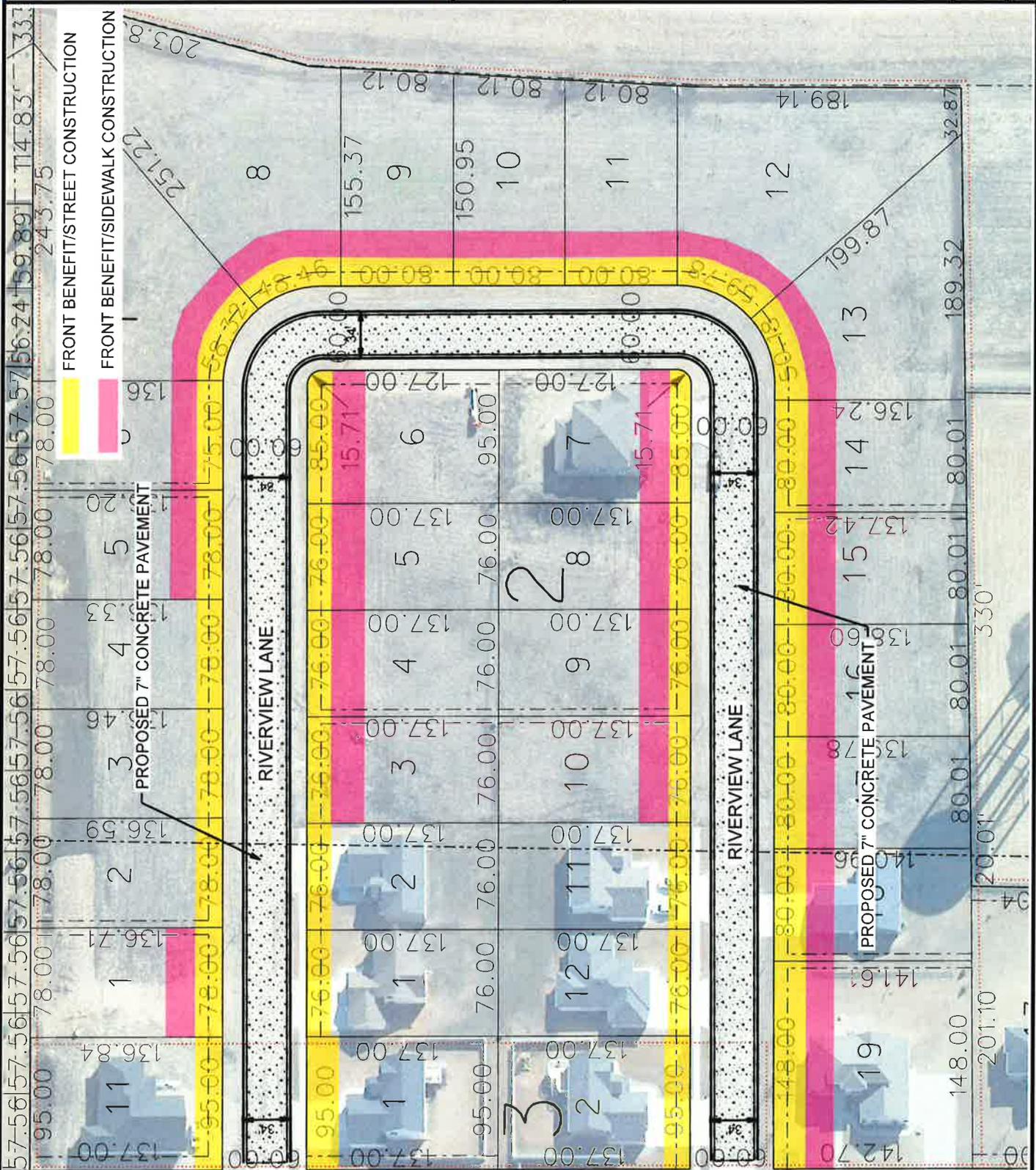
ITEM NO.	ITEM DESCRIPTION	Unit	Quantity	UNIT PRICE	AMOUNT
015526	Mobilization	LS	1	\$ 5,000.00	\$ 5,000.00
015526	Traffic Control	LS	1	\$ 2,500.00	\$ 2,500.00
015713	Storm Drain Inlet Protection	EA	4	\$ 150.00	\$ 600.00
024100	Remove Curb and Gutter	LF	100	\$ 10.00	\$ 1,000.00
312200	Salvage Aggregate Surfacing	CY	916	\$ 12.00	\$ 10,992.00
321600	7" Concrete Pavement	SY	4710	\$ 65.00	\$ 306,150.00
321600	Concrete Curb and Gutter, Design B624	LF	100	\$ 30.00	\$ 3,000.00
321600	Reinforcement Bars (Epoxy Coated)	LBS	2964	\$ 2.50	\$ 7,410.00
321600	Adjust Manhole Casting Assembly	EA	2	\$ 500.00	\$ 1,000.00
329219	Turf Establishment	SY	25	\$ 12.00	\$ 300.00
SUBTOTAL CONSTRUCTION					\$ 337,952.00
ENGINEERING, ADMINISTRATION, LEGAL AND CONTINGENCIES					\$ 70,969.92
TOTAL ESTIMATED PROJECT COST					\$ 408,921.92

ENGINEERS ESTIMATE

Concrete Sidewalks
RiverView Lane
Riverview 9th & 10th Addition
East Grand Forks, MN

8/26/2015

ITEM NO.	ITEM DESCRIPTION	Unit	Quantity	UNIT PRICE	AMOUNT
312200	Common Excavation	CY	242	\$ 12.00	\$ 2,904.00
321123	Aggregate Base, Class 5	CY	80	\$ 40.00	\$ 3,200.00
321600	4" Concrete Sidewalk	SY	1200	\$ 8.00	\$ 9,600.00
329219	Turf Establishment	SY	1935	\$ 3.00	\$ 5,805.00
SUBTOTAL CONSTRUCTION					\$ 21,509.00
ENGINEERING, ADMINISTRATION, LEGAL AND CONTINGENCIES					\$ 4,516.89
TOTAL ESTIMATED PROJECT COST					\$ 26,025.89



**ASSESSMENT ROLL - PRELIMINARY
 CONCRETE PAVING / SIDEWALK - RIVERVIEW LANE
 RIVERVIEW 9TH & 10TH ADDITION
 EAST GRAND FORKS, MINNESOTA**

Street Construction	
Construction	\$326,960.00
Plans & Specifications	\$29,426.40
Staking & Inspection	\$16,348.00
Assessment Roll	\$3,269.60
Administration	\$9,808.80
Contingencies	<u>\$9,808.80</u>
TOTAL	\$395,621.60
Front Footage's	
RIVERVIEW 10TH ADDITION	2,645.44
RIVERVIEW 9TH ADDITION	<u>285.00</u>
TOTAL	2,930.44
Front Assessment Rate	\$135.0041632 / front foot

Sidewalk Construction	
Construction	\$21,509.00
Plans & Specifications	\$1,935.81
Staking & Inspection	\$1,075.45
Assessment Roll	\$215.09
Administration	\$645.27
Contingencies	<u>\$645.27</u>
TOTAL	\$26,025.89
Front Footage's	
RIVERVIEW 10TH ADDITION	2,058.44
RIVERVIEW 9TH ADDITION	<u>0.00</u>
TOTAL	2,058.44
Front Assessment Rate	\$12.6435019 / front foot

ASSESSMENT ROLL - PRELIMINARY
CONCRETE PAVING / SIDEWALKS - RIVERVIEW LANE
RIVERVIEW 9TH & 10TH ADDITION
EAST GRAND FORKS, MINNESOTA

PARCEL No.	OWNER	DESCRIPTION	Street Construction FRONT FOOTAGE	\$ FRONT BENEFIT 135.0041632	Sidewalk Construction FRONT FOOTAGE	\$ FRONT BENEFIT 12.64350188	TOTAL ASSESSMENT BEFORE INTEREST
RIVERVIEW 10TH ADD							
R 83.04400.00	CRARY DEVELOPMENT INC	Lot-001 Block-001	78.00	\$10,530.32	78.00	\$986.19	\$11,516.51
R 83.04401.00	CRARY DEVELOPMENT INC	Lot-002 Block-001	78.00	\$10,530.32	0.00	\$0.00	\$10,530.32
R 83.04402.00	CRARY DEVELOPMENT INC	Lot-003 Block-001	78.00	\$10,530.32	0.00	\$0.00	\$10,530.32
R 83.04403.00	CRARY DEVELOPMENT INC	Lot-004 Block-001	78.00	\$10,530.32	0.00	\$0.00	\$10,530.32
R 83.04404.00	CRARY DEVELOPMENT INC	Lot-005 Block-001	78.00	\$10,530.32	78.00	\$986.19	\$11,516.51
R 83.04405.00	CRARY DEVELOPMENT INC	Lot-006 Block-001	76.50	\$10,327.83	76.50	\$967.23	\$11,295.06
R 83.04406.00	NOVAK JACOB J & KARYN A	Lot-007 Block-001	115.21	\$15,553.83	95.21	\$1,203.79	\$16,757.62
R 83.04407.00	CRARY DEVELOPMENT INC	Lot-008 Block-001	108.54	\$14,653.36	108.54	\$1,372.33	\$16,025.69
R 83.04408.00	CRARY DEVELOPMENT INC	Lot-009 Block-001	80.06	\$10,808.43	80.06	\$1,012.24	\$11,820.67
R 83.04409.00	CRARY DEVELOPMENT INC	Lot-010 Block-001	80.06	\$10,808.43	80.06	\$1,012.24	\$11,820.67
R 83.04410.00	CRARY DEVELOPMENT INC	Lot-011 Block-001	80.06	\$10,808.43	80.06	\$1,012.24	\$11,820.67
R 83.04411.00	CRARY DEVELOPMENT INC	Lot-012 Block-001	115.99	\$15,659.12	115.99	\$1,466.51	\$17,125.63
R 83.04412.00	CRARY DEVELOPMENT INC	Lot-013 Block-001	109.00	\$14,715.45	109.00	\$1,378.14	\$16,093.59
R 83.04413.00	CRARY DEVELOPMENT INC	Lot-014 Block-001	80.00	\$10,800.33	80.00	\$1,011.48	\$11,811.81
R 83.04414.00	CRARY DEVELOPMENT INC	Lot-015 Block-001	80.00	\$10,800.33	80.00	\$1,011.48	\$11,811.81
R 83.04415.00	CRARY DEVELOPMENT INC	Lot-016 Block-001	80.00	\$10,800.33	80.00	\$1,011.48	\$11,811.81
R 83.04416.00	CRARY DEVELOPMENT INC	Lot-017 Block-001	80.00	\$10,800.33	80.00	\$1,011.48	\$11,811.81
R 83.04417.00	BONDY JACOB O & SARA M	Lot-018 Block-001	80.00	\$10,800.33	80.00	\$1,011.48	\$11,811.81
R 83.04418.00	STORTROEN GREG A	Lot-019 Block-001	142.16	\$19,192.19	142.16	\$1,797.39	\$20,989.58
R 83.04419.00	BROTT CRAIG & LYNN M	Lot-001 Block-002	76.00	\$10,260.32	0.00	\$0.00	\$10,260.32
R 83.04420.00	HARTMAN MICHAEL P & JESSICA K	Lot-002 Block-002	76.00	\$10,260.32	0.00	\$0.00	\$10,260.32
R 83.04421.00	CRARY DEVELOPMENT INC	Lot-003 Block-002	76.00	\$10,260.32	76.00	\$960.91	\$11,221.23
R 83.04422.00	CRARY DEVELOPMENT INC	Lot-004 Block-002	76.00	\$10,260.32	76.00	\$960.91	\$11,221.23
R 83.04423.00	CRARY DEVELOPMENT INC	Lot-005 Block-002	76.00	\$10,260.32	76.00	\$960.91	\$11,221.23
R 83.04424.00	CRARY DEVELOPMENT INC	Lot-006 Block-002	93.93	\$12,680.94	93.93	\$1,187.60	\$13,868.54
R 83.04425.00	SALWEY DON & KAREN	Lot-007 Block-002	93.93	\$12,680.94	64.93	\$820.94	\$13,501.88
R 83.04426.00	CRARY DEVELOPMENT INC	Lot-008 Block-002	76.00	\$10,260.32	76.00	\$960.91	\$11,221.23
R 83.04427.00	CRARY DEVELOPMENT INC	Lot-009 Block-002	76.00	\$10,260.32	76.00	\$960.91	\$11,221.23
R 83.04428.00	CRARY DEVELOPMENT INC	Lot-010 Block-002	76.00	\$10,260.32	76.00	\$960.91	\$11,221.23
R 83.04429.00	PERDEW SETH A & ANGELA R	Lot-011 Block-002	76.00	\$10,260.32	0.00	\$0.00	\$10,260.32
R 83.04430.00	VANEPS REED J & TRISHA D	Lot-012 Block-002	76.00	\$10,260.32	0.00	\$0.00	\$10,260.32
SUBTOTAL RIVERVIEW 10TH ADD			2,645.44	\$357,145.40	2,058.44	\$26,025.89	\$383,171.29
RIVERVIEW 9TH ADD							
R 83.04188.00	TOCCHIO DONALD & CYNTHIA	Lot-011 Block-002	95.00	\$12,825.40	0.00	\$0.00	\$12,825.40
R 83.04194.00	BRANBY MICHAEL D & LISA D TOCCHIO	Lot-001 Block-003	95.00	\$12,825.40	0.00	\$0.00	\$12,825.40
R 83.04195.00	TRAUB BARRY S & RACHEL A	Lot-002 Block-003	95.00	\$12,825.40	0.00	\$0.00	\$12,825.40
SUBTOTAL RIVERVIEW 9TH ADD			285.00	\$38,476.20	0.00	\$0.00	\$38,476.20
GRAND TOTALS			2,930.44	\$395,621.60	2,058.44	\$26,025.89	\$421,647.49

RESOLUTION NO. 15 – 11 - 124

Council Member _____, supported by Council Member _____, introduced the following resolution and moved its adoption:

WHEREAS, the City of East Grand Forks has advertised internally for the position of Equipment Operator, and

WHEREAS, Josh Krostue is the only qualified candidate to apply for the position, and

WHEREAS, the East Grand Forks Civil Service Commission has recommended the hiring of Josh Krostue as Lead Equipment Operator, and

WHEREAS, the position of Equipment Operator is pointed at Grade 10 on the City of East Grand Forks wage scale, and

WHEREAS, the current Teamsters contract calls for Mr. Krostue to be placed at Step 5 of Grade 10, and

WHEREAS, the current Step 5 of Grade 10 is \$19.69 per hour.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF EAST GRAND FORKS, MINNESOTA:

1. Josh Krostue be appointed to Equipment Operator at a salary of \$19.69 per hour and will be effective with adoption of this resolution.

Voting Aye:
Voting Nay:
Absent:

The President declared the resolution passed.

Passed: November 17, 2015

Attest:

City Administrator/Clerk-Treasurer

President of Council

I hereby approve the foregoing resolution this 17th day of November, 2015.

Mayor

MINNESOTA LAWFUL GAMBLING
LG220 Application for Exempt Permit

An exempt permit may be issued to a nonprofit organization that:
• conducts lawful gambling on five or fewer days, and
• awards less than \$50,000 in prizes during a calendar year.
If total raffle prize value for the calendar year will be \$1,500 or less, contact the Licensing Specialist assigned to your county by calling 651-539-1900.

Application Fee (non-refundable)
Applications are processed in the order received. If the application is postmarked or received 30 days or more before the event, the application fee is **\$100**; otherwise the fee is **\$150**.
Due to the high volume of exempt applications, payment of additional fees prior to 30 days before your event will not expedite service, nor are telephone requests for expedited service accepted.

ORGANIZATION INFORMATION

Organization Name: Red River Valley Pheasants Forever Previous Gambling Permit Number: _____
Minnesota Tax ID Number, if any: _____ Federal Employer ID Number (FEIN), if any: _____
Mailing Address: 10090 451st AVE NW
City: East Grand Forks State: MN Zip: 56721 County: Polk
Name of Chief Executive Officer (CEO): Brian Nelson
Daytime Phone: [REDACTED] Email: _____

NONPROFIT STATUS

Type of Nonprofit Organization (check one):
 Fraternal Religious Veterans Other Nonprofit Organization

Attach a copy of one of the following showing proof of nonprofit status:

(DO NOT attach a sales tax exempt status or federal employer ID number, as they are not proof of nonprofit status.)
 A current calendar year Certificate of Good Standing
Don't have a copy? Obtain this certificate from:
MN Secretary of State, Business Services Division Secretary of State website, phone numbers:
60 Empire Drive, Suite 100 www.sos.state.mn.us
St. Paul, MN 55103 651-296-2803, or toll free 1-877-551-6767
 IRS income tax exemption (501(c)) letter in your organization's name
Don't have a copy? To obtain a copy of your federal income tax exempt letter, have an organization officer contact the IRS toll free at 1-877-829-5500.
 IRS - Affiliate of national, statewide, or international parent nonprofit organization (charter)
If your organization falls under a parent organization, attach copies of both of the following:
1. IRS letter showing your parent organization is a nonprofit 501(c) organization with a group ruling, and
2. the charter or letter from your parent organization recognizing your organization as a subordinate.

GAMBLING PREMISES INFORMATION

Name of premises where the gambling event will be conducted (for raffles, list the site where the drawing will take place): Eagles Club
Address (do not use P.O. box): 227 10th ST NW
City or Township: East Grand Forks Zip: 56721 County: Polk
Date(s) of activity (for raffles, indicate the date of the drawing): March 26th Sat 2016

Check each type of gambling activity that your organization will conduct:
 Bingo* Paddlewheels* Pull-Tabs* Tipboards*
 Raffle (total value of raffle prizes awarded for the calendar year: \$ 10,000)

* **Gambling equipment** for bingo paper, paddlewheels, pull-tabs, and tipboards must be obtained from a distributor licensed by the Minnesota Gambling Control Board. EXCEPTION: Bingo hard cards and bingo number selection devices may be borrowed from another organization authorized to conduct bingo. To find a licensed distributor, go to www.mn.gov/gcb and click on **Distributors** under **LIST OF LICENSEES**, or call 651-539-1900.

LOCAL UNIT OF GOVERNMENT ACKNOWLEDGMENT (required before submitting application to the Minnesota Gambling Control Board)

<p style="text-align: center;">CITY APPROVAL for a gambling premises located within city limits</p> <p>___ The application is acknowledged with no waiting period.</p> <p>___ The application is acknowledged with a 30-day waiting period, and allows the Board to issue a permit after 30 days (60 days for a 1st class city).</p> <p>___ The application is denied.</p> <p>Print City Name: _____</p> <p>Signature of City Personnel: _____</p> <p>Title: _____ Date: _____</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px; text-align: center;"> <p>The city or county must sign before submitting application to the Gambling Control Board.</p> </div>	<p style="text-align: center;">COUNTY APPROVAL for a gambling premises located in a township</p> <p>___ The application is acknowledged with no waiting period.</p> <p>___ The application is acknowledged with a 30-day waiting period, and allows the Board to issue a permit after 30 days.</p> <p>___ The application is denied.</p> <p>Print County Name: _____</p> <p>Signature of County Personnel: _____</p> <p>Title: _____ Date: _____</p> <p>TOWNSHIP (if required by the county) On behalf of the township, I acknowledge that the organization is applying for exempted gambling activity within the township limits. (A township has no statutory authority to approve or deny an application, per Minn. Statutes, section 349.213.)</p> <p>Print Township Name: _____</p> <p>Signature of Township Officer: _____</p> <p>Title: _____ Date: _____</p>
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CHIEF EXECUTIVE OFFICER'S SIGNATURE (required)

The information provided in this application is complete and accurate to the best of my knowledge. I acknowledge that the financial report will be completed and returned to the Board within 30 days of the event date.

Chief Executive Officer's Signature: *Brian Nelson* Date: 11-2-15

(Signature must be CEO's signature; designee may not sign)

Print Name: Brian Nelson

REQUIREMENTS	MAIL APPLICATION AND ATTACHMENTS
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Complete a separate application for:

- all gambling conducted on two or more consecutive days, or
- all gambling conducted on one day.

Only one application is required if one or more raffle drawings are conducted on the same day.

Financial report to be completed within 30 days after the gambling activity is done:
A financial report form will be mailed with your permit. Complete and return the financial report form to the Gambling Control Board.

Your organization must keep all exempt records and reports for 3-1/2 years (Minn. Statutes, section 349.166, subd. 2(f)).

Mail application with:

___ a copy of your proof of nonprofit status, and

___ application fee (non-refundable). If the application is postmarked or received 30 days or more before the event, the application fee is **\$100**; otherwise the fee is **\$150**. Make check payable to **State of Minnesota**.

To: Gambling Control Board
1711 West County Road B, Suite 300 South
Roseville, MN 55113

Questions?
Call the Licensing Section of the Gambling Control Board at 651-539-1900.

<p>Data privacy notice: The information requested on this form (and any attachments) will be used by the Gambling Control Board (Board) to determine your organization's qualifications to be involved in lawful gambling activities in Minnesota. Your organization has the right to refuse to supply the information; however, if your organization refuses to supply this information, the Board may not be able to determine your organization's qualifications and, as a consequence, may refuse to issue a permit. If your organization supplies the information requested, the Board will be able to process the</p>	<p>application. Your organization's name and address will be public information when received by the Board. All other information provided will be private data about your organization until the Board issues the permit. When the Board issues the permit, all information provided will become public. If the Board does not issue a permit, all information provided remains private, with the exception of your organization's name and address which will remain public. Private data about your organization are available to Board members, Board staff whose work requires access to the information; Minnesota's Depart-</p>	<p>ment of Public Safety; Attorney General; Commissioners of Administration, Minnesota Management & Budget, and Revenue; Legislative Auditor, national and international gambling regulatory agencies; anyone pursuant to court order; other individuals and agencies specifically authorized by state or federal law to have access to the information; individuals and agencies for which law or legal order authorizes a new use or sharing of information after this notice was given; and anyone with your written consent.</p>
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This form will be made available in alternative format (i.e. large print, braille) upon request.

MINNESOTA LAWFUL GAMBLING
LG220 Application for Exempt Permit

An exempt permit may be issued to a nonprofit organization that:

- conducts lawful gambling on five or fewer days, and
- awards less than \$50,000 in prizes during a calendar year.

If total raffle prize value for the calendar year will be \$1,500 or less, contact the Licensing Specialist assigned to your county by calling 651-539-1900.

Application Fee (non-refundable)

Applications are processed in the order received. If the application is postmarked or received 30 days or more before the event, the application fee is **\$100**; otherwise the fee is **\$150**.

Due to the high volume of exempt applications, payment of additional fees prior to 30 days before your event will not expedite service, nor are telephone requests for expedited service accepted.

ORGANIZATION INFORMATION

Organization Name: Red River Valley Pleasants Farm Previous Gambling Permit Number: _____

Minnesota Tax ID Number, if any: _____ Federal Employer ID Number (FEIN), if any: _____

Mailing Address: 10090 451st AVE NW

City: East Grand Forks State: Mn Zip: 56721 County: Polk

Name of Chief Executive Officer (CEO): Brian Nelson

Daytime Phone: [REDACTED] Email: _____

NONPROFIT STATUS

Type of Nonprofit Organization (check one):

Fraternal Religious Veterans Other Nonprofit Organization

Attach a copy of one of the following showing proof of nonprofit status:

(DO NOT attach a sales tax exempt status or federal employer ID number, as they are not proof of nonprofit status.)

A current calendar year Certificate of Good Standing
Don't have a copy? Obtain this certificate from:
MN Secretary of State, Business Services Division Secretary of State website, phone numbers:
60 Empire Drive, Suite 100 www.sos.state.mn.us
St. Paul, MN 55103 651-296-2803, or toll free 1-877-551-6767

IRS income tax exemption (501(c)) letter in your organization's name
Don't have a copy? To obtain a copy of your federal income tax exempt letter, have an organization officer contact the IRS toll free at 1-877-829-5500.

IRS - Affiliate of national, statewide, or international parent nonprofit organization (charter)
If your organization falls under a parent organization, attach copies of both of the following:
1. IRS letter showing your parent organization is a nonprofit 501(c) organization with a group ruling, and
2. the charter or letter from your parent organization recognizing your organization as a subordinate.

GAMBLING PREMISES INFORMATION

Name of premises where the gambling event will be conducted (for raffles, list the site where the drawing will take place): Eagles Club

Address (do not use P.O. box): 227 10th ST NW

City or Township: East Grand Forks Zip: 56721 County: Polk

Date(s) of activity (for raffles, indicate the date of the drawing): MAY 21st AT 2016

Check each type of gambling activity that your organization will conduct:

Bingo* Paddlewheels* Pull-Tabs* Tipboards* Raffle (total value of raffle prizes awarded for the calendar year: \$ 39,000)

* **Gambling equipment** for bingo paper, paddlewheels, pull-tabs, and tipboards must be obtained from a distributor licensed by the Minnesota Gambling Control Board. EXCEPTION: Bingo hard cards and bingo number selection devices may be borrowed from another organization authorized to conduct bingo. To find a licensed distributor, go to www.mn.gov/gcb and click on **Distributors** under **LIST OF LICENSEES**, or call 651-539-1900.

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CHIEF EXECUTIVE OFFICER'S SIGNATURE (required)

The information provided in this application is complete and accurate to the best of my knowledge. I acknowledge that the financial report will be completed and returned to the Board within 30 days of the event date.

Chief Executive Officer's Signature: *Brian Nelson* Date: 11-2-15
(Signature must be CEO's signature; designee may not sign)

Print Name: Brian Nelson

<p>REQUIREMENTS</p> <p>Complete a separate application for:</p> <ul style="list-style-type: none"> • all gambling conducted on two or more consecutive days, or • all gambling conducted on one day. <p>Only one application is required if one or more raffle drawings are conducted on the same day.</p> <p>Financial report to be completed within 30 days after the gambling activity is done: A financial report form will be mailed with your permit. Complete and return the financial report form to the Gambling Control Board.</p> <p>Your organization must keep all exempt records and reports for 3-1/2 years (Minn. Statutes, section 349.166, subd. 2(f)).</p>	<p>MAIL APPLICATION AND ATTACHMENTS</p> <p>Mail application with:</p> <p>___ a copy of your proof of nonprofit status, and</p> <p>___ application fee (non-refundable). If the application is postmarked or received 30 days or more before the event, the application fee is \$100; otherwise the fee is \$150. Make check payable to State of Minnesota.</p> <p>To: Gambling Control Board 1711 West County Road B, Suite 300 South Roseville, MN 55113</p> <p>Questions? Call the Licensing Section of the Gambling Control Board at 651-539-1900.</p>
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<p>Data privacy notice: The information requested on this form (and any attachments) will be used by the Gambling Control Board (Board) to determine your organization's qualifications to be involved in lawful gambling activities in Minnesota. Your organization has the right to refuse to supply the information; however, if your organization refuses to supply this information, the Board may not be able to determine your organization's qualifications and, as a consequence, may refuse to issue a permit. If your organization supplies the information requested, the Board will be able to process the</p>	<p>application. Your organization's name and address will be public information when received by the Board. All other information provided will be private data about your organization until the Board issues the permit. When the Board issues the permit, all information provided will become public. If the Board does not issue a permit, all information provided remains private, with the exception of your organization's name and address which will remain public. Private data about your organization are available to Board members, Board staff whose work requires access to the information; Minnesota's Depart-</p>	<p>ment of Public Safety; Attorney General; Commissioners of Administration, Minnesota Management & Budget, and Revenue; Legislative Auditor, national and international gambling regulatory agencies; anyone pursuant to court order; other individuals and agencies specifically authorized by state or federal law to have access to the information; individuals and agencies for which law or legal order authorizes a new use or sharing of information after this notice was given; and anyone with your written consent.</p>
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This form will be made available in alternative format (i.e. large print, braille) upon request.

Minutes of the regular meeting of the Water, Light, Power and Building Commission of the City of East Grand Forks, Minnesota held October 15, 2015 at 5:00 P.M.

Present: Ogden, Loven, Quirk, Tweten

It was moved by Commissioner Loven seconded by Commissioner Quirk that the minutes of the previous meeting of October 1, 2015 be approved as read.

Voting Aye: Ogden, Loven, Quirk, Tweten

Voting Nay: None

It was moved by Commissioner Quirk seconded by Commissioner Tweten to authorize the Secretary to issue payment of the recommended bills and payroll in the amount of \$1,236,501.89.

Voting Aye: Ogden, Loven, Quirk, Tweten

Voting Nay: None

It was moved by Commissioner Tweten seconded by Commissioner Quirk to approve Change Order #1 for the 2015 Water Plant Lab/Break Room Renovation Project contract with Schmitz Builders resulting in a deduction of \$321.00.

Voting Aye: Ogden, Loven, Quirk, Tweten

Voting Nay: None

It was moved by Commissioner Tweten seconded by Commissioner Quirk to approve the plans & specs for the Lime Sludge Pond Cleaning Project; set bid date for 10am on 11-3-15; and send letters requesting quotes for the project.

Voting Aye: Ogden, Loven, Quirk, Tweten

Voting Nay: None

It was moved by Commissioner Tweten seconded by Commissioner Quirk to approve the 2016 Chemical Guaranteed Contract Bid Specs; advertise for chemical bids; and set a bid date for 10am on 11-10-15.

Voting Aye: Ogden, Loven, Quirk, Tweten

Voting Nay: None

It was moved by Commissioner Quirk seconded by Commissioner Loven to approve the 2016 Joint Funding Agreement for the Red River monitoring station.

Voting Aye: Ogden, Loven, Quirk, Tweten

Voting Nay: None

It was moved by Commissioner Tweten seconded by Commissioner Quirk to adjourn to the next regular meeting on November 5, 2015 at 5:00 P.M.

Voting Aye: Ogden, Loven, Quirk, Tweten

Voting Nay: None

Lori Maloney
Sec'y

APPROVED MINUTES OF THE REGULAR MEETING OF THE BOARD MEMBERS OF THE EAST GRAND FORKS ECONOMIC DEVELOPMENT AUTHORITY (EDA)

A regular meeting of the Board Members of the East Grand Forks Economic Development Authority was held at 3:30 pm on October 20, 2015, in the East Grand Forks City Hall Training Room, on the first floor in the South Wing, East Grand Forks, MN.

1. **Roll Call:**

Meeting was called to order by President Hecht at 3:33 pm.

EDA Board present at roll, President Hecht, Board Members Mike Pokrzywinski, Chad Grassel, George Wogaman and Ralph Messelt.

Absent: Vice President Shea, Board Member Josh Grinde

Staff present: Paul Gorte, Economic Development Director; Brenda Ault, Executive Assistant; Karla Anderson, Finance Director; Ron Galstad, City Attorney; David Murphy, City Administrator.

Also Present: Bob Moore and John Hageman, Grand Forks Herald.

Roll Call: President Hecht determined a quorum was present.

2. **Approval of minutes of the September 15, 2015, Regular Meeting and September 29, 2015, Special Meeting:**

A Motion was made by Board member Pokrzywinski, seconded by Board member Wogaman, to approve the minutes from the September 15, 2015 Regular Meeting. M/S/P- Pokrzywinski, Wogaman; 5-0, mc.

A Motion was made by Board member Pokrzywinski, seconded by Board member Wogaman, to approve the minutes from the September 29, 2015 Special Meeting. M/S/P- Pokrzywinski, Wogaman; 5-0, mc.

3. **Bills and Communications:**

- a. Review of Accounts Payable for October 6, 2015
- b. Approval of the Accounts Payable for October 10, 2015.

After discussion and reviewing the bills,

A Motion was made by Board Member Messelt to approve the Accounts Payable for October 6, 2015, was seconded by Board Member Grassel. M/S/P- Messelt, Grassel; 5-0, mc.

4. **Reports:**

- a. Quarterly Reports:

MIF Loans: Gorte informed the Board that all accounts are up-to-date.

Sunshine Terrace: The Board reviewed the year-to-date revenue and paid bills. President Hecht questioned why the water line item was so much higher than prior years. FD Anderson explained that in prior years, each utility had its own line item, i.e.: water,

October 20, 2015

MINUTES OF THE REGULAR MEETING OF THE EAST GRAND FORKS ECONOMIC DEVELOPMENT AUTHORITY (EDA) (continued)

electricity, garbage, etc. Now all utility costs have been combined into the water line item.

Infill, Demers Buildings: ED Gorte informed the Board that the Infill building was full and that all accounts were current on the Demers building. CA Galstad stated that he was still working on the main agreement for the elevator at the Infill building.

b. Residential Lot Sales:

ED Gorte stated that they had closed on a lot (WE 1st, L12 B3) in the Water's Edge development.

c. Delinquencies Update:

ED Gorte reported that there are currently no delinquencies and stated that he and CA Galstad would be meeting with Bydals to sign new paperwork tomorrow.

5. **Unfinished Business:**

a. Valley Golf Update:

ED Gorte informed the Board that Valley Golf had requested a 10-year property tax abatement.

ED Gorte requested that the next two items in the Unfinished Business section be moved to after the New Business section.

6. **New Business:**

a. Sunshine Terrace Appraisal:

ED Gorte explained that City Planner, Nancy Ellis, is out of town. He informed the Board that she is requesting permission to get an appraisal for Sunshine Terrace. There is a party interested in possibly purchasing the property and an appraisal is needed to know the value of the property. CA Galstad informed the Board that the applicant is confidential, but once the sale goes forward, it would be public information. After further discussion,

A Motion was made by Board Member Grassel to get an appraisal for Sunshine Terrace, was seconded by Board Member Pokrzywinski. M/S/P- Grassel, Pokrzywinski; 4-1, mc. Board Member Wogaman voted nay.

b. Renewal of Residential Property Tax Abatement Program:

ED Gorte informed the Board that the program would expire at the end of 2015 and inquired whether they would like to renew the program. He further explained that he had spoken with the school and will be speaking with the county about renewing the program as well and did not anticipate an issue.

A motion was made by Board Member Grassel, was seconded by Board Member Messelt, to extend the program until the end of 2017. M/S/P- Grassel, Messelt; 5-0, mc.

October 20, 2015

MINUTES OF THE REGULAR MEETING OF THE EAST GRAND FORKS ECONOMIC DEVELOPMENT AUTHORITY (EDA) (continued)

c. Meeting Dates:

ED Gorte asked the Board if they would like to keep meeting twice a month, or if they would prefer to have one regular scheduled meeting date, on the first Tuesday of the month and then only meet on the third Tuesday of the month if something came up or if they didn't get to all the agenda items during the regular meeting. Board Member Pokrzywinski mentioned that he would like the other members to think about possibly moving the meeting to a day, other than Tuesday, because of lack of time with the Council Meetings that night. He also stated that a Noon meeting would be an option with him and he preferred one meeting per month. Board Member Grassel and CA Murphy would like Mondays as the day the meeting is held. Board Member Hecht stated that Monday would be a better day and he would like one meeting per month. Board Member Wogaman stated that he would like the meetings to be finished up by 5:00 pm.

A motion was made by Board Member Pokrzywinski, was seconded by Board Member Grassel, to have the meetings on the first Tuesday of the month and the third Tuesday of the month, as necessary. M/S/P- Pokrzywinski, Grassel; 5-0, mc.

d. Closed Session: Economic Development Director Evaluation Continued:

A motion was made by Board Member Grassel, was seconded by Board Member Pokrzywinski, to move into a closed session, for the purpose of the evaluation of Economic Director Gorte at 4:03. M/S/P- Grassel, Pokrzywinski; 5-0, mc.

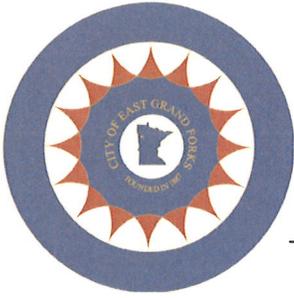
A motion was made to adjourn the closed session and return to the regular meeting at 4:30. M/S/P- Grassel, Messelt; 5-0, mc.

7. **Adjournment**

A motion was made by Board member Grassel, seconded by Board member Pokrzywinski, to adjourn the meeting at 4:30 pm. M/S/P- Grassel, Pokrzywinski; 5-0, mc.

The next regular meeting is **November 3, 2015 at 3:30** in the **East Grand Forks Training Room, First Floor in the South Wing, East Grand Forks City Hall**, East Grand Forks, MN.

Respectfully Submitted,
Brenda Ault
Executive Assistant



City of East Grand Forks

600 DeMers Ave · P.O. Box 373 · East Grand Forks, MN 56721
218-773-2483 · 218-773-9728 fax www.eastgrandforks.net

November 9, 2015

I am vetoing the three year contract renewal with Widseth Smith Nolting because I believe the City should consider all options for engineering services before entering into another three year contract for engineering services.

Regards,

A handwritten signature in blue ink that reads "Lynn Stauss".

Mayor Lynn Stauss

Request for Council Action

Date: November 3, 2015

To: East Grand Forks City Council Mayor Lynn Stauss, President Mark Olstad, Council Vice President Chad Grassel, Council Members: Clarence Vetter, Mike Pokrzywinski, Craig Buckalew, Henry Tweten, and Marc DeMers.

Cc: File

From: City Administrator David Murphy

RE: Engineering Contract

Background

The contract contains the amendments discussed at the October 27th Council Work Session. City Attorney Galstad has reviewed the contract and approves it as to form and content.

Budget Impact

The proposed 2016 Budget includes the costs shown in the contract.

Action Required

Approval of the Contract.

Request for Council Action

Date: November 10, 2015

To: East Grand Forks City Council Mayor Lynn Stauss, Council President Mark Olstad, Council Vice President Chad Grassel, Council Members: Clarence Vetter, Mike Pokrzywinski, Craig Buckalew, Henry Tweten, and Marc DeMers.

Cc: File

From: Teri Kouba, MPO Planner

RE: Adoption of the Bygland Road Study

Background:

Bygland Road Study:

The consultant for this study was brought on board by the end of March this year. April was spent collecting turning movement counts, gathering data, and analyzing the information. In May, a public meeting was held and a survey released to get public input on Bygland Road. A steering committee met to help the consultant understand the issues on a more technical level. In June, the consultant used the data and community input to create multiple alternatives to address deficiencies identified along Bygland Road. In July, a public meeting was held to present the alternatives and receive feedback from the public. The steering committee also met to draft recommendations of the most feasible alternatives for Bygland Road. In September, a public meeting was held to gather comments and input on the recommended alternatives. The Steering Committee also met to finalize the priorities of the recommendations. In October, the consultant wrote a detailed plan document for adoption by the East Grand Fork City Council and the MPO Executive Policy Board.

The document details the process and recommendations, in priority order, to make improvements to traffic operations on Bygland Road. The document also details what public input efforts were made and the turn out of the participation. The document lists the alternatives in time bands: a Near Term, Middle Term, and Long Term order so that they can more easily fit into the Long Range Transportation Plan. There are estimated costs within each time band adjusted to the year of expenditure. Please note, that as individual, specific project development details are worked on there can be variables in cost estimates depending on the materials. A list of possible funding sources was included for the ease of applying for grants from these sources.

Recommendations:

Adopt the Bygland Road Study.

Enclosures:

- Final Bygland Road Study document. Appendices not included but can be found:
<http://www.alliant-inc.com/GrandForks/documents.html>
-

RESOLUTION NO. 15 – 11 - 125

Council Member _____, supported by Council Member _____, introduced the following resolution and moved its adoption:

WHEREAS, the Metropolitan Planning Organization (MPO) worked with Alliant Engineering as a consultant to collect data, gather public input, and analyze the information for the Bygland Road Study;

WHEREAS, the Study Review Committee also participated and gave input on this study;

WHEREAS, the MPO is recommending the Council adopt the Bygland Road Study and recommendations to be included in the long range transportation plan;

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF EAST GRAND FORKS, MINNESOTA approves and adopts the Bygland Road study along with the recommendations and to include this information in the Long Range Transportation Plan.

Voting Aye:

Voting Nay:

Absent:

The President declared the resolution passed.

Passed: November 17, 2015

Attest:

City Administrator/Clerk-Treasurer

President of Council

I hereby approve the foregoing resolution this 17th day of November, 2015.

Mayor

RESOLUTION NO. 15 – 11 - 126

RESOLUTION ORDERING IMPROVEMENT AND PREPARATION OF PLANS AND SPECIFICATIONS FOR 2016 ASSESSMENT JOB NO. 2 – PAVING & SIDEWALK CONSTRUCTION – RIVERVIEW 9TH & 10TH ADDITIONS

Council Member _____, supported by Council Member _____, introduced the following resolution and moved its adoption:

WHEREAS, the City Council desires plans and specifications for 2016 Assessment Job No. 2 – Paving & Sidewalk Construction – Riverview 9th & 10th Additions.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF EAST GRAND FORKS, MINNESOTA that the City Council directs the City Engineer to prepare plans and specifications for the 2016 Assessment Job No. 2 per the guidelines of the existing engineering services agreement with Widseth Smith Nolting Engineering.

Voting Aye:

Voting Nay:

Absent:

The President declared the resolution passed.

Passed: November 17, 2015

Attest:

City Administrator/Clerk-Treasurer

President of Council

I hereby approve the foregoing resolution this 17th of November, 2015.

Mayor

ORDINANCE NO. 16, 4th Series

CABLE SERVICES REGULATORY ORDINANCE

FOR

THE CITY OF EAST GRAND FORKS, MINNESOTA

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AN ORDINANCE FOR THE CITY OF EAST GRAND FORKS, MINNESOTA ESTABLISHING REQUIREMENTS AND PROCEDURES RELATING TO THE GRANTING OF CABLE SERVICES FRANCHISES FOR USE OF PUBLIC RIGHTS-OF-WAY WITHIN THE CITY OF EAST GRAND FORKS, INCLUDING THE DEFINITION OF TERMS, REQUIREMENTS FOR COMMUNITY SERVICE CHANNELS, REQUIREMENTS REGARDING THE CHARGING OF FEES FOR USE OF RIGHTS-OF-WAY, CUSTOMER SERVICE STANDARDS, TECHNICAL STANDARDS, AND OTHER PROVISIONS RELATING TO CABLE SERVICES FRANCHISES.

WHEREAS, Minnesota law requires a provider of cable service to operate pursuant to franchise granted by a municipality; and

WHEREAS, the City of East Grand Forks, pursuant to applicable federal and state law, is authorized to grant one or more nonexclusive Franchises to construct, operate, maintain, and reconstruct Cable Television Systems within the City limits. Unless otherwise permitted by applicable law, this Franchise will not extend to services beyond Cable Service, as defined herein, such as telephone service or other telecommunications services. A Franchisee does not waive its rights to offer telephone service or other telecommunications services subject to applicable local, state, or federal law; and

WHEREAS, the City finds that the development of Cable Television Systems has the potential of having great benefit and impact upon the Residents and businesses of the City. Because of the complex and rapidly changing technology associated with cable television, the City further finds that the public convenience, safety, and general welfare can best be served by establishing regulatory powers regarding Cable Service that are vested in the City or such Persons the City designates. It is the intent of this Ordinance and subsequent amendments to provide for and specify the means to obtain the best possible Cable Service for the public, and any Franchises issued pursuant to this Ordinance will be deemed to include this finding as an integral part thereof; and

WHEREAS, the City will not discriminate in awarding Franchises pursuant to this Ordinance. Entities which request a Franchise shall comply with the terms of this Ordinance; and

WHEREAS, in order to ensure that the City and its residents receive state of the art Cable Services and capabilities as this technology further evolves, all Cable Franchises to the extent set forth herein shall be subject to this Ordinance and should, be subject to periodic review and modifications to keep current with changing law, technology, and Services.

East Grand Forks, Minnesota Municipal Code Chapter _____ is hereby added to read as follows:

SECTION 1: GENERAL PROVISIONS

1.1 Title.

This Ordinance shall be referred to and cited as the “Cable Services Code” or herein as the “Ordinance” of the City of East Grand Forks, Minnesota.

1.2 Applicability.

The requirements of this Ordinance shall apply to the full extent of the terms herein and shall be limited in scope or application only to the extent as may be required by applicable federal or state law, including such changes in applicable law as may be hereinafter enacted. No provisions of this Ordinance shall be disregarded pursuant to this subsection except on express application to and determination by the City to such effect based on the specific factual circumstances demonstrated. The provisions of this Ordinance shall be deemed incorporated in each Cable Franchise granted. Nothing in this Ordinance or amendments thereto shall be interpreted to unilaterally deprive any Person of any rights or obligations imposed by any binding and existing valid Cable Franchise or contract during the term thereof, whether entered into before or after enactment of this Ordinance, and shall impose obligations on any such Person additional to those included in such Franchise or contract only to the extent permitted by law and to the extent not inconsistent with such Franchise or contract; provided that the failure of the City to enforce any provision herein or the failure of any Person to comply with any provision herein shall not be a waiver of the City’s right to enforce such provisions nor shall it in any way constitute evidence or agreement by the City that such Person has a valid existing Cable Franchise. The provisions of this Ordinance shall apply irrespective of whether a Franchisee is determined to be operating pursuant to a valid Cable Franchise.

1.3 Preservation of Police Power Authority

To the extent not inconsistent with Section 5.1.2, any rights granted pursuant to this Ordinance and pursuant to any Franchise authorized hereunder are subject to the authority of the City to adopt and enforce ordinances necessary to the health, safety, and welfare of the public. Franchisees shall be subject to and comply with all applicable Laws enacted by the City, to the extent not in conflict with Minnesota or federal law. Nothing in this Ordinance shall be deemed to waive a right, if any, that any party may have to seek judicial or regulatory review as to any provisions of the Ordinance or as to actions of the parties under applicable federal law, including 47 U.S.C. 555A, as well as applicable state or local law currently in effect or as may hereinafter be amended.

1.4 Public Inspection of Records.

Certain information required to be filed with the City pursuant to this Ordinance is subject to inspection and copying by the public pursuant to the provisions of Minnesota law applicable to public and non-public information. The City shall provide a Franchisee with notice of any request by a third party for information designated as proprietary. Nothing in this Ordinance or Franchise shall be construed as a waiver of the provisions of Minnesota law applicable to public and non-public information.

1.5 No Cause of Action for Damages Against the City.

The Franchisee shall have no cause of action whatsoever against the City for damages of any kind arising from any of the provisions or requirements of a Franchise, or because of the enforcement thereof by said City, or for the failure of said City to have the authority to grant, all, or any part, of the Franchise therein granted; provided that said Franchisee expressly acknowledges that it accepted the rights therein granted in reliance upon its independent and personal investigation and understanding of the power of authority of said City to enter into the Franchise authorized therein with Franchisee; provided further that the Franchisee acknowledges by its acceptance of said Franchise that it has not been induced to enter into a Franchise upon any understanding, or promise, whether given verbally or in writing by or on behalf of said City, or by any other person concerning any term or condition of a Franchise not expressed therein; provided further that the Franchisee acknowledges by the acceptance of any Franchise that it has carefully read the provisions, terms, and conditions hereof and of its Franchise and is willing to, and does accept, all of the risk attendant to said provisions, terms, and conditions. This section shall be interpreted to provide the same limitation of liability as that contained in 47 USC 555(a), as amended.

1.5 Enforcement.

The City shall be entitled to enforce this Ordinance and any Franchise through all remedies lawfully available.

1.6 Relationship of the Parties.

Under no circumstances shall any Franchise authorized by this Ordinance be construed to create any relationship of agency, partnership, joint venture, or employment between the parties.

SECTION 2: DEFINITIONS

For the purposes of this Ordinance, the following terms, phrases, words, and their derivations will have the meaning given 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, and all words in the plural number include the singular. All capitalized terms used in the definition of any other term will have their meaning as otherwise defined in this Section 2. The words "will" and "shall" are mandatory and "may" is permissive. Words not defined will be given their common and ordinary meaning.

2.1 Access Channels means Channel capacity designated for public, educational or governmental access use, as well as the facilities and equipment required for the use of such Channel capacity.

2.2 Affiliate means each person, directly or indirectly, controlling, controlled by, or under common control with the Franchisee; provided that Affiliate shall in no event mean any limited partner or shareholder holding an interest of less than fifteen percent (15%) of

such Franchisee, or any creditor of such Franchisee solely by virtue of its status as a creditor and which is not otherwise an Affiliate by reason of owning a controlling interest in, being owned by, or being under common ownership, common management, or common control with, such Franchisee.

- 2.3 Basic Cable Service means any service tier, which includes the lawful retransmission of local television broadcast signals and Access Channels required by this Ordinance to be carried on the basic tier. This definition will be consistent with and deemed to change pursuant to any changes in applicable federal law or FCC rules.
- 2.4 Cable Act means the Cable Communications Policy Act of 1984, Pub. L. No. 98-549, 98 Stat. 2779 (1984) (codified at 47 U.S.C. §§ 521-611 (1982 & Supp. V. 1987)) as amended by the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, and the Telecommunications Act of 1996, Pub. L. No. 104-104, as may, from time to time, be amended.
- 2.5 Cable Service means (a) the one-way transmission to Subscribers of (i) Video Programming or (ii) Other Programming Service; (b) Subscriber interaction, if any, which is required for the selection or use of such Video Programming or other programming service.
- 2.6 Cable Television System, 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 the Franchise Area. Such term does not include (a) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (b) a facility that serves Subscribers without using any public right-of-way; (c) 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 will 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 on-demand services; or (d) any facilities of any electric utility used solely for operating its electric utility system.
- 2.7 Capital Costs means costs associated with the purchase of assets, products or other resources that will provide service for more than one year, but shall not have any meaning inconsistent with generally accepted accounting principles.
- 2.8 City or Grantor means the City of East Grand Forks, Minnesota, and all territory within its existing and future territorial corporate limits, or jurisdiction for purposes of this Ordinance.
- 2.9 Channel or Cable Channel means a portion of the electromagnetic frequency spectrum which is used in a Cable or OVS System and which is capable of delivering a television Channel as defined by the FCC.

- 2.10 Complaint means any verbal or written or electronic allegation, or assertion made by a Person regarding Cable Service and which is subject to City regulation, requiring subsequent corrective action to the System or any portion thereof.
- 2.11 Converter means an electronic device that converts signals to a frequency not susceptible to interference within the television receiver of a Subscriber and, through the use of an appropriate Channel selector, permits a Cable Subscriber to view all authorized Cable Subscriber signals delivered at designated converter dial locations.
- 2.12 Drop means the cable or cables that connect the ground block on the Cable Subscriber's property to the nearest feasible point on the Cable or OVS System in order to receive Cable Service.
- 2.13 Facilities means any portion of a Cable or OVS System located in, along, over, upon, under, or through the Rights-of-Way.
- 2.14 FCC means the Federal Communications Commission, its designee, or any successor thereof.
- 2.15 Franchise means an initial authorization or renewal thereof issued by the City, whether such authorization is designated as a Franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction or operation of the Cable or OVS System or the provision of OVS Service.
- 2.16 Franchise Agreement means the separate agreement or granting Ordinance by which the Franchise is granted to the Franchisee, as required by this Ordinance.
- 2.17 Franchise Area means the entire geographic area within the City as it is now constituted or may in the future be constituted.
- 2.18 Franchise Fee means any tax, fee, or assessment of any kind imposed by the City or other governmental entity on a Franchisee or its Cable Subscribers, or both, solely because of their status as such, pursuant to this Ordinance. The term "Franchise Fee" does not include: (i) any tax, fee, or assessment of general applicability (including any such tax, fee, or assessment imposed on both utilities and Cable Operators or their Cable Services but not including a tax, fee, or assessment that is unduly discriminatory against Franchisees or Cable Subscribers); (ii) Capital Costs that are required by a Franchise to be incurred by a Franchisee for public, educational or governmental ("PEG") Access facilities; (iii) requirements or charges incidental to the award or enforcement of a Franchise, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages; or (iv) any fee imposed under Title 17 of the United States Code.
- 2.19 Franchisee means and includes all Persons having any rights, powers, privileges, duties, liabilities, or obligations under this Ordinance and the Franchise Agreement and any lawful agent, employee, successor, transferee, or assignee of the original Franchisee.

- 2.20 Gross Revenues means all revenues received by the Franchisee from Cable Services in the City and consistent with local, state, and federal law, including, but not limited to, Subscriber revenues (including Pay TV), home shopping programs, rentals of equipment, advertising revenue and any and all other revenues received by the Franchisee from the provision of Cable Service in the City. Gross Revenues do not include revenues recorded as received but which are "bad debt," but includes any recoveries of bad debt. Gross Revenues also do not include any sales, excise, or other taxes collected by Franchisee on behalf of federal, state, county, city, or other governmental unit. Subject to a determination by applicable law, internet modem and related services may be a Cable Service and revenues derived from such service part of Gross Revenue.
- 2.21 Installation means the act of connecting the System from the feeder cable to the Subscriber terminal so that Cable Service may be received by the Subscriber.
- 2.22 Normal Business Hours means those hours during which most similar businesses in the community are open to serve customers. In all cases, Normal Business Hours will include some evening hours at least one night per week and/or some weekend hours.
- 2.23 Normal Operating Conditions means those service conditions which are within the control of the Franchisee. Those conditions which are not within the control of the Franchisee 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 Franchisee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the System.
- 2.24 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.
- 2.25 Pay TV means the delivery over the System of per-Channel or per-program programming to Subscribers for a separate fee or charge from Basic Cable Service.
- 2.26 Person means any natural person or any association, firm, individual, partnership, joint stock company, joint venture, corporation, or other legally recognized entity, public or private, whether for profit or not for profit.
- 2.27 Public Building means any building identified in the Franchise, which is owned or for the greater part occupied by the City or on behalf of the City by other governmental units performing traditional municipal governmental functions.
- 2.28 Renewal means a new Cable Franchise granted to an existing Franchisee.
- 2.29 Rights-of-Way means the surface and space on, above and below every municipal street, alley, road, highway, lane or City right-of-way dedicated or commonly used now or hereafter for utility purposes and facilities thereon, including, but not limited to, overhead lighting facilities. This term shall not include any county, state, or federal rights-of-way except where controlled or maintained by the City, or as other provided by applicable Laws or pursuant to an agreement between the City and any such Person or Agency.

"Rights-of-Way" shall not include public property owned or leased by the City and not intended for right-of-way use, including, but not limited to, municipal office building property or public works facilities.

- 2.30 Service Interruption means the loss of picture or sound on one or more Cable Channels for single or multiple Subscribers.
- 2.31 Standard Installation means any Service installation that can be completed using a Drop of one hundred twenty-five (125) feet or less.
- 2.32 Subscriber means any Person who lawfully receives Cable Service provided by a Franchisee.

SECTION 3: FRANCHISE REQUIREMENTS

3.1 Franchise Required.

It shall be unlawful for any Person to construct, operate, or maintain a Cable or OVS System or to provide Cable Service or other competing multichannel video services, including OVS, in the City without a Franchise in the form of a Franchise Agreement authorizing the same, unless applicable federal or State law prohibits the City's enforcement of such a requirement. Such Franchise Agreement shall comply with all of the specifications of this Ordinance.

3.2 Nature of Rights Granted by Franchise.

Cable Franchises shall not convey title, equitable or legal, in the Rights-of-Way, and shall give only the right to occupy Rights-of-Way, for the purposes of providing Cable Services and as may be further limited by the Franchise. No Franchise shall grant the right to use Facilities owned or controlled by the City or a third-party, without the consent of such party, nor shall a Franchise excuse Franchisee from obtaining appropriate access or attachment agreements before locating its Facilities on the Facilities owned or controlled by the City or a third-party. All Franchises shall be deemed to incorporate and be limited by the provisions of this Ordinance and shall create rights for the sole and exclusive use of Franchisee. Any Franchise or other authorization for Cable Services, in whatever form granted, shall not grant or include: (i) any other permit or authorization required for the privilege of transacting and carrying on a business within the City required by the ordinances and laws of the City, including the provision of communications services; (ii) any permit, agreement, or authorization required in connection with operations in the Rights-of-Way including, without limitation, permits and agreements for placing devices on or in poles, conduits, or other structures, whether owned by the City or a private entity, or for excavating or performing other work in or along the Rights-of-Way.

3.3 Franchise Not Exclusive.

Any Cable Franchise granted by the City shall be nonexclusive. The Grantor specifically reserves the right to grant, at any time, such additional Franchises for a Cable or OVS

System or any component thereof, to any other Person including itself, as it deems appropriate, subject to this Ordinance and applicable State and federal law.

3.4 Franchise Territory.

Every Cable Franchise shall apply to the entire territorial area of the City, as it exists now or may later be configured.

3.5 Selection of Franchisee.

In selecting a Franchisee pursuant to this Ordinance, the City will prepare a request for proposals to seek bids for a Cable or OVS System to be established under a Franchise by the City. This request for proposals will contain information and instructions relating to the preparation and filing of proposals; conditions regarding the Installation, operation, and maintenance of a Cable or OVS System; and the criteria to be used in evaluating applicant proposals. Any Person desiring an initial Franchise for a Cable or OVS System shall file an application with the City. A nonrefundable Application Fee as may be hereinafter be established by the City shall accompany the application, which shall not be considered or credited against the collection of applicable Franchise Fees. The provisions of this Section will not be applicable to the renewal of any Franchise.

Applicants may be evaluated according to the following criteria:

3.5.1 Installation Plan. Consideration may be given to an Installation plan that would provide the flexibility needed to adjust to new developments, maintenance practices, and services that would be available to the Subscriber and the community immediately and in the future.

3.5.2 Rate Schedule. Consideration may be given to applicants with the most reasonable Installation and Subscriber rate schedule.

3.5.3 Financial Soundness and Capability. The evidence of financial ability required in the applicant's proposal will be such as to assure the ability to complete the entire System within a maximum of three years from the date the Franchise is granted. The City will also consider the applicant's ability to operate the System and provide the necessary services.

3.5.4 Demonstrated Experience in Operating a Cable or OVS System. Consideration may be given to evidence of the applicant's experience in operating a Cable or OVS System, where such evidence would show or tend to show or confirm the ability of the applicant to furnish sufficient and dependable service to the potential public and private users.

3.5.5 Technical Capability. The City may consider the quality of service offered, including signal quality, response to Subscriber complaints, and billing practices.

3.5.6 Future Needs. Consideration may be given to the Franchisee's ability to meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.

3.5.7 Additional Considerations. The City may consider any additional information that it deems applicable.

3.6 Application for Franchise Renewal.

Franchise renewals will be according to applicable law including, but not necessarily limited to, the Cable Act, as amended. The City and Franchisee, by mutual consent, may enter into renewal negotiations at any time during the term of the Franchise Agreement.

SECTION 4: TERM

4.1 Term of Franchise.

The term of the Franchise will be stated in the Franchise Agreement.

SECTION 5: REQUIRED PROVISIONS

5.1 Franchise Provisions.

5.1.1 All Franchises granted pursuant to this Ordinance will be subject to the following provisions:

5.1.1(1) The continuing authority of City to impose such other regulations of general applicability through lawful exercises of its police powers as may be determined by the City Council to be conducive to the health, safety, and welfare of the public.

5.1.1(2) The continuing authority of City to control and regulate the use of its streets.

5.1.1(3) The authority of City to inspect all construction or installation work performed subject to the provisions of the Franchise and this Ordinance, and make such inspections as it will find necessary to insure compliance with the terms of the Franchise, this Ordinance, and other pertinent provisions of law.

5.1.1(4) The authority of City to inspect the books, records, maps, plans, income tax returns, and other like materials of the Franchisee upon reasonable notice to insure compliance with the terms of the Franchise, this Ordinance, and other pertinent provisions of law, including Franchisee's need for confidentiality of certain information.

5.1.1(5) At the expiration of the term for which this Franchise is granted or upon the termination and cancellation as provided herein, the authority of the City to require the Franchisee to remove at its own expense any and all portions of the Cable or OVS System from the Rights-of-Way within the City; provided,

however, that this paragraph shall not be applicable if Franchisee is authorized to provide telecommunications service in City.

5.1.2 Federal, State, and City Jurisdiction.

5.1.2(1) This Ordinance and any Franchise Agreement will be construed in a manner consistent with all applicable federal and state laws.

5.1.2(2) In the event that the state or federal government will discontinue preemption in any area of cable television over which it currently exercises jurisdiction in such a manner as to expand rather than limit municipal regulatory authority, the City may, if it so elects, adopt rules and regulations in these areas to the extent permitted by law.

5.1.2(3) This Ordinance will apply to all Franchises granted or renewed from and after the effective date of this Ordinance.

5.1.2(4) Franchisee will not be relieved of its obligation to comply with any of the provisions of this Ordinance or any Franchise Agreement granted pursuant to this Ordinance by reason of any failure of the City to enforce prompt compliance.

5.1.2(5) In the event of a change in state or federal law which by its terms would require the City to amend this Ordinance, the parties shall modify the existing Cable Franchise in a mutually agreed upon manner.

5.2 Franchise Agreement.

5.2.1 The applicant awarded a Franchise by the City will execute a Franchise Agreement, agreeing to the terms and provisions of the Franchise and specifications of the Franchise as may be incorporated into the Franchise Agreement in writing. All Franchises granted by the City shall contain substantially similar terms and conditions and shall specifically require that the Franchisee serve the entire Franchise Area

5.2.2 In addition to those matters required elsewhere in this Ordinance to be included in the Franchise Agreement, it must contain the following express representations by the Franchisee that:

5.2.2(1) It accepts and agrees to all of the provisions of this Ordinance, and any supplementary specification, as to construction, operation, or maintenance of the System, which the City may include in the Franchise Agreement subject to applicable state and federal law.

5.2.2(2) It has examined all of the provisions of this Ordinance and agrees that the provisions thereof are valid, binding at this time, and enforceable as of the effective date of the Franchise.

5.2.2(3) It recognizes the right of the City to adopt such additional regulations of general applicability as it will find necessary in the exercise of its police power.

5.2.3 No Franchise will be exclusive.

5.2.4 Every Franchise will specifically require that the Franchisee serve the entire Franchise Area when residences number seven (7) per 1320 feet. Each connection within one hundred fifty feet (150) of the existing system shall be connected at no cost to the customer.

5.2.5 The Franchise Agreement will contain such further conditions or provisions as may be included in the request for proposal and negotiated between the City and the Franchisee, except that no such conditions or provisions will be such as to conflict with any provisions of this Ordinance or other law. In case of such conflict or ambiguity between any terms or provisions of the Franchise Agreement and this Ordinance, the Franchise Agreement will control.

5.3 Design, Services, and Capabilities.

5.3.1 Cable or OVS System Design. Every Franchisee shall offer Cable Service that meets the cable-related needs of the City. Such Cable Service shall, at a minimum, be comparable to Cable Services offered by that Franchisee or its Affiliates operating any headend serving the City and surrounding municipalities. The Cable Franchise shall incorporate a description of the Franchisee's Cable or OVS System including the general design and capabilities of the Cable or OVS System to identify how the Cable or OVS System will meet the current and future Cable needs of the City.

5.3.2 The Cable or OVS System. Every Cable or OVS System shall pass by every single-family dwelling unit within the Franchise Area in accordance with line extension policies set forth in this Ordinance. Service shall be provided to Subscribers in accordance with the schedules and line extension policies specified in this Ordinance.

5.3.3 Drops to Public Buildings.

5.3.3(1) Every Franchisee shall provide installation of at least one (1) Cable Drop and one (1) outlet, provide monthly Basic Cable Service, and maintenance of the same, without charge, to public buildings specified by the City in Exhibit B herein. All accredited K-12 schools, secondary private schools with students receiving funding under Title I of the Education and Secondary School Act of 1965, public libraries, and each police and fire station shall receive one (1) Cable Drop, one (1) drop, Basic Cable Service, and maintenance of the same at no charge, subject to the 150 foot limit. The location of such Cable drops and outlets shall be determined in cooperation with the management of the public building to which the connection is to be made. Following the City's designation of additional public buildings to receive Cable Service, a Franchisee shall complete construction of the Drop and the outlet within 180 days of the request, weather permitting and subject to payment of the commercially reasonable cost of

installation in excess of 150 feet. Drops and outlets that are in addition to the one free Drop and outlet required by this section shall be provided by a Franchisee at commercially reasonable cost. Alternatively, at an institution's request, the institution may add outlets at its own expense, as long as such installation meets the Franchisee's standards, which shall be made readily available to any public entity upon request. Additional outlets and Services to Public Buildings are subject to the applicable commercial rate.

5.3.3(2) All Cable Outlets provided for in this subsection shall not be utilized for commercial purposes. The City shall take reasonable precautions to prevent any use of a Franchisee's Cable or OVS System in any inappropriate manner or that may result in loss or damage to the Cable or OVS System. Users of such outlets shall hold the Franchisee harmless from any and all liability or claims arising out of their use of such outlets, other than those claims arising out of improper installation or faulty equipment.

5.3.3(3) In instances where the Drop line from the feeder cable to the public building, school, or library exceeds 150 feet, the Franchisee may charge for its commercially reasonable costs that are incurred in exceeding this length. A Franchisee may require advance payment of this cost.

5.3.4 Use of Franchisee's Facilities. Subject to any applicable state or federal regulations, the City shall have the right to install and maintain, upon the poles and within the underground pipes and conduits of a Franchisee, any wires and fixtures desired by the City for public purposes. . Provided, however, that (a) such use by Grantor shall not interfere with the current or future use by Franchisee or any pre-existing user or lessor of Franchisee's facilities; (b) such use by Grantor is restricted to non-commercial public purposes; (c) Grantor takes reasonable precautions to prevent and use of Franchisee's facilities in any manner that results in an inappropriate use thereof, or any loss or damage to the Cable or OVS System. For the purposes this subsection, "public purposes" includes, but is not limited to, the use of the structures and installations for City fire, police, traffic, utility, and/or signal systems, but not for commercial Cable or OVS System purposes in competition with the Franchisee; (d) to the extent provided by state law, the City holds Franchisee harmless against and from all claims, demands, costs, or liabilities of every kind and nature whatsoever arising out of such use of said poles or conduits; and (e) at the Franchisee's sole discretion, the City may be required either to pay a reasonable rental fee or otherwise reasonably compensate the Franchisee for the use of such conduit or other equipment.

5.3.5 Upgrade of the System and New Developments. Every Franchisee shall upgrade its Cable or OVS System (herein referred to as "System Upgrade"), if required, as set forth in its respective Franchise. Furthermore, the City may amend this Ordinance whenever necessary to enable the Franchisee to take advantage of any developments in the field of transmission of communication signals and upgrade the System which will afford it an opportunity to more effectively, efficiently, or economically serve its customers; provided that this Section will not be construed to require the City to make any such amendment and further provided that the City may not impose any capital or

operating expenditures on any Franchisee pursuant to this Section without the Franchisee's consent.

5.3.6 Emergency Alert Capability. Every Franchisee shall at all times provide the System capabilities to comply with the FCC's Emergency Alert System rules and regulations. Provided, that if the FCC at some future date eliminates the current regulations, the City and Franchisee shall mutually agree upon the applicable standard on a going forward basis.

5.3.7 Periodic Review and Evaluation. The City has determined that cable television technology, programs, and services are subject to continuing change. This includes change in law and regulations, as well as technological and service advancements. For this reason, it is essential that any Franchise which is granted pursuant to this Ordinance must include provisions for periodic review evaluation and modification and procedures and requirements relating to evaluation of the State of the Art technology and services permitting the City and Franchisee to agree to changes based upon review and in accordance with the procedures outlined in the Franchise Agreement.

5.3.8 Close Captioning and Descriptive Audio Service. Every Franchisee will make audio descriptive services and closed captioning capabilities available to the extent required by state and federal law.

5.3.9 HDTV/ATV Conversion. Conversion to High Definition Television/Advances Television (HDTV/ATV) formats shall occur in accordance with applicable law.

5.4 Public, Educational, and Governmental Access or PEG Access.

5.4.1 Access Channels.

5.4.1(1) Every Franchisee shall, to the extent required in its Franchise and subject to applicable law, provide or fund PEG Access Facilities in an amount equal to that provided by other Franchisee(s). Such requirements shall, at a minimum, satisfy the community need for such facilities and/or service as determined by the City or governing body for the period of the applicable Franchise and shall be established in the Franchise Agreement.

5.4.1(2) Every Franchisee shall also provide channel capacity, and support for Public, Educational, and Government Access Channels, as specified in their Franchise. All such PEG Access Channels shall be available to all Subscribers as part of their Basic Cable Service. Given the on-going changes in the state of technology as of the Effective Date of this Ordinance, absent express written consent of the City, Franchisee shall transmit PEG Access Channels in the format or technology utilized to transmit all of the Channels on the Basic Cable Service tier. Oversight and administration of the PEG Access Channels shall be set forth in the Franchise Agreement.

5.4.1(3) The City may require the Grantee to pay up to one percent (1%) per Subscriber, per month as a grant for the community's telecommunications-related capital needs. Such charge may be itemized as a "PEG Fee" and passed-through on Subscriber's bills.

5.4.1(4) The City may adopt or modify the "PEG Fee," up to the amount provided in paragraph 5.2a above, by adopting a Resolution identifying the amount thereof. The City shall provide written notice of any modification or adoption of the PEG fee to Grantee within 90 days of the proposed effective change. An equivalent fee shall be required of all other franchised video service providers.

5.4.1(5) The City, or its designee, may implement rules for use of any access channel(s).

5.4.2 Proof of Performance Testing. To ensure high quality of service on the Access Channels, results of proof of performance testing as required by applicable federal law throughout the System and on all required Channels will be made available to the City upon request to the extent required by the Franchise. Every Franchisee will monitor the Cable or OVS System to determine and ensure that the level of technical quality of the System's transmission of Access Channels is in conformance with the FCC Rules and is the same as on other Channels transmitted on the Cable or OVS System.

5.5 Construction Standards and Requirements.

5.5.1 Permit Required. Franchisee will not construct any Cable or OVS System facilities until Franchisee has secured the necessary permits from the City or other cognizant public agencies.

5.5.2 Construction Standards. All of the Franchisee's plant and equipment including, but not limited to, the antenna site, headend, and distribution System, towers, house connections, structures, poles, wire, cable, coaxial cable, fixtures, and appurtenances will be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained, and operated in accordance with good engineering practices, performed by experienced pole line construction crews and so as not to endanger or interfere with the safety of any Person or property, or to interfere with improvements the City may deem proper to make, or to interfere in any manner with the right of any property owner, or to unnecessarily hinder or obstruct pedestrian or vehicular traffic on City properties.

5.5.3 Compliance with City Ordinances for Work in Rights-of-Way. Any opening or obstruction in or disturbance of the Rights-of-Way or other municipal properties made by the Franchisee in the exercise of its rights under a Franchise Agreement will be done in compliance with City ordinances which regulate work in the public ways of the City, except that any bond requirements therein shall be waived in cognizance of the bond requirements of this Ordinance.

5.5.4 Compliance with City Ordinances for Construction and Building Standards. The Franchisee will comply with the minimum standards provided for by the applicable ordinances of the City adopted from time to time containing construction or building standards of general applicability; provided, however, that Franchisee shall not be required to modify or alter its Cable or OVS System unless such modification or alteration is necessary for the protection of public health, safety and welfare.

5.5.5 Removal and Relocation of Facilities. The Franchisee will, at its expense, protect, support, temporarily disconnect, relocate in the same Rights-of-Way, or other Right-of-Way, or remove from the Right-of-Way, any property of Franchisee when required by the City or its designee by reason of traffic conditions, public safety, street excavation, freeway, and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines, and tracks, or any other type of structures or improvements by public agencies. If the City compensates any utility for such work, the City must similarly compensate the Franchisee for such work.

5.5.6 Movement of Lines. The Franchisee will, on the request of any private party holding an appropriate permit issued by the City and upon five (5) days prior written notice, temporarily raise or lower its lines to permit the moving of any building or other structure, and the actual expense of the same will be paid in advance by the party requesting the same.

5.5.7 Tree Trimming. The Franchisee will have the right, with the prior approval of the City, except in emergency circumstances, to remove, trim, cut, and keep clear of its poles, wires, or cables, the trees in and along the streets of the City, but in the exercise of such right, the Franchisee will not cut or otherwise injure said trees to any greater extent than is reasonably necessary for the continued integrity of its poles, wires, or cables.

5.5.8 Responsible for Restoration and Costs. The Franchisee, in exercise of any right granted to it by the Franchise, will reconstruct, replace, restore, or repair any street, and any sewer, gas, or water main, pipe, electric, fire alarm, or police communications, off or on City property, or Right-of-Way or traffic control facility of the City which may be damaged or destroyed by the exercise of any such right, to a condition as good as that prevailing before said work to the reasonable satisfaction of the City. The City reserves the right to determine whether the Franchisee has properly complied with the provisions of this paragraph and in the event it is determined that the Franchisee has failed to do so, the City will have the right to, following notice to the Franchisee and reasonable opportunity for the Franchisee to cure, enforce such provisions, and the Franchisee will reimburse the City in full for all expenses incurred by the City in carrying out all or part of such provisions.

5.5.9 Failure to Complete Work. Upon failure of the Franchisee to commence, pursue, or complete any work required by law or by the provisions of this Ordinance to be done in any Rights-of-Way, within the time prescribed, and to the reasonable satisfaction of the City or its designee, the City or its designee may, following notice to the Franchisee and reasonable opportunity for the Franchisee to cure, at its option, cause such work to be done. The Franchisee will pay to the City the cost thereof in the itemized amounts

reported by the City or its designee to Franchisee within 30 days after receipt of such itemized report.

5.6 Technical Standards.

5.6.1 Compliance with OSHA. All construction practices will be in accordance with all applicable sections of the Occupational Safety and Health Act of 1970, as amended, as well as all other applicable local, state, and federal laws and regulations.

5.6.2 Compliance with National Electrical Codes. All Installation of electronic equipment will be installed in accordance with the provisions of the National Electrical and Safety Code and National Electrical Code as amended.

5.6.3 Compliance with FAA Regulations. Antennae and their supporting structures (towers) will be painted, lighted, erected, and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration and all other local, state, and federal laws and regulations.

5.6.4 Test and Compliance Procedure. Tests for the Cable or OVS System shall be performed periodically in a manner so as to conform with FCC specifications. The tests may be witnessed by representatives of the City and written test results shall be made available to the City within 30 days of a request.

5.6.5 Additional Tests. At any time after commencement of Service to Subscribers, the City may require the Franchisee to perform additional tests, full or partial repeat tests, or tests involving a specific Subscriber's Drop. Such additional tests may be made on the basis of Complaints received or other evidence indicating an unresolved controversy or significant noncompliance, and such tests will be limited to the particular matter in controversy. The City will be able to designate a representative to be present during the testing. If a test indicates that the Franchisee is in compliance with FCC standards and requirements, the City will bear the expense of such test. If a test indicates that the Franchisee is not in compliance with FCC standards and requirements, the Franchisee will bear the expense of such test. The City will endeavor to so arrange its requests for such special tests so as to minimize hardship or inconvenience to Franchisee or to the Subscriber.

5.7 Repair.

Any damage caused to the property of building owners or users or any other Person by the Franchisee's negligence will be repaired fully to a condition as good as that prevailing before said work by the Franchisee.

5.8 Removal of Facilities From Subscriber's Premises Upon Request.

Upon termination of service to any Subscriber, the Franchisee will promptly remove all its facilities and equipment from the premises of such Subscriber upon his or her request.

5.9 Transfer of Ownership.

5.9.1 Franchisee will not sell, transfer, lease, assign, sublet, or dispose of any Franchise awarded under this Ordinance or any of the rights or privileges granted by the Franchise to any Person other than an Affiliate of Franchisee, without the prior consent of the City, which consent will not be unreasonably withheld and may be denied only upon a good faith finding by the City that the proposed transferee lacks the legal, technical, or financial qualifications to consummate the transaction and operate the Cable or OVS System so as to perform its obligations under the Cable Franchise. This section shall not apply to sales or property or equipment in the normal course of business.

Further, any sale or transfer and the consent thereto, will comply with applicable legal requirements. Any attempt to sell, transfer, lease, assign, or otherwise dispose of the Franchise and/or the Cable or OVS System without the consent of the City except as otherwise provided herein will be null and void. The granting of a security interest in any of Franchisee's assets, or any mortgages or other hypothecation, will not be considered a transfer for the purposes of this Section.

5.9.2 Any change of control of Franchisee will be deemed to be a "sale" or "transfer" of the Franchise. A "change of control" will include any stock sale by Franchisee to, or any merger or consolidation with, any Person (or group of Persons acting in concert) that is not an Affiliate of Franchisee before such transaction but shall not include the transfer of ownership or control of a Franchisee's limited or non-managing general partner. The sale, assignment, or other transfer of all or a majority of a Franchisee's assets in the City shall also constitute a sale or transfer.

5.9.3 The Franchisee must comply with provisions of the Cable Act regarding transfers of ownership and any other state, federal, or local laws which are applicable.

5.9.4 The Franchisee will notify the City in writing of any foreclosure or any other judicial sale of all or a substantial part of the property of the Franchisee or upon the termination of any lease or interest covering all or a substantial part of said franchised property. Such notification will be considered by the City as notice that a change in control or ownership of the Franchise has taken place and the provisions under this Section governing the consent of the City to such change in control or ownership will apply.

5.9.5 For the purpose of determining whether it will consent to such a change, transfer, or acquisition of control, the City may inquire into the qualifications of the prospective transferee or controlling party, and the Franchisee will assist the City in any such inquiry. The transferee will be required to establish that it possesses the legal, technical, and financial qualifications to operate and maintain the System and comply with all Franchise requirements for the remainder of the term of the Franchise. After considering the legal, financial, and technical qualifications of the transferee and determining that they are satisfactory, the City may approve the transfer of rights and obligations of said Franchise.

5.9.6 As a condition of transfer of ownership or control any proposed transferee shall execute an agreement, in such form as acceptable to the City Attorney, that it will assume and be bound by all of the provisions, terms and conditions of this Ordinance and any Franchise granted pursuant to it.

5.9.7 Any financial institution having a pledge of the Franchisee or its assets for the advancement of money for the construction and/or operation of the Franchise will have the right to notify the City that it or its designee satisfactory to the City will take control of and operate the Cable Television System, in the event of a Franchisee default in its financial obligations. Said financial institution will also submit a plan for such operation within 30 days of assuming such control that will assure continued service and compliance with all Franchise requirements during the term the financial institution exercises control over the System. The financial institution will not exercise control over the System for a period exceeding one year unless extended by the City in its discretion and during said period of time it will have the right to petition the to transfer the Franchise to another Franchisee.

5.9.8 Notwithstanding anything to the contrary contained herein, no such prior consent will be required for any transfer or assignment to any Person controlling, controlled by, or under the same common control as the Franchisee.

5.9.9 The City reserves any legal right it has under applicable law to require a Franchisee to pay all costs and expenses incurred by the City in connection with the sale, assignment, or transfer of a Cable Franchise, including, but not limited to, the City's costs of reviewing the qualifications of any proposed transferees.

5.10 Purchase by City.

Subject to the Cable Act, if a Franchise is revoked for cause, the City may, to the extent permitted by federal law, acquire that portion of the Cable or OVS System serving the City upon payment of an equitable price or affect a transfer of ownership of the same to another Person.

5.11 Requests for Cable Service.

A Franchisee will provide Cable Service to any requesting Subscriber within the City within 30 days from the date of request, weather permitting.

5.12 Multiple Franchises.

5.12.1 Grant of Additional Franchise. The City may grant one or more Franchises for the City. Each Franchise Agreement granted shall contain substantially similar terms and conditions including the service area. The City may, in its sole discretion, limit the number of Franchises granted based upon, but not necessarily limited to, the requirements of applicable laws and specific local considerations, such as:

5.12.1(1) The capacity of the public Rights-of-Way to accommodate multiple coaxial cables in addition to the cables, conduits, and pipes of the utility systems, such as

electrical, power, telephone, gas, and sewerage and the potential disruption of those Rights-of-Way and private property that may occur if one or more additional Franchises are granted.

5.12.1(2) The impact on the community of having multiple Franchises.

5.12.1(3) The amount of time it will take the applicant to complete construction of the proposed Cable or OVS System and activate Cable Service in the entire Franchise Area; and, whether the applicant can complete construction and activation of its Cable or OVS System in a timely manner.

5.12.1(4) The disruption on the availability of Cable Service within the City.

5.12.1(5) Such other information as the City may deem appropriate to be considered prior to granting any competing or overlapping Franchise.

5.12.2 Permits for Non-Franchised Entities. The City may issue a license to a Person other than the Franchisee to permit that Person to traverse any portion of a Franchisee's Franchise Area within the City in order to provide Cable Service outside, but not within the City. Such a license or easement, absent a grant of a Franchise in accordance with this Ordinance, shall not authorize nor permit said Person to provide Cable Service of any type to any home or place of business within the City.

5.13 Discriminatory or Preferential Practice.

5.13.1 Rates and Charges. The Franchisee will not, in its rates or charges, or in making available the services or facilities of its System, or in its rules or regulations, or in any other respect, make or grant preferences or advantages to any Subscriber or potential Subscriber to the System, or to any user or potential user of the System; and will not subject any such Persons to any prejudice or disadvantage. The foregoing will not be deemed to prohibit or preclude promotional rates or charges.

5.13.2 Access and Employment. The Franchisee will not deny service, deny access, or otherwise discriminate against Subscribers on the basis of race, creed, color, religion, national origin, or sex. The Franchisee will comply at all times with applicable equal employment opportunity requirements and all other applicable federal, state, and local laws and regulations, and all executive and administrative orders relating to nondiscrimination which are hereby incorporated and made part of this Ordinance by reference.

5.13.3 Build-Out. A Franchisee may not discriminate in the build-out of its Cable or OVS System to a particular area of the City or provision of Cable Service to individual groups of residents on the basis of race, creed, color, religion, national origin, sex, or economic condition.

5.14 Subscriber Privacy.

The Franchise will comply with the Subscriber privacy standards located in 47 U.S.C. § 551. If the standards in 47 U.S.C. § 551 cease to exist, the City will have the right to implement the following:

No signal will be transmitted from 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 will be contained in a separate document with a prominent statement that the Subscriber is authorizing the monitoring and acknowledging the provisions. The authorization will be revocable at any time by the Subscriber without penalty of any kind whatsoever; provided, however, that the Franchisee will be entitled, without permission, to conduct System-wide or individually addressed "sweeps" for the purpose of verifying System integrity, controlling return transmission, or billing for services.

5.15 Permits and Authorizations.

The Franchisee or applicant for Franchise will diligently apply for all necessary permits and authorizations required in the conduct of its business, and will diligently pursue the acquisition thereof, including necessary pole attachment contracts, and necessary authorizations from the Federal Aviation Administration to construct such receiving antenna towers as may be required, and any necessary authorizations or waivers from the FCC. After the Franchisee has diligently pursued the acquisition of necessary pole attachment contracts, or other necessary easements, and where such necessary contracts have not been entered or easements obtained after a reasonable period of time, the Franchisee may submit the matter to the City and the City may thereupon provide assistance that may be necessary to arrive at a solution so that scheduled construction of the System will not be impaired.

5.16 Annual Reports.

5.16.1 Contents. Upon request of the City, each Franchisee will file an Annual Report. Such Report will include:

5.16.1(1) An ownership report, identifying all Persons who at any time during the preceding year controlled or benefited from an interest in the Franchisee of five percent or more.

5.16.1(2) Copies of all rules, regulations, terms, and conditions the Franchisee has adopted for the conduct of its business.

5.16.1(3) A summary of any customer surveys conducted that year.

5.16.1(4) A summary of the previous year's (or in the case of the initial reporting year, the initial year's) activities in development of the Cable or OVS

System, including but not limited to, services begun or discontinued during the reporting year.

5.16.1(5) A list of Franchisee's officers, board members, and other principals and a current list of the addresses of each officer and director and other management personnel of the Franchisee.

5.16.1(6) A revenue statement certified by a representative of the Franchisee showing the Gross Revenues of the Franchisee for the proceeding fiscal year.

5.16.1(7) A statement of the Franchisee's current billing practices and charges.

5.16.1(8) As part of the Annual Report, Franchisee will provide to the City the following statistical information:

(i) Statistics compiled on a quarterly basis recording service calls in which a technician or repairman is dispatched to a residence to correct a reception problem. Such records should be kept pursuant to Section 7.6.

(ii) Franchisee's leakage log.

(iii) Records of Complaints called or written into the System and kept in the ordinary course of business. Such records should be kept pursuant to the requirements of Section 7.6.

Upon request, Franchisee will allow the City Administrator or his or her designee to review a detailed plan (map) of the System at its offices.

5.16.2 Service Contract and Subscriber Information.

5.16.2(1) A Franchisee shall have authority to promulgate such rules, regulations, terms, and conditions governing the conduct of its business as shall be reasonably necessary to enable the Franchisee to exercise its rights and perform its obligations under this Ordinance and a Franchise Agreement and to assure uninterrupted Cable Service to all of its Subscribers; provided such rules, regulations, terms, and conditions shall not be in conflict with the provisions of this Ordinance, federal, state, and or local law, or any applicable rules and regulations.

5.16.2(2) Upon request, a Franchisee shall submit to City any standard residential Subscriber contract form that it utilizes. If no written form exists, upon request, a Franchisee shall file with the City a document completely and concisely stating the terms of the standard residential Subscriber contract offered.

5.17 Indemnification, Security Funds, Insurance.

5.17.1 Liability and Indemnification. The Franchisee will indemnify, hold harmless, release, and defend the City, its officers, agents, and employees from and against any and all lawsuits, claims, causes of action, actions, liability, demands, damages, disability losses, expenses including reasonable attorneys' fees, and costs or liabilities of any nature that may be asserted by any Person or entity from any cause whatsoever including another's concurring negligence arising from injury to Persons or damages to property to the extent caused by any conduct undertaken by the Franchisee, its officers, agents, or employees, by reason of its construction, operation, or maintenance of its System. Such damages and penalties will include, but not be limited to, damages arising out of copyright infringements, and all other damages arising out of the installation, operation, or maintenance of the Cable or OVS System authorized herein, whether or not any act or omission complained of is authorized, allowed, or prohibited by the Franchise, except that a Franchisee will not be liable for payment of damages and penalties arising from any acts or omissions by the City, its agents, or employees. If a lawsuit is filed against the City, either independently or jointly with the Franchisee to recover for any claim or damages, the Franchisee, upon notice to it by the City, will, at its sole cost and expense, defend and fully control the defense of the City against the action and, in the event of a final judgment being obtained against the City, either independently or jointly with the Franchisee solely by reason of the acts of the Franchisee, the Franchisee will pay said judgment and all costs and hold the City harmless therefrom. However, the Franchisee may not enter into any compromise, settlement, resolution, or disposition of a claim or proceeding that may create or impose liability for the City without obtaining the City's written consent thereto which shall not be unreasonably withheld. In order for the City to assert its rights to be indemnified and held harmless, the City must:

5.17.1(1) Notify Franchisee of any claim or legal proceeding which gives rise to such right;

5.17.1(2) Afford Franchisee the opportunity to participate in and fully control any compromise, settlement, resolution, or disposition of such claim or proceeding; and

5.17.1(3) Fully cooperate in the defense of such claim and make available to Franchisee all such information which it may lawfully furnish to Franchisee and relating to the claim.

5.17.2 Security Funds. The City may require the Franchisee to file with the City Administrator/Clerk-Treasurer, concurrently with its acceptance of the Franchise and at Franchisee's sole expense a corporate surety bond, construction bond, performance bond, and/or security fund. Such bond and/or security fund will be in an amount specified in the Franchise Agreement, issued by a responsible company licensed to do business in Minnesota and conditioned upon the faithful performance of the Franchisee to meet its obligations under this Ordinance and the Franchise. The Franchisee shall be required to replenish any such bond within thirty (30) days after the City draws down upon it.

5.17.3 General Provisions Relating to Insurance.

5.17.3(1) During the course of a Franchise Agreement, the Franchisee will be required to maintain liability insurance, to protect the City and the Franchisee from and against any and all claims, injury, or damage to Persons or property, both real and personal, caused by the construction, erection, operation, or maintenance of any aspect of the System. The amount of insurance will be specified in the Franchise Agreement.

5.17.3(2) The Franchisee will provide workers' compensation insurance as required by state law.

5.17.3(3) All such insurance coverage will provide a thirty (30) day notice to the City Administrator in the event of material alteration or cancellation of any coverage afforded in said policies prior to the date said material alteration or cancellation will become effective.

5.17.3(4) Copies of all certificates evidencing insurance will be furnished to and filed with the City Administrator prior to the commencement of operations or the expiration of prior policies, as the case may be.

5.17.3(5) It will be the obligation of Franchisee to promptly notify the City of any pending or threatened litigation that would be likely to affect the Franchisee's insurance coverage.

5.17.4 Liability Insurance.

A. As of the effective date of this Franchise Agreement, the Franchisee will, at its sole expense, maintain during the entire term of this Franchise public liability insurance with a company licensed to do business in the State of Minnesota with a rating by Best of not less than "B" that will protect the Franchisee, the City, and the City's officials, officers, employees, and agents from claims which may arise from operations under this Franchise except claims brought by City employees which are covered by Worker's Compensation, whether such operations are by the Franchisee, its officials, officers, directors, employees, or agents, or any subcontractors of Franchisee. This liability insurance will include, but will not be limited to, protection against claims arising from bodily and personal injury, and damage to property resulting from the Franchisee's automobiles, products, and completed operations. The amount of such insurance will be not less than the following:

1. General liability insurance:

Bodily injury per Person	\$1,000,000
Bodily injury per occurrence	\$1,000,000
Property damage per occurrence	\$1,000,000
Property damage and bodily injury, aggregate	\$5,000,000

2. Automobile insurance:

Bodily injury per Person	\$1,000,000
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Bodily injury per occurrence	\$1,000,000
Property damage per occurrence	\$1,000,000

3. Umbrella coverage: \$1,000,000

B. The liability policy will provide for the following, by endorsement or otherwise:

1. The policy will cover personal injury as well as bodily injury.

2. The policy will cover blanket contractual liability subject to the standard universal exclusions of contractual liability included in the carrier's standard endorsement as to bodily injuries, personal injuries, and property damage.

3. Broad form property damage liability will be afforded.

4. The City will be included as an additional insured on the policy.

5. The coverage is primary insurance and no other insurance or fund of the City will be called upon to contribute to a loss under this coverage.

6. Standard form of cross-liability will be afforded.

7. The policy will not be canceled without thirty (30) days prior written notice of such cancellation to the City.

C. The automobile insurance policy will provide for the following, by endorsement or otherwise:

1. The City will be included as an additional insured on the policy.

2. The policy will not be canceled without thirty (30) days prior written notice of such cancellation to the City.

D. Upon ninety (90) days prior written notice to Franchisee, the City reserves the right to adjust the limit coverage requirements no more than every five (5) years. Any such adjustment by the City will be no greater than the increase in the State of Minnesota Consumer Price Index for such five-year period.

E. Franchisee will submit to the City documentation of the required insurance including a certificate of insurance signed by the insurance agent and companies named, as well as all properly executed endorsements required by this Section 2.2. The certificate of insurance should confirm that the required endorsements are in effect.

F. Any deductible or self-insured retention must be declared to the City.

G. Franchisee will have insurance coverage sufficient to cover any claim in the event that Franchisee sells or transfers the system, or in the event of termination or revocation of this Franchise.

H. It will be the obligation of the Franchisee to notify the City promptly of any pending or threatened litigation likely to negatively impact its ability to provide the insurance coverage required herein.

5.17.5 Non-Waiver. Neither the provisions of this Section, nor any bonds accepted by the City pursuant thereto, nor any damages recovered by the City thereunder will be construed to excuse unfaithful performance by the Franchisee or limit the liability of the Franchisee under this Ordinance or the Franchise for damages, either to the full amount of the bond or otherwise.

5.18 Continuity of Service.

5.18.1 It will be the right of all Subscribers to continue receiving Cable Services insofar as their financial and other obligations to the Franchisee are honored. In the event that the Franchisee elects to rebuild, modify, or sell the System, or the City gives notice of intent to terminate or fails to renew the Franchise, the Franchisee will act so as to insure that all Subscribers receive continuous, uninterrupted service, subject to compliance with federal and state laws.

5.18.2 In the event of a change of the Franchisee, or in the event a new operator acquires the System, the Franchisee will cooperate with the City's new Franchisee or operator in maintaining continuity of Cable Service to all Subscribers. During such period, Franchisee will be entitled to the revenues for any period during which it operates the System and will be entitled to reasonable cost for its services when it no longer operates the System.

5.19 Safety Requirements.

5.19.1 The Franchisee will at all times employ ordinary care and will install, maintain, and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

5.19.2 The Franchisee will install and maintain its wires, cables, fixtures, and other equipment in accordance with the requirements of the National Electrical Safety Code of the Institute of Electrical and Electronic Engineers; the National Electrical Code of the National Fire Protection Association; the Bell System Code of Pole Line Construction; and applicable federal, state, and local regulations.

5.19.3 All structures and all lines, equipment, and connections in, over, under, and upon the Rights-of-Way of the City, wherever situated or located, will at all times be kept and maintained in a safe, suitable, substantial condition and in good order and repair.

SECTION 6: FRANCHISE FEES

6.1 Five Percent Franchise Fee.

During the term of any Franchise granted pursuant to this Ordinance, the Franchisee will pay to the City for the use of its Rights-of-Way an annual franchise fee in an amount of five percent of the annual Gross Revenues as compensation for the grant of a Franchise and in consideration of permission to use the Rights-of-Way of the City for the construction, operation, maintenance, and reconstruction of a Cable or OVS System, and to defray the costs of Franchise obligations. This payment will be in addition to any other tax or payment owed to the City by the Franchisee and does not include rental of poles or underground conduits. Further, every Franchisee that offers any “bundled” services shall fairly reflect as part of its calculation of applicable Franchise Fees an appropriate and reasonable division of services among the various services offered. The specific cost accounting for such revenue attribution shall be set out in the individual Franchise or other agreement.

6.2 Payment and Audits.

Sales tax or other taxes levied directly on a per subscription basis and collected by Franchisee will be deducted from Gross Revenues before computation of sums due the City is made. Payments due the City under the terms of this Ordinance will be computed and paid monthly.. The City will be furnished a statement with each payment, certified as correct by the Franchisee, reflecting the total amount of Gross Revenues and the above charges, deductions, and computations for the one-month payment period covered by the payment. Upon 10 days prior written notice, the City will have the right to conduct an independent audit of Franchisee's records, in accordance with generally accepted accounting principles and if such audit indicates a franchise fee underpayment of five percent or more, the Franchisee will assume all reasonable costs of the audit. Any additional amount due the City as a result of such audit will be paid within 30 days following written notice by the City to the Franchisee, which notice will include a copy of the audit report.

6.3 Acceptance of Payment.

No acceptance of any payment will be construed as a release or accord and satisfaction of any claim the City may have for further or additional sums payable as a franchise fee under this Ordinance or the Franchise Agreement or for the performance of any other obligation hereunder.

6.4 Failure to Pay.

Failure to pay any fees required by this Section within 10 days of receipt of written notice of such failure from the City will be grounds for termination of the Franchise and reinstatement thereof may be had only upon resolution by the City Council.

6.5 Penalty for Late Payment.

In the event that any franchise fee payment or recomputed amount is not made on or before the dates specified above, Franchisee will pay as additional compensation an interest charge, computed from such due date, at an annual rate equal to the prime lending rate plus one and one-half percent during the period for which payment was due and unpaid.

6.6 Monthly Report of Gross Revenues.

Each Franchisee will file with the City monthly reports in the form provided as Exhibit A hereto, of Gross Revenues certified as correct by the Franchisee.

SECTION 7: CUSTOMER SERVICE STANDARDS

7.1 Compliance.

Franchisee shall comply with the customer service standards of the FCC, as outlined in this Section.

7.2 Cable or OVS System Office Hours and Telephone Availability.

7.2.1 Franchisee will maintain a local, toll-free, or collect call telephone access line which will be available to its Subscribers twenty-four (24) hours per day, seven days per week.

7.2.1(1) Trained Franchisee representatives will be available to respond to customer telephone inquiries during Normal Business Hours.

7.2.1(2) 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 Franchisee representative on the next business day.

7.2.2 Under Normal Operating Conditions, telephone answer time by a customer representative, including wait time, will not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time will not exceed thirty (30) seconds. These standards will be met no less than ninety percent (90%) of the time under Normal Operating Conditions, measured on a quarterly basis.

7.2.3 The Franchisee will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless a historical record of Complaints indicates a clear failure to comply.

7.2.4 Under Normal Operating Conditions, the customer will receive a busy signal less than three percent (3%) of the time.

7.2.5 Customer service center and bill payment locations shall be open at least during Normal Business Hours and will be conveniently located.

7.3 Installations, Outages, and Service Calls.

Under Normal Operating Conditions, each of the following four standards will be met no less than ninety percent (90%) of the time measured on a quarterly basis:

7.3.1 Standard Installations will be performed within seven business days after an order has been placed. "Standard" Installations are those that are located up to one hundred fifty (150) feet from the existing distribution System.

7.3.2 Excluding conditions beyond the control of Franchisee, Franchisee's representatives will be available to begin working on Service Interruptions within twenty-four (24) hours after the interruption becomes known Franchisee must begin actions to correct other service problems the next business day after notification of the service problem.

7.3.3 The "appointment window" for Installations, service calls, and other Installation activities will be either at a specific time or, at a maximum, within a four (4) hour time block during Normal Business Hours. (The Franchisee may schedule service calls and other Installation activities outside of Normal Business Hours for the express convenience of the customer.)

7.3.4 Franchisee may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

7.3.5 If Franchisee'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.

7.4 Communications Between Franchisee and Subscribers.

7.4.1 Notifications to Subscribers.

7.4.1(1) The Franchisee 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:

- (i) Products and services offered;
- (ii) Prices and options for programming services and conditions of subscription to programming and other services;
- (iii) Installation and service maintenance policies;
- (iv) Instructions on how to use the Cable Service;

- (v) Channel positions programming carried on the System; and
- (vi) Billing and Complaint procedures, including the address and telephone number of the City official who handles cable issues.

7.4.1(2) 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 thirty (30) days in advance of such changes if the change is within the control of the Franchisee. In addition, the Franchisee will notify Subscribers 30 days in advance of any significant changes in the other information required by the preceding subparagraph. Notwithstanding any other provision, Franchisee 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 franchise authority on the transaction between Franchisee and the Subscriber.

7.4.2. Billing.

7.4.2(1) Bills will be clear, concise, and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates, and credits.

7.4.2(2) In case of a billing dispute, the Franchisee must respond to a written Complaint from a Subscriber within thirty (30) days.

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

7.4.3(1) The customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or

7.4.3(2) The return of the equipment supplied by the Franchisee if service is terminated.

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

7.5 Parental Control.

Every Franchisee shall make available to any Subscriber upon request a "lockout" device, which may be included within the converter, for blocking both video and audio portions of any channel(s) of programming entering the Subscriber's premises. Such device shall be provided at a reasonable charge, except to the extent that federal law specifically provides otherwise. A Franchisee may, however, require a reasonable security deposit for the use of such device.

7.6 Complaint Log.

Subject to the privacy provisions of 47 U.S.C. § 521 et. seq., every Franchisee shall prepare as necessary and maintain written records of Complaints made to them and the resolution of such Complaints, including the d*ate of such resolution. Such Complaint logs shall be on file for three (3) years, and available for inspection by the City with reasonable prior notice.

SECTION 8: GENERAL

8.1 Subscriber Rates.

8.1.1 City may regulate rates as permitted by applicable law.

8.2 Records Required and City's Right to Inspect.

8.2.1 Franchisee will at all times maintain:

8.2.1(1) A full and complete set of plans, records, and "as-built" maps showing the location of the Cable Television System installed or in use in the City, exclusive of Subscriber Service Drops and equipment provided in Subscribers' homes.

8.2.1(2) If requested by City, a summary of service calls, identifying the number, general nature, and disposition of such calls, on a monthly basis to the extent kept in the regular course of business.

8.2.2 The Franchisee agrees that the Franchisor, upon thirty (30) days written notice to the Franchisee, may review such of its books and records at the Franchisee's business office, during normal business hours and on a nondisruptive basis, as is reasonably necessary to ensure compliance with the terms of this Franchise. Such notice shall specifically reference the Section of the Franchise which is under review, so that the Franchisee may organize the necessary books and records for easy access by the Franchisor. The Franchisee shall not be required to maintain any books and records for Franchise compliance purposes longer than three (3) years. Notwithstanding anything to the contrary set forth herein, the Franchisee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature, nor disclose books and records of any affiliate which is not providing Cable Service in the Service Area.

8.2.3 The Franchisor agrees to treat any information disclosed by the Franchisee as confidential and only to disclose it to employees, representatives, and agents thereof that have a need to know, or in order to enforce the provisions hereof. Information required to be filed with the City pursuant to this Ordinance is subject to public inspection and copying pursuant to Minnesota law concerning public and nonpublic information. The City shall provide the Franchisee with notice of any request for information designated by the Franchisee as proprietary. Nothing in this Ordinance or Franchise shall be construed as a waiver of the provisions of Minnesota law applicable to public and nonpublic information. The City shall not make information designated as proprietary open for public inspection or copying except as may be required by law. The Franchisee shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act.

8.2.4 The City will have the right to request copies of any petitions, applications, communications, and reports submitted by Franchisee or on its behalf to the FCC, Securities and Exchange Commission, or any other federal or state regulatory commission or agency having jurisdiction with respect to any matters affecting the Cable or OVS System authorized pursuant to this Ordinance and any Franchise, as such documents relate to Franchisee's operation of its System under the Franchise. Copies of responses from the regulatory agencies to Franchisee will likewise be furnished to the City upon request. If the City is specifically named in any such pleading or response, the City shall automatically be furnished a copy.

8.3 Abandonment or Removal of Franchise Property.

8.3.1 Abandonment. In the event that the use of any property of Franchisee within the Franchise Area or a portion thereof is discontinued for a continuous period of 12 months, Franchisee will be deemed to have abandoned that Franchise property.

8.3.2 Removal. The City, upon such terms as City may impose, may give Franchisee permission to abandon, without removing, any System facility or equipment laid, directly constructed, operated, or maintained under the Franchise. Unless such permission is granted or unless otherwise provided in this Ordinance, the Franchisee will remove all abandoned above-ground facilities and equipment upon receipt of written notice from City and will restore any affected street, alley, or public property to its former state at the time such facilities and equipment were installed, so as not to impair its usefulness. In removing its plant, structures, and equipment, Franchisee will refill, at its own expense, any excavation that will be made by it and will leave all Rights-of-Way in as good condition as that prevailing prior to such removal without materially interfering with any electrical or telephone cable or other utility wires, poles, or attachments. The City will have the right to inspect and approve the condition of the Rights-of-Way, cables, wires, attachments, and poles prior to and after removal. The liability, indemnity, and insurance provisions of this Ordinance and the security fund as provided herein will continue in full force and effect during the period of removal and until full compliance by Franchisee with the terms and conditions of this Section.

8.3.3 Transfer of Abandoned Property. Upon abandonment of any Franchise property in place, the Franchisee, if required by the City, will submit to the City an instrument, satisfactory in form to the City, transferring to the City the ownership of the Franchise property abandoned.

8.3.4 Above Ground Portion of System. At the expiration of the term for which the Franchise is granted and a denial of any renewal, or upon its revocation or earlier expiration, as provided for herein, in any such case without renewal, extension, or transfer, the City will have the right to require Franchisee to remove, at its own expense, all above-ground portions of the Cable Television System from all Rights-of-Way within the City within a reasonable period of time, but will not be less than 180 days.

8.3.5 No Material Interference. Notwithstanding anything to the contrary set forth in this Ordinance, the Franchisee may abandon any underground Franchise property in place

so long as it does not materially interfere with the use of the Rights-of-Way in which such property is located or with the use thereof by any public utility or other cable Franchisee.

8.4 Rights Reserved to City.

8.4.1 In addition to any rights specifically reserved to the City by this Ordinance, the City reserves to itself every right and power which is required to be reserved by a provision of any ordinance or under the Franchise Agreement.

8.5 Force Majeure.

Franchisee's Inability to Perform. In the event Franchisee's performance of any of the terms, conditions, or obligations required by this Ordinance or a Franchise granted hereunder is prevented by a cause or event not within Normal Operating Conditions or otherwise not within the Franchisee's control, such inability to perform will be deemed excused and no penalties or sanctions will be imposed as a result thereof.

For the purpose of this Section, causes or events not within the control of Franchisee include but are not limited to: acts of God, strikes, sabotage, riots or civil disturbances, restraints imposed by order of a governmental agency or court, failure or loss of utilities, explosions, acts of public enemies, and natural disasters such as floods, earthquakes, landslides, weather, inability to obtain equipment, and fires.

8.6 Non-Enforcement Not Estoppel.

The Franchisee will not be relieved of its obligation to comply promptly with any of the provisions of the Franchise by any failure of the City to enforce prompt compliance.

8.7 Procedure for Remediating Franchise Violations.

If Franchisee fails to perform in a timely manner any material obligation required by Ordinance or a Franchise Agreement, following notice from the City and an opportunity to cure such non-performance, the City may remedy such violation in accordance with the following procedures:

8.7.1 The City will first notify a Franchisee of the violation in writing by delivery of registered or certified mail, and demand correction within a reasonable time, which will not be less than twenty-five (25) days in the case of the failure of a Franchisee to pay any sum or other amount due the City under this Ordinance or a franchise, and not less than forty-five (45) days in all other cases. If a Franchisee fails to correct the violation within the time prescribed or if Franchisee fails to commence corrective action within the time prescribed and diligently remedy such violation thereafter, a Franchisee will then be given a written notice of not less than thirty (30) days of a public hearing to be held before the City Council. Said notice will specify the violations alleged to have occurred.

8.7.2 At the public hearing, the City Council will hear and consider all relevant evidence, and thereafter render findings at its decision.

8.7.3 In the event the City Council finds that a Franchisee has corrected the violation or has diligently commenced correction of such violation after notice thereof from the City and is diligently proceeding to fully remedy such violation, or that no material violation has occurred, the proceedings will terminate and no penalty or other sanction will be imposed.

8.7.4 In the event the City Council finds that a material violation exists and that Franchisee has not corrected the same in a satisfactory manner or has not diligently commenced correction of such violation, the City Council may establish a date of not less than thirty (30) days, by which a Franchisee must comply with the obligation or the City may thereafter impose liquidated damages, payable from the security fund, in the amounts stated in this Ordinance. The City Council may also commence the Franchise termination procedures outlined in this Ordinance.

8.7.5 In determining whether a violation is material, the City will take into consideration the reliability of the evidence of the violation, the nature of the violation, and the damage, if any, caused to the City or the City's residents thereby, whether the violation was chronic, and any justifying or mitigating circumstances, and such other matters the City may deem appropriate.

8.7.6 If the violation as proposed depends on a finding of fact, such finding of fact will be made by the City only after an administrative hearing providing a Franchisee with a full and fair opportunity to be heard. A Franchisee will have the right to appeal any such decision to a state court or a federal district court or a federal court as a Franchisee may choose and the revocation or penalty will not become effective until any such appeal has become final or the time for taking such appeal will have expired.

8.8 Penalty.

In the event, after complying with the due process procedures provided herein, the City finds that a material violation exists and that Franchisee has not corrected the same in a satisfactory manner or has not diligently commenced correction of such violation, the City may establish a date, no earlier than thirty (30) days, by which Franchisee must comply with the obligation or the City may thereafter impose liquidated damages, payable from the security fund, in the following amounts:

8.8.1 For failure to complete any upgrade, modifications, or construction in accordance with a Franchise Agreement unless the City approves the delay, the penalty will be one hundred dollars (\$100) per day for each day, or part thereof, such failure occurs or continues.

8.8.2 For failure to provide data, documents, reports, or information, or to cooperate or participate with the City during a renewal process or the System review, the penalty will be fifty dollars (\$50) per day.

8.8.3 For failure to comply with any provision of the Customer Service standards in Section 7 of this Ordinance, the penalty will be fifty dollars (\$50) per day.

8.8.4 For failure to test, analyze, and report on the performance of the System following a request by the City, the penalty will be fifty dollars (\$50) per day.

8.8.5 For failure to comply with operation or maintenance standards, the penalty will be fifty dollars (\$50) per day.

8.8.6 For failure to provide the services described in a Franchise Agreement, the penalty will be fifty dollars (\$50) per day.

8.8.7 For failure to comply with all conditions of the City permits to disturb Rights-of-Way, fix Rights-of-Way, or other terms or conditions of the City, the penalty will be fifty dollars (\$50) per day.

8.8.8 For failure to give notices required by this Ordinance or a Franchise Agreement to City or departments of the City, the penalty will be fifty dollars (\$50) per day.

8.8.9 For failure to comply with any provision of this Ordinance or a Franchise Agreement, for which a penalty is not otherwise specifically provided, the penalty will be fifty dollars (\$50) on occurrence and per day thereafter such failure continues.

8.9 Revocation or Termination of a Franchise and the Franchise Agreement.

8.9.1 Upon completion of the term of a Franchise Agreement, if a new, extended, or renewed Franchise is not granted to a Franchisee by the City, a Franchisee's right to occupy the Public Rights-of-way shall terminate, subject to applicable federal law.

8.9.2 The City shall have the right to revoke a Franchise and the Franchise Agreement for a Franchisee's failure to construct, operate or maintain a Cable or OVS System as required by a Franchise Agreement or this Ordinance; for defrauding or attempting to defraud the City or Subscribers; or for any other material breach or violation of a Franchise or of this Ordinance.

8.9.3 To invoke the provisions of this Section, the City shall give a Franchisee written notice of the default in its performance. If within ninety (90) calendar days following such written notice from the City to a Franchisee, or such other period as a Franchisee and the City shall agree, a Franchisee has not taken corrective action to the satisfaction of the City, the City may give written notice to a Franchisee of its intent to revoke a Franchise and the Franchise Agreement, stating its reasons.

8.9.4 Prior to revoking a Franchise, the City shall hold a public hearing, upon thirty (30) calendar days advance notice to the public and by certified mail to a Franchisee, at which time a Franchisee and the public shall be given an opportunity to be heard. Following the public hearing, the City may determine whether to revoke a

Franchise and a Franchise Agreement based on the information presented at the hearing, and other information of record, or, where applicable, grant additional time to a Franchisee to affect any cure. If the City determines to revoke a Franchise and the Franchise Agreement, it shall issue a written decision setting forth the reasons for its decision. A copy of such decision shall be transmitted to a Franchisee.

8.9.5 If the City revokes a Franchise and the Franchise Agreement, or if for any reason a Franchisee abandons, terminates, or fails to operate or maintain service to its Subscribers, the following procedures and rights are effective.

8.9.5(1) The City may require the former Franchisee to remove its above-ground facilities and equipment at the former Franchisee's expense and restore affected sites or permit the former Franchisee to abandon such facilities in place. If the former Franchisee fails to do so within a reasonable period of time, the City may have the removal done at the former Franchisee's and/or surety's expense.

8.9.5(2) The City may require the former Franchisee to continue operating the Cable or OVS System.

8.9.5(3) If a Cable or OVS System is abandoned by a Franchisee, the ownership of all portions of the Cable or OVS System in Public Rights-of-Way shall revert to the City and the City may sell, assign, or transfer all or part of the assets of the System.

8.9.6 Notwithstanding the foregoing, a Franchisee may appeal a revocation decision by the City to a court of competent jurisdiction and such appeal shall stay the implementation of such revocation if a stay or injunction is obtained from the court.

SECTION 9: SEVERABILITY

If any provision of this Ordinance is held by any court or by any federal or state agency of competent jurisdiction to be invalid as conflicting with any federal or state law, rule, or regulation now or hereafter in effect, or is held by such court or agency to be modified in any way in order to conform to the requirements of any such law, rule, or regulation, such provision will be considered a separate, distinct, and independent part of this Ordinance, and such holding will not affect the validity and enforceability of all other provisions hereof. In the event that such law, rule, or regulation is subsequently repealed, rescinded, amended, or otherwise changed, so that the provision hereof which had been held invalid or modified is no longer in conflict with such law, rule, or regulation, said provision will thereupon return to full force and effect and will thereafter be binding on City and Franchisee, provided that City will give Franchisee 30 days written notice of such change before requiring compliance with said provision or such longer period of time as may be reasonably required for Franchisee to comply with such provision.

SECTION 10: BANKRUPTCY, RECEIVERSHIP AND FORECLOSURE

10.1 Consistent with federal law, the filing of a bankruptcy petition alone shall not constitute a material default of this Ordinance or a Franchise Agreement provided, however, and subject to applicable federal law, in the event of a bankruptcy or other insolvency proceeding, and the City retains all existing rights and enforcement authority under this Ordinance or a Franchise Agreement and its general police powers.

10.2 Subject to applicable federal law, any trustee or receiver of a Franchisee shall be required to assume responsibility for, and remedy all existing defaults and provide adequate assurance of future performance under this Ordinance and a Franchise Agreement during the pendency of such bankruptcy or insolvency proceeding.

10.3 Subject to applicable federal law, in the event a foreclosure or other judicial sale of a Franchisee's plant, equipment, or other property comprising the System, or any material part thereof, such event shall, at the option of the City, constitute a material breach of this Ordinance and a Franchise Agreement, unless the entity acquiring the property gives adequate assurance of future performance and that it will remedy all past defaults of a Franchise Agreement.

SECTION 11: ADMINISTRATION OF FRANCHISE

The City shall be responsible for the continued administration of this Code and any Franchises granted hereunder. The City may delegate this authority from time to time in any manner consistent with applicable law, provided, however, that the City shall not delegate enforcement authority.

SECTION 12: EFFECTIVE DATE, PUBLICATION, ACCEPTANCE AND GOVERNING LAW

12.1 Publication: Effective Date.

12.1.1 A Franchise shall be signed by the Mayor and attested by the City Administrator/Clerk-Treasurer. A Franchise Agreement shall be published in accordance with the requirements of City and state law and shall take effect upon acceptance by a Franchisee, and in accordance with the requirements as provided for in Section 12.2 of this Ordinance, the Effective Date.

12.2 Acceptance and Governing Law.

12.2.1 A Franchisee shall have thirty (30) days from the date of adoption of a Franchise to accept a Franchise in a written form approved by the City Attorney which shall include Franchisee acceptance of this Ordinance and the Franchise, its authority to do business in Minnesota, a representation of its legal, technical, and financial qualifications to fully perform the obligations of this Ordinance and a Franchise, and the representations required in Section 5.2.2 of this Ordinance. Such acceptance by Franchisee shall be deemed the grant of a Franchise for all purposes. Franchisee shall also deliver a

Guarantee, if required by the City, when granting the Franchise, within the same time as delivery of the acceptance, in a form acceptable to the City Attorney. In the event acceptance does not take place within thirty (30) days or such other time as the City might allow, a Franchise shall be null and void.

12.2.2 Upon acceptance of a Franchise, Franchisee shall be bound by all the terms and conditions contained in this Ordinance and in a Franchise. Franchisee shall provide all services and offerings specifically set forth in this Ordinance and in a Franchise, to provide cable services within the City.

12.2.3 With its acceptance, Franchisee shall also deliver to the City a certified resolution evidencing a Franchisee’s power and authority to accept a Franchise. Such documents shall also describe the officers authorized to accept on behalf of Franchisee.

12.2.4 With its acceptance, Franchisee shall also deliver any security deposit, insurance certificate, and performance bonds required by this Ordinance and a Franchise.

12.2.5 This Ordinance and a Franchise granted pursuant to it and every question arising thereunder shall be construed or determined according to the laws of the State of Minnesota and applicable federal law.

Adopted this ____ day of _____, 2015 and effective _____.

Attest:

City Clerk

By _____
Mayor Lynn Stauss

Approved as to Form:

Approved as to Form:

City Attorney Ronald I. Galstad

City Administrator David Murphy

EXHIBIT A



DATE:
TO: EAST GRAND FORKS, MN
FROM: Midcontinent Communications
 Accounts Payable
RE: FRANCHISE FEE
 Payment calculation using (Month) rev

Franchise fees payable for the current month were calculated using current month revenue numbers net of bad debt as follows:

<u>REVENUE TYPE</u>	<u>*REVENUE</u>	<u>BASE RATE</u>	<u>FRANCHISE FEE</u>
<i>BASIC</i>	\$	5.00%	\$
<i>PREMIUM</i>	\$	5.00%	\$
<i>OTHER</i>	\$	5.00%	\$
<i>LOCAL GOV'T FEES</i>			
Total	<u>\$</u>		<u>\$</u>

Payment is attached. If you have any questions or concerns, please contact Accounts Payable at (605) 357-5739.

Thanks,

Midcontinent Communications

EAS004

Exhibit B

PUBLIC AND SCHOOL BUILDINGS

NOTE: The City may add other City buildings in the future that are within two hundred (200) feet of the System, without cost provided that no commercial user or uses of said City buildings shall be entitled to free service or installation of any kind.

<u>Schools</u>		<u>Public Buildings</u>	
Senior High School	C	East Grand Forks Fire Station #1	C
Central Middle School	C	East Grand Forks Fire Station #2	C
New Heights Elementary	C	Parks Maintenance	C
South Point Elementary	C	East Grand Forks City Hall	C
RR Valley High School Coop	C	East Grand Forks Police Department	C
Sacred Heart Grade School	C	Civic Center	C
Sacred Heart High School	C	VFW Arena	C
Riverside Christian School	C	Library	C

C = Classic Cable Only

FRANCHISE AGREEMENT
FOR
THE CITY OF EAST GRAND FORKS, MINNESOTA

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FRANCHISE AGREEMENT

THIS AGREEMENT IS MADE AND ENTERED INTO AS OF THIS ___ DAY OF _____, BY AND BETWEEN MIDCONTINENT COMMUNICATIONS, G.P. (“FRANCHISEE”) AND THE CITY OF EAST GRAND FORKS, MINNESOTA (“CITY”).

THIS AGREEMENT is subject to the laws of the State of Minnesota, the rules and regulations of the Federal Communications Commission (“FCC”), the Communications Act of 1934, the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996, as amended, or as superseded by new statutes.

WHEREAS, the City adopted a Cable Television Franchise Ordinance on _____, 2015 (the “Ordinance”), which authorizes the City to issue a Franchise to operate a Cable System in the City; and

WHEREAS, Midcontinent Communications, G.P. has requested that its existing Franchise in the City be renewed in accordance with applicable law; and

WHEREAS, the City has determined that Franchisee has offered an acceptable renewal proposal for the provision of Cable Service within the City; and

WHEREAS, the City Council has determined that the renewal of the Franchise to Franchisee should be approved and that the Franchise hereinafter set forth should be adopted;

NOW, THEREFORE, In consideration of the faithful performance and strict observance by the Franchisee of all the terms hereinafter set forth or provided for, and in consideration of the grant to the Franchisee of the Franchise by the City, the parties agree as follows:

SECTION 1. GENERAL PROVISIONS

1.1 Grant.

A. The City hereby grants to the Franchisee a non-exclusive Franchise to construct, operate, and maintain a Cable System within the Rights-of-Way of the City in accordance with the terms and conditions of this Franchise.

B. The Franchisee agrees to abide by all the provisions of this Franchise, Cable Services Regulatory Ordinance _____, as it existed on its effective date, and other relevant and generally applicable regulations and supplemental specifications as to construction, operation, or maintenance promulgated by the City. The Franchisee hereby acknowledges that it has examined all the provisions of the Ordinance and agrees that the provisions thereof are valid, binding at this time, and enforceable as of the effective date of this Franchise.

C. The Franchisee hereby agrees that it has negotiated this Franchise Agreement in good faith and with due knowledge of its rights and responsibilities under relevant local, state, and federal laws.

D. The Franchisee hereby acknowledges that it accepts the rights granted herein in reliance upon its independent and personal investigation and understanding of the power and authority of the City to enter into this Franchise with Franchisee.

E. All other Franchises or parts of Franchises between the City of East Grand Forks and Franchisee are hereby repealed and superceded by this Franchise.

1.2 Definitions.

The definitions contained in the Ordinance are incorporated herein by reference and adopted as fully as if set out verbatim.

1.3 Effective Date.

This Franchise will become effective based on compliance with Section 6.8 of this Franchise Agreement.

1.4 Term.

This Franchise Agreement will commence upon its effective date, as provided in Section 1.3 above, and will expire ten (10) years thereafter on _____, 2025, unless renewed, revoked, or terminated sooner as herein provided.

1.5 Written Notice.

All notices, reports, or demands required to be given in writing under this Franchise Agreement will be deemed to be given when delivered personally to the Person designated below, or when five days have elapsed after it is deposited in United States mail in a sealed envelope, with registered or certified mail, postage prepaid thereon, or on the next business day if sent by express mail or overnight air courier addressed to the party to which notice is being given, as follows:

If to City: City Clerk
 City of East Grand Forks
 City Hall
 600 Demers Avenue NW
 East Grand Forks, Minnesota 56721

If to Franchisee: Nancy Vogel
Director of Regulatory Finance
Midcontinent Communications, G.P.
3901 N Louise Ave.
Sioux Falls, S.D. 57107

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

1.6 Conflict with Cable Services Code and Reservation of Rights.

The provisions of the Ordinance are incorporated herein by reference as if set out in full, and form part of the terms and conditions of this Franchise Agreement. In the event of any conflict between the terms and conditions of this Franchise Agreement and the provisions of the Ordinance, the specific terms or provisions of this Franchise Agreement that conflict with a term of provision of the Ordinance will control subject to applicable laws. The City and Franchisee reserve all rights that they may possess under the law unless expressly waived herein.

1.7 Service Area.

This Franchise is granted for the entire geographic area of the City. In the event of annexation by the City, any new territory will immediately become part of the Service Area provided that residences number at least seven (7) per 1320 feet.

1.8 Police Powers.

Franchisee's rights are subject to the police powers of the City to adopt and enforce ordinances of general applicability necessary to the health, safety, and welfare of the public. Franchisee will comply with all such generally applicable laws and ordinances enacted by the City pursuant to that power.

1.9 Level Playing Field

In addition to the requirements of the Cable Regulatory Ordinance, all Franchises granted by the City shall contain substantially similar terms and conditions and shall specifically require that the Franchisee serve the entire Franchise Area

SECTION 2. GENERAL REQUIREMENTS

2.1 Franchise Fees.

The Franchisee will pay the City a Franchise fee in the amount of 5% of its annual Gross Revenues, as required by Section 6 of the Ordinance.

SECTION 3. INSURANCE AND INDEMNIFICATION

3.1 Franchisee shall comply with the provisions of Section 5 of the Ordinance applicable to insurance and indemnification.

SECTION 4. PERFORMANCE GUARANTEES AND REMEDIES

4.1 Security Fund.

A. Upon request by the City, Franchisee will establish and provide to City, as security for the faithful performance by Franchisee of all material provisions of this Franchise, an irrevocable letter of credit or a cash deposit, in the amount of five thousand dollars (\$5,000), and in a form that is acceptable to the City Attorney. The City shall comply with the terms of Section 8 the Ordinance as a condition precedent to any withdrawal of funds from the Security Fund.

B. Nothing herein will be deemed a waiver of the normal permit and bonding requirements made of all contractors working within the City's Rights-of-Way, except as may be waived in accordance with the Ordinance.

4.2 Required Reports.

Franchisee is required to submit the City all reports and information as provided in the Ordinance.

SECTION 5. SYSTEM SPECIFICATIONS

5.1 System Specifications.

- a.) The System meets or exceeds Federal Communications Commission ("FCC") Technical Standards.
- b.) The System utilizes analog and digital addressable control for the delivery of premium, pay-per-view, digital and video on demand ("VOD") services.
- c.) The System is capable of passing signals of up to 750 MHz.
- d.) The upstream, home to headend, portion of the System has been activated.
- e.) The system will have standby power to assure service a minimum of 95% of the time within any week.

5.2 Public, Educational and Government Access Channels.

Consistent with applicable law, Franchisee shall offer the following access channels to each of its Subscribers who receive all or any part of the Cable Services offered on the Cable

System. With the exception of this requirement, Franchisee shall have no further responsibility for or obligations to PEG Access.

A. In accordance with Section 611 of the Cable Act (47 U.S.C. §531) and Minnesota Statutes, Section 238.084, Subd 1, the Franchisee agrees to provide as of the Effective Date of the Agreement two (2) video Channels to be designated solely for non-commercial public, educational and governmental (PEG) use ("PEG Access Channel")

B. A program origination signal input point shall be made available by Franchisee for live program origination at City Hall to enable program origination on the PEG Access Channel.

C. No charges may be assessed by Franchisee for Channel time or playback of pre-recorded programming on the PEG Access Channel.

D. Access Equipment and Facilities.

a. The City may require the Grantee to pay up to one percent (1%) per Subscriber, per month as a grant for the community's telecommunications-related capital needs. Such charge may be itemized as a "PEG Fee" and passed-through on Subscriber's bills.

b. The City may adopt or modify the "PEG Fee," up to the amount provided in paragraph 5.2a above, by adopting a Resolution identifying the amount thereof. The City shall provide written notice of any modification or adoption of the PEG fee to Grantee within 90 days of the proposed effective change. An equivalent fee shall be required of all other franchised video service providers.

c. The City, or its designee, may implement rules for use of any access channel(s).

5.3 Additional Requirements Regarding Access Channels.

A. The PEG Access Channel will be provided to all Subscribers by Franchisee as a part of the Basic Cable Service.

B. The PEG Access Channel will be made available by Franchisee for use by the City in accordance with the rules and procedures established by the City or any lawfully designated Person, group, organization, or agency authorized by the City for that purpose.

C. The location of the PEG Access Channel shall not be changed without sixty (60) days notice to the City.

D. Franchisee shall insure that all PEG Access Channels meet the technical standards of the FCC; provided, however, the Franchisee shall not be responsible for

defects, flaws or other impairments in the programming delivered to the Franchisee.

5.4 Geographical Coverage.

Throughout the term of this Franchise Agreement, Franchisee will extend service to every residence within ninety (90) days after a request is made for service, weather permitting, and the service location is within one hundred fifty feet (150) of an existing service line.

5.5 Programming.

Programming decisions are within the sole discretion of Franchisee subject to federal law regarding notice to the City and Subscribers prior to any Channel additions, deletions, or realignments. Franchisee will make available, in keeping with the requirements of Appendix A, at least the broad categories of programming set forth therein.

5.6 Emergency Alert System.

In accordance with and at the time required by the provisions of FCC Regulations Part 11, Subpart D, Section 11.51 and its other provisions which may from time to time be amended, the Franchisee shall install, if it has not already done so, and maintain an Emergency Alert System (EAS) for use in transmitting Emergency Act Notifications (EAN) and Emergency Act Terminations (EAT) in local and statewide situations as may be designated to be an emergency by the Local Primary (LP), the State Primary (SP), and/or the State Emergency Operation Center (SEOC), as those authorities are identified and defined within FCC Regulations, Section 11.18.

5.7 Technical Standards.

To the extent required by applicable law, the Franchisee will comply with FCC regulations, Part 76, Subpart K (Technical Standards), as may be amended from time to time.

5.8 Right of Inspection.

The City will have the right to inspect all construction, reconstruction, or Installation work performed by Franchisee under the provisions of the Franchise and other pertinent provisions of law, to ensure Franchisee's compliance and to protect the public health, safety, and welfare of City's citizens. Franchisee will have the right to be present at such inspection.

SECTION 6. MISCELLANEOUS PROVISIONS

6.1 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. Upon thirty (30) days written notice to Franchisee, the City may require an evaluation session. Evaluation sessions may occur no more than once annually beginning one year from 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.

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 Franchisee deemed relevant.

D. As a result of a periodic review or evaluation session, City and Franchisee, in good faith, may develop such changes and modifications to the terms and conditions of the Franchise as are mutually agreed upon.

6.2 Rights of the Franchisee.

A. The Franchisee will have the right to construct, erect, operate, and maintain in, on, along, across, above, over, and under the Rights-of-Way of the City, poles, wires, cable, underground conduits, manholes, and other conductors and fixtures necessary for the maintenance and operation in the City of a Cable System as provided in the Ordinance and this Franchise Agreement.

B. The rights herein granted will be subject to the provisions, terms, conditions, and limitations described in the Ordinance and this Franchise Agreement.

6.3 Changes in Federal Law.

The City reserves the right to regulate the Franchisee to the extent permitted by federal law as amended from time to time, during the term of this Franchise.

6.4 Entire Agreement.

The Ordinance and this Franchise represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof. The Franchise Agreement may only be amended, supplemented, modified, or changed by a written document executed by the parties.

6.5 Severability.

If any section, subsection, sentence, clause, phrase, or other portion of this Franchise Agreement is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, such portion shall be deemed by a separate, distinct and independent portion. Such declaration shall not affect the

validity of the remaining portions hereof, which other portions shall continue in full force and effect.

6.6 Governing Law.

This Franchise Agreement shall be deemed to be executed in the State of Minnesota, and shall be governed in all respects, including validity, interpretation and effect, and construed in accordance with, the laws of the State of Minnesota as applicable to contracts entered into and performed entirely within the State.

6.7 Modification.

No provision of this Franchise Agreement shall be amended or otherwise modified, in whole or in part, except by an instrument, in writing, duly executed by the City and the Franchisee, which amendment shall be authorized on behalf of the City through the adoption of an appropriate resolution or order by the City, as required by applicable law.

6.8 Acceptance and Effective Date.

A. Franchisee shall accept, in writing, this Franchise within thirty (30) days after approval by the City or within such additional time as may be approved by the City. This Franchise will be signed and accepted by Franchisee in accordance with the provisions of Section 12 of the Ordinance.

B. This Franchise shall be effective upon the date of written acceptance by Franchisee, the Effective Date, and shall supersede any existing Franchise between City and Franchisee.

IN WITNESS WHEREOF, the City and Franchisee have executed this Franchise on the date and year first above written.

CITY OF EAST GRAND FORKS, MINNESOTA

Mayor Lynn Stauss

Date: _____

APPROVED AS TO FORM:

ATTEST:

City Administrator David Murphy

City Clerk

Acceptance:

Midcontinent Communications, G.P.

Nancy Vogel
Director of Regulatory Finance
Midcontinent Communications, G.P.
3901 N Louise Avenue
Sioux Falls, SD 57107
Date: _____

APPENDIX A Map of the System and City

To Be Provided to City Public Works

APPENDIX B

BROAD CATEGORIES OF PROGRAMMING

The communications industry is rapidly changing. New programming and other services are continually emerging. The City acknowledges Franchisee's exclusive right to select the programming and services to be offered to Subscribers. Franchisee will nonetheless monitor the needs of the community, consider the results of surveys regarding those needs, and comply with all FCC cable programming rules. During the term of this Franchise, Franchisee will offer programming services that meet at least the following broad programming categories:

- A. Regional Programming
- B. News and Information
- C. Educational Programming
- D. Weather
- E. Movies and Entertainment
- F. Children's and Family Programming
- G. Sports
- H. Comedy
- I. Music or Performing Arts

RESOLUTION NO. 15 – 11 - 127

Council Member _____, supported by Council Member _____, introduced the following resolution and moved its adoption:

RESOLUTION RATIFYING CONTRACTS

WHEREAS, the City of East Grand Forks purchased from Hardware Hank the goods referenced in check number 22850 for a total of \$1,083.99.

WHEREAS, Craig Buckalew, was personally interested financially in the contract, but the purchases were made because the price was as low as or lower than other local vendors.

NOW THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF EAST GRAND FORKS:

1. The above mentioned purchase by the City and the claim of the vendor based thereon are confirmed and the Mayor and Clerk are directed to issue an order-check in payment of such claim on the filing of the affidavit of official interest required under Minnesota Statutes, Section 471.89.
2. It is hereby determined that the total price of \$1,083.99 paid for such goods is as low as, or lower than, the price at which they could have been obtained elsewhere at the time the purchase was made.
3. This resolution is passed to comply with the provisions of Minnesota Statutes, Section 471.87-89.
4. Resolution passed by unanimous vote of the council on November 17, 2015.

Voting Aye:
Voting Nay:
Abstain:

The President declared the resolution passed.

Passed: November 17, 2015

Attest:

City Administrator/Clerk-Treasurer

President of Council

I hereby approve the foregoing resolution this 17th day of November, 2015.

Mayor

AFFIDAVIT OF OFFICIAL INTEREST CLAIM

STATE OF MINNESOTA)
COUNTY OF POLK) ss
CITY OF EAST GRAND FORKS)

I, Craig Buckalew, being duly sworn states the following:

1. I am 3rd Ward Council Member of the City of East Grand Forks.
2. The City of East Grand Forks check number 22850 for a total of \$1,083.99.
3. This resolution is passed to comply with the provisions of Minnesota Statutes, Section 471.87-89.
4. Resolution passed by unanimous vote of the council on November 17, 2015.

Affiant states further that to the best of his knowledge and belief (a) the contract price was as low as or lower than the price at which the services could be obtained from other sources.

Affiant further states that the affidavit constitutes a claim against the city for the contract price, that the claim is just and correct, and that no part thereof has been paid.

Dated: _____

(Signature of Official)

Accounts Payable

Check Register Totals Only



City of East Grand Forks

600 Demers Avenue Northwest
 East Grand Forks, Minnesota 56721
 (218) 773-2483 www.egf.mn

User: mnelson
 Printed: 11/13/2015 - 2:56 PM

Check	Date	Vendor No	Vendor Name	Amount	Voucher
22815	11/17/2015	ACM001	Acme Electric Companies	86.79	0
22816	11/17/2015	ADV001	Advanced Business Methods Inc	496.91	0
22817	11/17/2015	ALB001	Albrecht Manufacturing	2,647.71	0
22818	11/17/2015	AME002	American Tire Service	20.00	0
22819	11/17/2015	AME005	Ameripride Linen & Apparel Services	162.60	0
22820	11/17/2015	BAT001	Batteries Plus	39.98	0
22821	11/17/2015	BOB001	Bobcat of Grand Forks	11.19	0
22822	11/17/2015	BUR002	Jason Burris	5,000.00	0
22823	11/17/2015	C&R001	C&R Laundry & Cleaners	347.13	0
22824	11/17/2015	CAN001	Canon Financial Services	128.00	0
22825	11/17/2015	GFT003	Donald Scott Cash	2,554.60	0
22826	11/17/2015	CEN006	Century Link	855.45	0
22827	11/17/2015	COL002	Cole Papers Inc	27.28	0
22828	11/17/2015	CRO001	Crookston City	2,686.29	0
22829	11/17/2015	DAK006	Dakota TV & Appliance	381.11	0
22830	11/17/2015	ECO001	Economy Plumbing	250.00	0
22831	11/17/2015	EDG001	Edgewood	580.00	0
22832	11/17/2015	ENV003	Environmental Toxicity Control Inc	775.00	0
22833	11/17/2015	EXP002	Exponent	618.43	0
22834	11/17/2015	FIL001	Filter Care	282.94	0
22835	11/17/2015	ODL001	Fitzgerald, Reynolds & Harbott PLLP	198.00	0
22836	11/17/2015	G&K001	G&K Services	224.68	0
22837	11/17/2015	GAF002	Gaffaney's	77.99	0
22838	11/17/2015	GAL002	Gall's Inc	704.49	0
22839	11/17/2015	GAL003	Galstad Jensen & McCann PA	17,274.72	0
22840	11/17/2015	GEO001	George's Quick Printing	55.00	0
22841	11/17/2015	GER001	Gerrells Sport Center	279.00	0
22842	11/17/2015	GFC001	GF City Utility Billing	17,361.58	0
22843	11/17/2015	GFH002	GF Herald	462.00	0
22844	11/17/2015	GFW001	GF Welding & Machine	57.16	0
22845	11/17/2015	GGF001	GGF Convention & Visitors Bureau	3,064.29	0
22846	11/17/2015	GLO003	Global Safety Network, Inc.	83.00	0
22847	11/17/2015	GOP002	Gopher State Lawn Sprinklers	205.00	0
22848	11/17/2015	GRO004	Groeneveld Transport Efficiency, Inc.	326.97	0
22849	11/17/2015	EAS006	Dale Gulbranson	80.00	0
22850	11/17/2015	HAR001	Hardware Hank	1,083.99	0
22851	11/17/2015	HEA001	Heartland Paper	195.00	0
22852	11/17/2015	HOM001	Home of Economy	61.16	0
22853	11/17/2015	INT009	International Public Management Assc	458.90	0
22854	11/17/2015	JPC001	J. P. Cooke Company	104.75	0
22855	11/17/2015	JET001	Jet Way Multiple Services Inc	3,787.00	0
22856	11/17/2015	JON001	Jones & Bartlett Publishers LLC	685.00	0
22857	11/17/2015	KEI001	Keith's Security World	186.38	0
22858	11/17/2015	KEN002	Kennedy & Graven, Chartered	210.00	0
22859	11/17/2015	LAS001	Laser Systems	119.99	0
22860	11/17/2015	LUM001	Lumber Mart	160.00	0
22861	11/17/2015	MAR004	Marco	215.11	0
22862	11/17/2015	MAT001	James Mathsen	59.00	0
22863	11/17/2015	MEN001	Menards	222.57	0
22864	11/17/2015	MLR001	Michael L. Miller	25,429.00	0

Check	Date	Vendor No	Vendor Name	Amount	Voucher
22865	11/17/2015	MID003	Midcontinent Communications	220.48	0
22866	11/17/2015	MND006	VOID****VOID****VOID*** MN I	566.00	0
22867	11/17/2015	MND013	MN Dept of Transportation	100.95	0
22868	11/17/2015	BAR005	MSC Industrial Supply Co.	766.57	0
22869	11/17/2015	NEW001	Newman Signs	2,500.92	0
22870	11/17/2015	NOR024	Northland Yard Service	1,763.75	0
22871	11/17/2015	ORE001	O'Reilly Auto Parts	956.83	0
22872	11/17/2015	OFF002	Office Depot	111.97	0
22873	11/17/2015	OPP001	Opp Construction	12,760.00	0
22874	11/17/2015	PAN002	Pannier	1,659.65	0
22875	11/17/2015	PAR005	Paras Contracting	10,090.18	0
22876	11/17/2015	PET001	Peterson Veterinarian Clinic P.C.	643.00	0
22877	11/17/2015	POL004	Polk County Recorder	11.50	0
22878	11/17/2015	PRA003	Prairie Wind BG Inc	668.25	0
22879	11/17/2015	PRA001	Praxair Distribution	324.38	0
22880	11/17/2015	PRE001	Premium Waters Inc	15.70	0
22881	11/17/2015	PSD001	PS Door Services	1,312.17	0
22882	11/17/2015	QUI001	Quill Corp	244.25	0
22883	11/17/2015	RMB001	RMB Environmental Lab Inc	71.00	0
22884	11/17/2015	SPR001	Springsted Incorporated	644.50	0
22885	11/17/2015	K&H001	Kenley Stordahl	2,000.00	0
22886	11/17/2015	STU001	Stuart's Towing	100.00	0
22887	11/17/2015	SUM001	Summit Fire Protection	190.00	0
22888	11/17/2015	SUN002	Sun Dot Communications	89.99	0
22889	11/17/2015	SUR001	Surplus Center	65.82	0
22890	11/17/2015	TAB001	Tab Products Co	84.84	0
22891	11/17/2015	CHA001	The Chamber of EGF/GF	68.00	0
22892	11/17/2015	RET001	The Retrofit Companies Inc	2,178.24	0
22893	11/17/2015	THU002	Thur-O-Clean	2,383.30	0
22894	11/17/2015	TRU001	True Temp	78.13	0
22895	11/17/2015	TRY001	Try-County Refrigeration	3,628.00	0
22896	11/17/2015	USB004	US Bank Equipment Finance	136.17	0
22897	11/17/2015	USP002	USPS Postmaster	389.00	0
22898	11/17/2015	VAL002	Valley Truck	538.33	0
22899	11/17/2015	VER001	Verizon Wireless	733.06	0
22900	11/17/2015	VIL001	Vilandre Heating & A/C	58.51	0
22901	11/17/2015	PET005	W.D. Larson Companies LTD Inc	57.75	0
22902	11/17/2015	WAT001	Water & Light Department	23,615.99	0
22903	11/17/2015	WDA001	WDAZ TV	410.00	0
22904	11/17/2015	WID001	Widseth Smith Nolting & Associates	8,645.00	0
22905	11/17/2015	WPR001	WP & RS Mars Co.	165.00	0
				<hr/> <hr/>	
				Check Total:	172,430.32
				<hr/> <hr/>	