

Watertown City CouncilJanuary 8th, 2019**Agenda Item: Cable Franchise for Charter Communications****Request for Action: Adopt Ordinance 411-Repealing and Replacing Chapter 16 of Municipal Code
Adopt Ordinance 412-Grant Franchise to Charter Communications for Cable Service****Department: Shane Fineran, City Administrator****Background:**

The City of Watertown is a member of the Sherburn Wright Cable Commission (“the commission”) with the cities of Big Lake, Buffalo, Cokato, Dassel, Delano, Elk River, Maple Lake, Rockford, and Monticello. This consortium of cities has banded together to provide public educational programming via cable communications. Locally we provide live broadcast of City Council meetings and subsequent replay, County Board meeting replay, public announcements and information, and other public educational programming and event production. on cable channel 180.

This is done exclusively through Charter Communications cable television services, which pay 5% of their gross revenues in our community as a franchise fee and a \$.85 per subscriber/per month in Public Education & Government fee (PEG) for the non-exclusive rights to provide cable television services and products to residents of Watertown. The commission uses the fees collected to provide the public broadcasting as well as production services, including audio/visual equipment in member cities throughout the year.

Charter Communications and the member cities of the commission have been in discussions and negotiations to updates to the franchise agreement and cable communications ordinances in the past year and have been represented by attorney Bob Voss with Kennedy & Graven. On December 19th the commission met with attorney Voss and recommended approval of the new franchise agreement between member cities as well as a new ordinance regulating cable communications. The agreement will again be for 15 years and will require HD channels for municipal broadcasting, free cable service at critical sites like the fire station and public works building, customer service protections, as well as maintaining the ability for a competitive company to seek a franchise with the City. Attorney Voss has submitted a memo detailing highlighted changes and efforts of the franchise agreement as well as changes to the cable communications code section.

Staff recommend approval of the franchise agreement and code update.

Funding Source:

N/A

Attachments:

Attorney Voss Memo

Ordinance 411, Repealing and Replacing Chapter 16 of Municipal Code

Ordinance 412, Granting a Franchise to Charter Communications



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MEMORANDUM

DATE: December 14, 2018
TO: Sherburne-Wright Counties Cable Commission
FROM: Bob Vose
RE: Franchise Renewal

By letters to the member cities in May, 2017, Charter requested renewal of its franchises. The franchises were last renewed in 2004 and expire in early 2020.

The Commission discussed Charter’s renewal request in June, 2017. At that time, I reported that cable operators were beginning to seek to reduce the availability of PEG channels, limit the availability of high definition (HD) for PEG (because it uses valuable capacity), and reduce PEG funding in franchise renewals. Based on this feedback, the Commission directed me to seek to preserve the current arrangement to the extent possible. The Commission emphasized a desire to protect the current community programming arrangement and its two PEG channels, provide for the future delivery of PEG in HD, and preserve franchise fee and PEG fee funding.

Our negotiations with Charter have been productive. However, as I recently advised, many cable operators have changed their bargaining positions in renewals due to a recent proposed FCC rulemaking. The FCC has proposed rules that would allow cable operators to offset the “value” of a variety of in-kind commitments from franchise fees. By proposing to allow cable operators to reduce their franchise fee payments by the “value” of certain other franchise commitments, the FCC has given cable operators added leverage in pending negotiations.

Notwithstanding, we have achieved the Commission’s primary goals. In turn, we have compromised regarding the provision of “free” cable services and converters to city and institutional sites, and regarding the addition of language to address the future potential for competition.

I am comfortable having the Commission recommend approval and adoption of the negotiated renewal to its member cities. A summary of the most significant changes to the franchise and regulatory ordinance follows.

- The Franchise(s) will be renewed again for 15 years even though the cable industry generally is seeking shorter (often 10 year) renewals. We view this as beneficial.

- Two PEG channels continue to be required—one programmed areawide by the Commission, and one narrowcast for individualized programming within each member city. Existing live origination sites are retained.
- Within 120 days, the areawide channel must be made available in HD. Thereafter, when substantially all other channels are in HD, the city channels must be available in HD.
- The Franchise Fee remains at 5% of gross revenues. The PEG Fee remains at \$.85 per sub/per mos. Even before the FCC proposed rulemaking, Charter has resisted PEG Fees of this amount in renewals. Language has been added more clearly restricting PEG Fees to capital costs consistent with GAAP, and requiring that the Commission and members also support PEG access programming at an equivalent level (presumably from Franchise Fees).
- The existing service area/system extension requirements are retained. The system must be extended wherever there are at least 9 homes per ¼ mile of new cable required to provide service.
- The existing system capacity and technical requirements are retained.
- There are a number of revisions in both the Franchise and Regulatory Ordinance reflecting the fact that the member cities have enacted comprehensive ROW regulatory ordinances as required by state law. These changes reflect that such ROW ordinances will control ROW management issues and that municipal authority over the ROW has not been waived or limited. We believe all or nearly all member cities have enacted such ROW ordinances.
- The right to free cable service (and we have argued, free converters) has been limited to specified sites listed in Ex. A-2 to the Franchise, and generally only one converter per site will be provided. This is a compromise.
- The existing \$50,000 performance bond, insurance requirements, indemnification obligations, and Franchise enforcement mechanisms remain essentially unchanged.
- The existing customer service obligations have been streamlined, however we believe all rights to address current, relevant customer concerns remain.
- The renewal includes new “Equal Protection” language (Reg. Ord., Sec. 14.4). To summarize, this language will require that any competitive cable provider be subjected to essentially the same obligations and commitments and will give Charter more extensive rights to enforce this requirement.

**CITY OF WATERTOWN
COUNTY OF CARVER
STATE OF MINNESOTA
ORDINANCE NO. 411**

**REPEALING AND REPLACING CHAPTER 16 OF THE WATERTOWN CITY CODE
RELATING TO CABLE COMMUNICATIONS**

THE CITY OF WATERTOWN DOES ORDAIN THAT CHAPTER 16 OF WATERTOWN MUNICIPAL CODE ADOPTED VIA ORDINACEN NO. 264 ON MARCH 8, 2005 BE REPEALED AND REPLACED WITH THE FOLLOWING ARTICLES:

ARTICLE I – IN GENERAL

Secs. 16-1 – 16-25. – Reserved

ARTICLE II – CABLE ORDINANCE

Sec. 16-26 Findings and Intent

The City finds that the delivery of Cable Service and related communications services may contribute significantly to the communication needs and desires of residents of the City, benefit local economic development, and improve public and municipal services. The City’s intent in adopting this Cable Ordinance is to encourage further development of Cable Service and related communications services in the City, and to ensure that all Cable Service providers are subject to comparable obligations and burdens.

Section 16-27. Short Title

This Ordinance will be known and cited as the Cable Ordinance.

16-28. Definitions

For the purposes of this Cable Ordinance, the following terms, phrases, words, and their derivations have the meaning given herein. Unless otherwise provided herein, terms, phrases and words contained in this Cable Ordinance shall have the meaning ascribed in the Cable Act, 47 U.S.C. Sec. 521, *et seq.*, or if not defined herein or in the Cable Act will have their normal and customary meaning. When not inconsistent with the context, words in the singular number include the plural number. The words must and will are always mandatory and not merely directory. The word may is directory and discretionary and not mandatory.

Basic Cable Service has the meaning ascribed in Cable Act Section 522(3).

Cable Communications System, Cable System or System has the meaning ascribed in Cable Act Section 522(7).

Cable Programming Service has the meaning ascribed in Cable Act Section 543(1)(2).

Cable Service has the meaning ascribed in Cable Act Section 522(6).

Channel shall mean a portion of the electromagnetic frequency spectrum which is used in a Cable System and which is capable of delivering a television channel.

City means the City of Watertown, Minnesota, a municipal corporation, in the State of Minnesota.

Commission means the Sherburne/Wright Counties Cable Communications Commission, a municipal joint powers entity consisting of the following municipalities: Big Lake, Buffalo, Cokato, Dassel, Delano, Elk River, Maple Lake, Monticello, Rockford and Watertown.

Converter means a customer premises device required to receive Cable Service.

Drop means the cable that connects the ground block at the Subscriber's location to the nearest distribution point of the System.

FCC means the Federal Communications Commission, or its lawful successor.

Franchise, Cable Franchise or Franchise Agreement means an agreement between the City and any provider of Cable Service pursuant to this Cable Ordinance granting authorization to construct, operate and maintain a System and provide Cable Service in the City.

Franchise Fee has the meaning ascribed in Cable Act Section 542(g).

Grantee is any recipient of a Franchise, and its agents and employees, lawful successors, transferees or assignees.

Gross Revenues means all revenues, as determined in accordance with Generally Accepted Accounting Principles (GAAP), received by a Grantee or its affiliates from the operation of a Cable System to provide Cable Service in the City. By way of example and not limitation, Gross Revenues shall include any advertising revenues received by a Grantee or its affiliates in connection with the provision of Cable Service. Gross Revenues shall not include revenues received by a Grantee or its affiliates from the provision of Telecommunications Services or other non-Cable Services in the City, bad debt, credits, refunds and deposits paid to Subscribers, or any taxes, fees or assessments of general applicability collected by a Grantee which are imposed directly on a Subscriber

and which are collected by a Grantee for such governmental unit including any PEG Capital Fees. A Franchise Fee is not such a tax, fee or assessment.

Installation means the connection of a System from a distribution cable to the point of connection, including Standard Installations and custom Installations.

Normal Business Hours has the meaning ascribed in the FCC's rules, 47 C.F.R. 76.309(c)(4).

Normal Operating Conditions has the meaning ascribed in the FCC's rules, 47 C.F.R. 76.309(c)(4).

PEG Access Facilities means public, educational, and governmental programming channels, or any equipment or facilities for use of such Channels as required by a Franchise.

Person has the meaning ascribed in Cable Act Section 522(15).

Right-of-Way or *Rights-of-Way* means the area on, below, or above a public roadway, highway, street, cartway, bicycle lane, and public sidewalk in which the local government unit has an interest, including other dedicated rights-of-way for travel purposes and utility easements of local government units.

Right-of-Way Ordinance means an ordinance of general applicability adopted and uniformly applied as to similarly situated ROW occupants by the City establishing requirements regarding regulation, management and use of Rights-of-Way, including registration and permitting requirements.

Standard Installation means any residential installation that can be completed using a Drop of 125 feet or less.

Subscriber means any Person who lawfully receives Cable Service via a System.

Telecommunications Services shall have the meaning ascribed in 47 U.S.C. § 153(46).

Sec. 16-29 Franchises

(a) Generally

1) No Person may construct, operate, or maintain a Cable System or provide Cable Service in the City unless and until such Person is granted a Franchise. All Franchises must be granted pursuant to the provisions of this Cable Ordinance. Notwithstanding any provision to the contrary, any Franchises and this Cable Ordinance shall at all times be subject to, and without waiving, applicable law.

2) Any Franchise granted hereunder will authorize a Grantee to deliver Cable Service and construct, operate and maintain a Cable System in the Rights-of-Way in the City.

3) All Franchises shall be nonexclusive and City may grant additional Franchises at any time. The City will not grant an additional Franchise on terms and conditions more favorable or less burdensome than those in an existing Franchise. The City may impose additional terms and conditions in any additional Franchise.

4) The City shall comply with Section 14.4 of this Cable Ordinance in the event an additional provider is legally authorized to provide Cable Service.

5) This Cable Ordinance and Franchises granted pursuant hereto are intended to comply with Minnesota Statutes Chapter 238. Any applicable requirement established by Minn. Stat. 238.084 not expressly incorporated in this Cable Ordinance or a Franchise shall be deemed incorporated by reference in the Franchise as though fully set forth therein.

(b) Use of Rights-of-Way

1) Use of Rights-of-Way to operate a Cable System and provide Cable Service must not be inconsistent with the terms and conditions by which such Rights-of-Way were created or dedicated. Use of Rights-of-Way is subject to all generally applicable legal requirements including any Right-of-Way Ordinance enacted by the City and Section 5 herein.

2) Upon written request, the City shall have the right to review, subject to the confidentiality protections provided in Section 9.3 herein, Grantee's System location maps at a mutually agreed upon location.

(c) Tree Trimming

Subject to applicable law, a Grantee is authorized to trim any trees upon and overhanging the Rights-of-Way, alleys, sidewalks, or public easements of City so as to prevent the branches of such trees from coming in contact with wires and cables of a System.

(d) Franchise Term.

Franchises will be granted for a term established in the Franchise Agreement. No Franchise may be granted for a period exceeding fifteen (15) years from the date of acceptance by Grantee.

(e) Regulation of Cable Service.

Any Franchise Agreement adopted pursuant to this Cable Ordinance will define the contractual rights and obligations of the City and Grantee, provided however that a Grantee remains subject to the lawful exercise of the City's police power, ordinance-making authority, and power of eminent domain.

(f) *Initial Franchise Applications.*

1) Upon request or its own initiative, the City may initiate the cable Franchise application process required by Minnesota Statutes Section 238.081. Any Person desiring an initial Franchise must file an application with the City.

2) The City will establish an application fee in an amount to offset the costs of processing applications and awarding an initial Franchise. Such application fees will not constitute a Franchise Fee.

3) Upon receipt of an application for an initial Franchise, City staff will prepare a report and recommendations to the City Council regarding the application(s).

4) A public hearing concerning applications will be held prior to rejection or acceptance of applications, and award of any initial Franchises.

(g) *Franchise Renewal.*

Franchise renewals will be conducted in accordance with applicable laws.

Sec. 16-30. CONSTRUCTION STANDARDS

(a) *Registration, Permits and Construction Codes.*

(1) Within ninety (90) days of acceptance of an initial Franchise, a Grantee shall apply for any necessary governmental permits, licenses, certificates, and authorizations to construct, repair, replace, relocate, operate, maintain or reconstruct a System. A Grantee must strictly adhere to all state and local laws and building and zoning codes currently or hereafter applicable to location, construction, installation, operation or maintenance of the facilities used to provide Cable Service in the City.

(b) *Repair of Rights-of-Way and Property.*

(1) Consistent with any generally applicable Rights-of-Way Ordinance adopted by the City or applicable law if a City has not adopted a Rights-of-Way Ordinance, any Rights-of-Way or other property disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance or reconstruction of a Cable System shall be promptly and fully restored by the Grantee performing such work, at its expense, to a condition as good as that prevailing prior to such work.

(2) If a Grantee fails to promptly perform the restoration required herein, the City shall have the right, following reasonable written notice to Grantee, to restore Rights-of-Way and other public property to a condition as good as that prevailing prior to the Grantee's work. The City shall be fully reimbursed by the Grantee for its actual costs relating to such restoration.

(c) *Undergrounding of Facilities.*

- (1) In all areas of the City where utility facilities are required to be placed underground, or where all other utility lines are underground, a Grantee must construct and install System facilities underground.
- (2) A Grantee must bury new underground Drops within a reasonable time period, subject to weather conditions. In the event the ground is frozen, a Grantee will be permitted to delay burial until the ground is suitable for burial which in no event must be later than June 30th.

Section 16-31 [Intentionally Omitted]

Section 16-32 Safety Requirements.

- (a) A Grantee shall at all times keep and maintain the System in good condition, order, and repair so as to avoid endangering the life or property of any Person; employ ordinary and reasonable care and common industry practices to avoid causing damage, injuries, or nuisances to the public, and; keep and maintain the System in accordance with all federal, state and local laws and regulations including the National Electric Safety Code.
- (b) A Grantee must install and maintain equipment and facilities in accordance with all applicable federal and state laws and regulations, any Right-of-Way Ordinance, and the requirements of the National Electric Safety Code.

Section 16-33. SYSTEM DESIGN AND EXTENSION PROVISIONS

- (a) *System Capacity and Channels.*

At a minimum, any Franchise granted hereunder shall describe the Grantee's network in terms of the total System capacity such as the total number of analog and digital video channels that can be provided.

- (b) *Cable Service Availability.*

- (1) Each Franchise will identify a required service area in which a Grantee will be required to offer Cable Service to all dwellings, homes and businesses, subject to a reasonable density threshold. Any additional Franchise will include a service area that is no more favorable or less burdensome than the service area in an existing Franchise.
- (2) Any Franchise granted hereunder may establish requirements for the extension of the System and provision of Cable Service to areas that may be annexed by the City beyond the initially required service area.

- (3) Cable Service shall not be denied to any group of potential residential cable Subscribers because of the income of the residents of the area in which such group resides.

(b) *Non-Standard Installations.*

A Grantee must provide Cable Service to any Person requesting other than a Standard Installation except that a Grantee may charge for the incremental increase in material and labor costs incurred above the cost of making a Standard Installation.

(c) *Technical Standards.*

Any System offering Cable Service in the City must comply, at minimum, with the technical standards promulgated by the FCC relating to Cable Systems pursuant to Title 47, Section 76.601 to 76.617, as may be amended or modified from time to time.

(d) *System Testing.*

1) A Grantee shall perform all System testing required pursuant to the FCC's technical standards and requirements.

2) Demand for special tests may be made on the basis of complaints received or other evidence indicating an unresolved controversy or noncompliance. Such tests shall be limited to the particular matter in controversy or unresolved complaints. The City shall arrange its request for such special testing so as to minimize hardship or inconvenience to Grantee or to the Subscribers caused by such testing. Before ordering such tests, Grantee shall be afforded thirty (30) Days to correct problems or complaints upon which tests were ordered. The City shall meet with Grantee prior to requiring special tests to discuss the need for such and, if possible, visually inspect those locations which are the focus of concern. If, after such meetings and inspections, City wishes to commence special tests and the thirty (30) Days have elapsed without correction of the matter in controversy or unresolved complaints, the tests shall be conducted by a qualified engineer mutually selected by City and Grantee based on a mutually agreed upon scope of work and cost. The parties shall bear their respective costs for the testing, with the City bearing the cost of special testing unless such testing reveal that the source of the technical difficulty is within the Grantee's reasonable control, in which case the cost of the testing must be borne by the Grantee.

(e) *FCC Reports.*

The results of tests required to be filed by Grantee with the FCC shall also be copied to City.

(d) *Emergency Alert System.*

A Grantee shall comply with 47 U.S.C. 544(g) and all regulations issued pursuant thereto with respect to an Emergency Alert System (EAS). If a Grantee provides an EAS, then the City shall

permit only appropriately trained and authorized Persons to operate the EAS equipment and shall take reasonable precautions to prevent any use of the Grantee's Cable System in any manner that results in inappropriate use thereof, or any loss or damage to the Cable System. The City shall hold the Grantee, its employees, officers and assigns harmless from any claims or costs arising out of use of the EAS, including, but not limited to, reasonable attorneys' fees and costs.

Section 16-34 CONSUMER PROTECTION AND CUSTOMER SERVICE STANDARDS

(a) Regulation of Cable Service Rates.

The City may regulate rates for the provision of Cable Service to the extent allowed under federal and state law(s). A Grantee must file a list of current Subscriber rates and charges with the City, which lists will be maintained on file with City and will be available for public inspection. For purposes of this section, the availability of this information on a Grantee's website shall constitute compliance. A Grantee shall comply with applicable law in providing the City and Subscribers with notice of any change in a Cable Service rate or charges.

(b) Sales Procedures.

A Grantee may not exercise deceptive sales procedures that violate state laws when marketing any of its Cable Services within City. A Grantee may conduct marketing consistent with local ordinances and other applicable laws and regulations.

(c) Telephone Inquiries and Complaints.

A Grantee must maintain local, toll-free or collect call telephone access lines which will be available to its Subscribers 24 hours a day, seven days a week. A Grantee must comply with the FCC's customer service standards, as amended, a current copy of which is attached hereto.

(d) Complaint and Other Service Records.

1) Upon written request by the City, and subject to a Grantee's obligation to maintain the privacy of certain information, a Grantee must prepare and maintain written records of all written complaints received and the resolution of such complaints for a period of three (3) years, including the date of such resolution.

2) Written complaint records for a period of three (3) years must be on file at the office of a Grantee. Upon written request by the City, a Grantee must provide the City with a written summary of such complaints and their resolution and in a form mutually agreeable to the City and Grantee.

3) Upon written request by the City, a Grantee must provide detailed compliance reports on a quarterly basis for a period of three (3) years with respect to the objectively measurable service standards required in this Section. A Grantee will not be required to acquire

equipment or perform surveys to measure compliance with the telephone answering standards contained in this Section unless a historical record of complaints indicates a failure to comply.

(e) *Subscriber Contracts.*

A Grantee must provide to the City upon request any standard form residential Subscriber contract utilized.

(f) *Video Programming.*

All Franchises will comply with 47 U.S.C. § 544(b), regarding the broad categories of video programming provided. Individual programming decisions may be made in the Grantee's sole discretion.

(g) *Billing and Subscriber Communications.*

1) A Grantee shall comply with federal law regarding giving the City and Subscribers prior notice of any changes in rates, programming services, or channel alignments.

2) Bills must be clear, concise, and understandable. Bills must clearly delineate all activity during the billing period, including optional charges, rebates, and credits. In case of a billing dispute, the Grantee must respond to a written complaint from a Subscriber within 30 days.

(h) *Refunds and Credits.*

A Grantee shall comply with applicable law regarding the issuance of refunds or credits.

(i) *Additional Customer Service Requirements.*

The City may adopt additional or modified customer service requirements to address subscriber concerns or complaints to the extent permitted by law.

Section 16-35 COMMUNITY SERVICES

(a) *PEG Access Facilities.*

Franchises will establish obligations to provide PEG Access Facilities to meet the community's needs and interests. The City will operate, administer and manage PEG Access programming and the City may delegate its PEG Access authority and responsibilities to the Commission. All Franchises must contain equivalent PEG Access obligations on any franchised provider of Cable Services.

(b) *Service to Public or Educational Institutions.*

Franchises will establish obligations for the provision of free or reduced cost Cable Services to identified public or educational institutions.

Section 16-36 ADMINISTRATION PROVISIONS

(a) *Administration of Franchise.*

The City will have continuing regulatory authority over Cable Systems, Cable Services, and Franchise compliance. The City may delegate any and all regulatory authority to the Commission. A Grantee must fully cooperate with the Commission in the exercise of regulatory authority delegated by the City.

(b) *Franchise Fee.*

1) A Grantee must pay to the City a Franchise Fee in the amount established in the Franchise Agreement, provided that the City must impose identical Franchise Fee obligations (including the percentage and Gross Revenue definition) on all Cable Service providers in the City.

2) Each Franchise Fee payment must be accompanied by a report certified by an authorized representative of the Grantee, in form reasonably acceptable to City, detailing the computation of the payment. All amounts paid must be subject to audit and recomputation by the City for the statutorily-allowed period applicable to assertion of contract claims, and acceptance of any payment must not be construed as an accord that the amount paid is in fact the correct amount.

3) A Grantee may designate that portion of a Subscriber's bill attributable to the Franchise Fee as a separate line item on the bill.

(c) *Access to Records.*

1) The City may, upon reasonable notice and during Normal Business Hours, and subject to the privacy provisions of 47 U.S.C. § 521 et seq., inspect at a mutually convenient location any records of System operations maintained by a Grantee that relate to a Grantee's compliance with its Franchise, including specifically Grantee's Gross Revenue records. A Grantee may identify and label documents as confidential trade secret in accordance with Section 4.2 above.

2) A Grantee must prepare and furnish to the City such reports as City may reasonably request with respect to operation of the System and provision of Cable Services in the City.

Section 16-37 INDEMNIFICATION AND INSURANCE

(a) *Indemnification of the City.*

1) A Grantee must indemnify, defend and hold harmless the City, its officers, boards, committees, commissions, elected officials, employees and agents from and against any loss or damage to any real or personal property of any Person, or for any injury to or death of any Person, arising out of or in connection with the construction, operation, maintenance, repair or removal of a System or other facilities used by a Grantee to deliver Cable Service.

2) A Grantee must indemnify, defend, and hold the City, its officers, boards, committees, commissions, elected officials, employees and agents, harmless from and against all lawsuits, claims, actions, liability, damages, costs, expenses or penalties incurred as a result of the award or enforcement of its Franchise.

3) A Grantee shall not be required to provide indemnification or defense for any intentional misconduct, willful neglect or negligence by an indemnified party, for any enforcement action taken by the City against a Grantee, for any claim based solely on the City's operation of PEG Access Facilities, delivery of PEG Access programming, or EAS messages originated by the City. Subject to the limitations in Minnesota Statutes Chapter 466, the City shall indemnify, defend and hold a Grantee harmless from any damage resulting from any intentional misconduct, willful neglect or negligence by the City, its officers, boards, committees, commissions, elected officials, employees and agents, in utilizing PEG Access Facilities or Channels, delivering EAS messages originated by the City, or in connection with work performed on or adjacent to the System.

4) With respect to each claim for indemnification:

1. the City must notify the Grantee in writing of its duty under this section within ten (10) days of receipt of any suit, claim or proceeding which gives rise to such duty;
2. the Grantee must afford the City an opportunity to participate in any compromise, settlement or other resolution or disposition of any suit, claim or proceeding; and
3. the City must cooperate with reasonable requests of the Grantee, at Grantee's expense, in its participation in a suit, claim or proceeding.

(b) *Insurance.*

1) A Grantee must obtain and maintain in full force and effect, at its sole expense, a comprehensive general liability insurance policy, in protection of the Grantee, and the City, its officers, elected officials, boards, commissions, agents and employees for damages which may arise as a result of operation of the System or delivery of Cable Service.

2) The policies of insurance must be in the sum of not less than One Million Dollars (\$1,000,000.00) for bodily injury or death of any one Person, and Two Million Dollars (\$2,000,000.00) for bodily injury or death of two or more Persons in any one occurrence, Five

Hundred Thousand Dollars (\$500,000.00) for property damage to any one person and Two Million Dollars (\$2,000,000.00) for property damage resulting from any one act or occurrence.

3) The insurance policy must be maintained by Grantee in full force and effect during the entire term of the Franchise. Each policy of insurance must contain a statement on its face that the insurer will not cancel the policy or fail to renew the policy, whether for nonpayment of premium, or otherwise, and whether at the request of Grantee or for other reasons, except after thirty (30) days advance written notice have been provided to the City.

Section 16-38. FRANCHISE TRANSFER OR ABANDONMENT

(a) *Abandonment of Service.* A Grantee may not discontinue the provision of Cable Service without having first given three (3) months written notice to the City.

(b) *System Removal After Abandonment, Termination or Forfeiture.*

1) In the event of termination or forfeiture of the Franchise or abandonment of the System, the City may require the Grantee to remove all or any portion of its System from all Rights-of-Way and public property within the City; provided, however, that the Grantee will not be required to remove its System to the extent it lawfully provides non-Cable Services over the System.

2) If the Grantee has failed to commence removal of its System, or such part thereof as was designated by the City, within one hundred twenty (120) days after written demand for removal is given, or if the Grantee has failed to complete such removal within twelve (12) months after written demand for removal is given, the City may apply funds secured by the Franchise toward removal.

(c) *Sale or Transfer of Franchise.*

1) No sale or transfer of ownership of a Grantee or fundamental corporate change in a Grantee as defined in Minn. Stat. 238.083, nor sale or transfer of a Franchise, is permitted without City approval. Any sale or transfer of stock in a Grantee creating a new controlling interest constitutes a sale or transfer of ownership. A controlling interest includes majority stock ownership or a lesser amount sufficient to confer actual working control in whatever manner exercised. City approval shall not be required where a Grantee grants a security interest in its Franchise or System to secure an indebtedness.

2) A Grantee must file a written request with the City prior to any transaction described above. The City will approve or deny a transfer request within one hundred and twenty (120) days of receipt of a written request. The City will not unreasonably withhold its approval.

3) In no event will a transaction be approved unless any proposed new Grantee becomes a signatory to, and assumes all rights and obligations under, the Franchise.

4) In the event a Grantee has received a bona fide offer for purchase of its System, the City shall have the right to purchase the System for the same price and under equivalent

conditions which the proposed assignee or transferee agreed to pay. The City will be deemed to have waived its right to purchase the System in the following circumstances:

1. The City does not notify the Grantee in writing, within 60 days of notice, that it intends to exercise its right of purchase; or
2. The City approves the transaction.

Section 16-39 PROTECTION OF INDIVIDUAL RIGHTS

(a) Discriminatory Practices Prohibited.

No Grantee may deny Cable Service or otherwise discriminate against citizens or businesses on the basis of race, color, religion, national origin, sex, age, status as to public assistance, affectional preference, or disability.

(b) Subscriber Privacy.

1) A Grantee must comply with the subscriber privacy-related requirements of 47 U.S.C. § 551.

2) No signals of a Class IV Channel may be transmitted from a Subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written authorization of the Subscriber.

Section 16-40. UNAUTHORIZED CONNECTIONS AND MODIFICATIONS

(a) Unauthorized Connections or Modifications Prohibited.

1) It is unlawful for any Person, without the express consent of the Grantee, to make or possess, or assist anybody in making or possessing, any connection, extension, or division, whether physically, acoustically, inductively, electronically or otherwise, with or to any segment of a Grantee's System.

2) It is unlawful for any Person to willfully interfere, tamper, remove, obstruct, or damage, or assist thereof, any part or segment of a System for any purpose.

3) Any Person found guilty of violating this section may be fined not less than Twenty Dollars (\$20.00) and the costs of the action nor more than Five Hundred Dollars (\$500.00) and the costs of the action for each and every subsequent offense.

Section 16-41. ENFORCEMENT OF THE CABLE ORDINANCE OR FRANCHISE

(a) Violations or Other Occurrences Giving Rise to Enforcement Action.

1) In order to take enforcement action pursuant to this Cable Ordinance or a Franchise, the City must provide the Grantee with written notice of the violation or other occurrence giving rise to the City's action.

2) The Grantee shall have thirty (30) days subsequent to receipt of the notice to cure the violation or occurrence giving rise to the City's action. Alternatively, the Grantee may, within fourteen (14) days of receipt of notice from the City, notify City in writing that there is a dispute as to whether a violation or failure has in fact occurred. Such written notice by the Grantee to the City shall specify with particularity the matters disputed by Grantee and shall toll the running of the timeframes and the accrual of penalties hereunder until completion of the process and issuance of a decision under section 14.1c-e below.

3) In the event a Grantee does not timely cure to the City's satisfaction the violation or other occurrence giving rise to the City's action, or timely disputes whether a violation has occurred, the City will schedule a public hearing affording Grantee due process. The City will endeavor to schedule the hearing for a date within ninety (90) days of the initial violation notice. Notice of the hearing must be provided to the Grantee.

4) At the completion of the hearing, the City will issue written findings of fact and its final determination.

5) In the event City determines that no violation has taken place, the City will rescind the notice of violation in writing.

(b) *Franchise Revocation.*

1) In addition to all other rights and remedies that the City possesses pursuant to law, equity and the terms of the Franchise Agreement, the City may revoke or terminate the Franchise, and all rights and privileges pertaining thereto, in accordance with Section 14.1 if the City determines that:

1. The Grantee has violated any material requirement or provision of the Cable Ordinance or a Franchise and has failed to timely cure; or
2. The Grantee has attempted to evade any of the material provisions of the Cable Ordinance or a Franchise; or
3. The Grantee has practiced fraud or deceit upon the City or a Subscriber; or
4. The Grantee has filed for bankruptcy.

2) During any revocation proceeding and any appeal period, the Franchise will remain in full force and effect unless the term thereof sooner expires.

(c) *Compliance with Federal, State and Local Laws.*

The City and Grantee will conform to federal and state laws and rules regarding Cable Service or the System as they become effective.

(d) *Equal Protection.*

The City acknowledges that under Minn. Stat. §238.08, Subd. 1(b) it may only grant additional Franchises to provide Cable Service within the City on terms and conditions no more favorable

or less burdensome than those in any then-current Franchise which pertain to: (1) the area served; (2) public, educational, or governmental access requirements; or (3) franchise fees. Additionally, and beyond the requirements of Minn. Stat. §238.08, any additional Franchises to provide Cable Service within the City shall not be granted on more favorable or less burdensome conditions than those in any then-current Franchise issued pursuant to this Cable Ordinance with regard to ROW access and responsibilities, complimentary service to public buildings, penalties and security, sale or transfer of ownership.

1. If any other provider of Cable Services is lawfully authorized by the City to provide such services using facilities located wholly or partly in the Rights-of-Way of the City (Additional Provider(s)), the City shall, within thirty (30) days of a written request from a current Franchise holder, use best efforts to modify the current Franchise holder's Franchise on a mutually acceptable basis to ensure that the obligations imposed by this Section 14.4 have been met.
2. If the City fails to comply with this Section 14.4 or the parties fail to reach agreement under subsection a. above, a current Franchise holder shall have the right to initiate an action in the state or federal district court for breach of contract or other appropriate claims and seek any and all appropriate relief, including specific performance.
3. Nothing in this Ordinance shall impair the right of the City or a current Franchise holder to seek other remedies available under law.
4. In the event City initiates the franchising process pursuant to Minn. Stat. §238.081, the City shall notify all current Franchise holders in writing of its intent to initiate the franchising process prior to doing so.
5. A current Franchise holder shall have the right to operate its Cable System in accordance with applicable state or federal law, as may be amended from time to time.

(e) *Effective Date*

This Cable Ordinance is effective the day after its publication.

Adopted by the City Council of the City of Watertown this 8th day of January, 2019

Steve Washburn, Mayor

ATTEST:

Lynn Tschudi, Clerk/Treasurer

Published in the Carver County News on the 17th day of January, 2019

CITY OF WATERTOWN, MINNESOTA

ORDINANCE NO. 412

AN ORDINANCE GRANTING A FRANCHISE TO CC VIII OPERATING LLC L/K/A CHARTER COMMUNICATIONS TO CONSTRUCT, OPERATE, AND MAINTAIN A CABLE SYSTEM AND PROVIDE CABLE SERVICE IN THE CITY OF WATERTOWN, MINNESOTA.

RECITALS

1. This Cable Franchise Ordinance (“Franchise”) is made and entered into by and between the City of Watertown a municipal corporation of the State of Minnesota (“City”) and CC VIII Operating LLC l/k/a Charter Communications, a limited liability company (“Grantee”).
2. Pursuant to Ordinance No. 412(“Cable Ordinance”), the City is authorized to grant and issue a non-exclusive Franchise authorizing the Grantee to provide Cable Service and construct, operate, and maintain a Cable System in the City.
3. The Grantee has requested that its current franchise be renewed pursuant to Section 626(h) of the Cable Act.
4. Upon evaluation of Grantee’s technical, financial, legal qualifications, completion of Franchise negotiations, and as a result of a public hearing, the City finds that it is in the best interests of the City and its residents to renew the Franchise with Grantee.
5. This Franchise is nonexclusive and is intended to comply with applicable laws and regulations.

THE CITY COUNCIL OF THE CITY OF WATERTOWN HEREBY ORDAINS:

SECTION 1. GENERAL PROVISIONS

Section 1.1 Definitions.

Unless otherwise defined herein, the terms, phrases, and words contained in this Franchise have the meaning provided in the Cable Ordinance. Terms, phrases and words contained in this Franchise that are not defined here or in the Cable Ordinance will be as defined in applicable law.

Section 1.2 Written Notice.

All notices, reports, or demands required to be given in writing under this Franchise or the Cable Ordinance must be delivered personally to any officer of Grantee or the City

Administrator or deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid thereon, addressed to the party to whom notice is being given, as follows:

If to City: City of Watertown
City Administrator
309 Lewis Ave S
PO Box 279
Watertown, MN 55388

With copies to: Chair, Sherburne/Wright Counties Cable
Communications Commission
c/o City of City of Buffalo
212 Central Avenue
Buffalo, MN 55313

If to Grantee: Charter Communications
Attn: Government Affairs
16900 Cedar Avenue South.
Rosemount, MN 55068

With copies to: Charter Communications
Attn: VP of Government Affairs
601 Massachusetts Ave. NW, Suite 600W
Washington, DC 20001

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

SECTION 2. GRANT OF FRANCHISE

Section 2.1 Grant.

a. Grantee is authorized to erect, construct, operate and maintain in, along, across, above, over and under the Rights-of-Way, now in existence and as may be created or established during the term of this Franchise any poles, wires, cable, underground conduits, manholes, and other conductors and fixtures necessary for the maintenance and operation of a Cable System in the City. Nothing in this Franchise shall be construed to prohibit the Grantee from offering any service over its Cable System that is not prohibited by federal, state or local law.

b. This Franchise is granted pursuant to the Cable Ordinance, in all cases subject to and without waiving applicable law. This Franchise is a contract and except as to those changes which are the result of the City's lawful exercise of its general police powers, the City may not take any unilateral action which materially changes the explicit

mutual promises in this contract. In the event of any conflict between the provisions of this Franchise and the Cable Ordinance, the provisions of this Franchise shall govern.

c. This Franchise shall be nonexclusive and City may grant additional Franchises at any time. The City will not grant an additional Franchise on terms and conditions more favorable or less burdensome than those in this Franchise and Grantee shall have all rights provided by Section 14.4 of the Regulatory Ordinance in the even an additional Franchise(s) is granted. The City may impose additional terms and conditions in any additional Franchise.

d. The City shall comply with Section 14.4 of the Cable Ordinance in the event an additional provider is legally authorized to provide Cable Service.

e. Grantee acknowledges the City's right to issue this Franchise. Upon acceptance of this Franchise by Grantee as required by Section 8 herein, this Franchise shall supersede and replace any previous ordinance or other authorization granting a Franchise to Grantee, and all rights, obligations and claims under any previous Franchise are extinguished, except that the Grantee's obligation to indemnify the City against claims that arose during the term of the previous Franchise shall continue in full force and effect subject to applicable law.

Section 2.2 Franchise Term.

This Franchise will be in effect for a period of fifteen (15) years from the date of acceptance by the Grantee, unless sooner renewed or revoked.

Section 2.3 Service Area.

a. This Franchise is granted for the corporate boundaries of the City, as it exists from time to time, subject to the density requirement of Section 2.3.b below. The City will notify the Grantee in writing in the event the City annexes any areas that the Grantee will be required to serve subject to Section 2.3b below.

b. The Grantee will extend its System and offer Cable Service, within a reasonable time, after a request for Service, to areas with a density of at least nine (9) residential units per one-quarter (1/4) cable mile of System, as measured from the nearest accessible Cable System tie-in point actively delivering Cable Service as of the date of such request for Service. Where the density is less than that specified above, the Grantee may require that Persons requesting Service pay a portion of the cost of the capital cost of the line extension in advance. The Grantee shall provide a free written estimate of the total cost for extension and the required payment amount within fifteen (15) days of the request for Service. The charge for Installation or extension for each Person requesting Service shall not exceed a pro rata share of the actual cost of extending the Service. Subscribers shall also be responsible for any standard/non standard installation charges to extend the Cable System from the tap to the residence.

SECTION 3. SYSTEM

Section 3.1 System Capacity.

Grantee will continue to operate a System providing a minimum of at least 75 video programmed Channels throughout the term of this Franchise. The System must have return capability and permit “narrowcasting” as provided in Section 4.2(c).

Section 3.2 Construction Deadline.

Except for Grantee’s System extension obligations pursuant to Section 2.3, System construction is substantially complete. Subject to Section 2.3b above, Grantee will use commercially reasonable efforts to complete any System extension and construction of new facilities for new developments contemporaneous with installation of other utilities. The City shall provide reasonable and timely advance written notice of the location of all new developments to Grantee.

SECTION 4. COMMUNITY SERVICES

Section 4.1 Commercial Video Programming.

The Grantee will provide broad categories of video programming, including news, sports and entertainment.

Section 4.2 PEG Access Facilities.

a. Access Channels. The Grantee shall continue to dedicate two (2) Channels for public, education, and government access (“PEG Access”) programming. The two (2) PEG Access Channels must be cablecast on the Basic Cable Service tier. All Subscribers who receive Cable Services offered on the System must receive the PEG Access Channels at no additional charge. Only to the extent required by Minn. Stat. §238.084, Subd. 1. (z) and permitted by applicable law, the VHF spectrum must be used for the provision of at least one (1) of the PEG Access Channels. Nothing herein shall diminish the City’s rights to secure additional channels pursuant to Minn. Stat. § 238.084, Subd. 1(z), and applicable FCC regulations.

b. Responsibility for PEG Access. The City will operate, administer, and manage PEG Access programming pursuant to this Section 4.2. The City may delegate its PEG Access authority and responsibilities to the Commission. The Grantee acknowledges that the Commission may coordinate the expenditure of Franchise Fees and PEG Capital Fees by and among the Commission’s member municipalities. Nothing herein shall obligate the City to make equipment or channels available for public access programming or to any particular programmer.

c. Narrowcast. The System currently allows one (1) PEG Access Channel to

be “narrowcast;” i.e. permits a program to be cablecast on such Channel for viewing solely by Subscribers in one City while Subscribers in adjoining cities served by the Grantee and who are members of the Commission simultaneously view other programming on that Channel. Grantee shall continue to ensure that such narrowcasting is provided on the System.

d. Live Origination. The Grantee shall continue to provide two-way capability permitting transmission of live programming from the public institutional sites listed in Exhibit A-1 attached. The Grantee shall not be required to provide end-user equipment. The City may designate relocated or additional live programming sites provided that the City shall pay the actual construction cost of connecting such relocated or additional live programming sites prior to the Grantee’s construction of same. The Grantee must ensure that the System meets the technical standards attached as Exhibit B at all live origination sites. The Grantee must further ensure that the City can “narrowcast” programming originated from City Hall consistent with Section 4.2c.

e. High Definition.

(i) Within one hundred and twenty (120) days after the Effective Date, unless delayed by events out of Grantee’s reasonable control, the Grantee shall convert the Commission’s area-wide PEG Access Channel (i.e. the Channel that is not “narrowcast” to each member city pursuant to Section 4.2(c)) to high definition (“HD”) provided that the programming signals are provided to the Grantee in HD and meet Grantee’s technical specifications for HD channels. Thereafter, at such time as Grantee makes at least 90% of all non-PEG Channels available in HD, the Grantee shall also convert the “narrowcast” PEG Access Channel to HD provided that the programming signals are provided to the Grantee in HD and meet Grantee’s technical specifications for HD channels. The City understands that, although the Grantee must ensure that the PEG Access Channels are cablecast on the Basic Cable Service tier and available to all Subscribers at no additional charge, the HD PEG Access Channel will not be located on the Basic Cable tier, the signal from the HD PEG Access Channels may not be available in HD on the Basic Cable tier of service, and Grantee shall have no obligation to carry PEG Access Channels in more than one format; i.e. dual carriage. Grantee’s costs to purchase equipment to convert and distribute programming on the PEG Access Channels in HD will be reimbursed by the City or Commission in an aggregate amount not to exceed Seven Thousand Five Hundred Dollars (\$7500.00) within sixty (60) days of receipt of invoices evidencing Grantee’s expenditures. ii)

The City acknowledges that in order to receive Access Channels in HD format Subscribers may be required to buy or lease special equipment, or pay additional HD charges applicable to all HD services,

f. PEG Access Capital Support. In addition to the requirements of Section 4.2(a)-(d) above, the Grantee shall collect and remit a PEG capital fee of up to eighty-five cents (\$.85) per Subscriber, per month (“PEG Capital Fee”). The Grantee shall remit such payments on the same schedule as the Franchise Fee. All amounts paid shall be

subject to audit and recomputation and acceptance thereof does not constitute an accord that amounts paid are correct. The PEG Capital Fee as of the Effective Date is eighty-five cents (\$.85) per Subscriber, per month. Grantee may itemize any PEG Capital Fee on Subscriber's bills. Payment by Grantee must be separate from and in addition to any Franchise Fee.

g. Use of PEG Capital Fee. The City and Grantee agree that the City will expend the PEG Capital Fees solely for capital costs (consistent with GAAP) associated with PEG Access. In consideration for Grantee's obligation to remit the PEG Capital Fee, the City agrees to provide financial support for PEG Access that is equivalent to the amount of PEG Capital Fees collected and provided to the City. Within sixty (60) days of written request, the City shall provide Grantee with an annual report of any expenditures of the PEG Access Capital Fee to insure such fees are used for capital costs related to PEG Access. The report shall also demonstrate how the City fulfilled its requirement to provide matching support for PEG Access. Based on the report, the Grantee may send a written notice to the City alleging that the City failed to demonstrate that the PEG Capital Fee was used for capital or that matching PEG Access support was provided. The City shall have thirty (30) days after receipt of the written notice to provide additional information demonstrating compliance with the requirements of this Section. If the Grantee continues to allege that the City has not complied with its obligations herein, the Grantee may provide written notice of its intent to reduce and/or discontinue collecting and remitting the PEG Capital Fee. If the City disputes the Grantee's actions, it may initiate any enforcement action under the Cable Ordinance it deems appropriate.

h. Access Rules. The City may implement rules governing PEG Access Channels and programming.

i. Parity of Obligations. The City will impose equivalent PEG Access obligations on any other franchised provider of Cable Service in the City.

Section 4.3 Drops and Service to Public Buildings.

a. The Grantee must provide, without charge, monthly Basic Cable Service and Cable Programming Service (excluding pay-per-channel or pay-per-program), one (1) Drop, one (1) outlet, and one (1) Converter of the type and functionality made available to Subscribers ("Complimentary Service") to the public institutional sites listed in Exhibit A-2 attached. The programming provided by Grantee is not for public display. The City shall hold the Grantee harmless for any copyright, or other penalties, incurred due to improper use of free service. If additional Converters or other customer premises equipment ("CPE") are required to receive Complimentary Service, Grantee reserves the right to charge the institution the published rate for such CPE consistent with applicable law.

b. The Grantee shall connect such additional public administration buildings as the City may subsequently designate, provided however, that the Grantee shall only be required to pay the cost of the first one hundred and fifty (150) feet of any necessary System construction, and further provided that the City or institution shall pay any

additional mutually agreed upon construction cost. The Grantee will have a reasonable time from the designation of additional sites to complete extension. Institutions may add outlets at their own expense. The Grantee shall only be required to provide Complimentary Service to the extent a newly designated building replaces a site previously receiving such service.

Section 4.4 Receipt of Subscriber Payments

The Grantee must maintain a convenient means for Subscribers to make payments such as the ability to make payments electronically via a company website.

SECTION 5. ADMINISTRATION PROVISIONS

Section 5.1 Franchise Fee.

a. The Grantee shall pay a Franchise Fee to the City in an amount equal to five percent (5%) of its Gross Revenues. The Grantee shall remit Franchise Fee payments to the City on a quarterly basis within 60 days of the close of the preceding calendar quarter. Payments shall be based on Gross Revenues generated during the preceding calendar quarter. In the event Grantee offers a bundle or package of Cable Services and non-Cable Services at a discounted rate, the Grantee must allocate revenues between Cable Services subject to the Franchise Fee and non-Cable Services that are not subject to the Fee on a proportionate pro rata basis in accordance with Generally Accepted Accounting Principles (“GAAP”). In no event shall the Grantee allocate the revenues to evade its Franchise Fee obligations under this Franchise or to disproportionately reduce Gross Revenues.

b. Each Franchise Fee payment must be accompanied by a report in form reasonably acceptable to City detailing the computation of the payment. All amounts paid are subject to audit and recomputation by the City, and acceptance of any payment must not be construed as an accord that the amount paid is in fact the correct amount. In accordance with Minn. Stat. § 541.05, any action to recover Franchise Fees must be commenced within three (3) years of receipt of the Franchise Fee payment or due date for such payment.

c. In the event that any Franchise payment or recomputed payment is not made on or before the dates specified herein, Grantee shall pay an interest charge, computed from such due date, at the annual rate of one percent over the prime interest rate.

Section 5.2 Rules of Grantee.

The Grantee may promulgate such rules, terms and conditions governing the conduct of its business provided that such rules, terms and conditions must not be in conflict with the provisions of this Franchise, the Cable Ordinance, or applicable laws or regulations.

SECTION 6. INDEMNIFICATION, INSURANCE, BONDS AND SECURITY FUND

Section 6.1 Indemnification.

By acceptance of this Franchise, the Grantee agrees to indemnify, defend, and hold the City harmless in accordance with the Cable Ordinance.

Section 6.2 Insurance.

At the time of acceptance of this Franchise, the Grantee will file with the City a Certificate of Insurance in accordance with the Cable Ordinance. The Grantee must maintain such insurance for the entire term of this Franchise.

Section 6.3 Performance Bond.

a. The Grantee must furnish to the Commission, for the benefit of all member cities of the Commission, a single performance bond in the amount of Fifty Thousand Dollars (\$50,000.00) in a form and substance reasonably acceptable to the Commission. The single bond provided to the Commission shall comply with the parallel bonding requirements imposed by the other members of the Commission. The Grantee must maintain the bond until this Franchise expires or is terminated.

b. The bond shall be conditioned upon Grantee's faithful performance in accordance with the terms of this Franchise, the Cable Ordinance, and applicable laws and regulations. The bond must provide that in the event the Grantee fails to comply with any law, ordinance or regulation, any damages or loss suffered by the City as a result, including the full amount of any compensation, indemnification or cost of removal or abandonment of any property of the Grantee, plus a reasonable allowance for attorneys' fees and costs, up to the full amount of the security, will be recoverable jointly and severally from the principal and surety of the bond, and further guaranteeing payment by the Grantee of claims, liens and taxes due the City which arise. In the event this Franchise is revoked or the rights hereunder relinquished or abandoned by Grantee, the City is entitled to collect any resultant damages, costs or liabilities incurred by the City.

c. The City and Grantee acknowledge that it may be difficult or impossible to accurately quantify actual damages or losses suffered by the City due to a violation or unsatisfied obligation under this Franchise, the Cable Ordinance, or applicable laws or regulations. Such violations or unsatisfied obligations may, however, be presumed to harm the City and the public's interest. Accordingly, the City may, in its reasonable discretion, collect liquidated damages in an amount of up to Two Hundred and Fifty Dollars (\$250.00) per violation of any provision of this Franchise, the Cable Ordinance, or applicable laws or regulations in an amount not to exceed Five Thousand Dollars

(\$5,000.00) in any calendar year. Each violation may be considered a separate violation for which separate liquidated damages can be imposed.

d. In the event the City will make any claim against the bond or otherwise seeks to assess liquidated damages, the City must comply with Section 14 of the Cable Ordinance governing enforcement of this Franchise.

e. The City's rights herein are in addition to all other rights the City may have and the City's exercise of such rights does not constitute an exclusive remedy nor limit any other right.

SECTION 7. MISCELLANEOUS REQUIREMENTS

Section 7.1 Amendment of Franchise Ordinance.

The Grantee and the City may mutually agree, from time to time, to amend this Franchise. Any changes, modifications or amendments to this Franchise must be made in writing, signed by the City and the Grantee. Nothing herein is intended to expand or diminish the rights given to City under state law. The City reserves its lawful rights, including its police powers, ordinance-making authority, and under power of eminent domain law.

Section 7.2 Force Majeure.

In the event Grantee's performance of this Franchise is prevented due to a cause beyond its reasonable control, such failure to perform must be excused for the period of such inability to perform.

Section 7.3 Severability.

If any term, condition or provision of this Franchise or the application thereof to any Person or circumstance is held, to any extent, invalid, preempted or unenforceable, the remainder and all the terms, provisions and conditions herein must, in all other respects, continue to be effective provided the loss of the invalid, preempted or unenforceable provisions do not substantially alter the agreement between the Parties. In the event a law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the Franchise provision which had been held invalid, preempted or modified is no longer in conflict therewith, such Franchise provision will return to full force and effect and thereafter be binding upon thirty (30) days written notice to the Grantee.

Section 7.4 Nonenforcement by City.

The Grantee is not relieved of its obligations to comply with this Franchise or the Cable Ordinance due to any failure or delay of the City to enforce prompt compliance. The City and Grantee may only waive its rights by expressly so stating in writing.

Section 7.5 Rights Cumulative.

All of the City's and Grantee's rights and remedies pursuant to this Franchise are in addition to and not exclusive of any and all other rights and remedies available to the City or Grantee.

Section 7.6 Work Performed by Others.

All obligations of this Franchise apply to work performed by any agent, subcontractor or other Person performing any work or services on behalf of the Grantee pursuant to this Franchise to the extent applicable, however, in no event will any such Person obtain any rights to maintain and operate a System or provide Cable Service.

Section 7.7 Entire Agreement.

This Franchise sets forth the entire agreement between the parties respecting the subject matter hereof. All agreements, covenants, representations, and warranties, express and implied, oral and written, of the parties with regard to the subject matter hereof are contained herein. No other agreements, covenants, representations or warranties, express or implied, oral or written, have been made by any party to another with respect to the matter of this Franchise. All prior and contemporaneous conversations, negotiations, possible and alleged agreements, representations, covenants and warranties with respect to the subject matter hereof are waived, merged herein and therein and are superseded hereby and thereby.

SECTION 8. ACCEPTANCE OF FRANCHISE

Section 8.1 Publication and Effective Date.

This Franchise will be effective on the date of acceptance by Grantee. This Franchise shall be enacted and published in accordance with applicable local and Minnesota law.

Section 8.2 Time for Acceptance.

a. The Grantee must accept this Franchise within sixty (60) days of enactment by the City, unless the time for acceptance is extended by the City. Acceptance by the Grantee will be deemed the grant of this Franchise for all purposes.

b. Upon acceptance of this Franchise, the Grantee and City will be bound by all the terms, conditions and obligations contained herein.

Section 8.3 Manner for Acceptance.

The Grantee must accept this Franchise in the following manner:

a. The Franchise must be fully executed and acknowledged by Grantee and delivered to the City.

b. The Grantee must also deliver any construction bond and insurance certificates required herein that have not previously been delivered, with its acceptance.

Section 8.4 Failure to Accept.

In the event the Grantee does not timely accept this Franchise in accordance with the requirements herein, this Franchise and all rights granted herein are null and void.

Passed and adopted this 8th day of January, 2019.

CITY OF WATERTOWN, MINNESOTA

By: _____
Its: Mayor

By: _____
Its: Clerk/Treasurer

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

CC VIII OPERATING LLC L/K/A CHARTER COMMUNICATIONS

By: _____
Its: _____
Date: _____, 2018

EXHIBIT A-1

(Live Origination Sites)

City of Big Lake, City Hall	160 Lake St N, Big Lake, MN 55309
City of Buffalo, City Hall*	212 Central Ave, Buffalo, MN 55313
City of Cokato, City Hall	255 Broadway Ave S, Cokato, MN 55321
City of Cokato, Fire Hall	745 7 th Street SW, Cokato, MN 55321
City of Dassel, City Hall	460 3rd St, Dassel, MN 55325
City of Delano, City Hall	234 2nd St N, Delano, MN 55328
City of Elk River, City Hall	13065 Orono Pkwy NW, Elk River, MN 55330
City of Maple Lake, City Hall	10 Maple Ave S, Maple Lake, MN 55358
City of Rockford, City Hall	6031 Main St, Rockford, MN 55373
City of Watertown, City Hall	309 Lewis Ave S Ste 1, Watertown, MN 55388
City of Monticello, City Hall	505 Walnut St Ste 1, Monticello, MN 55362

- In Buffalo City Hall, Grantee shall continue to provide two (2) Converters free of charge for program monitoring purposes and two-way connectivity for two (2) programming streams originating from this site.

EXHIBIT A-2

(Complimentary Service Sites)

City Hall Locations

City of Big Lake, City Hall 160 Street North, Big Lake MN 55309

City of Buffalo, City Hall 212 Central Avenue Buffalo, MN 55313

City of Cokato, City Hall 255 Broadway Avenue South, Cokato, MN 55321

City of Dassel, City Hall 460 3rd Street Dassel, MN 55325

City of Delano, City Hall 234 2nd Street North Delano, MN 55328

City of Elk River, City Hall 13065 Orono Parkway NW, Elk River, MN 55330

City of Maple Lake, City Hall 10 Maple Avenue South, Maple Lake, MN 55358

City of Monticello , City Hall 505 Walnut Street Monticello, MN 55362

City of Rockford, City Hall 6031 Main Street Rockford, MN 55373

City of Watertown, City Hall 309 Lewis Avenue South, Watertown, MN 55388

SWTV - Area Wide Channel (Located in Buffalo City Hall) 212 Central Avenue Buffalo, MN 55313

Public Safety Locations

Big Lake Police Department 790 Minnesota Avenue, Big Lake, MN 55309

Big Lake Fire Department 20243 County Road 43, Big Lake, MN 55309

Big Lake Public Works 18041 198th Avenue, Big Lake, MN 55309

Buffalo Police Department 215 1st Avenue NE, Buffalo, MN 55313

Buffalo Fire Department - Station 1 - 212 Central Avenue, Buffalo, MN 55313*

Buffalo Fire Department - Station 2 - 209 Atlas Avenue, Buffalo, MN 55313

Buffalo Streets and Parks 1303 County Road 134, Buffalo, MN 55313

Buffalo Utilities Campus 503 Lake Blvd. NW, Buffalo, MN 55313

Cokato Fire Department 745 7th Street SE, Cokato, MN 55321

Cokato Public Works 695 Cokato Street East, Cokato, MN 55321*

Delano Fire Station 245 2nd Street North, Delano, MN 55328

Delano Public Works 402 County Road 30 SE, Delano, MN 55328*

Dassel Fire Department 426 2nd Street North, Dassel, MN 55325

Elk River Police Department 13077 Orono Parkway, Elk River, MN 55330

Elk River Fire Department - Station 1 415 Jackson Street, Elk River MN 55330

Elk River Fire Department - Station 2 13073 Orono Parkway, Elk River, MN 55330

Elk River Emergency Operations Center 13077 Orono Parkway, Elk River, MN 55330

Elk River Public Works 19000 Proctor Road NW, Elk River, MN 55330

Maple Lake Fire Department 106 Division Street West, Maple Lake, MN 55358

Maple Lake Pubic Works 441 Oak Avenue South, Maple Lake, MN 55358

Monticello Fire Department (Current Address) 6th Street West, Monticello, MN 55362

Monticello Fire Department (Nov 2019) 101 Chelsea Road, Monticello, MN 55362*

Monticello Public Works 909 Golf Course Road, Monticello, MN 55362

Rockford Fire Department 6700 Main Street, Rockford, MN 55373

Rockford Public Works 6551 Utility Drive, Rockford, MN 55373

Watertown Fire Department 401 Carter Street NE, Watertown, MN 55388

Watertown Public Works 700 Lewis Avenue North, Watertown, MN 55388

* Grantee's rights to recover its actual, demonstrated costs of completed such connections shall be governed by Section 4.3b of the Franchise.

EXHIBIT B

(Technical Standards- Live Origination Sites)

With respect to all sites listed in Exhibit A, the System shall meet or exceed the following requirements:

1. The System shall operate in conformance with the technical standards promulgated by the FCC pursuant to Title 47, Section 76.601 to 76.617, as may be amended or modified from time to time.
2. The System shall be capable of continuous 24-hour operation without signal degradation.
3. The System shall be capable of operation without failure, material performance changes or signal degradation over an outdoor temperature range of -40 degrees F to +130 degrees F and over a variation in supply voltages from 105 to 130 volts AC.
4. The System will provide access channel connections up to the demarcation point, both upstream and downstream, without material signal degradation or deterioration and with signal quality equal to or better than any other channels. Material signal degradation or deterioration where any signal problem including ghosting or other audio or visual distortion or interference is apparent without special testing. The Grantee shall not be responsible for technical problems deriving from facilities or equipment located beyond the demarcation point, within the institutional site.