

## **APPENDIX B - FRANCHISES**

GAS

CABLE

CABLE - Right of Way

TELEPHONE

### **ORDINANCE NO. 1160**

AN ORDINANCE GRANTING A FRANCHISE BY THE CITY OF UYLSSES, COUNTY OF GRANT, KANSAS TO ATMOS ENERGY CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE RIGHT TO FURNISH, SELL AND DISTRIBUTE GAS TO THE CITY AND TO ALL PERSONS, BUSINESSES AND INDUSTRIES WITHIN THE CITY AND THE RIGHT TO ACQUIRE, CONSTRUCT, INSTALL, LOCATE, MAINTAIN, OPERATE AND EXTEND INTO, WITHIN AND THROUGH SAID CITY ALL FACILITIES REASONABLY NECESSARY TO FURNISH, SELL AND DISTRIBUTE GAS TO THE CITY AND TO ALL PERSONS, BUSINESSES AND INDUSTRIES WITHIN THE CITY AND IN THE TERRITORY ADJACENT THERETO AND THE RIGHT TO MAKE REASONABLE USE OF ALL STREETS AND OTHER PUBLIC PLACES AS MAY BE NECESSARY, AND FIXING THE TERMS AND CONDITIONS THEREOF.

### **ORDINANCE NO. 801 (replaced by ordinance No. 1160)**

AN ORDINANCE, GRANTING TO THE GREELEY GAS COMPANY A COLORADO CORPORATION, DULY AUTHORIZED TO ENGAGE IN BUSINESS IN THE STATE OF KANSAS, ITS TRUSTEES, SUCCESSORS AND ASSIGNS, A NATURAL GAS FRANCHISE PRESCRIBING THE TERMS THEREOF AND RELATING THERETO, AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR CONFLICTING WITH THE TERMS THEREOF.

Section 1. That in consideration of the benefits to be derived by the City of Ulysses, Kansas, and its inhabitants, there is hereby granted to the Greeley Gas Company, a Colorado Corporation, hereinafter sometimes designated as "company," the right, privilege and authority for a period of 20 years from the effective date of this ordinance, subject to the conditions hereinafter stated, the lawful rules and regulations of the State

Corporation Commission, and any other regulatory agency having jurisdiction over the company, and the laws of the State of Kansas, to occupy and use the present and future several streets, alleys, avenues, roads, bridges and other public places in the city, including any territory hereafter added thereto or coming under the city's jurisdiction, for the placing and maintaining of pipe lines and all other equipment necessary to carry on the business of selling and distributing natural gas for all purposes to the city and its inhabitants, and through the city and beyond the limits thereof; to obtain the natural gas from any source available; to do all things necessary or property to carry on the natural gas business in the city.

Section 2. That all mains, services, pipes and all other equipment necessary to carry on the business of selling and distributing natural gas, which shall be laid or installed under this grant, shall be so located and laid as not to unnecessarily obstruct or interfere with any public or private drains, sewers, water pipes, or other public improvements already installed, and with the lawful use of the streets, alleys, avenues, roads and other public places of the city.

Section 3. In consideration of the premises, the company agrees to pay to the city and the city agrees to accept as adequate compensation and consideration for the franchise hereby granted and in lieu of occupation, license, privilege and all other taxes and fees, three percent of the total of the gross receipts for gas sold by the company to all consumers located in the present or future corporate boundaries of the city during the term of this franchise. Any consideration hereunder shall be reported and paid to the city by the company no less frequently than semi-annually, and if paid semi-annually, shall be paid on the last days of February and August of each year.

Section 4. In the event the city should propose to construct, change, or repair any water mains, sewers, pipes, drains or other public improvements or change the grade of any of its streets, alleys, roads, or public grounds where the company is using the streets, alleys, roads or public grounds for its mains or other pipes, or equipment, then the city shall give reasonable notice of such contemplated changes or repairs to the company, and the company shall raise, lower or relocate at company's own expense by reason of any laws, rules and regulations, state or federal, applicable to the project necessitating such construction, changes or repairs. The company shall furnish the city with a map showing the size and location of its gas distribution system, and upon

written request of the city, company shall make any changes or additions necessary to update the map.

Section 5. That the company, in its construction, maintenance, and operation of its natural gas system shall give reasonable notice to city, use all reasonable and proper precaution to avoid damage or injury to persons or property, and the company shall be liable for all losses, injuries, or damages which may result to the city or its inhabitants, by reason of the sole negligence of the company, its agents or servants, in the construction or maintenance of its system, and shall at all times hold and save the city harmless from any and all liability to the city arising from claims for damages or injuries to others due to the sole negligence of the company, its agents or servants, in the construction, maintenance and operation of the system in the streets, alleys, roads and public places of the city.

Section 6. During the continuance of this franchise, the company shall furnish natural gas to the city and its inhabitants in accordance with the terms of this franchise, the rates, charges, and rules and regulations now on file with the State Corporation Commission of the State of Kansas or such revision of rates, charges, rules and regulations as may be lawfully established from time to time, in accordance with the laws of the State of Kansas.

Section 7. It is recognized that the natural gas to be delivered hereunder is to be supplied from the company's pipe line system transporting natural gas from various sources of supply; and the company, by its acceptance of this franchise as hereinafter provided, does obligate itself to furnish natural gas in such quantity and for such length of time, limited by the terms hereof, as the sources of supply and the pipelines are reasonably capable of supplying.

Section 8. The company shall have the right to make reasonable rules and regulations for the protection of its property, for the prevention of loss and waste in the conduct and management of its business and for the sale and distribution of gas including rules and regulations with reference to extensions or additions to its gas distribution system, as from time to time is deemed necessary.

Section 9. The company shall have the right to assign this franchise, and the rights and privileges herein granted, to any person, firm or corporation, subject to the approval of the State

Corporation Commission of the State of Kansas, or any other body having jurisdiction over such assignments and any such assignee, by accepting such assignment, shall be bound by the terms and provisions hereof. All such assignments shall be in writing, and authenticated copies thereof shall be filed with the clerk of the city.

Section 10. That in the event any other ordinances of the city conflict with this ordinance, the terms and conditions set out herein shall prevail, and the conflicting portions of other ordinances shall be deemed inapplicable.

Section 11. That this ordinance shall not take effect and be in force until after the expiration of 60 days from the date of this final passage and acceptance by the company, within 60 day, in writing; if no acceptance as hereinbefore provided has been filed, then this ordinance shall be ipso facto, absolutely, null and void.

Section 12. In the event that the Kansas Corporation Commission takes any action which is within its jurisdiction and authority over the company, which would preclude the company from recovery from its customers any cost or fee provided for herein, the parties hereto agree to renegotiate this ordinance in accordance with any lawful ruling of the Corporation Commission.

Section 13. This franchise is granted pursuant to the provisions of K.S.A. 12-2001, and shall take effect and be in force as therein provided. (10-21-87)

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## **ORDINANCE NO. 845**

AN ORDINANCE OF THE CITY OF ULYSSES, KANSAS, GRANTING A FRANCHISE AGREEMENT TO CITY OF ULYSSES CATV, ITS SUCCESSORS, LESSEES, AND ASSIGNS GRANTING FOR A TERM OF 20 YEARS, THE RIGHT, POWER, AUTHORITY AND FRANCHISE TO ESTABLISH, CONSTRUCT, ACQUIRE, MAINTAIN AND OPERATE A COMMUNITY ANTENNAE AND CLOSED CIRCUIT ELECTRONIC SYSTEM AND CABLE TELEVISION SYSTEM WITHIN THE CITY OF ULYSSES, KANSAS, TO RENDER, FURNISH, AND SELL COMMUNITY ANTENNAE AND CLOSED CIRCUIT ELECTRONIC SERVICE AND CABLE TELEVISION SERVICE THEREFROM WITHIN THE CITY OF ULYSSES,

KANSAS, AND ENVIRONS THEREOF, AND TO USE AND OCCUPY THE STREETS AND OTHER PUBLIC PLACES OF THE CITY OF ULYSSES, KANSAS, FOR SUCH COMMUNITY ANTENNAE AND CLOSED CIRCUIT ELECTRONIC SYSTEM AND CABLE TELEVISION SYSTEM.

Section 1. There is hereby granted to City of Ulysses CATV, which is duly authorized to do business in the State of Kansas, (hereafter called the grantee) and to the grantee's successors, lessees, and assigns, for the term of 20 years from the date this ordinance becomes effective, the non-exclusive right, authority, power and franchise to establish, construct, acquire, maintain and operate a community antennae and closed circuit electronic system and cable television system within the City of Ulysses, Kansas, (hereafter called the city), to render, furnish, and sell community antennae and closed circuit electronic service and cable television service from such system to the inhabitants of the city and its environs, and to use and occupy the streets and other public places within the corporate limits of the city as the same now exists or may hereafter exist for television system, including the right to enter and construct, erect, locate, re-locate, repair and rebuild in, on, under, along, over, and across the streets, alleys, avenues, parkways, lanes, bridges and other public places of the city, all towers, poles, cables, amplifiers, conduits and other facilities owned, leased or otherwise used by the grantee for the furnishing of community antennae and closed circuit electronic service and cable television service within the city and environs thereof during the continuance of the franchise hereby granted.

Section 2. Any pavements, sidewalks or curbing taken up or in any and all excavations made by the grantee shall be done under the supervision and direction of the city under permits issued for, work by the proper officials of the city and shall be made and done in such manner as to give the least inconvenience to the inhabitants of the city and the public generally and all such pavements, sidewalks, curbing and excavations shall be replaced and repaired in as good conditions as before, with all convenient speed, by and at the expense of the grantee, which shall at all times make and keep full and complete plats, maps and records showing the exact locations of its facilities located within the public ways of the city. The maps shall be drawn to scale and a current map filed with the city each and every year. The grantee shall not place poles or other fixtures where the same will interfere with any gas, electric or telephone fixtures, water hydrants or mains, and all such poles or other fixtures placed in any street shall be placed at the outer edge of

the sidewalk and inside the curblin, and those placed in alleys shall be placed close to the line of the lot abutting on the alley, and then in such a manner as not to interfere with usual travel on the streets, alleys and public ways.

Section 3. It is expressly understood and agreed by and between the grantee and the city that the grantee shall save the city harmless from all loss sustained by the city on account of any suit, judgment, execution, claim or demand whatsoever, resulting from negligence on the part of the grantee in the construction, operation, or maintenance of its system in the city. The city shall notify the grantee's representative within 15 days after presentation of any claim or demand, either by suit or otherwise, made against the city on account of any negligence as aforesaid on the part of the grantee, grantee shall however, always have the right to maintain an appropriate action against unauthorized use action nor shall the city be a proper party thereto.

Section 4. The grantee shall have the authority to promulgate such rules, regulations, terms and conditions of its business as stated in Section 16 of this franchising ordinance.

Section 5. The city reserves the right of reasonable regulation of the erection, construction or installation of any facilities by the grantee and to reasonably designate where such facilities are to be placed within the public ways and places.

Section 6. The grantee shall, on the request of any person holding a building moving permit issued by the city, temporarily raise or lower its wires to permit the moving of the building. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same, and the grantee shall be given no less than 48 hours advance notice to arrange for such temporary wire change.

Section 7. The grantee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public places of the city so as to prevent the branches of such trees from coming into contact with the wires and cables of the grantee, all trimming to be done under the supervision and direction of the city.

Section 8. In the event that at any time during the effective period of this franchise the city shall lawfully elect to alter or change the grade of any street, alley or other public way, the grantee, upon reasonable notice by the city, shall remove, relay

and relocate its poles, wires, cables, underground conduits, manholes and other telephone-type fixtures at the grantee's expense.

Section 9. The grantee shall, at any time during the effective life of the franchise, be subject to all lawful exercise of the police power of the city, and to such reasonable regulation as the city shall hereafter by resolution or ordinance provide.

Section 10. In consideration for the right, privileges and franchises hereby granted, and as full compensation to the city for use of its public ways and places by the grantee, and in lieu of all occupation and license fees, the grantee shall, on the first day of July of each year this franchise is in effect, pay unto the city the sum of two percent of its gross receipts per year, provided that the above fees are based only on gross receipts from subscriptions to cable television service. The payment shall be accompanied by a statement of gross revenue from subscriptions to cable television service for such period.

Section 11. Prior to presentation of this franchise, the grantee has been found by the city to have the legal character, financial, technical and other qualifications to be granted this franchise by the duly elected city council, the governing body of the city. Before commencing any construction, the feasibility of construction arrangements which the grantee has made will be presented to the city administrator, city hall, Ulysses, Kansas. The grantee further agrees to maintain a business office or agent for the purpose of conducting all regular business of the company. A copy of the certificate of compliance will be available upon request to the public at the business office. The grantee will investigate and resolve all complaints regarding quality of service, equipment malfunctions and similar matters. Complaints will be accepted by subscribers who walk into the grantee's business office or via telephone. A standard complaint form will be filled out and sent to the serviceman employed by the grantee. The matter will be dealt with within 96 hours after it has been received unless the grantee's good faith efforts are thwarted by replacement parts shortages when such shortages are plagued by "crank accounts" which make unreasonable demands, or when other unforeseen and unusual circumstances may prohibit prompt resolution of complaints.

Section 12. The grantee shall assume the cost of publication of this franchise as such publication is required by



law. A bill for publication costs shall be presented to the grantee by the city and shall be paid at that time.

Section 13. The city shall have the right and privilege, by and through its auditor or other persons designated, to examine the gross receipts derived from the distribution and sale of cable television service within the city in order to determine therefrom the amount to be paid to the city.

Section 14. The grantee shall offer not less than 10 television channels available to all cable television service subscribers.

Section 15. All ordinances and parts of ordinances in conflict herewith are hereby repealed as of the effective date of this ordinance.

Section 16. The grantee is hereby authorized to make reasonable and prudent charges for its cable television services. Changes in rate structure shall be filed with the city clerk 10 days prior to the effective date of the change.

Section 17. Any modifications of the provisions of this franchise resulting from amendment by the Federal Communications Commission will be incorporated into this franchise within one year of adoption of the modification, or at the time of franchise renewal, whichever occurs first.

Section 18. All provisions of this franchise ordinance shall be binding upon the grantee and all successors, lesses and assigns of the grantee whether expressly stated herein or not, and all rights, authorities, powers, grants and privileges secured by this ordinance to the grantee shall be held to inure to the benefit of the grantee and all successors, lesses and assigns of the grantee.

Section 19. The franchise herein granted shall be subject to the provisions of section 12-2001 of the statutes of the State of Kansas, as amended, to the extent applicable.

Section 20. This franchise ordinance shall not take effect unless and until the same shall have been read in full at three regular meetings of the governing body and immediately thereafter published in the official city paper once a week for three consecutive weeks, and until 60 days from the date of its passage by the governing body of the city, and then shall take effect only in



conformity with the laws of the State of Kansas. A copy of this franchise ordinance shall be filed at the city hall, Ulysses, Kansas, and shall be available for inspection during regular business hours upon request by the public. (9-5-90)

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## **ORDINANCE NO. 1063**

AN ORDINANCE GRANTING TO THE PIONEER TELEPHONE ASSOCIATION, INC., A KANSAS CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE RIGHT TO OPERATE A TELEPHONE SYSTEM WITHIN THE CITY OF ULYSSES, KANSAS, PRESCRIBING THE TERMS AND CONDITIONS THEREOF AND PROVIDING FOR PAYMENTS TO BE MADE TO THE CITY OF ULYSSES, KANSAS, AND REPEALING ALL ORDINANCES AN AGREEMENTS IN CONFLICT HEREWITH.

Section 1. The Pioneer Telephone Association, Inc., a Kansas corporation, its successors and assigns (herein referred to as A telephone company@), shall continue to operate its telephone system and all business incidental to or connected with the conducting of a telephone business and system in the City of Ulysses, State of Kansas (herein referred to as A city@). The plant construction and appurtenances used in or incident to the giving of telephone service and to the maintenance of a telephone business and system by the telephone company in the city shall remain as now constructed, subject to such changes as may be considered necessary by the city in the exercise of its inherent powers and by the telephone company in the conduct of its business, and the telephone company shall continue to exercise its right to place, remove, construct, and reconstruct, extend and maintain its plant and appurtenances as the business and purposes for which it is or may be incorporated may from time to time require along, across, on, over, through, above, and under all the public streets, avenues, alleys, bridges and the public grounds and places within the limits of the city as the same, from time to time may be established.

Section 2. The telephone company shall exercise its rights and privileges granted by this ordinance for a term of 15 years beginning August 27, 2000, and ending August 27, 2015, and for additional five year periods until and unless the city or telephone company gives written notice six months prior to the date of termination of its intent to terminate this franchise, and telephone company shall make payments to the city as follows: the telephone company shall pay to the city the sum of \$10,000 upon

the effective date of this ordinance and \$1,000 on each January 1<sup>st</sup> thereafter for every year that the ordinance is in effect. The telephone company agrees not to pass through any payments made under this ordinance to its customers located within the city.

Section 3. The poles, wires, cables, conduits, pipes, and appliances erected or to be erected by the telephone company, either under or above ground, shall be erected, laid, placed, or constructed in conformity with the rules, regulations, and ordinances of the city adopted by the city in the reasonable exercise of its police power provided that any excavations by the telephone company in any of the streets, alleys, avenues, roads, or public grounds within the corporate limits of the city shall be done in accordance with such rules, resolutions, and ordinances now existing or to be enacted by the governing body of the city relating to excavations in streets, alleys, and public grounds of such city and under the direction and supervision of such officials who may, from time to time, be vested with the supervision over the streets and alleys of the city. The telephone company, its successors and assigns, shall remove or relocate its conduits, lines, poles, and any other telephone utility installation located in the streets, alleys, and public grounds of the city when necessary to make way for public improvements or other works of public nature when required, such removal or relocation to be at the expense of the telephone company, its successors and assigns and without expense to the city.

Section 4. The telephone company shall hold and save the city harmless for all costs and damages, expense or liability which may be occasioned solely by the telephone company's occupancy in the streets, alleys, and public grounds of the city, and in the event of an action shall be instituted against the city and the telephone company jointly or against the city separately drawing out of injury or damage or both occasioned solely by such occupancy of the streets, alleys and public grounds in the city by the properties of the telephone company then, upon notice, by the city to the telephone company, the telephone company will assume liability for the defense of such action at the cost of the telephone company subject to the option of the city to appear and defend, at its own costs, any such case.

Section 5. The telephone company, its successors and assigns, in the construction, maintenance and operation of its telephone system shall use all reasonable and proper precaution to avoid damage or injury to persons or property and shall hold

and save harmless the city from any and all damages, injury and expense caused by the negligence of the telephone company, its successors and assigns or its or their agents or servants.

Section 6. The telephone company, on the request of any person, shall remove or raise or lower its wires temporarily to permit the moving of houses or other structures. The expense of such temporary removal, raising, or lowering of wires shall be paid by the party or parties requesting the same, and the telephone company may require such payment in advance. The telephone company shall be given not less than 48 hours advance notice to arrange for such temporary wire changes.

Section 7. Permission is hereby granted to the telephone company to trim trees upon and overhanging streets, alleys, sidewalks, and public places of the city so as to prevent the branches of such trees from coming in contact with the wire and cables of the telephone company, all the trimming to be done under the supervision and direction of any city official to whom the duties have been or may be delegated.

Section 8. Nothing in this ordinance shall be construed to require or permit any telephone, electric light, or power wire attachments by either the city or the telephone company, on the poles of the other, if such attachments are desired by the city or the telephone company, then a separate non-contingent agreement shall be prerequisite to such attachments.

Section 9. Upon the expiration of this ordinance, all rights of the telephone company granted thereunder shall terminate.

Section 10. In the event of a sale or transfer of ownership of telephone company, the term of this franchise shall terminate one year from the effective date of the transfer or sale. Within the one year period, the new entity shall be required to renegotiate a new franchise agreement with the city.

Section 11. Nothing herein contained shall be construed as giving to the telephone company any exclusive franchise, right, or privilege whatever, nor shall it affect any prior to existing rights of the telephone company to maintain a telephone system within the city.

Section 12. All other ordinances and agreements and parts of ordinances and agreements relating to the operation of or right to operate a telephone system within the city by the telephone

company are hereby repealed, which repeal shall take effect upon the effective date of this ordinance.

Section 13. This ordinance shall be read in full at three regular or adjourned meetings of the governing body and immediately after its final adoption and passage shall be published in the official city newspaper once a week for two consecutive weeks and shall not take effect and be enforced until after the expiration of 60 days from the date of its final adoption and passage and further subject to the right of petition for submission of its adoption to a special election, all as provided by law, and acceptance by telephone company within 60 days from the date of its final adoption and passage.

Section 14. The telephone company shall assume the cost of publication of this franchise, as such publication is required by law. A bill for publication costs shall be presented to the telephone company by the city and the city shall be reimbursed at that time. (5-28-00)

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## **ORDINANCE NO. 1075**

AN ORDINANCE GRANTING TO THE PIONEER TELEPHONE ASSOCIATION INC., dba PIONEER COMMUNICATIONS, ITS SUBSIDIARIES, SUCCESSORS, TRANSFEREES, OR ASSIGNS, A NON-EXCLUSIVE FRANCHISE TO MAINTAIN AND OPERATE A CABLE TELEVISION SYSTEM IN, OVER, UNDER, ALONG, ACROSS AND UPON THE STREETS, ALLEYS, EASEMENTS, RIGHT-OF-WAYS AND OTHER PUBLIC PLACES IN THE CITY OF ULYSSES, KANSAS.

### **Article 1. Definitions**

Section 1. For the purpose of the grant of this franchise, the following terms shall have the meanings as described herein:

(a) Cable Television System shall mean any system which operates for hire the service of receiving and amplifying programs broadcast by one or more television and/or radio stations and any other programs originated by a cable television company or by any other party and distributing such programs by wire, cable, microwave, coaxial cable, or other means, whether such means are owned or leased, to persons who subscribe to such service.

(b) City shall mean the City of Ulysses, Kansas, and shall include when appropriate, the context of the territorial boundaries of the City of Ulysses, Kansas as they now or shall hereinafter exist.

(c) Council shall mean the present governing body of the City of Ulysses, Kansas, or any successor to the legislative powers of the present city council.

(d) Facilities of Grantee or Cable Television Facilities shall mean property of the grantee.

(e) Franchise shall mean the permission, license, franchise or authority given hereunder to conduct and operate a cable television system in the City of Ulysses, Kansas.

(f) Grantee shall mean Pioneer Telephone Association, Inc., dba Pioneer Communications, or its subsidiary, successors, transferees or assigns of the franchise granted herein.

(g) Person shall mean any individual or association of individuals, or any firm, corporation, or other business entity.

(h) Property of Grantee shall mean all property owned and installed or used by the grantee in the conduct of its cable television business in the city and under the authority of the franchise granted herein.

(i) Street shall mean the surface of and the space below any public street, road, highway, freeway, lane, path, alley, court, sidewalk, parkway, drive or other easement now or hereafter held by the city for the purpose of public travel and shall include such other easements or rights-of-way as shall be now held or hereafter held by the city, which shall be within their proper use and meaning entitling the city and its grantee to the use thereof for the purpose of installing or transmitting cable television transmission over wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to a cable television system.

(j) Subscriber shall mean any person or entity receiving for any purpose the cable television service of the grantee herein.

## **Article 2. Grant of Franchise**

Section 1. General Grant. The city hereby grants to the grantee a non- exclusive right and privilege to operate and maintain a cable television system within the city and in so doing to use the streets of the city by installing, constructing, repairing, replacing, reconstructing, maintaining, and retaining in, on, over, or under any such street, wires, cables, conductors, poles, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments and other property as may be necessary and pertinent to a cable television system within the city.

Section 2. Financial Responsibility. Upon request by the city, grantee will provide a total disclosure of its financial capabilities by delivering copies of a current balance sheet and income statement.

Section 3. Non-Exclusivity. The authority hereby granted to conduct a cable television system in the city and to use and to occupy the streets therefore is not and shall not be deemed to be an exclusive right of permission. The city expressly reserves the right to grant similar non-exclusive franchises to other persons, firms or corporations to conduct televisions systems and to use the streets of the city therefore within the same or other areas of the city at any time or under any period of time.

Section 4. Notice Concerning Complaints. Notice of the procedures for reporting and resolving complaints will be given to each subscriber at the time of the initial subscription to the cable system.

Section 5. Modification of Franchise Standards. Any modification of time provisions of the federal franchise standards resulting from an amendment of the standards by the Federal Communications Commission must be incorporated into this franchise within one year of the adoption of the modification, or at the time of franchise renewal, whichever occurs first.

### **Article 3. Term**

The franchise herein granted shall be for a term of 10 years unless the same shall sooner expire by reason of other provisions.

The term of this franchise shall commence on the first day of the first month following the date the grantee hereunder accepts and agrees to abide with the terms and conditions of this franchise by filing a written acceptance thereof with the city clerk

of the city, which acceptance shall be filed, if it is to be valid, within 60 days from the effective date of the ordinance granting the franchise, if such acceptance shall not be filed within the time aforesaid, then the ordinance granting this franchise shall be deemed void and of no further force and effect and the offer of franchise contained in the ordinance will stand revoked.

#### **Article 4. Forfeiture**

In addition to all other rights and powers reserved or pertaining to the city, the city reserves as an additional and as a separate and distinct remedy the right to revoke this franchise and all rights and privileges of the grantee hereunder in any of the following events or for any of the following reasons:

(a) Grantee fails after 30 days prior written notice to comply with any of the provisions of this ordinance granting this franchise or has, by act or omission, violated any term or condition thereof;

(b) Any provision of such ordinance shall be finally adjudged by a court of law as invalid or unenforceable and the city council further finds that such provision constitutes at that time a consideration material to the continuance of the franchise granted herein;

(c) The grantee becomes insolvent, unable or unwilling to pay its debts or is adjudged bankrupt;

(d) All or part of the grantee's facilities should be sold under an instrument to secure a debt and are not redeemed by the grantee within 60 days from such sale;

(e) The grantee attempts to or does practice any fraud or deceit in its conduct or relations with the city or subscribers, under this franchise; or

(f) The city condemns all of the property of the grantee within the city by lawful exercise of eminent domain.

#### **Article 5. Ordinance of Revocation**

No revocation provided for in the previous paragraph except for reasons of condemnation shall be effective unless or until the city council shall have adopted an ordinance setting forth the cause and reason for the revocations and the effective date thereof, which ordinance shall not be adopted without 30 days



prior notice thereof to the grantee and an opportunity for the grantee to be heard on the proposed adoption of said proposed ordinance. If the revocations as proposed and said ordinance depends upon a finding of fact, such finding of fact shall be made by the city council after a hearing is provided for, if requested by the grantee and shall be conclusive.

## **Article 6. Consideration**

In consideration of the grant of the franchise to the grantee, the grantee shall pay to the city an amount equal to three percent of the gross revenue from the operation of the business in said city, such payments, together with all reports required by law and the governing body of said city, shall be made semi-annually on the 1<sup>st</sup> day of July and the 31<sup>st</sup> day of December of each year during the term of this franchise.

## **Article 7. Indemnification**

Section 1. General Liability Insurance. The grantee shall concurrently with the filing of the acceptance of this franchise furnish to the city and file with the city clerk at all times during the existence of this franchise and maintain in full force at its own cost and expense, a general liability insurance policy in the amount of \$1,000,000 indemnifying and defending the city, its officers, boards, commission, agents and employees from and against any and all claims, demands, actions, suits and proceedings by other, against all liabilities to others including, but not limited to, any liability for damages by reason of, or arising out of, any failure by the grantee to secure consents from the owners, authorized distributors or licensees of programs to be transmitted or to be distributed by the grantee, and against any loss, costs, expense or damages resulting there from, arising out of the exercise or enjoyment of its franchise, irrespective of the amount of comprehensive liability policy required hereunder.

Section 2. Comprehensive General Liability Program. The grantee shall also concurrently with the filings of its acceptance of this franchise furnish to the city and file with the city clerk at all times during the term of this franchise, maintain in full force and effect at its own costs and expense, a comprehensive general liability insurance policy indemnifying and defending the city, its officers, boards, commissions, agents, and employees from and against all claims by any person whatsoever for loss, for damage, of personal injury, or death from the franchise herein granted, or alleged to so have been caused or occurred, with the minimum

liability limits for \$500,000 for personal injury or death to any one person and \$1,000,000 for personal injury or death to two or more persons in any one occurrence and \$500,000 for damages for property resulting from any one occurrence.

## **Article 8. Use and Installation**

Section 1. Degree of Care. The grantee or any person, firm or corporation erecting, constructing or maintaining any of the property used by or for the grantee shall at all times employ due care or the highest degree of care required by law under the facts and circumstance and shall maintain and install the property of the grantee in accordance with commonly accepted methods and principals so as to prevent failures and accidents likely to, or which may tend to cause damage, injury or nuisance to the public.

Section 2. Location of Facility. All cable television facilities shall be so located as to cause minimum interference with the proper use of streets, and so as to cause minimum interference with rights and reasonable convenience of property owners abutting the streets, and in no event shall any of such facilities be located so as to substantially interfere with the usual public travel on any street of the city.

Section 3. Damage to Public Property. Whenever the grantee shall cause or any person on its behalf shall cause any injuries or damage to any public property or street by or because of the installation, maintenance, or operation of the cable television facilities, such injury or damage shall be immediately remedied in such fashion as directed by the city council.

## **Article 9. Operation and Maintenance**

The grantee shall render efficient service, make repairs promptly and only interrupt service for good cause for the shortest time possible. Interruptions for system maintenance insofar as possible shall be preceded by notice and shall occur during off-peak hours of minimum use of the system.

In order to limit failures and malfunctions of the cable television system to a minimum, and that the same might be promptly corrected at all times after notice of malfunction or failure, the grantee shall consistently maintain a listed telephone, which telephone shall so be operated that complaint for request

for repairs or adjustments because of malfunctions can be received at any time of day.

Failure or malfunctions of the system shall be corrected by the grantee within 24 hours after notice of such failure or malfunctions except or unless such failure or malfunction shall be over substantial portion of grantee=s system and shall have been caused by storm, fire, lightning, explosion, civil commotion or other similar catastrophe.

#### **Article 10. Compliance with the Law**

Grantee shall, at all times during the term of this franchise, be subject to all lawful exercises of the police power of the city and to such reasonable regulations as the city shall prescribe for the general conduct of persons providing cable television service within the city.

#### **Article 11. Sale of Lease of Franchise**

The franchise shall be deemed a privilege to be held in personal trust by the grantee. It may not be sold, transferred, leased, assigned or disposed of in whole or in part whether by force or voluntary sale, consolidation or otherwise without the prior consent of the city council, expressed by resolution, and then only under such conditions as may therein be prescribed.

#### **Article 12. Grantee Without Recourse**

The grantee shall have no recourse whatsoever against the city or any loss, cost, expense, or damage arising out of any of the provisions or requirements of this franchise or because of the enforcement thereof by the city, nor for the failure of the city to have the authority to grant all or any part of the franchise.

#### **Article 13. Request of Service**

The grantee shall, whenever it receives a request for service, provide service to any potential subscriber within the city limits and the grantee shall extend its existing system to such subscriber at no cost to the subscriber for the system extension other than the usual connection fees for all subscribers.

#### **Article 14. Notice**

Whenever under the terms of this franchise either party shall be required or permitted to give notice to the other, such notice shall be in writing and if to be served upon the city it shall be delivered by first class mail to the city and if the grantee then by delivering first class mail to such officer at such address as the grantee shall from time to time direct.

#### **Article 15. Service to Public Facilities**

The grantee shall provide without charge one connection to each elementary, high school or public school, and to each public library and city building and to provide basic service to these connections without charge.(1-10-01)