

ORDINANCE 85-42

An Ordinance Approving and Authorizing the Execution of a Cable Franchise Agreement with Horizon/Tele-Communications, Inc.

WHEREAS, Ordinance 84-30 established a procedure for the granting of Cable Communication Franchises for the City of Bloomington, Monroe County, Indiana; and

WHEREAS, Such procedure provides that within 30 days of the Board's Resolution approving and recommending a franchising contract, the Council shall introduce an ordinance approving and confirming the contract as accepted by the Board's resolution; and

WHEREAS, on August 6, 1985, the Board of Public Works authorized the execution of a Cable Franchise Agreement with Horizon/Tele-communications, Inc.:

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION I. The Cable Franchise Agreement for Operation of a Cable Communicatons System within the City of Bloomington, Indiana, by Horizon/Tele-Communications, Inc., as approved by the Board of Public Works on August 6, 1985, a copy of which Agreement is attached hereto and made a part hereof, is hereby approved, and following the approval by the Mayor, the Board of Public Works is authorized to execute the contract by and on behalf of the City of Bloomington.

SECTION II. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington and approval by the Mayor.

PASSED and ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 21 day of August, 1985.

Patricia A. Gross
PATRICIA GROSS, President
Bloomington Common Council

ATTEST:

Patricia Williams
PATRICIA WILLIAMS, City Clerk

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 22 day of August, 1985.

Patricia Williams
PATRICIA WILLIAMS, City Clerk

SIGNED and APPROVED by me upon this 22 day of August, 1985.

Tomilea Allison
TOMILEA ALLISON, Mayor
City of Bloomington

SYNOPSIS

This Ordinance Approves and Authorizes the Execution of a Cable Franchise Agreement for Operation of a Cable Communications System within the City of Bloomington, by Horizon Tele-Communications, Inc.. The term of the Contract is ten years; the current contract with Horizon/Tele-Communications, Inc., expires on September 23, 1985.

CABLE FRANCHISE AGREEMENT

For Operation of a Cable Communications System within the City of Bloomington,
Indiana, by Horizon Tele-Communications, Inc.

Submitted to the Board of Public Works for Approval on August 6, 1985

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SECTION 1

1.1 Definitions

For the purposes of this Franchise Agreement, the following terms, phrases, words, and abbreviations shall have the meaning given herein. When not inconsistent within the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number:

Affiliate: When used in relation to any person, another person who owns or controls, is owned or controlled by, or is under common ownership or control with, such person.

Backfeed Line: A dedicated coaxial, fibre or microwave pathway capable of transmitting an audio-video television signal (at least 6 MHz) from a specific location which is not the Grantee's headend to the Grantee's headend. Also known as a "return line."

Basic cable service: For the period of time up to December 31, 1986, any service tier which includes the retransmission of local television broadcast signals; thereafter, for the term of this Franchise Agreement, the tier of service regularly provided to all subscribers that includes the retransmission of all must-carry broadcast television signals and any public, educational and governmental channels, if such channels are expressly required by the terms of this Franchise Agreement. Notwithstanding anything to the contrary contained herein, subject to express provisions of federal or state law, in the event that FCC rules relating to "must carry" are modified or eliminated, basic cable service shall be considered the tier of service regularly provided to all subscribers, which includes all over-the-air services licensed to Bloomington, Indiana, and at a minimum, at least one affiliate of each major national television network in Indiana, and at least one independent station, and all PEG Channels as required by this Franchise Agreement.

Board of Public Works; Board: The Board of Public Works of the City of Bloomington, Indiana, as established by Title Two of the Bloomington Municipal Code.

Cable Act: The Cable Communications Policy Act of 1984, as amended.

Cable Channel or Channel: a portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a television channel (as television channel is defined by the Federal Communications Commission by regulation).

Cable Operator: any person or group of persons (A) who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system, or (B) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.

Cable Service: (A) the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and (B) subscriber interaction, if any, which is required for the selection of such video programming or other programming service.

Cable System: a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but

such term does not include (A) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility that serves only subscribers in 1 or more multiple unit dwellings under common ownership, control, or management, unless such facility or facilities uses any public right-of-way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of title II of the Cable Act, except that such facility shall be considered a cable system (other than for purposes of section 621(c) of the Cable Act) to the extent such facility is used in the transmission of video programming directly to subscribers; or (D) any facilities of any electric utility used solely for operating its electric utility systems;

City: City of Bloomington, Indiana. When the City is required to act under terms of this Franchise Agreement, unless otherwise provided by specific provision of this Agreement, the Board of Public Works or its designee shall act for the City, to the extent permitted by law.

Common Council or Council: Common Council of the City of Bloomington, Indiana.

FCC: Federal Communications Commission

Franchise Authority: the City of Bloomington, or the lawful successor, transferee or assignee thereof.

Grantee: Horizon Tele-Communications, Inc., or the lawful successor, transferee or assignee thereof.

Gross Revenues: All revenues received directly or indirectly by the Grantee, from or in connection with the operation of a cable communications system in the City of Bloomington under this franchise agreement, including, but not limited to, basic service fees, premium service fees, pay-per-view fees, installation or reconnection fees, leased channel fees, converter and television set sales or rentals, production fees, data services charges, local advertising revenues, studio or equipment rental and sale of publications, provided, however, that this shall not include any taxes on services imposed upon subscribers by any governmental unit and collected by the Grantee; with respect to advertising revenues, gross revenues shall include, but shall not be limited to, all revenues received by the Grantee or by any affiliated entity, for advertising material inserted locally on the cable communication system (including time brokerage).

Interconnection: Use of microwave, satellite, coaxial cable, optical fibre, or other means for the transmission and distribution of signals between two or more cable systems for mutual distribution of programming.

Other Programming Service: information that a cable operator makes available to all subscribers generally;

Person: an individual, partnership, association, joint stock company, trust, corporation, or governmental entity.

Public, Educational, or Governmental Access Facilities (PEG): (A) channel capacity designated for public, educational, or governmental use; and (B) facilities and equipment for the use of such channel capacity;

Public Way: means the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips or rights-of way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the franchise authority in the Service Area which shall entitle the Franchise Authority and the Grantee to the use thereof for the purpose of installing, operating, repairing and maintaining the Cable System. Public Way shall also mean any easement now

or hereafter held by the Franchise Authority within the Service Area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the Franchise Authority and the Grantee to the use thereof for the purposes of installing or transmitting Grantee's Cable Service or other service over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, compliances, attachments and other property as may be ordinarily necessary and pertinent to the Cable System.

Service Area: the present municipal boundaries of the Franchising Authority, and including any additions thereto by annexation or other legal means.

Service Tier: a category of cable service or other services provided by a cable operator and for which a separate rate is charged by the cable operator.

Telecommunications Council: Telecommunications Council of the City of Bloomington, Indiana, as defined and constituted by Title Two of the Bloomington Municipal Code.

Video programming: Programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

SECTION 2

2.1 Grant of Franchise\Franchise Term

The City hereby grants to Grantee a Franchise which authorizes the Grantee to construct and operate a Cable System and offer Cable Service and other services in, along, among, upon, across, above, over, under, or in any manner connected with Public Ways within the Service Area and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain or retain in, on, over, under, upon, across, or along any Public Way and all extensions thereof and additions thereto, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the Cable System. This grant for use of City streets, sidewalks, and other public easements is nonexclusive and does not establish priority for use over other franchise holders, permit holders and the City's or public's use of public property. The City may grant to other persons or corporations, rights, privileges or authorities similar to or different from that granted herein. The Grantee's use of City streets, sidewalks and other public easements shall be subject to and in accordance with City's policies and procedures governing said use which are administered by City's Director of Public Works and Engineer.

This Franchise granted by the City shall be for an initial term of ten (10) years from the date set forth on this Franchising Agreement as the Effective Date, which shall be the date of Grantee's written notice of acceptance, filed in accordance with Section 2.2 herein; said date shall be marked on this Franchise Agreement in the place indicated below as the Effective Date.

2.2 Acceptance by Grantee

Grantee shall file a written acceptance of the Franchise granted pursuant hereto with the City Clerk or other appropriate official or agency of the Franchising Authority within thirty (30) days after adoption of the Ordinance approving the franchise agreement, and execution of the franchise agreement by the Board of Public Works pursuant to Ordinance 84-30. At the time of Acceptance, Grantee shall pay an award fee by certified check in the amount of ten thousand dollars (\$10,000) payable to the City of Bloomington, which sum shall be utilized to compensate the City for costs incurred in the preparation, evaluation, and award of the franchise, and shall not be considered part of any franchise fee required by this Agreement.

Upon acceptance and execution by the Grantee of this franchise, the Grantee agrees to be bound by and unconditionally promises to abide by and comply with all the provisions, terms, and conditions contained herein. In the event that this franchise agreement is not adopted by the Grantee, this franchise and the rights and privileges hereby granted shall become null and void.

At the time of acceptance and execution of this franchise agreement by the Grantee, the City shall unilaterally terminate Grantee's 1965 contract with the City and the provisions of this franchise agreement shall immediately become effective.

SECTION 3.

3.1 Time is of the Essence

Whenever this franchise shall set forth any time for an act to be performed by or on behalf of the grantee, such time shall be deemed of the essence.

SECTION 4.

4.1 Franchise Fee

The Grantee shall pay quarterly to the City a franchise fee in an amount equal to 3% of the gross revenues received during the preceding quarter from or in connection with the operation of its Cable Communications System in the City of Bloomington. The franchise fee shall be paid quarterly to the City on or before the 45th day following the last day of the quarterly period for which said payment is due and shall be delivered to the Controller of the City of Bloomington. Along with the franchise fee payment, the Grantee shall file a franchise fee statement showing, in a form approved by the Controller, calculations of the amount of said quarterly payment and certified by the Group Controller of the Grantee.

In order to provide additional support for PEG access systems, or for any other permissible purpose, the City shall have the authority to increase, at a future date later than December 31, 1985, the annual franchise fee paid to the City to five percent (5%) of gross revenues. Any such increase shall require approval by the Board of Public Works and Common Council, by Resolution, prior

to the effective date of such increase.

4.2 Financial Records Required; Audit

The Grantee shall file annually with the Controller no later than three (3) months after the end of the Grantee's fiscal year, an audited statement of revenues, balance sheet, income statement and a statement of retained earnings attributable to the operation of its cable communications system in the City. The statement shall present a detailed breakdown of gross revenues received and shall be certified by an appropriate officer of the Grantee. The City shall have the right to review or audit the Grantee's franchise fee statements, annual audited statements, and other books, records, and financial data as reasonably pertains to enforcement of this franchise agreement, during regular business hours and upon reasonable notice. Any additional amount due the City as a result of such review or audit shall be paid within thirty (30) days following written notice to the Grantee by the City. If the franchise fee is not paid on the date due, or in the event an additional amount is due and owing to the City, simple interest on the amount due equal to the prevailing prime rate, as announced by the Bank of New York, shall be computed from the date such amount was due to the City.

The City may, for good cause, request that the statement be audited by an independent Certified Public Accountant to be selected by the City, and the reasonable cost of the audit shall be borne by the Grantee if such audit shows an additional amount due to the City greater than five per cent (5%) of the amount paid.

SECTION 5

5.1 Police Powers

In accepting this franchise, the Grantee acknowledges that its rights hereunder are subject to the police power of the City to adopt and enforce provisions and ordinances necessary to the health, safety and welfare of the public; and Grantee shall comply with all applicable statutes and ordinances enacted by the State and City pursuant to such power. The City shall enact no laws or ordinances that conflict with or supersede state or federal law or materially modify the provisions contained herein.

SECTION 6

6.1 Rate Regulation

The rates and charges charged by Grantee for Basic Service until December 31, 1986, are those set forth on Exhibit A attached hereto which is incorporated herein by this reference. As proposed in its Response to the City's Request for Proposals, Grantee will freeze and hold constant the basic and installation rates detailed in Exhibit A, attached hereto and made a part hereof, until December 31, 1986. To the extent, if any, that this "freeze" represents a waiver of rights of the Grantee under Section 623 of the Cable Act, Grantee acknowledges that the waiver of these rights is voluntary and freely given in order to implement the purposes of the Act, and to assure that cable systems are responsive to the needs and interests of the local

communities they serve.

In the event, after December 31, 1986, Grantee has the right to modify such rates and charges including, but not limited to, the implementation of additional charges and rates without approval by the City, the Grantee shall give notice to the City of any such modifications or additional charges thirty (30) days prior to the effective date thereof.

In the event, after December 31, 1986, the City has the power to review and approve rates for the provision of Cable Service and/or other related services, the Common Council shall have the power after notice and hearing by the Telecommunications Council to reasonably regulate video programming, which shall include programming provided by, or generally considered to be comparable to programming provided by television broadcast stations, satellite services, and pay television services (examples of which are set out in Exhibit D attached hereto), as well as installation and other costs relating thereto.

SECTION 7

7.1 Costs borne by Grantee

Grantee shall pay the costs incurred by the City in studying, preparing, and awarding this franchise, in an amount of \$10,000, within the time period as established by Ordinance 84-30. Such payment shall not be considered part of any franchise fee required by this Agreement. In the event Grantee requests, pursuant to provisions of this Agreement or the Cable Act, renewal or extension of this franchise, at the time of such renewal proceedings, discussions shall be undertaken to consider allocation of all reasonable costs incurred by the City in studying, preparing, and evaluating such request.

SECTION 8

8.1 Notice

Unless expressly otherwise agreed between the parties, every notice or response to be served upon the Franchising Authority or Grantee shall be in writing, and shall be deemed to have been duly given to the required party five (5) business days after having been hand delivered, or posted in a properly sealed and correctly addressed envelope by certified or registered mail, return receipt requested, at a Post Office or branch thereof regularly maintained by the U.S. Postal Service. The notices or responses to the Franchising Authority shall be addressed to the City Clerk, P.O. Box 100, City of Bloomington, Bloomington, Indiana, 47402, and a copy shall be sent to the President of the Telecommunications Council and Board of Public Works at the same address. The notices or responses to the Grantee shall be addressed as follows: Horizon Tele-Communications, Inc., 1600 West Third Street, Bloomington, Indiana, 47401, ATTENTION: System Manager, with a copy to TeleCommunications, Inc. at 5455 South Valentia Way, Englewood, Colorado 80111, ATTENTION: "Legal Department". The Franchising Authority and the Grantee may designate such other address or addresses from time to time by giving notice to the other party.

SECTION 9

9.1 Enforcement and Termination of Franchise

In the event that the City believes that the Grantee has not complied with the terms of the Franchise, it shall notify Grantee, in writing, of the exact nature of the alleged non-compliance. Grantee shall have thirty (30) days from receipt of the notice to respond to the City, contesting the assertion of noncompliance, or to cure such noncompliance or in the event that such noncompliance cannot be cured within the thirty day period, initiate reasonable steps to remedy such noncompliance and notify City in writing of the steps being taken and the projected date that they will be completed; provided, however, that no notice or opportunity to cure shall be required in the event of Foreclosure, Receivership or Bankruptcy as addressed in Section 21 of this Agreement.

In the event that Grantee fails to respond to the notice pursuant to the procedures set forth in this Section 9.1 or in the event that the alleged noncompliance is not remedied or reasonable steps to remedy are not taken within thirty days after the Grantee is notified of the alleged noncompliance pursuant to this Section, the City shall notify the Grantee, as required by Section 12 herein, that it is in default of provisions of the franchise, and the Board of Public Works shall schedule a public meeting to investigate the default. The City shall notify the Grantee of the time and place of such meeting and provide the Grantee with an opportunity to be heard.

Within ten (10) days after notice and scheduling of the Public Meeting by the Board, the Grantee shall post with the City a Performance Bond in the amount of Fifty Thousand Dollars (\$50,000), from which any penalties assessed by the Board under this Section may be paid. The Performance Bond shall insure the faithful performance by the Company of all provisions, terms, and conditions contained herein. Any balance remaining in the Performance Bond following final action of the Board on a particular instance of non-compliance shall be returned to Grantee. Failure to post the Performance Bond as required by this Section shall constitute a material breach of this agreement and may be grounds for termination of this franchise agreement.

9.2 Rights and Remedies

Subject to applicable federal and state law, in the event the Board finds, after such meeting, that Grantee is in default of any provision of the Franchise, the Board may:

- a. Foreclose on all or any part of any security provided under this Franchise, including, without limitation, any letters of credit or other surety provided the foreclosure is in such a manner and such amount as the Board reasonably determines is necessary to remedy the default, and in making such determination, the Board shall assess penalties pursuant to the attached damages schedule (marked Exhibit B) which the City and Grantee agree represents reasonable compensation for losses incurred by the City for scheduled acts or occurrences; and/or

b. Commence an action at law for monetary damages, including reasonable attorney fees, or seek other equitable relief; and/or

c. In the case of substantial default of a material provision of the Franchise, declare the Franchise Agreement to be revoked for cause; and/or

d. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages.

The Grantee shall not be relieved of any of its obligations to comply promptly with any provision of the Franchise by reason of any failure of the City to enforce prompt compliance. The Grantee shall not be held in default or noncompliance with the provisions of the Franchise where such non-compliance or alleged defaults are caused by acts of God, or for other events reasonably beyond its ability to control.

In the event a determination is made by a Court of Law that, for good cause, Grantee is entitled to reasonable attorney's fees for the defense of an action commenced by the City under this Section, the City will comply with such Court Order.

SECTION 10

10.1 Liability Insurance/Indemnity

The Grantee shall maintain in full force and effect, at its own cost and expense, during the term of the Franchise, General Comprehensive Liability Insurance in the amount of \$500,000 for bodily injuries, (including accidental death) to any one person, and subject to the same limit for each person in an amount not less than \$500,000 on account of any one occurrence, and Property Damage Liability Insurance in an amount not less than \$500,000 resulting from any one occurrence. Said insurance shall designate the Franchising Authority as an additional named insured. Such insurance shall be non-cancellable except upon thirty (30) days prior written notice to the Franchising Authority.

Such insurance policies shall be accepted by the Corporation Counsel of the City if in conformity with the requirements of this franchise and applicable law, and shall be filed with the Controller during the entire term of the franchise agreement. The Grantee shall immediately advise the Corporation Counsel of any litigation that is threatened or arises out of operation or maintenance of the local system during the term of this franchise agreement, and shall provide the City with written notice from the insurance company at least thirty (30) days prior to cancellation of any such policy.

10.2 Indemnity

The Grantee agrees to indemnify, defend and save harmless the City, its agents, officers and employees against and from any and all claims by or on behalf of any person, firm, or corporation, arising from the construction, operation, or maintenance of its cable system, including property damage, bodily injury, or accidental death, and from any and all claims arising from any breach or default on the part of the Grantee in the performance of any covenant or agreement to be performed under the terms of this Franchise, or arising from any act or negligence of the Grantee or any of

its agents, contractors, subcontractors, or employees, including, but not limited to, reasonable attorney's fees and costs.

SECTION 11

11.1 Rights of Individuals/Subscriber Privacy

Grantee shall not deny service, access, or otherwise discriminate against subscribers, channel users or other users or citizens on the basis of race, color, religion, national origin, sex, sexual orientation or age, nor shall access to cable service be denied to any group of potential residential cable subscribers because of the income of the residents of the local area in which such group resides. Grantee shall at all times comply with all other applicable federal, state, and local laws and regulations and with all administrative and executive orders relating to non-discrimination.

Grantee shall comply with the provisions of Section 631 of the Cable Communications Act of 1984 as enacted regarding "Protection of Subscriber Privacy."

11.2 Equal Employment Opportunity Requirements

Grantee shall at all times comply with all applicable federal, state, and local laws and regulations and with all administrative and executive orders relating to equal employment opportunity requirements.

SECTION 12

12.1 Public Notice

Minimum public notice of any City public meeting required by this franchise shall be given by the City Clerk in the manner prescribed by I.C. 5-3-1 et seq., or as it may hereafter be amended.

SECTION 13 (Standards/Service and Maintenance)

13.1 Conditions of Street Occupancy. All transmission and distribution structures, poles, other lines, and equipment installed or erected by the Grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of public ways and with the rights and reasonable convenience of property owners who own property that adjoins any of said public ways.

13.2 Restoration of Public Ways. If during the course of Grantee's construction operation or maintenance of the Cable System there occurs a disturbance of any public way by Grantee, it shall, at its expense, promptly replace and restore such public way in compliance with applicable codes.

13.3 Relocation at Request of Franchising Authority. Upon receipt of reasonable advance notice, not to be less than two (2) business days, the Grantee shall promptly, and at its own expense, protect, support, temporarily disconnect, relocate in the public way, or remove from the public

way, any property of the Grantee when lawfully required by Franchising Authority by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of structures or improvements by the Franchising Authority.

13.4 Relocation at Request of Third Party. The Grantee shall, on the request of any person holding a building moving permit issued by the Franchising Authority, temporarily raise or lower its wires, within a reasonable period of time, to permit the moving of such building, provided: (a) the expense of such temporary raising or lowering of wires is paid by said person, including, if required by the Grantee, making such payment in advance; and (b) the Grantee is given not less than two (2) business days advance notice to arrange for such temporary wire changes.

13.5 Trimming of Trees and Shrubbery The Grantee shall have the authority to trim trees or other natural growth overhanging any of its Cable System in the Service Area at its own expense so as to prevent branches from coming in contact with the Grantee's wires, cables, or other equipment, subject to the supervision and direction of the Franchising Authority. Trimming of trees on private property shall require the written consent of the property owner when such may reasonably be obtained. The Grantee shall reasonably compensate the Franchising Authority or property owner for any damages caused by such trimming or shall, at its own cost and expense, reasonably replace all trees or shrubs damaged by Grantee.

13.6 Use of Grantee's Equipment by Franchising Authority or Third Party Subject to any applicable state or federal regulations or tariffs, the Franchising Authority shall have the right to make additional use, for any public purpose, of any poles or conduits controlled or maintained exclusively by or for the Grantee in a public way; provided that (a) such use by the Franchising Authority does not interfere with a current or future use by the Grantee; (b) the Franchising Authority holds the Grantee harmless against and from all claims, demands, costs, or liabilities of every kind and nature whatsoever arising out of such use of said poles or conduits by the City, including, but not limited to, reasonable attorneys' fees and costs. Grantee may be required by City to share pole space owned and maintained by the Grantee, upon reasonable terms and conditions, with another person or corporation, and the Grantee may require such person or corporation to indemnify Grantee as a condition precedent to granting permission to attach wires to Grantee poles.

13.7 Safety Requirements Construction, installation and maintenance of the Cable System shall be performed in an orderly and workmanlike manner. All cables, wires and other equipment shall be installed, where possible, parallel with electric and telephone lines. All such work shall be performed in accordance with applicable safety code or technical requirements, including National Electrical Safety Code (National Bureau of Standards); National Electrical Code (National Bureau of Fire Underwriters); and applicable FCC or other federal, state and local regulations. The Cable System shall not endanger or interfere with the safety of persons or property in the Service Area. In particular, Grantee shall comply with all local, state, or federal laws or regulations which govern cable plant signal leakage or interference with communications media. Any antenna structure used in the Cable System shall comply with all construction, marking, and lighting of

antenna structure requirements of the United States Department of Transportation (Federal Aviation Administration) and the FCC.

13.8 Aerial and Underground Construction. In those areas of the Service Area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, the Grantee likewise shall construct, operate and maintain all of its transmission and distribution facilities underground; provided that such facilities are actually capable of receiving Grantee's cable and other equipment without technical degradation of the Cable System's signal quality. In the event of underground construction, Grantee will restore property in a timely manner in a condition equivalent to its pre-existing condition and in compliance with all applicable laws. In the Service Area where the transmission or distribution facilities of the public utilities providing telephone communications and electric services are both aerial and underground, Grantee shall have the sole discretion to construct, operate and maintain underground any ground-mounted appurtenances such as subscriber taps, line extenders, system passive devices (splitters, directional couplers), amplifiers, power supplies, pedestals, or other related equipment. All new cable conduit installed shall have multiple cable capacity.

13.9 Required Extensions of Service. The Cable System as presently constructed is hereby approved as to extent of Service Area, subject to specific improvements to the System as required herein. Grantee is hereby authorized to extend the Cable System as necessary, as desirable, or required pursuant to the terms hereof within the Service Area. Grantee shall provide service to all potential subscribers within the City where the density is thirty (30) or more homes per cable mile for either underground or aerial construction within a reasonable period of time. Service shall be extended at no extension cost to all subscribers in areas meeting the minimum density requirement, other than the usual connection fees for all subscribers. Grantee shall update the map showing such extensions within the City.

13.10 Subscriber Charges for Extensions of Service No subscriber shall be refused service arbitrarily. However, for unusual circumstances or where there is more than one hundred fifty (150) feet of distance from distribution cable to connection of service to subscribers or a density of less than thirty (30) homes per cable mile, in order that existing subscribers shall not be unfairly burdened, service shall be made available on the basis of a reasonable capital contribution in aid of construction including cost of material, labor and easements. For purposes of this Section 13, cable mile is defined as a mile of cable bearing strand, normal construction.

13.11 Service to Public Buildings. The Grantee shall provide without charge one (1) outlet of Basic Service to each governmental office building, fire station, police station, and public school building that is passed by its Cable System. Installation of additional outlets will be provided at cost of time and materials upon request. Notwithstanding anything to the contrary set forth in this Section 13.11, the Grantee shall not be required to provide an outlet to such buildings where the drop line from the feeder cable to said buildings or premises exceeds 150 cable feet; provided, however, extensions shall be made in those circumstances if the City or appropriate governmental entity agrees to pay the reasonable cost of such extension beyond 150 cable feet of the feeder cable. In addition, Grantee shall provide and

maintain back-feed lines to certain public buildings as set out in Section 18 herein.

13.12 Emergency Override. In the case of any emergency or disaster, the Grantee shall, upon request of the Franchising authority, make available its facilities and provide the equipment necessary to provide both visual and auditory emergency information and instructions during the emergency or disaster period. The emergency audio override capability shall permit the Franchising Authority to interrupt and cable-cast an audio message on all channels simultaneously in the event of disaster. The emergency video override capability shall enable the interruption and cable-casting of video programming on at least one channel in the event of disaster. The Franchising Authority shall establish rules and procedures for the operation of the Emergency Override system including activation points; grantee shall not be responsible for the City's use of the emergency override system. Grantee shall provide such override capability within eighteen (18) months of the date of approval of this Franchise Agreement by the Grantee.

13.13 Specific System Improvements

Grantee agrees to make the repairs and improvements to the System, Detailed in Exhibit C, within six (6) months of the date of acceptance of this Franchise Agreement by the Grantee.

13.14 Standards and Service Area

Grantee shall provide modern and efficient cable communications service throughout the entire franchise service area pursuant to the provisions of this franchise. Grantee shall construct, install, operate and maintain its Cable system in a manner consistent with this franchise agreement, with all laws, ordinances, construction standards, governmental requirements, and FCC technical standards. Grantee shall keep an up-to-date map showing all areas of the city receiving cable service. This map shall be available for public inspection at the local office of the Grantee during regular business hours and Grantee shall provide the City with a current copy of such map upon request. Grantee shall not allow its cable or other operations to interfere with any person's lawful use of the electro-magnetic spectrum as required by FCC rules and regulations.

13.15 Installation Service

Grantee shall provide installation of subscriber drops consisting of an aerial or underground drop; Grantee shall provide service to prewired projects and shall review and approve methods, supply specifications, technical assistance and material for prewired projects, and shall prewire a project upon request of a customer, assuming reasonable terms and conditions can be reached between customer and Grantee.

Grantee shall perform these services in accordance with the terms, conditions and rates herein. Grantee may require a deposit for materials and services performed or placed in the subscriber's home.

13.16 Disconnection Service

Grantee shall provide disconnect service for customers wishing to discontinue cable service. Grantee shall not charge for disconnection service. Grantee

shall prorate subscriber's final bill from the day after the disconnect order is placed. Grantee shall restore cable service to customers wishing restoration, provided customer shall first satisfy any previous obligation owed including any additional deposit and/or penalty assigned.

13.17 Extension/Relocation

When a subscriber requests that an extension or relocation of said subscriber's cable service be made within the subscriber's current primary residence, Grantee shall make such extension or relocation or arrange to do so within 15 days of the request. Grantee shall be excused from this requirement if prohibited by reasons beyond its ability to control.

13.18 System Interruptions

It shall be the right of the subscriber to continue receiving service insofar as his/her financial obligations to the Grantee are honored. Grantee shall interrupt system service after 6:00 a.m. and before 12:00 midnight only with good cause and for the shortest time possible, and except in emergency situations and for routine repair and maintenance, only after Telecommunications Council approval and notification to subscribers.

In the event of major interruption of the system for system-wide repair or maintenance or if the Grantee elects to overbuild, rebuild, or modify the system, the Grantee shall act so as to insure that all subscribers receive continuous service except between the hours of 12:00 midnight and 6:00 a.m., and except as otherwise may be approved by the Telecommunications Council, and no major interruption shall occur on Friday, Saturday, or Sunday night, or the night preceding a holiday except in emergency situations or as otherwise expressly approved by the Telecommunications Council. Such approval shall not be unreasonably withheld. Grantee shall maintain a written log of all service interruptions.

SECTION 14

14.1 Customer Service; Subscriber Complaints

Grantee shall maintain throughout the terms of the franchise a local business office staffed at least 8 hours a day for walk-in traffic Monday through Friday (except legal holidays) for the purpose of receiving and resolving all complaints regarding the quality of service, equipment malfunctions, and similar matters. These hours will be posted at the office and maintained on file with the City. The office shall be accessible by a local telephone number. Grantee shall provide the means to accept complaint calls about service outages and emergencies twenty-four hours a day, seven days a week. Upon request by a subscriber, grantee shall credit a subscriber's account for a total service outage of the subscriber on a percentage of days/months commencing after initial 24 hour period.

Grantee shall maintain throughout the term of this franchise a local Bloomington address for receipt of notices by mail. Grantee shall also maintain within the City a local business office and working local telephone number during normal business hours for the conduct of matters related to this franchise.

14.2 Written Instructions to Subscribers

As subscribers are connected or reconnected to the system, or upon request of subscriber at anytime, Grantee shall, by appropriate means, such as a card or brochure, furnish the subscriber written instructions setting forth the procedure for making inquiries or service complaints, including the name, address, and local telephone number of the agent to whom such inquiries or complaints are to be addressed, and shall furnish information concerning the Bloomington Telecommunications Council office, (including address and telephone number), which is responsible for administration of the franchise. In the event any subscriber believes a problem has remained unresolved, the Subscriber may address such complaint to: "Customer Relations Coordinator", 1600 W. Third Street, P.O. Box 729, Bloomington, Indiana 47402.

In addition to other information as required, Grantee notice to subscribers shall contain at least the following information: "If you have experienced a total service outage which was not corrected within 24 hours after we were notified by you of such outage, you may request credit to your account by calling (local office telephone number).

14.3 Maintenance/Service Calls

Grantee shall establish and maintain service maintenance capability enabling the prompt location and correction of major system malfunctions. Such maintenance service shall be capable of making repairs for cable or equipment failure, outages and other accidents involving the cable television system. The maintenance service shall be available twenty-four hours a day, seven days a week throughout the year.

Investigative action shall be initiated in response to all service calls, other than major outages, no later than the next business day after the call is received. Corrective action shall be completed as promptly as practical. No charge shall be made to the subscriber for this service; provided, however, that after the first service call a reasonable charge may be made if faulty operation is due to the fault of the subscriber. Total service outages shall be addressed as quickly as possible.

14.4 Service Records Required

Grantee shall maintain records of all complaints, related service calls, and corrective actions completed. These records shall include the following: number of new subscribers at new address; number of new subscribers moving into a "set-up" address or disconnected address; number of reconnects of previously disconnected subscriber or start service for delay installation; number of data changes (non-monetary); number of separate "bill to" addresses; number of upgrades (adding additional services), deposits, or one-time charges; number of partial disconnections (downgrades); number of disconnections; number of payment adjustments (credit or debit to an account), including nature of adjustment and reason for adjustment; number of trouble calls--nature of calls and disposition of complaint; list of all subscribers and addresses. These records shall be available for inspection by the Telecommunications Council, subject to Federal and State law, and retained in Grantee's files for not less than three years.

SECTION 15

15.1 Business/Operations Records and Reports

The Grantee shall keep complete and accurate books of accounts and records of its business and operations under and in connection with this franchise. All such books and records shall be consistent with generally accepted accounting practices and shall be retained in the Grantee's files not less than three (3) years. The Board of Public Works or its designee shall have the authority to reasonably examine, review, audit and obtain copies of papers, books, accounts, documents, plans and other records of the Grantee at reasonable times and for reasonable purposes necessary for enforcement of this Franchise Agreement. Such information shall be made available during normal business hours and upon reasonable notice to Grantee. In addition, the Board of Public Works shall have the right to inspect, inventory, and appraise the plant, equipment, and other property of the Grantee within its jurisdiction. Grantee shall fully cooperate in making available its records necessary for enforcement of this franchise, and otherwise assisting in these activities. City shall attempt to preserve the confidentiality of information disclosed to it by the Grantee to the extent possible and permissible by law.

SECTION 16

PERFORMANCE REVIEWS AND EVALUATION SESSIONS

16.1 Annual proof of performance tests

Grantee shall make an annual proof of performance test and meet the minimum technical specifications as recommended or as required by the Federal Communications Commission, or other Federal, State, or local law. Regardless of changes in test requirements under Federal or State law, Grantee shall ensure, at a minimum that the System meets the following specifications:

Forward Signals. Class I Channels. The system as designed shall be capable of carrying thirty-five (35) Class I Television Channels and the full FM broadcast band. The combined forward trunk and distribution system shall deliver signals to each subscriber's TV receiver that will meet or exceed the following specifications at the mean system temperature \pm 68 degrees Fahrenheit. This shall include the effects of dropcables, and interior splits. All figures are referenced to headend test points.

- | | | |
|-----|-----------------------------|------|
| (1) | Second order beat ratio | 60dB |
| (2) | Third order beat ratio | 55dB |
| (3) | Hum | 1.5% |
| (4) | Composite triple beat ratio | 53dB |
| (5) | Cross Modulation ratio | 50dB |
| (6) | Carrier to noise ratio | 44dB |

Grantee shall provide the Telecommunications Council with a written report of the results of the proof of performance tests conducted pursuant to

this Franchise Agreement and FCC standards and requirements as soon as possible, but in no event later than 30 days after the tests are conducted. Compliance with performance specification shall be determined from measurements and tests applied to the worst case for the respective subscriber, e.g. signal received by the farthest subscriber including distribution system and largest super trunk effect. Within thirty days after receipt of the annual proof of performance tests results, the Telecommunications Council shall issue written findings with respect to system performance and quality of service. If inadequacies are found, the Telecommunications Council may request the Board of Public Works to direct Grantee to correct the inadequacies within a reasonable period of time.

16.2 Testing for Compliance In addition to the Annual Proof of Performance Tests required by Section 16.1 of this Franchise Agreement, the Board of Public Works or its designee, for good cause, may perform technical tests of the Cable System or require the Grantee to perform technical tests of the system during reasonable times and in a manner which does not unreasonably interfere with the normal business operations of the Grantee or the Cable System in order to determine whether or not the Grantee is in compliance with Section 16.1 and applicable state or federal laws. The City may require, for good cause, that the tests be supervised by a professional engineer approved by the City, not on the permanent staff of the Grantee. Except in emergency circumstances, such tests may be undertaken only after giving Grantee reasonable notice thereof, not to be less than five (5) business days, and a representative of Grantee shall be given an opportunity to be present during such tests. In the event that such testing demonstrates that the Grantee has substantially failed to comply with a material requirement hereof, the reasonable costs of such tests shall be borne by the Grantee. In the event that such testing demonstrates that Grantee has substantially complied with such material provisions hereof, the cost of such testing shall be borne by the Franchising Authority. Except in emergency circumstances, or for good cause, the Franchising Authority agrees that such testing shall be undertaken no more than once a year and that the results thereof shall be made available to the Grantee upon Grantee's request.

16.3 Performance Evaluation Sessions/Future Needs Assessment

To provide for technological, economic, and regulatory changes in the state of the art of cable communications, to facilitate renewal procedures, to promote the maximum degree of flexibility in the cable system, and to achieve a continuing, advanced modern system, the City and Grantee shall comply with the following system and services review provisions set forth in this Section.

(a) The Franchise Authority may require system performance evaluation sessions at any time during the term of the Franchise or as required by federal or state law provided, however, there shall not be more than one evaluation session during any calendar year, except for good cause. At a minimum, such evaluation sessions shall be conducted by the Franchise Authority every three years after the effective date of the Franchise.

(b) Each session shall be open to the public with notice of the date, time and locations of all hearings given by the Telecommunications Council at least thirty (30) days prior to the session. Members of the public shall

be afforded an opportunity to comment at the sessions. Any materials required by the Telecommunications Council shall be filed in preparation for the session. Copies of all materials filed with the Council in conjunction with this review shall be matters of public record.

(c) Topics which may be discussed at any scheduled or special evaluation session may include, but shall not be limited to, future needs assessment, state of the art, service rate structures, franchise fee, penalties, free or discounted services, application of new technologies, including stereo capability, system performance, services provided, programming offered, customer complaints, privacy, amendments to the Franchise agreement, judicial and FCC rulings, line extension policies, Grantee's ascertainment of community needs and use of the system, and Grantee or City rules. Either the Telecommunications Council or the Grantee may select additional topics for review.

(d) During a review and evaluation by City, Grantee shall fully cooperate with the City in providing such information and documents as City may need to reasonably perform the review. At the conclusion of any evaluation session, Grantee and City may implement any agreed upon action upon approval by the Board of Public Works and Common Council, and City and Grantee may also pursue all other rights provided for herein or which each otherwise may possess. The Telecommunications Council shall make and retain a record of all performance evaluation sessions and shall forward a written report to the Board of Public Works and Common Council which shall include any recommendations for modification of this agreement.

(e) The log maintained by Grantee regarding subscriber complaints, records of performance tests, and other relevant operation and service information shall be utilized as the basis for review. In addition, any subscriber may submit complaints during the review meetings, either orally or in writing, and these shall be considered.

SECTION 17

Standby Power/Parental Control Lock/Status Monitoring/Devices for Hearing Impaired Subscribers

17.1 Standby Power Grantee shall provide standby power generating capacity at the cable communications system control center and at all hubs. Grantee shall maintain standby power system supplies throughout the trunk line. Grantee shall provide standby power for critical system elements for up to two (2) hours of continuous operation in the event of commercial power failure.

17.2 Parental Control Lock Grantee shall offer all subscribers a parental control locking device or digital code that permits inhibiting the viewing of those channels for which the Grantee has editorial control, and shall provide such devices to all requesting subscribers at a reasonable charge.

17.3 Devices for Hearing Impaired Subscribers Grantee shall provide all hearing-impaired subscribers a device that permits such subscriber to receive closed-captioned television programming upon request and at a reasonable cost to such subscriber.

SECTION 18

18.1 Required Services

Grantee shall provide the channel capacity and all necessary equipment for the reception of such initial categories of services as set forth in Exhibit D attached hereto, and as otherwise required by this franchise agreement.

In addition to the requirements for provision of services set out in Section 13 herein, the Grantee shall provide to the following facilities and maintain one back-feed line at no cost to City or user: Monroe County Public Library; The Justice Building; Monroe County Courthouse, City Office Building, Administration Building of the Monroe County Community School Corporation; and Bloomington High School South. In addition, Grantee agrees to provide back-feed lines to other educational, public, and/or governmental facilities upon request; extension cost and other cost associated with activation of the backfeed line beyond what is then currently activated shall be borne by the public, educational, and/or governmental entity requesting such extension. The Grantee will provide, free of charge, a drop of up to a 150 feet to enable any of such requesting institutions to utilize the backfeed capability.

SECTION 19

19.1 Renewal of Franchise

The City and Grantee agree that any proceedings undertaken by the Franchising Authority relating to the renewal or extension of the Grantee's Franchise shall be governed by and comply with the provisions of the Cable Act in effect at the time of the renewal request. In the event the procedures and substantive protections set forth therein are preempted and/or superseded by the provisions of any subsequent federal or state law, or such renewal provisions are deemed inapplicable or null and void, the City retains the right to establish reasonable substantive and procedural rights, by ordinance, governing any request by the Grantee for renewal or extension of the franchise, to the extent permitted by law.

In conjunction with performance system evaluations, or concurrent with a request for renewal of the franchise under the provisions of this Franchise and/or Section 626 of the Cable Act, the Grantee and City shall undertake a study of future cable-related community needs and interests at the request of either party. The Grantee shall assist the City, upon request of the Telecommunications Council, in preparing the study of such future cable-related needs and interests. The City may determine that the study should be conducted by an independent consultant, and the City and Grantee may agree to share costs of such study.

SECTION 20

20.1 Supervision of the Franchise

It shall be the right and duty of the Telecommunications Council at all times to keep fully informed as to all matters in connection with or affecting the construction, reconstruction, maintenance, operation, and repair of

the properties of the Grantee and its accounting methods and procedures in connection therewith, and the conduct of the Grantee's business in the City and of service being rendered by the Grantee, and shall have the duty to assist subscribers, the City and Grantee, in seeing that the terms of this franchise are carried out. Grantee shall keep City, through the Telecommunications Council, fully informed of any pending or effective changes in Federal or State law affecting the operation of cable communications systems.

SECTION 21

21.1 Receivership. The Common Council shall have the right to declare this franchise null and void one hundred twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of the Grantee whether in receivership, reorganization, bankruptcy, or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred twenty (120) days, or unless within 120 days after his election or appointment, such receiver or trustee shall have fully complied with all the provisions of this Franchise Agreement and remedied all defaults thereunder; and such receiver or trustee, within one hundred twenty (120) days, shall have executed an agreement, duly approved by the Court having jurisdiction, whereby the receiver or trustee assumes and agrees to be bound by each and every provision of this Franchise granted to the Grantee.

21.2 Bankruptcy The Common Council shall have the right to declare this agreement null and void immediately should the Grantee liquidate, become insolvent, bankrupt, make a transfer for the benefit of creditors, reorganize and enter into an arrangement for the benefit of creditors, or file a voluntary petition under any Section or Chapter of the National Bankruptcy Act, as amended, or under any similar law or statute of the United States or state thereof; or should any involuntary petition in bankruptcy be filed against the Grantee and not be dismissed within one hundred twenty (120) days after the filing.

SECTION 22

22.1 Transfer of Control

This franchise shall not be assigned, transferred, leased, or sublet, either in whole or in part, other than to an entity which owns or controls, is owned or controlled by, or is under common ownership with the Grantee., without prior written consent of the Franchising Authority; such consent shall not be unreasonably withheld. No such consent shall be required, however, for transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of Grantee in the franchise or cable system in order to secure indebtedness. The proposed assignee shall show its qualifications and financial responsibility as determined by the City and shall agree to comply with all the provisions, terms and conditions of this franchise.

SECTION 23

23.1 Conditions of Sale

If a renewal of Grantee's Franchise is denied and the Franchising Authority either acquires ownership of the Cable System or by its actions effects a transfer of ownership of the Cable System to another party, any such acquisition or transfer shall be at a fair market value, determined on the basis of the Cable System valued as a going concern, but with no value allocated to the Franchise itself.

If Grantee's Franchise is revoked for cause and the Franchising Authority acquires ownership of the Cable System or by its actions effects a transfer of ownership of the Cable System to another person, any such acquisition or transfer shall be at an equitable price.

SECTION 24

PEG Access Provisions

The Grantee recognizes the City's interest in stimulating and encouraging local origination access, governmental and educational programming, and the production of programs and cablecasting of such programs on the system. In recognition of this fact, Grantee shall comply with the following provisions:

1. Grantee shall continue to provide to the City one public access channel, designated Channel 3, to be operated by the Access Center and under the authority of the Monroe County Public Library Board; Channel designation shall not be changed except upon approval of the Board of Public Works.

2. Grantee shall provide one additional access channel to the City, within six months of the date of acceptance of this franchise by the Grantee, to be operated by and in coordination with public access Channel 3 through the Access Center and the Monroe County Public Library Board. The City may at a future date separate or reorganize the responsibility for the operation of such public and/or other access channels, if such is deemed in the public interest. The Grantee will provide the City a modulator and other equipment necessary to backfeed video programming to the headend. The Grantee will cablecast said programming over either or both the public access channel or governmental access channel as instructed. The Grantee's headend will be equipped to receive video programming from one or more of the buildings set out in Section 18 of this franchise agreement, and will be able to cablecast different programming simultaneously on both access channels.

3. Grantee shall provide the City one additional access channel at the time the following conditions are met:

a. An Educational Access Authority is established by the City as a Board or as a not-for-profit corporation which shall have authority to develop rules and regulations for the administration of such channel;

b. Such Authority establishes rules and procedures for utilization of such educational channel, including provisions for use of such channel by educational institutions outside the franchise area to serve such franchise area if deemed appropriate by the Authority;

c. A minimum of four hours of programming is available for cablecasting in

any twenty-four hour period, five days a week;

d. Channel expansion to 35 channels, as provided in Section 25 herein, has occurred; and

e. The two existing access channels are substantially programmable six hours a day, five days a week.

Grantee shall provide technical assistance to the Access Center when possible upon request. Grantee shall provide the Access Center or its successor, a one-time capital contribution of new cable television equipment as set out in Exhibit E attached hereto; such capital contribution shall not be considered part of the franchise fee or annual contribution to the Access Center as required by this agreement, and such equipment provided by the Grantee shall be owned and maintained by the Access Center. In addition to the above, each year of the term of this Agreement, and on a quarterly basis, Grantee shall pay to the Access Center or its successor, at the same time and in the same manner as payment of the franchise fee, the annual sum of Thirty-five Thousand Dollars (\$35,000), for operation and maintenance of the access facility. The annual contribution to the Access Center shall not be deducted from the annual three percent (3%) franchise fee paid to the City, and shall not be considered part of such franchise fee, but if the City raises the franchise fee to five percent (5%), as provided for in Section 4 herein, the thirty-five thousand dollars (\$35,000) shall be considered part of such franchise fee.

SECTION 25

Provision of Additional Channel Capacity

Grantee shall construct, maintain and operate a Cable Communications System consisting of a minimum of 35 channels of six (6) megahertz bandwidth each. Expansion of channel capacity to 35 channels shall be completed on or before December 31, 1986.

If, at the time of the seventh (7th) anniversary of the execution of this franchise agreement, additional channel expansion above and beyond 35 channels has not occurred, the City and Grantee may agree to increase channel capacity on the System by a minimum of 50%, within a reasonable period of time, provided that the following criteria are met, and provided further that such additional capacity shall not be required under this provision unless this franchise agreement is renewed or extended for a minimum period of ten years from the date such plan is implemented. This provision does not prohibit the Grantee from providing additional capacity at any time during the term of this agreement.

Criteria for Channel Expansion:

1. The City, upon recommendation of the Telecommunications Council and approval by the Board of Public Works and Common Council, determines that such expansion is justified by demand, economics, and available programming;
2. In the event the City and Grantee cannot agree upon a plan for provision

of such additional channel capacity, the City and Grantee may jointly retain the services of a consultant who shall prepare a report and recommendation to the Board and Common Council, which shall then make a finding whether such expansion is appropriate.

3. Upon a finding by the Board and Common Council and Grantee that such channel expansion should occur and the time within which such expansion shall occur, that decision shall be binding on the parties so long as the finding is not arbitrary, unreasonable, or capricious, and Grantee shall immediately prepare and implement such plan as soon as reasonably possible.

In the event additional channel capacity becomes available, Grantee and the Board of Public Works shall have the authority to determine the number of additional access channels, if any, to be provided by Grantee.

SECTION 26

Provision for Interactive Services

It is the intent of the provisions requiring installation of back-feed lines at various governmental and educational facilities within the City to create a means of providing future inter-active cable communication services between those facilities. In addition, the Telecommunications Council shall have the right and authority to consider, at a Performance Evaluation Session, or at such other times as it deems appropriate, at a public hearing, the provision of additional interactive services on the Cable Communications System. If, after such hearing, the Telecommunications Council finds that the following criteria have been met, the Telecommunications Council may recommend to the Board of Public Works and Common Council, that interactive services be provided over the system. Upon agreement between the City and Grantee, the Grantee shall provide a plan for implementation of interactive services within a reasonable amount of time.

Criteria for Provision of Interactive Service

1. Provision of interactive services on the System is warranted by market demand and is technically feasible;
2. Substantial services and/or programming has been developed to warrant the provision of such inter-active services;
3. The provision of such services would not cause non-users to subsidize such programming and is cost-justified.

SECTION 27

Provision of Equipment for Conveyance of Programming by PEG entities

Grantee will provide equipment, at actual cost, and installation, at cost of time and materials, to educational, public, or governmental entities who request same, for the purpose of allowing such entities to convey programming from their facilities to Grantee's headend, or other suitable headend, for retransmission of programming on one or more of the public/educational/governmental channels.

SECTION 28

28.1 Actions of Parties In any action by the Franchising Authority or Grantee mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

28.2 Descriptive Headings The captions to Sections contained herein are intended solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text herein.

28.3 Separability If this Agreement or any material section thereof is determined by any court of common jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, to be illegal, invalid or unconstitutional, such determination shall have no effect on the validity of any other Section, sentence, paragraph, term or provision of this Agreement, all of which will remain in full force and effect for the term of the Franchise or any renewal or renewals hereof. In the event of such a determination of invalidity or preemption, the Grantee and the Board of Public Works, with the approval of the Common Council, shall have the right to modify such section. Provided, however, that nothing contained in Section 28.3 herein, shall be construed to require the Grantee and Board of Public Works and Common Council to agree to modify any section or subsection, nor to be a waiver of any rights of either party relating thereto.

28.4 Acts of God The Grantee shall not be held in default or non-compliance with the provisions of the Franchise, nor suffer any enforcement or penalty relating thereto, where such non-compliance or alleged defaults are caused by Acts of God, or other events reasonably beyond its ability to control.


Dated and Executed this 22nd day of August, 1985, by the Board of Public Works of the City of Bloomington, Bloomington, Indiana:



Dr. Frank Hrisomalos

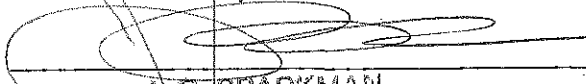


Martha Sims



Tobiatha Eagleson

Dated and Executed this 4th day of September 1985, by Horizon Tele-Communications, Inc.:



J. C. SPARKMAN
VICE-PRESIDENT

EXHIBIT A

Initial Rate Schedule

1. PERIOD OF RATE STABILITY: Grantee agrees that no changes in basic and basic installation rates will be made for a period of two years, from January 2, 1985 to December 31, 1986. For purposes of this Section, basic rates are those rates charged for services set out in Exhibit D to be provided at least through December 31, 1986 other than Pay Services set out below.

2. RATE SCHEDULE for basic subscriber services, which includes one free converter:

Basic Service \$ 9.95 monthly

Basic installation:

New Drop \$18.00

3. OTHER RATES initially charged by Grantee include:

(a) Reconnection \$15.00

Additional outlet \$ 1.50

Commercial rates negotiable

Multiple dwellings N/A

(b) Converter and control Devices: One converter will be provided free of charge to each subscriber. Additional converters and remote controls will be available at the following monthly rates:

\$3.00 -- for set top converter

\$5.00 -- for an addressable converter

\$3.00 -- for remote control

(c) Pay Cable: The following rates will be charged for pay cable services.

Monthly charges for pay services shall be as follows:

HBO	\$11.95
Showtime	\$11.95
Cinemax	\$11.95
Disney Channel	\$10.95
Any 2 of above	\$22.00
Any 3 of above	\$30.00
Any 4 of above	\$40.00

One time pay installation charge will be \$19.95.

(d) Lock-out devices will be available for a one-time charge of \$15.00.

(e) Audio Rates: FM service will be available for a one-time \$5.00 installation charge and a \$1.50 Monthly charge.

OTHER RATES:

Basic Service to Governmental and Educational Facilities: Basic service shall be provided free to governmental & educational facilities passed by cable.

(a) Installation Fees:

- (1) One cable outlet (per facility): No charge
- (2) More than one outlet (per facility): at cost of time & material

(b) Monthly Rate: no charge

EXHIBIT B

DAMAGES SCHEDULE

For the violation of any of the following provisions of this Franchise Agreement the following penalties shall be assessed the Grantee pursuant to Section 9.1:

1. For failure to provide data, documents, reports, information, or to cooperate with City during a renewal process or system review, Company shall pay \$50.00 per day for each day, or part thereof, each violation occurs or continues.

2. For failure to test, analyze and report on the performance of the system following a request pursuant to this franchise, Company shall pay to City \$50.00 per day for each day, or part thereof, that such non-compliance continues.

3. Forty-five (45) days following determination by the Board of Works and the Common Council determining a failure of Company to comply with operational or maintenance standards, Company shall pay to city \$100.00 per day for each day, or part thereof, that such non-compliance continues.

4. For failure to provide any services and the staff and equipment necessary to activate them as required in this Agreement, Company shall pay \$100.00 per day for each day, or part thereof, that such non-compliance continues.

5. For failure to pay the franchise fee on time, Company shall pay \$100.00 per day for each day, or part thereof, that the payment is late, up to a maximum of ten (10) business days.

EXHIBIT C

The following steps will be undertaken and completed within six (6) months of the date of acceptance of this Franchise Agreement by the Grantee:

1. HTCI shall assign a technical position to the identification and servicing of RF radiation problems that are not within FCC specifications;
2. HTCI shall keep a separate log of RF radiation related services calls, including a description of the work required to correct the problem;
3. HTCI shall formulate a plan to replace old drops by area so it can be monitored by the Telecommunications Council;
4. HTCI shall replace or repair the defective Channel 12 processor;
5. HTCI shall take all necessary steps to require that the source producing the electrical interference repair their equipment;
6. HTCI shall correct the system response problem located at Test Point #2 and submit pictures of proof of repair.

EXHIBIT D

The Grantee agrees to offer to subscribers, subject to availability, the following Basic Service on one tier up to December 31, 1986 at the rates set out in Exhibit A:

WTWO, Channel 2, NBC
Monroe County Library Local Access/UPI News
WTTV, Channel 4, Independent
WTIU, Channel 30, PBS
WRTV, Channel 6, ABC
Home Box Office (HBO), Pay TV
WISH, Channel 8, CBS
WGN, Channel 9, Independent
WTHI, Channel 10, CBS
WTBS, Channel 17, Independent
WHMB, Channel 40, Religious/Specialty
WTHR, Channel 13, NBC
MTV Music Television, 24-Hour Music Videos
WPDS, Channel 59 Independent
ESPN, 24-hour Sports
USA Network, 24-hour Family and Variety
The Disney Channel, Pay TV
The Nashville Network, Country Music
Cable News Network (CNN), 24-hour News
C-Span, 24-hour Informational
Lifetime, 24-hour Health and Fitness
Arts & Entertainment, Cultural Entertainment
CBN, 24-hour Family and Religious
Showtime, Pay TV
Cinemax, Pay TV
Channel Reserved for Pay-Per-View
Broadband FM Services

After December 31, 1986, The Company will offer, on its Cable System, the broad categories of services as follows, subject to availability thereof:

1. Retransmitted local broadcast channels: In the event FCC rules regarding "must-carry" are modified or eliminated, Grantee agrees to carry all over the air services licensed to Bloomington, Indiana, and at a minimum, at least one Indiana affiliate of each major national television network and at least one independent station, and all PEG Channels required by this Franchise Agreement;
2. Imported distant signals (e.g. WGN Chicago, WTBS Atlanta)
3. Sports programming (e.g. ESPN)
4. News programming (e.g. CNN, CSPN)
5. Public Broadcast Services (e.g. WTIU)
6. Cable-only Entertainment networks (e.g. USA Network; Nashville network)

7. Cable-only music video services (e.g. MTV)
8. Religious program services (e.g. CBN, WHMB)
9. Health/Lifestyle services (e.g. Life Line)
10. Cultural/Arts Services (e.g. ARTS)
11. Children's Programming
12. All Public/Educational/Governmental Access Channels as required by this Franchise Agreement.
13. Premium Services (e.g. HBO, Showtime, Cinemax)
14. Radio Programming Services
15. Pay-per-view programming (reserved)

Notwithstanding anything to the contrary set forth herein, Grantee shall not reduce the number of program services, substitute program services, or re-tier the program services without prior written notification to the City; the City, through the Telecommunications Council, shall be afforded an opportunity to comment and advise Grantee on substitute programming, reduction of programming, or re-tiering of services prior to such change. Grantee may add new services at any time; Grantee may combine programming into composite channels to improve efficiency of channel utilization or to attract a larger viewing audience, subject to provisions of federal and/or state law.

"EXHIBIT E"

Equipment List

<u>QUANTITY</u>	<u>DESCRIPTION</u>
1	Sony Model VO-5800 3/4"VTR Source/Editor
1	Sony SLP-305 Beta 1,2&3 Player
2	Panasonic CT-1330V,13" Color Mon/Rec
1	Microtime T-100 Digital TBC
1	Hitachi VO-99 Vectorscope, portable
1	Chyron VP-1, Character Generator
3	JVC Model GXS-700U High Res Color Camera with AC-3PU AC adaptor
1	JVC Model CR-4900, 3/4" U-Matic VCR broadcast quality
1	JVC AAP-47U AC adapter/batt charger for CR-4900
1	JVC NB-P2U Barr Pack for CR-4900
1	JVC KM-2000 video production switcher/special effects generator switcher
2	Panasonic BRS-702N Dual 7" rack mont color monitor
3	BiIora 3142 fluid head tripod system
1	Ramsa WR-S208, 8x2 audio mixing console
1	Sony C-76, shotgun microphone
6	Electro-Voice EV635A Hand held microphone
6	Sony ECM-50PSW Broadcast quality lavalier microphones
1	Panasonic CT-500B 5" port. color Mon. w/TY-361R Batt
1	Hitachi VO-89 Waveform Monitor
1	Panasonic NV-8500 1/2" VHS editing VCR
1	Scientific Atlantic Modulator
1	1/2" VHS Portable Deck