

ORDINANCE NO. 12-02

AN ORDINANCE GRANTING A FRANCHISE TO LORETEL SYSTEMS, INC, DBA LORETEL CABLEVISION, ITS SUCCESSORS AND ASSIGNS, TO CONSTRUCT, OWN, OPERATE AND MAINTAIN A CABLE SYSTEM IN THE CITY OF PELICAN RAPIDS, MINNESOTA; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF A FRANCHISE.

BE IT ORDAINED BY THE CITY OF PELICAN RAPIDS, MINNESOTA:

A. SHORT TITLE

This Franchise shall be known and may be cited as the “Loretel Franchise.”

B. DEFINITIONS

For the purposes of this Franchise, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

1. “Basic Service” or “Basic Broadcast Service” means any service tier which includes the lawful retransmission of local television broadcast signals. Basic Cable Service as defined herein shall be consistent with 47 U.S.C. § 543(b)(7).
2. “Cable Service” means:
 - a. The one-way transmission to Subscribers of (i) video programming, or (ii) other programming service, or (iii) any other lawful communication service, and
 - b. Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

Cable Service as defined herein shall be consistent with the definition set forth in 47 U.S.C. § 522(6).

3. “City” shall mean the City of Pelican Rapids, Minnesota.
4. “City Council” shall mean the City Council of Pelican Rapids, Minnesota.
5. “Cable System” means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide

Cable Service which includes Video Programming and which is provided to multiple Subscribers within a community, but such term does not include:

- i. a facility that serves only to retransmit the television signals of one (1) or more television broadcast stations;
- ii. a facility that serves Subscribers without using any public Right-of-Way;
- iii. a facility of common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. § 201 et seq., except that such facility shall be considered a Cable System (other than for purposes of 47 U.S.C. § 541(c)) to the extent such facility is used in the transmission of Video Programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services;
- iv. an open video system that complies with 47 U.S.C. § 573; or
- v. any facilities of any electric utility used solely for operating its electric utility systems.

Cable System as defined herein shall be consistent with the definition set forth in 47 U.S.C. § 522(7).

6. "Class IV Channel" means a signaling path provided by a Cable System to transmit signals of any type from a Subscriber terminal to another point in the Cable System.
7. "FCC" is the Federal Communications Commission of the United States.
8. "Franchise" means this cable communications franchise ordinance including any renewal of this ordinance, which authorizes the ownership, construction and operation and maintenance of a Cable System.
9. "Franchisee" is Loretel Systems, Inc d/b/a Loretel Cablevision, its affiliates or successor in accordance with the provisions of this Franchise.
10. "Franchise Area" means the entire geographic area within the City as it is now constituted or may in the future be constituted subject to the line extension specifications in Section N(4) herein.
11. "Pay Television" means the delivery over the System of pay-per-channel or pay-per-program audio or video signals to Subscribers for a fee or charge, in addition to the charge for Basic Service or Cable Service.
12. "Person" shall mean any person, firm, partnership, association, corporation, limited liability entity or organization of any kind and any other legally recognized entity.

13. "Street" means the space above and below each of the following which have been dedicated to the public or are hereafter dedicated to the public and maintained under public authority or by others and located within City limits: street, road, highway, freeway, waterway, lane, alley, path, court, sidewalk, parkway or drive or any easement, right-of-way or similar public property.
14. "Subscribers" are those persons lawfully contracting to receive cable communications services furnished under this Franchise by Franchisee.

C. COMPLIANCE WITH MINNESOTA STATUTES CHAPTER 238

This Franchise shall at all times be in compliance with Minnesota Statutes Chapter 238. The City and Franchise shall comply with state and federal laws and regulations as they become effective.

It shall be unlawful for any Person to construct, operate or maintain a Cable System in the City unless such Person shall have first obtained and shall currently hold a valid cable communications franchise. All cable communications franchises granted by the City shall contain terms and conditions no more favorable or less burdensome than those contained herein in accordance with the provisions of Minn. Stat. chapter 238.08 subd. 1(b).

D. COMPLIANCE WITH STATE AND FEDERAL LAWS

The Franchisee and the City shall conform to all state laws and rules regarding cable communications not later than one (1) year after they become effective unless otherwise stated and to all federal laws and regulations regarding cable communications, as they become effective.

The Franchisee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable Franchisee to exercise its rights and perform its obligations under this Franchise and ensure uninterrupted service to each and all of its Subscribers; provided that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereto, the rules of the FCC, federal, state or local law or any other body having lawful jurisdiction thereof.

E. FRANCHISE TERM

This Franchise shall extend for an initial term of fifteen (15) years and shall automatically renew for an additional term of fifteen (15) years unless either Franchisee or City provides written notice to the other party prior to franchise expiration.

F. FRANCHISE EXCLUSIVITY

This Franchise is non-exclusive.

G. SALE OR TRANSFER

The Franchisee shall not sell or otherwise transfer its rights so as to allow a new controlling interest under this Franchise without the prior written consent of the City which consent shall not be unreasonably withheld, delayed or conditioned. Any such sale, transfer or assignment shall be subject to, and completed pursuant to Minnesota Statutes Section 238.083. The City hereby consents to the assignment by the Franchisee of its rights under this Franchise to any Person controlling, controlled by or under common control with Franchisee.

H. RATES AND INSTALLATION CHARGES

A copy of the current rates and charges assessed by Franchisee shall be provided to the City upon written request of the City.

The Franchisee may, in its sole discretion, establish a modified billing rate for seasonal Subscribers in accordance with applicable state and federal laws.

All Subscribers, as a condition of receiving Cable Service, shall agree to the terms and conditions imposed upon the Franchisee by Franchisee's Cable Service suppliers.

Nothing herein shall limit the right of Franchisee to impose upon its Subscribers state or local sales taxes, franchise fees, other legally permissible fees, or specific copyright fees for special programming events.

The Franchisee shall notify its Subscribers and/or publish any proposed changes in rates or charges at least thirty (30) days in advance of the effective date for such changes in accordance with applicable FCC regulations.

The City may regulate the rates for the provision of Basic Service provided over the Cable System to the extent permitted by federal law. In exercising its jurisdiction to regulate any such rates, the City will adhere to the regulations adopted by the FCC at 47 C.F.R. § 76.900 et seq. as they may be amended from time to time. In the event that the City elects to regulate rates it shall, after notice, hold a public hearing for the consideration of views of interested parties with respect to initial rates filed.

The terms of any Subscriber contracts utilized by Franchisee shall be made available upon written request of the City.

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J. LIABILITY INSURANCE

The Franchisee shall indemnify and hold harmless and defend the City at all times during the term of the Franchise for Franchisee's negligent acts, and Franchisee shall be required to maintain a minimum of \$2,000,000.00 in commercial general liability insurance throughout the term of the Franchise insuring the Franchisee with regard to all damages and penalties which Franchisee may legally be required to pay as a result of the Franchise, and said Franchisee shall also be required to name the City, as an additional insured, with regard to all damages and penalties which the City may legally be required to pay as a result of the exercise of the Franchise.

In addition to the foregoing, the Franchisee shall be required to maintain a minimum of \$1,000,000.00, combined single limit, of automobile liability insurance.

Franchisee shall provide duplicates of any and all insurance policies and records with regard to this Franchise to the City, at the request of the City.

K. LIABILITY FOR INJURY TO FRANCHISEE

Nothing in this Franchise shall relieve the City from liability arising out of injury or injuries to the Franchisee or the Franchisee's property, if such injury or injuries are the direct result of the City's negligence when grading, regrading or changing the line of any Street or public place or with the construction or reconstruction of any sewer or water system. However, the Franchisee's ability to recover damages against the City are limited to only those claims that are not covered by the Franchisee's property insurance. Also, all insurance policies to be obtained by the Franchisee as contemplated in this Franchise shall include a provision in which the applicable insurance company waives its rights of subrogation against the City.

L. PUBLIC HEARING RE: FRANCHISEE'S CREDENTIALS

The Franchisee's technical ability, financial condition, and legal qualifications were considered and approved by the City in a full public hearing proceeding affording reasonable notice and a reasonable opportunity to be heard.

M. CHANNEL CAPACITY

The Franchisee shall construct and/or maintain a Cable System capable of transmitting from its head end in the frequency band of 54 to 300 MHz, which will allow for a minimum of 40 channels. The Cable System will also be designed to allow reception at its head end in the frequency band of 5 to 30 MHz, which will allow for up to 4 channels. Nothing in this Section M shall prevent the Franchisee from upgrading the Cable System when the need arises.

N. CONSTRUCTION SCHEDULE

If the System, or subsequent rebuilds or extensions, proposed for the Franchise Area consist of fewer than one hundred (100) plant miles of cable:

1. Within ninety (90) days of a proposed upgrade, Franchisee shall apply for all necessary governmental permits, licenses, certificates, and authorizations;
2. The energized trunk cable must be extended substantially throughout the Franchise Area within one (1) year after receipt of the necessary governmental permits, licenses, certificates, and authorizations and the persons along the route of the energized cable shall have individual drops as desired during the same period of time; and
3. The above stated requirements may be waived by City only upon occurrence of acts beyond the reasonable control of Franchisee or acts of God. The City shall have the right to inspect all construction or installation work performed pursuant to the provisions of this Franchise and to make such tests at its own expense as it shall find necessary to ensure compliance with the terms of this Franchise and the applicable provisions of local, state and federal law.
4. This Franchise is granted for the Franchise Area. In the event of annexation by the City, or as development occurs, any new territory shall become part of the area covered; provided, however, that Franchisee shall not be required to extend service beyond its present Cable System boundaries. Franchisee shall use commercially reasonable efforts to extend the Cable System and provide Cable Service to all households within the Franchise Area when practical and financially feasible. Franchisee shall, upon request, provide the City with a written explanation regarding the feasibility of extending the Cable System within the Franchise Area to areas which are not served by Franchisee. Nothing in this Franchise shall prevent Franchisee from extending the Cable System or from entering into mutually acceptable agreements with other parties regarding the extension of the System to unserved households. Access to Cable Service shall not be denied any group of potential cable Subscribers because of the income of the residents.

O. EASEMENTS AND CONSTRUCTION AUTHORIZATIONS

The City hereby grants unto the Franchisee a non-exclusive easement under, over and across its municipal properties, including, but not limited to roads, Streets, sidewalks, public utility easements and driveways and all public places for the purpose of constructing and operating and maintaining a Cable System. Franchisee's duty to provide Cable Service to any Subscriber or Subscribers is conditioned upon the receipt of Franchisee of necessary easements from private parties without unreasonable cost or effort to Franchisee. Franchisee shall have the right, but not the obligation, to utilize its Cable System to provide any other communications services as may be permitted in accordance with applicable laws. This Franchise shall govern only the provision of Cable Services over the Cable System. Franchisee understands that its easement rights contemplated by this agreement are non-exclusive, and that the City shall be able to utilize any

such easement areas or corridors in any manner it desires, and shall be free to convey such property subject to the easements, and/or grant easement rights to any other parties, so long as such use by the City or other parties does not interfere with any pre-existing improvements placed there by the Franchisee.

The Franchisee shall obtain a permit from the proper municipal authority before commencing construction of any communications system, including the opening or disturbance of any road, Street, sidewalk, driveway, or public place. If the Franchisee fails to meet the conditions of the permit, the City shall have the right to correct or cause to be corrected, at the sole expense of the Franchisee any violations of the conditions of the permit such as the return of land to its previous grading and the cleanup of construction debris. Franchisee shall comply with all applicable provisions of the City code of ordinances governing use of the City's public rights-of-way.

P. COMPLIANCE WITH APPLICABLE CODES

All wires, conduits, cable and other property and facilities of the Franchisee shall be located, constructed, installed, and maintained in compliance with applicable codes. The Franchisee shall keep and maintain all of its property so as not to unnecessarily interfere with the usual and customary trade, traffic, or travel upon the Streets and public places of the Franchise Area or endanger the lives or property of any Person.

Q. RELOCATION OF PLANT

The following procedure shall be used by the Franchisee and City for the relocation or removal of the Franchisee's wires, conduits, cables and other property located in a Street, right-of-way, or public place whenever the City undertakes public improvements which affect the Franchisee's property.

The City shall give ninety (90) days written notice to the Franchisee of the actions it wishes the Franchisee to take with respect to the relocation or removal of the Franchisee's equipment and shall allow a reasonable period of time thereafter to complete such request. The Franchisee shall, at its expense, protect, support, temporarily disconnect, relocate, or remove its property when required by the City for the purpose of undertaking any public improvements.

Any other Person requesting relocation removal of the Franchisee's property shall, as a condition of such request, be required to pay to the Franchisee in advance an amount of money sufficient for reimbursement of all costs of such relocation or removal. Any Person which damages Franchisee's property shall reimburse the Franchisee for the cost of all necessary repairs and testing and for the loss of revenues, if any, to the Franchisee caused by an interruption of Cable Service due to the damaging of Franchisee's property.

R. TECHNICAL STANDARDS

The rules and regulations contained in subpart K of part 76 of the FCC's rules and regulations relating to Cable Systems are required to be adhered to by Franchisee unless or until, superseded by any future federal or state standards during the term of this Franchise. The Franchisee shall,

upon request, meet with City to discuss the availability of technological innovations and attempt to establish priorities for making such innovations available.

S. SPECIAL TESTING

In the event that special testing is required to determine the source of technical difficulties, the Franchisee shall be responsible for the costs of special testing to the extent such testing reveals that Franchisee has not complied with FCC technical standards, otherwise the City shall bear the costs of such special testing.

T. NONVOICE RETURN CAPABILITY

The Franchisee shall provide a Cable System having the technical capability for nonvoice return communications. Nothing herein shall be construed to required the Franchisee to supply or otherwise provide to the Subscribers any terminal equipment or device necessary to utilize the nonvoice return capability of the System. The Franchisee shall provide such a capability upon request by a Subscriber with respect to the energized cable, cable "drops" and connections. Upon such request, Franchisee shall propose rates and charges to apply to installation and use of such capability by Subscribers.

U. SUBSCRIBER PRIVACY

No signals of a Class IV cable communications channel may be transmitted from a Subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the Subscriber. The request for such permission shall be contained in a separate document with a prominent statement that the Subscriber is authorizing the permission in full knowledge of its provisions. Such written permission shall be for a limited period of time not to exceed one (1) year which shall be renewed at the option of the Subscriber. No penalty shall be invoked for Subscriber's failure to provide or renew such authorization. The authorization shall be revocable at any time by the Subscriber without penalty of any kind whatsoever. Such permission shall be required for each type or classification of Class IV cable communications activity planned for the purpose of monitoring individual viewing patterns or practices.

No information or data obtained by monitoring the transmission of a signal from a Subscriber terminal, including but not limited to lists of the names and addresses of such Subscribers or any lists that identify the viewing habits of Subscribers shall be sold or otherwise made available to any party other than to Franchisee and its employees for internal business use, and to the Subscriber who is the subject of that information, unless Franchisee has received specific written authorization from the Subscriber to make such data available.

Written permission from the Subscriber shall not be required for the Systems conducting system wide or individually addresses electronic sweeps for the purpose of verifying System integrity or monitoring for the purpose of billing. Confidentiality of such information shall be subject to the provision set forth.

V. SUBSCRIBER COMPLAINTS

All reasonable complaints by the City, Subscribers, or other citizens regarding the quality of service, equipment malfunction, billing disputes, and any other matters relative to the Cable System shall be promptly investigated by the Franchisee.

Complaints regarding the quality of service, equipment malfunctions, and similar matters shall first be directed to Franchisee's office. Should Franchisee fail to satisfy a reasonable complaint, it may then be directed to the City for investigation. In response to a complaint, Franchisee shall be afforded a reasonable opportunity to present written and oral statements of its position. Appeal from the action of the City may be made to the appropriate judicial or administrative forum.

W. REPAIRS AND COMPLAINTS

To the extent required by federal law and requested by the City, Franchisee will print the name, address and telephone number of the City and the FCC's telephone number or address, on all monthly Subscriber bills who reside in the Franchise Area. The Franchisee shall provide a toll-free or collect telephone number for the reception of Subscriber complaints from the Franchise Area and shall maintain a repair service capable of responding to Subscriber requests for repair within twenty four (24) hours after receipt of the request. The Franchisee shall bear the costs of servicing and repairing the Cable System caused by defects in the System or other factors not caused by the Subscriber, its agents, guests or family members. The Subscriber shall pay the costs incurred by Franchisee in servicing and repairing the Cable System caused by the Subscriber, his/her agents, guests or family members.

X. TERMINATION

The City reserves the right to terminate and cancel any Franchise granted hereunder and rescind all rights and privileges associated therewith in the event that:

1. the Franchisee substantially violates any material provision of this Franchise or is found by a court of law to have practiced any fraud or deceit upon the City;
2. the Franchisee is adjudicated insolvent, enters into receivership or liquidation, files an application for bankruptcy or for composition of creditors, is unable to pay its debts as they mature or is in financial difficulty or sufficient consequence so as to jeopardize the continued operation of the Cable System;
3. the Franchisee commits any material violation of any FCC or applicable state order or ruling or the order or ruling of any other governmental body having jurisdiction over the Franchisee, unless the Franchisee is lawfully contesting the legality or applicability of such rule or order; or

4. the Franchisee knowingly fails to provide Cable Service to a substantial portion of lawful Subscribers in the Franchise Area for a period of thirty (30) or more days. Franchisee shall not be responsible for failure to provide Cable Service to the extent such failure results from events not within Franchisee's control, including, but not limited to, acts of God, strikes, inability to obtain materials or contract labor, sabotage, riots or civil disturbances, loss of utilities and natural disasters.

Upon the occurrence of any of the above-listed events, the City shall provide the Franchisee with written notice citing the reasons alleged to constitute cause for termination of the Franchise. The City shall allow the Franchisee a reasonable time, but in any event no less than sixty (60) days subsequent to receipt of the notice, in which to remedy the cause. If, during such period, the cause is remedied to the satisfaction of the City, the City shall declare the notice to be null and void. If the cause is not remedied to the satisfaction of the City during such period, the City shall provide the Franchisee with an opportunity to be heard at a public hearing before the City prior to adoption of any action for the termination of the Franchise.

In the event that the City takes any action to terminate the Franchise, the Franchisee shall have a period of sixty (60) days, beginning the day next following the date at which action to terminate the Franchise is ordered, within which to file an appeal with a court of competent jurisdiction.

During such sixty (60) day period and until the final determination of the appeal, if an appeal is taken, the Franchise shall remain in full force and effect, unless the term thereof sooner expires. If the action of the City is upheld, the Franchise shall terminate as provided by law; if the action of the City is reversed, the Franchise shall remain in full force and effect during the term thereof unless sooner terminated in accordance with law.

The parties have determined that no bond is required to be posted to secure Grantee's performance under this Franchise.

Y. ABANDONMENT

The Franchisee may not abandon any portion of the cable communications service provided hereunder without having given three (3) months prior written notice to the City. No cable communications company may abandon any cable communications service or any portion thereof without compensating the City for damages resulting to it from such abandonment.

Z. REMOVAL OF CABLE EQUIPMENT UPON TERMINATING OR FORFEITURE / PERFORMANCE BOND

1. Removal of Cable Equipment upon Terminating or Forfeiture:

Upon termination or forfeiture of a Franchise, the Franchisee shall remove its above ground cable, wires, and appliances from the Streets, alleys and other public places within the Franchise Area if the City so requests in writing. In the event the Franchisee fails to remove its equipment within a reasonable time after the written request of the City, the City may accept bids for a

contract to remove the equipment, award the contract to the most appropriate bidder, and charge the costs of such contract to said Franchisee.

2. Performance Bond:

City acknowledges that Franchisee and its predecessors have operated the System in the City for a substantial length of time, and through its activities Franchisee has demonstrated that it has the appropriate qualifications for compliance with the terms of the Franchise. Except as expressly provided herein, the Franchisee shall not be required to obtain or maintain a performance bond as a condition for being awarded the Franchise or continuing its existence. In order to minimize costs, which ultimately may be borne by Subscribers, City agrees to require a performance bond only in such amounts and during such times, as there is a reasonably demonstrated need therefore. City reserves the right to impose on Franchisee an obligation to file with City, a performance bond in the amount of up to Twenty Five Thousand and no/100 Dollars (\$25,000.00) in a form and with such sureties as reasonably acceptable to City. This bond will be conditioned upon the faithful performance by the Franchisee of the material terms of its Franchise and upon the further condition that in the event Franchisee shall fail to comply with any law, ordinance or regulation governing the Franchise, there shall be recoverable jointly and severally from the principal and surety of the bond any damages or loss suffered by City as a result, including the full amount of any property of Grantee, plus a reasonable allowance for attorney's fees and costs, up to the full amount of the bond, and further guaranteeing payment by the Franchisee of Claims, liens and taxes, due the City which arise by reason of the construction, operation, or maintenance of the system.

The security must be conditioned upon the faithful performance of the Franchisee according to the terms of the Franchise and upon the further condition that in the event the Franchisee shall fail to comply with any law, ordinance or regulation governing the Franchise, there shall be recoverable jointly and severally from the principal and surety of the bond any damages or loss suffered by the City as a result, including the full amount of any compensation, indemnification or cost of removal or abandonment of any property of the Franchisee, plus a reasonable allowance for attorney's fees and costs, up to the full amount of the bond, and further guaranteeing payment by the Franchisee of claims, liens and taxes due the City which arise by reason of the construction, operation, or maintenance of its system in the City.

The rights reserved by the City with respect to the bond shall not be deemed an exclusive remedy and are in addition to all other rights the City may have under the Franchise or any other law. No action, proceeding or exercise of a right with respect to the performance bond shall affect any other right the City may have. The City may, from year to year, in its sole discretion, reduce the amount of the bond.

The Franchisee shall be given thirty (30) days notice of any franchise violation, or other claim, liability or obligation giving rise to City's right to make a claim under the bond. In the event the violation, claim, liability, or obligation is not cured, corrected or satisfied within this thirty (30) day cure period, in City's determination, the City may make a claim pursuant to the bond. The City may grant additional time beyond the initial cure period before making a claim under the

bond in the event Franchisee requests additional time and the City determines that the Franchisee has made a good faith effort towards the cure and such additional time is necessary to completely cure the alleged violation.

In the event this Franchise is revoked or the rights hereunder relinquished or abandoned by Franchisee, the City shall be entitled to collect the full amount of the performance bond as liquidated damages.

AA. CITY'S RIGHT TO PURCHASE SYSTEM

In the event that Franchisee decides to sell or otherwise transfer the Franchise and/or Cable System, the City shall have a first right of refusal to purchase the Franchise and/or Cable System on terms substantially identical to those of any prospective purchaser's bona fide offer. The Franchisee shall give written notice of the terms and conditions of a prospective sale to the City at least thirty (30) days prior to the proposed closing date of such sale. In the event the City does not, within twenty (20) days from the receipt of such notice, give written notice to Franchisee of its intent to exercise the option to purchase on identical terms and conditions, the Franchisee may sell or otherwise transfer the Franchise and/or Cable System on those terms and conditions. In the event the City exercises its option to purchase, the closing date for such a sale shall occur within a reasonable time after such exercise.

BB. ACCESS CHANNELS

The Franchisee shall provide to each of its Subscribers who receive all, or any part of, the Cable Services offered on the Cable System, reception on at least one specially designated access channel. The specially designated access channel may be used by local educational authorities and local government on a first come, first-served, nondiscriminatory basis. During those hours that the specially designated access channel is not being used by the local educational authorities or local government, the Franchisee shall lease time to commercial or noncommercial users on a first come, first-served, nondiscriminatory basis if the demand for such time arises. The Franchisee may also use this specially designated access channel for local origination during those hours when the channel is not in use by local educational authorities, local government, or commercial or noncommercial users who have leased time on the specially designated access channel. The VHF spectrum must be used for the specially designated access channel required in this paragraph. This Franchise does not require Grantee to provide any equipment for the provision of local programming in the City.

The City shall establish rules pertaining to the administration of the specially designated access channel. The City shall be solely responsible for the content on the specially designated access channel and Franchisee's indemnification obligations set forth in section J of this Franchise shall not apply to any claims or actions related to the content on the specially designated access channel.

CC. UNAUTHORIZED CABLE TAPPING

It shall be unlawful for any Person to obtain any cable communications services by installing, rearranging, or tampering with any facilities or equipment of any cable communications company, or any Person unless the same is done with the knowledge of and with the permission of such cable communications company, firm, or private person. Any Person found guilty of a violation of any of the provisions of this Section shall be deemed guilty of a misdemeanor for which a sentence of not more than ninety (90) days or a fine of not more than \$500.00, or both, may be imposed.

DD. AMENDMENTS

Nothing in this Franchise shall prevent the City and Franchisee from amending this Franchise so long as such amendment has been mutually agreed upon in writing by both the City and Franchisee.

EE. SEPARABILITY

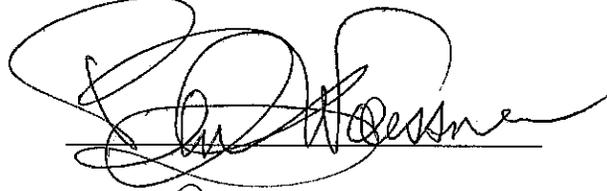
1. If any section, subsection, sentence, clause, phrase, or portion of this Franchise is for any reason held invalid or unconstitutional by any court of competence jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.
2. Should any provision of this Franchise be inconsistent or at variance with any rule, regulation or policy, in whole or in part, of the FCC or any other agency having jurisdiction, such provision shall be invalid, but the remaining provisions hereof shall not be affected hereby.

FF. MISCELLANIOUS PROVISIONS

1. Force Majeure. Neither party shall be liable for any failure of performance hereunder due to causes beyond its reasonable control including but not limited to; acts of God, fire, explosion, vandalism, storm or other similar catastrophes; national emergencies; insurrection; riots; wars; or strikes, lockouts or work stoppages.
2. Repeal of prior Ordinances. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Passed by the City Council of Pelican Rapids, Minnesota this 11th day of December, 2012.

ATTEST:



BY: Sherry Ebbert

BY: Ronald Polga

ITS: Clerk

ITS: City Administrator

ACCEPTANCE

The terms and conditions of the above Ordinance No. 12-02 are hereby accepted by Loretel Systems, Inc a Minnesota Corporation, this 19th day of December, 2012.

LORETEL SYSTEMS, INC

BY: David Pratt

ITS: Director of Video