

ORDINANCE #19-05

AN ORDINANCE REPEALING TITLE 16, "REVENUE AND FINANCE", CHAPTERS 16 AND 26, "CABLE TV FRANCHISE", CHAPTER 28, "CABLE COMMUNICATIONS SERVICE STANDARDS", CHAPTER 29, "CABLE COMMUNICATIONS FRANCHISE GRANT- INSIGHT" AND CHAPTER 30, "CABLE COMMUNICATIONS FRANCHISE GRANT - TCI", OF THE REVISED ORDINANCES OF SANDY CITY; ALSO PROVIDING A SAVING CLAUSE FOR THE ORDINANCE AND AN EFFECTIVE DATE.

WHEREAS, it is necessary to repeal the Title 16, "Revenue and Finance", Chapters 16 and 26, "Cable TV Franchise", Chapter 28, "Cable Communications Service Standards", Chapter 29, "Cable Communications Franchise Grant - Insight" and Chapter 30, "Cable Communications Franchise Grant - TCI" of the Revised Ordinances of Sandy City; and

WHEREAS, Section 10-8-84, Utah Code Annotated, authorizes such action in order to promote the public health, safety and welfare of the City;

NOW, THEREFORE, BE IT ORDAINED by the City Council of Sandy City as follows:

Section 1. The Revised Ordinances of Sandy City Chapters 16 and 26 "Cable TV Franchise", Chapter 28 "Cable Communications Service Standards", Chapter 29 "Cable Communications Franchise Grant - Insight" and Chapter 30 "Cable Communications Franchise Grant - TCI" are hereby repealed as set forth in **Exhibit A** which is attached to and incorporated in this ordinance.

Section 2. This ordinance shall become effective upon publication of a summary thereof and the City Recorder is hereby directed to publish such summary as soon as practically possible.

PASSED AND APPROVED by the Sandy City Council this ____ day of _____, 2019.

Kristin Coleman-Nicholl
Sandy City Council

PRESENTED to the Mayor this ____ day of _____, 2019.

APPROVED by the Mayor this ____ day of _____, 2019.

Kurt Bradburn, Mayor

ATTEST:

City Recorder

RECORDED this ____ day of _____, 2019.

SUMMARY PUBLISHED this _____ day of _____, 2019.

EXHIBIT A
(to Ordinance 19-05)

Chapter 16 CABLE TV FRANCHISE

16-16-1. Grant of Franchise Authority.

- (a) — There is hereby granted by Sandy City, hereinafter referred to as the "City", a nonexclusive franchise to Community Telecommunications, Inc., having a trade name of Community Cable of Utah, Inc., a Nevada corporation, hereinafter referred to as Grantee, its successors and assigns for a period beginning from and after the effective date of this ordinance and for a period of fifteen (15) years thereafter, the right and privilege to construct, operate, sell this service from and maintain in, upon, along, across, above, under and over the streets, alleys, public ways and public places now or hereafter laid out or dedicated, and all extensions thereof and additions thereto in Sandy City, Utah, poles, wires, coaxial and other cables, underground conduits, manholes, and such other television conductors and fixtures as are necessary or proper for the maintenance and operation in the City of a system for the transmission of television, FM radio, and electrical impulses and signals for all public and private use; provided however, that such poles or other fixtures placed on any street shall be placed at the outer edge of the sidewalk and inside the curb line, and those placed in alleys shall be placed close to the line on the lot abutting said alleys on said streets, alleys, and public ways, and provided further that underground conduits, cables and other facilities shall be located and constructed in a manner and placed at such depths as not to interfere with the facilities of the City or any public utility operating by virtue of any prior ordinance or franchise adopted by the City or otherwise, or with the grading and maintenance of such streets, alleys and public ways and, before constructing any such facilities, the City shall be furnished complete drawings of any construction pursuant to the provisions of this ordinance, and that the City shall keep and maintain permanent records of the locations and character of any underground facilities constructed and the relationship of such facilities to those of the City and public utilities operating within the City.
- (b) — Nonexclusive grant. The right to use and occupy said streets, alleys, public ways, and places for the purpose herein set forth shall not be exclusive, and the City reserves the right to grant a similar use of said streets, alleys, public ways and places, to any person, firm or corporation at any time during the period of this franchise.
- (c) — System construction and extension. Within one year of the receipt of final orders granting all necessary permits and authorizations which are required in the conduct of its business, including but not limited to any utility joint use attachment agreements, microwave carrier licenses, a certificate of compliance as issued by the Federal Communications Commission, and any other permits, licenses, and authorizations to be granted by duly constituted regulatory agencies having jurisdiction over the operation of cable television systems or their associated microwave transmission facilities, shall have been received by the Grantee, the Grantee shall have commenced construction upon the proposed system. The Grantee shall also have within six (6) months after commencement of construction an operable head end least 20% of residential dwellings which are not being served by a CATV system in the City each year after the commencement of construction until 100% of all areas included in the

franchise area which are not being served by a CATV system have been covered by and are accessible to energized trunk cable. However, the Grantee will not be held liable for the completion as hereinabove set forth when delayed by any action of the City, or when it is prevented from doing so by circumstances beyond its control such as unavailability of materials, acts of nature or civil strife.

- (d) — No person, firm or corporation in the Grantee's service area shall be arbitrarily refused service. However, in recognition of the capital costs involved, for unusual circumstances, such as more than 150 feet of distance from distribution cable to connection of service to subscribers, or a density of less than ten subscribers per 1,320 feet of trunk line, in order to prevent inequitable burdens on potential cable subscribers in more densely populated areas, service may be available on the basis of cost of materials, labor and easements.
- (e) — In the event additional adjacent territory is incorporated within the City's limits, by annexation or otherwise, Grantee's rights duties under this ordinance shall be deemed to include such additional territory.

16-16-2. Conditions on Street Occupancy.

- (a) — Use. All transmission and distribution structures, lines and equipment erected by the Grantee within the City shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places.
- (b) — Restoration. In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the Grantee shall, at its own cost and expense, and in a manner approved by the City Engineer and consistent with other City ordinances on the subject of excavation in public streets, replace and restore all paving, sidewalk, driveway or surface of any street or alley disturbed to its original condition of safety and utility. Grantee shall obtain and pay for all permits required by ordinance for and shall be subject to all ordinances relating to excavations or obstructions made by Grantee in streets or alleys. Such restoration work will be guaranteed by the Grantee for a period of one year to be free from structural defects and in the event there is any problem with such restoration work shall, upon notice given, repair the same within fifteen (15) days after said notice. If the Grantee fails to complete such repairs as requested, the City may then do so at the Grantee's expense.
- (c) — Relocation. In the event that any time during the period of this franchise, the City shall lawfully elect to alter the grade of any street, alley or other public way, the Grantee, upon reasonable notice by the City, shall remove and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense so as to comply with the requirements of Grantor.
- (d) — Placement of fixtures and conformance to electrical standards. The Grantee shall not place poles or other fixtures where the same will interfere with any gas, electric or telephone fixture, water hydrant or main, and all such poles or other fixtures placed in any street shall be placed at the outer edge of the sidewalk and inside the curb line, and those placed in alleys shall be placed close to the line of the lot abutting on said alley, and then in such a manner as not to interfere with the usual travel on said streets, alleys and public ways. Grantee agrees to conform to requirements of the City in regard to all installations, and specifically that in any area where

electrical utilities are installed underground, the Grantee will likewise install all equipment and cables underground. The Grantee shall install and maintain its wires, cables, fixtures, and other equipment in accordance with the requirements of the most recent edition of the National Electrical Safety Code promulgated by the National Bureau of Standards and the National Electrical Code of the National Board of Fire Underwriters and in such a manner that it will not interfere with any uses by the City or by a public utility serving the City.

- (e) Use of poles and underground lines. It is mutually understood that the Grantee may use poles or underground lines erected or owned and maintained by the City, insofar as the City's easement rights so permit, or by Utah Power and Light and/or Mountain States Telephone, where separate rental agreements can be reached for the use of the same, but where the use of such poles or underground lines is not practical or mutually satisfactory the Grantee shall have the right to erect and maintain its own poles or install cable along underground rights-of-way of the City as may be necessary for the proper construction and maintenance of the television distribution system provided the Grantee shall obtain prior approval under the conditions previously set forth in this chapter from the City as to the necessity for the location of any new poles to be erected or underground cable to be installed. However, any poles erected by the Grantees may be acquired by the City on such terms as are equitable, and thereafter be the property of the City and subject to the rental rates as herein agreed.
- (f) Where underground lines are required. In any area where service is now provided, or where service may later be provided by underground power lines, the Grantee's lines shall also be placed underground in accordance with local subdivision regulations and with an appropriate rental schedule agreed upon, and if there are underground telephone lines then they shall be used where satisfactory rental agreement can be reached with the telephone company.
- (g) Temporary removal of wire for building moving. The Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same, and the Grantee shall have the authority to require such payment in advance. The Grantee shall not be given less than seventy-two (72) hours advance notice to arrange for such temporary wire changes.
- (h) Tree trimming. The Grantee shall have the authority to trim trees upon and overhanging over streets, alleys, sidewalks and public places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee, all trimming to be done under the supervision and direction of the City and at the expense and liability of the Grantee.

16-16-3. Indemnity and Liability Coverage.

- (a) It is expressly understood and agreed by and between the Grantee and the City that the Grantee shall hold the City harmless from all loss sustained by the City on account of any suit, judgment, execution, claim or demand whatsoever, resulting from negligence on the part of the Grantee in the construction, operation or maintenance of its system in the City. The City shall notify the Grantee's representative in the City within thirty (30) days after the presentation of any claim or demand, either by suit or otherwise, made against the City on account of any negligence as aforesaid on the part of the Grantee. The Grantee agrees to maintain and keep in full force and effect at all times during the term of this franchise ordinance sufficient liability insurance coverage to protect the City against any such claims, suits, judgments, executions or demands in

a sum not less than one hundred thousand dollars (\$100,000.00) per person in any one claim for personal injury to any one person and not less than three hundred thousand dollars \$300,000.00) as to all claims arising from any one occurrence. The amounts for property damage shall be not less than fifty thousand dollars (\$50,000.00) as to any one claim and not less than two hundred thousand dollars \$200,000.00) aggregate in any single policy year. Copies of the policy of insurance above mentioned, the City to be named as insured, will be filed with the City Recorder of the City before work is commenced and copies of the renewal certificates shall be filed annually on the same date thereafter.

- (b) — The Grantee shall maintain a local business office or agent which subscribers may telephone during regular business hours each day except Saturdays, Sundays and other holidays proclaimed by national, state or local governmental authority without incurring added message or toll charges so that CATV maintenance service shall be promptly available. Complaints for other than regular working hours may be made to a separate telephone maintained for that purpose which shall be listed in the telephone directory, or the same telephone number may be used, at the option of the Grantee. Complaints received prior to 11:00 a.m. of any working day shall be investigated within six (6) hours and those received at all other times shall be investigated within twelve (12) hours. If the problem is caused by Grantee owned equipment, it shall be repaired as soon as reasonably possible, and the customer shall not have to pay for any day when service is not available for over six (6) hours. Provided, however, the Grantee does not guarantee in any way the functioning of television receivers owned by the customer, it being contemplated that the investigation will be made with a telephone receiver maintained by the Grantee for the investigation of complaints as aforesaid. Should a subscriber have an unresolved complaint regarding the quality of cable television service, equipment malfunctions or similar matters, representative of the City and a representative of the Grantee within thirty (30) days to fully discuss such matters.

16-16-4. — Compliance with Applicable Laws and Ordinances, Including Federal Regulations.

- (a) — The Grantee shall, at all times during the life of this franchise, be subject to all lawful exercise of the policy power by the City, and to such reasonable regulation as the City shall hereafter by resolution or ordinance provide, and shall fully comply with all applicable rules and regulations now in effect or hereafter adopted by the Federal Communications Commission, the State of Utah and the United States Government.
- (b) — Any modification resulting from any amendment of any section of the Rules and Regulations of the Federal Communications Commission which apply to Franchise Standards shall be incorporated into this franchise as of the date such modifications become obligatory under FCC regulations, or in the event no obligatory date is established, within one year of adoption or at the time of franchise renewal, whichever occurs first. If there are any conflicts between the provisions of this ordinance and the provisions of any other City ordinance, provisions of this ordinance shall prevail.

16-16-5. — Use of System by City.

- (a) — The City shall have the right, without cost during the life of this franchise to make, install and maintain attachments to poles owned and/or used by the Grantee and also to use the cables of the Grantee within the City for wires used by the City in connection with its fire alarms or police signals and surveillance systems, such attachments to be installed and maintained in accordance with the most recent requirements of the National Electrical Safety Code pertaining to such construction, and only after written notice to the Grantee; provided however, that the Grantee shall assume no liability nor be put to any additional expense in connection therewith, and provided further that the City's use thereof shall be in such manner as not to interfere with the Grantee's use of the same. In further consideration of the granting of this franchise, the Grantee will furnish without installation charge or monthly service fee, connections to all public schools in the corporate limits of the City, to the City Center, City Library, the Senior Citizens Center, the City Police Station, the City Fire Stations, hospitals and such other public and other facilities as may from time to time be mutually agreed upon by the City and Grantee, may also receive such benefit.
- (b) — In addition, the City shall have exclusive right to the use of one dedicated channel for its municipal and civic system, universities and other agencies to produce and broadcast appropriate program materials. All cost for acquisition and maintenance of equipment required to conduct such programming and broadcasting shall be the responsibility of agencies other than the Grantee.
- (c) — The City may also add to its broadcasting capability without cost to the Grantee such other innovative technological advancements as may become practical and feasible such as bidirectional communications, computer aided instruction, video disc broadcasts, multiple signal bidirectional usage, etc., provided the same does not use electronic capability in excess of the channel specified. The Grantee further agrees to work with the City to provide technical advice concerning other types of applications which the City or its associated agencies can and ought to make of its broadcast capability.

16-16-6. — Consent to Use Existing Utility Facilities.

The City hereby gives its consent to Mountain States Telephone and Telegraph Company, Utah Power and Light Company and any other utility or company to authorize the Grantee to use their poles, underground conduits and other facilities within the City for the purpose of conducting the business of the Grantee and to attach coaxial and other cables, lines, conduits, transformers, and other electrical equipment thereto. Grantee shall nevertheless obtain appropriate consent and shall contract with such companies for approval for the use of such poles, towers and conduits as are owned by said Mountain States Telephone and Telegraph Company, Utah Power and Light Company and other utilities and companies respectively pursuant to the provisions of such ordinance. The rights granted to the Grantee pursuant to the provisions of Section 1 of this chapter shall be supplemental and additional to those granted to the Mountain States Telephone and Telegraph, Utah Power and Light Company and other utilities and companies who have been granted franchises; provided, nevertheless, that the poles of such telephone and power companies shall be utilized by the Grantee hereunder wherever practicable.

16-16-7. Payment to City and Rates.

- (a) — In consideration for this grant of franchise, the Grantee agrees to pay to the Treasurer for the City a sum equal to three (3) percent of the gross revenue receipts per annum derived by the Grantee from the monthly service charges received by the Grantee from the subscribers to its services within the City. Within sixty (60) days after the first days of January and July, following commencement of service and within sixty (60) days after the first days of January and July of each calendar year thereafter during the term of this franchise, the Grantee shall file with the Treasurer of the City a report of such revenue as described in this section for the preceding six (6) month period, which report shall include a computation of the sum due. The Treasurer shall determine the accuracy of the computation and if he finds any errors shall report the same to the Grantee for correction. The records of the Grantee reflecting the information relevant in determining revenues described in this paragraph shall be available for inspection by the City Council of Sandy City or its duly authorized representative at all reasonable hours and upon reasonable notice.
- (b) — Gross revenue receipts defined. The phrase "gross revenue receipts per annum derived by the Grantee from monthly service charges" shall be interpreted to include only those revenues derived from the supplying of regular subscriber service; that is, "gross subscriber revenues," as defined by the Commission in paragraph 95 of the Clarification, 46 FCC 2d 175 (1974).
- (c) — The City shall regulate rates by adopting resolutions.

16-16-8. Approval of Transfer.

The Grantee shall not sell or transfer its plant or system to another nor transfer any rights under this franchise to another without prior written approval of the Sandy City Council and provided that no sale or transfer shall be effective until the vendee, assignee or lessee has filed in the office of the City Recorder an instrument, duly executed, reciting the fact of such sale, assignment or lease, accepting the terms of the franchise, and agreeing to perform all the conditions thereof.

16-16-9. Commencement of Construction.

The Grantee will proceed to submit the system for approval by the Federal Communications Commission within thirty (30) days after approval by the City of the system layout plans, and within ninety (90) days after receipt of a Certificate of all licenses, permits and other authority requisite for the operation of microwave facilities is obtained and pole line agreements and all necessary legal requirements for the installation of the system are satisfied, shall commence construction of the system. Layout plans shall be submitted by December 31, 1979.

16-16-10. Supervision and Inspection.

All construction or installation work performed subject to the provisions of this ordinance shall be subject to approval of the City Engineer and to such inspection as he shall find necessary to insure compliance with governing ordinances.

16-16-11. Color Transmissions.

The signals transmitted over the cable system shall be capable of distributing color television signals, and when the signals the Grantee distributes are received in color, they shall be distributed in color where technically feasible.

16-16-12. Emergency and Disaster Use.

In case of any emergency or disaster, the Grantee shall, upon the request of the City, make available its facilities to the City for emergency use during such emergency or disaster.

16-16-13. Resident Agent.

The Grantee shall maintain a force of one or more resident agents or employees at all times and shall have sufficient employees to provide safe, adequate and prompt service for its facilities.

16-16-14. City Rules and Amendments.

The right is hereby reserved to the City to adopt, in addition to the provisions herein contained and existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of the police power, provided that such regulations, by ordinance or otherwise, shall be reasonable, and shall not be in conflict with the laws of the State of Utah. Further, it shall be the policy of the City to liberally amend this franchise, upon application of the Grantee, when necessary to enable the Grantee to take advantage of any developments in the field of transmission of television and radio signals or other electronic impulses for communications or other electronic services which will afford it an opportunity to more effectively, efficiently, or economically serve its subscribers. However, this shall not in any way be construed to require the City to make any such amendment.

16-16-15. Forfeiture.

Any violation by the Grantee, its vendee, lessee or successor of the provisions of this franchise, or any material portions thereof, or the failure to promptly perform any of the provisions hereunder to the City, after written notice to the Grantee and continuation of such violation, failure or default, sixty (60) days after such notice shall be cause for termination of this franchise and forfeiture of all rights hereunder. Upon termination, Grantee shall remove its installations at its own expense.

16-16-16. Binding on Assigns.

The right granted by this franchise ordinance shall be binding upon and inure to the benefit of the heirs, assigns, grantees and successors in interest of the parties. Approval of the City Council is required prior to assignment of any kind.

~~16-16-17. Severability.~~

~~If any section, subsection, sentence, clause or any portion of this chapter is found to be invalid and unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such decision shall not affect the validity of remaining portions of this franchise.~~

~~16-16-18. The Company's Qualifications.~~

~~The Grantee's legal, character, financial, technical and other qualifications, and the adequacy and feasibility of its construction arrangements may be approved by the City Council as part of a full public proceeding affording due process, at the conclusion of which the subject franchise may be awarded.~~

~~16-16-19. Local Ordinance.~~

~~The Grantee herein shall abide by any and every City ordinance pertaining to the activities, construction, maintenance and operation of the business of the Grantee.~~

~~16-16-20. Pornographic or Lewd Materials and Extra Charges.~~

~~Grantee shall not originate in its system for viewing within the City any materials for viewing which are pornographic, lewd or which, if presented in public, would be violation of any ordinance of the City or the State of Utah.~~

~~16-16-21. Preparation Fees.~~

~~Grantee for this privilege shall pay to Sandy City Corporation the sum of four hundred dollars (\$400.00) for review by engineers, legal counsel, and publication of this ordinance, to be paid into the general fund of the City upon the effective date of this ordinance.~~

~~16-16-22. Bond.~~

~~Grantee, within thirty (30) days from the effective date hereof, shall provide a corporate surety bond in the sum of ten thousand dollars (\$10,000.00), in a form satisfactory to the City Attorney the condition of which shall be the commencement and the completion of the construction of the system as herein set forth. The said bond shall continue in force for a period of three (3) years. Thereafter, a like bond in the amount of six thousand dollars (\$6,000.00) shall be maintained throughout the life of this franchise.~~

Chapter 26 CABLE TV FRANCHISE

16-26-1. Grant of Franchise Authority.

- (a) — There is hereby granted by Sandy City, hereinafter referred to as the "City," a nonexclusive franchise to THE MISCO GROUP, a limited partnership organized under the laws of the State of Nevada, having a trade name of South Valley Cablevision, as registered with the State of Utah, hereinafter referred to as Grantee, its successors and assigns for a period beginning from and after the effective date of this ordinance and for a period of fifteen (15) years thereafter, the right and privilege to construct, operate, sell this service from and maintain in, upon, along, across, above, under and over the streets, alleys, public ways and public places now or hereafter lain out or dedicated, and all extension thereof and additions thereto in Sandy City, Utah, poles, wires, coaxial and other cables, underground conduits, manholes, and such other television conductors and fixtures as are necessary or proper for the maintenance and operation in the City of a custom for the transmission of television, FM radio, and electrical impulses and signals for all public and private use; provided, however, that such poles or other fixtures placed on any street shall be placed at the outer edge of the sidewalk and inside the curb line, and those placed in alleys shall be placed close to the line on the lot abutting said alleys on said streets, alleys, and public ways, and provided further that underground conduits, cables and other facilities shall be located and constructed in a manner and placed at such depths as not to interfere with the facilities of the City or any public utility operating by virtue of any prior ordinance or franchise adopted by the City or otherwise, or with the grading and maintenance of such streets, alleys and public ways and, before constructing any such facilities, the City shall be furnished complete drawings of any construction pursuant to the provisions of this ordinance, and that the City shall keep and maintain permanent records of the locations and character of any underground facilities constructed and the relationship of such facilities to those of the City and public utilities operating within the City.
- (b) — Nonexclusive grant. The right to use and occupy said streets, alleys, public ways, and places for the purpose herein set forth shall not be exclusive, and the City reserves the right to grant a similar use of said streets, alleys, public ways and places, to any person, firm or corporation at any time during the period of this franchise.
- (c) — System construction and extension. Within one year of the receipt of final orders granting all necessary permits and authorizations which are required in the conduct of its business, including but not limited to any utility joint use attachment agreements, microwave carrier licenses, a certificate of compliance as issued by the Federal Communications Commission, and any other permits, licenses, and authorizations to be granted by duly constituted regulatory agencies having jurisdiction over the operation of cable television systems or their associated microwave transmission facilities, shall have been received by the Grantee, the Grantee shall have commenced construction upon the proposed system. The Grantee shall also have within six (6) months after commencement of construction an operable head end completed, and shall have extended energized trunk cable to at least 20% of residential dwellings which are not being served by a CATV system in the City each year after the commencement of construction until 100% of all areas included in the franchise area which are not being served by a CATV

system have been covered by and are accessible to energized trunk cable. However, the Grantee will not be held liable for the completion as hereinabove set forth when delayed by any action of the City, or when it is prevented from doing so by circumstances beyond its control such as unavailability of materials, acts of nature or civil strife.

- (d) No person, firm or corporation in the Grantee's service area shall be arbitrarily refused service. However, in recognition of the capital costs involved, for unusual circumstances, such as more than 150 feet of distance from distribution cable to connection of service to subscribers, or a density of less than ten subscribers per 1,320 feet of trunk line, in order to prevent inequitable burdens on potential cable subscribers in more densely populated areas, service may be available on the basis of cost of materials, labor and easements.
- (e) In the event additional adjacent territory is incorporated within the City's limits, by annexation or otherwise, Grantee's rights and duties under this ordinance shall be deemed to include such additional territory.

16-26-2. Conditions on Street Occupancy.

- (a) Use. All transmission and distribution structures, lines and equipment erected by the Grantee within the City shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places.
- (b) Restoration. In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the Grantee shall, at its own cost and expense, and in a manner approved by the City Engineer and consistent with other City ordinances on the subject of excavation in public streets, replace and restore all paving, sidewalk, driveway or surface of any street or alley disturbed to its original condition of safety and utility. Grantee shall obtain and pay for all permits required by ordinance for and shall be subject to all ordinances relating to excavations or obstructions made by Grantee in streets or alleys. Such restoration work will be guaranteed by the Grantee for a period of one year to be free from structural defects and in the event there is any problem with such restoration work shall, upon notice given, repair the same within fifteen (15) days after said notice. If the Grantee fails to complete such repairs as requested, the City may then do so at the Grantee's expense.
- (c) Relocation. In the event that any time during the period of this franchise, the City shall lawfully elect to alter the grade of any street, alley or other public way, the Grantee, upon reasonable notice by the City, shall remove and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense so as to comply with the requirements of Grantor.
- (d) Placement of fixtures and conformance to electrical standards. The Grantee shall not place poles or other fixtures where the same will interfere with any gas, electric or telephone fixture, water hydrant or main, and all such poles or other fixtures placed in any street shall be placed at the outer edge of the sidewalk and inside the curb line, and those placed in alleys shall be placed close to the line of the lot abutting on said alley, and then in such manner as not to interfere with the usual travel on said streets, alleys and public ways. Grantee agrees to conform to requirements of the City in regard to all installations, and specifically that in any area where electrical utilities are installed

underground, that Grantee will likewise install all equipment and cables underground. The Grantee shall install all equipment and cables underground. The Grantee shall install and maintain its wires, cables, fixtures, and other equipment in accordance with the requirements of the most recent edition of the National Electrical Safety Code promulgated by the National Bureau of Standards and the National Electrical Code of the National Board of Fire Underwriters and in such a manner that it will not interfere with any uses by the City or by a public utility serving the City.

- (e) — Use of poles and underground lines. It is mutually understood that the Grantee may use poles or underground lines erected or owned and maintained by the City, insofar as the City's easement rights so permit, or by Utah Power and Light and/or Mountain States Telephone, where separate rental agreements can be reached for the use of the same, but where the use of such poles or underground lines is not practical or mutually satisfactory, the Grantee shall have the right to erect and maintain its own poles or install cable along underground rights-of-way of the City as may be necessary for the proper construction and maintenance of the television distribution system provided the Grantee shall obtain prior approval under the conditions previously set forth in this chapter from the City as to the necessity for the location of any new poles to be erected or underground cable to be installed. However, any poles erected by the Grantee may be acquired by the City on such terms as are equitable, and thereafter be the property of the City and subject to the rental rates as herein agreed.
- (f) — Where underground lines are required. In any area where service is now provided, or where service may later be provided by underground power lines, the Grantee's lines shall also be placed underground in accordance with local subdivision regulations and with an appropriate rental schedule agreed upon, and if there are underground telephone lines then they shall be used where satisfactory rental agreement can be reached with the telephone company.
- (g) — Temporary removal of wire for building moving. The Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same, and the Grantee shall have the authority to require such payment in advance. The Grantee shall not be given less than seventy-two (72) hours advance notice to arrange for such temporary wire changes.
- (h) — Tree trimming. The Grantee shall have the authority to trim trees upon and overhanging over streets, alleys, sidewalks and public places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee, all trimming to be done under the supervision and direction of the City and at the expense and liability of the Grantee.

16-26-3. — Indemnity and Liability Coverage.

- (a) — It is expressly understood and agreed by and between the Grantee and the City that the Grantee shall hold the City harmless from all loss sustained by the City on account of any suit, judgment, execution, claim or demand whatsoever, resulting from negligence in the part of the Grantee in the construction, operation or maintenance of

its system in the City. The City shall notify the Grantee's representative in the City within thirty (30) days after the presentation of any claim or demand, either by suit or otherwise, made against the City on account of any negligence as aforesaid on the part of the Grantee. The Grantee agrees to maintain and keep in full force and effect at all times during the term of this franchise ordinance sufficient liability insurance coverage to protect the City against any such claims, suits, judgments, executions or demands in a sum not less than one hundred thousand dollars (\$100,000.00) per person in any one claim for personal injury to any one person and not less than three hundred thousand dollars (\$300,000.00) as to all claims arising from any one occurrence. The amounts for property damage shall be not less than fifty thousand dollars (\$50,000.00) as to any one claim and not less than two hundred thousand dollars (\$200,000.00) aggregate in any single policy year. Copies of the policy of insurance above mentioned, the City to be named as insured, will be filed with the City Recorder of the City before work is commenced and copies of the renewal certificates shall be filed annually on the same date thereafter.

- (b) — The Grantee shall maintain a local business office or agent which subscribers may telephone during regular business hours each day except Saturdays, Sundays and other holidays proclaimed by national, state or local governmental authority without incurring added message or toll charges so that CATV maintenance service shall be promptly available. Complaints for other than regular working hours may be made to a separate telephone maintained for that purpose which shall be listed in the telephone directory, or the same telephone number may be used, at the option of the Grantee. Complaints received prior to 11:00 a.m. of any working day shall be investigated within six (6) hours and those received at all other times shall be investigated within twelve (12) hours. If the problem is caused by Grantee-owned equipment, it shall be repaired as soon as reasonably possible, and the customer shall not have to pay for any day when service is not available for over six (6) hours. Provided, however, the Grantee does not guarantee in any way the functioning of television receivers owned by the customer, it being contemplated that the investigation will be made with a telephone receiver maintained by the Grantee for the investigation of complaints as aforesaid. Should a subscriber have an unresolved complaint regarding the quality of cable television service, equipment malfunctions or similar matters, the subscriber shall be entitled to meet jointly with a representative of the City and a representative of the Grantee within thirty (30) days to fully discuss such matters.

16-26-4. Compliance with Applicable Laws and Ordinances, Including Federal Regulations.

- (a) — The Grantee shall, at all times during the life of this franchise, be subject to all lawful exercise of the policy power by the City, and to such reasonable regulation as the City shall hereafter by resolution or ordinance provide, and shall fully comply with all applicable rules and regulations now in effect or hereafter adopted by the Federal Communications Commission, the State of Utah and the United States Government.
- (b) — Any modification resulting from any amendment of any section of the Rules and Regulations of the Federal Communications Commission which apply to Franchise

Standards shall be incorporated into this franchise as of the date such modifications become obligatory under FCC regulations, or in the event no obligatory date is established, within one year of adoption or at the time of franchise renewal, whichever occurs first. If there are any conflicts between the provisions of this ordinance and the provisions of any other City ordinance, provisions of this ordinance shall prevail.

~~16-26-5. Use of System by City.~~

- ~~(a) — The City shall have the right, without cost during the life of this franchise to make, install and maintain attachments to poles owned and/or used by the grantee and also to use the cables of the Grantee within the City for wires used by the City in connection with its fire alarms or police signals and surveillance systems, such attachments to be installed and maintained in accordance with the most recent requirements of the National Electrical Safety Code pertaining to such construction, and only after written notice to the Grantee; provided, however, that the Grantee shall assume no liability nor be put to any additional expense in connection therewith, and provided further that the City's use thereof shall be in such a manner as not to interfere with the Grantee's use of the same. In further consideration of the granting of this franchise, the Grantee will furnish without installation charge or monthly service fee, connections to all public schools in the corporate limits of the City, to the City Center, City Library, the Senior Citizens Center, the City Police Station, the City Fire Stations, hospitals and such other public and other facilities as may from time to time be mutually agreed upon by the City and Grantee, may also receive such benefit.~~
- ~~(b) — In addition, the City shall have exclusive right to the use of any dedicated channel for its municipal and civic purposes and may by itself or jointly join with the public school system, universities and other agencies to produce and broadcast appropriate program materials. All cost of acquisition and maintenance of equipment required to conduct such programming and broadcasting shall be the responsibility of agencies other than the Grantee.~~
- ~~(c) — The City may also add to its broadcasting capability without cost to the Grantee such other innovative technological advancements as may become practical and feasible such as bidirectional communications, computer aided instruction, video disc broadcasts, multiple signal bidirectional usage, etc., provided the same does not use electronic capability in excess of the channel specified. The Grantee further agrees to work with the City to provide technical advice concerning other types of applications which the City or its associated agencies can and ought to make of its broadcast capability.~~

~~16-26-6. Consent to Use Existing Utility Facilities.~~

The City hereby gives its consent to Mountain States Telephone and Telegraph Company, Utah Power and Light Company and any other utility company to authorize the Grantee to use their poles, underground conduits and other facilities within the City for the purpose of conducting the business of the Grantee and to attach coaxial and other cables, lines, conduits, transformers, and other electrical equipment thereto. Grantee shall nevertheless obtain appropriate consent and shall contract with such companies for approval for the use of such poles, towers and conduits as are owned by said Mountain States Telephone and Telegraph Company, Utah Power and Light Company and other utilities and companies respectively pursuant to the provisions of such ordinance. The rights granted to the Grantee

pursuant to the provisions of Section 1 of this chapter shall be supplemental and additional to those granted to the Mountain States Telephone and Telegraph, Utah Power and Light Company and other utilities and companies who have been granted franchises; provided, nevertheless, that the poles of such telephone and power companies shall be utilized by the Grantee hereunder wherever practicable.

16-26-7. Payment to City and Rates.

- (a) — In consideration for this grant of franchise, the Grantee agrees to pay to the Treasurer for the City a sum equal to three (3) percent of the gross revenue receipts per annum derived by the Grantee from monthly service charges received by the Grantee from the subscribers to its services within the City. Within sixty (60) days after the first days of January and July, following commencement of service and within sixty (60) days after the first days of January and July of each calendar year thereafter during the term of this franchise, the Grantee shall file with the Treasurer of the City a report of such revenue as described in this section for the preceding six (6) month period, which report shall include a computation of the sum due. The Treasurer shall determine the accuracy of the computation and if he finds any errors shall report the same to the Grantee for correction. The records of the Grantee reflecting the information relevant in determining revenues described in this paragraph shall be available for inspection by the City Council of Sandy City or its duly authorized representative at all reasonable hours and upon reasonable notice.
- (b) — Gross revenue receipts defined. The phrase "gross revenue receipts per annum derived by the Grantee from monthly service charges" shall be interpreted to include only those revenues derived from the supplying of regular subscriber service; that is, "gross subscriber revenues", as defined by the Commission in paragraph 95 of the Clarification, 46 FCC 2d 175 (1974).
- (c) — The City shall regulate rates by adopting resolutions.

16-26-8. Approval of Transfer.

The Grantee shall not sell or transfer its plant or system to another nor transfer any rights under this franchise to another without prior written approval of the Sandy City Council and provided that no sale or transfer shall be effective until the vendee, assignee or lessee has filed in the office of the City Recorder an instrument, duly executed, reciting the fact of such sale, assignment or lease, accepting the terms of the franchise, and agreeing to perform all the conditions thereof.

16-26-9. Commencement of Construction.

The Grantee will proceed to submit the system for approval by the Federal Communications Commission within thirty (30) days after approval by the City of the system layout plans, and within ninety (90) days after receipt of a Certificate of Compliance from the Federal Communications Commission and after all licenses, permits and other authority requisite for the operation of microwave facilities is obtained and pole line agreements and all necessary legal requirements for the installation of the system are satisfied, shall commence construction of the system. Layout plans shall be submitted by December 31, 1979.

~~16-26-10. Supervision and Inspection.~~

All construction or installation work performed subject to the provisions of this ordinance shall be subject to approval of the City Engineer and to such inspection as he shall find necessary to insure compliance with governing ordinances.

~~16-26-11. Color Transmissions.~~

The signals transmitted over the cable system shall be capable of distributing color television signals, and when the signals the Grantee distributes are received in color, they shall be distributed in color where technically feasible.

~~16-26-12. Emergency and Disaster Use.~~

In case of emergency or disaster, the Grantee shall, upon the request of the City, make available its facilities to the City for emergency use during such emergency or disaster.

~~16-26-13. Resident Agent.~~

~~————~~The Grantee shall maintain a force of one or more resident agents or employees within a radius of sufficient adjacency so as to afford not more than a ten minute access time by automobile to the franchise area, and at all times shall have sufficient employees to provide safe, adequate and prompt service for its facilities.

~~16-26-14. City Rules and Amendments.~~

The right is hereby reserved to the City to adopt, in addition to the provisions herein contained in existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of the police power, provided that such regulations, by ordinance or otherwise, shall be reasonable, and shall not be in conflict with the laws of the State of Utah. Further, it shall be the policy of the City to liberally amend this franchise, upon application of the Grantee, when necessary to enable the Grantee to take advantage of any developments in the field of transmission of television and radio signals or other electronic impulses for communications or other electronic services which will afford it an opportunity to more effectively, efficiently or economically serve its subscribers. However, this shall not in any way be construed to require the City to make any such amendment.

~~16-26-15. Forfeiture.~~

Any violation by the Grantee, its vendee, lessee or successor of the provisions of this franchise, or any material portions thereof, or the failure to promptly perform any of the provisions hereunder to the City, after written notice to the Grantee and continuation of such violation, failure or default, sixty (60) days after such notice shall be cause for termination of this franchise and forfeiture of all rights hereunder. Upon termination, Grantee shall remove its installations at its own expense.

~~16-26-16. Binding on Assigns.~~

The right granted by this franchise ordinance shall be binding upon and inure to the benefit of the heirs, assigns, grantee and successors in interest of the parties. Approval of the City Council is required prior to assignment of any kind.

~~16-26-17. Severability.~~

If any section, subsection, sentence, clause or any portion of this chapter is found to be invalid and unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such decision shall not affect the validity of remaining portions of this franchise.

~~16-26-18. The Company's Qualifications.~~

The Grantee's legal, character, financial, technical, and other qualifications, and the adequacy and feasibility of its construction arrangements may be approved by the City Council as part of a full public proceeding affording due process, at the conclusion of which the subject franchise may be awarded.

~~16-26-19. Local Ordinances.~~

The Grantee herein shall abide by any and every City ordinance pertaining to the activities, construction, maintenance and operation of the business of the Grantee.

~~16-26-20. Pornographic or Lewd Materials.~~

Grantee shall not originate in its system for viewing within the City any materials for viewing which are pornographic, lewd or which, if presented in public, would be violation of any ordinance of the City or the State of Utah.

~~16-26-21. Preparation Fees.~~

Grantee for this privilege shall pay to Sandy City Corporation the sum of four hundred dollars (\$400.00) for review by engineers, legal counsel, and publication of this ordinance, to be paid into the general fund of the City upon the effective date of this ordinance.

~~16-26-22. Bond.~~

Grantee, within thirty (30) days from the effective date hereof, shall provide a corporate surety bond in the sum of ten thousand dollars (\$10,000.00), in a form satisfactory to the City Attorney the condition of which shall be the commencement and the completion of the construction of the system for a period of three (3) years. Thereafter, a like bond in the amount of six thousand dollars (\$6,000.00) shall be maintained throughout the life of this franchise.

Chapter 28 — CABLE COMMUNICATIONS SERVICE STANDARDS

16-28-1. Purpose.

The purpose of this chapter is to regulate in the public interest, the service standards of cable communication systems within the City, in order to ensure that the service provided to subscribers within the City by cable television companies is reasonably sufficient to meet community needs.

16-28-2. Short Title.

This chapter shall constitute the "Cable Television Service Standards Ordinance" of the City and may be referred to as such.

16-28-3. Definition of Terms.

For the purposes of this chapter, the following terms, phrases, words, abbreviations and derivations shall have the following meaning. Terms not defined in this chapter shall have the meaning defined in the master cable communication ordinance. When not inconsistent with the context, words used in the present tense shall include the future tense, words in the plural number include the singular number and words in the singular number include the plural number.

(a) — "Cable service" means:

(1) — The one-way transmission to subscribers of video programming or other programming services; and

(2) — Any subscriber interaction required for the selection of such video programming or other programming service.

(b) — "Abandoned calls" means telephone calls that are connected to the grantee's general information number but the caller hangs up without being attended by a representative of the grantee or a device capable of problem resolution (e.g. placing a service request, placing a work order, directing a call to appropriate personnel, etc.). "Abandoned calls" shall in no event be deemed to include calls in which the caller hangs up within forty five seconds of making the call.

(c) — "Business hours" means at least eight hours between 8:00 a.m. through 7:00 p.m. Monday through Friday, provided that at least one hour must be between 5:00 p.m. and 7:00 p.m., and at least five hours between 8:00 to 5:00 Saturdays, except on legal holidays of the State of Utah.

16-28-4. Requirements.

(a) — Grantee shall maintain an office within 15 miles of the City where complaints and requests for repairs, adjustments, or billing matters may be received during business hours. The current local telephone number(s) for the office and

complaint service shall be listed in telephone directories distributed in grantee's service area.

- (b) — Grantee shall maintain an accurate and reasonably complete written record or "log" of system failures and customer complaints describing the date and nature of the action taken by grantee, and the resolution of the problem, and other data on requirements of Sections 16-28-5 and 16-28-6 collected or recorded by the grantee. These records shall be kept at grantee's local office for a period of at least three years and shall be available for inspection by the City during regular business hours.

16-28-5. System Service Standards.

- (a) — Grantee shall limit system failures to a minimum time duration by locating and commencing repair promptly. Grantee will generally respond to subscriber outages by the next business day, and if the problem is caused by grantee's equipment, it shall commence the repair by the next business day from the time a complaint is received and shall prosecute the repair promptly to completion where reasonably possible. In the event of a major system outage, however, such as where a majority of subscribers are without picture in twenty five percent or more of the service area, grantee will respond to such outages within twenty four hours after occurrence, irrespective of holidays or non-business hours.
- (b) — Grantee shall render efficient service making system repairs promptly, and interrupting service only for good cause and for the shortest time reasonably possible. Planned interruptions, insofar as possible, shall be preceded by twenty-four hours notice to subscribers, and shall occur during periods of minimum viewership.
- (c) — Subscribers shall not be required to pay for pay-per-view services for any service or significant part thereof which the customer fails to receive due to a failure of grantee's system or equipment. Subscriber shall be granted upon request a credit for interrupted service which exceeds four hours in any 24-hour period. The credit shall equal a prorated amount of the subscriber's total monthly bill for basic and optional or additional service and the total number of hours that the service is interrupted in excess of the four hours. For purposes of this subsection (c), the 24-hour period shall be counted from the receipt of notice from the customer of service interruption or degradation.

16-28-6. Subscriber Service Standards.

- (a) — All calls to the general information number shall be answered by an operator or a device identifying the grantee at all hours all days of the year. Grantee's officers and employees shall be polite and reasonably responsive to all subscribers, persons and inquirers who contact grantee.
- (b) — Subject to Section 16-28-9, eighty-five percent of all customer calls shall be attended within three minutes by a representative of the grantee or a device capable of problem resolution.
- (c) — The rate of abandoned calls shall be less than fifteen percent.
- (d) — Ninety-five percent of all customer installations shall be completed within fifteen working days (unless the customer requests a later date).

- (e) — Ninety-five percent of all repair and installation appointments shall be met by grantee on the appointed date, unless satisfactory arrangements are otherwise made with the subscriber. An appointment shall be considered to have been met by grantee if the subscriber fails to be present to allow grantee access on the appointed day and grantee confirms such absence by calling the subscriber's home telephone.
- (f) — The grantee shall provide the information required to monitor the standards in this section to the franchise authority on a quarterly basis except that if the grantee has no means of tracking abandoned calls, and if doing so will be a substantial expense, then it shall not be required to do so. The grantee shall be excused for not achieving these standards during periods when conditions exist which are outside of its reasonable ability to control, or when there are system interruptions, outages, or other activities designed to maintain or improve cable service or the system. The grantee shall notify the franchise authority in advance of any maintenance or improvement activity which grantee claims will make attainment of the standards impracticable.
- (g) — System staffing and equipment shall be such that not more than seven percent (7%) of telephone calls shall receive a busy signal on all grantee's incoming telephone lines during business hours in any calendar month except for a showing of good cause beyond grantee's reasonable control.

16-28-7. — Notice and Opportunity to Cure.

- (a) — In the event the grantee violates one or more material terms, conditions or provisions of this chapter, including but not limited to, Sections 16-28-5 and 16-28-6, the City shall give the grantee written notice detailing the nature of the alleged noncompliance. For violations of Section 16-28-6, the grantee shall have fifteen business days to cure the default, or if the default cannot reasonably be cured within fifteen business days, then the grantee shall have thirty days to initiate reasonable steps to remedy the default and notify the City of the steps being taken and the projected date that they will be completed. After initiating a remedy for a default, grantee shall prosecute the completion of the project through within a reasonable time. If the grantee disputes the assertion of noncompliance, it must notify the City in writing within five business days of the original notice, stating that it disagrees with the assertion of noncompliance, giving with particularity the reasons for disagreement.
- (b) — The Mayor or the Mayor's designee shall hear grantee's dispute at an executive hearing to be held in a timely manner.
- (c) — Upon a determination by the Mayor or the Mayor's designee that a violation exists, grantee shall have ten business days to cure the default or to take reasonable steps to remedy the default if it cannot be cured within ten business days.
- (d) — In the event that grantee fails to respond to the notice described in Section 16-28-7(a), or in the event that the default is not remedied within the time required, the City may, without further notice and in addition to any other applicable remedies, implement and collect the daily fines pursuant to Section 16-28-8.
- (e) — Should a subscriber have an unresolved complaint regarding the quality of cable service, equipment, or the matters contained in Chapters 16-27, 16-28 of this Code directly affecting the subscriber's service, then upon request for a meeting with the City and the grantee, the City representative appointed for such purpose may, at the City's

discretion, request a meeting with the subscriber and a representative of the grantee. The grantee shall then meet with the City representative and the subscriber within 30 days of receiving the request from the City at a time and place reasonably convenient to all parties.

16-28-8. Enforcement.

- (a) — For violation of a term of this chapter, subject to the provisions of Section 16-28-7, the grantee shall pay a fine determined by the City up to two hundred fifty dollars per day, or part thereof, for the first day that such violation continues from and after implementation of the daily fines, pursuant to Section 16-28-7(d). The fine shall increase weekly up to an amount determined by the City of an additional two hundred fifty dollars per day to a maximum of one thousand dollars per day. Grantee shall pay the fine or penalty directly or by notifying the City to draw down the security deposit held by the City pursuant to the cable communication ordinance. If the grantee fails to pay the penalty or notify the City to draw down on the security deposit within seven days of notification of the implementation of daily fines, the City may proceed immediately to draw down on the security deposit.
- (b) — Nothing contained in this chapter shall preclude the exercise of any other right or remedy of the City available at law or equity.
- (c) — Grantee shall have a reasonable time from the time of the renewal of a franchise hereunder up to a year to comply with the provisions of this chapter.

16-28-9. Three Year Review and Modification.

- (a) — Every three years after the adoption of the ordinance codified in this chapter, the City and grantee shall undertake a survey within the service area of cable subscribers designed to measure cable subscriber satisfaction of the customer service practices of the grantee. Such survey shall be at grantee's sole expense, in a form mutually acceptable to the City and grantee.
- (b) — In the event that the survey demonstrates that the customer service practices set forth in Section 16-28-6(b) hereof are insufficient to meet the reasonable community needs in light of the anticipated costs thereof, then the percentage set forth in Section 16-28-6 relating to the attending of customer calls shall automatically be deemed to increase by an amount sufficient to meet such community needs. It shall be a rebuttable presumption that such percentage increase shall be three percent for each three year review period. In no event will the percentage in Section 16-28-6(b) be greater than ninety percent.
- (c) — Nothing in this chapter shall limit the City's and the grantee's ability to reduce the percentage set forth in Subsection 16-28-6(b) except that no reduction may be allowed below the eighty-five percent initial standard. If, based upon the survey results, a decrease in such percentage is demonstrated to be sufficient to meet the community needs, upon a request of grantee, the City shall not unreasonably refuse to reduce such percentage.

16-28-10. Notices.

Any and all notices between to the City or the grantee herein provided for or permitted under this chapter or by law shall be in writing and shall be deemed duly served when deposited in the United

States mail, certified, postage prepaid, return receipt requested, addressed to grantee or the City at the address of each at the time of the granting of a franchise, or at such other address specified by the City or the grantee in a notice given pursuant to this Section as the address for service of notice on it. For purposes of this section, the grantee's office shall include both its local and national office addresses. However, failure by the City to provide notice to both offices by inadvertence or neglect shall not be a basis for a claim against the City, or a defense against City action under this Chapter. If the grantee changes its address during the term of its franchise, then it shall publish in notice thereof in a newspaper of local general circulation at least twice.

16-28-11. Miscellaneous Provisions.

- (a) — Preemption. If any Federal or State body of agency shall preempt and supersede or preclude the jurisdiction of the franchise authority, the jurisdiction of the franchise authority shall cease while such jurisdiction is preempted, superseded or precluded.
- (b) — Severability. If any section, sentence, paragraph, term or provision hereof is for any reason determined to be illegal, invalid, superseded by other authority or unconstitutional by any court of common jurisdiction or by any State or Federal regulatory authority having jurisdiction thereof, such portion shall be deemed a separate, distinct, and independent provision and such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the franchise or any renewal or renewals thereof.
- (c) — Franchise Authority Rules. The City may adopt, in addition to the provisions herein contained in this and other applicable ordinances, such additional regulations as it may find necessary in the exercise of the police power. Any such additional regulations shall be reasonably designed to meet the purposes of this chapter and shall be adopted only after notice and comment are provided.
- (d) — Applicability to Existing Franchise. This Chapter shall apply to an existing franchise or grantee only to the extent allowed by Federal and State law.

Chapter 29 — CABLE COMMUNICATIONS FRANCHISE GRANT — INSIGHT

16-29-1. Grant.

Having determined that the financial, legal, and technical ability of Insight Communications Company, LP, a Delaware limited partnership ("Insight"), whose local address is 9075 South 700 West, Sandy, Utah 84070, is reasonably sufficient to provide cable television to the community, Insight is hereby granted a nonexclusive franchise which authorizes Insight to construct, operate, and maintain a cable communications system in that part of Sandy City on the east side of the heavy line dividing the City between Insight and T.C.I. Cable Television of Utah, as shown on the map of the City in **Exhibit A**, attached hereto, except for service to the address of 713 East 10345 South, and except for service to, between, and along feeder cable serving the following addresses on Peony Way (725 East): 10106 S., 10118 S., 10128 S., 10138 S., 10148 S., 10158 S., 10168 S., 10178 S., 10188 S., 10198 S., 10208 S., 10218 S., 10228 S., 10238 S., 10248 S., 10258 S., 10268 S., 10278 S., 10288 S., 10298 S., 10308 S., 10318 S., 10328 S.; according to the requirements and privileges contained in the master cable communication ordinance, Chapter 16-27 of the Revised Ordinances of Sandy City (R.O.S.C.), the Cable Television Service Standards Ordinance, Chapter 16-28, R.O.S.C., and other related ordinances of the City as they may be amended from time to time.

16-29-2. Term.

The Insight franchise shall be for a term of fifteen (15) years from the effective date of the ordinance codified in this chapter unless lawfully terminated or extended pursuant to the cable communication ordinance or other related ordinances of the City.

16-29-3. Contract.

The City and Insight may enter into a franchise agreement mutually agreeable to the parties in lieu of subjecting Insight to the terms of this chapter, the cable communication ordinance and the cable television service standards ordinance.

16-29-4. Surety Bond in Lieu of Security Fund.

Pursuant to the terms of Subsection 26-37-30(d), grantee may post a surety bond reasonably acceptable to the City in lieu of the deposit of a security fund.

16-29-5. Services.

The initial service offerings of Insight and rates related thereto are attached to the ordinance codified in this chapter as Schedule 1 and on file in the office of the City Recorder. Nothing contained in the franchise grant shall be deemed to preclude Insight from adding, deleting, modifying or otherwise offering or changing any of its services, channel locations, levels of service, or rates relating thereto throughout the term of the franchise.

~~16-29-6. Most Favored Franchise.~~

In the event that another cable television operator obtains a franchise from the City, any term of which is more favorable to that other operator than the terms of the franchise are to this grantee, then this grantee's franchise shall be modified to include such more favorable term, except for the following cases:

- ~~(a) — Where the more favorable term of the other franchise is specifically related to the other grantee's performance;~~
- ~~(b) — Where the more favorable term of the other franchise is specifically related to the cable-related community needs and interests of that grantee's service area;~~
- ~~(c) — Where the less favorable term of the franchise is specific to this grantee's performance or the community needs and interests of this grantee's service area.~~

~~16-29-7. Effective Date, Acceptance of Franchise.~~

- ~~(a) — Effective Date, Acceptance. The franchise, together with the rights, privileges and authority granted thereby, shall take effect and be in force immediately upon adoption by the City Council, and compliance by the grantee within ten (10) days hereof with the following requirements:
 - ~~(1) — Grantee shall file with the City Recorder an acceptance of the franchise grant and promise to comply with and abide by all of the provisions, terms and conditions of this Chapter, and Chapters 16-27 and 16-28 to the extent grantee may legally do so. Such acceptances and promises shall be in writing duly executed and sworn to, by or on behalf of grantee before a notary public or other officer authorized by law to administer oaths.~~
 - ~~(2) — Grantee shall file with the City a certificate of insurance required in Section 16-27-29.~~~~
- ~~(b) — No inducements, coercion. Grantee, by accepting the franchise, acknowledges that it has not been induced to accept the franchise by any understanding, promise or other statement, whether verbal or written, by or on behalf of the City concerning any term or condition of the franchise, nor by any coercion or threats.~~
- ~~(c) — Grantee accepts terms of franchise. Grantee, by acceptance of the franchise, acknowledges that it has thoroughly examined and is familiar with the terms and conditions of the franchise.~~

~~Chapter 30 CABLE COMMUNICATIONS FRANCHISE GRANT TCI~~

~~16-30-1. Grant.~~

Having determined that the financial, legal, and technical ability of TCI Cablevision of Utah, Inc., herein called "TCI", 1369 E. 10600 South, Sandy 84092, with a head corporate office address of P.O. 5630, Denver, Colorado 80217-5630, is reasonably sufficient to provide cable television to the community, TCI is hereby granted a nonexclusive franchise which authorizes TCI to construct, operate, and maintain a cable communications system in that part of Sandy City on the east side of the heavy line dividing the City between TCI just as Insight Communications Company, LP, ("Insight") or its successor in interest; and Insight provides service to the west side of the heavy line, as shown on the map of the City in **Exhibit A**, attached hereto, pursuant to Insight's franchise in Chapter 16-30, Revised Ordinances of Sandy City, except that TCI may provide cable service on the west side of the heavy line to Western Rehabilitation Institute located at 8074 S. 1300 E., according to the requirements and privileges contained in the master cable communication ordinance, Chapter 16-27 of the Revised Ordinances of Sandy City (R.O.S.C.), the Cable Television Service Standards Ordinance, Chapter 16-28, R.O.S.C., and other related ordinances of the City as they may be amended from time to time.

~~16-30-2. Effective Date, Term.~~

The effective date of the franchise shall be May 15, 1993. The TCI franchise shall be for a term of fifteen (15) years from the effective date of the ordinance codified in this chapter unless lawfully terminated or extended pursuant to the cable communication ordinance or other related ordinances of the City.

~~16-30-3. Contract.~~

The City and TCI may enter into a franchise agreement mutually agreeable to the parties in lieu of subjecting TCI to the terms of this chapter, the cable communication ordinance and the cable television service standards ordinance.

~~16-30-4. Surety Bond in Lieu of Security Fund.~~

Pursuant to the terms of Subsection 26-37-30(d), grantee may post a surety bond reasonably acceptable to the City in lieu of the deposit of a security fund.

~~16-30-5. Services.~~

The initial service offerings of TCI and rates related thereto are attached to the ordinance codified in this chapter as Schedule 1 and on file in the office of the City Recorder. Nothing contained in the franchise grant shall be deemed to preclude TCI from adding, deleting, modifying or otherwise offering or changing any of its services, channel locations, levels of service, or rates relating thereto throughout the term of the franchise.

16-30-6. Most Favored Franchise.

In the event that another cable television operator obtains a franchise from the City, any term of which is more favorable to that other operator than the terms of the franchise are to this grantee, then this grantee's franchise shall be modified to include such more favorable term, except for the following cases:

- (a) ~~Where the more favorable term of the other franchise is specifically related to the other grantee's performance;~~
- (b) ~~Where the more favorable term of the other franchise is specifically related to the cable-related community needs and interests of that grantee's service area;~~
- (c) ~~Where the less favorable term of the franchise is specific to this grantee's performance or the community needs and interests of this grantee's service area.~~

16-30-7. Effective Date, Acceptance of Franchise.

- (a) ~~Effective Date, Acceptance. The franchise, together with the rights, privileges and authority granted thereby, shall take effect and be in force beginning May 15, 1993 at 12:01 a.m., provided that a summary of this ordinance be published in a local newspaper of general circulation as required by law, and provided that grantee comply within fifteen (15) days of the passage of this ordinance with the following requirements:~~
 - (1) ~~Grantee shall file with the City Recorder an acceptance of the franchise grant and promise to comply with and abide by all of the provisions, terms and conditions of this Chapter, and Chapters 16-27 and 16-28 to the extent grantee may legally do so. Such acceptances and promises shall be in writing duly executed and sworn to, by or on behalf of grantee before a notary public or other officer authorized by law to administer oaths.~~
 - (2) ~~Grantee shall file with the City a certificate of insurance required in Section 16-27-29, R.O.S.C.~~
- (b) ~~No inducements, coercion. Grantee, by accepting the franchise, acknowledges that it has not been induced to accept the franchise by any understanding, promise or other statement, whether verbal or written, by or on behalf of the City concerning any term or condition of the franchise, nor by any coercion or threats.~~
- (c) ~~Grantee accepts terms of franchise. Grantee, by acceptance of the franchise, acknowledges that it has thoroughly examined and is familiar with the terms and conditions of the franchise.~~