

CHAPTER 9

CABLE TELEVISION

ARTICLE I – FRANCHISE

9-1-1 **TITLE.** This Chapter shall be known and may be cited as Cable TV Franchise.

9-1-2 **PREAMBLE.** This Chapter was passed after a full, open and public hearing upon prior notice and opportunity of all interested parties to be heard and upon careful consideration of Cass Cable TV, Inc.'s qualifications; including its legal, character, financial and technical qualifications, and the adequacy and feasibility of its construction arrangements.

9-1-3 **DEFINITIONS.** For the purpose of this Chapter, and when not inconsistent with the context, words used herein in the present tense include the future; words in plural include the singular, and vice versa. The word "**shall**" is always mandatory. The captions have no force of law, are not part of the section, and are not to be used in construing the language of the section. The following terms and phrases, as used herein, shall be given the meaning set forth below:

(A) "**City**" is the City of Mt. Sterling, a municipal corporation under the laws of the State of Illinois.

(B) "**Grantee**" is Cass Cable TV, Inc. a corporation organized and existing under the laws of the State of Illinois, and it is the grantee of rights under this franchise.

(C) "**City Council**" is the City Council of the City of Mt. Sterling or its designated representative.

(D) "**Federal Communications Commission**" or "**FCC**" is the present Federal agency of that name as constituted by the Communications Act of 1934, or any successor agency created by the United States Congress.

(E) "**Person**" is any individual, firm, partnership, association, corporation, company or organization of any kind.

(F) "**Gross Subscriber Revenues**" shall include any and all compensation or receipts derived by Grantee from installation, disconnection and re-installation charges and periodic service charges in connection with the carriage of broadcast signals and Federal Communications Commission mandated non-broadcast services within the City, but shall not include any refunds or credits made to subscribers or any taxes imposed on the services furnished by Grantee. Nor shall it include revenue from "ancillary" or "auxiliary" services, which include, but are not limited to, advertising, leased channels, and programming supplied on a per program or per channel charge basis, if any.

(G) "**Regular Subscriber Services**" shall include the carriage of broadcast signals and FCC mandated non-broadcast services, but shall not include "ancillary" or "auxiliary" services, which include, but are not limited to, advertising, leased channels, and programming supplied on a per program or per channel charge basis, if any.

9-1-4 **GRANT OF AUTHORITY.** There is hereby granted by the City to Grantee the right and privilege to construct, erect, operate and maintain in, upon, along, across, above, over or under the streets, alleys, easements, public ways and public places now laid out or dedicated and all extensions thereof and additions thereto in the City, all poles, wires, cables, underground conduits, manholes and other conductors and fixtures necessary for the maintenance and operation in the City of a cable television system for the transmission of television signals and other signals either separately or upon or in conjunction with any public utility maintaining the same in the City with all of the necessary and desirable appliances and appurtenances pertaining thereto. Without limiting the generality of the foregoing, this franchise and grant shall and does hereby include the right in, over, under and upon the streets, sidewalks, alleys, easements and public ground and places in the City to install, erect, operate or

in any way acquire the use of, as by leasing or licensing, all lines and equipment necessary to a cable television, all lines and equipment necessary to a cable television system and the right to make connections to subscribers and the right to repair, replace, enlarge and extend said lines, equipment and connections. The rights herein granted for the purposes herein set forth shall not be exclusive, and the City reserves the right to grant a similar use of said streets, alleys, easements, public ways and places to any person at any time during the period of this franchise; provided that nothing contained herein shall be deemed to require the granting of additional CATV franchises if, in the opinion of the City Council, it is in the public interest to restrict such franchises to one or more.

9-1-5 POLICE POWER. Grantee shall at all times during the term of this franchise be subject to all lawful exercise of the police power of the City. The right is hereby reserved to the City to adopt, in addition to the provisions herein contained any other existing applicable ordinances, such additional applicable ordinances as it shall find necessary in the exercise of its police power; provided that such additional ordinances shall be reasonable, shall not conflict with or alter in any manner the rights granted herein, and shall not conflict with the laws of the State of Illinois, the laws of the United States of America, or the rules of the Federal Communications Commission.

9-1-6 INDEMNIFICATION. Grantee shall save the City harmless from all loss sustained by the City on account of any suit, judgment, execution, claim or demand whatsoever against the City resulting from negligence on the part of Grantee in the construction, operation, or maintenance of its cable television system in the City; and for this purpose, Grantee shall carry property damage and personal injury insurance with some responsible insurance company or companies qualified to do business in the State of Illinois. The amounts of such insurance to be carried for liability due to property damage shall be **One Hundred Thousand Dollars (\$100,000.00)** as to any one occurrence; and against liability due to injury to or death of persons, **Three Hundred Thousand Dollars (\$300,000.00)** as to any one person and **Twenty-Five Thousand Dollars (\$25,000.00)** as to any one occurrence. The City shall notify Grantee, in writing, 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 Grantee. Where any such claim or demand against the City is made by suit or other legal action, written notice thereof shall be given by the City to Grantee. Failure by the City to properly notify Grantee in accordance with the foregoing of any such claim suit, or demand against the City shall release Grantee from its obligation to indemnify the City as provided herein.

9-1-7 COMPLAINT PROCEDURE. Grantee shall maintain a business office or a toll-free telephone listing in the City for the purpose of receiving inquiries and complaints from its customers and the general public. Grantee shall investigate all complaints within **five (5) days** of their receipt and shall in good faith attempt to resolve them swiftly and equitably. The following City official shall be responsible for receiving and acting upon any unresolved complaints: Mayor. Written notice of this complaint procedure, including the identity of the City official responsible for receiving unresolved complaints, shall be given to each subscriber at the time of initial subscription to the cable system.

9-1-8 CONSTRUCTION AND MAINTENANCE.
(A) All structure, lines and equipment erected by Grantee within the City shall be so located as to cause minimum interference with the proper use of streets, alleys, easements, and other public ways and places and to cause minimum interference with the rights or reasonable convenience of property owners, and Grantee shall comply with all reasonable, proper and lawful ordinances of the City now or hereafter in force. Existing poles, posts, conduits and other such structures of any electric power system, telephone company or other public utility located in the City shall be made available to Grantee for leasing or licensing upon reasonable terms and rates and shall be used to the extent practicable in order to minimize interference with travel and avoid unnecessary duplication of facilities. The City shall

actively assist Grantee to the fullest extent necessary in obtaining reasonable joint pole or conduit use agreements from the owner as existing poles or conduits.

(B) In case of any disturbance by Grantee of pavement, sidewalk, driveway or other surfacing, Grantee shall, at its own cost and expense and in a manner approved by the City, replace and restore all paving, sidewalk, driveway or surface so disturbed in as good condition as before said work was commenced.

(C) In the event that at any time during the period of this franchise the City shall lawfully elect or alter or change any street, alley, easement, or other public way requiring the relocation of Grantee's facilities, then in such event Grantee, upon reasonable notice by the City, shall remove, relay and relocate the same at its own expense; provided, however, that where public funds are available for such relocation pursuant to law, Grantee shall not be required to pay the cost.

(D) Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its lines to permit the moving of the building. The expense of such temporary removal shall be paid by the person requesting the same, and the Grantee shall have the authority to require such payment in advance.

(E) Grantee shall have the authority to trim trees upon and overhanging all streets, alleys, easements, sidewalks, and public places of the City so as to prevent the branches of such trees from coming into contact with Grantee's facilities.

(F) All poles, lines, structures and other facilities of Grantee in, or over and under the streets, sidewalks, alleys, easements and public grounds or places of the City shall be kept by Grantee at all times in a safe and substantial condition.

(G) Should any construction be necessary for Grantee to provide the cable television service authorized by this franchise, a significant portion of such construction (at least **twenty percent (20%)**) shall be accomplished within **one (1) year** after the effective date of this Code, or if FCC certification is required prior to implementation of the cable television service authorized by this franchise, within **one (1) year** after the effective date of the grant by the FCC of the necessary certification. Thereafter, Grantee shall equitably and reasonably proceed to complete the necessary construction at a rate of not less than **twenty-one percent (21%)** per year of the total construction authorized by this franchise.

9-1-9 **PAYMENTS TO THE CITY.** The Company shall, during each year of operation under this franchise, pay to the City, **three percent (3%)** of the annual gross subscriber revenues excluding pay TV service charges received by the Company for cable television services rendered to customers located within the City. At the time of this annual payment, the Company shall furnish the City with an annual report showing the Company's annual gross subscriber revenues during the preceding year and such other information as the City shall reasonably request with respect to properties and expenses related to the Company's services within the City for such period.

9-1-10 **FCC RULES APPLICABLE.** This franchise is governed by and subject to all applicable rules and regulations of the Federal Communications Commission, specifically including Part 76, and by the laws of the State of Illinois. Should there be any modifications of the provisions of Section 76.31 of the Rules and Regulations of the Federal Communications Commission which must be incorporated into this franchise, the City and Grantee agree that such incorporation shall be accomplished within **one (1) year** after the effective date of the FCC's adoption of the modification or upon renewal of this franchise, whichever occurs first.

9-1-11 **FRANCHISE TERM.** This franchise shall take effect and be in full force from and after acceptance by Grantee as provided in **Section 9-1-17**, and the same shall continue in full force and effect for a term of **fifteen (15) years**; provided, however, that should FCC certification be necessary prior to implementation of the cable television service contemplated under this franchise, then the term shall begin upon the effective date of the grant by the FCC of the necessary certification.

9-1-12 RENEWAL PROCEDURE. Grantee shall have the option to request renewal of this franchise for an additional period not to exceed **fifteen (15) years**. Should Grantee desire to exercise this option, it shall so notify the City, in writing, not less than **three (3) months** prior to expiration of this franchise. Upon exercise of this option by Grantee, the City shall conduct a full, open, and public renewal proceeding upon prior notice and opportunity of all interested parties to be heard. The renewal proceeding shall be held for the purpose of considering Grantee's performance under this franchise. Renewal shall not be unreasonably denied and shall be granted unless Grantee is found to be unqualified to continue operation of this cable television system. If this franchise is renewed by the City, all of the terms and provisions contained herein shall be controlling during the renewal period, except to the extent that said terms and provisions are modified by the City, or unless this franchise is superceded by a new franchise. Should the City, for any reason, be unable to complete the renewal proceeding prior to expiration of this franchise, Grantee shall have the right to continue operation of this cable television system pursuant to the terms of this franchise until such time as the renewal proceeding is concluded. Should the City deny renewal of this franchise, such denial shall be accompanied by a written statement setting forth the reasons for the denial. Grantee shall have the right to request review of any such denial by any court of competent jurisdiction. Furthermore, in the event that the City denies renewal, Grantee shall be afforded a period of **six (6) months** following denial within which to sell, transfer, or convey this cable television system to a qualified purchaser at fair market value. During this **six (6) month** period, which shall run from the effective date of the final order or decision denying renewal, including any appeal, Grantee shall have the right to operate this cable television system pursuant to franchise.

9-1-13 FORFEITURE. If Grantee should violate any of the terms, conditions or provisions of this franchise or if Grantee should fail to comply with any reasonable provisions of any ordinance of the City regulating the use by Grantee of the streets, alleys, easements or public ways of the City, and should Grantee further continue to violate or fail to comply with the same for a period of **thirty (30) days** after Grantee shall have been notified in writing by the City to cease and desist from any such violation or failure to comply so specified, then Grantee may be deemed to have forfeited and annulled and shall thereby forfeit and annul all the rights and privileges granted by this franchise; provided that such forfeiture shall be declared only by written decision of the City Council after an appropriate public proceeding before the City Council affording Grantee due process and full opportunity to be heard and to respond to any such notice of violation or failure to comply; and provided further that the City Council may, in its discretion and upon a finding of violation or failure to comply, impose a letter penalty than forfeiture of this franchise or excuse the violation or failure to comply upon a showing by Grantee of mitigating circumstances. Grantee shall have the right to appeal any finding of violation or failure to comply and any resultant penalty to any court of competent jurisdiction. In the event that forfeiture is imposed upon Grantee, it shall be afforded a period of **six (6) months** within which to sell, transfer, or convey this cable television system to a qualified purchaser at fair market value. During this **six (6) month** period, which shall run from the effective date of the final order or decision imposing forfeiture, including any appeal, Grantee shall have the right to operate this cable television system pursuant to the provisions of this franchise.

9-1-14 SURRENDER RIGHT. Grantee may surrender this franchise at any time upon filing with the City Clerk of the City a written notice of its intention to do so at least **three (3) months** before the surrender date. On the surrender date specified in the notice, all of the rights and privileges and all of the obligations, duties and liabilities of Grantee in connection with this franchise shall terminate.

9-1-15 TRANSFERS. All of the rights and privileges and all of the obligations, duties and liabilities created by this franchise shall pass to be binding upon the successors of the City and successors and assigns of Grantee; and the same shall not be assigned or transferred without the written approval of the City Council, which approval shall not be unreasonably withheld; provided, however, that this Section shall not prevent the assignment of the franchise by Grantee as security for debt without such approval; and provided further that transfers or assignments of this franchise between any parent

and subsidiary corporation or between entities of which at least **fifty percent (50%)** of the beneficial ownership is held by the same person, persons, or entities shall be permitted without the prior approval of the City Council.

9-1-16 RECEIVER SALES PROHIBITED. As a condition of this franchise, Grantee agrees that it shall not engage in the business of sales or repair of television receivers owned by its subscribers; nor shall it be responsible for the operating condition of said receivers; provided, however, that this paragraph shall not apply to converters, decoders, home interactive terminals and other such devices as may be used in furnishing any programming or service via Grantee's cable television system.

9-1-17 ACCEPTANCE. This Code shall become effective when accepted by Grantee and shall then be and become a valid and binding contract between the City and Grantee; provided that this Code shall be void unless Grantee shall, within **ninety (90) days** after the final passage of this Code, file with the City Clerk of the City a written acceptance of this Code and the franchise herein granted, agreeing that it will comply with all of the provisions and conditions hereof and that it will refrain from doing all of things prohibited by this Code.

9-1-18 UNLAWFUL ACTS.

(A) It shall be unlawful for any person to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of Grantee's cable television system for the purpose of enabling himself or others to receive any television signals, radio signals, pictures, programs, sounds, or any other information or intelligence transmitted over Grantee's cable system without payment to Grantee or its lessee.

(B) It shall be unlawful for any person, without the consent of the owner, to willfully tamper with, remove, or injure any cable, wires, or other equipment used for the distribution of television signals, radio signals, pictures, programs, sounds, or any other information or intelligence transmitted over Grantee's cable system.

(C) It shall be a misdemeanor punishable by a fine or not more than **Five Hundred Dollars (\$500.00)**, or by imprisonment for a term not to exceed **six (6) months**, or both, for any person to violate any of the provisions of this Section.

9-1-19 SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of the Code is for any reason held invalid or unconstitutional by any Federal or state court or administrative or governmental agency of competent jurisdiction, specifically including the Federal Communications Commission, such portion shall be deemed a separate, distinct and independent provision, and such holding shall affect the validity of the remaining portions thereof.

9-1-20 EFFECTIVE DATE. The Code shall become effective upon acceptance by Grantee as provided in **Section 9-1-17**. The effective date shall be the date upon which the written acceptance provided for in **Section 9-1-17** is received by the City Clerk.

(Ord. No. 91-06; 01-11-91)

ARTICLE II – FIBER OPTIC SERVICES

9-2-1 **TITLE.** This Agreement and Article shall be known and cited as the “Fiber Optic Services Agreement.”

9-2-2 **DEFINITIONS.** For the purposes of this Agreement, the following terms, phrases, words and their derivations shall have the meaning as given herein. When not inconsistent with the context, words and the singular number include the plural number; the word “shall” is always mandatory and not merely directory. The word “may” is always directory and discretionary and not mandatory.

(A) **Television Service** means any service tier, which includes the lawful retransmission of local television broadcast signals and any public, educational, and governmental access programming required by the franchise to be carried on the basic tier.

(B) **Board of Trustees or City Council** means the governing body or board of the City.

(C) **Cable** means fiber transmission line buried underground or hung on poles that can carry the system.

(D) **Converter** means an electronic device which converts signals to a frequency acceptable to a television receiver of a Subscriber and by an appropriate selector permits a Subscriber to view all subscriber signals included in the service. It also includes any converters, modems, or the like for the provision of internet service.

(E) **County** means County of Brown, a municipal corporation, in the State of Illinois, acting by and through its City Council.

(F) **Drop** means the cable that connects the ground block on the Subscriber’s residence to the nearest feeder cable of the System.

(G) **FCC** means the Federal Communications Commission and any legally appointed, designated or elected agent or successor.

(H) **Internet Service** means the connection of subscriber to the world wide web.

(I) **Installation** means the connection of the System from feeder cable to the point of connection, including Standard Installations and custom installations.

(J) **Lockout Device** means an optional mechanical or electrical accessory to a Subscriber’s terminal which inhibits the viewing of a certain program, certain channel, or certain channels provided by way of the Fiber Optic System.

(K) **Person** is any person, firm, partnership, association, corporation, ADAMS, or other legal entity.

(L) **Standard Installation** means any residential installation, which can be completed using a Drop of **one hundred fifty (150) feet** or less.

(M) **Street** means the surface of, and the space above and below, any public Street road, highway, freeway, lane, alley, path, court, sidewalk, parkway, or drive, or any easement or right-of-way now or hereafter held by City.

(N) **Subscriber** means any Person who lawfully receives services. In the case of multiple office buildings or multiple dwelling units, the “Subscriber” means the lessee, tenant or occupant.

(O) **Video Programming** means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

(P) **Gross Revenues** means all gross revenues received by Grantee from subscribers for the provision of cable service within the franchise area. Gross revenues shall include subscription fees and fees or charges for cable services. Gross revenues shall not include any installation fees, reconnect fees, transfer charges, refunds to subscribers, bad debt actually incurred, revenues from Cable Modem Services, franchise fees, advertising revenues, copyright fees, late fees, fees itemized and passed through as franchise compliance fees, or any taxes or other governmental fees imposed directly on subscribers. **(Ord. No. 2018-8; 05-21-18)**

9-2-3 GRANT OF AUTHORITY AND GENERAL PROVISIONS.

(A) **Franchise Required.** It shall be unlawful for any person to construct, operate or maintain a Fiber Optic System ("System") in City, unless such person or the person for whom such action is being taken shall have first obtained and shall currently hold a valid Franchise Ordinance. It shall also be unlawful for any person to provide System service in the City unless such person shall have first obtained and shall currently hold a valid Franchise Ordinance. All System franchises granted by City shall contain terms and conditions as required by state statute.

The City shall have the right to inspect all construction or installation work performed pursuant to the provisions of this Agreement and to make such tests at its own expense as it shall find necessary to insure compliance with the terms of this Agreement and applicable provisions of local, state, and federal law.

ADAMS shall, on request of any person holding a moving permit issued by City, temporarily move its wires or fixtures to permit the moving of building with the expense of temporary removal to be paid by the person requesting the same, and ADAMS shall be given not less than **ten (10) days** advance notice to arrange for such temporary changes.

(B) **Grant of Franchise.** In consideration of the faithful performance and observance of the conditions and reservations hereinafter set forth, there is hereby granted to ADAMS, its successors, assigns or designees a non-exclusive right to erect, install, construction, reconstruction, replace, remove, repair, maintain and operate in or upon, under, above, across and from the Streets, avenues, highways, bridges and other public ways, easements, rights of way and lands, as now existing and all extensions thereof and additions thereto, in the City of Mt. Sterling, Brown County, Illinois, including the right to install and use thereon all equipment, facilities, appurtenances and apparatus of any nature, for the purpose of providing System Service in accordance with the laws of the United States of America and the State of Illinois (hereinafter referred to as "Franchise" or "Agreement"). This provision shall in no manner infringe on the rights of any individual to construct or install any communications equipment for private use by such individual.

The Franchise granted by this Agreement to provide System Service is non-exclusive for the territory contained within the corporate boundaries of City as it exists from time to time. In the event of annexation by City, or as development occurs, any new territory shall become part of the area covered.

9-2-4 DURATION. The Franchise and rights herein shall take effect and be in force and after the passage and approval of this Agreement, as required by law, and shall continue in force for so long as ADAMS provides system Service under this Agreement, at any rate not to exceed **twenty-five (25) years** following the effective date of this indenture.

At the option of ADAMS, this Agreement may be renewed on the same terms and conditions for an additional **twenty-five (25) years**, provided, however, that the City and ADAMS may agree to modify the terms of the Agreement by further mutual written agreement and in accordance with applicable federal, state and local laws and regulations.

ADAMS and City may agree from time to time to amend this Agreement. Such written amendments may be made at any time if City and ADAMS agree that such an amendment will be in the public interest or if such an amendment is required due to changes in federal, state or local laws and the same amendments are offered to any competing cable television franchises in the City. Amendments shall be made in accordance with local law pertaining to the amendment process.

9-2-5 REGULATIONS. ADAMS shall have authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable ADAMS to exercise its rights and perform its obligations under this Article, and to assure uninterrupted service to each and all of its customers, provided, however, that such rules, regulations, terms and conditions shall not conflict with the provisions hereof. Copies of such rules, regulations, terms and conditions adopted by ADAMS shall be available for inspection at its local office.

9-2-6 INSTALLATION AND MAINTENANCE OF EQUIPMENT.

(A) **General Public.** ADAMS plant and equipment shall be installed with materials of good and durable quality and all work involved in construction, installation, maintenance and repair of the fiber optic system shall be performed in a safe, thorough and reliable manner.

ADAMS agrees to conform to all orders, rules and regulations of any and all municipal, state or federal departments, boards, commissions and agencies, now existing or hereafter created, affecting said installations, and will, at its own expense and cost promptly execute and comply with all laws, rules and regulations and ordinances now in force or hereafter enacted, which will rightly affect the installation of a fiber optic system.

Any and all Streets or public property or private property, which are disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance or reconstruction of the System shall be promptly and fully restored by ADAMS, at its expense, to a condition as good as that prevailing prior to ADAMS work, as approved by City in the case of Streets and other public property, which approval shall not be unreasonably withheld. ADAMS shall not be required to repair portions of Streets or public property not disturbed or damaged if repairing the disturbed or damaged portion returns the Street or public property to the same condition as prevailing to ADAMS work. If ADAMS shall fail to promptly perform the restoration required herein, City shall have the right to put the Streets, public, or private property back into good condition. City reserves its rights to pursue reimbursement for such restoration from ADAMS.

If at any time during the period of this Franchise, City shall elect to alter, or change the grade or location of any Street alley or other public way, ADAMS shall, at its own expense, upon reasonable notice by City, remove and relocate its poles, wires, cables, conduits, manholes and other fixtures of the System, and in each instance comply with the standards and specifications of City. If City reimburses other occupants or uses of the streets, alleys, or other public ways, ADAMS shall be likewise reimbursed.

ADAMS shall procure, prior to construction and commencement of operation, such permits as are required by law from Federal or State regulatory bodies.

ADAMS does hereby agree that at the expiration of the term of this Agreement, it will surrender such premises, which do belong to the City in as good condition as now existing, with the proper allowance and exception for the ordinary and necessary wear and tear, and ADAMS will remove any poles which it may erect in the service area.

ADAMS shall have the authority to trim trees upon and overhanging Streets, alleys, sidewalks and public places in the service area so as to prevent the branches of such trees from coming in contact with the wires and cables of ADAMS. All trimming is to be done after notification to the City and at the expense of ADAMS. However, said authority shall not be construed in any manner whatsoever to relieve the City of any of its obligations relative to trimming of trees.

There is hereby granted the further right, privilege and authority to ADAMS to lease, rent or in any other manner obtain the use of towers, poles, lines, cables and other equipment and facilities from any and all holders of public licenses and franchises within the service area, subject to all existing and future ordinances, local laws and regulations of the City.

9-2-7 LIABILITY. ADAMS shall indemnify the City for, and hold it harmless from, all liability, damage, cost or expense, including but not limited to, attorney fees, arising from claims of injury to Persons or damage to property, which may arise out of or be caused by the erection, construction, replacement, removal, maintenance and operations of ADAMS System, and resulting from or by any negligence, fault or misconduct on the part of ADAMS, its agents, officers, servants and employees. Any property of City damaged or destroyed in connection with the construction or operation of the System shall be promptly repaired or replaced by ADAMS and restored to serviceable condition.

ADAMS shall carry a general comprehensive liability insurance policy with the following limits:

Bodily injury, including death	\$1,000,000 for any one person and \$3,000,000 for two or person in any one occurrence
Property damage	\$1,000,000 to any one person and \$3,000,000 for property damage resulting from any one act or occurrence

In addition, ADAMS shall carry Workmen's Compensation insurance as provided by the laws of Illinois.

ADAMS shall furnish to City a certificate of such insurance indicating that said insurance may only be cancelled upon **thirty (30) days'** notice in writing to City.

Nothing in this Agreement relieves a Person from liability arising out of the failure to exercise reasonable care to avoid injuring ADAMS facilities while performing work connected with grading, regarding, or changing the fine of a Street or public place or with the construction or reconstruction of a sewer or water system.

In order for City to assert its rights to be indemnified, defended, and held harmless, City must with respect to each claim:

(A) Promptly notify ADAMS in writing of any claim or legal proceeding which gives rise to such right;

(B) Afford ADAMS the opportunity to participate in and fully control any compromise, settlement or other resolution or disposition of any claim or proceeding; and

(C) Fully cooperate with reasonable requests of ADAMS, at ADAMS expense, in its participation in, and control, compromise, settlement or resolution or other disposition of such claim or proceeding subject to Paragraph 8 above.

9-2-8 REVOCATION. If ADAMS shall (i) fail to comply with any of the provisions of this Agreement, (ii) default in any of its obligations hereunder, except for causes beyond the reasonable control of ADAMS, (iii) practice fraud or deceit upon a City subscriber or City shall have the right to cancel this Agreement if, after **thirty (30) days** written notice, such failure, deceit or default has not been corrected, and thereafter all rights of ADAMS hereunder and this Agreement shall become null and void, without further liability on the part of ADAMS. In the event ADAMS shall be adjudged bankrupt or placed in receivership, the City may declare the rights herein granted forfeited and terminated.

Before City can revoke this Agreement it shall provide the following:

(A) City shall provide ADAMS with written notice of a cause for revocation and the intent to revoke and shall allow ADAMS **thirty (30) days** subsequent to receipt of the notice in which to correct the violation or to provide adequate assurance of performance in compliance with the Agreement. Together with the notice required herein, City shall provide ADAMS with written findings of fact, which are the basis of the revocation.

(B) ADAMS shall be provided the right to a public hearing affording due process before the City Council prior to revocation, which public hearing shall follow the **thirty (30) day** notice provided in paragraph (A) above. City shall provide ADAMS with written notice of its decision together with written findings of facts supplementing said decision.

(C) After the public hearing and upon written determination by City to revoke the Agreement, ADAMS may appeal said decision with an appropriate state or federal court or agency.

(D) During the appeal period, the Agreement shall remain in full force and effect unless the term thereof sooner expires.

(E) Upon satisfactory correction by ADAMS of the violation upon which said notice was given as determined in the City's sole discretion, the initial notice shall become void.

9-2-9 IMPLEMENTATION OF SERVICE. ADAMS may provide communications services, but it is not required to do so. The grant of this franchise does not require immediate system service.

It shall be unlawful for any firm, Person, group, ADAMS, corporation, or governmental body or agency, without the express consent of ADAMS, to make or possess, or assist anybody in making or possessing, any connection, extension, or division, whether physically, acoustically, inductively, electronically or otherwise, with or to any segment of the System.

It shall be unlawful for any firm, Person, group, ADAMS, corporation or government body or agency to willfully interfere, tamper, remove, obstruct, or damage, or assist thereof, any part or segment of the System for any purpose whatsoever.

9-2-10 SERVICE FARE. There shall be no franchise fee paid the City by ADAMS. However, should ADAMS provide cable service or cable modem service then in that event, grantee shall pay to City an annual franchise fee of **three percent (3%)** of gross revenues. The franchise fee shall be paid annually **March 30th** for the previous calendar year. No other fee, charge, or consideration shall be imposed on Grantee. Grantee shall provide a summary report verified by an Officer of Grantee showing gross revenues received during the preceding calendar year. Following reasonable notice, City at its expense may perform an audit of grantee's books and records to verify gross revenues for the preceding year. **(Ord. No. 2018-8; 05-21-18)**

9-2-11 DISCRIMINATION. ADAMS will not refuse to hire or employ, or bar or discharge from employment, nor discriminate against any Person in compensation or in terms, conditions or privileges or employment because of age, race, creed, color, handicap, national origin or sex.

9-2-12 ADMINISTRATION. The Mayor of the City of Mt. Sterling, or a Person duly authorized by such Mayor, shall be responsible for the continuing administration of this Article.

9-2-13 ASSIGNMENT. ADAMS agrees that it will not assign this Agreement, nor the rights, licenses and privileges herein granted except by an assignment in writing approved by the City, but the City agrees that it will not unreasonably withhold such consent and approval.

This Agreement shall be binding upon the successors and assigns of the parties hereto.

9-2-14 NOTICES. All notices, reports or demands required to be given in writing under this Agreement shall be deemed to be given when delivered personally to any officer of ADAMS or the designated Administrator of this Agreement or other appropriate official of City of **forty-eight (48) hours** after it is deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid thereon, addressed to the party to whom notice is being given, as follows:

If to City: City of Mt. Sterling
 Attn: Mayor Matt Bradbury
 145 W Main
 Mt. Sterling, IL 62353

If to ADAMS: Adams TelSystems, Inc.
 Attn: Jim Broemmer
 PO Box 99
 Golden, IL 62339

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

9-2-15 SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this Agreement is for any reason held invalid or unconstitutional, by any court or regulatory agency of competent 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 and they shall remain in full force and effect.

9-2-16 ACCEPTANCE. ADAMS shall accept this Franchise by executing same. Such acceptance by ADAMS shall be deemed the grant of this Franchise for all purposes. Upon acceptance of this Franchise, ADAMS shall be bound by all the terms and conditions contained herein. ADAMS shall accept this Franchise by properly executing and acknowledging this Agreement and returning same to City.

(Unless Otherwise Noted, Ord. No. 2018-6; 02-20-18)

ARTICLE III – VIDEO SERVICE PROVIDER FEE

9-3-1 **FEE IMPOSED.** Cass Cable TV, Inc. shall pay an annual service provider fee to the City in an amount equal to **three percent (3%)** of annual Gross Revenues derived from the provision of Cable or Video Services to households located within the City. The **twelve (12) month** period for the computation of the service provider fee shall be a calendar year.

9-3-2 **PAYMENT DUE.** The service provider fee payment shall be due annually and payable within **ninety (90) days** after the close of the preceding calendar year. Each payment shall be accompanied by a brief report prepared by a representative of the Cass Cable TV, Inc. showing the basis for the computation. If mailed, the fee shall be considered paid on the date it is postmarked.

9-3-3 **DEFINED.** For purposes of the calculation of the service provider fee, "Gross Revenues" shall have the same meaning as set forth in 220 ILCS 21/801(c)(1)(i-ii), specifically recurring subscription charges for Cable or Video Services and Event based charges.

(Ord. No. 2020-14; 10-19-20)