

**2005 FRANCHISE AGREEMENT BETWEEN  
THE CITY OF IOWA CITY AND MCC IOWA LLC (MEDIACOM)**

**TABLE OF CONTENTS**

I. NONEXCLUSIVE FRANCHISE.....1

II. GRANTED TO MCC IOWA LLC.....1

III. RIGHT OF CITY TO ISSUE FRANCHISE.....2

IV. TERM.....2

V. FRANCHISE NONEXCLUSIVE.....2

VI. DEFINITIONS.....2

VII. SERVICE AREA.....2

VIII. SYSTEM AND CAPACITY.....3

IX. CONSTRUCTION.....7

X. SYSTEM SERVICES.....7

XI. ACCESS CHANNELS, EQUIPMENT, FACILITIES, AND SERVICES.....8

XII. INTERCONNECTION.....11

XIII. SUBSCRIBER INFORMATION AND POLICY.....12

XIV. NON-DISCRIMINATION.....14

XV. RATES.....14

XVI. FRANCHISE RENEWAL.....14

XVII. POLICE POWERS.....14

XVIII. FRANCHISE FEE AND PERFORMANCE BOND.....14

XIX. REGULATION.....15

XX. REMEDIES.....15

XXI. COOPERATION.....16

  

XXII. WAIVER.....16

XXIII. CUMULATIVE PROVISION.....17

XXIV. NO LIABILITY.....17

## **APPENDICES**

- A. General System Design Specifications
- B. Drop Technical parameters
- C. Delivery system equipment list
- D. Test equipment available to Iowa City within 24 hours
- E. Preventative maintenance program
- F. Franchisee's construction manual
- G. Cutover process
- H. Programming categories
- I. Free drop locations
- J. Access channel placement
- K. Access publicity
- L. Business and repair hours

## **BROADBAND TELECOMMUNICATIONS FRANCHISE AGREEMENT**

### **I. NONEXCLUSIVE FRANCHISE**

A. This section grants a thirteen-year nonexclusive Franchise to operate a cable television system to MCC Iowa LLC (hereinafter referred to as Franchisee). The Franchise granted shall, as set forth below, be subject to the provisions of the Broadband Telecommunications Enabling Ordinance and this Franchise Agreement.

B. Subject to Section 626 of the Cable Television Consumer Protection and Competition Act of 1992 and the Telecommunications Act of 1996, the City Council reserves the right to refuse to select a Franchise holder if such refusal is subsequently deemed to be in the public interest.

C. If the terms and conditions specified in this Franchise conflict or modify the Ordinance, the provisions of the Ordinance shall apply.

### **II. GRANTED TO MCC Iowa LLC**

A. Purpose. The purpose of this section is to award a Franchise, for a cable television system to MCC Iowa LLC. Franchisee will endeavor to provide top quality cable service.

B. Enactment. Franchisee is hereby granted a nonexclusive Franchise to operate a cable television system within the City in accordance with the Ordinance of this title, which establishes standards, regulations and procedures for the granting of a cable television Franchise, this Franchise and the rules and regulations adopted by the Iowa City Telecommunications Commission, all Ordinances of the City and all applicable rules and regulations of the Federal Communications Commission and the State.

C. Effective Date. This Franchise shall not become finally effective until the Franchisee files an acceptance in writing with the City of Iowa City. The Franchisee shall have up to sixty (60) days from the date the franchise is signed by the Mayor to provide such written acceptance. Immediately upon the taking effect of this Franchise Agreement, the prior franchise granted to MCC Iowa LLC shall be superseded and of no further force and effect; provided, however, vested rights relating to billings and the City's rights to accrued franchise fees shall not be affected thereby.

D. Use of Public Ways. For the purpose of operating and maintaining a cable television system in the City, Franchisee may erect, in, over, under, or upon, across, and along the public streets, alleys, and ways within the City such wires, cables, fiber optics, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments, and other property and equipment as are necessary and appurtenant to the operation of the cable television system in the City and in accordance with this Franchise and the Ordinance.

### **III. RIGHT OF CITY TO ISSUE FRANCHISE.**

Franchisee acknowledges and accepts the legal right of the City to issue this Franchise.

### **IV. TERM.**

The term of the Franchise shall be for a period of thirteen (13) years from the effective date, unless sooner terminated as provided in the Ordinance, at which time it shall expire and be of no further force and effect.

### **V. FRANCHISE NONEXCLUSIVE.**

Consistent with the requirements of the Ordinance, this Franchise shall not be construed as any limitation upon the right of the City to grant to other persons rights, privileges, or authorities similar to the rights, privileges, and authorities herein set forth, in the same or other streets, alleys, or other public ways or public places. The City specifically reserves the right to grant at any time during the term of this Franchise or renewal thereof, if any, such additional Franchises for a cable communications system as it deems appropriate. In the event the Franchising Authority enters into a franchise with any other person or entity other than the Franchisee to enter into the City's streets and public ways for the purpose of constructing or operating a cable television system to any part of the service area, the material provisions thereof shall be reasonably comparable to those contained herein, taking into account the size and population of the franchised area, including but not limited to, franchise fee, external costs, access fees, if applicable, design, term, density requirements and system capacity requirements.

### **VI. DEFINITIONS.**

All definitions set forth in the Ordinance pertain to this Franchise and shall be relevant to the purposes and meaning of this Franchise.

### **VII. SERVICE AREA.**

A. Service to all Residents. Franchisee shall offer cable television residences service to all areas of the City which are in the corporate limits of the City of Iowa City and that meet the density requirements under paragraph B of this section, on the effective date of this Franchise. The Showers Addition and/or Camp Cardinal Road shall be served within six (6) months of when the City extends City services and requests services to the Showers Addition and/or Camp Cardinal Road respectively.

B. New Residential Construction. Franchisee shall extend service to all new residences in all unwired developments within six months of a request of a subscriber in an area to be served by underground construction and within three months of a request of a subscriber for areas to be served aurally, whenever density of at least twenty (20) residential dwelling units per cable plant mile; as measured from the existing facilities of Franchisee's cable system in the franchise area. For purposes of this section, density per cable mile shall be computed by dividing the number of residential dwelling units in the area by the length, in miles or fractions thereof, of the total length of aerial or underground

cable necessary to make service available to the residential dwelling units in such area in accordance with Franchisee's system design parameters. The cable length shall be measured from the nearest point on the then existing system. The total cable length shall exclude the drop cable necessary to serve individual subscriber premises.

C. Contribution-in-aid. If an area does not meet the required number of residential dwelling units per cable mile, Franchisee shall bear its pro-rata share of the current construction costs based upon the actual number of residential dwelling units per mile. For example, if there are 5 residential dwelling units in a residentially zoned area, the Franchisee's share would be 5/20ths or 1/4 of the construction cost. The remaining construction costs shall be borne on a pro-rata basis by each cable television subscriber. After completion of the project, should additional subscribers request and receive cable television service, the pro-rata shares shall be recalculated. Any new subscriber shall pay the new pro-rata share and all prior contributing subscribers shall receive appropriate refunds. In any event, at the end of two (2) years from the completion of residential construction in the area, the subscribers shall no longer be eligible for refunds, and any amounts paid in construction costs will be credited to the plant account of Franchisee.

D. Service Area. The service area of Franchisee shall be the entire corporate boundaries of the City of Iowa City and include any areas annexed to the City in the future.

E. Commercial Service. Franchisee shall, upon request, make service available to all commercial/industrial establishments served aurally which are located within 125 feet of the system at Franchisee's standard installation rate expense. For commercial/industrial establishments served underground or for aerial extensions beyond 125 feet, Franchisee shall, upon request, make service available on the basis of a capital contribution in aid of construction, including cost of material, labor, and easements. For the purpose of determining the amount of capital contribution in aid of construction to be borne by the Franchisee and the commercial/industrial establishments in the area in which service may be expanded, the Franchisee will contribute an amount equal to the construction and other costs per mile, multiplied by a fraction whose numerator equals the actual number of commercial/industrial establishments per 1320 cable-bearing strand feet of its trunks or distribution cable, and whose denominator equals eight (8) commercial/industrial establishments. Commercial/industrial establishments who request service hereunder will bear the remainder of the construction and other costs on a pro-rata basis. The Franchisee may require that the payment of the capital contribution in aid of construction be borne by such potential commercial/industrial establishments be paid in advance.

F. House Moving. Franchisee shall, upon the request of the City, move and replace its facilities to accommodate house moves conducted on behalf of the City, at a time and materials cost to the City. Wherever feasible, the City shall use its best efforts to ensure that house moves follow the same or similar path.

## **VIII. SYSTEM AND CAPACITY.**

A. System. The parties understand and agree that Franchisee shall construct a cable system which delivers cable television signals processed at 750 MHz utilizing a fiber to the

node design or better. The system will be designed so that there are no more than five (5) amplifiers in cascade. Fiber optic receiver nodes located throughout the plant will divide the distribution of cable signals to an average of 500 homes per fiber node or less. Further, Franchisee will provide 5-40 MHz upstream from each fiber node. The system shall be constructed and operated in accordance with the design specifications in Appendix A, attached hereto and incorporated by reference. The system shall be operated in accordance with performance standards which meet or exceed FCC regulations.

B. Construction Timetable. If the Franchisee upgrades or rebuilds its system, the Franchisee shall notify the City of the extent and duration of construction. Two months prior to the initiation of construction of any system-wide upgrade or rebuild, Franchisee shall provide a neighborhood construction schedule which details the timeframe for construction in each neighborhood and area of the City.

C. Construction Oversight. After any upgrade or rebuild, Franchisee will inspect 100% of all fiber and coaxial cable to insure that it meets the specifications of the Ordinance and this Franchise and Franchisee will inspect and audit 35% of the subscriber drops. The Franchisee shall designate an employee to act as a company representative by responding to public service complaints on a daily basis during any upgrade or rebuild and provide the City with the person's name and telephone number.

D. Compliance with Applicable Law. In constructing, operating and maintaining the system, Franchisee shall at all times comply with the Ordinance and all applicable laws and regulations.

E. Drops. All drops not meeting the standards of the National Electric Safety Code or the technical parameters in Appendix B, attached hereto and incorporated by reference, shall be replaced when found to be substandard. The system shall be designed to allow each subscriber drop to provide service to four (4) television outlets.

F. Equipment Quality. Equipment used for the distribution system, headend and reception facilities shall be of good and durable quality and be serviced and repaired on a regular basis and shall at all times be of equal or better quality than the equipment listed in Appendix C, attached hereto and incorporated by reference.

G. Services, Equipment and Facilities. Up to one year after new cable services, equipment, and/or facilities are offered by Mediacom Communications Corporation or its subsidiaries in: the City of Ames, Iowa; municipalities served by the same headend as Iowa City; municipalities served by the headend in Mason City; or municipalities served by the headend in Fairfield, excluding experimental and demonstration projects, Franchisee shall make new services, equipment and/or facilities available to all subscribers requesting such level of service. Such new services, equipment and/or facilities shall comply with the then national standards for digital technology and shall provide state-of-the-art features equal to those being introduced during the same year in other systems owned by Mediacom Communications Corporation or its subsidiaries in: the City of Ames, Iowa; municipalities served by the same headend as Iowa City; municipalities served by the headend in Mason City; or municipalities served by the headend in Fairfield. If the Franchisee believes that any such state-of-the-art features will not generate a

reasonable rate of return over the remaining term of the Franchise Agreement; the Franchisee may request the City to relieve the Franchisee of such requirement. The City shall determine, taking cost, rate of return and rates into consideration, whether the Franchisee should be relieved of the requirement or whether the Franchisee can reasonably expect a reasonable return on investment during the remaining term of the Franchise Agreement and should provide such state-of-the-art feature. Franchisee shall be given an opportunity to present information to the City Council prior to a decision being made. Notwithstanding the above, no requirement to provide telephone service shall be required by this Section. All programming services exclusively offering adult rated programming shall provide picture and audio scrambling of services not purchased by a specific subscriber. Franchisee shall maintain its trap system, as needed, for subscribers not utilizing converters. The City Council may, in its discretion, extend the time for the Franchisee, acting in good faith, to provide new services, equipment and/or facilities. The timeframe for providing new services, equipment and/or facilities shall be extended for any period during which the Franchisee demonstrates to the satisfaction of the City that the Franchisee is being subjected to delay due to circumstances reasonably beyond its control, such as acts of God and labor strikes.

H. Upstream Capacity for City Use. Franchisee shall reserve and give the City the option to use the up and downstream capacity on the cable system not to exceed one-half (1/2) MHz in either direction, to allow the City to collect data and other signals from subscriber homes or City sites for non-commercial governmental and educational purposes only. Franchisee shall cooperate with the City on pilot projects and Citywide implementation, including but not limited to, City installation and use of equipment which utilizes a larger amount of bandwidth than described above, if necessary, so long as the actual bandwidth utilized by the City is the same or less than that described above. Franchisee shall allow the City to co-locate necessary equipment on the cable system provided said equipment does not interfere with the system's integrity. The Franchisee shall provide such capacity to the City at a rate which, at a maximum, shall be equal to the lowest rate provided to any commercial customer or subsidiary company. Ongoing maintenance charges will be at cost and at the City's option, such cost will be paid by the City or a third party.

I. Emergency Alert. Franchisee shall continue to provide an all-channel, local emergency alert system for use by the City if the City has filed all necessary plans required by state and federal emergency management agencies. Emergency messages can be initiated from any touch-tone phone with an access code. The emergency alert service shall be upgraded throughout the Franchise term as set forth in FCC rules, regulations, or guidelines. The Franchisee shall not be held responsible for any failure of the emergency alert system to operate during any emergency.

J. Test Equipment. Throughout the term of the Franchise, Franchisee shall have accessible to Iowa City within a 24-hour period, test equipment equal to or better than that specified in Appendix D, attached hereto and incorporated by reference.

K. Ongoing Preventive Maintenance. Franchisee will comply with the preventive maintenance program specified in Appendix E, attached hereto and incorporated by reference.

L. Interference on Channel 19. Franchisee will not use Channel 19 for video, but for alphanumeric purposes, to avoid interference from radio/pagers. During the term of the Franchise, Franchisee will provide notice to consumers, on how interference problems experienced by customers on specific channels can be alleviated, through TV ads and billing messages mailed to subscribers.

M. Satellite Earth Station. The system configuration shall include earth stations which shall ensure the ability to receive signals from operational communications satellites that predominately carry programming services available to cable systems throughout the life of the Franchise.

N. Standby Power. Franchisee shall provide 20,000 Watt standby power-generating capacity at the headend. Franchisee shall maintain standby power system supplies, rated for at least two and one-half (2.5) hours duration at all optical node locations in the distribution network.

O. Parental Control Devices. Franchisee shall provide to subscribers, upon request, parental control devices that allow any channel or channels to be locked out. Such devices shall block both the video and the audio portion of such channels to the extent that both are unintelligible. The cost to subscribers for parental control devices is subject to FCC regulation.

P. Performance Testing. Franchisee shall perform all system tests and maintenance procedures as required by and in accordance with: the FCC; Franchise; Ordinance; Franchisee's standards of good operating practice; and the National Cable Television Association's test procedure guidelines.

Q. Technical Standards. The cable communications system permitted to be operated hereunder shall be installed and operated in conformance with the Ordinance, this Franchise, and FCC rules and regulations. Any FCC technical standards or guidelines related to the cable communications system and facilities shall be deemed to be regulations under this Franchise. At such time as the FCC does not regulate technical standards, Franchisee will continue to comply with the FCC standards which were in effect on the effective date of this Franchise.

R. Employee Identification. Franchisee shall provide a standard identification document to all employees, including employees of subcontractors, who will be in contact with the public. Such documents shall include a telephone number that can be used to verify identification. In addition, Franchisee shall use its best efforts to clearly identify all field personnel, vehicles, and other major equipment that are operating under the authority of Franchisee.

S. Stereo. Upon completion of the rebuild, the system will have the capability and shall provide Broadcast Television Systems Committee (BTSC) stereo signals.

## **IX. CONSTRUCTION.**

A. System Design Review. The City shall have the authority to review the technical design plans of the system for any upgrade or rebuild to ensure that the system design meets the requirements of this Franchise, the Ordinance, as well as applicable portions of the City Code governing construction within public rights-of-way and applicable local regulations. Franchisee shall provide the following design information: engineering design maps; key for design maps; system level design information (e.g., block diagram of headend, satellite or off-air studies, power supply map); test plan for the existing coaxial cable to be used in the system; and contact engineer who will be available to discuss project details. On a case by case basis, Franchisee may use existing coaxial cable which meets manufacturer specifications. Franchisee shall perform end of the line test to ensure that the coaxial cable plant tested performs according to manufacturer specifications. In cases where the cable does not meet such specifications, Franchisee shall replace the cable and shall use its best efforts to minimize disruption to effected subscribers. The City shall protect the proprietary system design information submitted by Franchisee. The Franchisee shall send the design information to the location specified by the City as such maps are available to the Franchisee. Franchisee's regional engineer will review the design with City designated persons.

B. Construction Manual. Franchisee shall construct the system in accordance with Franchisee's construction manual. See Appendix F, attached hereto and incorporated by reference. The Franchisee shall follow the permitting process as specified by the City.

C. Underground Construction. Franchisee shall participate in and use Iowa One Call and ensure that cable is buried at a depth of a minimum of twelve inches (12"). Temporary drops will be buried within one month of installation, weather permitting.

D. Consumer Compatibility. Franchisee shall comply with FCC consumer compatibility rules and guidelines and will use its best efforts to provide subscriber friendly technology. The basic tier of service shall be offered in a format compatible with FCC regulations.

E. Conversion. Subscribers shall not be charged by Franchisee for conversion from the existing system to any upgraded or rebuilt system. In the event that special additional or customized equipment is requested by any subscriber or is required to provide such service to any subscriber, Franchisee may charge the subscriber for such equipment. So that customers will experience the least possible interruption of service, Franchisee shall perform the cutover to the new system as specified in Appendix G, attached hereto and incorporated by reference. Franchisee will notify subscribers and the public in general of the cutover, using a combination of at least two of the following: bill stuffers; direct mail; news releases; radio announcements; CSR training; and community bulletin board announcements. Internal wiring shall comply with the Iowa City Electrical Code.

## **X. SYSTEM SERVICES.**

A. Additional Services. Franchisee shall provide a good mix of entertainment and information programming generally available to the cable television industry, taking into account

the needs and interests of the population of the City of Iowa City. At a minimum, the system shall provide the broad categories of programming specified in Appendix H, attached hereto and incorporated by reference. Prior to selecting all the new services to be offered after any upgrade or rebuild, Franchisee shall conduct a statistically valid consumer market survey by telephone of 200 randomly selected homes to assess what new programming consumers are most interested in receiving, in addition to those specified in Appendix H. Franchisee shall use its best efforts to provide the programming that had the highest degree of community interest and that would serve the community interests indicated in their own survey and in any consumer market survey conducted on behalf of the City. The results of the consumer market survey will be provided to the City within thirty (30) days of completion.

B. Leased Access Channels. Franchisee shall offer leased access channels at such terms and conditions and rates as may be negotiated with each lessee subject to the requirements of Section 612 of the Cable Act.

C. Cable Drops and Monthly Service. Franchisee shall provide one free cable drop and free, basic and tier services, excluding premium services, audio services, pay-per-view, etc., to locations already provided with free drops, locations listed in Appendix I, attached hereto and incorporated by reference, and at any other public buildings designated by the City. All non-premium programming and closed-circuit training programming shall be transmitted to all of these locations on the cable system, free of charge.

D. Institutional Channels. If allowed by Federal law and regulation, the government and educational access channels shall be provided with the capability to transmit for closed-circuit institutional programming. The Franchisee shall provide an appropriate device for the reception of scrambled institutional programming offered over the subscriber network on the scrambled government and educational access channels to all local government and educational locations receiving free drops and service. The necessary headend equipment for modulation, scrambling, and cablecasting of the closed-circuit signals shall be provided by the Franchisee. Franchisee shall provide channel scrambling as requested by the City and educational institutions on the scrambled government and educational access channels.

E. Closed Captioning. Franchisee shall pass through all closed-circuit signals received by the system for the hearing impaired. Closed-caption devices will be provided for sale and installation by Franchisee.

F. Interactive Services. Franchisee shall provide one free cable modem and free cable modem/Internet service for all public schools.

## **XI. ACCESS CHANNELS, EQUIPMENT, FACILITIES, AND SERVICES.**

In order to develop and promote public, educational, and government access programming for the system's access channels, Franchisee hereby agrees to provide the following.

A. Access Channels. Franchisee shall use its best efforts to maintain the number and channel position of the access channels as shown in Appendix J, attached hereto and incorporated by reference. Franchisee shall provide the following number of dedicated access channels: three (3) channels for government access; two (2) channels for educational access; one (1) channel for public access; and one (1) channel for Kirkwood Community College. Upon the City's request, Franchisee shall activate the following additional access channels on the basic tier; one (1) channel for community programming and/or access and one (1) channel for educational access. Upon the request of the City, whenever any public access channels as set forth in this section shows documented proof of performance that they are in use 80% of the cablecast week for any 6 week consecutive timeframe, given at least 8 hours per day, 7 days per week cablecast schedule, with at least 80% (of the time the channel is programmed), unduplicated locally originated programming, the Franchisee shall make such additional access channels) available as necessary for access use within 6 months of receipt of request by the City. The City agrees to share the above listed access channels with other communities served by the same headend on a switched basis. Franchisee shall provide automatic switching from a site selected by the City for any switching needed by the City to allow City programming to be viewed within the City while other communities may be viewing other governmental programs. Other communities, such as Coralville, served by the same headend shall have remote switching capability to allow programming to be viewed within their respective municipalities while Iowa City programming continues to be viewed within the City of Iowa City.

In the spectrum between 550 MHz and 750 MHz, and if Franchisee expands bandwidth, the City reserves ten percent of the bandwidth for public, educational and government access use up to 100 analog channels. Such bandwidth will be made available within six (6) months of a request by the City. The City shall make such request when the governmental, educational, and/or public access entities have demonstrated to the City that such additional capacity is needed and usage meets the formula for bandwidth activation specified above.

Such additional capacity shall be dedicated for the type of access specified by the City. All active access channels shall be placed on the basic tier of service, unless both parties mutually agree otherwise.

The City may prescribe: rules and procedures under which the cable operator is permitted to use access channel capacity for the provision of other services if such channel capacity is not being used for the purposes designated; and rules and procedures under which such permitted use shall cease.

B. Access Equipment, Support, and Facilities. The Franchisee shall provide the City with funds in monthly payments for equipment, facilities, and ongoing support for public, educational, governmental access, and community access programming, in an amount equivalent to fifty-five (55) cents per subscriber per month starting on the effective date of this franchise extension and, thereafter, until the conclusion of the fifth year of the term. At the beginning of the sixth year of the term and for the remainder of the franchise term, the Franchisee shall provide the City with payments, for the purposes listed above, in an amount equivalent to sixty (60) cents per subscriber per month. Both parties agree that all such

funds will not be deducted from the franchise fee. The City agrees that all amounts paid by Franchisee pursuant to this section may be added to the price of cable services and collected from Franchisee's subscribers as "external costs" as such term is used in 47 C.F.R. on the effective date of this Franchise. In addition, all amounts paid under this section may be separately stated on subscriber's bills as permitted in 47 C.F.R. 76.985. Such payments will be made by the Franchisee to the City on a monthly basis.

C. Access Services. Franchisee agrees to continue to provide to the nonprofit corporation designated by the City and/or other entities designated by the City, including the City itself, to carry out the day-to-day operations of public access and community programming with annual payments based on a \$189,923.44 annual payment for the calendar year 2005. Said amount shall be increased successively thereafter annually for inflation for the term of the Franchise. Both parties agree that all said funds for access services will not be deducted from the franchise fee and agree that only the annual inflation adjustments may be passed through to subscribers and may be separately stated on subscriber's bills. This is in addition to the amount specified in paragraph B above. All inflation adjustments shall be based upon the annual change in the CPI-U, U.S. Cities Average, published by the U.S. Department of Labor, using the base month of September each year. All annual payments shall be due January 1<sup>st</sup> of each year.

D. Publicity. Franchisee agrees to provide the publicity services as specified in Appendix K, attached hereto and incorporated by reference.

The Franchisee shall provide one hundred (100) run of scheduled public service announcements per month for use by the City or access channel operators. Production of the public service announcements will be the responsibility of the City or the access channel operators.

E. Optical Transmission Equipment. The Franchisee agrees to provide one digital, optical transmission package. The Franchisee agrees to connect the optical equipment using coaxial cable or fiber optics with the Library, the Senior Center, City Hall, and a school site (including but not limited to the permanent access channel(s), the library channel, the public access channel, the government channel, the community programming channel and the educational access channel).

F. Closed Circuit Operations. Franchisee shall provide, free of charge, an appropriate device for the reception of scrambled institutional programming offered over the subscriber network to schools and government buildings receiving free drops and service.

The necessary headend equipment for modulation, scrambling, and cablecasting of the closed-circuit signals on the educational, and government access channels, shall also be provided. Franchisee shall provide channel scrambling as requested by government and educational access channel operators. Franchisee shall provide the City and schools with 185 converters and scrambling devices, free of charge, within one hundred twenty (120) days of the completion of the rebuild.

G. Signal Quality. Franchisee shall assure that the access channel delivery system from the City Hall and all other origination points specified herein meet the same technical standards as the remainder of the system as set forth in Section VIII herein. Annually, or upon request by the City, Franchisee shall test the delivery system from the origination sites to ensure a high quality picture is provided to subscribers. Grantee shall use reasonable efforts to optimize the picture quality of the access channel delivery system.

H. Treatment. The Franchisee will confer with the City on the content and format of any separate line item on the monthly bill related to local programming.

I. Origination Sites. The Franchisee shall maintain and/or replace and maintain throughout the franchise term, the active origination lines from the locations from which local programming can be originated on the effective date of this Franchise to the Franchisee's headend.

The Franchisee shall provide two thirds of the costs of constructing origination capability to: Dubuque and Iowa streets; Clinton and Iowa streets; and an extension at the Library. The City shall pay one third of such costs. The costs shall not exceed the following: \$23,505 for the origination site at Dubuque Street and Iowa Avenue; \$32,499 for the origination site at Clinton Street and Iowa Avenue; and \$7,200 for the library origination site extension to allow programming near the fountain. Franchisee shall construct the origination sites upon the written request of the City, starting in 2006. The City shall determine the order of construction of the sites and the timing for construction. The Franchisee shall not be required to construct more than one site per year. The Franchisee shall complete construction of each origination site no later than June 30<sup>th</sup> of the following calendar year upon receipt of a written request from the City. Franchisee shall design the origination site routing in cooperation with the City.

In addition to the origination sites financed as described above, the Franchisee agrees to construct additional origination lines upon the request of the City, if the expense of the additional lines is borne by the City or other City designated entities, the cost for such origination lines shall not exceed the Franchisee's actual cost of construction. Any such additional fiber optic lines shall use the most efficient routing and shall be designed in cooperation with the City.

## **XII. INTERCONNECTION.**

A. Interconnection. Franchisee's system design shall allow originating institution's signals (public, educational, and governmental channels) to be made available in contiguous communities which are served by the Iowa City headend. If legal and technically feasible, Franchisee agrees to allow interconnection with communities not served by the Iowa City headend provided, however, that such communities, the City, and/or a third party, supply and bear the cost for the interconnect to Franchisee's headend or locations on the system easiest to reach and/or at the least cost, related to access programming origination distribution. Access to Franchisee's headend and equipment will be limited to Franchisee's personnel. Such personnel shall supervise any activity with regard to this section.

B. University Cooperation. The Franchisee shall use its best efforts to accommodate the telecommunications needs of the University, its staff, and students. In the event the University proposes a joint venture or other proposal for services, the Company shall review the proposal and respond within ninety (90) days of receipt.

### **XIII. SUBSCRIBER INFORMATION AND POLICY.**

A. Subscriber Information. At the time an installation or service agreement is to be signed or at the time Franchisee solicits residents, Franchisee shall furnish to each subscriber a simple, but thorough written explanation of all services offered; the fees, charges, terms and conditions of such services; information regarding billing and service calls; complaints; information regarding the availability of parental control devices; and a complete statement of the subscriber's right to privacy in conformance with 47 U.S. Section 631, as it may be amended. Thereafter, Franchisee shall provide subscribers with privacy information and other information, as required by FCC regulations, as amended. Such subscriber information shall be filed with the City concurrent with distribution to subscribers.

B. Business Offices and Personnel. Franchisee shall establish and maintain a business office within the City which shall, at a minimum, be open to receive payments and subscriber equipment for the hours specified in the Appendix L, attached hereto and incorporated by reference. Franchisee shall also provide personnel, telephone service, including a locally listed telephone number, and other equipment, as needed within the area, to ensure timely, efficient and effective service to consumers and for the purpose of receiving inquiries, requests and complaints concerning all aspects of the construction, installation, operation, and maintenance of the system and for the payment of subscribers' service charges.

C. Subscriber Complaints. Pursuant to the Ordinance, Franchisee shall promptly respond to and resolve all subscriber complaints. However, nothing herein shall require Franchisee to maintain or repair any equipment not provided by it.

D. Major Outages. Franchisee shall maintain records of all major outages defined as a discontinuation of cable service from one or more fiber nodes in the City of Iowa City. Such records shall indicate the estimated number of subscribers affected, the date and time of first notification or of Franchisee knowledge of the outage, the date and time service was restored, the cause of the outage and a description of the corrective action taken. Such records shall be available to the City during normal business hours upon reasonable prior notice and retained in Franchisee's files for not less than five (5) years. Upon written request of the City, a statistical summary of such records shall be prepared by Franchisee and submitted to the City annually.

E. Customer Handbook. Franchisee shall provide written customer policies or a handbook to all new subscribers and, thereafter, upon request. Franchisee's written customer policies or handbook shall, at a minimum, comply with all notice requirements in the Ordinance and those promulgated by the FCC. If Franchisee's operating rules are changed subscribers shall be notified in a timely manner. Rate and consumer complaint information will be distributed annually to subscribers. Franchisee shall file a consumer handbook with the City annually.

F. FCC Standards. Franchisee shall meet the FCC's Standards for Customer Service. If Franchisee does not meet the busy standards in two (2) consecutive quarters the Franchisee shall add a minimum of one telephone line or make other changes in order to satisfy the telephone busy standards. Franchisee shall provide to the City annual management data, including data from any service centers used by the Franchisee related to compliance with the FCC's Standards for Customer Service. At such time as Franchisee does not meet the FCC and/or the Ordinance requirements for repair for one quarter, Franchisee shall take corrective action to ensure that such standards are met during the next quarter. At such time as the FCC no longer promulgates Consumer Service Standards the FCC standards in effect on the effective date of this Franchise will be in force.

G. Downgrades. Subscribers shall have the right to have cable service downgraded in accordance with FCC rules. No charge shall be made for disconnection of basic service. The billing for such service will be effective immediately and such disconnection or downgrade shall be made as soon as practicable. A refund of unused service charges shall be paid to the customer within forty-five (45) days from the date of termination of service.

H. Outages. For service interruptions of over four (4) hours and up to fourteen (14) days, the Grantee shall provide, at the subscriber's verbal or written request, a credit of one-thirtieth (1/30) of one month's fees for affected services for each 24-hour period service is interrupted for four (4) or more hours. For service interruptions of over fourteen (14) days, the Grantee shall provide, at the subscriber's verbal or written request for a rebate, a credit of one month's fees for affected services. This provision shall not apply if the service interruption is the result of a cable system upgrade or rebuild. The Franchisee shall provide written notice to subscribers' quarterly of the availability of credits for outages.

I. Subscriber Contracts. All contracts between Franchisee and their subscribers shall be in compliance with the Ordinance and this Franchise. Franchisee shall file a copy of the Franchisee's subscriber contract with the City annually.

J. Negative Option Billing. Franchisee shall comply with Federal law regarding negative option billing.

K. Payment Stations. Throughout the term of the Franchise, Franchisee shall maintain, at a minimum, three payment sites in addition to the Franchisee's office. Such payment stations shall be open during normal business hours and be dispersed throughout the City. Franchisee shall continue to provide subscribers with the options to pay by telephone and through automatic withdrawal.

L. TDD. Within 180 days of the effective date of this Franchise, Franchisee shall install a TDD machine or utilize a recognized third party agent such as Access Iowa to receive consumer messages from the hearing impaired.

M. Repair Calls. Franchisee shall offer subscribers repair service appointments in two-hour windows. The Franchisee shall telephone the subscriber prior to arriving for a repair call. Franchisee will conduct repair calls as specified in Appendix L.

N. Installation. Subscriber service shall be installed within seven days of a request during normal operating conditions.

O. Administrative Fee and Disconnects. Administrative fees are charged on any accounts which have not been paid prior to the next billing cycle. Disconnection of accounts due to non-payment occurs no sooner than after 45 days of due date.

P. Subscriber Bill. Company shall include its name, address, and telephone number on the subscriber bill and the portion of the bill retained by the subscriber. Company shall have the City's address and telephone number included on the subscriber's bills. At such time as the Company's billing system allows it, the Company shall increase the size of the City related information on the bills. Company shall, at least once annually, in the fall, provide a billing statement that informs subscribers of the availability of the Company's snowbird policy for residents that winter in another area.

#### **XIV. NON-DISCRIMINATION.**

Franchisee agrees that it shall not discriminate in providing service to the public nor against any employee or applicant for employment because of race, color, creed, religion, sex, disability, gender identity, national origin, gender identity, age, sexual orientation, or marital status. In the employment of persons, Franchisee shall fully comply with applicable local, state and federal law, and shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, disability, gender identity, national origin, age, sexual orientation, or marital status.

#### **XV. RATES.**

The City shall have the ability to regulate rates in accordance with Federal law.

#### **XVI. FRANCHISE RENEWAL.**

Subject to Section 626 of the Cable Television Consumer Protection and Competition Act of 1992, as amended, this Franchise may be renewed by the City in accordance with the Ordinance.

#### **XVII. POLICE POWERS.**

In accepting this Franchise, Franchisee acknowledges that its rights hereunder are subject to the police powers of the City to adopt and enforce general Ordinances necessary to the safety and welfare of the public and it agrees to comply with all applicable general laws and Ordinances enacted by the City pursuant to such power.

#### **XVIII. FRANCHISE FEE AND PERFORMANCE BOND.**

A. Franchise Payments. Franchisee shall pay to the City a Franchise fee of five (5%) percent of gross annual revenues or the maximum amount permitted by law, whichever is higher,

during the period of its operation under the Franchise, pursuant to the provisions of the Ordinance. Any increase in the franchise fee shall be implemented as soon as practicable, but no longer than forty-five (45) days.

B. Bonds. Franchisee shall furnish a construction bond to City as specified in the Ordinance during the construction of the rebuild. Franchisee shall furnish a Letter of Credit of \$75,000 which shall be replenished within ten (10) days of use by the City as specified in the Ordinance to a total amount of \$500,000. Franchisee shall provide such Letter of Credit to the City within sixty (60) days of the effective date of this Franchise. The Letter of Credit should be maintained during the life of the Franchise, to guarantee the faithful performance of all its obligations under this Franchise and the Ordinance.

## **XIX. REGULATION.**

A. The City shall exercise appropriate regulatory authority under the provisions of the Ordinance and this Franchise. Regulation may be exercised through any duly designated City office or duly established Board or Commission or other body of the City.

B. Franchisee, by accepting the rights hereby granted, agrees that it will perform and keep all acts and obligations imposed, represented or promised by the provisions of this Franchise, the Ordinance, and the renewal proposal.

C. The Franchisee agrees to indemnify the City and to hold the City harmless from all claims against it by third parties arising out of its compliance with Section V to the extent that such claims are not barred by Section 635A of the Cable Television Consumer Protection and Competition Act of 1992 (Limitation of Franchise Authority Liability), or by any other provision of law.

D. In addition to the above, Franchisee agrees to defend, indemnify, save and hold harmless City and other entities operating access channels in Iowa City, their officers, boards and employees from and against any liability for damages, including attorney fees and for any liability or claims resulting from any allegation that a public, educational or government access channel in Iowa City on the Franchisee's cable system has infringed upon the copyright or performance rights held by any person for music performed that is part of any locally originated programming cablecast over public educational or government access channels required as part of this Franchise.

## **XX. REMEDIES.**

A. Schedule of Liquidated Damages. Because Franchisee's failure to comply with certain material provisions of this Agreement and the Ordinance will result in injury to the City or to subscribers, and because it will be difficult to estimate the extent of such injury, the City and Franchisee hereby agree that the liquidated damages and penalties stated in the Ordinance represent both parties' best estimate of the damages resulting from the specified injury.

B. Violations. For the violation of any of the following, the City shall notify Franchisee in writing of the violation. The City shall provide Franchisee with a detailed written notice of any Franchise violation upon which it proposes to take action, and there shall be a thirty (30) day period within which Franchisee may demonstrate that a violation does not exist or cure an alleged violation or, if the violation cannot be corrected in thirty (30) days, submit a plan satisfactory to the City to correct the violation. If an alleged violation is proven to exist, and no cure or action on a plan acceptable to the City has been received by the City within thirty (30) days, such liquidated damages shall be chargeable to the Letter of Credit as set forth in the Ordinance if not tendered by Franchisee within thirty (30) days. Franchisee may petition the City Council for relief with just cause. The imposition of liquidated damages shall not preclude the City from exercising the other enforcement provisions of the Ordinance, including revocation, or other statutory or judicially imposed penalties. Liquidated damages may be imposed as follows:

- (1) For failure to complete construction or extend service in accordance with Franchise: \$250/day for each day the violation continues;
- (2) For failure to comply with requirements for public, educational and government access: \$150/day for each day the violation continues;
- (3) For failure to submit reports, maintain records, provide documents or information: \$150/day for each day the violation continues; and
- (4) For violation of customer service standards required by this Franchise, the Ordinance, or by FCC regulation: \$150/day per standard violated.
- (5) For violation of the books and financial records provisions of this Franchise and the Ordinance: up to \$150/day for each day the violation continues.
- (6) For violation of other material provisions of this Franchise or the Ordinance: up to \$150/day for each day the violation continues.

## **XXI. COOPERATION.**

The parties recognize that it is within their mutual best interests for the cable television system to be operated as efficiently as possible in accordance with the requirements set forth in this Agreement. To achieve this, parties agree to cooperate with each other in accordance with the terms and provisions of this Franchise. Should either party believe that the other is not acting timely or reasonably within the confines of applicable regulations and procedures in responding to a request for action, that party shall notify the person or agents specified herein. The person or agent thus notified will use its best effort to facilitate the particular action requested.

## **XXII. WAIVER.**

The failure of the City at any time to require performance by Franchisee of any provision hereof shall in no way affect the right of the City hereafter to enforce the same.

Nor shall the waiver by the City of any breach of any provision hereof be taken to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself.

**XXIII. CUMULATIVE PROVISION.**

The rights and remedies reserved to the City by this Franchise are cumulative and shall be in addition to and not in derogation of any other rights or remedies which the City may have with respect to the subject matter of this Franchise, and a waiver thereof at any time shall have no effect on the enforcement of such rights or remedies at a future time.

**XXIV. NO LIABILITY.**

Nothing herein shall be deemed to create civil liability by one party for the action, omissions or negligence of the other party, or of a party's agents, employees, officers or assigns. Each party shall be solely liable for claims against it by third parties, whether arising under the Cable Television Consumer Protection and Competition Act of 1992 or under any other provision of law.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed on \_\_\_\_\_, 2005.

CITY OF IOWA CITY, IOWA  
A municipal corporation

ATTEST:

\_\_\_\_\_

Mayor

\_\_\_\_\_  
Witness

MCC Iowa LLC

\_\_\_\_\_

\_\_\_\_\_  
Witness

## **Appendices**

- A. General System Design Specifications
- B. Drop technical parameters
- C. Delivery system equipment list
- D. Test equipment available to Iowa City within 24 hours
- E. Preventative maintenance program
- F. Franchisee's construction manual
- G. Cutover process
- H. Programming categories
- I. Free Drop Locations
- J. Access Channel Placement
- K. Access publicity
- L. Business and Repair Hours

## APPENDIX A

### **General System Specifications (750 Mhz)**

Distribution – End of Line (@ Ch. 77) NCTA Standard methods:

Carrier/Noise	46
2 <sup>nd</sup> order beats	51
Triple order beats	51
Cross modulation	51
Tap outputs 54 MHz	9Db minimum
Tap outputs 750 MHz	14Db minimum

Fiber Link (output as node):

Carrier/Noise	49
2 <sup>nd</sup> order beats	63
3 <sup>rd</sup> order beats	63
Cross modulation	63

## **APPENDIX B**

### **Drop Technical Parameters**

Coaxial cable shall meet the requirements of SCTE IPS-SP-001 or ANSI/SCTE 15 2001 as specified to a bandwidth of 1000 MHz

## **APPENDIX C**

### **Delivery System Equipment**

Scientific Atlanta High Gain Model Gainmaker System Amps

Scientific Atlanta Line extender Model Gainmaker

Regal 1000 MHz line passives

Times Fiber 625 T10 series feeder cable

Times Fiber 875 T10 series trunk cable

## **APPENDIX D**

### **Test Equipment**

1. Hewlett Packard Model # 8591C Spectrum Analyzer
2. Signal Analysis Meter – Wavetek MS 1400
  - A. Signal levels
  - B. C/N ratios
  - C. Hum in %
3. Wavetek Model 3 ST Bench Sweep
4. Wavetek Model SDA 5000 Field Sweep Meter
5. Comsonics Leakage Detector Model Sniffer Sleuth
6. Comsonics Leakage Detector Sniffer II & III's
7. FIS Optical Power Meter Model # OV-PM
8. Tekronix Model TV220 TDR Cable Tester
9. Tekronix Model TFS3031 Optical TDR

## **APPENDIX E**

### **Preventative Maintenance Procedures**

The Iowa City system is driven off for signal leakage each quarter. Leaks are logged and repaired by the service technicians. All leakage logs are kept on file in the Iowa City office.

**APPENDIX F**

**MEDIACOM Construction Manual**

Available for review at City Cable Office.

## **APPENDIX G**

### **Cut over process**

The upgrade/rebuild will involve installing and activating fiber optic cable while the coaxial cable is still activated and in operation. There will be a series of fiber nodes designed for the upgrade/rebuild. As each fiber node is completed, it will be activated. The activation of one node will not interfere or interrupt the completion of a separate node. In the event the company is confronted with the loss of signal from more than one street at a time, the Company will make every possible effort to complete the work during minimal viewing, such as 12:00 a.m. or 6:00 a.m. or at the time recommended by the City.

## **APPENDIX H**

### **Programming Categories for System-Wide Programming**

Science Fiction Programming  
Religious Programming  
Cartoon Programming  
Federal Government News Programming  
Educational Programming  
Pay Per Channel and Pay Per Program Programming  
International Programming  
Women's Programming  
Do-it yourself and Self Improvement Programming  
Children's Programming  
News Programming  
History Programming  
Comedy Programming  
Music Programming  
Sports Programming  
Arts Programming  
Black Entertainment Programming  
Hispanic Programming

## **APPENDIX I**

### **Free Drops**

Iowa City School Sites  
All schools and administration buildings

Other Schools  
Regina Elementary  
Regina High School  
Willowwind School  
Kirkwood Community College

Public Buildings  
City Hall  
Senior Center  
Recreation Center  
Libraries  
Fire stations  
Broadway St. Neighborhood Center  
Pheasant Ridge Neighborhood Center  
PATV office  
City Cable Office

Other Sites  
Future neighborhood centers  
Future access organization(s) sites  
Future City government administration buildings

## Appendix J

### Access Channel Positions

PATV	Channel 18
Government Channel	Channel 4
University of Iowa	Channel 17
InfoVision Channel	Channel 5
Library	Channel 10
KTS	Channel 11
Iowa City Schools	Channel 21

## **APPENDIX K**

### **Publicity**

1. The Company agrees to insert into subscriber handbooks, information about local access channels. The cost of printing, etc. of this information shall be the sole responsibility of the access programming provider (government, education, public). The Company reserves the right to approve content.
2. The Company agrees to allow billing messages or bill stuffers to be included in the subscribers' bills at the rate of one per year subject to approval of content by the Company, availability and adequate advance notice. The cost of printing and insertion shall be the responsibility of the access programming providers (government, education, and public).

## **APPENDIX L**

### **Business and Repair Hours**

Business Hours: 8 AM - 6 PM Monday-Friday  
9 AM- 5 PM Saturday

Service Hours: 8 AM- 5 PM Monday-Saturday  
On call- 24 hours per day, seven days a week