SOUTH WASHINGTON COUNTY TELECOMMUNICATIONS COMMISSION AMENDED JOINT AND COOPERATIVE AGREEMENT

For the Administration of Cable Franchises

I. PARTIES

The parties to this Agreement are governmental units of the State of Minnesota. This Agreement is made pursuant to Minnesota Statutes Sections 238.08, Subd. 5 and 471.59, as amended.

II. GENERAL PURPOSE

The mission of the South Washington County

Telecommunications Commission ("the Commission") shall be to
govern and facilitate, in the public interest, cable and
telecommunications services in South Washington County. The
general purpose of this Agreement is to establish an
organization to monitor the operation and activities of cable
and telecommunications services and, in particular, the Cable
Communications Systems ("Systems") in the Member Cities; to
provide coordination of administration, enforcement and renewal
of the franchises for the Systems; to promote the development of
governmental and educational access cable television
programming; and to conduct such other activities authorized
herein as may be necessary to ensure equitable and reasonable

rates and service levels for the citizens of the Member Cities; and to regularly communicate with the Member Cities.

III. NAME

The name of the organization is the South Washington County Telecommunications Commission.

IV. DEFINITIONS

For purposes of this Agreement, the terms defined in this Article shall have the meanings given to them.

Section 1. "Alternate" means the person appointed by a Member City to represent that Member City when a Director is unable to be present at a meeting of the Commission.

Section 2. "<a href="Commission" means the Board of Directors of the organization created pursuant to this Agreement.

Section 3. "Director" means the person appointed by the Governing Body of a Member City to be its representative on the Commission.

Section 4. "Franchise" means a Cable Communications franchise passed and adopted by the Commission to a cable service provider, and accepted by South Washington County Telecommunications Commission.

Section 5. "Governing Body" means the City Council of a city or the town board of a township who is a Member City.

Section 6. "Member City" or "Member" means a city or township which enters into this Agreement.

V. MEMBERSHIP

Section 1. <u>Member Cities</u>. The Minnesota cities of Newport, St. Paul Park, Woodbury, and Cottage Grove, and the township of Grey Cloud are the current Member Cities.

Section 2. Requirements. Any municipality or township desiring to become a Member City shall make a written application to the Commission and the Commission shall make a recommendation to the Member Cities on whether and under what terms to amend this Agreement to add an additional municipality or township as a Member City.

VI. RESERVED

VII. DIRECTORS; VOTING

Section 1. Qualifications/Appointment. The Governing Body of each Member City shall appoint two Directors and may appoint one Alternate. At least one Director of each Member City shall be a member of the Governing Body of that Member City or its designee and the other Director and the Alternate shall be qualified voters, residing within that Member City. When the Governing Body of a Member City appoints its Directors and Alternate Director, it shall give notice to the office of the Commission. Notices shall include the name and mailing address

of the appointees, which shall be deemed to be the official names and addresses of those appointees for the purpose of giving any notice required under this Agreement.

Section 2. Term. A Director shall be appointed by the Governing Body of each Member City. A Director shall serve until a successor is appointed and qualifies. A vacancy in the office of Director will exist for any of the reasons set forth in Minnesota Statutes Section 351.02, or upon a revocation of a Director's appointment duly filed by a Member City with the Commission. Vacancies shall be filled by appointment by the Governing Body of the Member City whose position on the Commission is vacant. The Member City shall forward such information regarding any new appointees as is required by Section 1, above.

Section 3. <u>Voting</u>. There shall be up to twenty-six (26) votes distributed among the Member Cities as follows:

- City of Woodbury, Five (5) votes per Director;
- City of Cottage, Three (3) votes per Director;
- City of Newport, Two (2) votes per Director;
- City of St. Paul Park, Two (2) votes per Director; and
- Grey Cloud Island Township, One (1) vote per Director.

There shall be no voting by proxy, but all votes must be cast in person at Commission meetings by the Director or the duly authorized Alternate. All actions of the Commission shall be approved by a majority of votes cast and must also include the affirmative votes from Directors of two or more Member Cities. Abstentions shall not be considered authorized votes cast.

Section 4. Quorum. The presence of a majority of the appointed Directors, or their duly appointed Alternates, shall constitute a quorum of the Commission, but a smaller number may adjourn or postpone a properly organized meeting to a fixed future time, consistent with Minnesota Statutes Section 412.191, Subdivision 1.

VIII. OFFICERS

Section 1. Number/Election. The officers of the

Commission shall consist of a Chair, Vice-Chair, a Treasurer,

and a Secretary, all of whom shall be elected annually for oneyear terms. Officers shall be elected at the Annual Meeting of
the Commission, as defined in the Commission's Bylaws. New

officers shall take office at the adjournment of the annual
meeting of the Commission at which they are elected. The four

(4) officers of the Commission shall constitute the Executive

Committee. Each officer shall have one vote on the Executive

Committee. The presence of a majority of the number of officers

shall constitute a quorum of the Executive Committee, but a smaller number may adjourn or postpone a properly organized meeting to a fixed future time, consistent with Minnesota Statutes Section 412.191, Subdivision 1.

Section 2. <u>Chair/Vice-Chair</u>. The Chair shall preside at all meetings of the Commission and Executive Committee and shall perform all duties incident to the office of Chair, and such other duties as may be prescribed by the Commission. The Vice-Chair shall act as Chair in the absence of the Chair.

Section 3. <u>Secretary</u>. The Secretary shall be responsible for causing to be kept a record of all of the proceedings of the Commission and Executive Committee and giving notice of the meetings.

Section 4. <u>Treasurer</u>. The Treasurer shall be responsible for causing to be kept all financial records of the Commission and for such other matters as shall be delegated by the Commission. The Commission may require that the Treasurer post a fidelity bond or carry an insurance policy in an amount approved by the Commission, at the expense of the Commission, covering all persons authorized to handle Commission funds. The Commission's financial books and records shall be audited annually by an independent auditor approved by the Commission.

IX. MEETINGS

Section 1. Regular Meetings. Regular meetings of the Commission shall be held not less than semi-annually. The Commission may delegate to its Executive Committee any of its powers and duties to be undertaken by the Executive Committee during those times the Commission is not in session. The Commission may condition this delegation in any lawful manner.

Section 2. <u>Special Meetings</u>. The Commission or the Executive Committee may hold special meetings pursuant to procedures delineated in the By-Laws of the Commission. In addition to the voting requirements of Article VII, Section 3 (Voting), no official action may be taken at any special meeting unless at least one Director from each Member City is present at the meeting.

Section 3. <u>Notice</u>. Notice of regular meetings of the Commission shall be given to Directors and Alternates by the Secretary at least five days in advance and include the agenda for such meetings. By a two-thirds vote of the Directors present items may be added to the agenda of any regular meeting.

Section 4. <u>Location</u>. All meetings or hearings by or before the Commission shall be held within one of the Member Cities and be open to the public. The Commission may travel

outside the boundaries of its Member Cities so long as no official business is conducted.

Section 5. <u>Publication of Notices</u>. All official public notices required to be published by this Agreement, the franchise ordinance or the Federal Communication Commission (FCC) shall be published in the official newspaper of each Member City.

Section 6. <u>Documents</u>. All documents required to be made available by the Commission for public inspection by this Agreement, the franchise ordinances, state or federal law shall be deposited or made available at the offices of each Member City.

Section 7. <u>By-Laws</u>. The Commission shall adopt and amend its By-Laws for operation in accordance with Article VII, Section 3 (Voting).

X. POWERS, RIGHTS AND DUTIES OF THE COMMISSION

Section 1. The powers and duties of the Commission shall include those set forth in this Article.

Section 2. <u>Contracts</u>. The Commission may make such contracts, grants, and take such other action as it deems necessary and appropriate to accomplish the general purposes of the organization. The Commission may not contract for the purchase of real estate without the prior authorization of the

Member Cities. Any purchases or contracts made shall conform to requirements applicable to Minnesota Statutory cities.

Section 3. Administration of Franchises. The Commission shall assume all authority and undertake all tasks necessary to coordinate, administer, enforce, amend and renew the Franchises.

Section 4. Performance Evaluation. The Commission shall continually review the operation and performance of the Systems in the Member Cities and prepare an annual report to the Member Cities regarding such operation and performance. The annual report shall also contain a description of significant accomplishments during the past year, plans and outlook for the upcoming year, and a description of the Commission's return of value to the Member Cities and its citizens, recognizing that value is measured on a multi-year basis in consideration of equipment expenditures and such other expenditures and activities made over time.

Section 5. Rate Regulation. The Commission shall undertake all procedures necessary and permitted by law to maintain uniform rates and to handle applications for changes to rates for the services provided by Systems subject to such regulation.

Section 6. Employment of Staff. The Commission may provide for the prosecution, defense, or other participation in

actions or proceedings at law or equity in which it may have an interest, and may employ counsel for that purpose. It may employ such other persons as it deems necessary to accomplish its powers and duties. Such employees may be on a full-time, part-time or consulting basis, as the Commission determines, and the Commission may make any required employer contributions which local governmental units are authorized or required to make by law.

Section 7. Research. The Commission may conduct such research and investigation and take such action as it deems necessary, including participation and appearance in proceedings of State and Federal regulatory, legislative or administrative bodies, on any matter related to cable and telecommunications services.

Section 8. <u>Gifts/Grants</u>. The Commission may accept gifts, apply for and use grants, enter into agreements required in connection therewith and hold, use and dispose of money or property received as a gift or grant in accordance with the terms thereof.

Section 9. Audit. The Commission shall make an annual, independent audit of the books of the Commission and shall make an annual financial accounting and report in writing to the

Member Cities. Its books and records shall be available for examination by the Member Cities at all reasonable times.

Section 10. Franchise(s). By vote of the Directors or their duly seated Alternates present and voting, the Commission may grant, renew and/or amend any franchise ordinance. grant, renewal, or amendment to a franchise ordinance shall be signed by the Chair and attested to by the Secretary. Any grant, renewal, or amendment to a franchise ordinance shall be published within 15 days after adoption by the Commission, and any grant, renewal, or amendment shall take effect upon publication or at such later date as is fixed therein. Commission shall hold at least one public hearing before it adopts any franchise, renewal of a franchise, or amendment to a franchise ordinance. Notice of such public hearing shall be sent to each Member City and published at least ten days before said public hearing in the official newspaper of each Member City. Each Member City and the franchise grantee shall receive, prior to the public hearing , a full text of any such franchise, renewal of a franchise, or an amendment.

Section 11. Member City Administration of Franchise

Ordinance. The Commission shall pay or reimburse its Member

Cities for any franchise enforcement or administration which the

Member City may from time to time undertake pursuant to the terms of a Franchise.

Section 12. Advisory Bodies. The Commission may appoint advisory bodies to make recommendations to it on cable and telecommunications services.

Section 13. Amendments and Agreement. The Commission shall recommend for enactment by its Members amendments to this Agreement which will facilitate the administration and enforcement of the franchise ordinance adopted and the franchise granted by it. This Agreement may be amended by the approval of the Commission in accordance with Article VII, Section 3 (Voting), and by approval of the Governing Bodies of the Member Cities. A review of this Agreement may be initiated at any time by the Commission/Member Cities; however, a review is required five years from the time of the prior review.

XI. FINANCIAL MATTERS

Section 1. <u>Fiscal Year</u>. The fiscal year of the Commission shall be the calendar year.

Section 2. Expenditure of Funds. Commission funds may be expended by the Commission in accordance with the procedures established by law for the expenditure of funds by Minnesota Statutory Cities. Orders, checks, and drafts must be signed by any two of the officers. Regular monthly expenditures which are

preapproved by the Commission may be signed by one officer and a full-time Commission staff member, designated by the Commission. Other legal instruments shall be executed with authority of the Commission by the Chair. Contracts shall be let and purchases made in accordance with the procedures established by law for Minnesota Statutory cities.

Section 3. Franchise Fees. The Commission shall collect all franchise fees paid by the Cable Communications companies to which a franchise has been granted, provided that a Member City which has withdrawn from the Commission shall collect directly from that Cable Communications company all franchise fees attributable to subscribers in that Member City and accruing after effect of the date of the Member City's withdrawal.

Section 4. <u>Budget</u>. A proposed budget for each fiscal year shall be formulated by the Commission and submitted to its

Member Cities by August 1 of each fiscal year. The budget shall be deemed approved by a Member City unless by September 15 preceding the effective date of the budget, a Member City gives notice in writing to the Commission regarding any questions, concerns, or proposed changes to the Commission budget. If any such written notices are received by the Commission from a Member City, the Commission shall consider such written notice and submit a revised budget to its Member Cities by October 15.

The revised budget shall be deemed approved by a Member City by December 1.

XII. WITHDRAWAL

Section 1. <u>Withdrawal</u>. A Member City may withdraw from the Commission by sending a written notice of withdrawal to the Commission's Secretary before June 30 of any year.

Section 2. Notice of Withdrawal. A Member City withdrawing from the Commission under this Article shall send to the Commission's Secretary a written notice of withdrawal specifying the effective date of withdrawal and containing a copy of the Governing Body's action approving its withdrawal. A Member City's withdrawal shall be effective on the last day of the fiscal year that Member City sends its notice of withdrawal, unless it specifies a later date in its notice. A notice of withdrawal may be rescinded at any time by a Member City prior to September 1 of the year a Member City provides a notice of withdrawal.

Section 3. <u>Effectiveness of Ordinance After Withdrawal</u>.

Any franchise ordinance adopted by the Commission shall provide that it is effective and enforceable within the territorial limits of a Member City which has withdrawn from the Commission and a Member City which withdraws from the Commission shall be bound by the terms of any telecommunications franchise ordinance

previously adopted by the Commission. A Member City which has withdrawn shall be the exclusive authority to administer and enforce its telecommunications franchise ordinance.

Section 4. <u>Cooperation</u>. The Commission and a Member City which withdraws pursuant to this Article shall cooperate with each other and the telecommunications provider and shall use their best efforts to achieve an orderly and efficient transfer to that Member City of the administrative and enforcement authority over the Systems established within it.

Section 5. Access to Commission Assets. A Member City withdrawing at a time when such withdrawal does not result in dissolution of the Commission, shall forfeit its claim to any assets of the Commission except that it shall have access, at a reasonable cost and under such conditions as the Commission may determine, to any programs, files or other materials developed while it was a Member City.

XIII. DISSOLUTION

Section 1. <u>Method</u>. The Commission shall be dissolved (a) when a sufficient number of Member Cities withdraw from the Commission to reduce the total number of remaining Members to less than four or (b) upon a majority vote of the Commission.

Section 2. <u>Distribution of Assets</u>. Upon dissolution, the remaining assets of the Commission, after payment of all

obligations, shall be distributed among the then existing Member Cities in proportion to the gross revenues of the cable system attributable to each Member City, or in such other way as those Member Cities may unanimously agree.

Section 3. <u>Necessary Measures</u>. In the event of dissolution, the Commission shall determine the measures necessary to effect the dissolution and shall provide for the taking of such measures as promptly as circumstances permit and subject to the terms of this Agreement.

Section 4. Effectiveness of Ordinance After Dissolution.

Any franchise ordinance adopted by the Commission shall provide that it is effective and enforceable within the territorial limits of all Member Cities which were Member Cities prior to the dissolution of the Commission, and those Member Cities shall be bound by the terms of any franchise ordinance previously adopted and any franchise previously granted by the Commission.

After dissolution, each Member City shall be the exclusive authority to administer and enforce a telecommunications franchise ordinance.

XIV. EFFECTIVE DATE

Section 1. Execution of Agreement. A Member City entering into this Agreement shall do so by the duly authorized execution of a copy of this Agreement by its proper officers. Thereafter,

the Clerk or other appropriate officer of that Member City shall file a duly executed copy of this Agreement with the office of the Commission.

Section 2. <u>Effective Date</u>. This Agreement, as amended, shall become effective upon (a) the later of January 1, 2017, or upon authorization of all of the Member Cities and (b) all appropriate documents have been filed as provided above.

Section 3. <u>Previous Agreement Superseded</u>. This Agreement, when effective under Section 2 above, supersedes all previous agreements between the Member Cities hereto establishing a joint cable communications commission.

XV. DURATION

This Agreement shall continue in effect until the regular annual meeting of the Commission, and thereafter from year to year, or until termination in accordance with the terms of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their respective mayors and clerks the day and year first above written, all by authority of their respective governing bodies.

CITY OF ST. PAUL PARK

Mayor

Attest:

Clerk

City OF NEWPORT

Attest:

Clerk

City OF WOODBURY

Mayor

Attest:

Chair

Attest: