

RESOLUTION NO. R15-110

A RESOLUTION TO APPROVE A NON-EXCLUSIVE FRANCHISE AGREEMENT BETWEEN THE CITY OF LAUREL AND USA COMMUNICATIONS FOR INSTALLATION, CONSTRUCTION, RECONSTRUCTION, OPERATION, AND MAINTENANCE OF A TELECOMMUNICATIONS SYSTEM WITHIN THE CITY OF LAUREL, MONTANA.

BE IT RESOLVED by the City Council of the City of Laurel, Montana:

Section 1: Approval. The Franchise Agreement negotiated between the City of Laurel and USA Communications for the provision of a telecommunications system in the City of Laurel is hereby approved. A copy is attached hereto for convenience.

Section 2: Execution. The Mayor and City Clerk of the City of Laurel are hereby given authority to accept and execute said agreement on behalf of the City.

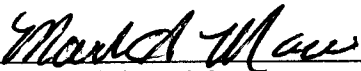
Section 3: Effective date. This Agreement shall be effective upon approval of the City Council, and signature by the Parties' respective representatives.

Introduced at a regular meeting of the City Council on November 17, 2015, by Council Member Dickerson.

PASSED and APPROVED by the City Council of the City of Laurel this 17th day of November, 2015.

APPROVED by the Mayor this 17th day of November, 2015.

CITY OF LAUREL

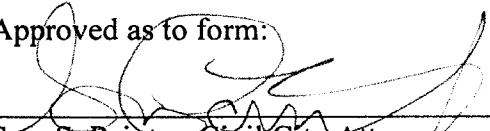


Mark A. Mace, Mayor

ATTEST:



Shirley Ewan, City Clerk/Treasurer

Approved as to form:


Sam S. Painter, Civil City Attorney

FRANCHISE AGREEMENT

The City of Laurel, Montana a political division of the State of Montana, hereinafter "City" and USA Communications hereby agree as follows:

Section 1. Short Title. This Agreement shall be known and may be cited as the "City of Laurel/USA Communications Franchise Agreement, hereinafter "Agreement."

Section 2. Grant of Franchise. This Agreement is enacted pursuant to the authority provided in, and all the provisions, terms and conditions of Title 5 of the Laurel Municipal Code. The franchise requested from the City by USA Communications, to install, construct, reconstruct, operate, and maintain a telecommunications system is hereby granted as herein provided.

Section 3. Franchise General Terms and Conditions USA Communications is hereby granted a non-exclusive franchise for a period of fifteen (15) years from the date this Agreement is executed and approved by Resolution of the City Council pursuant to the terms and conditions hereinafter set forth.

3.1 The franchise granted herein is subject to all of the terms and conditions of this Agreement, and the terms and conditions contained in appropriate Sections of Title 5 and 12 of the Laurel Municipal Code, and applicable sections of Montana law. If there are any conflicts between City Ordinance and this Agreement, the Agreement shall prevail.

3.2 No provision of this Agreement is intended to be in conflict with any preemptive provision of Federal or State law. Whenever a preemptive provision of Federal or State law exists with respect to any provision of this Agreement, the preemptive provision of the Federal or State law shall take precedence.

3.3 USA Communications may build, construct, upgrade, reconstruct, operate, and maintain a Telecommunications System as defined in the Federal Telecommunications Act of 1996 and by Montana law. USA Communications' franchised service area may increase throughout the term of the franchise agreement due to annexations to the City of unincorporated areas. The City shall provide USA Communications a timely notification of any and all such annexations, and USA Communications shall upon receipt thereof provide the City timely acknowledgement of such receipt. The City understands that USA Communications may elect to extend its service into other areas and newly annexed and/or incorporated areas of the City; and, if USA Communications elects not to extend its service area, USA Communications shall submit to the City a notice providing the location of the service area USA Communications will not serve.

3.4 In the event the City enters a franchise, license, or other agreement, with any other person or entity other than USA Communications, for the purpose of providing telecommunication service to any part of USA Communications' franchise area, which allows operation on terms more favorable to such person or entity than those of USA Communications' franchise awarded by this Agreement, then USA Communications may renegotiate its Franchise

Agreement on terms similar to those of the franchise agreement of the other franchisee without interruption of service or without terminating this Agreement.

3.5 This Agreement may be extended from year-to-year on an ongoing basis in one-year increments after the initial fifteen (15) year period unless either the City or USA Communications, or both, request, not earlier than ninety (90) calendar days or later than sixty (60) calendar days prior to expiration of the granted or extended franchise period, renegotiation of the Franchise Agreement terms and/or conditions. The nature of such renegotiations may include any issues related to this Agreement, and/or changes in federal, state or local laws. This Agreement may be terminated or rescinded in accordance with applicable federal law.

Section 4. Franchise Rescission Requirements. The City may rescind the Franchise Agreement without liability to USA Communications, if all the conditions and requirements of Federal, State and/or City Ordinance and this Agreement are not met and complied with at all times during this Agreement. USA Communications shall:

4.1 File with the City Clerk a policy of insurance naming the City as an additional insured for any negligent acts or omissions committed by USA Communications' employees or agents while utilizing the City streets as defined in Title 12 of the Laurel Municipal Code.

4.2 Provide insurance or a construction bond in an amount deemed necessary and reasonable for any work or construction on or within a City street as required by City Resolution, or as provided in Title 12 of the Laurel Municipal Code.

4.3. Pay the City's right-of-way application and processing fee.

Section 5. Burial of Service Lines. Underground lines must normally be installed under the pavement of the street, under the sidewalk, or a minimum of six (6) feet from the curb away from the street. Variations from this procedure must be approved by the City's Director of Public Works prior to installation, and on a case-by-case basis.

Section 6. Except during temporary construction, installation, or maintenance activities, all lines, cables and distribution structure, and equipment, including poles and towers, erected, installed or maintained by USA Communications within the City shall be located so as not to obstruct or interfere with the proper use of Streets and Public Ways and to cause minimum interference with the rights of property owners next to Streets and Public Ways, and not to interfere with existing public utility installations. USA Communications shall not place new poles, towers or other obstructions in Streets or Public Ways, or relocate existing poles, towers or other obstructions, without first obtaining the City's approval, which approval shall not be unreasonably withheld. USA Communications shall have no vested right in any location, and such construction shall be removed by them at their own cost and expense whenever the same restricts or obstructs or interferes with the operation or location or any future operation or location of said Streets or Public Ways by the City for a City or public purpose.

Section 7. Severability. If any section, subsection, sentence, clause, phrase or word of this Agreement is for any reason held to be invalid or unconstitutional, such decision shall not

affect the validity of the remaining portions of this Agreement. The City hereby declares that it approves this Agreement and each section, subsection, sentence, clause, phrase and words thereof, irrespective of the fact that any one or more of sections, subsections, sentences, clauses, phrases or words may be declared invalid or unconstitutional, and if for any reason any section, subsection, sentence, clause, phrase or word of this Agreement should be declared invalid or unconstitutional, the remaining provisions will remain in full force and effect.

Section 8. Notices. Every direction, notice or order to be served upon USA Communications shall be hand delivered or sent by certified mail to USA Communications' office: 920 E. 56th St, Suite B, Kearney, NE 68847 Every notice to be served upon the City shall be hand delivered or sent by certified mail to the City Clerk at: 115 West First Street, Laurel, Montana 59044. The delivery of such notice shall be deemed to have been received two days after mailing or upon receipt if hand delivered.

Section 9. Effective Date. This Agreement shall become effective upon approval of the City Council, and signature by the Parties' respective representatives.

Section 10. Applicability of federal laws. Pursuant to this Agreement, all references to telecommunication systems are all inclusive of all systems now authorized to be franchised or which are authorized to be franchised in the future pursuant to federal law. This franchise shall be construed and enforced under the provisions of the Federal Telecommunications Act of 1996 as well as any applicable sections of Montana's Telecommunications Act.

CITY OF LAUREL

By: Mark A Mace
Mark Mace

Cindy Allen for
Shirley Ewan Clerk/Treasurer

COMPANY NAME

By: _____
President / CEO

Amber Peinle
Secretary - Treasurer