

ORDINANCE NO ____

AN ORDINANCE GRANTING TO BEK COMMUNICATIONS COOPERATIVE, ITS SUCCESSORS AND ASSIGNS, THE RIGHT TO USE AND OCCUPY THE STREETS, ALLEYS, AND OTHER PUBLIC PLACES OF THE CITY OF BUFFALO NORTH DAKOTA, FOR THE PURPOSE OF CONSTRUCTING, MAINTAINING AND OPERATING A VOICE, VIDEO AND DATA COMMUNICATIONS SYSTEM, WITHIN SAID CITY.

Be it ordained by the City Council of BUFFALO, North Dakota as follows:

Section 1. That BEK Communications Cooperative, its successors and assigns, are hereby granted a non-exclusive franchise to use and occupy all streets, alleys, bridges, public ways and public places in the City, now existing or hereafter acquired ("Rights of Way"), for a term of twenty (20) years from the effective date hereof, for the purpose of constructing, maintaining and operating a voice, video and data communications system ("System") within the City. Company has the right to construct, erect, operate and maintain, in, under, along, across, above, over and under the Rights of Way such cables, poles, cabinets, conduit and other equipment and infrastructure as may be necessary or desirable for the operation and maintenance of the System.

Section 2. Non-Exclusive Grant. The right to use and occupy the Rights of Way for the purposes herein set forth shall not be exclusive. City reserves any right it may have, under its police power or otherwise, to control or regulate the use of said streets, alleys and public grounds.

Section 3. Buildout Obligation. Upon initiation on this ordinance, BEK Communications shall meet a 24-month buildout schedule bringing a system service connection to all habitable structures within the said City. A system service connection to habitable structures shall be initiated under the authority of the property owner. The City reserves the right to require the same buildout obligation for any future Communications franchise requests.

Section 4. Compliance with Applicable Laws and Ordinances. Company shall, at all times during the term of this franchise be subject to all lawful exercise of the police power by the City except as may be pre-empted by applicable state and federal law.

Section 5. Term of Franchise and Renewal of Franchise. This franchise shall continue and remain in full force and effect for a period of twenty (20) years. This franchise is subject to renewal upon the request of BEK in accordance with the applicable provisions of state and federal law and regulations.

Section 6. That this ordinance shall be in full force and effect when it shall have been enacted according to law.

Section 7. Company agrees to indemnify and hold the City of Buffalo, its agents, or assigns, harmless from any claims, liability, loss, damage, and expense related to the Company's activities within the City of Buffalo.

First reading on March 11th, 2019

Second reading and passage on April 8th, 2019

CITY OF BUFFALO

By:

Title:

Mayor

Attest:

Title:

Richman
City Auditor