

ORDINANCE NO. 403

AN ORDINANCE OF THE CITY OF ROLLA, NORTH DAKOTA AMENDING ORDINANCE NO. 398 GRANTING A NON EXCLUSIVE FRANCHISE TO TURTLE MOUNTAIN COMMUNICATIONS, INC. FOR THE CONSTRUCTION, OPERATION, AND MAINTENANCE OF A COMUNICATIONS SYSTEM WITHIN THE CITY LIMITS PROVIDED FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE, TO READ AS FOLLOWS:

WHEREAS, The City of Rolla is authorized to grant non-exclusive franchise operations of communications systems within the City rights-of-way; and

WHEREAS, Turtle Mountain Communications, Inc. has applied for a franchise to construct, operate, and maintain communications services within the boundaries of Rolla; and

WHEREAS, the terms, conditions and obligations provided herein are needed to protect the safety and welfare of the citizens of Rolla; and provide for the communications services needs of the community;

NOW, THEREFORE, THE CITY OF ROLLA, NORTH DAKOTA, HEREBY ORDAINS AS FOLLOWS:

Section 1: Purpose

This Ordinance shall establish a non-exclusive Franchise, which constitutes an agreement between the City of Rolla (hereinafter the "City") and Turtle Mountain Communications, Inc. (hereinafter the "Operator"). The Operator agrees to construct, maintain and operate a communications services system for the distribution of telephone service, digital subscriber lines, broadband services, and DSL video pursuant to the terms of the Franchise. The City agrees to grant all necessary rights and privileges to use public rights of way necessary for the communications services system. This agreement shall, as of the effective date, supercede all existing franchises previously granted by the City of Rolla to Operator, or any of its predecessors, subsidiaries, or affiliated companies.

Section 2: Length of Franchise.

The length of this Franchise shall be for a term of Twenty (20) years from December 22, 2004 through midnight of December 22, 2024.

Section 3: Service Area.

The Operator's service area shall be the entire incorporated area of the City of Rolla, in its present incorporated form or in any later reorganized, or enlarged, or re-incorporated form.

Section 4: Liability and indemnification.

Grantee shall, at all times, keep in effect the following types of insurance coverage: