

TOWN OF HAVEN, MINNESOTA

ORDINANCE NO. R-02-00

AN ORDINANCE GRANTING AN EXTENSION PERMIT TO SEREN INNOVATIONS A WHOLLY OWNED SUBSIDIARY OF NSP AND ITS AFFILIATES TO CONSTRUCT, EXTEND, OPERATE, AND MAINTAIN A CABLE COMMUNICATIONS SYSTEM IN THE TOWNSHIP OF HAVEN, MINNESOTA

WHEREAS, Minn. Stat. §238.08, subd. 1 provides that a municipality shall require a franchise or extension permit of any cable communications system providing service within the municipality; and

WHEREAS, Seren Innovations a wholly owned subsidiary of NSP and its affiliates (hereinafter collectively called the "Company"), has requested the authorization of the Town of Haven (hereinafter also called the "Town") to extend service from its cable communications system currently operating under a lawful franchise within the City of Waite Park, Minnesota, which is the "core service unit" as defined by Minn. Stat. §238.02, subd. 14; and

WHEREAS, the Town of Haven extension area as defined by Minn. Stat. §238.02, subd. 15, is not within the Twin Cities Metropolitan Area as defined in Minn. Stat §473.121, subd.121, subd. 2; and

WHEREAS, pursuant to Minn. Stat. §238.17, the request by the Company has been considered in a public proceeding, affording reasonable notice and opportunity to be heard.

NOW, THEREFORE, the Town Board of Supervisors of the Town of Haven hereby ordains that there is hereby granted to the Company a non-exclusive extension permit to construct, operate, and maintain a cable communications system extension within the Township of Haven, subject to the following terms and conditions:

Section 1. Term of Extension Permit. The extension permit shall expire at the same time as the cable communications franchise currently in effect in the City of Waite Park (September 27, 2013), the core service unit. Any change in the expiration date of the franchise by way of either renewal or amendment to the franchise, shall automatically apply to the extension permit, unless the Township of Haven acts to terminate or limit the term of the extension permit at or about the time the expiration date of the franchise is extended.

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Section 2. Applicable Provisions of Franchise. The Company and the Township of Haven agree to abide by all of the applicable provisions of the core service unit franchise, as the same may from time to time be amended or renewed by the City of Waite Park which relate to the following:

- a. System-wide channel capacity;
- b. Capability for two-way communications;
- c. Standards for system installation, maintenance, and operation;
- d. Indemnification of franchiser and liability insurance;
- e. Abandonment of service;
- f. Termination or cancellation of the franchise;
- g. Removal of equipment;
- h. Access channels;
- i. Other terms and conditions of said franchise that are applicable.

Section 3 Rates. Prior to offering service to any member of the general public, the Company shall prepare a clear and concise list of all current subscription rates and charges, including all installation and disconnection charges, charges for optional services, and charges or deposits for the use of equipment offered to subscribers for use with services offered by the Company. A verified copy of this list of rates and charges shall then be filed with the Town Clerk and shall be available for public inspection at the offices of the Town. An amended list of rates and charges shall be prepared and filed with the Town Clerk at any time there is a change or adjustment in the subscription rates and charges.

Section 4. Fees, Charges, and Deposits.

- a. No fee, charge, deposit, or associated term or condition shall be imposed by the Company for any service unless it is filed with the Town Clerk and said filings may be amended from time to time by the Company. The fees, charges, deposits, and associated terms and conditions for basic services shall be set forth in said filings as well as those rates for extra services and for service-related activities and all other services, facilities, equipment, and other matters. All such fees, charges, deposits and associated terms and conditions shall be nondiscriminatory, provided that this requirement shall not prevent: (i) the use of sales promotion, other special discounts, waiver of charges, reduced charges, or changes in associated terms and conditions to identifiable classes of subscribers; (ii) the negotiation of bulk rates, discounts, reduced charges, or changes in associated terms and conditions for the provision of services; and (iii) the offering of specialized services at negotiated rates, provided that the Company shall ensure that no residential subscriber is charged any fee, charge, or deposit in excess of those set forth in filings required by this extension permit, as they may be amended from time to time by the Company.

- b. Except as provided in rate filings required by the core service unit franchise, this ordinance, or state or federal law or regulation, the Company shall not impose any fee or charge on any subscriber for (i) any service call to said subscriber's premises to perform any repair of maintenance work, except any such work necessitated by a negligent or wrongful act of said subscriber, or (ii) the disconnection of services to a subscriber, provided that the Company may impose appropriate charges if, at the time of disconnection, some or all of the Company's equipment is not returned to the Company or the subscriber has not paid all outstanding fees and charges due to the Company.

Section 5. Revised Filings by Company. Within at least thirty (30) days prior to the effective day of any change in any rate, charge, deposit, or associated terms or conditions set forth in filings required by the core service unit franchise, the ordinance, or other applicable state or federal law or regulation, the Company shall: (i) submit the revised filing to the City Clerk together with a description of the proposed change and (ii) provide a written notice of such proposed change to each affected subscriber and other person utilizing the affected service.

Section 6. Severability and Repealer. All ordinances or portions of ordinances in conflict herewith are hereby repealed. Should any section of this ordinance be held by a court of competent jurisdiction to be unconstitutional or void, the remaining provisions shall remain in full force and effect.

Section 7. Hypothecation. The town hereby consents to the grant by the Company or any affiliate of the Company who may from time to time hold the franchise of a security interest in all of its rights, powers and privileges under the franchise and all of its other assets to such lending institution or institutions as may be designated by the Company or any affiliate of the Company, which lending institution or institutions shall have all of the rights or remedies or a secured party under the applicable Uniform Commercial Code.

Section 8. Special Terms and Conditions. The following terms and conditions shall apply to the grant of rights by the Town to the Company under this ordinance:

- a. The service area under this ordinance shall the residences adjacent to the County Road 8 from Highway 65. Said service area is subject to change by mutual written agreement of the Town and the Company.
- b. The Company shall not install or cause to be installed any additional utility poles, but shall use existing poles or underground cable installations to extend its services to the Town.

Section 9. Severability and Preemption. All ordinances or portions of ordinances in conflict herewith are hereby repealed. Should any section of this ordinance be held by a court of competent jurisdiction to be unconstitutional or void, the remaining provisions shall remain in full force and effect.

Section 10. Effective Date of Ordinance. This ordinance shall be effective from and after its adoption and publication as provided by law.

Section 11. Franchise Extension Fee. During the term of the Franchise Extension Permit granted hereunder, the company shall pay to the Town annually an amount equal to three percent (3%) of all basic and all tiered gross service receipts derived from within the Town. This payment shall be made to the Town within (90) days after the last day of each year.

Enacted by the Township Council of Haven the 4 day of April, 2000.

Attest:

Township of Haven

M. C. Zmud  
Township Clerk

By: L. N. Pauley  
Title Chairman

Published in the Citizen Paper the 4<sup>th</sup> day of  
April, 2000.

M. C. Zmud  
Township Clerk