

**Barnesville City Council
Special Meeting
April 30, 2014**

Mayor Gene Prim called this special meeting to order at 6:00 p.m. Members present were Council members Richard Sylvester, Larry Davis, Jr, Don Goedtke, Jason Rick and Cathy Enstad. Absent: Betty Strom

Others in attendance were, City Administrator Mike Rietz, John Shockley with Ohnstad Twichell, TEC Manager Guy Swenson, Eric Spilde, Mark Nisbet with Xcel Energy, Ryan Tonsfeldt, Dan Noreen and Todd Hagen with Ehlers, Inc.

Mayor Prim stated there were two items on this agenda for this evening.

Mayor Prim stated the first item on the agenda was the approval of bonds for the Fiber to the Premise project.

Todd Hagen updated the Council on the progress on the bond sale. He indicated that Dougherty & Co. needed some additional time to finalize the sale. Todd Hagen and City Attorney John Shockley presented a Resolution that would authorize a pricing committee consisting of Todd Hagen, Mayor Prim and City Attorney Mike Rietz to finalize the bond sale if the total interest cost was 4.25% or less.

04-30-14-01 Motion by Mr. Sylvester and second by Mr. Rick to approve Resolution No. 04-30-14-01, Preliminary Resolution authorizing Mayor and City Administrator to accept offer on sale of communication system revenue bonds, Series 2014A and sign resolution providing for their issuance. Upon a roll call vote, the following voted aye: council members Rick, Goedtke, Davis and Sylvester. The following council members were absent: council members Strom and Enstad. Motion carried.

Member Sylvester introduced the following resolution and moved its adoption:

**PRELIMINARY RESOLUTION AUTHORIZING MAYOR AND CITY ADMINISTRATOR
TO ACCEPT OFFER ON SALE OF COMMUNICATION SYSTEM REVENUE BONDS,
SERIES 2014A AND SIGN RESOLUTION PROVIDING FOR THEIR ISSUANCE**

WHEREAS, the City of Barnesville, Clay County, Minnesota (the "City") has hereto determined and declared that it is necessary and expedient to issue Communication System Revenue Bonds, Series 2014 A (the "Bonds") of the City, pursuant to Chapter 7, Section 4 of the City's Home Rule Charter and Minnesota Statutes, Chapter 475, to finance improvements to the City's existing broadband communication infrastructure system; and

WHEREAS, the City is currently negotiating with Dougherty & Company, LLC (the "Purchaser") to purchase the bonds; and

WHEREAS, the Purchaser has requested additional time to complete the purchase of the Bonds; and

WHEREAS, the governing body of the City of Barnesville desires to issue the Communication System Revenue Bonds, Series 2014A; and

WHEREAS, the following documents have been prepared in connection with the issuance, sale, and delivery of the Bonds, and have been approved by the officers and legal counsel of the City of Barnesville:

- a. Preliminary Official Statement to be dated on or after April 25, 2014.
- b. Limited Continuing Disclosure Certificate of the City of Barnesville to be dated as of the closing date.
- c. The Resolution accepting offer on the sale of Communication System Revenue Bonds, Series 2014A;

and

WHEREAS, the City desires to approve the sale of the Series 2014 Bonds at its April 30, 2014, meeting, although the Bonds will not be priced yet, and the actual sale date will be subsequent to the date of this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the governing body of the City of Barnesville, Minnesota as follows:

Section 1. Authorization of the Sale of the Bonds. There is hereby authorized and directed to be issued pursuant to the terms of the Resolution attached as Exhibit A to this Resolution Communication System Revenue Bonds, Series 2014A. The Mayor and City Administrator shall have the authority to determine the final dollar amount and the amortization schedule for each series of the Bonds and to include that information in the Resolution attached as Exhibit A *without further action of the governing body of the City*, as long as the true interest cost on the Bonds does not increase to more than 4.25%.

Section 2. Approval of Resolution Attached as Exhibit A and Limited Continuing Disclosure Certificate. The Resolution attached as Exhibit A and Limited Continuing Disclosure Certificate in substantially the forms on file at the City office are hereby approved. The Mayor and City Administrator are authorized and directed to execute the Resolution attached as Exhibit A and Limited Continuing Disclosure Certificate in the name of the City in substantially the form attached to this Resolution and on file at the City office, with such changes, insertions, or omissions therein as shall be approved by the Mayor and City Administrator upon the advice of Bond Counsel to the City. The execution and delivery of the Resolution attached as Exhibit A and Limited Continuing Disclosure Certificate constitute evidence of the approval of such changes. The persons making the motion and seconding the motion to approve this Resolution, and the vote on this Resolution, shall be deemed the makers of the Resolution attached as Exhibit A, and the vote on the Resolution attached as Exhibit A.

Section 3. Approval of Preliminary Official Statement. The form and content of the Preliminary Official Statement prepared by the Underwriter and on file at the City office and the distribution thereof by the Underwriter to prospective purchasers of the Series A Bonds is hereby ratified and approved.

Section 4. Final Official Statement. The City hereby authorizes the Underwriter to prepare a Final Official Statement substantially in the form of the Preliminary Official Statement on file at the City office, with such changes, insertions, or omissions therein as shall be approved by the Mayor and City Administrator upon the advice of Bond Counsel to the City. The City authorizes the use of the Official Statement of behalf of the City in connection with the sale and distribution of Bonds by the Underwriter.

Section 5. Severability. If any one or more of the provisions of this Resolution shall be determined by a court of competent jurisdiction to be contrary to law, any such provision shall be deemed separable from the remaining provisions hereof, and the invalidity thereof shall in no way affect the validity of the other provisions of this Resolution.

Section 6. Section Headings and Applicable Law. The headings and titles to the several sections hereof shall be solely for the convenience of reference and shall not affect the meaning, construction, intent or effect of the Resolution. The Resolution shall be interpreted in accordance with the laws of the State of North Dakota.

Dated: April 30, 2014.

CITY OF BARNESVILLE, MINNSOTA

Mayor

ATTEST:

City Administrator

The motion for the adoption of the foregoing resolution was duly seconded by Member Rick, and upon roll call vote, the following voted in favor thereof: Sylvester, Rick, Davis, and Goedtko. The following were absent and not voting: Strom and Enstad, and the following voted against the same: none, whereupon the resolution was declared duly passed and adopted.

EXTRACT OF MINUTES OF A MEETING OF THE CITY COUNCIL OF THE

CITY OF BARNESVILLE, CLAY COUNTY, MINNESOTA

HELD: April 30, 2014

Pursuant to due call and notice thereof, a regular meeting of the Barnesville City Council, Clay County, Minnesota, was duly called and held at the City Hall in the City of Barnesville on the 30th day of April, 2014, for the purpose of awarding the sale of \$3,870,000 Communication System Revenue Bonds, Series 2014A, of the City.

The following members were present: Rick, Goedtke, Davis and Sylvester, and the following were absent: Enstad and Strom.

Member Sylvester introduced the following resolution and moved its adoption:

RESOLUTION ACCEPTING OFFER ON THE
SALE OF \$3,870,000 COMMUNICATION SYSTEM REVENUE BONDS, SERIES 2014A
AND PROVIDING FOR THEIR ISSUANCE

A. WHEREAS, the City of Barnesville, Clay County, Minnesota (the City), has hereto determined and declared that it is necessary and expedient to issue \$3,870,000 Communication System Revenue Bonds, Series 2014A (the "Bonds") of the City, pursuant to Chapter 7, Section 4 of the City's Home Rule Charter and Minnesota Statutes, Chapter 475, to finance improvements to the City's existing broadband communication infrastructure system; and

B. WHEREAS, The City owns and operates, a municipal Communication System (the "Communication System"). The City operates the Communication System as a public, revenue-producing convenience, providing service to the City and its inhabitants as authorized by the City's home rule charter; and

C. WHEREAS, the City has operated the Communication System for nearly 100 years; and

D. WHEREAS, the City is authorized to issue and sell revenue bonds to finance the acquisition and improvement of the Communication System and related costs; and

E. WHEREAS, \$3,870,000 of Communication System Revenue Bonds are to be issued to finance improvements to upgrade the City's existing broadband communication system from copper to fiber-optic infrastructure; and

F. WHEREAS, the City, by resolutions heretofore adopted, authorized the issuance of its 2015-2017 maturities of the \$1,085,000 Electric and Communication Revenue Bonds, Series 2001 (the "Redeemed Bonds"); and

G. WHEREAS, the City desires to provide for the retirement of the Redeemed Bonds using funds currently held by the City as part of its issuance of the Bonds; and

H. WHEREAS, it is in the best interests of the City that the Bonds be issued in book-entry form as hereinafter provided; and

I. WHEREAS, offers to purchase the Bonds were solicited on behalf of the City by Ehlers & Associates, Inc.; and

J. WHEREAS, the City has received from Dougherty and Company, LLC, of Minneapolis, Minnesota (the "Purchaser") a proposal to purchase the Bonds upon the terms and conditions herein specified.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City as follows:

1. Acceptance of Offer. The Mayor, City Administrator and City Attorney are hereby authorized and directed to accept and purchase the \$3,870,000 Communication System Revenue Bonds, Series 2014A, of the City (the "Bonds," or, individually, a "Bond") by Dougherty and Company, LLC (the "Purchaser") for an amount not to exceed 4.25% net effective interest on the par value of the bonds.

2. Retirement of the Redeemed Bonds. The City will cause notice of redemption to be sent by mail to the Bond Registrar, Paying Agent and registered owner of the Redeemed Bonds indicating that the Redeemed Bonds will be redeemed on June 13, 2014. At closing, the City shall deposit with U.S. Bank from funds currently held by the City, an amount equal to the amount necessary to pay the principal and interest, if any, on all of the Redeemed bonds on June 13, 2014.

3. Security Pledged for Bonds

3.01. Pledge of Net Revenues. From and after their issuance, the principal of and interest on the Bonds shall be solely payable from and (except as otherwise provided herein) constitute a first lien and charge on the Debt Service Account, the Debt Service Reserve Account and the Net Revenues of the Communication System.

3.02. Reserve Account Requirement. Upon issuance of the Bonds, the City shall deposit in the Debt Service Reserve Account an amount from funds currently held by the City equal to the then applicable Reserve Requirement. No Bond Proceeds will be used to fund the Debt Service Reserve Account.

3.03. Not General Obligations. **The Bonds are not general obligations of the City. The Bonds are special limited obligations of the City payable solely from the Net Revenues of the Communication System. The Bonds will never constitute an indebtedness, a general or moral obligation or a charge against the general credit or taxing powers of the City or any property of the City (other than those interests assigned pursuant to this Resolution), and no holder of the Bonds shall have the right to compel the exercise of the taxing power or the appropriation of any other funds, or revenues of the City to the payment of the principal of, or premium or interest on the Bonds.**

4. Terms of Bonds.

4.01. Title: Original Issue Date: Denominations; Maturities. The Bonds shall be entitled "\$3,870,000 Communication System Revenue Bonds, Series 2014A," shall be dated May 7, 2014, as the date of original issue, and shall be issued forthwith on or after such date as fully registered bonds. The Bonds shall be numbered from R-1 upward in the denomination of \$5,000 each or in any integral multiple thereof of a single maturity. The Bonds shall mature on December 1 in the years and amounts as follows:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2015	\$155,000	2019	\$160,000	2026*	\$380,000
2016	155,000	2020*	165,000	2029*	625,000
2017	155,000	2022*	335,000	2032*	185,000
2018	155,000	2024*	355,000	2034*	195,000

*Term Bonds

4.02. Book Entry Only System. The Depository Trust Company, a limited purpose trust company organized under the laws of the State of New York or any of its successors or successors to its functions hereunder (the "Depository") will act as securities depository for the Bonds, and to this end:

(i) The Bonds shall be initially issued and, so long as they remain in book entry form only (the "Book Entry Only Period"), shall at all times be in the form of a separate single fully registered Bond for each maturity of the Bonds; and for purposes of complying with this requirement under paragraphs seven (7) (with respect to redemption) and 12 (with respect to registration, transfer, and exchange), Authorized Denominations for any Bond shall be deemed to be limited during the Book Entry Only period to the outstanding principal amount of that Bond.

(ii) Upon initial issuance, ownership of the Bonds shall be registered in a bond register maintained by Bond Trust Services Corporation, Roseville, Minnesota (the "Bond Registrar") in the name of CEDE & CO., as the nominee (it or any nominee of the existing or a successor Depository, the "Nominee").

(iii) With respect to the Bonds, neither the City nor the Bond Registrar shall have any responsibility or obligation to any broker, dealer, bank, or any other financial institution for which the Depository holds Bonds as securities depository (the "Participant") or the person for which a Participant holds an interest in the Bonds shown on the books and records of the Participant (the "Beneficial Owner"). Without limiting the immediately preceding sentence, neither the City, nor the Bond Registrar, shall have any such responsibility or obligation with respect to (A) the accuracy of the records of the Depository, the Nominee or any Participant with respect to any ownership interest in the Bonds, or (B) the delivery to any Participant, any Owner or any other person, other than

the Depository, of any notice with respect to the Bonds, including any notice of redemption, or (C) the payment to any Participant, any Beneficial Owner or any other person, other than the Depository, of any amount with respect to the principal of or premium, if any, or interest on the Bonds, or (D) the consent given or other action taken by the Depository as the Registered Holder of any Bonds (the "Holder"). For purposes of securing the vote or consent of any Holder under this Resolution, the City may, however, rely upon an omnibus proxy under which the Depository assigns its consenting or voting rights to certain Participants to whose accounts the Bonds are credited on the record date identified in a listing attached to the omnibus proxy.

(iv) The City and the Bond Registrar may treat and deem the Depository to be the absolute owner of the Bonds for the purpose of payment of the principal of and premium, if any, and interest on the Bonds, for the purpose of giving notices of redemption and other matters with respect to the Bonds, for the purpose of obtaining any consent or other action to be taken by Holders for the purpose of registering transfers with respect to such Bonds, and for all purpose whatsoever. The Bond Registrar, as paying agent hereunder, shall pay all principal of and premium, if any, and interest on the Bonds only to or upon the Holder or the Holders of the Bonds as shown on the bond register, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to the principal of and premium, if any, and interest on the Bonds to the extent of the sum or sums so paid.

(v) Upon delivery by the Depository to the Bond Registrar of written notice to the effect that the Depository has determined to substitute a new Nominee in place of the existing Nominee, and subject to the transfer provisions in paragraph 12 (with respect to registration, transfer, and exchange) hereof, references to the Nominee hereunder shall refer to such new Nominee.

(vi) So long as any Bond is registered in the name of a Nominee, all payments with respect to the principal of and premium, if any, and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, by the Bond Registrar or City, as the case may be, to the Depository as provided in the Letter of Representations, to the Depository required by the Depository as a condition to its acting as book-entry Depository for the Bonds (said Letter of Representations, together with any replacement thereof or amendment or substitute thereto, including any standard procedures or policies referenced therein or applicable thereto respecting the procedures and other matters relating to the Depository's role as book-entry Depository for the Bonds, collectively hereinafter referred to as the "Letter of Representations").

(vii) All transfers of beneficial ownership interests in each Bond issued in book-entry form shall be limited in principal amount to Authorized Denominations and shall be effected by procedures by the Depository with the Participants for recording and transferring the ownership of beneficial interests in such Bonds.

(viii) In connection with any notice or other communication to be provided to the Holders pursuant to this Resolution by the City or Bond Registrar with respect to any

consent or other action to be taken by Holders, the Depository shall consider the date of receipt of notice requesting such consent or other action as the record date for such consent or other action; provided, that the City or the Bond Registrar may establish a special record date for such consent or other action. The City or the Bond Registrar shall, to the extent possible, give the Depository notice of such special record date not less than 15 calendar days in advance of such special record date to the extent possible.

(ix) Any successor Bond Registrar, in its written acceptance of its duties under this Resolution and any paying agency registrar agreement, shall agree to take any actions necessary from time to time to comply with the requirements of the Letter of Representations.

(x) In the case of a partial prepayment of a Bond, the Holder may, in lieu of surrendering the Bonds for a Bond of a lesser denomination as provided in paragraph seven (7) hereof (with respect to redemption), make a notation of the reduction in principal amount on the panel provided on the Bond stating the amount so redeemed.

4.03. Termination of Book-Entry Only System. Discontinuance of a particular Depository's services and termination of the book-entry only system may be effected as follows:

(i) The Depository may determine to discontinue providing its services with respect to the Bonds at any time by giving written notice to the City and discharging its responsibilities with respect thereto under applicable law. The City may terminate the services of the Depository with respect to the Bond if it determines that the Depository is no longer able to carry out its functions as securities depository or the continuation of the system of book-entry transfers through the Depository is not in the best interests of the City or the Beneficial Owners.

(ii) Upon termination of the services of the Depository as provided in the preceding paragraph, and if no substitute securities depository is willing to undertake the functions of the Depository hereunder can be found which, in the opinion of the City, is willing and able to assume such functions upon reasonable or customary terms, or if the City determines that it is in the best interests of the City or the Beneficial Owners of the Bond that the Beneficial Owners be able to obtain certificates for the Bonds, the Bonds shall no longer be registered as being registered in the bond register in the name of the Nominee, but may be registered in whatever name or names the Holder of the Bonds shall designate at that time, in accordance with paragraph 10 hereof. To the extent that the Beneficial Owners are designated as the transferee by the Holders, in accordance with paragraph 10 (with respect to registration, transfer, and exchange) hereof, the Bonds will be delivered to the Beneficial Owners.

(iii) Nothing in this subparagraph (iii) shall limit or restrict the provisions of paragraph 12 (with respect to registration, transfer, and exchange) hereof.

4.04. Letter of Representations. The provisions in the Letter of Representations are incorporated herein by reference and made a part of the resolution, and if and to the extent any

such provisions are inconsistent with the other provisions of this Resolution, the provisions in the Letter of Representations shall control.

5. Purpose. The Bonds shall provide funds for improvements to the City’s existing broadband communication infrastructure system consisting of updating copper cable to fiber optic lines (the “Project”). The Project will be substantially complete and operational by December 31, 2014.

6. Interest. The Bonds shall bear interest payable semiannually on June 1 and December 1 of each year (each an "Interest Payment Date"), commencing December 1, 2014, calculated on the basis of a 360-day year of twelve 30-day months, at the respective rates per annum set forth opposite the maturity years as follows:

<u>Maturity Year</u>	<u>Interest Rate</u>	<u>Maturity Year</u>	<u>Interest Rate</u>	<u>Maturity Year</u>	<u>Interest Rate</u>
2015	0.75%	2019	2.00%	2026*	3.50%
2016	1.00	2020	2.25	2029*	4.10
2017	1.25	2022*	2.50	2032*	4.50
2018	1.75	2024*	3.00	2034*	4.60

7. Redemption.

7.01. Optional Redemption. The Bonds maturing on or after December 1, 20__, (“Optional Redemption Date”) may be redeemed prior to their respective maturity dates, at the option of the Issuer, on December 1, 20__, and on any date thereafter, at a price equal to the principal amount plus accrued interest. Redemption may be in whole or in part, and if in part, at the option of the Issuer and in such manner as the Issuer shall determine and within a maturity by lot as selected by the registrar. Not less than thirty (30) days prior to the date specified for redemption and prepayment of any of the Bonds, the Issuer will cause notice of the call thereof to be sent by mail to the Bond Registrar, Paying Agent and registered owner of the Bond to be redeemed in whole or in part at the address shown on the registration books of the Registrar.

7.02. Extraordinary Redemption Due to Damage or Destruction. In the event of Damage or Destruction which cannot be cured pursuant to paragraph 20.04, the City must redeem the entire outstanding balance of the Bonds at a price equal to one hundred percent (100%) of the principal amount of the outstanding bonds, plus accrued interest to the redemption date. Redemption must be in whole. Not less than thirty (30) days prior to the date specified for redemption and prepayment of any of the Bonds, the Issuer will cause notice of the call thereof to be sent by mail to the Bond Registrar, Paying Agent and registered owner of the Bond to be redeemed in whole or in part at the address shown on the registration books of the Registrar.

7.03. Extraordinary Redemption Prior to Optional Redemption Date. Upon sale or transfer of the Communication System prior to the Optional Redemption Date, the City must redeem the entire outstanding balance of the Bonds at a price equal to one hundred and two percent (102%) of the principal amount of the outstanding bonds, plus accrued interest to the

redemption date. Not less than thirty (30) days prior to the date specified for redemption and prepayment of any of the Bonds, the Issuer will cause notice of the call thereof to be sent by mail to the Bond Registrar, Paying Agent and registered owner of the Bond to be redeemed in whole or in part at the address shown on the registration books of the Registrar.

7.04. Extraordinary Redemption After Optional Redemption Date. Upon sale or transfer of the Communication System after the Optional Redemption Date, the Bonds may be redeemed prior to their respective maturity dates, at the option of the Issuer, at a price equal to the principal amount plus accrued interest. Redemption may be in whole or in part, and if in part, at the option of the Issuer and in such manner as the Issuer shall determine and within a maturity by lot as selected by the registrar. Not less than thirty (30) days prior to the date specified for redemption and prepayment of any of the Bonds, the Issuer will cause notice of the call thereof to be sent by mail to the Bond Registrar, Paying Agent and registered owner of the Bond to be redeemed in whole or in part at the address shown on the registration books of the Registrar.

7.05. Bonds Not Subject to Acceleration. The Bonds are not subject to acceleration in the event of a default.

8. Bond Registrar. _____, in _____, Minnesota, is appointed to act as bond registrar and transfer agent with respect to the Bonds, and shall do so unless and until a successor Bond Registrar is duly appointed, all pursuant to any contract the City and Bond Registrar shall execute which is consistent herewith. The Bond Registrar shall also serve as Paying Agent unless and until a successor Paying Agent is duly appointed. Principal and interest on the Bonds shall be paid to the registered holders (or record holders) of the Bonds in the manner set forth in the form of Bond and paragraphs (four) 4 and (six) 6 of this Resolution.

9. Form of Bond. The Bonds, together with the Bond Registrar's Certificate of Authentication, the form of Assignment and the registration information thereon, shall be in substantially the following form:

UNITED STATES OF AMERICA
STATE OF MINNESOTA
CLAY COUNTY

CITY OF BARNESVILLE, MINNESOTA

No. R-_____ \$_____

COMMUNICATION SYSTEM REVENUE BONDS, SERIES 2014A

<u>INTEREST</u> <u>RATE</u>	<u>MATURITY</u> <u>DATE</u>	<u>DATE OF</u> <u>ORIGINAL ISSUE</u>	<u>CUSIP</u>
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May 7, 2014

REGISTERED OWNER:

PRINCIPAL AMOUNT: _____ DOLLARS

KNOW ALL PERSONS BY THESE PRESENTS that the City of Barnesville, Clay County, Minnesota (the "Issuer"), certifies that it is indebted and for value received promises to pay, but solely from the sources hereinafter described, to the registered owner specified above, or registered assigns, in the manner hereinafter set forth, the principal amount specified above, on the maturity date specified above, unless called for earlier redemption, and to pay interest thereon semiannually on June 1 and December 1 of each year (each an "Interest Payment Date"), commencing December 1, 2014, at the rate per annum specified above (calculated on the basis of a 360-day year of twelve 30-day months) until the principal sum is paid or has been provided for. This Bond will bear interest from the most recent Interest Payment Date to which interest has been paid or, if no interest has been paid, from the date of original issue hereof. The principal of and premium, if any, on this Bond are payable upon presentation and surrender hereof at the principal office of the _____ (the "Bond Registrar"), acting as Paying Agent, or any successor Paying Agent duly appointed by the Issuer. Interest on this Bond will be paid on each Interest Payment Date by check or draft mailed to the person in whose name this Bond is registered (the "Holder" or "Bondholder") on the registration books of the Issuer maintained by the Bond Registrar and at the address appearing thereon at the close of business on the fifteenth day of the calendar month next preceding such Interest Payment Date (the "Regular Record Date"). Any interest not so timely paid shall cease to be payable to the person who is the Holder hereof as of the Regular Record Date, and shall be payable to the person who is the Holder hereof at the close of business on a date (the "Special Record Date") fixed by the Bond Registrar whenever money becomes available for payment of the defaulted interest. Notice of the Special Record Date shall be given to Bondholders not less than ten days prior to the Special Record Date. The principal of and premium, if any, and interest on this Bond are payable in lawful money of the United States of America.

Redemption. The Series 2014A Bonds are subject to optional redemption, at the election of the Issuer, in whole or in part, and if in part in such manner as the Issuer shall determine, on December 1, 20____, and any date thereafter, at a redemption price of par plus accrued interest. Not

less than thirty (30) days prior to the date specified for redemption and prepayment of any of the Bonds, the Issuer will cause notice of the call thereof to be sent by mail to the Bond Registrar, Paying Agent and registered owner of the Bond to be redeemed in whole or in part at the address shown on the registration books of the Registrar.

The Series 2014A Bonds are subject to extraordinary redemption, in the event of damage or destruction, or upon sale or transfer of the Communication System as more fully described in paragraph seven (7) of the Resolution. Not less than thirty (30) days prior to the date specified for redemption and prepayment of any of the Bonds, the Issuer will cause notice of the call thereof to be sent by mail to the Bond Registrar, Paying Agent and registered owner of the Bond to be redeemed in whole or in part at the address shown on the registration books of the Registrar.

Issuance; Purpose. This Bond is one of an issue in the total principal amount of \$3,870,000, all of like date of original issue and tenor, except as to number, maturity, interest rate, and denomination, which Bond has been issued pursuant to and in full conformity with the Constitution, and the laws of the State of Minnesota, and pursuant to Chapter 7, Section 4 of the City's Home Rule Charter and Minnesota Statutes Chapter 475, and a Resolution adopted by the Issuer on April 30, 2014 (the "Resolution") for the purpose of providing money to finance improvements to the Issuer's existing broadband communication infrastructure system. **This Bond does not constitute or give rise to a charge against the general credit or taxing powers of the Issuer and does not grant the Owner of this Bond any right to have the Issuer levy any taxes or appropriate any funds for the payment of the principal hereof or interest hereon, nor is this Bond a general obligation or a pecuniary liability of the Issuer or the individual officers or agents thereof. This Bond does not constitute an indebtedness of the Issuer within the meaning of any state constitutional provision or statutory or charter limitation. This Bond and interest hereon are payable solely from revenues generated by the Issuer's operation of its Communication System.** Additional bonds may be issued, payable on a parity of lien from the Net Revenues of the Communication System, upon the terms and conditions provided in the Resolution.

Denominations; Exchange Resolution. The Bonds are issuable solely as fully registered bonds in the denominations of \$5,000 and integral multiples thereof of a single maturity and are exchangeable for fully registered Bonds of other authorized denominations in equal aggregate principal amounts at the principal office of the Bond Registrar, but only in the manner and subject to the limitations provided in the Resolution. Reference is hereby made to the Resolution for a description of the rights and duties of the Bond Registrar. Copies of the Resolution are on file in the principal office of the Bond Registrar.

Transfer. This Bond is transferable by the Holder in person or by his, her or its attorney duly authorized in writing at the principal office of the Bond Registrar upon presentation and surrender hereof to the Bond Registrar, all subject to the terms and conditions provided in the Resolution and to reasonable regulations of the Issuer contained in any agreement with the Bond Registrar. Thereupon, the Issuer shall execute, and the Bond Registrar shall authenticate and deliver in exchange for this Bond, one or more new fully-registered Bonds in the name of the transferee (but not registered in blank or to "bearer" or similar designation), of an authorized denomination or denominations, in an aggregate principal amount equal to the principal amount of this Bond, of the same maturity and bearing interest at the same rate.

Fees upon Transfer or Loss. The Bond Registrar may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection with the transfer or exchange of this Bond and any legal or unusual costs regarding transfers and lost bonds.

Treatment of Registered Owners. The Issuer and Bond Registrar may treat the person in whose name this Bond is registered as the owner hereof for the purpose of receiving payment as herein provided, and for all other purposes, whether or not this Bond shall be overdue, and neither the Issuer nor the Bond Registrar shall be affected by notice to the contrary.

Authentication. This Bond shall not be valid or become obligatory for any purpose or be entitled to any security unless the Certificate of Authentication hereon shall have been executed by the Bond Registrar.

Designated as a Qualified Tax-Exempt Obligation. This Bond has been designated by the Issuer as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

IT IS HEREBY CERTIFIED AND RECITED, COVENTED AND AGREED that the City has fixed and established and will collect reasonable rates and charges for the services and facilities provided by the Communication System; that the City will maintain on its books and records a Communication Fund, and will credit to the Operating Account of the Communication Fund the Gross Revenues of the Communication System as received and pay all Operating Expenses therefrom, and will credit to the Debt Service Account, once each month, out of Net Revenues then on hand, an amount equal to one-twelfth (1/12) of all principal payable on the Bonds during the next twelve (12) months and one sixth (1/6) of all interest payable on the Bonds in the next six (6) months, and will credit to the Debt Service Reserve Account an amount necessary to maintain therein a balance equal to the least of (i) 10% of the original principal amount of the Bonds, or (ii) the maximum amount of principal and interest coming due in any future calendar year on the Bonds and any parity bonds, or (iii) 125% of the average annual principal and interest payable on the Bonds and any parity bonds; that the obligation to credit such accounts is cumulative, and if in any month the money in the Communication Fund is insufficient to credit the required amount into any account, the deficiency shall be made up in the following month or months after payment to all other accounts having such a claim on such revenues has been paid in full; that the City will impose and collect such rates and charges as necessary to provide in each Fiscal Year Net Revenues at least equal to 120% of the annual principal and interest payable on all Bonds payable from the Debt Service Account in such Fiscal Year; that all provisions for the security of the Bonds set forth in the Resolution will be punctually and faithfully performed as therein stipulated; that all acts, conditions and things required by the Constitution and laws of the State of Minnesota to be done, to happen and to be performed, precedent to and in the issuance of this Bond, have been done, have happened and have been performed, in regular and due form, time and manner as required by law, and that this Bond, together with all other debts of the Issuer outstanding on the date of original issue hereof and the date of its issuance and delivery to the original purchaser, does not exceed any constitutional, statutory or charter limitation of indebtedness.

IN WITNESS WHEREOF, the City of Barnesville, Clay County, Minnesota, by its City Council, has caused this Bond to be executed on its behalf by the manual signatures of its Mayor and its City Administrator, the official seal of the Issuer having been intentionally omitted as permitted by law.

Date of Registration:

Bond Registrar's

CITY OF BARNESVILLE,
CLAY COUNTY, MINNESOTA

CERTIFICATE OF AUTHENTICATION

This Certificate is one of the Certificates described in the Resolution mentioned within.

Mayor

Bond Registrar

City Administrator

By: _____
Authorized Signature

ABBREVIATIONS

The following abbreviations, when used in the inscription on the face of this Bond, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM - as tenants in common

TEN ENT - as tenants by the entireties

JT TEN - as joint tenants with right of survivorship and not as tenants in common

UTMA - _____ as custodian for _____

(Cust)

(Minor)

under the _____ Uniform Transfers to Minors Act

(State)

Additional abbreviations may also be used though not in the above list.

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto

_____ the within Bond and does hereby irrevocably constitute and appoint _____ attorney to transfer the Bond on the books kept for the registration thereof, with full power of substitution in the premises.

Dated: _____

Notice: The assignor's signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or any change whatever.

Signature Guaranteed:

Signature(s) must be guaranteed by a national bank or trust company or by a brokerage firm having a membership in one of the major stock exchanges or any other "Eligible Guarantor Institution" as defined in 17 CFR 240.17 Ad-15(a) (2).

The Bond Registrar will not effect transfer of this Bond unless the information concerning the transferee requested below is provided.

Name and Address: _____

(Include information for all joint owners if the Bond is held by joint account.)

CERTIFICATE AS TO LEGAL OPINION

We certify that attached is the legal opinion rendered by Bond Counsel on the issue of Bonds, which includes the within Bond, dated as of the date of delivery of and payment for the Bonds.

Mayor

City Administrator

10. Execution; Temporary Bonds. The Bonds shall be printed (or, at the request of the Purchaser, typewritten), shall be executed on behalf of the City by the signatures of its Mayor and City Administrator, and, provided further, that both of such signatures may be printed (or, at the request of the Purchaser, photocopied) facsimiles, and the corporate seal may be omitted on the Bonds as permitted by law. In the event of disability or resignation or other absence of either such officer, the Bonds may be signed by the manual or facsimile signature of that officer who may act on behalf of such absent or disabled officer. In case either such officer whose signature or facsimile of whose signature shall appear on the Bonds shall cease to be such officer before the delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he or she had remained in office until delivery. The City may elect to deliver, in lieu of printed definitive bonds, one or more typewritten temporary bonds in substantially the form set forth above, with such changes as may be necessary to reflect more than one maturity in a single temporary bond. The temporary bonds may be executed with photocopied facsimile signatures of the Mayor and City Administrator. Such temporary bonds shall, upon the printing of the definitive bonds and the execution thereof, be exchanged therefore and canceled.

11. Authentication. No Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit under this Resolution unless a Certificate of Authentication on such Bond, substantially in the form herein above set forth, shall have been duly executed by an authorized representative of the Bond Registrar. Certificates of Authentication on different Bonds need not be signed by the same person. The Bond Registrar shall authenticate the signatures of officers of the City on each Bond by execution of the Certificate of Authentication on the Bond and by inserting as the date of registration in the space provided the date on which the Bond is authenticated, except that for purposes of delivering the original Bonds to the Purchaser, the Bond Registrar shall insert as a date of registration the date of original issue. The Certificate of Authentication so executed on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution.

12. Registration; Transfer; Exchange. The City will cause to be kept at the principal office of the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the Bond Registrar shall provide for the registration of Bonds and the registration of transfers of Bonds entitled to be registered or transferred as herein provided.

Upon surrender for transfer of any Bond at the principal office of the Bond Registrar, the City shall execute (if necessary), and the Bond Registrar shall authenticate, insert the date of registration (as provided in paragraph 11 with respect to authentication) of, and deliver, in the name of the designated transferee or transferees, one or more new Bonds of any authorized denomination or denominations of a like aggregate principal amount, having the same stated maturity and interest rate, as requested by the transferor; provided, however, that no Bond may be registered in blank or in the name of "bearer" or similar designation.

At the option of the Holder, Bonds may be exchanged for Bonds of any authorized denomination or denominations of a like aggregate principal amount and stated maturity, upon surrender of the Bonds to be exchanged at the principal office of the Bond Registrar. Whenever any Bonds are so surrendered for exchange, the City shall execute (if necessary), and the Bond

Registrar shall authenticate, insert the date of registration of, and deliver the Bonds which the Holder making the exchange is entitled to receive.

All Bonds surrendered upon any exchange or transfer provided for in this Resolution shall be promptly canceled by the Bond Registrar and thereafter disposed of as directed by the City.

All Bonds delivered in exchange for or upon transfer of Bonds shall be valid general obligations of the City evidencing the same debt, and entitled to the same benefits under this Resolution, as the Bonds surrendered for such exchange or transfer.

Every Bond presented or surrendered for transfer or exchange shall be duly endorsed or be accompanied by a written instrument of transfer, in form satisfactory to the Bond Registrar, duly executed by the Holder thereof or his, her or its attorney duly authorized in writing.

The Bond Registrar may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection with the transfer or exchange of any Bond and any legal or unusual costs regarding transfers and lost Bonds.

Transfers shall also be subject to reasonable regulations of the City contained in any agreement with the Bond Registrar, including regulations which permit the Bond Registrar to close its transfer books between record dates and payment dates. The Mayor is hereby authorized to negotiate and execute the terms of said agreement.

13. Rights Upon Transfer or Exchange. Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all the rights to interest accrued and unpaid, and to accrue, which were carried by such other Bond.

14. Interest Payment; Record Date. Interest on any Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond is registered (the "Holder") on the registration books of the City maintained by the Bond Registrar and at the address appearing thereon at the close of business on the fifteenth (15th) day of the calendar month next preceding such Interest Payment Date (the "Regular Record Date"). Any such interest not so timely paid shall cease to be payable to the person who is the Holder thereof as of the Regular Record Date, and shall be payable to the person who is the Holder thereof at the close of business on a date (the "Special Record Date") fixed by the Bond Registrar whenever money becomes available for payment of the defaulted interest. Notice of the Special Record Date shall be given by the Bond Registrar to the Holders not less than ten (10) days prior to the Special Record Date.

15. Treatment of Registered Owner. The City and Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and premium, if any, and interest (subject to the payment provisions in paragraph 6 above, with respect to interest payment and record date) on, such Bond and for all other purposes whatsoever whether or not such Bond shall be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

16. Delivery; Application of Proceeds. The Bonds when so prepared and executed shall be delivered by the City Administrator to the Purchaser upon receipt of the purchase price, and the Purchaser shall not be obliged to see to the proper application thereof.

17. Fund and Accounts. There is hereby created a special fund to be designated the "Communication System Revenue Bonds, Series 2014A Fund" (the "Fund") to be administered and maintained by the City Administrator of the City as a bookkeeping account separate and apart from all other funds maintained in the official financial records of the City. The Fund shall be maintained in the manner herein specified until all of the Bonds and the interest thereon have been fully paid. There shall be maintained in the Fund six (6) separate accounts, to be designated the "Communication Fund," "Construction Account," "Operation and Maintenance Account," "Revenue Bond Account", "Debt Service Reserve Account" and "Surplus Account" respectively. Revenues on hand in the Fund from time to time shall be apportioned among said accounts at least once in each calendar month and shall thereafter be held and administered and disbursed from the several accounts established in this section.

- (a) Communication Fund (the "Fund"). There shall be credited and paid as received, the entire gross revenues derived from the operation of the Communication System, and from any future additions thereto and betterments thereof, including all income and receipts derived from rates, fees and charges for services, facilities, products and by-products of the Communication System furnished or sold to the Issuer and its inhabitants and all other customers, and for the availability thereof, and from sale of any of the properties of the Utility not necessary to be retained, and from the investment of any of the money so collected.
- (b) Construction Account. There shall be a Construction Account which shall be established and maintained as a separate account and used only to pay costs and expenses which under accepted accounting practices constitute capital costs necessarily incurred to construct the Project, including but not limited to land, easements, buildings, structures, machinery and equipment and the cost of all architectural, engineering, legal and other professional services, printing and publication and other costs reasonable, necessary and incidental thereto. To this account shall be credited all proceeds of the Bonds, except accrued interest. Only costs and expenses of the Project shall be paid from time to time as incurred and allowed under the Construction Account and the monies in the Construction Account should be used for no other purposes; provided, that if upon the completion of the Project and approval thereof by the engineer there shall remain any unexpended balance in the Construction Account, such balance shall be transferred to the Revenue Bond Account.
- (c) Operation and Maintenance Account. There shall be credited upon each such monthly apportionment, as a first lien and charge on the gross revenue of the Communication System, such sum as shall be needed, over and above any credit balance held therein, to pay all claims then due and allowed which by accepted accounting practices constitute normal, reasonable and current expenses of

operation and maintenance of the Communication System, and to pay such expenses estimated to accrue for a period of one month, and to maintain a reasonable reserve for contingencies. Monies in said account shall be used only to pay expenses of the foregoing type and not for major repairs, replacements, or capital improvements which are properly chargeable to replacement and depreciation reserves or surplus funds. All revenues in excess of such amount shall be the "Net Revenues" of the Communication System.

- (d) Revenue Bond Account. To the 2014 Communication System Revenue Bond Account (the "Bond Account") there shall be credited, out of the Net Revenues of the Communication System on hand at the time of each such distribution, an amount equal to not less than one-sixth (1/6) of the amount necessary to pay bond interest which becomes due on the next interest payment date, and an amount equal to not less than one-twelfth (1/12) of the sum of the principal payments to become due on the next principal payment date on the Bonds and Parity Bonds, if any; except, however, in the 2014 calendar year, there shall be credited, out of the Net Revenues of the Communication System on hand at the time of each such distribution, an amount equal to not less than one-sixth (1/6) of the amount necessary to pay bond interest which becomes due on the next interest payment date, on the Bonds and Parity Bonds, if any. These amounts may be reduced by an amount equal to the monthly interest earnings on the Revenue Bond Account, and any amounts transferred that month to the Revenue Bond Account from the Reserve Account. If Net Revenues on hand at any time are insufficient to permit the transfer to said account of the full amount so required, such deficiencies shall be restored out of the next net revenues thereafter received. There shall also be credited to said account the premium and accrued interest, if any, paid on each such issue of revenue bonds payable from said account. The money in said account shall be solely for the purposes of paying principal and interest, as such principal and interest respectfully come due, on revenue bonds which are issued and made payable therefrom.
- (e) Debt Service Reserve Account. The City will maintain a Communications System Revenue Bonds of 2014 Debt Service Reserve Account (the "Reserve Account") into which the Issuer will, out of its own funds, initially deposit upon the issuance of the Bonds an amount equal to \$254,761, which total is equal to the least of (i) 10% of the original principal amount of the Bonds, or (ii) the maximum amount of principal and interest coming due in any future calendar year on the Bonds and any parity bonds, or (iii) 125% of the average annual principal and interest payable on the Bonds and any parity bonds. Such Reserve Account shall be maintained as long as any Bonds are outstanding. If funds of the Reserve Account are ever transferred to the Bond Fund, the Reserve Account shall be restored to a level of the Reserve Balance from the Net Revenues of the Communication System. Monies required to be maintained in the Reserve Account will be used only to pay principal and interest on the Bonds, and only in the event that the monies in the Revenue Bond Account are insufficient to pay bond principal, premium, if any, and interest when due; provided, however, that

when the balances of the Revenue Bond Account and the Reserve Account equal an amount sufficient to redeem or pay at maturity all outstanding Bonds, together with interest thereon and premium, if any, said balances may be applied to such redemption or payment at maturity, as the case may be, whether or not other monies are available for such payment. Any amounts on deposit in the Reserve Account, including interest earnings, in excess of the Reserve Balance, shall be transferred to the Revenue Bond Account. Any surplus remaining in the Reserve Account after all Bonds have been paid shall be deposited into the Fund.

- (f) Surplus Account. All surplus Net Revenues of the Communication System from time to time received in excess of the current requirements of the Revenue Bond Account and Reserve Account shall be credited on the books of the City to the Surplus Account of the Fund; provided, that City reserves the right to create additional accounts within said Fund for the purpose of segregating any of such surplus Net Revenues which may be pledged and appropriated to the payment of any obligations hereinafter issued to finance improvements, replacements, or repairs of the said Communication System, other than bonds made payable from the Revenue Bond Account, subject to the prior lien of the Net Revenues of the bonds payable from that account. Surplus Net Revenues on hand from time to time shall be available and shall be used to the full extent necessary to restore a deficiency in the Operation and Maintenance Account and the Revenue Bond Account and Reserve Account, but when not so needed may be used to pay for capital improvements, replacements, or repairs to the Communication System, or to pay principal and interest on obligations hereafter issued for such purposes, other than bonds payable from the Revenue Bond Account, or they may be used to redeem and pay prior to maturity bonds payable from the Revenue Bond Account, when and as such bonds become redeemable according to their terms. The City shall maintain in said account such a balance of cash investments as it shall from time to time determine to constitute an adequate reserve for operation of maintenance emergencies and for depreciation and contemplated improvement or replacement, but monies in excess of such reserve may be transferred to other accounts of the City in accordance with and subject to the limitations contained in the ordinances of the City and the provisions of state law.

No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (1) for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued and (2) in addition to the above in an amount not greater than the lesser of five percent (5%) of the proceeds of the Bonds or \$100,000. To this effect, any revenues pledged to the Debt Service Account, in excess of amounts which under then-applicable federal arbitrage regulations may be invested without regard to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by said arbitrage regulations on such investments after taking into account any applicable "temporary periods" or "minor portion" made available under the federal arbitrage regulations. Money in the Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would

cause the Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code").

18. Prior Bonds. The City has previously issued its \$1,085,000 Electric and Telephone Revenue Bonds, Series 2001 (the "Redeemed Bonds"), which will be redeemed and paid in full in accordance with paragraph two (2) of this Resolution on July 1, 2014. Once the Redeemed Bonds are redeemed, the City will have no prior bonds which have lien on the Net Revenues of the Communication System for their payment.

19. Additional Bonds.

19.01. Additional Parity Bonds. The City reserves the right to issue one or more series of bonds on a parity of lien on the Net Revenues as to both principal and interest with the Bonds. In the event the Issuer shall at any time determine it to be necessary and expedient to issue additional bonds to finance capital improvements of the Communication System, such additional bonds may be made payable from the Revenue Bond Account and Reserve Account on a parity as to both principal and interest with the then outstanding Bonds payable from said account, if the annual Net Revenues received during the fiscal year next preceding such issuance shall have equaled or exceeded 120% of the average of all principal and interest to become due and payable from said account in each subsequent complete fiscal year of the then remaining term of said outstanding Bonds, and on the additional bonds to be issued.

If any of the rates and charges for Communication System service shall have been increased or reduced at any time subsequent to the commencement of the fiscal year immediately preceding the issuance of additional bonds as contemplated above, the Net Revenues for the period prior to such change shall be deemed, for the purpose of the computation required above, to be those which would have been received by applying the revised rates and charges to the quantities of the Communication System service actually used, less the estimated amount of decrease in consumption due to an increase in said rates and charges, and by deducting from the gross revenues so determined the actual operating expenses of the Communication System for said period.

In the event additional bonds are so issued, the balance in the Reserve Account shall be increased to an amount equal to the lesser of (i) 10% of the original principal amount of all Bonds payable from the Bond Fund (including the additional bonds), or (ii) the maximum annual debt service on all Bonds (including the additional bonds) payable from the Bond Fund during the remaining term of the then outstanding Bonds, or (iii) 125% of the average annual debt service on all Bonds (including the additional bonds) payable from the Bond Fund during the remaining term of the then outstanding Bonds.

19.02. Subordinate Lien Bonds. Except as authorized in paragraph 19.01, the Issuer will issue no additional bonds or other obligations of any kind payable from or constituting a lien upon the Net Revenues of the Communication System, unless the lien thereof is expressly made junior and subordinate to the lien on the then outstanding Bonds issued hereunder, and such additional bonds or obligations shall not be payable from the Revenue Bond Account herein created.

20. Covenants.

20.01. Rate Covenant. The City will establish, impose and collect for the services, facilities, products, and by-products of the Communication System, according to a schedule projected to generate Net Revenues at least equal to 120% of the annual debt service on all Bonds payable from the Revenue Bond Account. If the actual Net Revenues fail to meet this level, the Issuer shall promptly increase its fees to a level so that Net Revenues are projected to meet the required level.

20.02. Covenant to Maintain Communication System. The City will continue to own, operate and maintain the Communication System, provided, that any properties of the Communication System not essential to continued operation of the Communication System in satisfaction of other covenants herein prescribed may be sold or otherwise disposed of at their market value, and the proceeds thereof used to purchase other property required for the Communication System or to pay principal and interest on obligations issued with respect to such Communication System. The City will continue to maintain the Communication System in good and efficient operating condition, supplying communication service to the City and its inhabitants.

20.03. Sale of Entire Communication System. The City may sell the entire Communication System at a market rate, but the proceeds of such sale must first be used to redeem the Bonds in accordance with paragraph seven (7) of this Resolution.

20.04. Destruction of Communication System. In the event, that all or any part of the Communication System is destroyed or damaged, the City has the option to restore and/or replace the System at the City's sole cost and expense. If the Communication System is damaged or destroyed to such an extent that the City, in its best judgment, cannot restore the Communication System to operational status within six (6) months to substantially its condition immediately preceding such damage or destruction, or the Communication System cannot be used to carry on the purpose for which it was intended for six (6) months, or the estimated cost or restoration of the Communication System would exceed twenty (20) percent of the original face amount of the Bonds, the City may elect not to restore the Communication System and will redeem the Bonds in accordance with paragraph seven (7) of this Resolution.

20.05. General Covenants. The City hereby covenants and agrees with the Holders of all outstanding Bonds as follows:

- (a) That it will, to the extent the Net Revenues are sufficient, promptly cause the principal and interest on the Bonds to be paid as they become due.
- (b) That it will maintain complete books and records relating to the operation of the Communication System, the Revenue Bond Account, Reserve Account, Construction Account, Operation and Maintenance Account, and Surplus Account in accordance with generally accepted accounting principles, and will cause such

books and records to be audited annually at the end of each fiscal year, and an audit report prepared and made available for inspection of Bond owners.

- (c) That it will not issue Bonds or other obligations having a claim superior to the claim of the Bonds upon the Net Revenues of the Communication System.
- (d) That it will promptly deposit into the Revenue Bond Account all sums required to be so deposited.
- (e) That it will operate the Communication System in a sound, efficient and economic manner.
- (f) That it will cause the Communication System to be insured by policies of casualty and property damage insurance in an amount which would normally be carried by a private company operating a substantially similar Communication System.

21. Amendment of Resolution.

21.01. This Resolution may be amended without the consent of any Bondholders for any one or more of the following purposes:

- (a) To add to the covenants and agreements of the City in this Resolution and any other covenants and agreements thereafter to be observed by the City, or to surrender any right or power herein reserved to or conferred upon the City.
- (b) To cure any ambiguity or formal defect contained in this Resolution, that cure does not, in the judgment of the City, adversely affect the interests of the Bond owners.
- (c) To issue Parity Bonds in accordance with paragraph 19.01 hereof.

20.02. This Resolution may be amended for any other purpose only upon the consent of not less than 50% an aggregate principal amount of the Bonds outstanding, provided, however, that no amendment shall be valid which:

- (a) Extends the maturity of any Bond, reduces the rate of interest upon any Bond, extends the time of payment of interest on the Bond, reduces the amount of principal payable on any Bond, or reduces any premium payable on any Bond, without the consent of the affected Bond owner; or
- (b) Reduces the percent of Bond owners required to approve the mandatory resolutions.

22. Repealer.

22.01. All prior resolutions and other acts or proceedings of this governing body which are in any way inconsistent with the terms of this Resolution are hereby amended to the extent necessary to give full force and effect to this Resolution.

22.02. Nothing herein contained shall be deemed to modify, amend, violate, repudiate or repeal any provision or covenant contained in any Redeemed Bond, or any resolution pursuant to which any Redeemed Bond has been issued and is outstanding, to the extent that a modification, amendment, violation, repudiation or repealer would impair the obligation or contract owed to any holders of such Redeemed Bonds or would otherwise be invalid or ineffective.

23. No Credit Enhancement. There is no credit enhancement facility securing the Bonds, nor is there any provision for a credit enhancement facility to be provided to secure the Bonds.

24. No Trustee. The City will make principal and interest payments to the Paying Agent. The City will not appoint a national or state bank or trust company to act as trustee on behalf of the Bondholders, to hold and invest sums on deposit in the Debt Service Reserve Account or any other fund used to pay debt service on the Bonds or required by this Resolution to enforce any rights of the Bondholders created by this Resolution.

25. Certificate of Registration. The City Administrator is hereby directed to file a certified copy of this Resolution with the County Auditor of Clay County, Minnesota, together with such other information as he or she shall require, and to obtain the County Auditor's certificate that the Bonds have been entered in the County Auditor's Bond Register.

26. Records and Certificates. The officers of the City are hereby authorized and directed to prepare and furnish to the Purchaser, and to the attorneys approving the legality of the issuance of the Bonds, certified copies of all proceedings and records of the City relating to the Bonds and to the financial condition and affairs of the City, and such other affidavits, certificates and information as are required to show the facts relating to the legality and marketability of the Bonds as the same appear from the books and records under their custody and control or as otherwise known to them, and all such certified copies, certificates and affidavits, including any heretofore furnished, shall be deemed representations of the City as to the facts recited therein.

27. Defeasance. When all Bonds have been discharged as provided in this paragraph, all pledges, covenants and other rights granted by this Resolution to the registered holders of the Bonds shall, to the extent permitted by law, cease. The City may discharge its obligations with respect to any Bonds which are due on any date by irrevocably depositing with the Bond Registrar on or before that date a sum sufficient for the payment thereof in full; or if any Bond should not be paid when due, it may nevertheless be discharged by depositing with the Bond Registrar a sum sufficient for the payment thereof in full with interest accrued to the date of such deposit. The City may also discharge its obligations with respect to any prepayable Bonds called for redemption on any date when they are prepayable according to their terms, by depositing with the Bond Registrar on or before that date a sum sufficient for the payment thereof in full, provided that notice of redemption thereof has been duly given. The City may also at any time

discharge its obligations with respect to any Bonds, subject to the provisions of law now or hereafter authorizing and regulating such action, by depositing irrevocably in escrow, with a suitable banking institution qualified by law as an escrow agent for this purpose, cash or securities described in Minnesota Statutes, Section 475.67, Subdivision 8, bearing interest payable at such times and at such rates and maturing on such dates as shall be required, subject to sale and/or reinvestment, to pay all amounts to become due thereon to maturity or, if notice of redemption as herein required has been duly provided for, to such earlier redemption date.

28. Negative Covenant as to Use of Proceeds and Improvements. The City hereby covenants not to use the proceeds of the Bonds, or to cause or permit them to be used, or to enter into any deferred payment arrangements, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

29. Tax-Exempt Status of the Bonds; Rebate. The City shall comply with requirements necessary under the Code to establish and maintain the exclusion from gross income under Section 103 of the Code of the interest on the Bonds, including without limitation (1) requirements relating to temporary periods for investments, (2) limitations on amounts invested at a yield greater than the yield on the Bonds, and (3) the rebate of excess investment earnings to the United States if the Bonds (together with other obligations reasonably expected to be issued and outstanding at one time in this calendar year) exceed the small-issuer exception amount of \$5,000,000.

30. Designated as Qualified Tax-Exempt Obligations. The Bonds have been designated as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Code.

31. Official Statement. The Official Statement relating to the Bonds, substantially in the form presented to this meeting, is hereby approved. The officers of the City are hereby authorized and directed to execute such certificates as may be appropriate concerning the accuracy, completeness and sufficiency of the Official Statement.

32. Limited Continuing Disclosure Certificate. The City Administrator is hereby authorized to execute, on behalf of the City, the Continuing Disclosure Certificate attached as Attachment 1 to this Resolution.

33. Severability. If any section, paragraph or provision of this Resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Resolution.

34. Letter of Representations. The provisions in the Letter of Representations are incorporated herein by reference and made a part of the Resolution, and if and to the extent any such provisions are inconsistent with the other provisions of this Resolution, the provisions in the Letter of Representations shall control.

35. Headings. Headings in this Resolution are included for convenience of reference only and are not a part hereof, and shall not limit or define the meaning of any provision hereof.

36. Effective Date. This Resolution shall be effective upon the adoption of this Resolution by the City Council of the City of Barnesville, Minnesota.

PASSED by the Barnesville City Council this 30th day of April, 2014.

APPROVED:

BY: _____
Its Mayor

ATTEST:

Its: City Administrator

The motion for the adoption of the foregoing Resolution was duly seconded by Member Rick, and, after a full discussion thereof and upon a vote being taken thereon, the following voted in favor thereof: Rick, Goedtke, Davis and Sylvester. The following voted against the same: none. The following were absent and not voting: Strom and Enstad, whereupon said Resolution was declared duly passed and adopted.

Mayor Prim stated the first reading of Ordinance 2014-04 Natural Gas Franchise.

City Attorney John Shockley presented the Ordinance for first reading. This is an ordinance that would establish a franchise for a natural gas distribution system with Xcel Energy in the city of Barnesville. This is a non-exclusive franchise with a term of 20 years and establishes a 5% franchise fee on gross revenues from natural gas sales.

Ryan Tonsfeldt of DBS, Inc. indicated that his company is interested in the distribution of natural gas to the community and is interested in a franchise as well.

Cathy Enstad arrived at 6:55 p.m.

04-30-14-02 Motion by Mr. Davis and second by Mr. Rick to approve the first reading of Ordinance 2014-04 Natural Gas Franchise. Motion carried.

ORDINANCE NO. 2014-04

AN ORDINANCE TO CREATE AND ENACT SECTION 2-0202 OF THE REVISED BARNESVILLE CITY CODE OF 2013 RELATING TO NORTHERN STATES POWER COMPANY, A MINNESOTA CORPORATION, D/B/A XCEL ENERGY GAS FRANCHISE.

BE IT ORDAINED by the City Council of the City of Barnesville, as follows:

SECTION 1. Section 2-0202 of the Revised Barnesville City Code of 2013 is hereby created and enacted to read as follows:

SEC. 2-0202. REGULATION OF GAS FRANCHISE. Northern States Power Company, a Minnesota corporation, d/b/a Xcel Energy, its successors and Assigns, is hereby granted permission to erect a gas distribution system for the purposes of constructing, operating, repairing and maintaining in the City of Barnesville, Minnesota, the necessary gas pipes, mains and appurtenances for the transmission or distribution of gas to the City and its inhabitants and others and transmitting gas into and through the City and to use the public grounds and public ways of the City for such purposes.

Sub. 1. Short Title: This Ordinance shall be known and cited as the *CITY OF BARNESVILLE GAS FRANCHISE ORDINANCE*, hereinafter referred to as "Ordinance".

Subd. 2. Definitions: For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meanings.

CITY: The City of Barnesville, Minnesota, or, as appropriate in the case of specific provisions of this Ordinance, any board, bureau, authority, agency, commission, department of, or any other entity of or acting on behalf of, the City of Barnesville, or any officer, official, employee, or agent thereof, the designee of any of the foregoing, or any successor thereto.

CITY UTILITY SYSTEM: Facilities used for providing non-energy related public utility service owned or operated by City or agency thereof, including sewer and water service, but excluding facilities for providing heating, lighting or other forms of energy.

COMMISSION: The Minnesota Public Utilities Commission, or any successor agency or agencies, including an agency of the federal government, which preempts all, or part of the authority to regulate Gas retail rates now vested in the Minnesota Public Utilities Commission.

COMPANY: Northern States Power Company, a Minnesota corporation, d/b/a Xcel Energy, its successors and assigns.

GAS: “Gas” as used herein shall be held to include natural gas, manufactured gas, or other form of gaseous energy.

GAS FACILITIES: Pipes, mains, regulators, and other facilities owned or operated by Company for the purpose of providing gas service for public use.

GROSS REVENUE: Means all revenue derived by the Grantee from the operation of the Gas Facilities in the franchise area to provide Gas, and from any future additions thereto and betterments thereof, including all income and receipts derived from rates, fees and charges for services, facilities, products and by-products of the Gas furnished or sold to the City and its inhabitants and all other customers. Gross Revenue does not include refundable deposits, bad debt, late fees, investment income, programming launch support payments, advertising sales commissions, nor any taxes, fees or assessments imposed or assessed by any governmental authority.

NOTICE: A written notice served by one party on the other party referencing one or more provisions of this Ordinance. Notice to Company shall be mailed to the General Counsel, 414 Nicollet Mall, 5th Floor, Minneapolis, MN 55401. Notice to the City shall be mailed to the City Administrator, P.O. Box 550, Barnesville, MN 56514. Either party may change its respective address for the purpose of this Ordinance by written notice to the other party.

PUBLIC GROUND: Land owned by the City for park, open space or similar purpose, which is held for use in common by the public.

PUBLIC WAY: Any street, alley, walkway or other public right-of-way within the City.

Subd. 3. Adoption of Franchise.

A. Grant of Franchise. City hereby grants Company, for a period of 20 years from the date passed and approved by the City, the right to transmit and furnish Gas energy for light, heat, power and other purposes for public and private use within and through the limits of the City as its boundaries now exist or as they may be extended in the future. For these purposes, Company may construct, operate, repair and maintain Gas Facilities in, on, over, under and across the Public Grounds and Public Ways of City, subject to the provisions of this Ordinance. Company may do all reasonable things necessary or customary to accomplish these purposes, subject, however, to such reasonable regulations as may be imposed by the City pursuant to ordinance and to the further provisions of this franchise agreement.

B. Effective Date; Written Acceptance. This franchise agreement shall be in force and effect from and after passage of this Ordinance, its acceptance by Company, and its publication as required by law. The City by Council resolution may revoke this franchise agreement if Company does not file a written acceptance with the City within 90 days after publication.

C. Service and Rates. The service to be provided and the rates to be charged by Company for Gas service in City are subject to the jurisdiction of the Commission.

D. Publication Expense. The expense of publication of this Ordinance will be paid by City and reimbursed to City by Company.

E. Dispute Resolution. If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party shall notify the other party of the default and the desired remedy. The notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within 30 days of the written notice, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of this mediator. If a mediator is not used or if the parties are unable to resolve the dispute within 30 days after first meeting with the selected mediator, either party may commence an action in District Court to interpret and enforce this franchise or for such other relief as may be permitted by law or equity for breach of contract, or either party may take any other action permitted by law.

Subd. 4. Location, Other Regulations.

A. Location of Facilities. Gas Facilities shall be located, constructed and maintained so as not to interfere with the safety and convenience of ordinary travel along and over Public Ways and so as not to disrupt normal operation of any City Utility System previously installed therein. Gas Facilities shall be located on Public Grounds as determined by the City. Company's construction, reconstruction, operation, repair, maintenance and location of Gas Facilities shall be subject to permits if required by separate ordinance and to other reasonable regulations of the City to the extent not inconsistent with the terms of this franchise agreement. Company may abandon underground gas facilities in place, provided, at City's request, Company will remove abandoned metal pipe interfering with a City improvement project, but only to the extent such metal pipe is uncovered by excavation as part of the City's improvement project.

B. Field Locations. Company shall provide field locations for its underground Gas Facilities within City consistent with the requirements of Minnesota Statutes, Chapter 216D.

C. Street Openings. Company shall not open or disturb any Public Ground or Public Way for any purpose without first having obtained a permit from the City, if required by a separate ordinance, for which the City may impose a reasonable fee. Permit conditions imposed on Company shall not be more burdensome than those imposed on other utilities for similar facilities or work. Company may, however, open and disturb any Public Ground or Public Way without permission from the City where an emergency exists requiring the immediate repair of Gas Facilities. In such event, Company shall notify the City by telephone to the office designated by the City as soon as practicable. Not later than the second working day thereafter, Company shall obtain any required permits and pay any required fees.

D. Restoration. After undertaking any work requiring the opening of any Public Ground or Public Way, Company shall restore the same, including paving and its foundation, to as good a condition as formerly existed, and shall maintain any paved surface in good condition for two years thereafter. The work shall be completed as promptly as weather permits, and if Company shall not promptly perform and complete the work, remove all dirt, rubbish, equipment and materials, and put the Public Ground or Public Way in the said condition, the City shall have, after demand to Company to cure and the passage of a reasonable period of time following the demand, but not to exceed five days, the right to make the restoration at the expense of Company. Company shall pay to the City the cost of such work done for or performed by the City. This remedy shall be in addition to any other remedy available to the City for noncompliance with this subsection D, but the City hereby waives any requirement for Company to post a construction performance bond, certificate of insurance, letter of credit or any other form of security or assurance that may be required, under a separate existing or future ordinance of the City, of a person or entity obtaining the City's permission to install, replace or maintain facilities in a Public Way.

E. Avoid Damage to Gas Facilities. Nothing in this Ordinance relieves any person from liability arising out of the failure to exercise reasonable care to avoid damaging Gas Facilities while performing any activity.

F. Notice of Improvements. The City must give Company notice of plans for improvements to Public Grounds or Public Ways where the City has reason to believe that Gas Facilities may affect or be affected by the improvement. The notice must contain (1) the nature and character of the improvements, (2) the Public Grounds and Public Ways upon which the improvements are to be made, (3) the extent of the improvements, (4) the time when the City will start the work, and (5) if more than one Public Ground or Public Way is involved, the order in which the work is to proceed. The notice must be given to Company a sufficient length of time in advance of the actual commencement of the work to permit Company to make any necessary additions, alterations or repairs to its Gas Facilities.

Subd. 5. Relocations.

A. Relocation of Gas Facilities in Public Ways. If the City determines to vacate a Public Way for a City improvement project, or at City's cost to grade, regrade, or change the line of any Public Way, or construct or reconstruct any City Utility System in any Public Way, it may order Company to relocate its Gas Facilities located therein if relocation is reasonably necessary to accomplish the City's proposed public improvement. Except as provided in subsection C, Company shall relocate its Gas Facilities at its own expense. The City shall give Company reasonable notice of plans to vacate for a City improvement project, or to grade, regrade, or change the line of any Public Way or to construct or reconstruct any City Utility System. If a relocation is ordered within five years of a prior relocation of the same Gas Facilities, which was made at Company expense, the City shall reimburse Company for Non-Betterment Costs on a time and material basis, provided that if a subsequent relocation is required because of the extension of a City Utility System to a previously unserved area, Company may be required to make the subsequent relocation at its expense. Nothing in this Ordinance requires Company to relocate, remove, replace or reconstruct at its own expense its Gas Facilities where such relocation, removal, replacement or reconstruction is solely for the convenience of the City and its not reasonably necessary for the construction or reconstruction of a Public Way or City Utility System or other City improvement.

B. Relocation of Gas Facilities in Public Ground. City may require Company at Company's expense to relocate or remove its Gas Facilities from Public Ground

upon a finding by City that the Gas Facilities have become or will become a substantial impairment to the existing or proposed public use of the Public Ground.

C. Projects with Federal Funding. City shall not order Company to remove or relocate its Gas Facilities when a Public Way is vacated, improved or realigned for a right-of-way project or any other project which is financially subsidized in whole or in part by the Federal Government or any agency thereof, unless the reasonable non-betterment costs of such relocation are first paid to Company. The City is obligated to pay Company only for those portions of its relocation costs for which City has received federal funding specifically allocated for relocation costs in the amount requested by the Company, which allocated funding the City shall specifically request. Relocation, removal or rearrangement of any Company Gas Facilities made necessary because of a federally-aided highway project shall be governed by the provisions of Minnesota Statutes, Section 161.46, as supplemented or amended. It is understood that the rights herein granted to Company are valuable rights.

D. No Waiver. The provisions of this franchise apply only to facilities constructed in reliance on a franchise from the City and shall not be construed to waive or modify any rights obtained by Company for installations within a Company right-of-way acquired by easement or prescriptive right before the applicable Public Ground or Public Way was established, or Company's rights under state or county permit.

Subd. 6: Tree Trimming. Company is also granted the permission and authority to trim all shrubs and trees, including roots, in the Public Ways of City to the extent Company finds necessary to avoid interference with the proper construction, operation, repair and maintenance of Gas Facilities, provided that Company shall save City harmless from any liability in the premises.

Subd. 7. Indemnification.

A. Indemnity of City. Company shall indemnify, keep and hold the City free and harmless from any and all liability on account of injury to persons or damage to property occasioned by the construction, maintenance, repair, inspection, the issuance of permits, or the operation of the Gas Facilities located in the Public Grounds and Public Ways. The City shall not be indemnified for losses or claims occasioned through its own negligence except for losses or claims arising out of or alleging the City's negligence as to the issuance of permits for, or inspection of, Company's plans or work. The City shall not be indemnified if the injury or damage results from the performance in a proper manner of acts reasonably deemed hazardous by Company, and such performance is nevertheless ordered or directed by City after notice of Company's determination.

B. Defense of City. In the event a suit is brought against the City under circumstances where this agreement to indemnify applies, Company at its sole cost and expense shall defend the City in such suit if written notice thereof is promptly given to Company within a period wherein Company is not prejudiced by lack of such notice. If Company is required to indemnify and defend, it will thereafter have control of such litigation, but Company may not settle such litigation without the consent of the City, which consent shall not be unreasonably withheld. This subsection is not, as to third parties, a waiver of any defense or immunity otherwise available to the City, and Company, in defending any action on behalf of the City, shall be entitled to assert in any action every defense or immunity that the City could assert in its own behalf.

Subd. 8. Vacation of Public Ways. The City shall give Company at least two weeks prior written notice of a proposed vacation of a Public Way. Except where required for a City improvement project, the vacation of any Public Way, after the installation of Gas Facilities, shall not operate to deprive Company of its rights to operate and maintain such Gas Facilities, until the reasonable cost of relocating the same and the loss and expense resulting from such relocation are first paid to Company. In no case, however, shall City be liable to Company for failure to specifically preserve a right-of-way under Minnesota Statutes, Section 160.29.

Subd. 9. Change in Form of Government. Any change in the form of government of the City shall not affect the validity of this Ordinance. Any governmental unit succeeding the City shall, without the consent of Company, succeed to all of the rights and obligations of the City provided in this Ordinance.

Sub. 10. Franchise Fee.

A. Fee. Grantee shall pay an annual Franchise Fee, of five percent (5%) of Grantee's Gross Revenues.

B. Collection of the Fee. The franchise fee shall be payable quarterly. The payment shall be due the last business day of the month following the period for which the payment is made. The franchise fee may be changed by ordinance from time to time; however, each change shall meet the same notice requirements and not occur more often than annually. No franchise fee shall be payable by Company if Company is legally unable to first collect an amount equal to the franchise fee from its customers for gas service. Company may pay the City the fee based upon the surcharge billed subject to subsequent reductions to account for uncollectibles, refunds and correction of erroneous billings. Company agrees to make its records available for inspection by the City at reasonable times provided that the City and its designated representative agree in writing not to disclose any information which would indicate the amount paid by an identifiable customer or customers or any other information regarding identified customers.

Subd. 11. Provisions of Ordinance.

A. Severability. Every section, provision, or part of this Ordinance is declared separate from every other section or part, and if any section, provision, or part shall be held invalid, it shall not affect any other section, provision, or part. Where a provision of any other City ordinance conflicts with the provisions of this Ordinance, the provisions of this Ordinance shall prevail.

B. Limitation on Applicability. This Ordinance constitutes a franchise agreement between the City and Company as the only parties, and no provision of this franchise shall in any way inure to the benefit of any third person (including the public at large) so as to constitute any such person as a third party beneficiary of the agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

Subd. 12. Amendment Procedure. Either party to this franchise agreement may at any time propose that the agreement be amended to address a subject of concern, and the other party will consider whether it agrees that the amendment is mutually appropriate. If an amendment is agreed upon, this Ordinance may be amended at any time by the City passing a subsequent ordinance declaring the provisions of the amendment, which amendatory ordinance shall become effective upon the filing of Company's written consent thereto with the City Clerk within 90 days after the date of final passage by the City of the amendatory ordinance.

Subd. 13. Previous Franchises Superseded. This franchise supersedes any pervious Gas franchise granted to Company or its predecessor.

SECTION 2. This ordinance shall take effect upon publication in accordance with the Barnesville City Charter.

PASSED by the City Council of the City of Barnesville this 12th day of May, 2014.

APPROVED BY:

Mayor

ATTEST:

City Clerk

First Consideration: April 30, 2014
Second Consideration: May 12, 2014
Date of Publication: May 19, 2014

Meeting adjourned at 7:10 p.m.

Submitted by:

Attest:

Michael Rietz
City Administrator

Eugene Prim
Mayor