ORDINANCE NO. 148

AN ORDINANCE OF THE CITY OF BASEHOR, KANSAS, GRANTED TO KANSAS BROAD BAND AND CABLE T.V. COOPERATIVE, INC., A NON-EXCLUSIVE FRANCHISE, TO CONSTRUCT, OPERATE AND MAINTAIN A COMMUNITY ANTENNA TELEVISION SYSTEM AND SERVICE WITHIN THE CITY OF BASEHOR, KANSAS.

WHEREAS, it is in the public interest of the City of Basehor and its citizens to have available to the City of Basehor and its citizens, a closed circuit electronics signal transmission service (cable T.V.), within the city limits; and

WHEREAS, Kansas Broad Band and Cable T.V. Cooperative, Inc., has applied to the City of Basehor for permission to construct, maintain, and operate such a closed circuit electronics signal transmission system (cable T.V.) within the City and has agreed to pay the City for this privilegeand has otherwise agreed to perform as hereinafter provided:

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF BASEHOR, KANSAS:

Section 1. Authority. This franchise is granted under and by authority and in conformity with provisions of K.S.A. 12-2006, as amended, and shall not be considered as an exclusive franchise, right or privilege, and this franchise shall at all times be subject to the laws of the United States, the State of Kansas, and the ordinances of the City of Basehor, Kansas.

Section 2. Grant. That in consideration of the benefits to be derived by the City of Basehor, Kansas, and its inhabitants, there is hereby granted to Kansas Broad Band and Cable T.V. Cooperative, Inc., hereinafter designated as grantee, said grantee being a Kansas corporation, the rights, privilege and authority for a period of twenty (20) years from the effective date of this ordinance, to occupy and use the present and future streets, avenues, alleys and other public places of said City and such future annexed areas in which grantee has the right to serve or facilities in existence, for the placing and maintaining of CATV distribution and transmission lines, together with all necessary and desirable appurtenances, including underground conduits, poles, towers, ground level devices, wire and appurtenances, necessary to carry on the business of selling and distributing CATV service to the City of Basehor, Kansas, its inhabitants and through said City and to do all things necessary or proper to carry on said business of selling and distributing CATV and other services, subject to the limitations set forth herein.

Section 3. Right of Reasonable Regulation. The City may invoke the right of reasonable regulation on the erection, construction or installation of any facilities by the grantee and the reasonable right to designate where such facilities are to be placed within the public ways and places.

Section 4. Insurance. It is expressly understood and agreed by and between the grantee and the City that the grantee hereby assumes and releases the City from all liability for damages caused by, or resulting directly or indirectly, wholly or in part, from any failure or fault on the part of grantee and the City or either of them in furnishing facilities or services pursuant to this ordinance, and grantee shall indemnify and hold the City harmless from and against all claims, demands, expenses, suits, proceedings (including related expenses and attorney fees) and liabilities of any nature whatsoever, including damage to property and for personal injury or death arising out of or in connection with the performance or rendition of any work or services under this ordinance including without limitation, the construction, installation, operation or maintenance of the grantee's

closed circuit electronic transmission system in the City, and copyright infringements. The grantee shall secure and maintain throughout the life of this ordinance and any extensions thereof insurance of such types and such amounts as may be necessary to protect it and the interests of the City against all hazards or risks of loss. The form and limits of such insurance together with the underwriter thereof shall be approved by the City. It shall be the responsibility of the grantee to maintain adequate insurance coverage at all times, which shall not be less than $200,000 and $300,000 primary coverage with a $2,000,000 umbrella coverage. Failure of the grantee to maintain such adequate coverage shall not relieve it of any contractual responsibility or obligation. The grantee shall maintain, but not limited to, insurance concerning workmen's compensation; bodily injury liability insurance; property damage liability insurance, all with limits satisfactory to the City.

The insurance policies obtained by the grantee in compliance with this section must be approved by the Governing Body of City of Basehor and such insurance policies, along with written evidence of payment of required premiums, shall be filed and maintained with the City Clerk.

Section 5. Excavations. All excavations shall be made and done in such a manner as to limit the inconvenience to the inhabitants of the City of Basehor and the public generally and all such pavements, sidewalks and curbing shall be replaced and repaired in a satisfactory condition and in as good a condition as before with all convenient speed and at the expense of the grantee. The City shall not be liable to the grantee for any damage to grantee's facilities located in or upon public ways of the City.

Section 6. Maps. The grantee shall provide a map to the City showing locations of all of its facilities and that such map shall be updated annually on the anniversary of the franchise.

Section 7. Fee. That in consideration of the rights, privileges, and authority hereby granted and as compensation to the City for the use of its public ways and places by the grantee, the grantee shall pay to the City of Basehor, Kansas, three (3) percent of gross receipt semi-annually on January 1, and July 1 of each year for the preceding period. The term "gross receipt" shall mean payment actually received by the grantee for services sold for domestic, residential and commercial construction in Basehor. The Governing Body of the City of Basehor shall have the right to review the franchise fee annually.

Section 8. Performance. The grantee shall present to the grantor within 12 months from the loan approval a construction plan that should not require more than twelve months for completion pending availability of material. The plan will make service available to the entire incorporated limits of the City of Basehor, Kansas, as shown on June 1, 1981. If the grantee fails to provide the City a satisfactory plan within the guidelines set forth above, the City, at its option, can terminate this franchise and rescind all rights, powers, privileges, and authority herein granted by giving written notice to grantee of such.

Section 9. Assignment. This franchise shall not be sold or assigned without the express written consent of the City. The consent of the City for any assignment shall not be unreasonably withheld.

Section 10. Rates. The grantee shall have the authority to promulgate such rules, regulations, terms and conditions of the business as shall be reasonably necessary to enable the grantee to exercise its rights

in performing services under this franchise and to insure service to each and all of its customers. The grantee shall have the right and power to fix, charge, collect and receive reasonable rates for its services furnished within the city limits and shall file with the City from time to time its service rates in effect from time to time. The grantee shall file its maximum rates and charges to customers with the City, which maximum rates are to be filed prior to the installation and will include the franchise tax shown in Section 7. Any increase in such rates shall be subject to the approval of the City and shall take effect after (1) grantee shall file a notice of proposed rate change with the Governing Body of the City of Basehor; (2) grantee shall concurrently cause to publish in the official city paper, a copy of said notice of proposed rate change, indicating the name and address of the city officials to whom comments by the public may be sent; and (3) at a regular meeting of the Governing Body of the City, said rates shall receive of the City Council approval by a majority vote.

Section 11. Certificate of Compliance. Grantee shall obtain at its own expense a certificate of compliance which might be required from the Federal Communications Commission as a condition precedent to the construction, operation and maintenance of a CATV system in the City. Grantee shall file the necessary application for such certificate as prescribed by F.C.C. Rules and Regulations in effect at the time of loan approval. The installation of the CATV system shall be in accordance with the requirements of the national electric safety code of the American Insurance Association, and all applicable laws, ordinances, rules and regulations of the F.C.C., the State of Kansas, and of the City affecting electrical installation and building, now or hereinafter in effect.

Section 12. Publication Costs. The grantee shall pay to the City a sum to cover the ordinance publication costs when presented with a bill by the City.

Section 13. Franchise Termination. The City may terminate this franchise and all rights therein granted in the event the grantee or its successors or assigns thereof: (a) shall fail to comply with any of the terms of the provisions of this ordinance; (b) shall become bankrupt; or (c) suffer foreclosure on any assets subject to this ordinance. Said termination may be made by mailing notice thereof to the grantee.

Section 14. Complaints. It shall be incumbent upon the grantee to maintain in its business office, a complete file containing copies of all complaints received concerning the quality of service, equipment malfunction and similar matters during any given calendar year, which shall be available for inspection by appropriate officials of the City. Grantee shall make every reasonable effort to investigate and satisfy all such complaints. Grantee shall maintain an availability of telephone services within the City capable of receiving subscriber complaints and requests for service or repairs.

Section 15. Service. Grantee shall maintain a telephone availability so that messages, complaints, and requests for service or repairs or adjustments may be received at any time without toll charges.

Section 16. Severability. If any section, subsections, clause or phrase of this ordinance is for any reason held illegal, invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. Any and all ordinances in conflict with the terms hereof are repealed.

Section 17. Acceptance. That within 15 days from and after the passage and approval of said ordinance, the grantee shall filed with the City Clerk of the City of Basehor, Kansas, its unconditioned written acceptance of this ordinance.

Section 18. This ordinance shall take effect from and after its passage, approval and publication in the official city newspaper as provided by law.

PASSED BY THE GOVERNING BODY OF THE CITY OF BASEHOR, KANSAS, THIS 4th DAY OF AUGUST, 1981.

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MAYOR

ATTEST:

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CITY CLERK