

MADISON COUNTY, KENTUCKY

ORDINANCE 82-4

AN ORDINANCE OF MADISON COUNTY, KENTUCKY,  
CREATING A CABLE TELEVISION FRANCHISE (OR  
FRANCHISES); DEFINING THE TERMS AND CONDITIONS  
THEREOF, AND PROVIDING FOR BID PROCEDURE.

BE IT ORDAINED by the FISCAL COURT of MADISON COUNTY, KENTUCKY

SECTION ONE. FRANCHISE(S) CREATED.

A. There is hereby created a franchise or franchises to erect, maintain and operate in, under, over, along, across and upon the streets, lanes, avenues, sidewalks, alleys, bridges, highways and other public places in Madison county, Kentucky, or portions thereof, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliance, attachments and other property as may be necessary and appurtenant to a cable television system, for the purpose of transmission by cable and distribution of television, radio or other signals for sale to the inhabitants of said County, or portions thereof, and other purposes. The franchise area is limited to those areas permitted by the laws of Kentucky and the United States.

B. Any Franchise granted hereafter by the County shall not be exclusive and the County reserves the right to grant a similar franchise to any other persons or entities at any time.

SECTION TWO. TERM OF FRANCHISE(S)

The franchise(s) herein shall be for a term of fifteen (15) years from the date the franchise is awarded by the Fiscal Court.

SECTION THREE. FRANCHISE.

The person, firm or corporation which shall become the purchaser of said franchise(s), or any successor or assignee of such person, shall hereinafter be referred to as "Franchisee".

SECTION FOUR. RIGHTS AND PRIVILEGES.

The poles used for the Franchisee's distribution system shall be those erected and maintained by Kentucky Utilities Company, Blue Grass R.E.C.C., and South Central Bell Telephone Company, General Telephone Company, or such other public utilities with existing poles, when and where practicable, providing mutually satisfactory rental agreements can be entered into with said companies, the Franchisee shall have the right to erect and maintain its own poles, as may be necessary for the proper construction and maintenance of the television distribution system. The Franchisee shall have the right and privilege of installing, and maintaining, and operating its transmission equipment, apparatus, and appurtenances necessary in conjunction therewith, in, along, and under (but not upon), the public rights-of-way within the jurisdiction of the County, or such portion thereof as may be granted to said Franchisee, subject, however, to the provisions thereof and to all powers inherent in, conferred upon, or reserved to the County.

SECTION FIVE. STANDARDS OF INSTALLATION AND OPERATION

The Franchisee's transmission and distribution system poles, wires, and appurtenances shall be located, erected and maintained so as not to endanger or interfere with the lives of persons, or to interfere with new improvements this County may deem proper to make, or to unnecessarily hinder or obstruct the free use of the streets, alleys, bridges, or other public property and removal of such to avoid such interferences will be at the Franchisee's expense.

Construction and maintenance of the television distribution system, including house connections, shall be in accordance with the provisions of the National Electrical Safety Code, prepared by the National Bureau of Standards, the National Electrical Code of the National Board of Fire Underwriters, and applicable Kentucky Statutes or administrative regulations, or ordinance and regulations of Madison County, Kentucky, affecting electrical installations, which may be presently in effect, or changed by future ordinances.

Franchisee shall construct and operate this system in a good, workmanlike manner with competent and qualified personnel; and shall construct and operate the system with the same or greater degree of skill exercised by other competent operations of similar systems in the industry.

Installation and housedrop hardware shall be uniform throughout the County, except that the Franchisee shall be free to improve its hardware and installation procedures as the art progresses.

SECTION SIX..REQUIREMENTS OF SERVICE

A. Franchisee shall install a community antenna television system (hereinafter CATV) in the franchise area granted. Within six (6) months the Franchisee shall have installed and made operational twenty five (25%) percent of the coaxial cable required to make available CATV service to substantially all households of the franchise area. Within eighteen (18) months the Franchisee shall have installed and made operational fifty (50%) percent of the coaxial cable required to make CATV service available to substantially all households of the franchise area. Within four (4) years the Franchisee shall have installed and made operational the necessary coaxial cable to make CATV service available to substantially all households of the franchise area.

B. Franchisee shall make CATV service available to all areas of the franchise area which have an average density of ten (10) subscribers or more per contiguous mile of line. Franchisee shall serve other areas of the franchise area as the population in those areas increases. Franchisee shall agree to serve less populated areas if the person or persons desiring service will pay a portion of the actual cost of installation to the location to be served.

C. Franchisee shall provide at least fourteen (14) viewing channels, of which at least four shall be channels from Lexington, at least two optional (extra pay) movie channels, at least one all news channel, at least one all sports channel, at least one for local programming or public access, at least one all religious channel, and at least two independent channels, with the capability of thirty-five (35) channels.

D. Franchisee shall, in future, upon request of the Fiscal Court, make available four (4) channels for educational TV and four channels for any other non-commercial service for the benefit of the inhabitants of the County.

E. Franchisee shall not engage in the sale, lease or servicing of television or radio receivers nor shall he engage in any other business whereby his position as operator of the CATV system will grant him an unfair advantage over a competitor.

F. Franchisee shall install and maintain all equipment so that standard color television signals shall be transmitted to any subscriber receiver.

G. Franchisee shall maintain a building adequate to enclose and protect the equipment required for the operation of the CATV system.

H. Franchisee shall maintain a local business office, with a listed local telephone number, for the payment of subscriber services charges, and for the receipt of subscriber complaints, and shall provide for and maintain a full-time maintenance technician to provide 24-hour service within the franchise area.

I. Franchisee shall furnish, without any cost, any and all of its basic services to the buildings of all public schools and fire departments and other county buildings (if requested) within the franchise area where cable facilities are available, by the provision of one entrance connection to the building housing such public facility.

J. Planned interruptions of service, insofar as possible, shall be preceded by notice given to subscribers twenty-four (24) hours in advance and shall occur during periods of minimum use of the system.

K. Franchisee shall maintain a written record, or "log" listing date of subscriber complaints, indentifying the subscriber and describing the nature of the complaint, and when and what action was taken by Franchisee in response thereto. Said record shall be kept at Franchisee's local office for the duration of the Franchise and shall be available to the Fiscal Court, or its appointed representative, during renegotiation at the expiration of this franchise.

L. Franchisee shall make installations to all persons within 300 feet of the cable distribution line for the same installation costs and monthly charges as set out in section nine (9).

M. Franchise shall not, as to rates, charges, service, services facilities, rules, regulations, or in any other respect, make or grant any undue preference of advantage to any person, nor subject any person to any prejudice or disadvantage.

N. Franchisee shall, upon termination of service to any subscriber, promptly remove all its facilities and equipment from the premises of such subscriber upon subscriber's request.

O. Franchisee shall not provide information concerning the viewing patterns of identifiable individual subscribers to any person, group or organization for any purpose without the consent of the subscriber.

#### SECTION SEVEN. OPERATION AND MAINTENANCE.

In the maintenance and operation of its television transmission and distribution system in the streets, alleys, and other public places, and in the course of any new construction or addition to its facilities, Franchisee shall proceed so as to cause the least possible inconvenience to the general public. Franchisee shall further operate its system so that there will be no interference with other television or radio or other impulse signals, and in accordance with Federal Communications Commission regulations.

SECTION EIGHT. FRANCHISE REQUIREMENTS.

In addition to any other franchisee requirements hereunder, or made or adopted as herein provided, the following requirements shall apply to any franchise granted hereunder

A. Franchise Fee. In consideration of the granting and exercise of a franchise to use the roads of the franchise area for the purpose of operating a cable television system for the use and benefit of subscribers therein. Franchisee shall pay to the County during the entire life of the Franchise a sum equal to three (3%) percent annually of the Franchisee's gross service revenues. Franchisee shall pay such sum within thirty (30) days after each anniversary date of the franchise hereunder, and shall furnish to Fiscal Court a certified copy by a public accountant of its accounts receivable.

B. Franchisee payments not in lieu of taxes. Any Franchise payments to the County by Franchisee shall not be in lieu of any occupational, income, license, or property tax or similar levy, assessment, fee, or charge which would otherwise apply to be payable by Franchisee.

C. Corporate Surety Bond. Franchisee shall file with the County Clerk of Madison County and shall thereafter during the entire term of this franchise, maintain in full force and effect, a corporate surety bond or other adequate surety agreement in the amount and kind specified in this ordinance and conditioned that in the event Franchisee shall fail to comply with any one or more of the provisions of such Franchise, then there shall be recoverable, jointly and severally, from the principal and surety, any damages or costs suffered or incurred by the County or by any subscriber as a result thereof, including attorneys' fees and costs of any action, or proceedings, and including the full amount of any compensation, indemnification, cost of removal of any property or other costs which may be incurred up to the principal amount of such bond; and said condition shall be continuing obligation during the entire term of this franchise, and thereafter, until Franchisee shall have satisfied in full any and all obligations to the County and any subscriber, or other person or entity, which arise out of or pertain to said franchise. Neither the provisions of this section, nor any bond accepted by the County pursuant heretom nor any damages recovered by the County thereunder shall be construed to excuse faithful performance by the Franchisee or limit the liability of the Franchisee under any franchise issued pursuant to this Ordinance.

Franchisee shall pay, and satisfy, and shall cause to be paid and satisfied any judgement, decree, order directive, or demand rendered, made or issued against Franchisee, the County, its officers, boards, commissions, agents or employees in any of these premises, and such indemnity shall exist and continue without reference to or limitation by the amount of any bond, policy or insurance, deposit, undertaking or other assurance required hereunder, or otherwise, provided, that neither Franchisee nor County shall make or enter into any compromise or settlement of any kind without first obtaining the written consent of the other.

G. Further Agreement and Waiver by Franchisee.. Franchisee shall abide by all provisions of this franchise, and shall further agree that it will not, at any future time, set up as against the County nor the Fiscal Court the claim that the provisions of this franchise are unreasonable, arbitrary or void.

#### SECTION NINE. RATES AND CHARGES TO SUBSCRIBERS

All rates and charges exacted by the Franchisee shall be fair, reasonable, and uniform. The initial rates and charges shall be those contained in the bid submitted hereunder, and shall remain at the amount specified for the first two (2) years of the franchise. Thereafter, Franchisee may adjust rates and charges, subject to all provisions hereunder. When any rate or charge is proposed to be increased, the Franchisee shall notify the Fiscal Court, in writing of the proposed increase with justification therefor, at least thirty (30) days prior to its effective date. Thereafter, the Court may require the Franchisee to appear at a meeting of the Fiscal Court to further explain or justify such increase. Rate increases shall not exceed those of the U. S. Department of Labor cost-of-living index.

Any deposit required of a subscriber by the Franchisee shall be deposited in a bank or savings and loan association located in Madison County. Said deposit be maintained in a savings account and shall draw reasonable interest which shall be given to the subscriber upon refund of deposit. Franchisee may use deposit to offset delinquent unpaid subscriber's monthly or installation charges, if not paid within sixty (60) days, at which time, Franchisee may remove its equipment, or disconnect the installation, or charge a penalty of ten (10%) or both. Deposits shall be held in an escrow account and upon termination or expiration of this franchise, shall be transferred, reassigned in accordance with the provisions of SECTION 11 below.

SECTION TEN. INSPECTION OF PROPERTY AND RECORDS.

At all reasonable times, Franchisee shall permit any duly authorized representative of the Fiscal Court to examine all franchise property, including but not limited to equipment, maps, records, and accounts which are under Franchisee's control.

Franchisee shall file with the County on or before the last day of each year a current map or set of maps drawn to scale showing all CATV system equipment locations in streets, alleys, and public places of the County.

SECTION ELEVEN. ASSIGNMENT

The Franchisee shall have the right to assign the franchise created by this ordinance to any person, firm or corporation able, ready and willing to carry out the terms of this franchise, provided, however, that prior to such assignment, Franchisee shall obtain consent for such assignment from the Fiscal Court, which consent shall not be unreasonably withheld.

SECTION TWELVE. TERMINATION OF FRANCHISE.

A. Any future renewal of this initial franchise, shall be at the option of the Fiscal Court and the Franchisee.

B. In the event of expiration or breach by the Franchisee of the contract, this Franchise may be terminated by the County after notice and an opportunity to be heard is afforded the Franchisee and an opportunity of at least ninety (90) days is afforded the Franchisee to comply with the Contract.

C. In the event this franchise is cancelled or not renewed, the Franchisee shall be obligated for a reasonable period to continue service to the public as a trustee for its successor interest, subject to an accounting of net earnings or losses during the interim period.

D. In the event of non-renewal of this franchise, the County may, at its option, and for fair market value of this system as a going concern, require that all rights, title and interest in the CATV property be transferred to the County or to a Franchisee designated by the County.

E. In the event of cancellation of this franchise for a material breach of its terms, the County may, at its option, and for the depreciated original cost of the CATV property, require said property be transferred to the County or to a Franchisee designated by the County.

D. Comprehensive Liability Insurance. Upon acceptance of such franchise, Franchisee shall file with the County Clerk of Madison County and shall thereafter during the entire term of such franchise, maintain in full force and effect a single limit comprehensive liability policy of insurance with limits of not less than \$100,000.00 each occurrence and \$300,000.00 aggregate, and which shall assure franchisee, and shall provide primary coverage for the County, its officers, boards commissions, agents, and employees against liability for loss or damage for personal injury, death, and property damage occasioned by any activity or operation of Franchisee under such franchise, and which shall contain and include a standard cross-liability endorsement thereto.

E. Hold-Harmless Agreement. Franchisee shall indemnify and hold harmless, the County, its officers, boards, commissions, agents and employees, against and from any and all claims, demands, causes of actions, actions, suits, proceedings, damages (including but not limited to, damages to County property and damages arising out of copyright infringements, and damages arising out of any failure by Franchisee to secure consents from the owners, authorized distributors or licensees of programs to be delivered by Franchisee's cable television system), costs or liabilities (including costs or liabilities of the County with respect to its employees), of every kind, and nature whatsoever, including, but not limited to, damages for injury or death or damage to person or property, and regardless of the merit of any of the same, against all liability to others, and against any loss, costs and expense resulting or arising out of any of the same, including any attorney fees, accountant fees, expert witness or consultant fees, court costs, per diem expense, traveling and transportation expense, or other costs or expense arising out of or pertaining to the exercise or the enjoyment of any franchise hereunder by Franchisee or the granting thereof by the County.

F. Defense of Litigation. Franchisee shall, at its sole risk and expense, upon demand of the County made by and through the County Attorney, appear in and defend any and all suits, actions, or other legal proceedings, whether judicial, quasi-judicial, administrative, legislative, or otherwise, brought or instituted or had by third persons or duly constituted authorities, against or affecting the County, its officers, boards, commissions, agents or employees, and arising out of or pertaining to the exercise of the enjoyment of such franchise, or the granting thereof by the County.

F. If any section, sub-section, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**SECTION THIRTEEN. BID PROCEDURE.**

A. It shall be the duty of the County Judge/Executive as soon as practicable after the passage of this ordinance to offer for sale at public auction said franchise and privilege. Said franchise and privilege shall be sold to the best available bidder on the 18th day of May . 1982 at 9.00 at the Madison County Courthouse. Due notice of the award of such franchise shall be given by advertisement in at least one (1) issue of the Richmond Register, a newspaper of general circulation published in Madison County, Kentucky, and in the Lexington Herald, Lexington, Kentucky, and the Louisville Courier-Journal, both newspapers of general circulation in Fayette and Jefferson Counties. These advertisements shall appear not less than thirty (30) days nor more than sixty (60) days before the date of bid opening.

B. Fiscal Court shall consider each bid and determine which is the best available- and making such determination shall consider all relevant factors.

All proposals must contain the following information:

1. Brief description of the Company.
2. Description of the proposed system including:
  - a. Channel capacity immediately available and in the future.
  - b. Television signals to be carried.
  - c. Origination and two way capabilities if any.
  - d. System layout or design.
  - e. A plan for serving sparsley populated areas of the franchise area. It being understood that such a plan will require those desiring CATV service in these areas to pay additional installation costs.
3. Construction Schedule
  - a. Construction plan: precise areas to be served; by what date.
  - b. Construction Schedule specifying when;
    - (1) construction would begin,
    - (2) first customer would receive service,
    - (3) different sections of the cable would be energized,
    - (4) trunk lines totally installed.

4. Rates

- a. Installation Charges. First set and additional sets.
- b. Monthly charges. First set and additional sets.
- c. Reconnection charges.
- d. Premium programming charges, describe any proposed system of tiering rates.
- e. Any other intended charges.

5. A statement of the applicants experience in the CATV field, if any.

C. Bids and proposals for the purchase and acquisition of the franchise and privileges hereby created shall be in writing and shall be delivered to the County Judge/Executive on or before the 18th day of May, 1982 at 9:00 a.m. , Madison County Courthouse. Thereafter, the Fiscal Court shall examine all bids and proposals submitted hereunder. The Fiscal Court reserves the right, for and in behalf of the county to reject any and all bids for said franchise and privileges, and in case the bids shall be rejected by the Fiscal Court, it may direct, by resolution, said franchise and privilege to be again offered for sale, from time to time, until a satisfactory bid therefor shall be received and approved. Each bid shall be accompanied by cash, a certified check drawn of a bank of the Commonwealth of Kentucky, or a national bank in an amount equal to five percent (5%) (up to a maximum of \$25,000) of the fair estimated cost of the plant required to render the service, which check, cash or bond shall be forfeited to the County in case the bid should be accepted and the bidder should fail, within the period specified herein, to establish and begin rendering the service in the franchise area in the manner set forth in this ordinance and the franchise agreement.

NOT Ordinance  
in minutes

MADISON COUNTY, KENTUCKY

Ordinance No. 82-4

AN ORDINANCE OF MADISON COUNTY, KENTUCKY, CREATING A CABLE TELEVISION FRANCHISE OR FRANCHISES, DEFINING THE TERMS AND CONDITIONS THEREOF, AND PROVIDING FOR BID PROCEDURE.

Be it ordained by the Fiscal Court of Madison County, Kentucky.

Section One. Franchise(s) Created. There is hereby created a franchise or franchises to erect, maintain and operate in, under, over, along, across and upon the streets, lanes, avenues, sidewalks, alleys, bridges, highways and other public places in Madison County, Kentucky, or portions thereof, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be necessary and appurtenant to a cable television system, for the purpose of transmission by cable and distribution of television impulses and television energy for sale to the inhabitants of said County, or portions thereof, and other purposes.

Section Two. Term of Franchise(s). The franchise(s) herein shall be for a term of up to twenty (20) years, which term shall be a part of the bid proposal.

Section Three. Franchise. The person, firm, or corporation which shall become the purchaser of said franchise(s), or any successor or assignee of such person, shall hereinafter be referred to as the "franchisee."

Section Four. Rights and Privileges. The poles used for the Franchisee's distribution system shall be those erected and maintained by Kentucky Utilities Company, Blue Grass RECC, and South Central Bell Telephone Company, General Telephone Company, or such other public utilities with existing poles, when and where practicable, providing mutually satisfactory rental agreements can be entered into with said companies. Where the use of poles is not practicable or mutually satisfactory rental agreements cannot be entered into with said companies, the franchisee shall have the right to erect and maintain its own poles, as may be necessary for the proper construction and maintenance of the television distribution system. The franchisee shall have the right and

privilege of installing, maintaining, and operating its transmission equipment, apparatus and appurtenances necessary in connection therewith, in, along, and under (but not upon), the public rights of way within the jurisdiction of the County, or such portion thereof as may be granted to said franchisee, subject, however, to the provisions hereof and to all powers inherent in, conferred upon, or reserved to the County.

Section Five. Standards of Installation and Operation. The franchisee's transmission and distribution system poles, wires, and appurtenances shall be located, erected and maintained so as not to endanger or interfere with the lives of persons, or to interfere with new improvements this County may deem proper to make, or to unnecessarily hinder or obstruct the free use of the streets, alleys, bridges, or other public property; removal of poles to avoid such interference will be at the franchisee's expense.

Construction and maintenance of the transmission distribution system, including house connections, shall be in accordance with the provisions of the National Electrical Safety Code, prepared by the National Bureau of Standards, the National Electrical Code of the National Board of Fire Underwriters, and such applicable Kentucky statutes or administrative regulations, or ordinances and regulations of Madison County, Kentucky, affecting electrical installations, which may be presently in effect, or changed by future ordinances.

Installation and housedrop hardware shall be uniform throughout the County, except that the franchisee shall be free to change its hardware and installation procedure as the art progresses.

Section Six. Requirements of Service.

a) The franchisee shall install a community antenna television system (hereinafter CATV) in the franchise area granted. The time that the applicant can provide service to the franchised area shall be stated in the bid proposal, but in no event shall any successful applicant fail to install a fully operational system in the franchises area within two years from the effective date of the franchise.

b) The franchisee shall provide at least twelve viewing channels, of which at least four shall be channels from Lexington or Richmond, at least one optional (extra pay) movie channel, at least one all

news channel, at least one all sports channel, and at least two independent channels.

c) The franchisee shall install and maintain all equipment to that standard color television signals shall be transmitted to any subscriber receiver.

d) The franchisee shall maintain a building adequate to enclose and protect the equipment required for the operation of the CATV system.

e) The franchisee shall maintain a local business office, with a listed local telephone number, for the payment of subscriber service charges, and for the receipt of subscriber complaints; and shall provide for and maintain a full time maintenance technician to provide 24 hour service within the franchise area.

f) Franchisee shall furnish, without cost, any and all of its basic services to the buildings of all public schools and fire departments within the franchise area where cable facilities are available, by the provision of one entrance connection to the building housing such public-facility.

g) Planned interruptions of service, insofar as possible, shall be preceded by notice given to subscribers twenty-four hours in advance and shall occur during periods of minimum use of the system.

h) The franchisee shall maintain a written record, or "log" listing date of customer complaints, identifying the subscriber and describing the nature of the complaint, and when and what action was taken by franchisee in response thereto. Said record shall be kept at franchisee's local office, for a period of five years and shall be available for inspection during regular business hours.

Section Seven. Operation and Maintenance. In the maintenance and operation of its television transmission and distribution system in the streets, alleys, and other public places, and in the course of any new construction or addition to its facilities, the company shall proceed so as to cause the least possible inconvenience to the general public. The franchisee shall further operate its system so that there will be no interference with other television or radio or other impulse signals, and in accordance with Federal Communications Commission regulations.

Section Eight. Franchise Requirements. In addition to any other franchise requirements hereunder, or made or adopted as herein provided, the following requirements shall apply to any franchise granted hereunder.

a) Franchise payments, operations within franchise area. In consideration of the granting and exercise of a franchise to use the streets of the franchise area for the purpose of operating a cable television system for the use and benefit of subscribers therein, the franchisee shall pay to the County during the entire life of the franchise a sum equal to at least three percent (3%) of the franchisee's gross basic service revenues. The franchisee shall pay such sums within thirty days after each anniversary date of the franchise hereunder.

b) Franchisee payments not in lieu of taxes. Any franchise payments to the County by grantee shall not be in lieu of any occupation, income, license, or property tax or similar levy, assessment, fee, or charge which would otherwise apply to and be payable by grantee.

c) Corporate surety bond. The franchise ordinance shall specify that upon acceptance of such franchise, franchisee shall file with the County clerk and shall thereafter during the entire term of such franchise maintain in full force and effect a corporate surety bond or other adequate surety agreement in the amount and kind specified in the franchise ordinance and conditioned that in the event grantee shall fail to comply with any one or more of the provisions of such franchise, then there shall be recoverable jointly and severally from the principal and surety any damages or costs suffered or incurred by the County or by any subscriber as a result thereof, including attorneys' fees and costs of any action, or proceeding, and including the full amount of any compensation, indemnification, cost of removal of any property or other costs which may be incurred up to the full principal amount of such bond; and said condition shall be a continuing obligation during the entire term of such franchise and thereafter until franchisee shall have satisfied in full any and all obligations to the county and any subscriber which arise out of or pertain to said franchise. Neither

the provisions of this section, nor any bond accepted by the County pursuant hereto, nor any damages recovered by the County thereunder shall be construed to excuse faithful performance by the franchisee or limit the liability of the franchisee under any franchise issued pursuant to this ordinance.

d) Comprehensive liability insurance. Upon acceptance of such franchise franchisee shall file with the County clerk and shall thereafter during the entire term of such franchise maintain in full force and effect a single limit comprehensive liability policy of insurance with limits of not less than \$100,000.000 each occurrence and \$300,000.00 aggregate, and which shall assure franchisee, and shall provide primary coverage for the County , its officers, boards, commissions, agents, and employees against liability for loss or damage for personal injury, death, and property damage occasioned by any activity or operation of franchisee under such franchise, and which shall contain and include a standard cross-liability endorsement thereto.

e) Hold harmless agreement. Franchisee shall indemnify and hold harmless the County, its officers, boards, commissions, agents, and employees, against and from any and all claims, demands, causes of actions, actions, suits, proceedings, damages (including but not limited to damages to County property and damages arising out of copyright infringements, and damages arising out of any failure by franchisee to secure consents from the owners, authorized distributors or licensees of programs to be delivered by franchisee's cable television system), costs or liabilities (including costs or liabilities of the County with respect to its employees), of every kind and nature whatsoever, including, but not limited to, damages for injury or death or damage to person or property, and regardless of the merit of any of the same, against all liability to others, and against any loss, cost and expense resulting or arising out of any of the same, including any attorney fees, accountant fees, expert witness or consultant fees, court costs, per diem expense, traveling and transportation expense, or other costs or expense arising out of or pertaining to the exercise or the enjoyment of any franchise hereunder by franchisee, or the granting thereof by the County.

including, but not limited to equipment, maps, records, and accounts, which are under franchisee's control.

Section Eleven. Assignment. The franchisee shall have the right to assign the franchise created by this ordinance to any person, firm or corporation able, ready and willing to carry out the terms of this franchise; provided, however, that prior to such assignment the franchisee shall obtain consent from the County to such assignment, which consent shall not be unreasonably withheld.

Section Twelve. Bid Procedure. A. It shall be the duty of the County Judge/Executive as soon as practicable after the passage of this ordinance to offer for sale at public auction said franchise and privilege. Said franchise and privilege shall be sold to the highest and best bidder on the \_\_\_\_ day of \_\_\_\_\_, 1981, at \_\_\_\_ .M. Due notice of the award of such franchise shall be given by advertisement in at least one (1) issue of the Richmond Register, a newspaper of general circulation published in Madison County, Kentucky. This advertisement shall appear not less than seven (7) days nor more than twenty-one (21) days before the date of bid opening.

B. Bids and proposals for the purchase and acquisition of the franchise and privileges hereby created shall be in writing and shall be delivered to the County Judge/Executive on or before the \_\_\_\_ day of \_\_\_\_\_, 1981, at \_\_\_\_ .M. Thereafter, the Fiscal Court shall examine all bids and proposals submitted hereunder. The Fiscal Court reserves the right, for and in behalf of the County, to reject any and all bids for said franchise and privileges; and, in case the bids shall be rejected by the Fiscal Court, it may direct, by resolution, said franchise and privilege to be again offered for sale, from time to time, until a satisfactory bid therefor shall be received and approved. Each bid shall be accompanied by cash, a certified check drawn on a bank of the Commonwealth of Kentucky, or a national bank, or in an amount equal to five percent (5%) of the fair estimated cost of the plant required to render the service, which check, cash, or bond shall be forfeited to the County in case the bid should be accepted and the bidder should fail, within the period specified herein, to establish and

begin rendering the service in the franchise area in the manner set forth in this ordinance and the franchise agreement.

Any bidder may submit a bid and proposal for any portion of the County which is outside of the corporate limits of any municipal corporation, and all bidders shall submit with the bid a map designating the area or areas proposed to be served by the franchise, and the time such service shall be available.

C. The Fiscal Court shall consider each bid and determine which bid is the highest and best, and making such determination, shall consider all relevant factors, including, but not limited to, the following:

- 1) Area proposed to be served;
- 2) Time service will be provided to the area;
- 3) Subscriber rates; and
- 4) Past experience of bidder.

Section Thirteen. Termination of related franchises.

Should any franchisee be the holder of a franchise from any municipal corporation in this County, and should such municipal franchise be terminated, then this franchise shall also be automatically terminated on the same terms and conditions for all franchised areas which are contiguous to the corporate limits of the municipal corporation which terminated the franchise.

PASSED this \_\_\_\_ day of \_\_\_\_\_, 1981.

MADISON COUNTY

By: \_\_\_\_\_  
County Judge/Executive

ATTEST:

\_\_\_\_\_  
County Clerk

f) Defense of litigation. Franchisee shall at the sole risk and expense of franchisee, upon demand of the County made by and through the County attorney, appear in and defend any and all suits, actions, or other legal proceedings, whether judicial, quasijudicial, administrative, legislative, or otherwise, brought or instituted or had by third persons or duly constituted authorities, against or affecting the County, its officers, boards, commissions, agents or employees, and arising out of or pertaining to the exercise or the enjoyment of such franchise, or the granting thereof by the County.

Franchisee shall pay and satisfy and shall cause to be paid and satisfied any judgment, decree, order, directive, or demand rendered, made or issued against franchisee, the County its officers, boards, commissions, agents, or employees in any of these premises; and such indemnity shall exist and continue without reference to or limitation by the amount of any bond, policy of insurance, deposit, undertaking or other assurance required hereunder, or otherwise; provided, that neither franchisee nor County shall make or enter into any compromise or settlement of any claim, demand, cause of action, action, suit, or other proceeding, without first obtaining the written consent of the other.

Section Nine. Rates and Charges to Subscribers. All rates and charges exacted by the company shall be fair, reasonable, and uniform. The initial rates and charges shall be those contained in the bid submitted hereunder, and shall remain at the amount specified for the first year of the franchise. Thereafter, franchisee may adjust rates and charges, subject to all provisions hereunder. When any rate or charge is increased, the franchisee shall notify the County in writing of the increase at least thirty days prior to its effective date. Thereafter, the County may require the franchisee to appear at a meeting of the fiscal court to explain and/or justify such increase. Rate increases shall generally not exceed the U.S. Department of Labor cost-of-living index increase, and shall not exceed those charged in other franchised areas from which the signals originate.

Section Ten. Inspection of Property and Reloads. At all reasonable times, franchisee shall permit any duly authorized representative of the County to examine all franchise property,