

ORDINANCE NO. 0-79-22

AN ORDINANCE ENTITLED "AN ORDINANCE PROVIDING FOR THE LEASING OF THE CITY CABLE TELEVISION SYSTEM TO THE CONWAY CORPORATION."

Unless the context specifically indicates otherwise, the meaning of the terms used in this ordinance shall be as follows:

City - shall be the City of Conway, Arkansas.

City Council - shall be the City Council of the City of Conway, Arkansas.

Corporation (Corp.) - shall be the Conway Corporation.

"Cable Television System" (CTS), or "System" - shall mean any facility which is operated to perform for hire, either in whole or in part, the service of receiving, amplifying, modifying or originating television, radio or other electrical signals for the purpose of transmitting or distributing such signals by wire, cable or other means to subscribing members of the public.

Bond Fund - A special fund out of which disbursements are to be made for paying the principal of, premiums, if any, and interest on any bonds or other indebtedness, the proceeds of which are used for the construction of the cable television system or any expansion or extension thereof.

Force Majeure - shall mean any cause or causes beyond the control of Corporation, including, but not limited to, acts of God or the public enemy, failure of the Corporation's facilities, flood, earthquake, storm, lightning, fire, epidemic, war, embargo, riot, civil disturbances, strikes, picketing, lockouts or other labor disputes or disturbances, sabotage, or restraint or prevention of performance by act of any court, regulatory body or defense agency, which by the exercise of due diligence and foresight the Corporation could not reasonably have been expected to avoid.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CONWAY, ARKANSAS:

Section One. THAT the City of Conway, Arkansas does hereby lease unto the Conway Corporation the Cable Television System to be owned by said City and constructed by Corporation. The cost of said System shall be financed by a loan of any unre-

stricted and available funds in the hands of Corporation and belonging to the City or by proceeds of a bond issue of the City for the specific purpose of construction of the System. The said lease is hereinafter set out, and the Mayor and Clerk-Treasurer of said City shall be, and they are hereby, authorized and directed to execute, acknowledge and deliver the same in the name and on behalf of the City of Conway and to affix thereto the corporate seal of the City of Conway, said lease being as follows, to-wit:

LEASE

The following lease made and entered into by and between the City of Conway, Arkansas hereinafter designated as Lessor, and the Conway Corporation, hereinafter designated as Lessee, WITNESSETH:

1 - The Lessor does hereby lease and rent for the consideration hereinafter set forth, unto the Lessee the following real estate and personal property, to-wit: A Cable Television System yet to be constructed and all lands and land rights acquired for the location and operation of said System, For a term beginning on June 1, 1979 and ending May 31, 2004.

And for the rent of said property, the Lessee agrees and promises to pay to the Lessor 10 percent of the gross revenues derived from the rates charged for cable television service as identified in Paragraph 2 less any and all contributions to the "Bond Fund" as described in this ordinance, but in no event shall said rent be less than \$12,000 per year, which rental shall be paid in equal monthly installments on the same day of each calendar month during the term of this lease. In addition, any revenues surplus to the needs identified in Paragraph 2 of this ordinance shall inure to the benefit of the City and shall be released by the Corporation upon request by resolution of the City Council.

2 - The rates charged for Cable Television Service shall be set by the Conway Corporation subject to the approval of the City Council. Said rates shall provide adequate revenues to cover the costs of operation and maintenance, bond fund and other debt service requirements, plant expansion and necessary and reasonable surpluses and reserves.

The said Conway Corporation shall make and enforce all such

proper rules as to collection of delinquent bills and as to discontinuance of service to delinquent customers as it may, in its opinion, deem necessary.

3 - The Lessee agrees that it will at all times, during the period of this lease, maintain the said Cable Television System in a high degree of efficiency, and that it will at its own expense from time to time replace and substitute by exchange worn out or defective or inadequate portions of the System to the end that the said System shall at all times during the term of this lease and at the termination thereof be in as good condition for giving service as when new, necessary wear and tear along being excepted. It is expressly provided that the Conway Corporation shall have full power and authority to remove, salvage, destroy, sell or otherwise dispose of, any and all equipment and facilities which, in its discretion, are no longer required for, or utility to, or benefit to the System.

At the expiration of the term of this lease, all System components hereby leased, together with any additions thereto or replacements thereof, made by said Corporation and all supplies and all other net assets of Corporation, shall be surrendered to the City of Conway.

4 - Lessee further agrees that it will, during the term of this lease, make all necessary additions and extensions to the System and that it will, through its own production or by purchase, make available to customers, such additional service as shall be necessary to take care of any increased demands caused by the growth of the City of Conway, or otherwise, during the term of this lease; provided, however, that lessee shall not be responsible for service interruptions caused by force majeure, failure of equipment or governmental intervention.

5 - The Lessee shall at all times during the term of this lease keep an accurate set of books in conformance with accepted accounting procedures, showing all receipts and expenditures of said Corporation, and said books shall at all times be open to inspection by the Mayor and members of the City Council, or its designated agents. The Mayor and members of the City Council, or its designated agents, shall have the right at all times to go

upon the properties of the said System and make such inspection thereof as they may deem proper.

IN WITNESS WHEREOF, this Lease has been executed on behalf of the City of Conway, and the corporate seal of said City affixed hereto by its Mayor and City Clerk, hereunto duly authorized by ordinance of the City Council of the City of Conway, and has been executed by the Conway Corporation and the corporate seal of said Conway Corporation affixed hereto by its President and its Secretary, hereunto duly authorized by Resolution of the Board of Directors of the said Conway Corporation on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_; it being distinctly understood and agreed, however, that neither the said Mayor nor City Clerk, nor the said President or the said Secretary of the said Conway Corporation, shall in any manner be personally liable or responsible hereunder.

CONWAY CORPORATION

By \_\_\_\_\_  
Its President  
By \_\_\_\_\_  
Its Secretary

CITY OF CONWAY

Bill Wright  
Its Mayor  
Dennis Dunn  
Its City Clerk

Section Two. All ordinances and parts of ordinances in conflict herewith be and the same hereby are repealed and this ordinance shall be in force from and after its passage and publication.

PASSED: May 8, 1979

APPROVED: Bill Wright  
Mayor

ATTEST: Dennis Dunn  
City Clerk