

ORDINANCE NO. O-05-12

AN ORDINANCE GRANTING A TWO (2) YEAR EXTENSION OF THE CABLE TELEVISION FRANCHISE GRANTED PURSUANT TO ORDINANCE NO.B 300. TO DECLARE AN EMERGENCY AND FOR OTHER PURPOSES.

WHEREAS, Pursuant to Ordinance No. B-300, adopted February 21, 1989, the City of Arkadelphia, Arkansas granted a cable television franchise to TCA Cable Partners d/b/a Cox Communications, for an initial term of Fifteen (15) years; and,

WHEREAS, the City of Arkadelphia desires to extend the Franchise for an additional Two (2) year period with opportunity for two (2) additional extension periods of Two (2) years each.

WHEREAS, the City of Arkadelphia desires franchise fees to be collected on a quarterly basis.

WHEREAS, the City of Arkadelphia desires to clarify the definition of ‘Gross Revenue’ to amend the franchise fee.

NOW, THEREFORE, be it ordained by the City of Arkadelphia, Arkansas, as hereinafter set out.

SECTION 1 – The City of Arkadelphia hereby extends the Franchise for an additional two (2) years beginning on the 1st day of September 2005 and ending on the 31st day of August 2007.

SECTION 2 – Upon expiration of the initial term, this franchise may be extended for Two(2) additional consecutive Two(2) year terms provided Grantee delivers written notice of its intent for such additional Two (2) year term to the City of Arkadelphia at least twelve (12) months prior to the expiration of each term.

SECTION 3 – The City of Arkadelphia hereby amends the Franchise adding Section 1 (7) defining gross revenue as follows: Subscriber revenues received by the Grantee from the operation of the Cable System to provide Cable Services as defined by the Federal Communications Commission (FCC) in the Service Area. Gross Revenues shall be calculated and reported based on generally accepted accounting principles (GAAP). Gross Revenues shall not include: (i) any fees or taxes which are imposed directly or indirectly on any Subscriber thereof by any governmental unit or agency and which are collected by the Grantee on behalf of such governmental unit or agency, including without limitation the franchise fee as specified in Ordinance number B-502 which then increased the franchise fee from Three percent (3%) to Five percent (5%); (ii) any tax, fee, or assessment of any kind imposed by the Franchising Authority or other governmental entity on a cable operator, or Subscriber, or both, solely because of their status as such, including a tax, fee or assessment of general applicability which is unduly discriminatory against cable operators or Subscribers); (iii) any other special tax, assessment, or fee such as a business, occupation, and entertainment tax; (iv) any fee for the recovery of costs incurred to collect late payments for Cable Services; and (v) net unrecovered bad debt.

SECTION 4 – TCA Cable Partners, d/b/a Cox Communications, is the current holder of the right, privilege and authority granted pursuant to the Franchise.

SECTION 5 – The City of Arkadelphia shall have the right to increase the franchise fee on gross cable service subscription receipts up to the maximum permitted by law at any time during the

term of this agreement provided, however, that Grantee is given a minimum of sixty (60) days advance notification in writing. The initial franchise fee shall be five (5) percent of gross cable service subscription receipts effective thirty (30) days after the date of passage of this ordinance. The fee shall be remitted on a quarterly basis.

SECTION 6 – The City of Arkadelphia is depending upon franchise fees for general funds and operation of basic services to its citizens therefore, the passage of this ordinance is necessary for the preservation of the peace, health and safety of the citizens of Arkadelphia, Arkansas and shall be in full force and affect and after its passage.

PASSED AND APPROVED this 15th day of September, 2005.

C.T. Hollingshead, Mayor

ATTEST:

Rendi Currey, City Clerk