

ORDINANCE NO. 732

AN ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE TO THE CANBY TELEPHONE ASSOCIATION FOR THE INSTALLATION, CONSTRUCTION, MAINTENANCE AND OPERATION OF A CABLE COMMUNICATIONS SYSTEM WITHIN THE CITY OF CANBY.

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. Short Title. This Ordinance shall be known and may be cited as the Canby Cable Communications Franchise with the Canby Telephone Association.

Section 2. Grant of Franchise. This Ordinance is enacted pursuant to the authority provided in, and all the provisions, terms and conditions of Ordinance No. 725, titled the Canby Cable Communications Ordinance or Cable TV Enabling Ordinance, passed and adopted on Sept. 15, 1982, a copy of which is on file in the office of the City Recorder. The franchise herein granted shall include the provisions of said ordinance except as specifically stated herein otherwise (as allowed by the Enabling Ordinance); the Request for Proposals (RFP)

Grantee's franchise application, Resolution No. 337 establishing rules and regulations and standards of operation, and Resolution No. 338 setting service rates and charges, all of which are incorporated herein by reference.

Section 3. Franchise General Terms and Conditions. The Canby Telephone Association, hereinafter referred to as Grantee, is hereby granted, subject to the requirements of the Cable Communications Ordinance, a non-exclusive franchise for a period of fifteen (15) years from the date of acceptance of this franchise on the terms and conditions hereinafter set forth.

(A) The franchise herein granted shall be subject to all of the terms and conditions of this ordinance and other documents comprising the franchise as set forth in Section 2 above. In the event of any conflict between the provisions of this Ordinance and the other documents comprising the franchise as set forth in Section 2 above, the provisions of this Ordinance shall prevail.

(B) Grantee shall install, construct, maintain and operate a cable communications system as necessary to serve the entire City of Canby in full conformance herewith.

(C) Grantee shall meet all franchise agreement requirements regardless of whether or not the assumptions

upon which Grantee's negotiations and acceptance of this franchise were based prove to be correct.

Section 4. Franchise Recision Requirements. In addition to the franchise termination provisions of the Cable Communications Ordinance, the City Council at its sole option and without notice to Grantee, may rescind the franchise award without liability to Grantor, if any of the following requirements are not met. Grantee shall:

(A) File with the City Recorder not later than the twentieth (20th) day from after the effective date of this Ordinance a statement accepting the franchise granted herein by the City.

(B) File with the City Recorder not later than the twentieth (20th) day from the effective date of this Ordinance the insurance policies required by the Cable Communications Ordinance, or binders therefore if such policies are not yet available.

(C) File with the City Recorder within thirty (30) days of the effective date of this Ordinance the security deposit required in Section 14(a) herein.

(D) File with the City Recorder within twenty (20) days of the effective date of this Ordinance an agreement to pay the City within thirty (30) days of receipt of billings, the costs realized by the City in the franchising process leading to the granting of this franchise. Copies of costs estimates and actual billings will be submitted to Grantee by the City Administrator.

(E) File with the City Administrator within sixty (60) days of the effective date of this Ordinance a preliminary build, construction, and development plan. Such plan will be subject to review by the City. If comments from the City are not received by Grantee within thirty (30) days, the plan shall be deemed approved as submitted. The plan shall include, but not limited to, a preliminary engineering study or plan, as appropriate, for the nature of the build and system extension.

Section 5. Permits, Licenses and Authorizations. Immediately upon acceptance of the franchise, Grantee shall proceed with due diligence to obtain all necessary permits, licenses and authorizations per Section 7.1 of the Cable Communications Ordinance.

Section 6. Construction Schedule.

(A) In addition to the provisions of Subsection 7.1(A)

and Subsections 7.2(A) and (B) of the Cable Communications Ordinance the Grantee shall have fully completed, activated and in service to subscribers the build of the system and all facilities no later than eight months from the date of the award of the franchise.

(B) Grantee shall provide timely notification to all residents in a particular area of impending construction in their area by direct mail, door hangers, or other effective means.

Section 7. Undergrounding of CATV Lines. The following requirements are in addition to those set forth in Section 7.3 of the Cable Communications Ordinance.

(A) The Grantee shall initially construct the entire cable plant underground where practical, using existing conduit to the maximum extent possible, and where no conduit is available Grantee shall be responsible for all necessary trenching and backfilling of main line and service trenches, and the furnishing of any imported backfill material required as necessary for installation in conduit of all of Grantee's trunk cable plant, and feeder cable where such crosses streets and driveways. The underground construction may be otherwise direct burial using flooded and armored cable.

(B) Amplifiers and other active electronic equipment in the Grantee's transmission and distribution lines may be in concrete boxes, vaults, or pedestals on the surface of the ground. All the passives for subscriber service taps will be on pedestals unless otherwise directed by the City.

(C) Underground cable will be installed pursuant to instructions of the City in accordance with applicable City codes.

Section 8. Emergency Power. Emergency power sources shall be provided as required by Subsection 10.9(B) of the Cable Communications Ordinance, except as augmented by Grantee's franchise application. Grantor reserves the right to designate "Critical Service Areas" and "Critical Circuits" which in a period of service outage would receive first priority in repair by Grantee.

Section 9. Line Extension. Grantee shall extend service into and throughout new subdivisions, developments and any areas newly annexed or incorporated into the City at standard installation and service rates, in accordance with Subsection 7.4 of the Cable Communications Ordinance.

Section 10. System Outage and Subscriber Complaint Service.

In addition to the general requirements of Subsection 10.10 of the Cable Communications Ordinance and the Service Standards proposed in Section XVI of Grantee's franchise application (some of which are restated herein below) the Grantee shall meet the following more specific requirements:

(A) Grantee will maintain a Subscriber Complaint Service operated from Grantee's City office, and qualified technicians will be permanent members of the staff.

(B) Routine handling of customer service requests will be the responsibility of the local staff as follows:

(1) Immediate response and priority correction of any outage affecting a critical area or critical circuit as designated by the City Administrator.

(2) During office hours, a call involving loss of reception on all channels will be dispatched to the field immediately via two-way radio. If the loss of reception on all channels affects five (5) or more customers, at any time day or night, repairs will be commenced immediately and pursued dilligently. Total loss of reception involving five (5) or more customers will be corrected on the same day received except if reported after 2:00 p.m.; in which case, correction may be postponed to the following day. The majority of all outages (total loss of reception on all channels) will be corrected in four to eight hours or less.

(3) The majority of calls involving degraded reception or single channel outage will be corrected on the same business day if received prior to 2:00 p.m. In all cases such service calls will be corrected no later than the following business day. Where it is necessary to make a service call other than the same day the call is received, the dispatcher will call the subscriber's residence just before the technician proceeds enroute to the subscriber's residence to ensure there is someone at the residence with authority to permit entry of the residence by the technician if necessary.

(4) Requests for repairs made after hours, holidays, or on weekends shall be answered by an answering service or staff. Outage calls will be referred immediately to the standby technician

for resolution in accordance with Subsection (2) above. Calls involving degraded service will be reported by the answering service the next day. The staff will call the customer to schedule a service call in accordance with Subsection (3) above.

(5) Customers will be notified of the complaint procedure by inclusion of the following text on the copy of the subscriber contract which is left with the customer:

"Requests for repairs should be made to [title of responsible employee(s)] by calling the local office at any time. Response will be made immediately or on the following day, depending on the severity of the complaint and other circumstances.

Subscribers who have so requested repairs but are dissatisfied with services rendered are requested to lodge a written complaint to the system office."

(C) Grantee will maintain a data base, or "log", listing date of subscriber complaint, identifying the subscriber and describing the nature of the complaint, and when and what action was taken by the Grantee in response thereto. From the date when the system is first energized said record shall be kept accessible at the Grantee's local office for a period of three (3) years, and shall be available for inspection during regular business hours, without further notice or demand by the City Administrator or any other duly authorized representative of the City.

(D) The Grantee will not be responsible for problems created by subscribers or for problems with subscriber-owned equipment. The subscriber must allow the service technician access to the problem if located on the subscriber's property, or forfeit any refund due for service outages directly resulting from such subscriber conduct.

Section 11. Local Origination and Access.

(A) The Grantee shall as a minimum provide and maintain on a permanent basis a local origination and access studio, at an accessible and centrally located position within the City of Canby as approved by appropriate municipal authorities. Grantee shall also provide and maintain a mobile production van to serve the City of Canby for use by educational entities or groups, churches or religious groups, local government, community organizations, service groups, or any member of the

general public. Programming capability shall include: live cablecasting from the studio, live from remote locations transmitted to the headend and thence to the subscribers via cable using the van; video taped at either the studio or remote locations by local community users; and, video taped elsewhere and sponsored by a local person or organization.

The full capacity studio shall allow the production of a simple or elaborate community access programs. The studio shall be equipped with lower broadcast, higher industrial grade equipment. The equipment shall include all equipment typically found in a video production studio, including a film chain, captioning equipment, and an editing system. All equipment quality, quantity and capability should be such that a well balanced and logical video/audio production strategy can be maintained throughout the franchise period.

Grantee shall provide a studio and facilities that include the following lists of equipment or other makes of equipment of equivalent quality and capability;

Video Studio (1200 SF min.):

<u>Quantity</u>	<u>Make/Model</u>	<u>Description</u>	<u>Cost</u>
1		Film Chain	\$20,000
Set		Studio Lights	10,000
		Wiring	5,000
2	Sony UP5000	VTR	3,000
2		TBC	18,000
1	Knox	Char. Gen.	7,000
2	Pan. CT 110 M	Color Mon.	800
1	Panasonic	B&W Monitor	643
1	Pan. 9240	VCR	4,000
1	Pan. 9600	VCR	6,000
1	Panasonic	Controller	5,000
1	Panasonic	Sequencer	2,000
1		Audio Mixer	300

1	Editing Consol	1,600
1	VHS VCR	3,000

Mobile Production Van:

<u>Quantity</u>	<u>Make/Model</u>	<u>Description</u>	<u>Cost</u>
2	JVC KY1900	Camera w/CCU 14-1 Zoom lens	\$15,000
1		Synch. Gen. lead in w/test	2,000
1	Echo	Sequencer	5,000
1	Panasonic	Rack Mon. (3)	1,000
2	Pan. CT 110 M	Color Monitor	800
1		Vectorscope	2,800
1		WH Form	2,400
1	Sony	VCR 3/4"	2,000
1		Audio Mixer	895
		Microphone Access.	1,000
	Telay	Headphones	240
3	Samson	Tripod	7,000
1		Custom Rack	3,000
1		Generator (120 V)	2,000
1		Van	15,000

Portable Unit:

<u>Quantity</u>	<u>Make/Model</u>	<u>Description</u>	<u>Cost</u>
1	JVC KC 1900	Camera	\$5,000
1	JVC 4700	VCR	4,000
2	JVC VHS	Portable Cam.	5,000

3		Light Kit	1,000
3		Audio Mixer	1,000
1	JVC	Port. Col. Mon.	500

Grantee shall not be responsible for more than a total of \$140,000 in initial equipment costs within twelve (12) months of the effective date of this ordinance; however, the City reserves the right to require Grantee to provide a total of \$180,000 in equipment for origination and access after the initial twelve month period, and at the descretion of the City, should the above listed equipment total less than \$180,000. Grantee is responsible for replacement and repair of the equipment throughout the term of the franchise so as to ensure the equipment is maintained in good working order.

Section 12. Emergency Alert - Audio/Video Override.

The Grantee shall design and construct the cable communications system to provide for a restricted audio and video simultaneous override of all audio and video channels during emergencies, with override control to be placed under City control. The functional design and procedure for implementation of the Emergency Alert system is to submitted to the City for approval prior to construction.

Section 13. Franchise Fee.

(A) In consideration of granting this non-exclusive franchise, the Grantee shall pay to the City during the life of the franchise, an annual franchise fee of five (5) percent of the Grantee's "gross revenues" (defined by Subsections 2.17 and 12.1 of the Cable Communications Ordinance).

(B) The annual franchise fee shall be paid by Grantee to the City in quarterly installments to the City Recorder each fiscal quarter. All such payments shall be due and paid within fifteen (15) days of the end of the subject quarter.

(C) Upon two working days' notice, the Grantor shall have the right to inspect all books, records, maps, plans, financial statements, plant, installations, facilities, and other like material of the Grantee at any time during normal business hours and at Grantee's facilities. Such inspections shall be at the City's expense.

Section 14. Security Fund. The provisions of Subsection 12.4 of the Cable Communications Ordinance are

applicable to this franchise in all respects, except as modified herein below due to the Grantee's past history and performance:

(A) Within thirty days after the effective date of this Ordinance, the Grantee shall deposit into a bank account or Certificate of Deposit established by the Grantor, or provide a bank letter of credit at a banking institution acceptable to the Grantor, maintaining or guaranteeing the sum of Twenty-five Thousand Dollars (\$25,000) as security for the faithful performance by it of all the provisions of this franchise, and compliance with all orders, permits and directions of any agency of the Grantor having jurisdiction over its acts or defaults under this contract and the payment by the Grantee of any penalties, claims, liens, and taxes due the Grantor which arise by reason of the construction, operation or maintenance of the system. This security will be maintained throughout the term of the franchise construction as a security of aforesaid faithful performance on the part of the Grantee. Upon timely completion of all construction provided for in Section 6(A) of this Ordinance, the requirements of this section of this Ordinance and of Subsection 12.4 of the Cable Communications Ordinance may be respectively eliminated and waived by the City due to Grantee's prior performance, and the appropriate securities shall be returned to Grantee. This record is personal and not transferable.

(B) The Grantee shall be entitled to all interest if any is earned on such account and such shall be subject to any interest penalty for early withdrawal, if such is incurred, on account of Grantor's withdrawal of funds.

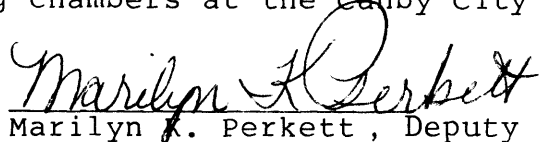
(C) Any dispute between Grantor and Grantee concerning the withdrawal of funds from the security by Grantor may be submitted to arbitration. Each party shall select one arbitrator and the two arbitrators so selected shall select a third. The decision of a majority shall be final.

Section 15. Severability. If any section, subsection, sentence, 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. The Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase hereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses and phrases be declared illegal, invalid, or unconstitutional. The invalidity of any portion of this Ordinance shall not abate, reduce or otherwise affect any consideration or other obligation required of the Grantee by the franchise granted hereunder.

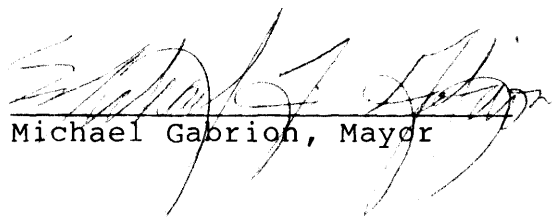
Section 16. Notices. Every direction, notice or order to be served upon the Grantee shall be sent to the local office described in Section 1 of Resolution No. _____ establishing rules and regulations and standards of operations. Every notice to be served upon the City shall be delivered, or sent by certified mail, to the City Administrator at City Hall, City of Canby. The delivery of such notice shall be deemed to have been at the time of receipt.

Section 17. Effective Date. This Ordinance shall become effective thirty (30) days from after its adoption; provided, however, that the franchise granted by this Ordinance shall not become effective unless and until Grantee files written acceptance thereof and an agreement to be bound by and comply with all of the requirements thereof within twenty (20) days of the effective date of this Ordinance.


Submitted to the Council and read for the first time at a regular meeting thereof on the 20th day of April, 1983, and scheduled for a second reading and action of the Canby City Council at a regular meeting thereof to be held on Wednesday, May 4, 1983, commencing at the hour of 7:30 o'clock p.m., at the Council meeting chambers at the Canby City Hall in Canby, Oregon.


Marilyn K. Perkett, Deputy City Recorder

ENACTED by the Canby City Council at a Regular meeting thereof on May 4, 1983, by the following vote: YEAS 6
NAYS 0


Michael Gabrion, Mayor

ATTEST:


Marilyn K. Perkett, Deputy City Recorder