

ORDINANCE NO. 6, SERIES 2011

AN ORDINANCE APPROVING THE EXTENSION OF THE FRANCHISE AGREEMENT FOR COMMUNITY ANTENNA TELEVISION (CATV) SERVICES OF INSIGHT KENTUCKY PARTNERS II, L.P., AND INCLUDING PROVISIONS FOR INSURANCE, REPORTS, AND RECORDS, CONSUMER PRACTICES, CONSUMER PROTECTION MEASURES, CONSTRUCTION, AND CONSTRUCTION-RELATED PRACTICES, FRANCHISE FEES, AND OPERATION PROCEDURES, AND HEALTH, SAFETY, AND WELFARE MEASURES.

WHEREAS, Insight Kentucky Partners II, L.P., (“Insight”) the present holder of the Community Antenna Television (hereinafter “CATV” or “Cable Television”) franchise rights throughout the area encompassed by the City of HURSTBORNE ACRES, in Jefferson County Kentucky, (hereinafter “the City”) has notified the City of its desire to renew its franchise; and

WHEREAS, the City has relied on Insight’s representations and has considered the information that Insight has presented to it; and

WHEREAS, Insight’s performance under its franchise has been satisfactory, has substantially complied with the material terms of the existing franchise and with applicable law; and

WHEREAS, the City has determined that Insight’s service has been reasonable in light of community needs; and

WHEREAS, the City has determined that Insight has the ability to effectuate its franchise renewal proposal; and

WHEREAS, the City has determined that Insight’s cable television franchise renewal proposal meets the cable television related community needs and interest of the City; and

WHEREAS, the public has had adequate notice and opportunity for comment.

BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE CITY OF HURSTBORNE ACRES AS FOLLOWS:

Section 1. Recitals and Findings.

The recitals set out above in this Ordinance are hereby adopted as findings of fact and incorporated herein as adopted by the City.

Section 2. Extension of Ordinance.

- (1) The City and Insight mutually agree to extend the current Cable Television Franchise Agreement as set forth in Ordinance # 550, through the term of the franchise set out in Section 4 below. During said extension, all other terms and conditions of Ordinance # 550, shall remain in full force and effect except as set out in this Ordinance.
- (2) The words "TCI/TKR of Jefferson County, Inc.," "TKR" or "Intermedia Partners of Kentucky. L.P.," as used in Ordinance # 550, shall mean Insight.

Section 3. Repeal of Specific Sections of Ordinance # 550

The following specific sections of Ordinance # 550 are repealed: 38, 39, 43, 44, 45, and 46.

Section 4. Franchise Term and Renewal.

The term of this Franchise Agreement, together with the rights, privileges and authority granted herein, shall take effect and be in force from and after the effective date of this Franchise Ordinance and continue until midnight on December 31, 2016.

Section 5. Excise Taxes and Franchise Fees.

- (1) Insight shall make payments at the times and in conformance with the requirements of Kentucky Revised Statutes Chapter 136 sections 136.600 – 136.660 ("Excise Tax") and said payments shall be in lieu of any franchise fees paid to the City. If at any time Kentucky law is changed to allow the collection of franchise fees by the City, the fee shall be in an amount equal to three percent (3%) of Insight's gross revenue from all sources attributable to the operation of Insight's Cable Communications System with the territorial limits of the **City of HURSTBORNE ACRES, KY**. In such case the franchise fee shall be payable as follows:
 - (a) It shall be payable quarterly and Insight shall file a complete and accurate report, signed by and certified as accurate by an officer of the Insight, of all applicable gross revenues received during the previous three month period, and said payment shall be made to the City no later than thirty (30) days after the expiration of the quarter when due. The gross revenue report from operations of Insight within the franchise area shall include: a schedule of gross revenue by category by month; a schedule of the number of Subscribers by category of service by month; and a schedule of gross revenue upon which the franchise fee is based.

(b) Upon reasonable notice, the City shall have the right during normal business hours to inspect Insight's income records at Insight's local office, the right to audit and to re-compute any amounts determined to be payable under this Ordinance; provided, however, that such audit shall take place within twelve (12) months following the close of each of Insight's fiscal years. If, as a result of such audit or review, the City determines that Insight has underpaid its fees to The City in any twelve (12) month period by ten percent (10%) or more, then, in addition to making full payment of the relevant obligation, Insight shall reimburse the City for all of the reasonable costs associated with the audit or review, including costs for attorneys, accountants and other consultants. Any additional amount due to the City as a result of an audit or review shall be paid within the thirty (30) days following written notice to Insight by the City, which notice shall include a copy of the audit report and copies of all invoices for which the City seeks reimbursement.

(2) The City is not prohibited from collecting valid fees or taxes as set forth in KRS 136.660(3).

Section 6. Public, Educational, Government & Leased Access (PEG).

The Parties agree that, although the City has not done so in the past, it may create and broadcast PEG programming. In such case, the Parties recognize that Louisville Metro has an access policy that would enable the City to use the Louisville Metro PEG channel. Insight agrees that it will place Louisville Metro's PEG channel in the channel lineup for the City subscribers, which will satisfy any PEG obligation of Insight. In the unlikely event that Louisville Metro denies the City access, the parties will work together to negotiate access with Louisville Metro and, if access is unavailable through Louisville Metro, to accommodate the City's PEG needs in some other manner. Insight agrees that should it convert the PEG Channel to any broadcast format other than analog, it will provide its analog subscribers converters or other technical means in order to enable analog subscribers to receive the PEG Channel.

Section 7. Effective Date.

This Ordinance shall take effect upon its passage and approval.

Read the first time on the 13th day of October, 2011.

Read, adopted, and approved this the 10 day of October, 2011, by the City of **HURSTBORNE ACRES, Kentucky.**


Acting Mayor, City of HURSTBORNE ACRES

Attested to:



City Clerk, City of HURSTBORNE ACRES

Approved as to form:



Legal Counsel, City of HURSTBORNE ACRES

ACCEPTANCE

Insight Kentucky Partners II, L.P., ("Insight") hereby accepts all the terms and conditions contained in this Franchise Ordinance.

Insight Kentucky Partners II, L.P.

By: _____

Title: _____