

ORDINANCE NO. 10

AN ORDINANCE GRANTING INTO SUN CABLE TELEVISION, (A DIVISION OF MICKELSON MEDIA) OF DEMING, NEW MEXICO, ITS SUCCESSORS AND ASSIGNS, A NON-EXCLUSIVE FRANCHISE FOR THE TERM OF TWENTY (20) YEARS FOR THE RIGHT, AUTHORITY, AND POWER TO MAINTAIN, OPERATE, AND EXPAND A COMMUNITY ANTENNA TELEVISION SYSTEM AND CLOSED CIRCUIT ELECTRONICS SYSTEM WITHIN THE COUNTY OF LUNA IN THE STATE OF NEW MEXICO AND TO USE AND OCCUPY THE STREETS, COUNTY ROADS AND OTHER PUBLIC PLACES OF SAID COUNTY FOR SUCH PURPOSES.

BE IT ORDAINED BY THE COUNTY COMMISSIONERS OF LUNA COUNTY AS FOLLOWS:

SECTION 1: There is hereby granted to SUN CABLE TELEVISION (A DIVISION OF MICKELSON MEDIA) of Deming, New Mexico, (hereinafter called Grantee) and to the Grantee's successors, lessees and assigns for the term of twenty (20) years effective March 7, 1987, a non-exclusive franchise for the right and power to maintain, operate, and expand its existing Community Antenna Television System and a Closed Circuit Electronics System within the County of Luna (hereinafter called County); to render, furnish and sell the service from such system to inhabitants of the County and its environs and to use and occupy the streets, county roads, and other public places within the limits of the County as now exist and may hereinafter exist; to construct and operate the System, including the right to enter, construct, erect, rebuild, relocate, repair, and rebuild in, on, under along, over and across the streets, roads, bridges and other public places of the County and on towers, poles, cables, amplifiers, conduit and other facilities owned, leased, or otherwise used by Grantee for the furnishing of Community Antenna Service and Closed Circuit Electronics Service provided, however, Grantee and its successors shall, whenever practicable, refrain from installing additional poles, but shall rather use existing utility structures to the maximum extent possible.

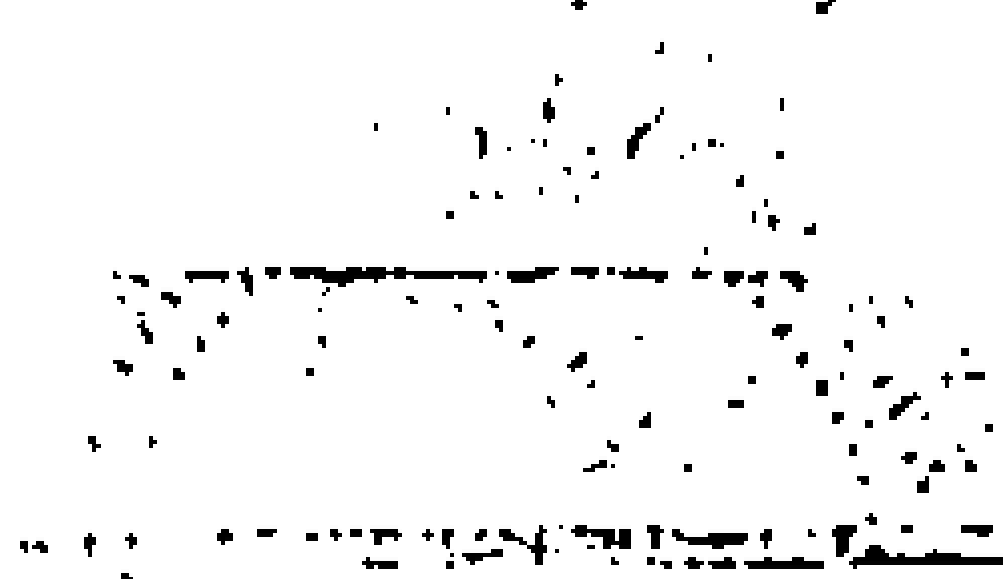
SECTION 2: The Grantee, in the construction and operation of the system shall perform its work in such manner as to give the least inconvenience to the inhabitants of the County and the public generally, and shall repair at Grantee's expense all damage to public or private property resulting from their use.

The use of the publicways and all utility easements of this County by the Grantee, when in conflict with existing uses or the use of the County, shall be subject to the control and direction of the County Commissioners of Luna County as to location thereof.

Grantee shall notify the County of any excavation across or along any County right-of-way, easement, street, road or other public place and such excavation shall be subject to the approval of the County and in accordance with conditions set by the County. The Grantee shall complete all repairs to roads, streets or other publicways immediately after the completion of its own work thereat and such repairs shall be completed in accordance with the requirements of the Luna County Road Department.

SECTION 3: It is expressly understood and agreed by and between the Grantee and the County that the Grantee shall hold the County harmless from all claims or losses sustained by the County including attorney fees and court costs on account of any suit, judgments, execution, claim or demand whatsoever resulting from negligence or other actions on the part of the Grantee in the construction, operation or maintenance of its System in the County. The County shall notify the Grantee's representatives in the County within thirty days after the presentation of any claim or demand either by suit or otherwise made against the County on account of any negligence as aforesaid on the part of the Grantee.

To effectuate the foregoing, Grantee agrees to obtain and keep in force with an insurance company authorized to do business in the State of New Mexico, policies of liability insurance with minimum coverages as required by New Mexico State Statute, with Luna County named as an additional insured thereon, and file certificate of said policy with the Luna County Clerk.



STATE OF NEW MEXICO - COUNTY OF LUNA  
 I CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD AT 10:32 A.M. ON  
 August 26, 1985 AND RECORDED IN BOOK 16 PAGE 335-336 OF Misc  
 TERRY C. HARRIS, LUNA COUNTY CLERK BY: Natalie Pacheco DEPUTY CLERK  
 RECEPTION NO. 85-03179

SECTION 4: The Grantee shall have the authority to trim trees upon and overhanging streets, county roads, sidewalks and other public places of the County so as to prevent the branches of such trees from coming into contact with the wires and cable of the Grantee. All trimming to be done under the supervision and direction of the County and at the expense and liability of the Grantee.

SECTION 5: The Grantee shall, on the request of any person holding a Building Moving Permit, issued by the County or other public body, temporarily raise or lower its wires to permit the moving of the building or other objects. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting same, and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire changes.

SECTION 6: In the event that at any time during the period of the operation of this System the County shall lawfully elect to alter or change any street, county road or other publicway, in any way, the Grantee, upon reasonable notice by the County, shall remove and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.

SECTION 7: All provisions of this Ordinance shall be binding upon the Grantee and its successors, lessees and assigns of Grantee, whether expressly stated herein or not. All the rights, authorities, powers, grants and privileges secured by this Ordinance to the Grantee shall be held to inure to the benefit of the Grantee and all successors, lessees and assigns of the Grantee.

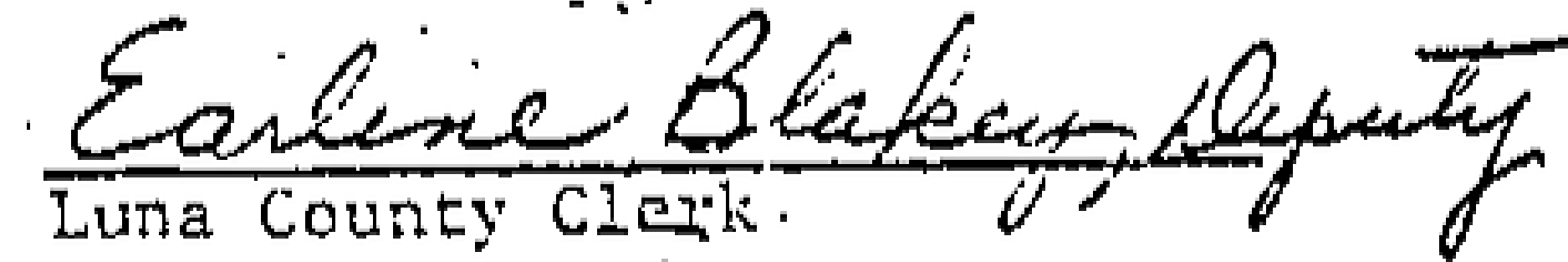
It is expressly understood and agreed, however, that any transfer or assignment shall be subject to the written approval of the County Commissioners of Luna County.

PASSED, APPROVED AND ADOPTED by the County Commissioners of Luna County in Deming, New Mexico, this 22nd day of August, 1985, and to be effective March 7, 1987.

LUNA COUNTY BOARD OF  
COUNTY COMMISSIONERS

  
Douglas Tharp, Chairman

ATTEST:

  
Earline Blakely, Deputy  
Luna County Clerk