

**CITY OF RUSSELLVILLE, KENTUCKY  
ORDINANCE NO. 2021-03**

**AN ORDINANCE OF THE CITY OF RUSSELLVILLE GRANTING A  
NON-EXCLUSIVE FRANCHISE TO CEQUEL III COMMUNICATIONS II , LLC D/B/A  
SUDDENLINK COMMUNICATIONS FOR THE CONSTRUCTION AND OPERATION  
OF A CABLE SYSTEM; PROVIDING DEFINITIONS; STANDARDS AND  
REGULATIONS FOR SERVICE; COMPLIANCE AND MONITORING STANDARDS;  
PROVISIONS FOR TERMINATION;  
AND PROVIDING A REPEALER CLAUSE,  
SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.**

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WHEREAS, the City of Russellville, Kentucky, desires to grant, in accordance with Sections 163 and 164 of the Constitution of the Commonwealth of Kentucky, a non-exclusive franchise for the erection, construction, maintenance, and operation of a community cable television system within the City limits of the City of Russellville; and

WHEREAS, the City of Russellville deems the granting of such a non-exclusive franchise is in keeping with the general health, safety, and welfare of the citizens of the City of Russellville;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL IN AND FOR THE CITY OF RUSSELLVILLE, KENTUCKY, AS FOLLOWS:

**SECTION 1 - Definition of Terms**

For the purpose of this Ordinance (the "Ordinance"), the following terms, phrases, words and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number:

- a. "Affiliate" means an entity which owns or controls, is owned or controlled by, or is under common ownership or control with Grantee.
- b. "Basic Cable" means the tier of Cable Service regularly provided to all Subscribers that includes the retransmission of local broadcast television signals.
- c. "Cable Service" means:
  - (i) the one-way transmission to Subscribers of Video Programming or other programming service, and
  - (ii) Subscriber interaction, if any, which is required for the selection or use of such Video Programming or other programming service.

- d. "Cable System" means the facility, which is the subject of this Ordinance, consisting of antennae, wire, coaxial, amplifiers, towers, microwave links, wave guide, optical fibers, optical transmitters and receivers, satellite receiver/transmit antennae, and/or other equipment designed and constructed for the purpose of producing, receiving, amplifying, storing, processing, or distributing analog and/or digital audio, video, data, or other forms of electronic, electromechanical, optical, or electrical signals.
- e. "FCC" means Federal Communications Commission or successor governmental entity thereto.
- f. "Franchise" means the initial authorization, or renewal thereof, issued by Franchising Authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate or otherwise, which authorizes construction and operation of the Cable System for the purpose of offering Cable Service or other service to subscribers.
- g. "Franchising Authority" means the City of Russellville or the lawful successor, transferee, or assignee thereof.
- h. "Grantee" means Cequel III Communications II, LLC, doing business as Suddenlink Communications, or the lawful successor, transferee, or assignee thereof.
- i. "Gross Revenues" shall have the same meaning as contained in Kentucky Revised Statutes §136.602, and any subsequent legislative amendments to this statute that are consistent with federal law and FCC rules, orders and regulations.
- j. "Person" means an individual, partnership, association, joint stock company, trust corporation, or governmental entity.
- k. "Public way" means the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, land, public way, drive, circle, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by Franchising Authority in the Service Area which shall entitle Franchising Authority and Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System. "Public Way" also means any easement now or hereafter held by Franchising Authority within the Service Area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle Franchising Authority and Grantee to the use thereof for the purposes of installing or transmitting Grantee's Cable Service or other service over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the Cable.
- l. "Service Area" means the present municipal boundaries of the Franchising Authority, and any other areas later annexed thereto.

- m. "Subscriber" means a user of the Cable System who lawfully receives Cable Service with Grantee's express permission.
- n. "Transfer of the Franchise" means any transaction in which:
  - (i) a fifty percent ownership or greater interest in Grantee is transferred, directly or indirectly, from one Person or group of Persons to another Person or group of Persons, so that Control of Grantee is transferred; or
  - (ii) the rights held by Grantee are transferred or assigned to another Person or group or Persons.
  - (iii) However, notwithstanding Sub-sections (i) and (ii) above, a *Transfer of the Franchise* shall not include transfer of an ownership or other interest in Grantee to the parent of Grantee or to another Affiliate of Grantee; transfer of an interest in the Franchise or the rights held by the Grantee under the Franchise to the parent of Grantee or to another Affiliate or Grantee; any action which is the result of a merger of the parent of the Grantee; or any action which is the result of a merger of another Affiliate of the Grantee.
- o. "Video Programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

## **SECTION 2 - Grant of Franchise**

### **2.1 Grant**

Franchising Authority hereby grants to Grantee a non-exclusive Franchise which authorizes Grantee to construct and operate a Cable System and associated equipment to provide Cable Service and such other services that may lawfully be provided over the Cable System in, along, among, upon, across, above, over, under, or in any manner connected with Public Ways within the Service Area and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any Public Way and all extensions thereof and additions thereto, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the Cable System. This Franchise is an authorization to utilize the Public Ways and does not require or guarantee that Grantee shall continue to offer Cable Service in the Service Area.

### **2.2 Term.**

The Franchise granted pursuant to this Ordinance shall be for an initial term of ten (10) years from the passed and adopted date of the Franchise unless otherwise lawfully terminated in accordance with the terms of this Ordinance.

### 2.3 *Acceptance.*

Grantee shall accept the Franchise granted pursuant hereto by signing this Ordinance and filing same with the City Clerk or other appropriate official or agency of Franchising Authority within sixty (60) days after the passage and final adoption of this Ordinance.

### 2.4 *Competitive Neutrality.*

In the event the Franchising Authority enters into, or has entered into, a franchise, permit, license, authorization or other agreement of any kind with any Person other than Grantee to enter into Franchising Authority's streets and public ways for the purpose of constructing or operating a Cable System or providing Cable Service or video service to any part of the Service Area, the material provisions thereof shall be reasonably comparable to those contained herein, in order that one operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law.

If another provider of Cable Services, video services, or other television services utilizing any system or technology requiring use of the Rights of Way in the Service Area, is lawfully authorized by any governmental entity or otherwise exempt from obtaining a franchise to provide such services Franchising Authority hereby agrees that it will notify Grantee prior to the effective date of the existence of such exemption or authorization, and, upon a request from Grantee, as a matter of law, Grantee's Franchise will be modified within thirty (30) days of the granting of such authorization or exemption for the purpose of establishing the same terms and conditions as such person(s) on a competitively neutral basis.

### 2.5 *Change of Law.*

In the event the federal, state, or local law, rules, or regulations are amended, modified, or created that have the effect of modifying the terms and conditions of this Franchise during the Term or any extension thereof, the Grantee has the option to terminate this Franchise upon ninety (90) days' notice to the Grantor.

### 2.6 *Renewal of Franchise.*

By mutual consent, the Grantee shall have the option to renew this Franchise for an additional period not to exceed ten (10) years. Should Grantee desire to exercise this option, it shall so notify the Franchising Authority in writing, not less than three (3) months prior to expiration of this Franchise.

## **SECTION 3 - Standards of Service**

### 3.1 *Conditions of Street Occupancy.*

All transmission and distribution structures, poles, other lines, and equipment installed or erected by Grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of Public Ways and with the rights and

reasonable convenience of property owners who own property that adjoins any of such Public Ways.

### 3.2 *Restoration of Public Ways.*

If, during the course of Grantee's construction, operation, or maintenance of the Cable System there occurs a disturbance of any Public Way by Grantee, it shall, at its expense, replace and restore such Public Way to a condition reasonably comparable to the condition of the Public Way existing immediately prior to such disturbance.

### 3.3 *Relocation at Request of Franchising Authority.*

Upon its receipt of reasonable advance notice, not to be less than 30 days, Grantee shall, at its own expense, protect, support, temporarily disconnect, relocate in the Public Way, or remove from the Public Way, any property of Grantee when lawfully required by Franchising Authority by reason of traffic conditions, public safety, street abandonment, freeway, and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of structures or improvements by Franchising Authority; but, Grantee shall in all cases have the right of abandonment of its property. If public funds are available to any company using such street, easement, or right of way for the purpose of defraying the cost of any of the foregoing, such funds shall also be made available to Grantee.

### 3.4 *Relocation at Request of Third Party.*

Grantee shall, on the request of any Person holding a moving building permit issued by Franchising Authority, temporarily raise or lower its wires to permit the moving of such building, provided: (a) the expense of such temporary raising or lowering of wires is paid by such Person, including, if required by Grantee, making such payment in advance, and (b) Grantee is given not fewer than ten (10) business days advance written notice to arrange for such temporary wire changes.

### 3.5 *Trimming of Trees and Shrubbery.*

Grantee shall have the authority to trim trees or other natural growth overhanging any of its Cable System in the Service Area so as to prevent branches from coming in contact with Grantee's wires, cables, or other equipment. Grantee shall be permitted to charge Persons who own, or are responsible for, such trees or natural growth for the cost of such trimming, provided that similar charges are assessed by and paid to the utilities of Franchising Authority for tree trimming. Grantee shall reasonably compensate Franchising Authority or property owner for any damages caused by such trimming, or shall, in its sole discretion and at its own cost and expense, reasonably replace all trees or shrubs damages as a result of any construction of the System undertaken by Grantee. Such replacement shall satisfy any and all obligations Grantee may have to Franchising authority or property owner pursuant to the terms of this Section. Additionally, Grantee shall at all times observe Ordinance 2004-01 (the "Tree Ordinance") of the City of Russellville, Kentucky, and the Comprehensive Plan of the Tree Board adopted in

furtherance of said Tree Ordinance, and any subsequent amendments to said Ordinance and Comprehensive Plan.

### 3.6 *Safety Requirements.*

Construction, installation, and maintenance of the Cable System shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with applicable FCC or other federal, state, and local regulations. The Cable System shall not unreasonably endanger or interfere with the safety of Persons or property in the Service Area. To the extent that the installation, repair and/or maintenance by Grantee of any component of the Cable System is lawfully subject to permitting and/or review by the Franchising Authority pursuant to generally applicable law, such permitting and/or review shall not be unreasonably denied or delayed, nor shall any fees be required (other than any fees legally required and necessary to offset the reasonable administrative costs of issuing such permit(s)), for the right and/or privilege to install, repair or maintain such component. In approving the placement of any such component, the Franchising Authority shall limit the basis of its decision to pedestrian and traffic safety. For purposes of this Agreement, "unreasonably delay" shall mean the Franchise Authority's failure to act on a permit application within thirty (30) days of its submission by Grantee, in which case such permit shall be deemed granted under applicable law.

### 3.7 *Aerial and Underground Construction.*

In those areas of the Service Area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, Grantee likewise shall construct, operate, and maintain all of its transmission and distribution facilities underground; provided that such facilities are actually capable of receiving Grantee's cable and other equipment without technical degradation of the Cable System's signal quality. In those areas of the Service Area where the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are both aerial and underground, Grantee shall have the sole discretion to construct, operate, and maintain all of its transmission and distribution facilities, or any part thereof, aerially or underground. Nothing contained in this Section 3.7 shall require Grantee to construct, operate, and maintain underground any ground-mounted appurtenances such as subscriber taps, line extenders, system passive devices (splitters, directional couplers), amplifiers, power supplies, pedestals, or other related equipment. Notwithstanding anything to the contrary contained in this Section 3.7, in the event that all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are placed underground after the effective date of this Ordinance. Grantee shall only be required to construct, operate, and maintain all of its transmission and distribution facilities underground if it is given reasonable notice and access to the public utilities' facilities at the time that such are placed underground.

### 3.8 *Required Extensions of Service.*

The Cable System, as constructed as of the date of the passage and final adoption of this Ordinance, substantially complies with the material provisions hereof. Grantee is hereby authorized to extend the Cable System as necessary, as desirable, or as required pursuant to the terms hereof within the Service Area. Whenever Grantee shall receive a request for service from at least fifteen (15) residential dwellings within 1,320 cable-bearing strand feet (one-quarter cable mile) of its trunk or distribution cable, it shall extend its Cable System to such Subscribers at no cost to such Subscribers for system extension, other than the usual connection fees for all Subscribers, provided that such extension is technically feasible, and if it will not adversely affect the operation, financial condition, or market development of the Cable System, or as provided for under Section 3.9 of this Ordinance.

### 3.9 *Subscriber Charges for Extensions of Service.*

No Subscriber shall be refused service arbitrarily. However, for unusual circumstances, such as a Subscriber's request to locate his cable drop underground existence of more than one hundred fifty (150) feet of distance from distribution cable to connection of service to Subscribers or a density of fewer than fifteen (15) Subscribers per 1,320 cable-bearing strand feet of trunk or distribution cable, Cable Service or other service may be made available on the basis of a capital contribution in aid of construction; including cost of material, labor, and easements. Potential subscribers shall bear the costs of the construction and other costs on a pro rata basis. Grantee may require payment in advance of the capital contribution in aid of construction borne by such potential subscribers.

### 3.10 *Pole Attachments.*

Any utility poles in existence at the time of the enactment of this Ordinance and owned by the Franchise Authority or an affiliated entity shall be available for use by Grantee. Grantee shall pay no more than the cable services pole rental rate as determined by the rules of the FCC for the use of poles owned by Franchise Authority. For the use of the poles owned by an affiliated entity, the pole rental rate shall be negotiated and determined between Grantee and that entity, pursuant to any pole attachment agreement entered into by the Grantee and that entity. Grantee shall pay no more than the cable services pole rental rates determined by the Tennessee Valley Authority.

### 3.11 *Service to Public Buildings.*

Subject to Section 3.8 of this Agreement, and applicable federal law and FCC rules and regulations, Grantee shall provide without charge one (1) outlet of Basic Cable to Franchising Authority's office building(s), including the City Fire Department, as well as public school building(s) that are passed by its Cable System within the Russellville Independent School District, as provided in **Exhibit A** attached hereto. Grantee shall also provide such other services as may be requested by the Russellville Independent School District, provided, however, it is both technically and economically feasible for

Grantee to provide such services. The outlets of Basic Cable shall not be used to distribute or sell Cable Service in or throughout such buildings; nor shall such outlets be located in common or public areas open to the public. Users of such outlets shall hold Grantee harmless from any and all liability or claims arising out of their use of such outlets, including, but not limited to, those arising from copyright liability. Notwithstanding anything to the contrary set forth in this Section 3.11, Grantee shall not be required to provide an outlet to such buildings where the drop line from the feeder cable to such buildings or premises exceeds one hundred fifty (150) cable feet, unless it is technically feasible and it will not adversely affect the operation, financial condition, or market development of the Cable System to do so, or unless the appropriate governmental entity agrees to pay the incremental cost of such drop line in excess of 150 cable feet. In the event that additional outlets of Basic Cable are provided to such buildings, the building owner shall pay the usual installation fees associated therewith, including, but not limited to, labor and materials. Upon request of Grantee, the building owner may also be required to pay the service fees associated with the provision of Basic Cable and the additional outlets relating thereto.

#### **SECTION 4 - Regulation by Franchising Authority**

##### **4.1 *Franchise Fee.***

Beginning sixty (60) days after the effective date of this Agreement, and in consideration of the granting of a Nonexclusive Franchise, Grantee shall pay as a fee and as compensation for the rights and privileges enjoyed on an annual basis, five percent (5%) of Grantee's annual Gross Revenues from its Cable System located in the Service Area. Said fee shall be in lieu of all other fees or taxes including occupational license, excise and special taxes or fees, whatsoever except municipal ad valorem taxes on each Grantee's property located within the limits of the City of Russellville. For the purpose of this Section, the 1 year period applicable under the Franchise for the computation of the franchise fee shall be a calendar year, unless otherwise agreed to in writing by Franchising Authority and Grantee. The franchise fee payment shall be due and payable sixty (60) days after the close of the preceding calendar year. Grantee may use electronic funds transfer to make any payments to the Franchising Authority required under this Agreement. A brief report prepared by a representative of the Grantee showing the basis for the Franchise Fee computation shall be provided to the Franchising Authority.

##### **4.2 *Rates and Charges.***

Franchising Authority may not regulate the rates for the provision of Cable Service or other service, including, but not limited to, ancillary charges relating thereto, except as expressly provided herein and except as may be authorized pursuant to federal and state law.

##### **4.3 *Conditions of Sale.***

Except to the extent expressly required by federal or state law, if a renewal or extension of the Franchise is denied or the Franchise is lawfully terminated, and Franchising



Authority either lawfully acquires ownership of the Cable System or by its actions lawfully effects a transfer of ownership of the Cable System to another party, any such acquisition or transfer shall be at a fair market value, determined on the basis of the Cable System valued as a going concern.

Grantee and Franchising Authority agree that in the case of a lawful revocation of the Franchise, at Grantee's request, which shall be made in its sole discretion, Grantee shall be given a reasonable opportunity to effectuate a transfer of its Cable System to a qualified third party. Franchising Authority further agrees that during such a period of time, it shall authorize Grantee to continue to operate pursuant to the terms of its prior Franchise; however, in no event shall such authorization exceed a period of time greater than six (6) months from the effective date of such revocation. If, at the end of that time, Grantee is unsuccessful in procuring a qualified transferee or assignee of its Cable System which is reasonably acceptable to Franchising Authority, Grantee and Franchising Authority may avail themselves of any rights they may have pursuant to federal or state law; it being further agreed that Grantee's continued operation of its Cable System during the six (6) month period shall not be deemed to be a waiver, nor an extinguishment of, any rights of either Franchising Authority or Grantee. Notwithstanding anything to the contrary set forth in this Section 4.4, neither Franchising Authority nor Grantee shall be required to violate federal or state law

#### 4.4 *Transfer of the Franchise.*

All of the rights and privileges and all of the obligations, duties, and liabilities created by this Franchise shall pass to and be binding upon the successors of the Franchising Authority and the successors and assigns of Grantee; and, subject to Section 617 of the Federal Communications Act, 47 U.S.C. § 537, the same shall not be assigned or transferred without the written approval of the City Council, which approval shall not be unreasonably withheld, delayed, or conditioned. In considering an application for the Transfer of the Franchise, the Franchising Authority and/or City Council may consider the applicant's: (i) technical ability; (ii) financial ability; (iii) good character; and (iv) other qualifications necessary to continue to operate the Cable System consistent with the terms of the Franchise. This Section shall not prevent the assignment of the Franchise by Grantee for a transfer in trust, by mortgage, by other hypothecation, by assignment of any rights, title, or interest of the Grantee in the Franchise or Cable System in order to secure indebtedness, for any transaction in which Grantee retains the right, title, or interest in the Franchise granted to it herein, or for transactions otherwise excluded under Section 1(n) above

### **SECTION 5 - Compliance and Monitoring**

#### 5.1 *Books and Records*

Grantee agrees that Franchising Authority may review such of Grantee's books and records, during normal business hours and on a non-disruptive basis, as are reasonably necessary to monitor compliance with the terms hereof. Such records include, but are not limited to, any public records required to be kept by Grantee pursuant to the rules and

regulations of the FCC. Franchising Authority agrees to treat any information disclosed to it by Grantee as confidential, and to disclose it only to employees, representatives and agents of Franchising Authority that have a need to know, or in order to enforce the provisions hereof.

## **SECTION 6 - Insurance, Indemnification, and Bonds or Other Surety**

### *6.1 Insurance Requirements.*

Grantee shall maintain in full force and effect during the term of the Franchise, at its own cost and expense, Comprehensive General Liability Insurance in the amount of \$1,000,000. Such insurance shall designate Franchising Authority as an additional insured, and on an annual basis, beginning Upon request, Grantee shall furnish to the Franchising Authority a Certificate of Insurance evidencing such insurance.

### *6.2 Indemnification.*

Grantee agrees to indemnify, save and hold harmless, and defend Franchising Authority, its officers, boards and employees, from and against any liability for damages and for any liability or claims resulting from property damage or bodily injury (including accidental death) which arise out of Grantee's construction, operation or maintenance of its Cable System, including, but not limited to, reasonable attorneys' fees and costs.

### *6.3 Bonds and other Surety.*

Except as expressly provided herein, Grantee shall not be required to obtain or maintain bonds or other surety as a condition of being awarded the Franchise or continuing its existence. Franchising Authority acknowledges that the legal, financial, and technical qualifications of Grantee are sufficient to afford compliance with the terms of the Franchise and the enforcement thereof. Grantee and Franchising Authority recognize that the costs associated with bonds and other surety may ultimately be borne by the Subscribers in the form of increased rates for Cable Service or other service. In order to minimize such costs, Franchising Authority agrees to require bonds and other surety only in such amounts and during such times as there is a reasonably demonstrated need therefore. Franchising Authority agrees that in no event, however, shall it require a bond or other related surety in an aggregate amount greater than \$10,000, conditioned upon the substantial performance of the material terms, covenants and conditions of the Franchise. Initially, no bond or other surety shall be required. In the event that one is required in the future, Franchising Authority agrees to give Grantee at least sixty (60) days prior written notice thereof stating the exact reason for the requirement. Such reason must demonstrate a change in Grantee's legal, financial, or technical qualifications which would materially prohibit or impair its ability to comply with the terms of the Franchise or afford compliance therewith.

## **SECTION 7 - Enforcement and Termination of Franchise**

### *7.1 Notice of Violation.*

In the event that Franchising Authority believes that Grantee has not complied with the terms of the Franchise, it shall notify Grantee in writing of the exact nature of the alleged default.

### *7.2 Grantee's Right to Cure or Respond*

Grantee shall have sixty (60) days from receipt of the notice described in Section 7.1 to:

- (a) respond to Franchising Authority contesting the assertion of default;
- (b) cure such default; and
- (c) in the event that, by the nature of the default, such default cannot be cured within the sixty (60) day period, to initiate reasonable steps to remedy such default and to notify Franchising Authority of the steps being taken and the projected date that they will be completed.

### *7.3 Public Hearing.*

In the event that Grantee fails to respond to the notice described in Section 7.1 pursuant to the procedures set forth in Section 7.2, or in the event that the alleged default is not remedied within sixty (60) days after Grantee is notified of the alleged default pursuant to Section 7.1, Franchising Authority shall schedule a public meeting to investigate the default. Such public meeting shall be held at the next regularly scheduled meeting of Franchising Authority which is scheduled at a time which is no fewer than five (5) business days therefrom. Franchising Authority shall notify Grantee of the time and place of such meeting and provide Grantee with a meaningful opportunity to be heard.

### *7.4 Enforcement.*

Subject to applicable federal and state law, in the event Franchising Authority determines, after such meeting, that Grantee is in default of any provision of the Franchise, Franchising Authority may:

- (a) Commence an action at law for damages or seek equitable relief; or
- (b) In the case of a substantial default of a material provision of the Franchise, declare the Franchise Agreement to be revoked; or
- (c) Seek specific performance of any provision which reasonably lends itself to such remedy, as an alternative to damages.

Grantee shall not be relieved of any of its obligations to comply promptly with any provision of the Franchise by reason of any failure of Franchising Authority to enforce prompt compliance.

#### 7.5 *Acts of God.*

Grantee shall not be held in default of the provisions of the Franchise, nor suffer any enforcement or penalty relating thereto, where such alleged default is caused by strikes, acts of God, power outages, epidemics, or other events beyond its ability to control.

### **SECTION 8 - Miscellaneous Provisions**

#### 8.1 *Preemption.*

If the Congress of the United States, or the General Assembly of the Commonwealth of Kentucky, FCC or any other federal or state body or agency shall now or hereafter exercise any paramount jurisdiction over the subject matter of the Franchise created by this Ordinance, then to the extent such jurisdiction shall preempt and supersede or preclude the exercise of the like jurisdiction by Franchising Authority, the jurisdiction of Franchising Authority shall cease and no longer exist.

#### 8.2 *Employment Requirements.*

Grantee shall afford equal opportunity in employment to all qualified persons. No person shall be discriminated against in employment because of race, color, religion, national origin, or sex. Grantee shall maintain and carry out a continuing program of specific practices designed to assure equal opportunity in every aspect of its employment policies and practices.

#### 8.3 *Actions of Franchising Authority.*

In any action by Franchising Authority or representative thereof mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

#### 8.4 *Grantee agrees to provide to the City of Russellville Fire Department, at no cost to the City of Russellville, Expanded Basic Cable Television.*

#### 8.5 *Notice.*

Unless expressly otherwise agreed between the parties, every notice or response to be served upon Franchising Authority or Grantee shall be in writing, and shall be deemed to have been duly given to the required party five (5) business days after having been posted in a properly sealed and correctly addressed envelope by certified or registered mail, postage prepaid, at a Post Office or branch thereof regularly maintained by the U.S. Postal Service.

The notices or responses to Franchising Authority shall be addressed as follows:

attn: Mayor  
CITY OF RUSSELLVILLE  
168 South Main Street  
Russellville, KY 42276

attn.: City Attorney  
CITY OF RUSSELLVILLE  
168 South Main Street  
Russellville, KY 42276

The notices or responses to Grantee shall be addressed as follows:

Altice USA, Inc.  
1 Court Square, West  
Long Island City, NY 11101  
Attention: Vice President, Government Affairs

With a copy to:

Cequel III Communications II, LLC d/b/a Suddenlink Communications  
c/o Altice USA, Inc.  
1 Court Square, West  
Long Island City, NY 11101  
Attention: Legal Department

Franchising Authority and Grantee may designate such other address or addresses from time to time by giving written notice to the other party.

Notwithstanding anything herein to the contrary, regulatory notices from Grantee to the Franchise Authority which are required pursuant to federal and state laws and regulations may be served electronically upon the Franchise Authority, instead of by mail as described above, to an email address provided by the Franchise Authority.

#### 8.6 *Descriptive Headings.*

The captions to Sections contained herein are intended solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text herein.

### **SECTION 9 Severability Clause**

If any Section, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other Section, sentence, paragraph, term, or provision hereof, all of which shall remain in full force and effect for the term of the Franchise, or any renewal or renewals thereof.

### **SECTION 10 - Repealer Clause**

Any and all parts of Ordinances now in effect which conflict with Ordinance are hereby repealed.

**SECTION 11 - Effective Date**

This Ordinance shall become effective upon publication.

**FIRST READING** conducted the 17 day of August, 2021.

**SECOND READING AND PASSAGE** this the 7 day of September, 2021.

  
Mark Stratton, Mayor

ATTEST:   
Robert Nishibun, City Clerk

**Ayes:**

**Nays:**

**Absent:**

**Abstaining:**

**Pat Bell**  
**Bill Decker**  
**Diane Walker**  
**Jimmy Davenport**  
**Larry Wilcutt**  
**Sandra Kinser**

Accepted this 13th day of September, 2021, subject to applicable federal, state and local law.

Cequel III Communications II, LLC DBA  
SUDDENLINK COMMUNICATIONS



By: Nelson Perez

Title: Senior Vice President, Government Affairs