AN ORDINANCE GRANTING A CABLE TELEVISION FRANCHISE TO QUALITY ENTERTAINMENT, INC. TO CONSTRUCT, OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM IN THE CITY OF ATKINS, ARKANSAS. SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE; AND PROVIDING FOR REGULATION OF USE OF THE SYSTEM.

BE IT ORDAINED BY THE CITY OF ATKINS, ARKANSAS.

SECTION 1 - SHORT TITLE: This Ordinance shall be known and cited as the city of ATKINS Cable Television Franchise Ordinance. Within this document it shall also be referred to as "This Franchise" or "The Franchise Agreement".

SECTION 2 - DEFINITIONS: Fort the purpose of this Franchise Agreement, the following terms, phrases, words and their derivations shall have the meaning given herein. 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. The words "shall" and "will" are mandatory and "may" is Permissive. Words not defined shall be given their common and ordinary meaning.

(A) "City" means the city of ATKINS, a city in POPE county, state of ARKANSAS. The City Council is the authority of the city.

(B) "Force Majeure" means a strike, acts of God, acts of public enemies, orders of any kind of a government of the United States of America or of the State of ARKANSAS, or any of their departments, agencies, political sub-division, riots, epidemics, landslides lighting, earth-quakes, fire, hurricanes, tornadoes, volcanoes, storms, floods, washouts, droughts; civilian disturbances, explosions, partial or entire failure of utilities, or any other cause or event not reasonably within the control of the disabled party.

(C) "Grantee" means Quality Entertainment, Inc., its agents, lawful successors, transferee or assignee.

(D) "Gross Receipts" means all service fees, installation charges and all other fees or charges collected by

the Grantee from its subscribers of the System. Gross receipts shall include all revenue received by the Grantee for providing the following services:

(1) Basic Service
(2) Standard Service
(3) Pay Television Service
(4) Pay Per View Service
(5) Subscriber Equipment Charge

Gross receipts shall not include (1) uncollected revenue (bad debts); (2) excise taxes; (3) sales taxes or any other taxes or fees, including franchise fees, which are imposed on the Grantee or any subscriber by any governmental unit and collected by the Grantee for such governmental unit.

(E) "Person" means any corporation, partnership, proprietorship or organization authorized to do business in the State of ARKANSAS or any natural person.

(F) "Public Property" means any real property other than a street owned by any governmental unit.

(G) "Street" means the surface of and the space above and below any street, road, highway, freeway, lane, path, way, alley, court, sidewalk, boulevard, parkway, drive, or any public easement or right-of-way now and hereafter held by the City which shall entitle Grantee to the use thereof for the purpose of installing or transmitting over poles, wires cables, conductors, ducts, confluent, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to a system.

(H) "System" means a facility consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable television service which includes video programming and which is provided to multiple subscribers within the City.

SECTION 3 - GRANT OF AUTHORITY: For the purposes of constructing operating and maintaining a system in the City, Grantee may erect, install, construct, repair, replace, relocate, reconstruct and retain in, on, over, under, upon, across and along the streets within the City such lines, cables, conductors, ducts, confluent, vaults, manholes, amplifiers, appliances, pedestals, attachments, and other operating equipment as are necessary and pertinent to the operation of the System.

SECTION 4 - COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES: This Franchise is granted pursuant to the terms and conditions contained herein. Grantee's rights are subject to the police, powers of the City to adopt and enforce ordinances necessary to the health, safety, and welfare of the public. Grantee shall comply with all applicable general laws and ordinances enacted by the City pursuant to

that power.

SECTION 5 - TERRITORIAL AREA INVOLVED: Grantee will service all City area residences as designated City residences on date ordinance becomes effective. In the event of annexation after the date of the ordinance, Grantee shall distribute cable service to the annexed areas of the City. The Grantee will extend cable television service within such area only if the required construction and installation can meet the technical standards of all regulatory bodies and governmental agencies. This section shall apply to annexed areas that are no more than four miles from the city boundries of Atkins at the time that the ordinance becomes effective. The extension of service shall be completed no more than one year from the date of annexation.

SECTION 6 - FRANCHISE TERMS:

(A) This Franchise shall commence upon the effective date of this ordinance and shall expire seven years (7) thereafter unless renewed, revoked, or terminated sooner as herein provided.

(B) Any renewal shall be accomplished under the guidelines set forth by state and federal law.

SECTION 7 - FRANCHISE NON-EXCLUSIVE: The Franchise granted herein is non-exclusive. The City specifically reserves the right to grant, at any time, one or more additional franchises for a system throughout the City in accordance with state and federal law.

SECTION 8 - WRITTEN NOTICE: All notices or demands required to be given under this Franchise Agreement shall be deemed to be given when delivered personally to the persons designated below or upon the date actually received as evidenced by registered or certified mail receipt addressed as follows:

If to the City:

City of Atkins
P.O. Box 128
Atkins, Ar. 72823

If the Grantee:

Quality Entertainment, Inc
Central Mall Pl., Ste 520
Fort Smith, Ar 72903

Such addresses may be changed by either party upon notice to the other party given as provided in this Section.

SECTION 9 - REPAIR OF STREETS AND PROPERTY: Any and all streets or Public Property or private property which are disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance or re-construction of the System, shall be promptly repaired by Grantee, at its expense, and to a condition as good as that prevailing prior to the Grantee's work.

SECTION 10 - NOTICE OF RATE INCREASES: Prior to implementing any rate increase, Grantee shall give the following notice:

(A) At least sixty (60) days' advance written notice to the City; and

(B) At least sixty (60) days' advance written notice to subscribers.

(C) subject to state and federal laws

SECTION 11 - REPORTING AND REMEDY OF SERVICE PROBLEMS

(A) Grantee shall provide a toll free number that will be answered 24 hours a day either by live person or by mechanical means.

(B) Calls for individual service will be responded to within 24 hours from the time of the first report. If service is interrupted for more than 24 hours, billing credit will be given for that period of time the service was out after the initial 24 hour period.

SECTION 12 - DAMAGES AND DEFENSES:

(A) Grantee shall at all times indemnify and hold the City harmless from all claims, actions, suits, liability, loss, expenses or damages of every kind and descriptions, including reasonable attorney's fees, which may accrue to or be suffered or claimed by any person or persons arising out of the negligence and or alleged contractual dispute of the Grantee in ownership, construction, repair, replacement, operation and maintenance of the system and by reason of license, copyright, property right or patent of any article or system used in the construction or operation of said System, provided the City, if it has knowledge of such claim, gives grantee prompt notice of any such claims, actions, and suits, with-out limitation, in writing as provided herein.

(B) In order for the City to assert its rights to be indemnified and held harmless, the City must:

(1) Afford Grantee the opportunity to participate in and fully control any compromise, settlement, resolution or disposition of such claim or proceeding; and

(2) Fully cooperate in the defense of such claim and make available to Grantee all such information under its control relating thereto.

SECTION 13 - LIABILITY INSURANCE:

(A) Grantee shall maintain, throughout the term of this Franchise Agreement, liability insurance insuring the City and the Grantee with regard to all damages mentioned in Section 11 above in the following minimum amounts:

(1) One million dollars ($1,000,000.00) for bodily injury or death from any one accident; and

(2) One million dollars ($1,000,000.00) for all other types of liability.

(B) Upon request of the City, Grantee shall furnish to the City satisfactory evidence that an insurance policy has been obtained and is in full force and effect.

SECTION 14 - CITY'S RIGHT TO REVOKE: In addition to all other rights which the City has pursuant to the law or equity, the City reserves the right to revoke, terminate or cancel this Franchise and all rights and privileges pertaining thereto in the event that:

(A) Grantee violates any material provisions of this Franchise Agreement; or

(B) Grantee practices any fraud upon the City of any subscriber; or

(C) Grantee becomes insolvent, unable or unwilling to pay its debts, or is adjudged bankrupt; or

(D) Grantee fails to meet the F.C.C. Customer Service Standards as promulgated by the 1992 Cable Act.

SECTION 15 - REVOCATION PROCEDURES:

(A) The City shall notify the Grantee of its intention to revoke, terminate or cancel this Franchise. The written notice shall describe in reasonable detail the specific violation so as to afford Grantee an opportunity to remedy the violation.

(B) Grantee shall have ninety (90) days subsequent to receipt of the notice in which to correct the violation before the City may formally revoke, terminate or cancel this Franchise. Grantee may, within thirty (30) days of receipt of the notice, notify the City in writing that there is a dispute as to whether a violation has, in fact, occurred. Such notice by Grantee to the City shall stay the ninety (90) day period described above.

(C) The City shall hear Grantee's dispute and shall determine whether a default or violation by Grantee has occurred. In the event the City shall determine that a default or violation has occurred the City shall supplement the decision with written findings of fact.

(D) If after hearing the dispute Grantee has been found to be in default, Grantee shall then have (90) days from such a determination to remedy the violation. At any time after the ninety (90) day period the City may, by formal action at a public hearing affording reasonable notice and opportunity for Grantee to be heard, revoke, terminate or cancel this Franchise.

SECTION 16 - REMOVAL AFTER REVOCATION: Upon the revocation of this Franchise as herein provided, Grantee shall bury and/or remove and any all of its above-ground cables, attachments or wires from poles used as authorized herein within sixty (60) days of notice from the customer, City or the service department of the Grantee. Grantee can remove any drop on the ground that is not servicing an active customer.

SECTION 17 - FORCE MAJEURE: If by reason of a force majeure any party is unable in whole or in part to carry out its obligation hereunder, that party shall not be deemed to be in violation or default during the continuance of such inability.

SECTION 18 - MAPS: Upon request of the City, Grantee shall maintain on file with the City a true and accurate map or set of maps showing all System equipment installed and in place in Streets and other public places.

SECTION 19 - SERVICE AREA: All residents in the city shall be provided service upon payment of standard installation charge and applicable monthly fees; except that installations requiring underground or aerial drops in excess of four hundred (400) feet shall be considered a non-standard installation to be charged to the customer at Grantee's actual cost of installation.

SECTION 20 - RELOCATION OF SYSTEM FACILITIES:

(A) For Public Works. Whenever because of public necessity or other welfare of the public generally, the City shall elect to change or alter the grade of any street, alley, easement or public way, or to sell or vacate any street, alley easement or public way, or to construct or re-construct facilities and other public improvements, Grantee shall, after forty-five

(45) days prior to written request from the City, remove, relay and relocate its poles, wires, cables, conduits and other fixtures at its own expense.

(B) Temporary Relocation. Grantee shall, upon request of the City or any Person holding a building moving or demolition permit issued by the City, temporarily raise, lower, relay, relocate or remove its wires, cables and other facilities to accommodate the moving or demolition of the building, as the Grantee shall determine. The expense of such temporary relocation of Grantee's facilities shall be paid the person requesting the same, except in the case where the City is moving or demolishing a building without issuing of a permit, and grantee shall have the authority to establish the reasonable cost of such payment in advance. Grantee shall be given no less than fifteen (15) days advance written notice to arrange for such temporary changes.

SECTION 21 - SERVICE TO PUBLIC FACILITIES:

(A) Upon the request of the City, or any public elementary or secondary school agency, the Grantee shall provide one (1) cable extension to the exterior of any building housing the requesting party, free of charge for the installation and monthly Basic service, provided the building is readily serviceable and located within four hundred (400) feet of Grantee's distribution system.

(B) The cost of installing service to the interior of said buildings shall be free for one (1) outlet. The cost of any extra interior wiring of additional outlets shall be determined by Grantee according to the amount of labor and materials required to install the number of service outlets requested. The requesting party shall reimburse Grantee for the reasonable cost of labor and materials to wire such interior extensions.

SECTION 22 - FRANCHISE PAYMENT TO THE CITY:

(A) In consideration of the rights herein granted, such as compensation to the City of ATKINS for the use of its streets, alleys, easements and other public places, and in lieu of any occupational or license tax, or any other utility tax, the Grantee shall pay the City in amount equal to three percent (3%) of Grantee's gross annual receipt. Payments shall be made quarter-annually, and shall be due and payable not later than thirty (30) days after the last day of each calendar quarter. Grantee shall annually send a copy of the independent audit of its gross revenue, which franchise fees are based on,to the city.

(B) Should federal law permit the payment of franchise fees according to a higher percentage of gross annual receipts, the City may decide to increase the percentage of franchise fee payment, not to exceed the maximum allowed by federal law, at the end of each calendar year. Grantee shall begin paying the new franchise fee percentage upon ninety (90) day advanced written notice from the City.

(C) For the purpose of verifying the accuracy of the amount of said fees, the duly authorized agent of the City shall have the right to examine Grantee's receipt records at Grantee's place of business, upon reasonable notice.

SECTION 23 - UNAUTHORIZED CONNECTIONS OR MODIFICATIONS:

(A) It shall be unlawful for any Person, without the express consent of the Grantee to make any connection, extension, or division, whether physically acoustically, inductively, electronically or otherwise with or to any segment of the System for any purpose whatsoever

(B) It shall be unlawful for any Person to willfully interfere, tamper, remove, obstruct or damage any part, segment or content of the System for any purpose whatsoever.

(C) It shall be unlawful for any Person to construct, operate or maintain a System without having first applied for and received a franchise from the City.

SECTION 24 - "ONE CALL": Grantee shall participate in "one call" or a similar company for the term of the franchise agreement within the city limits of the City.

SECTION 25 - DESCRIPTION OF SYSTEM

(A) System will be a trunk and feeder system constructed to 400 mhz specifications. The system will be capable of carrying 60 channels of television broadcasting. The equipment to be used will be Scientific Atlanta and C-Cor amplifiers. The line taps will be Magnovox and RMS. The headend equipment will be Blonder Tongue, Drake, and VCII and II PLUS by General Instruments.

(B) Channel line up and rates

THIS LINE-UP WILL BE GUARANTEED AT $21.00 A MONTH (HBO NOT INCLUDED) FOR ONE (1) YEAR. GRANTEE DOES RESERVE THE RIGHT TO MAKE CHANGES TO THIS LINE-UP DURING THE ONE YEAR PERIOD, AND AT ANYTIME THEREAFTER, IF FOR ANY REASON ONE OR MORE OF THESE CHANNELS BECOME UNAVAILABLE FOR BROADCAST.

DISNEY
CNN HEADLINE NEWS
NBC
CBS
ABC
THE NASHVILLE NETWORK
WGN
TBS
HOME AND GARDEN
ESPN
PBS
TRINITY
CNN
TNT
USA
DISCOVERY
LEARNING CHANNEL
NICKELODEON
SCI-FI
HBO (PAY)
FOX
A&E
QVC
VH-1
AMERICAN MOVIE CLASS
COMEDY CHANNEL
HISTORY CHANNEL
TURNER CLASS MOVIES
WEATHER CHANNEL
CARTOON CHANNEL
COUNTRY MUSIC TV
NOSTALGIA
LIFETIME
FAMILY

THE BASIC RATE WILL BE $21.00 TAX INCLUDED
THE HBO RATE WILL BE $12.00 TAX INCLUDED
THE INSTALLATION FEE WILL BE $35.00 FOR HOUSES REQUIRING NEW INSIDE WIRING, AND $25.00 FOR HOUSES WITH PREEXISTING INSIDE WIRING.

SECTION 26 - SERVABILITY: If any term, condition or section of this Franchise Agreement or the application thereof to any person or circumstance shall, to any extent, be held to be invalid or un-enforceable, the remainder hereof and the application of such term, condition or Section to persons or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Franchise and all terms, conditions and sections hereof shall, in all other respects, continue to be effective and to be complied with. Nothing contained in this Franchise Agreement shall require Grantee to violate or waive its First Amendment rights or any statute, regulation, rule or decision of any federal, state or local government entity, agency or court having jurisdiction.

SECTION 27 - PAY PER VIEW

(A) Grantee will provide a minimum of two (2) pay per view events per year. These events will be chosen by the Grantee.

SECTION 28-TIME FRAME FOR CONSTRUCTION: The system will be operational two months after the granting of the franchise and clearance from APL and GTE to begin construction whichever is later.

SECTION 29-PROCEDURE FOR FILING COMPLAINTS: In accordance with FCC regulations under the cable act of 1992.

SECTION 30 - PASSAGE AND EFFECTIVE DATE: This Franchise Agreement, being necessary for the health, safety and welfare of the citizens of ATKINS, ARKANSAS; shall be in full force and effective after its passage.

12-12-95
DATE

Don Ezell
MAYOR

Brenda Graves
CITY CLERK

QUALITY ENTERTAINMENT CORP.
ACCEPTED

Brent Lewis
BY BRENT LEWIS-PRESIDENT