

ORDINANCE NO. # 40

AN ORDINANCE GRANTING A FRANCHISE TO LONESTAR CABLEVISION INC., ITS SUCCESSORS OR ASSIGNS TO OWN, OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM TO SERVE THE CITY OF ANNETTA, TEXAS, SETTING FORTH CONDITIONS ACCOMPANYING THE GRANTING OF THE FRANCHISE AND PROVIDING FOR THE REGULATION AND USE OF SAID SYSTEM.

WHEREAS, the City of Annetta, Texas, desires to grant a franchise whereby the Grantee thereunder will provide cable television service to the citizens of Annetta, Texas.

WHEREAS, Lonestar Cablevision Inc. is a cable television operator possessing the legal, financial and technical abilities to construct, operate and maintain a cable television system to serve the City of Annetta, Texas.

NOW THEREFORE, be it enacted and ordained by the Board of Aldermen of Annetta, Texas, that the following cable television franchise ordinance be enacted and the same is hereby adopted as follows:

SECTION 1: Short Title. This ordinance shall be known and may be cited as the "Lonestar Franchise Ordinance."

SECTION 2: Definitions. "City" is the City above. "Company" is the grantee of the right under this ordinance. "Cable Television System" and "System" shall refer to one and the same.

SECTION 3. Grant of Franchise. A public hearing was held and all interested parties were afforded an opportunity to address the issue of granting a franchise for the use of public streets by the Company. The Company is hereby granted a non-exclusive right and privilege to construct, erect, operate, modify and maintain poles, wires, cables, underground conduits, manholes and all other appurtenances of a quality cable television service in, upon, along, across, above and under the now laid or dedicated streets, alleys, public ways and utility easements of the City, and all additions thereto or extensions thereof for the purpose of distributing television and radio signals and other electronic impulses of the cable television system serving the public. The right so granted does not include any right to use or occupy public parts or other public property not specifically named in the foregoing grant.

**SECTION 4: Franchise Term.** The Franchise granted the Company herein shall terminate 11 (eleven) years from date of grant. In the event the Company fails to fulfill the conditions of this franchise, the Board of Aldermen may, after notice and a reasonable time to correct the deficiency are given to the Company, terminate this franchise agreement without liability to the City.

**SECTION 5: Payments to City.** The Company shall pay to the City within 30 days after the end of each calendar quarter a sum equal to 5% of the Basic Subscriber Revenues collected during such quarter.

**SECTION 6: Records and Reports.** The Company shall keep full, true, accurate and current books of account, which books and records shall be made available for inspection and copying by the Mayor or his authorized representative at all reasonable times.

**SECTION 7: Liability, Indemnification and Franchise Bond.** The Company shall pay, and by its acceptance of this Franchise the Company expressly agrees that it will pay, all damages and penalties which the City may legally be required to pay as a result of the Company's negligence in the installation, operation or maintenance of the Cable Television System authorized. The City shall notify the Company's representative within thirty (30) days after the presentation of any claims or demand to the City, either by suit or otherwise, made against the City on account of any negligence or contract as aforesaid on the part of the Company. The Company further agrees as follows:

(a) Company shall carry Workers' Compensation Insurance with statutory limits, and Employers' Liability Insurance with limits of not less than One Hundred Thousand Dollars (\$100,000), which shall cover all operations to be performed by the Company as a result of this ordinance.

(b) Company shall carry Comprehensive General Liability and Comprehensive Automobile Liability Insurance with combined bodily injury and property damage limits of not less than One Million Dollars (\$1,000,000).

(c) Company's Workers' Compensation, Automobile Liability Insurance Comprehensive and Comprehensive General Liability Insurance shall be written by an insurance company with a capital and/or surplus of not less than Three Million Dollars (\$3,000,000), and

Company agrees to furnish the City with certified copies of certificates of insurance of said policies, which shall provide that insurance shall not be cancelled unless ten (10) days prior written notice shall first be given to the City.

**SECTION 8: System Construction, Maintenance and Procedures.**

(a) Upon grant of this Franchise to construct and maintain a community cable television system in the City, the Company may enter into contracts with Light, Gas and Water franchise, any Public Utility Company or other owner of poles within the City, to whatever extent such contracts may be expedient and of advantage to the Company for use of poles or posts necessary for proper installations of the System, obtain right of way permits from appropriate County, State and Federal officials necessary to cross highways or roads under their respective jurisdictions to supply main trunk lines from the Company's receiving antennas, obtain permission from the Federal Aviation Authority to erect and maintain antennas suitable to the needs of the System and to its subscribers and obtain whatever other permits a City, County, State or Federal agency may require. In order that all subscribers shall receive the best possible service, Company shall install and maintain its system to conform with the latest Maintenance Practices in the field of cable television. However, no public right-of-way shall be traversed, altered or utilized without the express written consent of the City.

(b) The Company's System shall meet or exceed all FCC specifications of engineering standards in effect as of the date of the Grant of this Franchise.

(c) The City acknowledges that the Company's System will serve all portions of the City that are economically feasible for the Company to build and service.

(d) All transmission and distribution structures, lines and equipment erected by the Company within the City shall be so located as to cause no interference with the proper use of streets, alleys and other public ways and places, and to cause no interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, alleys or public ways and places.

(e) In case of any disturbance of pavement, sidewalks, driveways or other surfacing caused by the Company, the Company shall, at its own cost and expense in a manner approved by the City, replace and restore all paving, sidewalks, driveways or surface of any street or alley disturbed, in as good condition

as before said work was commenced. The Company will also comply with any existing ordinances applicable to this Section.

(f) The Company shall not place poles or other fixtures where the same will interfere with any gas, electric or telephone fixture, water hydrant or main, and all such poles or fixtures placed in any street shall be placed at the outer edge of the sidewalk and inside the curb line, and those places in alleys shall be placed close to the line of the lot abutting on said alley, and then in such manner as not to interfere with the usual travel on said streets, alleys and public ways.

(g) The Company shall, on request of any person holding a building permit, issued by the City, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting same, and the Company shall have the authority to require the payment in advance. The Company shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire changes.

(h) The Company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public places of the City as to prevent the branches of such trees from coming in contact with the wires and cables of the Company, all trimming to be done at the expense of the Company and under the supervision and direction of the City.

(i) The Company shall, upon reasonable (but not more than 30 days) notice from the City, remove its poles, wires or other fixtures from any public street, alley, public way or utility easement should such, in the opinion of the City, be necessary for the purpose of rerouting or relaying public utilities, repairing or rerouting public streets or for any other public purpose. The Company shall remove such items without expense or liability to City. Should Company fail to remove such facilities within 30 days or as required, City, its contractors, servants, agents and employees may remove such facilities without liability.

SECTION 9: Compliance with Standards. All facilities and equipment of Company shall be constructed and maintained in accordance with the requirements and specifications of the National Electrical Safety Code and such applicable ordinances and regulations set forth by the City and/or any other local, State or Federal agencies.

SECTION 10: Company Rules and Regulations. The Company shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as

shall be reasonably necessary to enable the Company to exercise its rights and perform its obligations under this Franchise, and to assure an uninterrupted service to each and all of its customers; provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof or of State and Federal laws.

SECTION 11: Compliance with FCC Rules & Regulations. The Company shall, at all times, comply with the Rules and Regulations governing CATV operations promulgated by the FCC. This shall include adherence by the Company to FCC rules regarding technical and engineering specifications involved in the construction of the CATV System and signal carriage therein.

SECTION 12: Activities Prohibited.

(a) The Company shall not allow its cable or other operation to interfere with television reception of persons not served by the Company, nor shall the System interfere with, obstruct or hinder in any manner, the operation of the various utilities serving the residents of the City.

(b) The Company shall not, as to rates, charges, service facilities, rules, regulations, or in any other respect, make or grant any preference or advantage to any person, nor subject any person to any prejudice or disadvantage, provided that nothing in this Franchise shall be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules to which any customer coming within such classification would be entitled.

(c) The Company covenants and agrees not to permit the showing of any X RATED movies as defined by the M.P.A.A.

SECTION 13: Theft of Services and Tampering.

(a) No person, whether or not a subscriber to the Cable System, shall wilfully, maliciously or otherwise damage or cause to be damaged any wire, cable, conduit, apparatus, appurtenance, or equipment of a Franchise operating a Cable Television System within the City, or commit any act with intent to cause such damage or to tap, tamper with or otherwise connect any wire or device to a wire, cable, conduit, apparatus, appurtenance, or equipment of such Franchise with the intent to obtain an impulse or signal from the Cable System without authorization from or compensation to such Franchise, or to obtain cable television or other communications service with the intent to cheat or defraud said Franchise of any lawful charge to which it is entitled.

(b) Whosoever shall violate any provision of this Section shall be guilty of a misdemeanor and shall be liable to the full extent provided under Texas law. The penalties provided in this Section shall be enforced by appropriate proceedings instituted by the Company.

SECTION 14: Separability.

(a) If any Section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provisions and such holding shall not affect the validity of the remaining portions hereof.

(b) Should any provisions of this Franchise be inconsistent or at variance with any rule, regulations or policy, in whole or in part, of the Federal Communications Commission or any other agency having jurisdiction, such provisions shall be invalid but the remaining provisions hereof shall not be affected thereby.

SECTION 15: Ordinances Repealed. All ordinances or parts thereof in conflict with the provisions of this ordinance are hereby repealed.

SECTION 16: BE IT FURTHER ORDAINED that this ordinance take effect from the date it shall have been passed by the appropriate authoritative body, and became effective as otherwise provided by law.

PASSED AND ADOPTED this 10<sup>th</sup> day of April, 1990

ATTEST:

CITY OF ANNETTA

By: Margie O'Neal  
CITY SECRETARY

By: [Signature]  
MAYOR

We, the Applicant, do hereby formally accept the terms and conditions of this ordinance and by the acceptance thereof obligate ourself to comply with each and every position contained therein.

LONESTAR CABLEVISION INC.

Date: April 25, 1990

By: [Signature]  
President