

ORDINANCE NO. 72A

AN ORDINANCE OF THE CITY OF WALLIS, TEXAS, GRANTING TO STAR CABLE ASSOCIATES AND ITS SUCCESSORS AND ASSIGNING THE RIGHT, PRIVILEGE, AND FRANCHISE FOR THE TERM OF TEN YEARS TO ERECT, MAINTAIN, AND OPERATE A COMMUNITY ANTENNA TELEVISION SYSTEM IN THE CITY OF WALLIS, TEXAS; TO ERECT, MAINTAIN, AND OPERATE ITS POLES, TOWERS, ANCHORS, WIRES, CABLES, ELECTRONIC CONDUCTORS, CONDUITS, MANHOLES, AND OTHER STRUCTURES AND APPURTENANCES IN, OVER, UNDER, ALONG, AND ACROSS THE PRESENT AND FUTURE PUBLIC STREETS, HIGHWAYS, ALLEYS, BRIDGES, EASEMENTS, AND OTHER PUBLIC WAYS AND PLACES IN THE CITY; PRESCRIBING COMPENSATION FOR THE RIGHTS, PRIVILEGES, AND FRANCHISE CONFERRED HEREUNDER; PRESCRIBING THE CONDITIONS GOVERNING THE OPERATION OF THE BUSINESS INSOFAR AS IT AFFECTS THE USE OF PUBLIC PROPERTY FOR THE PURPOSE OF SUCH BUSINESS; PROVIDING CONDITIONS REGARDING THE INSTALLATION, UPGRADE, MAINTENANCE, AND OPERATION OF SAID SYSTEM AND BUSINESS; CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT; AND PROVIDING FOR SEVERABILITY.

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WHEREAS, by Ordinance No. 72 passed and approved on September 14, 1982, the City of Wallis, Texas ("City"), granted to Star Catv Investment Corporation the right, privilege, and franchise to erect, maintain, and operate for a term of fifteen (15) years a community antenna television system in said City; and

WHEREAS, pursuant to its terms and provisions, said franchise expired on or about September 14, 1997; and

WHEREAS, Star Cable Associates, the successor in interest to Star Catv Investment Corporation, hereinafter referred to as "Star Cable" or "Grantee", has requested a new franchise to allow operation of a cable television system in the City of Wallis in accordance with the renewal provision of the Cable Act of 1984 as amended; and

WHEREAS, the City Council finds from all the evidence that Star Cable fully meets all the legal, character, financial, and technical qualifications, as well as all other qualifications, necessary to assure the cable service area in the jurisdictional boundaries of the City of Wallis, both as it is now and as it will be during the duration of this franchise agreement, will receive the best available cable television service and that additional construction arrangements proposed by Star Cable are fully adequate and feasible; and

WHEREAS, following proper notice the City Council of the City of Wallis held a public hearing on Star Cable's application, at which time representatives of Star Cable and interested citizens were heard in a full public proceeding affording opportunity for comment by any and all persons desiring to be heard; and

WHEREAS, Star Cable agrees to, in a timely manner, initiate and complete any scheduled replacement and upgrade of such community antenna television system, and to maintain and operate the same in accordance with the accepted standards of the industry, the City Council now deems it appropriate and in the best interest of the City and its inhabitants that the Cable television franchise be renewed with Star Cable; now, therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WALLIS, TEXAS:

ARTICLE I

ENACTMENT

§1.01. Recitals. The facts and recitations set forth in the preamble of this Ordinance are hereby adopted, ratified, and confirmed.

§1.02. Short Title. This Ordinance shall be known and may be cited as "The City of Wallis Star Cable Associates, Franchise Ordinance."

ARTICLE II

DEFINITIONS

§2.01. General. The following terms, phrases, words, abbreviations, and their derivations shall have the meanings hereafter set forth. Terms, phrases, words, and abbreviations not defined herein shall be construed in accordance with the ordinances of the City or their customary usage and meaning. When not inconsistent with the context, words used in the singular shall include the plural, words in the plural shall include the singular, and words used or defined in one tense or form shall include other tenses or derivative forms. The headings contained in this Ordinance are to facilitate reference only, do not form a part of this Ordinance, and shall not in any way affect the construction or interpretation hereof. The words "shall," "will," and "must" are mandatory, and the word "may" is permissive or directory:

A. Additional Subscriber Services. Any Communications services other than Basic Cable Service, Expanded Subscriber Service, Pay Television and any service provided by a facility of a common carrier which is subject, in whole or in part, to the provisions of the Communications Act of 1934, (except that such facility is used in the transmission of video programming directly to subscribers), provided by Grantee over the CATV System including, but not limited to, burglar alarm, data or other electronic intelligence transmission, facsimile reproduction, meter reading and home shopping, and program guides. Additional Services shall not include delivery by the CATV System of any programming on an Educational or Governmental Access Channel. Any access channel, if provided, shall be included in Basic Cable Service.

B. Anniversary Date. The date on which this franchise ordinance was passed and approved by the City Council of the City of Wallis.

C. Basic Cable Service. The simultaneous delivery by Grantee to television receivers or other suitable type of audio-video communication receivers of that service regularly offered or provided to all of its subscribers, which shall include, at a minimum, the retransmission of any local (Greater Houston Metropolitan Area) television broadcast signals viewed in such area as well as the educational and governmental access channels.

D. Cable Service. The transmission to subscribers of video programming or other programming service and subscriber interaction, if any, which is required for the selection of such video programming or other programming service.

E. CATV. Community antenna television.

F. CATV System. A system of cables, wires, lines, fiber optics, towers, wave guides, microwave and laser beams, and any associated converters, equipment, or facilities designed and constructed for the

primary purpose of providing cable services by producing, receiving, amplifying, and distributing by audio, video, and other forms of electronic or electric signals whether originating within the City or elsewhere. Such system does not include:

1. A facility that serves only subscribers in one (1) or more multiple unit dwellings under common ownership, control or management, unless such facility or facilities uses any public right-of-way; or
2. A facility of a common carrier which, as of the effective date of this franchise, is subject to the provisions of the Communications Act of 1934, in whole or in part, except that such facility shall be considered a CATV System to the extent that such facility is used in the transmission of video programming directly to the subscriber; or
3. A facility that services only to retransmit the television signals of one (1) or more television broadcast stations; or
4. Any facilities of any electric utility used solely for operating its electric utility system.

G. Channels. A band of frequencies, six (6) megahertz wide, in the electromagnetic spectrum which is capable of carrying one (1) audio-video television signal.

H. City. The City of Wallis, Texas, a municipal corporation of the State of Texas.

I. City Council. The present governing body of the City or any successor to the legislative powers of the present City Council.

J. Converter. An electronic device which converts signals to a frequency not susceptible to interference within the television receiver of a Subscriber and which, by an appropriate Channel selector, also permits a Subscriber to view all signals delivered at designated dial locations.

K. Educational Access Channel. The Channel(s) on the System which are reserved for educational users and used in accordance with the rules and procedures established by the City, or its designee.

L. Expanded Subscriber Service. The Basic Cable Service tier plus the addition of one or more clusters of cable programming services which may or may not be offered for an additional monthly charge.

M. Federal Communications Commission or FCC. The agency as presently constituted by the United States Congress or any successor agency with jurisdiction over CATV matters.

N. Franchise Year. Any twelve-month period commencing on an Anniversary Date and extending to the day immediately preceding the next subsequent Anniversary Date.

O. Franchise Area. The incorporated area of the City and such additional areas as may be included in the corporate limits of the City during the term of this franchise.

P. Government Access Channel. The Channel(s) on the System which are reserved for government uses and used in accordance with the rules and procedures established by the City, or its designee.

Q. Grantee. Star Cable, or any person who succeeds Star Cable in accordance with the provisions of this franchise.

R. Gross Revenue. All revenues collected by the Grantee from or as a result of the operation of its CATV System including, but not limited to, Basic Cable Service revenues, Expanded Subscriber Service revenues, Additional Subscriber Service revenues, Pay Television revenues, advertising revenues, revenues resulting from connection or reconnection fees of any kind, revenues resulting from the rental of equipment of any kind, revenues resulting from the sale, lease, or rental of Channels or channel capacity and all other revenues of any kind received by the Grantee from the System. Gross Revenues shall not include the following:

1. any taxes which are imposed on any Subscriber or user of the System by any governmental unit and collected by the Grantee for such governmental unit;
2. revenues resulting from the sale of equipment including, but not limited to, converters and remote control devices, the hook-up of video cassette recorders, or other services required to be provided at cost, or in kind;
3. revenues resulting from the studio production of programming used on the Educational and Governmental Access Channels; or
4. franchise fees paid to the City pursuant to this Ordinance.

S. Interconnect. When a CATV System is physically connected to an adjacent CATV System or Systems by coaxial cable, fiber optic cable, microwave, or other means and provides the capacity for simultaneous carriage of signals, such as access programming and emergency override.

T. Pay Television. The delivery over the CATV System of programming to Subscribers for a fee or charge over and above the charge for Basic Cable Service or Expanded Subscriber Service on a per-program or per-channel basis.

U. Person. Any person, firm, partnership, association, corporation, company, or organization of any kind.

V. Public Utility Commission of Texas. The agency as presently constituted by the laws of the State of Texas or any successor agency.

W. Street. The surface and the space above and below any public street, road, highway, alley, bridge, sidewalk, or other public place or way now or hereafter held by the City for the purpose of public travel and shall include other easements or rights-of-way now held or hereafter held by City which shall, within their proper use and meaning, entitle City and Grantee to the use there, of for the purposes of installing or transmitting CATV System transmissions over poles, wires, cables, conductors, conduits, manholes, amplifiers, appurtenances, attachments, and other structures, equipment and facilities as may be ordinarily necessary and pertinent to a CATV System.

X. Subscriber. Any person who receives any service delivered by the CATV System.

ARTICLE III

GRANT OF AUTHORITY

§3.01. Use of Public Streets and Ways. There is hereby granted to Star Cable the right, privilege, and franchise to have, acquire, construct, reconstruct, maintain, use, and operate in the City a CATV System, and to have, acquire, construct, reconstruct, maintain, use, and operate in, over, under, and along the present and future streets of the City as well as other easements and rights-of-way held by the City all necessary or desirable poles, towers, anchors, wires, cables, electronic conductors, underground conduits, manholes, and other structures and appurtenances necessary for the construction, maintenance, and operation of a CATV System in the City.

§3.02. Use, Rental, or Lease of Utility Poles and Facilities. There is hereby granted to Grantee the authority to contract with the City or with the holder or owner of any utility franchise in the City for the use, rental, or lease of its or their poles, underground conduits, and other structures and facilities for the purpose of extending, carrying, or laying Grantee's wires, cables, electronic conductors, and other facilities and appurtenances necessary or desirable in conjunction with the operation of its CATV System. The City agrees that any public utility owning or controlling such poles or underground conduits may, without amendment to its franchise, allow, and is encouraged to allow, Grantee to make such use thereof pursuant to any agreement reached between such utility and Grantee.

ARTICLE IV

TERM, EVALUATION, AND RENEWAL

§4.01. Term of Franchise. Upon the filing with the City by Grantee of the written acceptance required herein, this franchise shall be in full force and effect for a term and period of ten (10) years commencing thirty (30) days after final passage and approval of this Ordinance.

§4.02. Performance Evaluation. In order to assure that the Grantee is complying with the terms of this franchise and with the character, quality, and efficiency of service to be rendered, given, performed, and furnished under this franchise, a performance evaluation hearing may be held during the third (3rd) and seventh (7th) Franchise Years of this franchise. Unless specifically waived by the City Council, attendance of Grantee's duly authorized representative at these hearings shall be mandatory.

1. At least thirty (30) days prior to any performance evaluation hearing on this franchise, the City Secretary shall notify the Grantee of the date and time of the hearing. At the hearing, the Grantee shall be entitled to all the rights of due process consistent with the City proceedings, including but not limited to, the right to present evidence and the right to be represented by counsel.
2. The subject of the hearings shall include, but not be limited to, the Grantee's performance under the franchise, the development of new services, the utilization of new technologies, a review of any federal or state rules or regulations relevant to the franchise, a comparison of rates and performance to any benchmarks or standards set by federal, state, or local agencies having jurisdiction, or any other matter or topic deemed by City to be relevant or material to this franchise.
3. Upon request of the City and within sixty (60) days from the receipt of such request, the Grantee shall file a report with the City Secretary, in reasonable detail, specifically addressing, at a minimum the following areas:

- (i) compliance with the requirements regarding technical performance and testing, as provided in §10.02 of this franchise, including a review of the most recent proof of performance testing and signal leakage testing (which includes the City service area);
 - (ii) a summary of all service interruptions during the preceding calendar year (other than scheduled interruptions or interruptions of a duration less than two (2) hours for all Subscribers or any interruptions which affected less than ten percent [10%] of all Subscribers;
 - (iii) a summary of representative Subscriber complaints received during the latest twelve month (12) period, the number of Subscriber complaints received and the actions taken by the Grantee in response thereto; for the purposes herein the term "complaints" shall mean inquiries, in writing, from a subscriber which requires or results in subsequent corrective action on the part of the Grantee or any written communication from a subscriber received by the Grantee objecting to the rates, programming or other practice of the Grantee.
 - (iv) compliance with the customer service standards, as provided in §10.11;
 - (v) written statement as to whether there has been any substantial change from information or plans previously provided to the City.
4. All reports to be prepared under this subsection and submitted by Grantee shall be based on information for at least a twelve month period ending with the most current quarter available, but not on information of twelve months data that ends more than six (6) months before the time of the performance evaluation hearing.
 5. The Grantee shall make available to the City Council, or its designee, any records, documents, or other information as may be reasonably relevant to the City Council's review.
 6. An audio recording of each performance evaluation hearing shall be made and all records, minutes, and recordings thereof shall be retained by the City Secretary and be available for inspection throughout the term of this franchise.
 7. The City Council shall hear any interested persons during such hearings and shall determine whether Grantee did reasonably comply with the terms and conditions imposed by this Ordinance.
 8. The foregoing notwithstanding, the City Council may initiate and conduct such additional performance evaluation hearings regarding Grantee's performance under this franchise as the City Council, in its sole discretion, may deem justified or necessary under the circumstances. Grantee shall be given reasonable notice of the date and time of any such additional hearings.

§4.03. Early Negotiation of Renewal. Notwithstanding the provisions contained in §4.01 hereof, from and after the seventh (7th) year of this franchise, if for any reason City determines the

provisions of this Ordinance obsolete or materially inapplicable due to changes in the cable television industry or the technology applicable thereto, City may initiate early negotiation of the renewal of this franchise. Grantee shall not be required, however, to accept any franchise renewal which results in economic waste to Grantee.

§4.04. Renewal. Grantee and City agree that franchise renewal proceedings shall be governed by the Cable Communications Policy Act of 1984, as modified by the Cable Television Consumer Protection and Competition Act of 1992, or other law applicable at the time of renewal.

ARTICLE V

RECOUPMENT OF COSTS BY CITY

§5.01. Publication Costs. Any and all reasonable costs of publication which may be required by law or action of City Council shall be borne by Grantee, upon agreement between both parties.

ARTICLE VI

COMPLIANCE WITH CITY, STATE, AND FEDERAL LAWS

§6.01. Compliance with Applicable Laws. Notwithstanding any other provision of this franchise to the contrary, the Grantee shall at all times comply with all laws, rules, and regulations of the City, state and federal governments and any administrative agencies thereof. If any such state or federal law, rule, or regulation shall require or permit the Grantee to perform in conflict with this franchise or prohibit the performance of any service required by provisions of this franchise, then immediately following knowledge thereof, the Grantee shall notify the City Council or its designee in writing of the point of conflict believed to exist between such state or federal law, rule, or regulation and this franchise. If the City Council determines that a material provision of this franchise does in fact conflict with such state or federal law, rule, or regulation, the parties shall enter into good faith negotiations to modify any provision hereof to such reasonable extent as may be necessary to carry out the full intent and purpose of this franchise.

§6.02. Subject to Police Power of the City. The construction, maintenance, and operation of Grantee's CATV System and all property of Grantee subject to the provisions of this franchise shall be subject to all lawful police powers, rules, and regulations of the City. The City shall have the power at any time to order and require Grantee to remove or abate any pole, line, tower, wire, cable, guy, conduit, electric conductor, or any other structure or facility that is dangerous to life or property. In the event Grantee, after written notice, fails or refuses to act, City shall have the power to remove or abate the same at the expense of Grantee, all without compensation or liability for damages to Grantee.

§6.03. Modifications by FCC: Jurisdiction of FCC. It is specifically agreed by City and Grantee that any modification of the provisions of this franchise resulting from amendment of the rules and regulations of the FCC or other applicable state or federal governmental agency shall be automatically incorporated into this franchise unless:

1. Such modification provides for leniency in the provisions included in this franchise and such leniency is not required by law; or
2. The City Council specifically rejects such incorporation of said modifications within one (1) year of the adoption of such modification and such rejection is not in conflict with any City, state or federal laws, rules, or regulations.

ARTICLE VII

CONDITIONS OF STREET OCCUPANCY

§7.01. Use. All structures, wires, cables, equipment, and facilities erected or maintained by Grantee within the City shall be located as to cause minimum interference with the proper and intended use of the streets and with the rights or reasonable convenience of the owners or occupants of property which adjoins any of such streets. The location of all poles, towers, anchors, wires, cables, electronic conductors, conduits, manholes and other structures and appurtenances in, over, under, along, and across the present and future public streets, highways, alleys, bridges, easements, and other public ways and places in the City shall be fixed under the supervision of the City or an authorized agent appointed by the City. When the Grantee shall make or cause to be made excavations or shall place obstructions in any street, alley, or other public place, the public shall be protected by barriers and lights placed, erected, and maintained by the Grantee in accordance with any existing or future City, state, or federal requirements.

§7.02. Restoration. The surface of any street disturbed by Grantee in laying, constructing, maintaining, operating, using, extending, removing, replacing, or repairing its CATV System shall be restored by Grantee immediately after the completion of the work, at its cost and expense, to as good a condition as before the commencement of the work and shall be maintained by Grantee to the satisfaction of the City for one (1) year from the date of completion of such restoration work. No street shall be encumbered by construction, maintenance, removal, restoration, or repair work by Grantee for a longer period than shall be necessary to execute such work. If there is an unreasonable delay by Grantee in restoring and maintaining streets after such excavations or repairs have been made, City shall have the right following written notice to Grantee to which Grantee has forty-eight (48) hours in which to respond, to restore or repair the same and to require Grantee to pay to the City the reasonable cost of such restoration or repair, all without compensation or liability for damages to the Grantee. In the event City determines that Grantee's use of any of City's street and rights-of-way as set forth in this franchise pose an immediate danger to the health, safety or general welfare of the public, City shall have the right to restore or repair same and shall require Grantee to pay to the City the reasonable costs incurred regarding same, all without compensation or liability for damages to the Grantee.

§7.03. Relocation. Whenever by reason of the construction, repair, maintenance, relocation, widening, raising, or lowering of the grade of any street by the City or by the location or manner of construction, reconstruction, maintenance, or repair of any public property, structure, or facility by the City, it shall be deemed necessary by the City for Grantee to move, relocate, change, alter, or modify any of its facilities or structures, such change, relocation, alteration, or modification shall be promptly made by Grantee, at its cost and expense, when directed in writing to do so by the City, without claim for or right of reimbursement of cost or damages against the City. In the event Grantee, after such notice, fails or refuses to commence, pursue, or complete such relocation work within a reasonable time, the City shall have the authority, but not the obligation, to remove or abate such structures or facilities and to require Grantee to pay to the City the reasonable costs of such removal or abatement, all without compensation or liability for damages to Grantee.

§7.04. Temporary Removal of Wire for Building Moving. Upon written request of any person holding a building moving permit issued by the City, Grantee shall remove, raise, or lower its wires and cables temporarily to permit the moving of houses, buildings, or other bulky structures. The reasonable expense of such temporary removal, raising, or lowering shall be paid by the benefited person, and Grantee may require such payment in advance, Grantee being without obligation to remove, raise, or lower its wires and cables until such payment shall have been made. Grantee shall be given not less than seventy-two (72) hours advance written notice to arrange for such temporary wire and cable adjustments.

§7.05. Tree Trimming. From time to time, the City Council may pass ordinances regulating the trimming or removal of trees on or along City property, and Grantee shall comply with these ordinances.

§7.06. Placement of Fixtures. Grantee shall not place poles, towers, or similar fixtures where the same will interfere with any gas, electric, or telephone fixtures, water hydrant or main, drainage facility, or sanitary sewer, and all such poles, towers, and similar facilities shall be placed as directed by the City and in such manner as not to interfere with the usual travel or use or visibility of the streets.

§7.07. Approval of Plans and Specifications. Grantee shall provide complete plans and specifications for all construction within streets to the City for its review at least thirty (30) days prior to the start of construction. Approval of plans and specifications shall not be unreasonably delayed or denied. In the event of rejection, Grantee shall submit revised plans and specifications for approval. This provision shall apply to each construction sequence if the construction is accomplished in phases.

§7.08. Underground Installation. In those portions of the City having telephone lines and electric utility lines underground, whether required by ordinance or not, any and all of Grantee's lines, cables, and wires shall also be underground. It shall be the policy of the City that existing poles for electric and communications purposes be utilized whenever possible and that underground installation, even when not required, is preferable to the placing of additional poles.

§7.09. Facilities Location. From time to time, the City or its representatives, may request identification of the specific location of certain Grantee facilities. The Grantee agrees to respond in writing to such request within forty-eight (48) hours of the receipt of the request. If Grantee fails to provide the necessary information, and damage is caused to Grantee facilities as a direct result of withholding said information, the Grantee shall hold the City harmless from all liability, damage, cost or expense resulting from any City action in this regard.

ARTICLE VIII

INDEMNIFICATION AND LIABILITY

§8.01. Grantee's Obligation. Grantee shall pay, and by the acceptance of this franchise specifically agrees that it will pay, the following:

A. Damages and Penalties. All damages or penalties which the City, its officers, agents, employees, or contractors may legally be required to pay as a result of damages arising out of copyright infringements and all other damages arising out of the installation, maintenance, or operation of Grantee's CATV System, whether or not any act or omission complained of is authorized, allowed, or prohibited by this franchise.

1. Expenses. If any action or proceeding is brought against the City or any of its officers, agents, employees, or contractors with respect to which payment may be sought for claims for damages or penalties described in this Article, Grantee, upon written notice from City, shall assume the investigation and defense and shall fully control any resolution or compromise thereof, including the employment of counsel and the payment of all expenses including the reasonable value of any services rendered by any officer, agent, employee, or contractor of City. City shall fully cooperate with Grantee.

2. Separate Counsel. City shall have the right to employ separate counsel in any action or proceeding and to participate in the investigation and defense thereof, and Grantee shall pay the reasonable fees and expenses of such separate counsel if employed with the approval and consent of Grantee or if representation of both Grantee and City by the same attorney would be inconsistent with accepted canons of professional ethics.

3. Indemnification. It is the intent of this section and by its acceptance of this franchise, the Grantee specifically agrees, that Grantee shall indemnify, defend, and hold the City, its officers, agents, employees, and contractors harmless from all liability, damage, cost, or expense arising from claims for injury to persons, damage to property, or penalties occasioned by reason of any conduct undertaken by reason of this franchise or any failure to act by City which may impact Grantee's performance under this franchise. City shall not and does not by reason of this granting of this franchise assume any liability of Grantee whatsoever for injury to persons, damage to property, or penalties of any kind whatsoever.

ARTICLE IX

INSURANCE REQUIREMENTS

§9.01. Minimum Coverage. Within thirty (30) days after the effective date of this franchise, Grantee shall file with the City Secretary and shall maintain on file throughout the term of this franchise a certificate of insurance evidencing liability insurance policy issued by a company duly authorized to do business in the State of Texas insuring City and Grantee with respect to the installation, maintenance, and operation of Grantee's CATV system in the following minimum amounts:

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| A. | One Person: | One Million Dollars (\$1,000,000) for bodily injury or death to any one person. |
| B. | Property Damage: | One Million Dollars (\$1,000,000) for property damage resulting from any one occurrence. |
| C. | Per Occurrence: | Two Million Dollars (\$2,000,000) for bodily injury or death resulting from any one occurrence. |
| D. | All Other Types of Liability: | One Million Dollars (\$1,000,000) for all other types of liability per occurrence. |

§9.02. Increased Coverage. The City Council reserves the right to require Grantee to increase the minimum amounts of liability insurance coverage to such amounts as are deemed by City Council to be reasonably necessary at such time, but in no event shall any increase in required coverage exceed that required by Grantee in locations similar to the City with similar risks. Such requirement shall be expressed by resolution or ordinance.

§9.03. Notice of Cancellation or Reduction. Such policy of liability insurance shall contain the provision that written notice of expiration, cancellation, or reduction in coverage of the policy shall be delivered to the City Secretary and to Grantee at least thirty (30) days in advance of the effective date thereof.

§9.04. Term. Such liability insurance shall be kept in full force and effect by Grantee during the existence of this franchise and thereafter until after the removal of all poles, wires, cables, underground conduits, manholes, and other conductors and fixtures incident to the maintenance and operation of Grantee's CATV System, should such removal be required by City Council or undertaken by Grantee.

§9.05. Workers' Compensation. Grantee shall maintain throughout the term of this franchise, workers' compensation in the amount required by applicable federal and state laws.

ARTICLE X

OPERATIONAL STANDARDS

§10.01. Compliance with FCC Rules. Grantee shall comply with present and future rules and regulations of the FCC including but not limited to technical standards, testing requirements, consumer protection standards and consumer electronics compatibility regulations and all other present and future rules and regulations of the FCC in connection with and relating to the operation of Grantee's CATV System.

§10.02. Technical Performance. Throughout the term of this Ordinance, Grantee shall, at a minimum, operate and maintain the System in accordance with all applicable technical performance standards, regulations, and guidelines of the FCC, and the City's technical performance standards, as provided in Exhibit A to this Ordinance. Grantee shall periodically test the technical performance of the system in accordance with all regulations and guidelines of the FCC.

§10.03. Quality of Color Signals. Grantee's CATV System shall be capable of transmitting and passing the entire color television spectrum without the introduction of material degradation of color intelligence and fidelity.

§10.04. Rated for Continuous Operation. Grantee's CATV System shall be designed and rated for twenty-four (24) hours a day continuous operation.

§10.05. Quality of Picture. Grantee's CATV System shall be capable of and shall produce a picture upon any Subscriber's television screen in black and white or color, provided the Subscriber's television set is capable of producing a color picture, that is undistorted and free from ghost images, assuming the technical, standard production television set is in good repair and the television broadcast signal transmission is satisfactory.

§10.06. Quality of Audio. Grantee's CATV System shall be capable of and shall produce audio through any Subscriber's television set that is clear and free of interference, and, within three (3) years of the effective date hereof, shall be capable of producing stereo sound when provided by the signal provider, assuming the technical, standard production television set is in good repair, is capable of receiving and producing such stereo sound, and the broadcast signal transmission provided Grantee is satisfactory.

§10.07. No Cross Modulation or Interference. Grantee's CATV System shall transmit or distribute signals of adequate strength to produce pictures with sound in all television receivers of all Subscribers without causing cross-modulation in the cables or interference with other electrical or electronic systems, to meet, at a minimum, the technical standards promulgated by the FCC, as amended from time to time.

§10.08. Channel Capacity. Grantee's CATV System shall have a minimum channel capacity of thirty-five (35) television channels and, by the ending date of this agreement, shall have a minimum channel capacity of forty-two (42) television channels.

§10.09. Converter-Parental Lock. Grantee shall offer to all Subscribers equipment that contains a parental lock capable of locking or securing one Channel or all Channels and shall provide such equipment to all Subscribers that request same.

§10.10. Temperature Range. Grantee's CATV System shall be capable of operating throughout the air temperature range of 0 to 110 degrees Fahrenheit without degradation of audio or video fidelity.

§10.11. Customer Service. Grantee shall provide good service in accordance with all regulations and guidelines of the FCC, and any lawful future requirements promulgated by the FCC.

§10.12. Interference with Reception. Grantee shall maintain and operate its CATV System in such a manner that it will not interfere with reception of television sets not connected to or served by such System, or other electronic devices in accordance with any regulations promulgated by the FCC as amended from time to time related to cumulative leakage interference.

§10.13. State-of-the-Art Where economically feasible, Grantee shall undertake all construction, installation, maintenance, operation, upgrade, and replacement in such manner as is necessary to keep current with the latest developments in CATV, as defined in this Ordinance, whether with respect to increasing Channel capacity, developing and offering to Subscribers new services, instituting extensive two-way service, or such other industry developments.

§10.14. No Obscenity. Grantee shall comply in all regards with all federal, state and local laws regarding obscenity and shall not broadcast or transmit any picture, signal or sound or provide any service which is obscene or otherwise unprotected by the Constitution of the United States of America.

§10.15. Quality of Service. Throughout the term of this franchise, Grantee shall maintain the quality of service and meet operational standards in the maintenance and operation of its CATV System as are required herein and/or by the FCC. Should City find that the Grantee has failed to maintain such quality of service or operational standards, City may notify Grantee in writing and specifically set forth therein the improvements required to rectify such deficiencies. Failure of Grantee to make such improvements within sixty (60) days or other agreed-upon period of the receipt of such notification by Grantee shall be deemed a violation of a material provision of this franchise ordinance.

§10.16. Maintenance and Future Upgrade. The System shall be maintained and upgraded by Grantee in such a manner as to ensure that at all times such System meets the community's cable television service needs. Provided, however, nothing contained herein shall be construed to require Grantee to commit economic waste.

ARTICLE XI

SIGNALS TO BE CARRIED

§11.01. Minimum Basic Cable Service. Grantee may carry on its CATV System the signals of any broadcast stations viewed in the Greater Houston Metropolitan Area as well as all educational and governmental broadcasting signals that are technically and economically feasible, and have provided the Grantee the necessary retransmission consent as required by law.

§11.02. Required Programming Categories. Grantee shall carry at a minimum, one Channel providing programming classified under each of the following categories:

1. News
2. Movies
3. Sports
4. Religion
5. Educational
6. Home Shopping
7. Spanish
8. Weather
9. Music

§11.03. Service for the Hearing Impaired. Grantee shall not take any action to remove or

§11.03. Service for the Hearing Impaired. Grantee shall not take any action to remove or alter closed captioning provided for the hearing impaired as a part of any programming. Grantee shall deliver intact such closed captioning in the manner in which it arrives at the headend or from another origination source to the CATV System.

§11.04. Interconnection. Grantee's CATV System shall have the capacity to interconnect with any other contiguous CATV Systems operating in the area.

ARTICLE XII

EMERGENCY USE OF THE CATV SYSTEM

§12.01. Emergency or Disaster. For use in the event of an emergency or disaster, Grantee shall provide the City with procedures to be used for purposes of delivery of emergency information via the CATV System. Grantee shall provide such personnel as may be necessary to operate its equipment and facilities under such circumstances and shall comply will all FCC standards and regulations governing the broadcasting of emergency information.

ARTICLE XIII

EMPLOYMENT REQUIREMENTS

§13.01. Equal Opportunity in Employment. 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.

ARTICLE XIV

OTHER BUSINESS ACTIVITY

§14.01. Limitations and Restrictions. Unless expressly authorized by the City, Grantee shall not engage in the business of selling, repairing, or installing television receivers or radio receivers within the City during the term of this franchise. Grantee shall not suggest, recommend, or single out any television or radio sales or service firm or business establishment to be patronized by Subscribers. Grantee shall exercise all reasonable influence on its officers, agents, employees, contractors, and representatives to insure compliance with this Section. It is provided, however, that this Section does not prohibit Grantee from servicing or repairing converters and other technical equipment which it owns and which are leased or otherwise furnished to Subscribers for use with Grantee's services or from connecting Subscriber-owned equipment, such as VCRs and stereo speakers, for use with the Grantee's services.

§14.02. Other Telecommunications Activities. The scope of this agreement is to set forth the terms and conditions under which Grantee may engage in the business of Operating a CATV System. Subject to applicable state and federal law, Grantee shall not engage in any other service or business within the City which requires City authorization other than as set forth herein without the express consent of City under separate, mutually negotiated terms and conditions.

ARTICLE XV

PAYMENT TO CITY

§15.01. Amount and Time. As compensation for the right, privilege, and franchise herein conferred, Grantee shall pay to City each year during the term of this franchise a sum equal to five (5) percent of the Grantee's Gross Revenues for such year. Such payments shall be made quarterly. Grantee shall file with the City within thirty (30) days after the expiration of each quarter of each calendar year, or

portion thereof, during which this franchise is in effect, a statement of gross revenues prepared according to accepted accounting practice showing in detail the Gross Revenues of Grantee during the preceding quarter of the calendar year. Such statement shall be signed by an officer of Grantee and shall accompany Grantee payment to City of the applicable percent of such Gross Revenues for each such quarter. Attached to such statement shall be the detailed revenue information used to compute the payment to the City.

§15.02. Right of Inspection of Records. City shall have the right to inspect Grantee's records showing the Gross Revenues from which payments to City are computed and to audit and recompute any and all amounts paid under this franchise. No acceptance of payment shall be construed as a release or as an accord and satisfaction of any claim City may have for further or additional sums payable under this franchise or for the performance of any other obligation hereunder.

§15.03. Other Payments to City. The franchise fee payable hereunder shall be exclusive of and in addition to all ad valorem taxes, special assessments for municipal improvements, and other lawful obligations of Grantee to City.

§15.04. Late Payment Penalty. Grantee shall pay a late penalty of twelve percent (12%) per annum, compounded daily, on franchise fee payments, or portions thereof, that are paid subsequent to the payment dates specified in §15.01. In the event City identifies, as a result of an audit, amounts owed by Grantee from prior periods, Grantee shall pay a late penalty of ten percent (10%) per annum on the amount identified.

ARTICLE XVI

RECORDS AND REPORTS

§16.01. Principal Office of Grantee. Grantee shall maintain an office within the City or such other location as may be approved by the City, as long as it continues to operate its CATV System within the City or any portion thereof and hereby designates such office as the place to where all notices, directions, orders, and requests may be mailed, served, or delivered under this franchise. The City Secretary shall be promptly notified in writing of the address of such office and location or any change thereof.

§16.02. Books of Account. Grantee shall keep complete and accurate books of accounts and records of its business and operations under and in connection with the franchise. All such books of accounts and records shall be maintained at Grantee's principal office.

§16.03. Access by City. The City, through its duly designated officers, agents, or representatives, shall have access to all books of accounts and records of Grantee for ascertaining the correctness of any and all reports and may examine its officers and employees under oath with respect thereto. Where necessary to the administration of enforcement of the franchise, access shall be given by Grantee to such officers, agents, or representatives of City at all reasonable times not only to Grantee's records of Gross Revenues, but also to all of Grantee's plans, contracts, engineering, planning, financial, statistical, customer, and Subscriber service records relating to the properties and operation of its CATV System and to all other records and reports required to be kept or which are kept by Grantee in connection with the operation of its CATV System in the City. All confidential information, records, and documents obtained pursuant to this section, and the contents thereof, shall be kept confidential by the City to the extent permitted by law. Exceptions to this policy are programming contracts and other confidential contracts.

§16.04. Annual Report. A report shall be filed by Grantee with the City within ninety (90) days following the end of each calendar year, or portion thereof, during which this franchise is in effect. Such report shall identify the number of Subscribers as of the last day of the preceding calendar year, the Gross Revenue, Additional Subscriber Services revenue, Basic Cable Services revenue, Expanded

Subscriber Service revenue, Pay Television Services revenue and all other revenue for the preceding calendar year. Such report shall be signed by an officer of the Grantee, and the City reserves the right to perform its own audit of the revenue reported.

§16.05. False Entry. Any false entry in the books of accounts and records of Grantee or false statement in the reports to City or its duly designated officers, agents, or representatives as to a material fact knowingly made by Grantee shall constitute a violation of a material provision of this franchise ordinance.

§16.06. FCC Filings. Upon written request of the City, Grantee shall file copies of any and all reports and filings made to the FCC with the City Secretary.

ARTICLE XVII

GRANTEE'S RULES

§17.01. Authority and Obligation. Grantee shall have the authority and obligation to promulgate such rules, regulations, terms, and conditions governing the conduct of its business as shall be reasonably necessary to enable Grantee to exercise its rights and to perform its obligations under this franchise and to assure an uninterrupted service to all Subscribers; provided, however, such rules, regulations, terms, and conditions shall not be in conflict with any of the provisions of this franchise or any ordinance of City, the laws of the State of Texas and the United States of America, and the rules and regulations of the FCC and any other agency having jurisdiction. A copy of Grantee's rules, regulations, terms, and conditions shall be filed with the City Secretary and shall thereafter be maintained current by Grantee.

ARTICLE XVIII

REGULATION OF RATES

§18.01. City Regulation of Grantee's Rates. The City Council shall be empowered to fix, alter, and regulate the rates for any and all of those services, installations, and equipment, of Grantee subject to regulation by City, consistent with FCC rules governing rate regulation. In such event the City Council shall first prescribe the procedure and standards to be followed and the extent and scope of such rate regulations, all of which matters shall be consistent with due process and shall conform to any and all of those federal and state laws, rules, and regulations then applicable.

§18.02. Posting and Filing of Rates. Grantee shall publish schedules of its then current rates and charges for any and all of its cable television services in the City, shall post the same in its main office, and shall file five (5) copies thereof with the City Secretary of the City, in compliance with any timing requirements prescribed in FCC regulations. In addition, Grantee shall provide new rate schedules to the City Secretary and to each Subscriber at least thirty (30) days prior to any changes in any rate, term or condition of any service offered on the system.

ARTICLE XIX

DISCONTINUANCE OF SERVICE

§19.01. Failure to Pay Bill. Grantee may disconnect installations and discontinue service to a Subscriber upon the Subscriber's failure to pay his bill within twenty (20) days of its rendition.

ARTICLE XX

FREE DROPS AND SERVICE

§20.01. Drops. Upon written request from the City, Grantee shall provide one (1) free drop to each of the facilities identified and to any and all future public buildings or facilities located in the City and designated by such written request or requests; provided all such facilities are within three hundred feet (300') for underground installation or three hundred feet (300') for aerial installation of Grantee's existing system. Any costs associated with providing the free drop in excess of the aforesaid distances shall not be the responsibility of Grantee.

§20.02. Internal Wiring. Grantee shall provide the internal wiring of the buildings or facilities specified in the foregoing Section and the Subscriber shall reimburse the Grantee for its actual cost of time and materials in providing such internal wiring; or, at the City's election, the Subscriber may provide such access or the interconnect cable (internal wiring), provided it complies with FCC specifications and regulation and Grantee specifications which shall be available upon request.

§20.03. Basic Cable Service. Grantee shall provide free Basic Cable Service and, if needed, one (1) free converter to the principal facility of any and all present or future public and private non-profit schools and to any and all present or future governmental buildings or facilities which are connected to Grantee's CATV System.

ARTICLE XXI

PROHIBITION OF DISCRIMINATORY OR PREFERENTIAL PRACTICES

§21.01. Rates, Charges, and Services. In its rates or charges, or in making available the services or facilities of the CATV System or in its rules or regulations, or in any other respect, Grantee shall not make or grant preference or advantage to any Subscriber or potential Subscriber or to the User of the CATV System or potential User of the CATV System and shall not subject any such person to any prejudice or disadvantage. This provision shall not be deemed to prohibit promotional campaigns to stimulate subscriptions to the CATV System or other legitimate uses thereof.

§21.02. Senior Citizen Promotion Program. Notwithstanding the foregoing §21.01, in order to facilitate availability of the System to senior citizens, Grantee may, for promotional purposes, reduce regular installation charges and basic Converter deposit amounts to give senior citizens savings opportunities. Such special offers may apply only to Basic Cable Service and to Subscribers who meet Grantee's credit requirements. For purposes of this Section, senior citizens shall include heads of households at least 62 years of age.

ARTICLE XXII

NON-EXCLUSIVE FRANCHISE

§22.01. Franchise Non-Exclusive. The right, privilege, and franchise granted hereby is not exclusive and nothing herein contained shall be construed to prevent City from granting any like or similar right, privilege, and franchise to any other person within all or any portion of City. However, no franchise will be granted on terms which are more favorable than those contained in this document.

ARTICLE XXIII

MATERIAL BREACH OF FRANCHISE, NOTICE AND LIQUIDATED DAMAGES

§23.01. Material Breach of Franchise. In addition to all rights and powers of the City by virtue of this franchise or otherwise, City reserves as an additional and as a separate and distinct power the right to take any of the actions described in §23.02 in accordance with the procedures specified therein if any of the following events occur or for any of the following reasons:

1. Grantee, by act or omission, violates any material term, condition, or provision of this franchise;
2. Grantee knowingly or willingly attempts to evade any material provision of this Ordinance;
3. The occurrence of any event which may reasonably lead to the foreclosure or other similar judicial sale of all or any material part of the System.
4. Grantee suspends or discontinues its business, makes an assignment for the benefit of creditors, fails to pay its debts generally as they become due, becomes insolvent (howsoever such insolvency may be evidenced), is adjudicated insolvent, petitions, or applies to any tribunal for, or consents to, the appointment of, or taking possession by, a receiver, custodian, liquidator or trustee or similar official or a similar process is undertaken by any tribunal against all or a material part of the System; or
5. Grantee attempts to or does practice any material fraud or deceit in its conduct or relations under this franchise with the City, Subscribers or potential Subscribers.

§23.02. Notice of Default: Opportunity to Cure.

- A. Notice of Default. The City Council shall exercise the rights provided in §23.02(B) hereof in accordance with the procedures set forth below:
 1. City shall notify Grantee, in writing, of an alleged failure to comply with a material provision of this Ordinance, which notice shall specify the alleged failure with reasonable particularity. Grantee shall, within thirty (30) days after receipt of such notice or such longer period of time as the City may specify in such notice, either cure such alleged failure or, in a written response to the City, either present facts and arguments in refutation or excuse of such alleged failure or state that such alleged failure will be cured and set forth the method and time schedule for accomplishing such cure.
 2. The City shall determine (i) whether a failure to comply with a material provision has occurred; (ii) whether such failure is excusable; and (iii) whether such failure has been cured or will be cured by the Grantee. The Grantee shall make available to the City, if requested, any records, documents or other information necessary to make the determination.
 3. If the City determines that a failure to comply with a material provision has occurred and that such failure is not excusable and has not been or will not be cured by the Grantee in a manner and in accordance with a schedule reasonably satisfactory to the City, then the City may take any actions provided in §23.02

(B) hereof, provided that if the City Council acts on its own motion it shall follow the procedural steps set forth in §23.02 (A. 1-3) hereof.

B. City Council Action in Event of Breach. In the event that grounds exist which give the City reason to believe that the Grantee failed to comply with a material provision of this Ordinance, as provided in §23.01 hereof, then, in accordance with the procedures provided in §23.02 (A) hereof, the City Council may, at any time during the term of this Ordinance, to the extent lawful: (i) Seek monetary damages from the Grantee as compensation for such material breach; and/or (ii) In the event that Grantee does not cure the breach of the franchise agreement, or the City Council does not elect to seek monetary damages from Grantee or Grantee does not agree to pay such damages, then, as an alternative to taking the action referred to above, the City Council may revoke the franchise granted pursuant to this Ordinance by termination of this Ordinance.

§23.03. Liquidated Damages. In addition to any other remedies provided herein, liquidated damages for violations of this franchise are set forth below. Such sums of money shall be considered and treated not as a penalty, but as liquidated damages due the City by Grantee by reason of inconvenience to the public and because of public works supervision and maintenance and other City administrative time and involvement which resulted in the expenditure of public funds due to Grantee's failure to comply with certain provisions in this franchise. As a result of any material acts or omissions by the Grantee pursuant to the franchise, the City may charge to and collect from the Grantee the following liquidated damages:

A. For failure to provide data, documents, reports or information or to participate with the City during a System review and evaluation, the damage shall be Thirty Five Dollars (\$35.00) per day.

B. For failure to comply with all conditions of City permits to disturb streets, fix streets, or other terms or conditions of the City, the damage shall be Thirty Five Dollars (\$35.00) per day.

C. For failure to comply with any of the provisions of this franchise for which a penalty is not otherwise specifically provided, the damage shall be Thirty Five Dollars (\$35.00) per day.

§23.04. Procedure for Imposing Liquidated Damages.

A. Notice. Whenever the City believes that the Grantee has violated one (1) or more terms, conditions or provisions of this franchise, and liquidated damages will be sought, a written notice shall be given to the Grantee informing it of such alleged violation or liability. The written notice shall describe in reasonable detail the specific violation so as to afford the Grantee an opportunity to remedy the violation. The Grantee shall have thirty (30) days subsequent to receipt of the notice in which to correct the violation before the City may impose liquidated damages unless the violation is of such a nature so as to require more than thirty (30) days and the Grantee proceeds diligently within the thirty (30) days to correct the violation and maintains its diligence until the violation is remedied.

B. Dispute of Violation. The Grantee may, within ten (10) days of receipt of notice, notify the City that there is a dispute as to whether a violation or failure has, in fact, occurred. Such notice by the Grantee to the City shall specify with particularity the matters disputed by the Grantee.

The City Council shall hear the Grantee's dispute. Grantee must be given at least ten (10) days notice of the hearing. At the hearing, the Grantee shall be entitled to all the rights of due process consistent with the City procedures, including but not limited to, the right to present evidence and the right to be represented by counsel. After the hearing, Grantee will be provided with a copy of the City Council's action, along with supporting documents.

If after hearing the dispute the claim is upheld by the City Council, the City may impose damages against the Grantee after the Grantee has had a reasonable period of time, not less than (30) days, to cure the alleged violation.

C. Reservation of Rights. The rights reserved to the City under this section are in addition to all other rights of the City whether reserved by this franchise or authorized by law, and no action, proceeding or exercise of a right with respect to liquidated damages shall affect any other right the City may have.

ARTICLE XXIV

REVOCATION OF FRANCHISE

§24.01. General. In addition to all other rights and powers of City by virtue of this franchise or otherwise, City reserves as an additional and as a separate and distinct power the right to terminate and cancel this franchise and all rights and privileges of Grantee hereunder in any of the following events or for any of the following reasons:

A. Violation of Provisions. Grantee shall by act or omission violate any term, condition, or provision of this franchise and shall fail or refuse to effect compliance within thirty (30) days following written demand by City to do so.

B. Insolvent or Bankrupt. Grantee becomes insolvent or is adjudged bankrupt or all or any part of Grantee's facilities are sold under an instrument to secure a debt and are not redeemed by Grantee within thirty (30) days from the date of such sale; provided, however, this shall not be an event of termination or cancellation in the event of bankruptcy proceeding and the trustee, receiver, or debtor in possession agrees in writing to be bound by the terms of this franchise.

C. Fraud or Deceit. Grantee attempts to or does practice any material fraud or deceit in its conduct or relations under this franchise with the City, Subscribers, or potential Subscribers.

D. Method of Termination and Cancellation. Any such termination and cancellation of this franchise shall be by ordinance adopted by City Council; provided, however, before any such ordinance is adopted, Grantee must be given at least sixty (60) days advance written notice, which notice shall set forth the causes and reasons for the proposed termination and cancellation, shall advise Grantee that it will be provided an opportunity to be heard by City Council regarding such proposed action before any such action is taken, and shall set forth the time, date, and place of the hearing. In no event shall such hearing be held less than thirty (30) days following delivery of such notice to Grantee. At the hearing, the Grantee shall be entitled to all rights of due process consistent with the City procedures, including but not limited to the right to present evidence and the right to be represented by counsel.

E. Force Majeure. Other than its failure, refusal, or inability to pay its debts and obligations, including, specifically, the payments to City required by this franchise, Grantee shall not be declared in default or be subject to any sanction under any provision of this franchise in those cases in which performance of such provision is prevented by reasons beyond its control.

ARTICLE XXV

ASSIGNMENT OF FRANCHISE

§25.01. City Approval of Assignment Required. This franchise shall be a privilege personal to the Grantee and shall not be assigned or transferred, in whole or in part, or leased, sublet, or mortgaged in any manner or shall title thereto, legal or equitable, or any right, interest, or property therein pass to or vest in any person without the prior consent of the City Council expressed by resolution or ordinance, and then only under such conditions as may be prescribed therein. No assignment to any person shall be effective until the assignee has filed with the City Secretary an instrument in writing, duly executed, reciting the fact of such assignment, accepting the terms of this franchise, and agreeing to comply with all of the provisions hereof.

§25.02. City Approval of Transfer of Control Required. The Grantee shall promptly notify the City of any actual or proposed change in, or transfer of, or disposition or acquisition by any other person of control in the Grantee. As used herein, the word "control" is used to denote more than a fifty percent (50%) change in ownership and/or actual working control in whatever manner exercised. Every change, transfer, or acquisition of control of the Grantee shall make the franchise subject to cancellation unless and until the City Council shall have consented thereto by resolution or ordinance. Such consent shall not be unreasonably withheld. For the purpose of determining whether it shall consent to such change, transfer, disposition, or acquisition of control, the City may inquire into the qualifications of the prospective controlling party; the Grantee shall assist the City in such inquiry.

ARTICLE XXVI

FAILURE OF CITY TO ENFORCE FRANCHISE

§26.01. No Waiver of Terms. The Grantee shall not be excused from complying with each and all of the terms, conditions, and provisions of this franchise Ordinance even though the City should upon one or more occasions fail to insist upon, to require, or to seek compliance with any such term, condition, or provision.

ARTICLE XXVII

SERVICE AVAILABILITY

§27.01. Service Availability. The Grantee shall provide cable television service throughout the entire franchise area pursuant to the provisions of this franchise and shall provide upon request the City with reports pertaining to the expansion of services to subscribers requesting same. These reports shall be provided during the entire life of the franchise and be available for public inspection at the local office of the Grantee during regular office hours.

§27.02. Annexations. In the event of future annexations by the City, Grantee agrees that it will extend its service facilities into the newly annexed territory and, within six (6) months from the date of final passage of any such annexation ordinance, have its CATV System available to all persons therein desiring to subscribe to such services, assuming such action is economically feasible to the Grantee.

§27.03. Extension Policy. Grantee shall extend its CATV System upon request to any contiguous area where service is not provided at the time of the request when potential Subscribers can be serviced by extension of the CATV System past occupied dwelling units equivalent to a density of thirty-five (35) homes per mile of street. Extension shall be at Grantee's cost. Extensions made to a developing subdivision shall be complete to all requesting CATV service within twelve (12) months from the time construction begins within the subdivision boundaries. Notwithstanding the foregoing provisions within this Section, Grantee shall provide service upon request to potential subscribers in subdivisions that do not meet

the foregoing provisions where the subscriber is willing to contribute to the costs of the system extension. In such cases the Grantee shall incur at least the cost of providing the service as if the 35 homes per mile density was met.

.ARTICLE XXVIII

VALUATION

§28.01. City's Right to Purchase CATV System. In the event the Grantee forfeits or City terminates this franchise pursuant to the provision of this Ordinance, or at the normal expiration of the franchise term and following a determination that the franchise will not be renewed, the City shall have the right to purchase the CATV System. If City should elect to exercise its right to purchase such System, payment of a fair valuation, which shall be the then current fair market value, shall be required. Should the parties fail to agree upon the then current fair market value, the same shall be determined in an appropriate proceeding filed in any court having jurisdiction.

ARTICLE XXIX

RECOURSE, UNDERSTANDING, AND CONSTRUCTION

§29.01. Requirements and Enforcement. Except as expressly provided herein, Grantee shall have no recourse whatsoever against City of any loss, cost, expense, or damage arising out of the provisions or requirements of this franchise or because of the enforcement thereof by City or because of the lack of City's authority to grant all or any part of this franchise.

§29.02. Grantee's Understanding. Grantee expressly acknowledges that in accepting this franchise, it relied solely upon its own investigation and understanding of the power and authority of City to grant this franchise and that Grantee was not induced to accept this franchise by any understanding, promise, or other statement, verbal or written, by or on behalf of City or by any third person concerning any term or condition not expressed herein.

§29.03. Construction Franchise. By acceptance of this franchise, Grantee acknowledges that it has carefully read the provisions hereof and is willing to and does accept all of the risks of the meanings of such provisions and agrees that in the event of any ambiguity herein or in the event of any other dispute over the meaning thereof, the same shall be construed without bias to either party.

ARTICLE XXX

ACCEPTANCE OF FRANCHISE

§30.01. Method of Acceptance. Within thirty (30) days from the effective date of this Ordinance, Grantee shall file with the City Secretary a written statement in the following form signed in its name and behalf:

"To the Honorable Mayor and City Council of the City of Wallis, Texas: For itself, its successors, and assigns, Star Cable Associates, a partnership duly authorized to do business in the State of Texas, hereby accepts the attached ordinance and agrees to be bound by all of its terms, conditions, and provisions.

By: Michael R. Yarbip

Its:

"Dated this the 18 day of August, 1998."

§30.02. Acceptance of Franchise Not a Waiver. Acceptance of this franchise by Grantee shall not constitute a waiver by it of any of its constitutional rights.

ARTICLE XXXI

SEVERABILITY

§31.01. Provisions Severable. If any provision, section, subsection, sentence, clause, or phrase of this franchise Ordinance is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity of the remaining portions of this franchise Ordinance. It is the intent of City in adopting this franchise Ordinance that no portion or provision thereof shall become inoperative or fail by reason of any invalidity or unconstitutionality of any other portion or provision, and to this end all provisions of this franchise Ordinance are declared to be severable.

PASSED, APPROVED, AND ADOPTED this 19th day of May, 1998.

Tony I. Salazar, Jr.
Tony I. Salazar, Jr., Mayor

ATTEST:

Barbara Grigar
Barbara Grigar, City Secretary