

Ordinance No. 2001.06
Village of Salado
County of Bell
State of Texas
April 5, 2001

AN ORDINANCE GRANTING A FRANCHISE TO CENTROVISION, INC., ITS SUCCESSORS, HEIRS, OR ASSIGNS, TO CONSTRUCT, OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM IN THE VILLAGE OF SALADO, TEXAS, SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OR FRANCHISE PROVIDING FOR VILLAGE REGULATION AND USE OF THE CABLE TELEVISION SYSTEM.

Now, therefore, be it ordained by the Board of Aldermen of the Village of Salado, Texas, that:

Section 1. DEFINITIONS

For the purpose of this ordinance the following terms, phrases, words, abbreviations, and their derivations shall have the meaning herein given. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

- (a) "Village shall mean the Village of Salado, Texas"
- (b) "Board" shall mean the governing body of the Village.
- (c) "Company" shall mean the grantee of rights under this ordinance.
- (d) "Person" shall mean any person, firm, partnership, association, corporation, company or organization of any kind.
- (e) "Franchise area" shall mean that area within the corporate limits of the Village, or under the jurisdiction of the Village.
- (f) "Street" shall mean the surface of the space above and below any public street, right of way, road, highway, freeway, bridge, lane, path, alley, court, side-walk, pathway, drive, communications or utility easement, now or hereafter existing as such within the franchise area.
- (g) "Property of grantee" shall mean all property owned, installed or used by the grantee in the conduct of a CATV business in the Village.
- (h) "CATV" shall mean a cable television system as hereinafter defined.

- (i) "Cable Television System" shall mean a system composed of, without limitation, antenna, cables, wires, lines, towers, amplifiers, wave guides, or any other conductors, converters, equipment or facilities, designed, constructed or wired for the purpose of producing, receiving, amplifying and distributing by coaxial cable, fiber optics, microwave or other means, audio and/or visual radio, television, electronic or electrical signals to and from persons, subscribers and locations in the franchise area.
- (j) "Basic CATV Service" shall mean the distribution of broadcast television and radio signals, by the grantee; but shall not include "expanded" or "auxiliary" services, which include, but are not limited to, advertising, leased channels, and programming supplied on a per program or per channel charge basis, if any.
- (k) "Expanded CATV Service" shall mean any communications service in addition to Basic CATV Service provided by the grantee either directly or as a carrier for their subsidiaries, affiliates, or any other person engaged in communications service, including but not by way of limitation, programming supplied on a per channel or per program charge, burglar alarm service, data or other electronic transmission services, meter reading services, and home shopping services.
- 1) "Subscriber" shall mean any person or entity receiving Basic CATV Service.
 - 2) "Gross Annual Basic Subscriber Revenues" shall mean all compensation and other consideration derived directly by the grantee from subscribers for monthly service furnished Basic CATV Service. Gross annual basic subscriber revenue shall not include revenues derived from Expanded CATV Service, advertising revenues, installation charges, or any taxes on services furnished by the grantee imposed directly on any subscriber or user by any City, State or other governmental

unit and collected by the Grantee for such governmental unit.

Section 2. GRANT OF AUTHORITY

Whereas the City has approved the legal, character, financial, technical and other qualifications of the grantee and the adequacy and feasibility of the Company's construction arrangements as a part of a full public proceeding affording due process, including specific notice to members of the public there is hereby granted by the City of the grantee the right and privilege to engage in the business of operating and providing a CATV System in the City, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain and retain in, on, over, upon, across and along any public street, public way and public place, now laid out or dedicated and all extensions thereof and additions thereto in the franchise area such poles, wires, cables, conductors, ducts, conduit vaults, manholes, amplifiers, appliances, or attachments, and other property as may be necessary and appurtenant to the CATV System; and in addition, so to use, operate, and provide similar facilities or properties rented or leased from other persons, firms or corporations including but not limited to any public utility or other grantee franchised or permitted to do business in the City.

Section 3. NON-EXCLUSIVE GRANT

The right to use and occupy said street, and other public ways for the purpose herein set forth, shall not be exclusive and the City reserves the right to grant a similar use in said streets to any other person; provided that nothing contained herein shall be deemed to require the granting of additional CATV franchises if, in the opinion of the City Council, it is in the public interest to restrict such franchise to one or more.

Section 4. POLICE POWER

Grantee shall at all times during the term of this franchise be subject to all lawful exercise of the police power of the City. The right is hereby reserved to the City to

adopt, in addition to the provisions herein contained and any other existing applicable ordinance, such additional applicable ordinances as it shall find necessary in the exercise of its police power; provided that such additional ordinances shall be reasonable, shall not conflict with or alter in any manner the rights granted herein, and shall not conflict with the laws of the State of Texas, the laws of the United States of America, or the rules, regulations and policies of the FCC.

Section 5. INDEMNIFICATION

The grantee shall indemnify and hold the Village harmless at all times during the terms of this grant from and against all claims for injury or damages to persons or property both real and personal caused by the construction, erection, operation or maintenance or any structures, equipment, appliances, or products authorized or used pursuant to authority of this ordinance.

The grantee shall, at all times during the existence of this permit or franchise, carry and require their contractors to carry,

- (a) Insurance in such form and in such companies as shall be approved by the Village of Salado, to protect the Village and themselves from and against any and all claims or injury or damages to persons or property, both real and personal, caused by the construction, erection, operation or maintenance of any structure, equipment, appliances and the amount of such insurance against liability due to damage to property shall not be less than one hundred thousand (\$100,000) dollars as to any one person, and two hundred fifty thousand (\$250,000) dollars, as to any one accident against liability due to injury of death of persons two hundred fifty thousand (\$250,000) dollars, as to any one person and five hundred thousand (\$500,000) dollars, as to any one accident.
- (b) Workmen's compensation insurance in compliance with the laws of the State of Texas.

- (c) Automobile insurance with limits of not less than two hundred fifty thousand (\$250,000) dollars/five hundred thousand (\$500,000) dollars and automobile property damage insurance with a limit of not less than one hundred thousand (\$100,000) dollars to cover all automotive equipment.

The grantee, upon receipt of due notice in writing from the Village, shall defend at their own expense any action or proceedings against the Village of Salado, in which it is claimed that the injury or damage arose from the grantee's activities in the construction or operation of their television system; and in the event of a determination of liability, shall indemnify the Village. More particularly, the grantee, their successors and assigns, do hereby agree to indemnify and hold harmless the Village of Salado from all liability, claim, demand or judgment growing out of any injury to any person or property as a result of the violation or failure on the part of the grantee, their successors and assigns, to observe their property duty or because of negligence in whole or in part arising out of the construction, repair, extension, maintenance or operation of their distribution, line amplifiers or equipment of any kind or character used in connection with this permit or franchise. The Village Board of Salado, Texas shall have the power to raise or lower the required insurance limits in response to changing circumstances and conditions upon 120 days' notice to Grantee.

Section 6. CONSTRUCTION AND MAINTENANCE

(a) All structures, lines and equipment erected by grantee within the Village shall be so located as to cause minimum interference with the proper use of streets, alleys, easements and other public ways and places and to cause minimum interference with the rights or reasonable convenience of property owners, and grantee shall comply with all reasonable, proper and lawful ordinances of the Village now or hereafter in force. Existing poles, posts, conduits, and other such structures of any electric power system, telephone company, or

other public utility located in the City shall be made available to grantee for leasing or licensing upon reasonable order to minimize interference with travel and avoid unnecessary duplication of facilities. The City shall actively assist grantee to the fullest extent necessary in obtaining reasonable joint pole or conduit use agreements from the owners of existing poles or conduits. To the extent that existing poles, posts, conduits, and other such structures are not available, or are not available under reasonable terms and conditions, grantee shall have the right to use the City owned right of way and shall be allowed to put cables or other such equipment at least a minimum of twelve (12) inches underground or place additional poles.

(b) In case of any disturbances by grantee of pavement, sidewalk, driveway or other surfacing, grantee shall, at its own costs and expense and in a manner approved by the City, replace and restore all paving, sidewalk, driveway or surface so disturbed in as good condition as before said work was commenced. That restoration shall be completed as soon as practicable taking into consideration weather and other unavoidable events.

(c) In the event that at any times during the period of this franchise the City shall lawfully elect to alter or change any street, alley, easement, or other public way requiring the relocation of grantee's facilities, then in such event, grantee, upon reasonable notice by the City, shall remove, relay and relocate the same at its own expense; provided, however, that where public funds are available for such relocation pursuant to law, grantee shall not be required to pay the cost.

(d) Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise of lower its lines to permit the moving of the building. The expense of such temporary removal shall be paid by the person requesting the same, and grantee shall have the authority to require such payment in advance. Written notice of request should be made forty-eight (48) hours prior to move.

(e) Grantee shall have the authority to trim trees upon and overhanging all streets, alleys, easements, sidewalks, and public places to the City so as to prevent the branches of such trees from coming into contact with grantee's facilities.

(f) All poles, lines, structures and other facilities of grantee in, on, over and under the streets, sidewalks, alleys, easements and public grounds or places of the City shall be kept by grantee at all times in a safe and substantial condition.

Section 7. SAFETY REQUIREMENTS

(a) The grantee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

(b) All structures and all lines, equipment and connection in, over, under, and upon the streets, sidewalks, alleys, and public ways or places of the franchise area, wherever situated or located, shall at all times be kept and maintained in a safe, suitable condition, and in good order and repair.

Section 8. OFFICE, COMPLAINTS

The grantee shall maintain a business office or agent, which subscribers may telephone or contact during regular business hours without incurring added message or toll charges, to that CATV maintenance shall be promptly available.

Section 9. FCC RULES APPLICABLE

This franchise is governed by and subject to all applicable rules, regulations and policies of the Federal Communications Commission, specifically including Part 76, and by the laws of the State of Texas. Should there be any modifications of the provisions of Section 76.31 of the Rules and Regulations of the Federal Communications Commission which must be incorporated into this franchise, the City and grantee that such incorporation shall be accomplished within one (1) year after the effective date of the FCC's adoption of the modification or upon renewal of this franchise, whichever

occurs first.

Section 10. FRANCHISE TERM

This franchise shall take effect and be in full force from and after acceptance by grantee as provided in Section 21, and the same shall continue in full force and effect for a term of fifteen (15) years.

Section 11. RENEWAL PROCEDURE

Grantee shall have the option to request renewal of this franchise for an additional period not to exceed fifteen (15) years. Should grantee desire to exercise this option, it shall notify the City, in writing, not less than three (3) months prior to expiration of this franchise. Upon exercise of this option by grantee, the City shall conduct a full, open and public renewal proceeding upon prior notice and opportunity of all interested parties to be heard. The renewal proceeding shall be held for the purpose of considering grantee's performance under this franchise in order to determine whether to renew this franchise. Renewal shall not be unreasonably denied and shall be granted unless grantee is found to be unqualified to continue operation of this cable television system. If this franchise is renewed by the City, all of the terms and provisions contained herein shall be controlling during the renewal period, except to the extent that said terms and provisions are modified by the City, or unless the franchise is superseded by a new franchise. Should the City, for any reason, be unable to complete the renewal proceeding prior to expiration of this franchise, grantee shall have the right to continue operation of this cable television system pursuant to the terms of this franchise until such time as the renewal proceeding is concluded. Should the City deny renewal of this franchise, such denial shall be accompanied by a written statement setting forth the reasons for the denial. Grantee shall have the right to request review of any such denial by any court of competent jurisdiction. Furthermore, in the event that the City denies renewal, grantee shall be afforded a period of six (6) months following denial within

which to sell, transfer, or convey this cable television system to a qualified purchaser at fair market value. During this six month period, which shall run from the effective date of the final order or decision denying renewal, including any appeal, grantee shall have the right to operate this cable television system pursuant to the terms of this franchise.

Section 12. FORFEITURE

If grantee should violate any of the terms, conditions or provisions of this franchise or if grantee should fail to comply with any reasonable provisions of any ordinance of the City regulating the use by grantee of the streets, alleys, easements or public ways of the City, and should grantee further continue to violate or fail to comply with the same for a period of thirty (30) days after grantee shall have been notified in writing by the City to cease and desist from any such violation or failure to comply so specified, then grantee may be deemed to have forfeited an annulled and shall thereby forfeit and annul all the rights and privileges granted by this franchise; provided that such forfeiture shall be declared only by written decision of the City Council after an appropriate public proceeding before the City Council affording grantee due process and full opportunity to be heard and to respond to any such notice of violation or failure to comply; and provided further that the City Council may, in its discretion and upon a finding if violation of failure to comply, impose a lesser penalty than forfeiture of this franchise or excuse the violation or failure to comply upon a showing by grantee of mitigating circumstances. Grantee shall have the right to appeal any finding of violation or failure to comply and any resultant penalty to any court of competent jurisdiction. In the event that forfeiture is imposed upon grantee, it shall be afforded a period of six (6) months within which to sell, transfer, or convey this cable television system to a qualified purchaser at fair market value. During this six month period, which shall run from the effective date of the final order or decision imposing forfeiture, including appeal, grantee shall have the right to operate this cable television system pursuant

to the provisions of this franchise.

Section 13. SURRENDER RIGHT

Grantee may surrender this franchise at any time upon filing with the City Clerk of the City a written notice of its intention to do so at least three (3) months before the surrender date. On the surrender date specified in the notice, all of the rights and privileges and all of the obligations, duties and liabilities of grantee in connection with this franchise shall terminate.

Section 14. TRANSFERS

All of the rights and privileges and all of the obligations, duties and liabilities created by this franchise shall pass to and be binding upon the successors of the City and the successors and assigns of grantee; and the same shall not be assigned or transferred without the written approval of the City Council, which approval shall not be unreasonably withheld; provided, however, that this Section shall not prevent the assignment of the franchise by grantee as security for debt without such approval; and provided further that transfers or assignments of this franchise between any parents and subsidiary corporation or between entities of which at least fifty percent (50%) of the beneficial ownership is held by the same person, persons or entities shall be permitted without prior approval of the City Council.

Section 15. FRANCHISE FEE

In consideration of the terms of this franchise, grantee agrees to pay the City a sum of money equal to three percent (3%) of grantee's gross subscriber revenues per year derived from basic subscriber services in the City during the total fifteen (15) years. Such annual sum shall be payable one-half (1/2) thereof at the end of each semi-annual period. The semi-annual anniversary shall be the last day of June and the last day of December of each year. and each semi-annual payment shall be paid within sixty (60) days thereafter.

Section 16. VIOLATIONS

(a) From and after the effective date of this ordinance it shall be unlawful for any person to construct, install, or maintain within any public street in the City, or within any other public property of the City, or within any privately owned area within the City which has not yet become a public street but is designated or delineated as a proposed public street or any tentative subdivision map approved by the City, any equipment or facilities for disturbing any television signals or radio signals through a CATV system, unless a franchise authorizing such use of such street or property or area has first been obtained, and unless such franchise is in full force and effect.

(b) It shall be unlawful for any person, firm or corporation to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of the franchised CATV system within this City for the purpose of enabling himself or others to receive any television signal, radio signal, picture, program or sound, without payment to the operator of said system.

(c) It shall be unlawful for any person, without the consent of the owner, to willfully tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, radio signals, pictures, programs or sound.

Section 17. PENALTIES

Any person violating or failing to comply with any of the provisions of Section 16 of this ordinance shall be guilty of a misdemeanor and for each day of violation or failure to comply may be punished by a fine not to exceed two hundred (\$200.00) dollars and each day shall constitute an additional offense.

Section 18. NEW DEVELOPMENTS

It shall be the policy of the City to amend this franchise upon application of the grantee, when necessary to enable the grantee to take advantage of any developments in the field of transmission of television and radio signals which will afford it an opportunity more effectively, efficiently or economically

to serve its customers.

Section 19. MISCELLANEOUS PROVISIONS

(a) When not otherwise prescribed herein, all matters herein required to be filed with the City shall be filed with the City Clerk.

(b) The grantee shall assume the cost of publication of this franchise as such publication is required by law. A bill for publication costs shall be presented to the grantee by the City Clerk upon the grantee's filing of acceptance and shall be paid at that time.

(c) The grantee shall provide without charge one outlet to the City Hall and each fire station, police station, and public and non-profit private school building that passed by its cable. The distribution of the cable facility inside such buildings and the extent thereof shall be the option, duty and expense of the building owner.

(d) In the case of an emergency or disaster, the grantee shall, upon request of the City make available its facilities to the City for emergency use during the emergency or disaster period.

Section 20. SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any Federal or State Court or administrative or governmental agency of competent jurisdiction, specifically including the Federal Communications Commission, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

Section 21. ACCEPTANCE

This Ordinance shall become effective when accepted by grantee and shall then be and become a valid and binding contract between the City and grantee; provided that this Ordinance shall be void unless grantee shall, within six (6) months after the final passage of this Ordinance, file with the

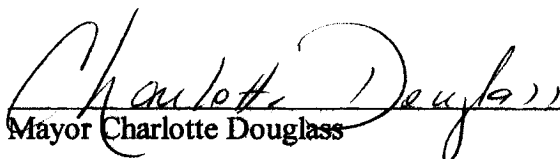
Village Secretary of the Village a written acceptance of this Ordinance and the franchise herein granted, agreeing that it will comply with all of the provisions and conditions hereof and that it will refrain from doing all of the things prohibited by this Ordinance.

Section 22. EFFECTIVE DATE

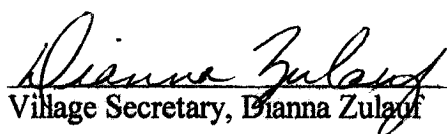
This Ordinance shall become effective upon acceptance by grantee as provided in Section 21. The effective date shall be the date upon which the written acceptance provided for in Section 21 is received by the Village Secretary.

ADOPTED this the 5th day of April, 2001

APPROVED this the 5th day of April, 2001



Mayor Charlotte Douglass



Village Secretary, Bianna Zulaw




Mayor Charlotte Douglas
Village of Salado
Post Office Box 219
Salado, Texas 76571

Ref: Ordinance No. 2001.06

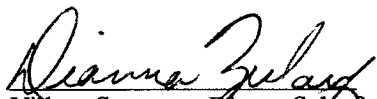
The Board for the Village of Salado approved and accepted an Ordinance granting Centrovision a Franchise on April 5, 2001.

Centrovision does hereby accept Ordinance No. 2001.06. In accordance and compliance with Section 21, this Ordinance will become effective on July 1, 2001.

Centrovision, Inc.


President, Alton L. Sheppard

Village of Salado


Village Secretary, Bianna Sulant