

ORDINANCE NO. _____

AN ORDINANCE RENEWING FOR THE BENEFIT OF CHRISTIAN ENTERPRISES, INC., D/B/A RAINBOW CABLE, A NEVADA CORPORATION, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE FOR THE RIGHT AND PRIVILEGE TO CONSTRUCT, MAINTAIN, AND OPERATE A CABLE COMMUNICATIONS SYSTEM WITHIN THE COUNTY OF LINCOLN, STATE OF NEVADA, AND TO USE PROPERTY OF THE COUNTY OF LINCOLN OR THAT PORTION OF THE COUNTY'S PROPERTY DEDICATED TO PUBLIC USE FOR THE MAINTENANCE OF CABLES OR WIRES UNDERGROUND, ON THE SURFACE, OR ON POLES FOR THE PROVISION OF CABLE COMMUNICATIONS SERVICE.

WHEREAS, the COUNTY has granted a cable communications franchise to Christian Enterprises, Inc. d/b/a Rainbow Cable by Ordinance adopted by the COUNTY (the "franchise");

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF LINCOLN COUNTY, NEVADA, DOES HEREBY ORDAIN:

Section 1. Definitions. For purposes of this ordinance:

- (a) the term "cable system" means a facility consisting of a set of closed transition paths and associated signal generation, reception and control equipment that is designed to provide cable service that includes video programming for subscribers and which may provide other services to subscribers;
- (b) the term "cable service" means
 - (1) the one-way transmission to subscribers of any video programming or other programming service, and
 - (2) subscriber interaction, if any, which is required for the selection or use of such video programming or any other programming service;
- (c) the term "COUNTY" means Lincoln County, Nevada, a subdivision of the State of Nevada;
- (d) the term "company" means Christian Enterprises, Inc. d/b/a Rainbow Cable, a Nevada corporation, and its successors and assigns;
- (e) the term "board" means the current governing body of the COUNTY and any future board constituting the legislative body of the COUNTY;
- (f) the term "district" means the Lincoln County Television District.
- (g) the term "other services" means services other than cable services provided by the company to subscribers through, or in connection with the company's operation of, the cable system, but "other services" does not include any service offered in the COUNTY by a telephone company pursuant to rates or regulations of the Public Utilities Commission of Nevada.
- (h) the term "subscriber" means a household or business or public establishment within the COUNTY which subscribes to one or more cable services offered by the company;
- (i) the term "video programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station; and

- (j) the term "1984 Act" means the Cable Communications Policy Act of 1984, as amended or superseded, and all regulations promulgated thereunder by the Federal Communications Commission.

Section 2. Findings. The board specifically finds that:

- (a) The company is a suitable entity to operate a cable system for the residents of the COUNTY and businesses and public establishments within the COUNTY.
- (b) The company is financially responsible.
- (c) The company has the ability to perform efficiently in constructing, maintaining, and operating a cable system.
- (d) The company's past performance and service under the franchise has substantially complied with its terms and applicable law, and has been reasonable in light of community needs, and the company's abilities and proposed services are reasonable to meet community needs and interests;

Section 3. Franchise Extension.

The franchise is hereby extended without interruption from the end of its original term, to continue in effect until December 31, 2029, or until otherwise terminated in accordance with the franchise terms as set forth in this ordinance or applicable law. The franchise conveys to the company the authority to construct, maintain, and operate a cable system during the franchise's term and to use COUNTY property or that portion of the COUNTY's property dedicated to public use for the maintenance of cables or wires underground, on the surface, or on poles for cable system purposes.

Section 4. Use of Rights-of-Way and Easements.

The company is authorized to construct its cable system over public rights-of-way, and through easements within the COUNTY, which have been dedicated for compatible uses, except that in using such easements the company shall ensure that:

- (a) The safety, functioning, and appearance of the property and the convenience and safety of other persons not be adversely affected by its installation or construction of facilities for the cable system.
- (b) The cost of the installation, construction, operation, or removal of such facilities be borne by the company or subscriber, or a combination of both; and
- (c) The owner of the property be justly compensated by the company for any damages caused by the installation, operation, or removal of such facilities by the company.

Section 5. Provision of Cable Service

During the term of the franchise, the company shall offer cable service to a substantial percentage of all potential subscribers.

Section 6. Indemnification and Insurance

The company shall, at its sole cost and expense, fully indemnify, defend, and hold harmless the COUNTY, including the board and the COUNTY's officers and employees, against any and all claims, suits, actions, liabilities, and judgments for damages to

persons or property, in any way arising out of or through the acts or omissions of the company, its servants, agents, or employees, in connection with the construction, maintenance, repair, and operation of the cable system. The company shall maintain throughout the term of the franchise comprehensive general liability insurance insuring the company with regard to all damages mentioned in this Section 6, in the minimum amount of One Million Dollars (\$1,000.000) combined single limit, personal injury, and property damage.

Section 7. Franchise Fee

For the duration of the company's franchise hereunder, the company shall pay to the COUNTY a yearly franchise fee equal to the sum of (a) two percent (2%) of the company's subscriber receipts for such year and (b) Two Dollars (\$2) per COUNTY-owned utility pole attachment used by the company. As used in this section, the term "subscriber receipts" means the company's gross revenues from provision of cable service to subscribers less any costs, fees, expenses, charges, or annual assessments paid or incurred by the company for the use of video programming or other programming service. The company shall submit to the COUNTY, within sixty (60) days after the close of each accounting year of the company during which the franchise hereunder is in force, a schedule related to the company's cable service operations certified as true and correct by an officer of the company showing in detail the company's subscriber receipts (as defined above) for the preceding accounting year and the COUNTY-owned pole attachments in use on the last day of such year, and the company shall pay the franchise fee for such year within fifteen (15) days after the time for filing such schedule. Nothing in this ordinance shall limit company's authority to recover from subscribers franchise fees paid to the COUNTY.

Section 8. 1984 Act Compliance

- (a) The company shall comply with the protection of subscriber privacy provisions of the 1984 Act as in effect from time to time.
- (b) The company shall ensure that no group of potential residential subscribers shall be denied access to cable service because of the income of the residents of the local area within the COUNTY in which such group resides and the company shall comply with the equal employment opportunity provisions of the 1984 Act.
- (c) The company shall, upon the request of a subscriber, provide (by sale or lease, at the company's option) a device or service by which the subscriber can prohibit viewing of a particular cable service during periods selected by that subscriber.

Section 9. Renewal

Any proposal by the company to renew the franchise granted under this ordinance shall be governed by the procedures and standards set forth in the 1984 Act, but the board may refuse to renew only if it finds that:

- (a) The ability of the company to provide services to its subscribers has substantially changed;

- (b) The company substantially failed to comply with a term or condition of the franchise;
- (c) The quality of the transmissions of the company have consistently failed to meet the standards for such transmissions adopted by the Federal Communications Commission; or
- (d) The company refuses to accept a reasonable term or condition which the board proposes to add to the franchise.

Section 10. Severability

If any provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity or constitutionality or the remaining portions hereof.

Section 11. Effective Date

The franchise as so extended and renewed effective upon adoption of this ordinance, remains in force and effect upon the terms stated in this ordinance, provided the franchisee files with the COUNTY Board its written acceptance of the terms and conditions hereof.

UPON ADOPTION, the County Clerk of Lincoln County shall have this Ordinance published, by title only, together with an adequate summary including any amendments, once in a newspaper published in the County, if any, otherwise in a newspaper published in the County, and having a general circulation in the County. The County Clerk shall post this Ordinance in full at the Lincoln County Courthouse. This Ordinance shall take effect twenty (20) days after its publication.

PASSED AND ADOPTED this _____ day of _____,

2009 by the following vote of the County Board of Commissioners:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED this _____ day of _____, 2009.

By: _____
Paul Mathews, *Chairperson*

ATTEST: _____
Lisa Lloyd, *County Clerk*

AFFIDAVIT OF POSTING

STATE OF NEVADA)
) ss.
COUNTY OF LINCOLN)

Lisa Lloyd, being first duly sworn, deposes and says:

- 1. That she is and was at the time of posting hereafter mentioned,
- 2. That she is a citizen of the United States, over the age of twenty-one years;
- 3. That she is the duly appointed, qualified County Clerk of Lincoln County, State of Nevada;
- 4. That on the _____ day of _____, 2009, Affiant posted on a public bulletin board in the Lincoln County Courthouse, a full, true and correct copy of Ordinance No. _____ entitled:

RAINBOW CABLE FRANCHISE AGREEMENT

AN ORDINANCE RENEWING FOR THE BENEFIT OF CHRISTIAN ENTERPRISES, INC., D/B/A RAINBOW CABLE, A NEVADA CORPORATION, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE FOR THE RIGHT AND PRIVILEGE TO CONSTRUCT, MAINTAIN, AND OPERATE A CABLE COMMUNICATIONS SYSTEM WITHIN THE COUNTY OF LINCOLN, STATE OF NEVADA, AND TO USE PROPERTY OF THE COUNTY OF LINCOLN OR THAT PORTION OF THE COUNTY'S PROPERTY DEDICATED TO PUBLIC USE FOR THE MAINTENANCE OF CABLES OR WIRES UNDERGROUND, ON THE SURFACE, OR ON POLES FOR THE PROVISION OF CABLE COMMUNICATIONS SERVICE.

Lisa Lloyd, *County Clerk*

SIGNED AND SWORN TO (or affirmed) before me on _____, 2009 by

(Seal)

NOTARY PUBLIC

**PUBLIC NOTICE OF THE FILING OF A LINCOLN COUNTY ORDINANCE
PURSUANT TO N.R.S. 244.100**

LINCOLN COUNTY HEREBY GIVES NOTICE that it filed Ordinance

No. _____, as follows, with the Lincoln County Clerk on _____, 2009:

RAINBOW CABLE FRANCHISE AGREEMENT

AN ORDINANCE RENEWING FOR THE BENEFIT OF CHRISTIAN ENTERPRISES, INC., D/B/A RAINBOW CABLE, A NEVADA CORPORATION, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE FOR THE RIGHT AND PRIVILEGE TO CONSTRUCT, MAINTAIN, AND OPERATE A CABLE COMMUNICATIONS SYSTEM WITHIN THE COUNTY OF LINCOLN, STATE OF NEVADA, AND TO USE PROPERTY OF THE COUNTY OF LINCOLN OR THAT PORTION OF THE COUNTY'S PROPERTY DEDICATED TO PUBLIC USE FOR THE MAINTENANCE OF CABLES OR WIRES UNDERGROUND, ON THE SURFACE, OR ON POLES FOR THE PROVISION OF CABLE COMMUNICATIONS SERVICE.

LINCOLN COUNTY GIVES FURTHER NOTICE that copies of the Ordinance are available for public examination and distribution upon request at the office of the Clerk of Lincoln County, Nevada, at #1 Main Street, Pioche; that said Ordinance was proposed and read by title on _____, 2009, and that the Lincoln County Board of Commissioners intends to take final action on the adoption of said Ordinance on its regular meeting on the _____ day of _____, 2009 as a regular measure.

IN WITNESS WHEREOF, the Board of Commissioners for Lincoln County, Nevada gives this Notice by reference to its Title and Summary.

DATED this _____ day of _____, 2009.

LINCOLN COUNTY

Paul Mathews, *Chairperson*

PUBLISHED: on the _____ day of _____, 2009.

NOTICE OF ORDINANCE APPROVAL

NOTICE IS HEREBY GIVEN that on the _____ day of _____, 2009, the Lincoln County Board of Commissioners, in Lincoln County, Nevada, approved the adoption of an Ordinance for Lincoln County, Nevada, with the Summary and Title as follows:

RAINBOW CABLE FRANCHISE AGREEMENT

AN ORDINANCE RENEWING FOR THE BENEFIT OF CHRISTIAN ENTERPRISES, INC., D/B/A RAINBOW CABLE, A NEVADA CORPORATION, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE FOR THE RIGHT AND PRIVILEGE TO CONSTRUCT, MAINTAIN, AND OPERATE A CABLE COMMUNICATIONS SYSTEM WITHIN THE COUNTY OF LINCOLN, STATE OF NEVADA, AND TO USE PROPERTY OF THE COUNTY OF LINCOLN OR THAT PORTION OF THE COUNTY'S PROPERTY DEDICATED TO PUBLIC USE FOR THE MAINTENANCE OF CABLES OR WIRES UNDERGROUND, ON THE SURFACE, OR ON POLES FOR THE PROVISION OF CABLE COMMUNICATIONS SERVICE.

NOTICE IS FURTHER GIVEN that, pursuant to N.R.S. 244.100, notice of the adoption of the above-entitled Ordinance is being published by title, together with an adequate summary, including any amendments, once a week for a period of 2 weeks before it goes into effect in the Lincoln County Record. Typewritten copies of the ordinance in its entirety are available for inspection at the office of the county clerk and posted in full in the Lincoln County Courthouse. The Ordinance shall become effective twenty (20) days after its publication.

DATED this _____ day of _____, 2009.

LINCOLN COUNTY

Paul Mathews, *Chairperson*

PUBLISHED: on the _____ day of _____, 2009.