

ORDINANCE NO. 403

AN ORDINANCE GRANTING A FRANCHISE TO COMCAST CABLEVISION OF PANAMA CITY, INC., FOR THE USE AND OCCUPANCY OF PUBLIC WAYS IN THE CITY FOR THE PURPOSE OF CONSTRUCTING AND OPERATING A CABLE TELEVISION SYSTEM IN THE CITY; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANTING OF THIS FRANCHISE, PROVIDING FOR A PENALTY FOR VIOLATIONS OF PORTIONS OF THIS FRANCHISE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR THE EFFECT OF THIS ORDINANCE UPON OTHER ORDINANCES AND RESOLUTIONS; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF.

**BE IT ENACTED BY THE PEOPLE OF THE CITY OF SPRINGFIELD, FLORIDA:**

**SECTION 1 - GRANT OF FRANCHISE**

(A) The City hereby grants to the Grantee a nonexclusive Franchise which authorizes the Grantee to occupy and use the Public Ways within the City to construct and operate a Cable System and offer Cable Service in, along, among, upon, across, above, over, under, or in any manner connected with Public Ways within the Service Area and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any Public Way and all extensions thereof and additions thereto, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the Cable System, in accordance with the provisions hereof.

(B) This grant of authority for the use of the Public Ways is limited to the provision of Cable Service as defined in this Franchise and such authority may not be extended by the Grantee to include other activities or services. Grantee shall not allow the use of its Cable System by any service provider (including cable television), unless the service provider warrants

that it has obtained all the authorizations required by the City, to the extent authorized by law, in order to provide such service. Grantee or its affiliates shall not install or construct facilities within Public Ways to be used for services which are not authorized by this Franchise, or by applicable law or by another franchise.

## **SECTION 2 - DEFINITIONS**

For the purpose of this Franchise, the following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below. 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) "Cable Act" means the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996, and any subsequent amendments.

(B) "Cable Service" means the one-way transmission to Subscribers of video programming or other programming service, and Subscriber interaction, if any, which is required for the selection or use of such video programming or any other programming service.

(C) "Cable System" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within a community, but such term does not include: (1) a facility that serves only to retransmit the television signals of one (1) or more television broadcast stations; (2) a facility that serves Subscribers without using any Public Ways; (3) a facility of a common carrier which is subject, in whole or in part, to the provisions of title II of the Communications Act of 1934, as amended, except that such facility shall be considered a cable system to the extent such facility is used in the

Spgfld.fr.3.8.doc

transmission of video programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services (as defined in the Cable Act); (4) an open video system as defined in the Cable Act, that complies with Section 653 of the Cable Act; or (5) any facilities of any electric utility used solely for operating its electric utility systems.

(D) "City" means the City of Springfield, Florida, a home rule municipal corporation under the laws of the State of Florida.

(E) "Control" or "Controlling Interest" means actual working control in whatever manner exercised.

(F) "FCC" means the Federal Communications Commission, or successor governmental entity thereto.

(G) "Grantee" means Comcast Cablevision of Panama City, Inc., or the lawful successor, transferee, or assignee thereof.

(H) "Gross Revenue" means any and all gross revenue actually received from the provision of Cable Service over the Cable System within the Service Area. "Gross Revenue" shall include monthly basic, premium and pay-per-view service fees, installation fees, and converter rental fees, home shopping and advertising sales revenues, but shall not include bad debt nor any taxes imposed and/or assessed by law on Customers that the Grantee collects and pays in full to the applicable authority (franchise fees paid hereunder are not taxes within the meaning herein).

(I) "Person" means an individual, partnership, association, joint stock company, trust, corporation, governmental entity, company or organization of any kind.

(J) "Public Way" shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane,

public way, drive, circle, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses.

(K) "Service Area" means the present municipal boundaries of the City, and shall include any additions thereto by annexation or other legal means.

(L) "Subscriber" means a Person or user of the Cable System who lawfully receives Cable Services with the Grantee's express permission.

### **SECTION 3 - MOST FAVORED NATIONS**

The Grantee acknowledges that the City reserves the right to grant one or more additional franchises to provide Cable Service within the City; provided, however, that no such franchise agreement shall, in the opinion of the Grantee, contain terms or conditions more favorable or less burdensome to the competitive entity than the material terms and conditions herein, including, but not limited to, franchise fees, insurance, system build-out requirements, performance bonds or similar instruments, educational and government access channels and capital support, customer service standards, required reports and related record keeping, liquidated damages and other sanctions, and universal service. In the event Grantee believes that a subsequent franchisee has received terms or conditions from the City that are more favorable or less burdensome than Grantee's franchise, then Grantee shall give written notice to the City of such terms or conditions believed to be more favorable or less burdensome. Upon receipt of any such notice, if the City, acting reasonably, agrees with the Grantee's assertion, then the City shall modify this Franchise Agreement to include any such term if the Grantee also agrees to modify this Franchise Agreement to include any terms that, in the opinion of the City, are more favorable to the City or more burdensome to the Grantee, in order that one provider of Cable Services not be granted an

unfair competitive advantage over another, and to provide all parties equal protection under the law.

**SECTION 4 - TERM**

The Franchise granted hereunder shall be for an initial term of seven (7) years commencing on the effective date of the Franchise as set forth below, unless otherwise lawfully terminated in accordance with the terms of this Franchise.

**SECTION 5 - NON-DISCRIMINATION**

Grantee shall not discriminate against any residential Subscriber or potential Subscriber in its rates, charges, service facilities, rules or regulations. The Grantee shall not deny access to its Cable Services to any group of potential Subscribers because of the income of the residents in the local area in which the group resides. To the extent permitted by applicable law, the foregoing requirement shall not prohibit the Grantee from using bulk, commercial, promotional, or other rates permitted by federal law.

**SECTION 6 - STANDARDS OF SERVICE**

(A) All structures, lines, and equipment installed or erected by the Grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of Public Ways and with the rights and reasonable convenience of property owners who own property that adjoins any of said Public Ways. Grantee shall comply with all ordinances and regulations of the City governing the use of Public Ways and the installation of utility lines and facilities. Grantee shall obtain appropriate permits from the City prior to undertaking any construction, and must submit strand plans to the Director of Public Works.

(B) If during the course of the Grantee's construction, operation, or maintenance of the Cable System there occurs a disturbance of the surface, base, or landscaping of any Public Way by the Grantee, it shall, at its expense, replace and restore such Public Way to a condition reasonably comparable to the condition of the Public Way existing immediately prior to such disturbance, and in accordance with existing specifications of the City. Except for extraordinary events, including but not limited to weather related events or delays caused by contractors beyond the control of Grantee, such repair work shall be completed within seventy-two (72) hours from the date of initial disturbance. Upon failure of the Grantee to perform any such repair or replacement work, after ten (10) days' notice in writing shall have been given by the City to the Grantee, the City may repair such portion of the Public Way as may have been disturbed by the Grantee, its contractors or agents, and collect the cost so incurred from the Grantee. Notwithstanding the foregoing, if the City determines that the failure of the Grantee to properly repair or restore the Public Way constitutes a safety hazard to the public, the City may undertake emergency repairs and restoration efforts. The Grantee shall promptly reimburse the City for all reasonable costs incurred by the City.

(C) Upon its receipt of reasonable advance notice from the City, to be not less than seven (7) business days, the Grantee shall, at its own expense, protect, support, temporarily disconnect, relocate in the Public Way, or remove from the Public Way, any property of the Grantee when lawfully required by the City by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of structures or improvements by the City. Upon approval by the City the Grantee may abandon its property. If relocation is required due to an

emergency as determined by the City, such relocation or moving shall be accomplished by Grantee within twenty-four (24) hours of receipt of oral or written notice. If public funds are available to any Person using such street, easement, or right of way for the purpose of defraying the cost of any of the foregoing, the City shall make application for such funds on behalf of the Grantee.

(D) The Grantee shall, on the request of any Person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of such building, provided: (a) the expense of such temporary raising or lowering of wires is paid by said Person, including, if required by the Grantee, making such payment in advance; and (b) the Grantee is given not less than seven (7) calendar days advance notice to arrange for such temporary wire changes. The City shall be exempt from such charges, but not from the requirement for advance notice, except in the case of an emergency.

(E) The Grantee shall have the authority to trim trees or other natural growth overhanging any of its Cable System in the Service Area so as to prevent branches from coming in contact with the Grantee's wires, cables, or other equipment. The Grantee shall reasonably compensate the City for any damages caused by such trimming, or shall in its sole discretion and at its own cost and expense, reasonably replace all trees or shrubs damaged as a result of any construction of the Cable System undertaken by the Grantee. Such replacement shall satisfy any and all obligations the Grantee may have to the City pursuant to the terms of this Section. Grantee shall remove all debris generated by such trimming within two (2) business days. Upon failure of the Grantee to so remove the trimmings, the City may remove the trimmings at the expense of Grantee.

(F) Construction, installation, and maintenance of the Cable System shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with applicable FCC or other federal, state, and local regulations and the National Electric Safety Code. The Cable System shall not unreasonably endanger or interfere with the safety of Persons or property in the Service Area. The City reserves the right to generally oversee the construction and maintenance of the Cable System. If a violation of the National Electric Safety Code or other applicable regulation is found by the City to exist, the City will, after discussions with the Grantee, establish a reasonable time for the Grantee to make the necessary repairs. If the repairs are not made within the established time frame, the City may make the repairs itself or have them made and collect all reasonable costs thereof from the Grantee.

#### **SECTION 7 - AERIAL AND UNDERGROUND CONSTRUCTION**

(A) In those areas of the Service Area where all of the transmission or distribution facilities of the respective public and/or municipal utilities providing telephone communications and electric services are underground, the Grantee likewise shall construct, operate, and maintain all of its transmission and distribution facilities underground; provided that such facilities are actually capable of receiving the Grantee's cable and other equipment without technical degradation of the Cable System's signal quality. This underground installation shall be done without any additional cost to the City or Subscribers and shall be subject to the reasonable and proper regulation, control and direction of the City.

(B) In those areas of the Service Area where the transmission or distribution facilities of the respective public and/or municipal utilities providing telephone communications and electric services are both aerial and underground, the Grantee shall have the sole discretion to construct,



operate, and maintain its Cable System, or any part thereof, aurally or underground. The Grantee understands that it is the City's preference that Grantee's facilities be installed underground, and Grantee shall endeavor to install its facilities underground where economically and technically feasible.

(C) Nothing contained in this Section shall require the Grantee to construct, operate, and maintain underground any ground-mounted appurtenances such as Subscriber taps, line extenders, system passive devices (splitters, directional couplers), amplifiers, power supplies, pedestals, or other related equipment.

(D) Notwithstanding anything to the contrary contained in this Section, in the event that all of the transmission or distribution facilities of the respective public and/or municipal utilities providing telephone communications and electric services are placed underground after the effective date of this Franchise, the Grantee shall only be required to construct, operate, and maintain all of its Cable System underground if it is given reasonable notice and access to the public utilities' facilities at the time that such are placed underground.

(E) All connection lines shall be buried within five (5) calendar days after the connection is made.

#### **SECTION 8 - CONDITIONS OF SERVICE**

(A) It is the intention of the parties that Cable Service shall be made available on a timely basis to all persons requesting service, regardless of the areas of the City in which such potential Subscribers reside. As used in this section, "area of the City" includes, but is not limited to, a subdivision or portion thereof, a neighborhood bounded by man-made or natural features, and other identifiable portions of the City.

(B) If Grantee receives a request for service in an area of the City not presently served by Grantee or another Cable Service provider, the Grantee shall extend its Cable System and offer Cable Service to all such potential Subscribers in any such area that has a density of at least 25 residences within 5280 cable-bearing strand feet (one cable mile) or fractional portion thereof of its trunk or distribution cable, as measured from the extremity of Grantee's Cable System nearest the unserved area. Grantee shall extend its Cable System to such Subscribers at no cost to said Subscribers for system extension, other than the usual connection fees for all Subscribers; provided that such extension is technically feasible. Such extension of service shall be accomplished within one hundred twenty (120) days from the date of request in unserved areas.

(C) In areas already served by Grantee's Cable System, Grantee shall commence service to persons requesting such service within thirty (30) days from receipt by Grantee of a request for such service.

(E) No Subscriber shall be refused service arbitrarily. Subject to the provisions of this Section, Grantee shall extend and make Cable Service available to any resident within the Service Area who requests connection at the standard connection charge if the connection to a resident would require no more than a standard one hundred fifty (150) foot aerial or buried drop line or extension from the nearest feeder cable. With respect to requests for connection requiring an aerial or buried drop line in excess of one hundred fifty (150) feet from the nearest feeder cable, Grantee shall extend and make available Cable Service to such residents at a connection charge not to exceed the actual cost incurred by the Grantee for the distance exceeding the standard one hundred fifty (150) feet of cable.

(F) In areas not described in Sections 8(B) and 8 (E) above, the Grantee shall provide, upon request of a potential Subscriber desiring service, an estimate of the cost required to extend service to that potential Subscriber. The Subscriber(s) requesting such extension shall bear the cost of extending service to them. If additional Subscribers utilize the line to the extent of 25 residences per 5280 cable-bearing strand feet (one cable mile) or fractional portion thereof, or if the line passes at least 25 residences within one cable mile or fractional portion thereof, or any combination of actual and potential Subscribers, then the Subscriber(s) originally paying for the line extension shall be eligible for a refund from Grantee. Grantee shall make all reasonable efforts to notify such original Subscriber(s) that a refund is available, and that the Subscriber(s) must make written application to Grantee for a refund of all costs borne by the Subscriber in excess of the standard connection charge.

(G) The Grantee shall, upon request, provide without charge, one outlet of Basic and Expanded Basic and any New Product or Migrated Product tier Cable Service to each City building, fire station(s), police station(s), and K-12 public school building(s) in the City. Outlets shall be extended to such facilities as such may be constructed during the term of this Franchise. The outlets of Basic and Expanded Basic Service shall not be used to distribute or sell Cable Services in or throughout such buildings, nor shall such outlets be located in areas open to the public. Users of such outlets shall hold the Grantee harmless from any and all liability or claims arising out of their use of such outlets, including but not limited to, those arising from copyright liability. If the City or school district requests additional outlets of Basic and Expanded Basic Service to be provided to such buildings, the Grantee's costs associated therewith, including, but

not limited to, labor and materials, shall be reimbursed by the City, or school district, as appropriate.

(H) Grantee shall not seek to recover the cost of the connections required in paragraph (C) hereof from cable customers as external or other costs.

(I) The Grantee shall maintain systems, equipment, and procedures permitting preempting of the regular signal on all channels with emergency warning signals originated from the City's Office of Emergency Management. The following stipulations shall apply, except where and to what extent they may be preempted by FCC regulations:

(i) The Director of the Office of Emergency Management (OEM) shall determine when the emergency cable override is to be activated in response to actual or impending emergency conditions.

(ii) The Grantee shall provide and maintain all equipment, systems, software, services, security provisions, and procedures required for a fully operational emergency cable override warning system in accordance with FCC rules. Any equipment necessary for activation of the system by the Office of Emergency Management shall be provided by the Grantee. Activation points shall be, at minimum, the Emergency Operations Center and one other backup point within the City specified by the OEM.

(iii) The cable override shall consist of audio and crawler text signals as required by the FCC rules governing the new Emergency Alert System.

(iv) The system shall be tested as determined by the Office of Emergency Management not more than monthly and not less than annually.

(v) The Grantee shall cooperate fully with the Office of Emergency Management in all other matters pertaining to a functioning emergency cable override system.

(J) Grantee shall make available to Subscribers, for sale or lease, parental control devices by which the Subscriber can prohibit viewing of a particular Cable Service. Grantee shall not delete closed-circuit captioning signals that are capable of being decoded through the use of special equipment.

(K) Upon request by the City, Grantee shall provide one channel to the City for educational and governmental access programming, which channel shall be shared among the other municipal entities that are being provided Cable Service over the same Cable System. Grantee shall notify City of the other municipal entities with whom the City will share the access channel, and Grantee shall assist City and the other municipal entities to develop and administer a reasonable procedure whereby these entities shall share the programming time and responsibilities of the access channel. At the time of the Periodic Reviews conducted in accordance with Section 16 hereof, the City may request Grantee to provide additional channels for access programming, up to a maximum of three (3) channels; provided that the City has certified in writing to Grantee that the current combined non-duplicative, non-character generated programming of all the entities with whom the City is sharing the access channel is shown on the existing educational and governmental access channel(s) an average of forty (40) hours per week over a consecutive one (1) month period. Grantee shall provide such additional channels if Grantee determines it is financially feasible to do so. The original access channel and all access channels added during the term of this franchise will be available to governmental and educational groups, pursuant to the

applicable provisions of the Cable Act, and governed by such standards and procedures that the City may establish.

(L) Upon request by the City, Grantee shall provide and install at its own expense access equipment necessary for the taping and cablecasting of City government meetings in the City Hall facility. Grantee shall additionally provide a new, good quality character generator for the City's sole use for the purpose of communicating non-commercial information. Grantee shall provide instruction in the use and maintenance of such equipment, as requested by the City, during the first six (6) months after delivery of the equipment to the City. This equipment shall become the property and sole responsibility of the City subsequent to its installation in the City. In the event the City grants a cable franchise to a Cable Service provider other than Grantee, the City shall require such additional franchisee to provide to the City either (i) additional access equipment of a value equal to the value of the equipment provided by Grantee, in accordance with this Section 8, or (ii) a grant for access capital support in an amount equal to the value of the equipment provided to the City by Grantee at the time such equipment was initially purchased by Grantee.

#### **SECTION 9 - FRANCHISE FEE**

(A) The Grantee shall pay to the City a franchise fee equal to five percent (5%) of Grantee's Gross Revenues per year, as defined in Section 2 of this Franchise. Such sum shall be payable quarterly, within forty-five (45) days after the close of each calendar quarter. Each franchise fee payment shall be accompanied by a statement setting forth the Grantee's Gross Revenues, in accordance with the definition in the Franchise, for the preceding quarter and the number of Subscribers served. For the purpose of this section, the 12-month period applicable

including any and all substantiating evidence. The Grantee shall have thirty (30) days from the receipt of the audit report to provide the City with a written response to the audit report, including any substantiating evidence. Any "finally settled amounts" due to the City as a result of such audit shall be paid to the City by the Grantee within thirty (30) days from receipt of written notice of the final settlement amount from the City. For purposes of this section, the term "finally settled amounts" shall mean the agreed upon underpayment, if any, to the City by the Grantee as a result of such audit.

(E) In the event a franchise fee payment is not received by the City on or before the due date set forth in this section, or is underpaid, the Grantee shall pay a late charge of the greater of (i) \$100 or (ii) simple interest at ten percent (10%) annual percentage rate of the total amount of any unpaid or underpaid franchise fee.

(F) The City shall give Grantee written notice, and a map of the area annexed, within thirty (30) days after the effective date of any annexation by the City. Grantee shall collect the franchise fee from the newly annexed areas within ninety (90) days after receipt of such notification from the City, and shall remit such fees to the City in the next quarterly payment to the City.

#### **SECTION 10 - CONDITIONS OF SALE**

(A) If a renewal or extension of the Grantee's Franchise is denied or the Franchise is lawfully terminated, and the City either lawfully acquires ownership of the Cable System or by its actions lawfully effects a transfer of ownership of the Cable System to another party, any such acquisition or transfer shall be at a price no less than the price determined pursuant to the provisions set forth in Section 627 of the Cable Act (47 U.S.C. §547).

under the Franchise for the computation of the franchise fee shall be a calendar year, unless otherwise agreed to in writing by the City and the Grantee.

(B) Grantee shall file, within three (3) months following the end of its fiscal year, a statement setting forth the computation of Gross Revenues used to calculate the franchise fee for the preceding year and a detailed explanation of such computation method. The statement showing the results of the examination shall be certified by a certified public accountant, the Grantee's chief financial officer, or other corporate accounting representative. The Grantee shall bear the cost of the preparation of such statements. Any underpayments shall be made to the City up to sixty (60) days after presentation of the examination to the City Manager.

(C) No acceptance of any franchise fee payment by the City shall be construed as an accord and satisfaction that the amount is in fact the correct amount or a release of any claim that the City may have for further or additional sums payable under this Franchise and all amounts paid shall be subject to audit and recomputation by the City for three (3) years from the date of payment after which period payments shall be considered final.

(i) If, as a result of such audit or any other review, the City and the Grantee determine that the Grantee has underpaid its fees in any twelve (12) month period by ten percent (10%) or more, then, in addition to making full payment of the relevant obligation, the Grantee shall reimburse the City for all of the reasonable costs associated with the audit or review, including all reasonable out-of-pocket costs for attorneys, accountants, and other consultants.

(ii) Upon the completion of any such audit conducted by the City, the City shall provide to the Grantee a final audit report, which sets forth the City's findings in detail,



(B) The Grantee and the City agree that in the case of a final determination of a lawful revocation of the franchise, at the Grantee's request, which shall be made in its sole discretion, the Grantee shall be given a reasonable opportunity to effectuate a transfer of its Cable System to a qualified third party. The City further agrees that during such a period of time, it shall authorize the Grantee to continue to operate pursuant to the terms of its prior Franchise; however, in no event shall such authorization exceed a period of time greater than six (6) months from the effective date of such revocation. If, at the end of that time, the Grantee is unsuccessful in procuring a qualified transferee or assignee of its Cable System which is reasonably acceptable to the City, the Grantee and the City may avail themselves of any rights they may have pursuant to federal or state law; it being further agreed that the Grantee's continued operation of its Cable System during the six (6) month period shall not be deemed to be a waiver, nor an extinguishment of, any rights of either the City or the Grantee.

**SECTION 11 - REMOVAL AND ABANDONMENT OF PROPERTY**

(A) In the event that the use of any part of the Cable System is discontinued for any reason for a continuous period of twelve (12) months, or in the event such system or property has been installed in any Public Way without complying with the requirements of this Franchise or other City ordinances, or the Franchise has expired and Grantee is not actively pursuing a franchise or a renewal from the City, Grantee shall, within ninety (90) days after receipt of written notice, remove from the Public Ways all such property and poles of such system other than any which the City may permit to be abandoned in place. In the event of such removal, Grantee shall promptly restore the Public Way in accordance with local regulations and standards from which

such property has been removed to a condition similar to that existing before such removal and satisfactory to the City. Such approval shall not be unreasonably withheld.

(B) Unless Grantee is actively pursuing a franchise or a renewal from the City, any property of Grantee remaining in place ninety (90) days after the termination or expiration of the Franchise shall be considered permanently abandoned. The City may extend such time not to exceed an additional ninety (90) days. Any property of Grantee to be abandoned in place shall be abandoned in such a manner as the City shall prescribe. Upon permanent abandonment of the property of Grantee in place, the property shall become that of the City, and the Grantee shall submit to the City an instrument in writing, to be approved by the City Attorney, transferring to the City the ownership of such property. None of the foregoing affects or limits Grantee's rights to compensation for an involuntary abandonment of its property under state or federal law.

#### **SECTION 12 - TRANSFER OF FRANCHISE**

(A) Neither this Franchise, the assets held by Grantee for use under this Franchise which are in the Public Ways, any rights or privileges of Grantee under this Franchise, either separately or collectively, shall be sold, resold, assigned, transferred or conveyed by Grantee to any other Person, affiliate, or entity, without the prior written consent of the City by ordinance or resolution. Such approval shall not be unreasonably withheld. Should the Grantee sell, assign, transfer, convey, or otherwise dispose of any of its rights or interests under this Franchise, including Grantee's Cable System or capacity on its Cable System, or attempt to do so, without the City's prior consent, the City may revoke this Franchise for default, in which event all rights and interest of the Grantee shall cease. Any transfer in violation of this Section shall be null and

void and unenforceable. When the Grantee submits its written request to the City for approval of the transfer, Grantee shall also submit information that establishes:

(i) The transferee has the financial, legal, and technical ability to provide the services, facilities, and equipment contained in the Franchise; and

(ii) The transfer is reasonable to meet the future cable-related community needs and interests.

(B) Notwithstanding any of the foregoing in this Section 12, no consent shall be required in the event of a transfer or assignment to any entity owned or controlled by Grantee.

(C) If the City has not taken action on the Grantee's request for transfer within one hundred twenty (120) days after receiving such requested information, consent by the City shall be deemed given.

(D) The Grantee shall pay to the City an amount equal to the reasonable costs of notice and publication which the City may incur in connection with any renewal, renegotiation, amendment, or other modification of the Franchise initiated by the Grantee. Such costs shall be paid by the Grantee after the costs are incurred by the City and a billing statement for reimbursement is delivered to the Grantee.

(E) Notwithstanding the foregoing, the Grantee may make, execute, or enter into any security agreement, collateral assignment, financing statement or other agreement or instrument for the purpose of creating and perfecting a security interest in its right, title and interest in and to the Franchise for financing purposes or otherwise without prior approval of the City.

### **SECTION 13 - GENERAL SUPPORT**

The Grantee acknowledges that all contributions, services, equipment, facilities, support, resources, and other activities to be paid for or supplied by the Grantee pursuant to or in connection with its performance under its Franchise are for the benefit of all Subscribers and the public. The Grantee also acknowledges that any such contributions, services, equipment, facilities, support, resources, and other activities shall not be deemed to be franchise fees chargeable against the fees to be paid to the City by the Grantee pursuant to Section 8 hereof. The franchise fee payments shall take precedence over all other payments, contributions, services, equipment, facilities, support, resources, and other activities to be paid or supplied by the Grantee.

#### **SECTION 14 - COMPLIANCE AND MONITORING**

(A) Grantee's system shall comply with all technical standards established by the FCC for cable systems, 76 CFR Subpart K, Sections 76.601 through 610, and as such standards may subsequently be amended or altered. Grantee shall undertake a comprehensive routine preventative maintenance program to ensure high quality operational standards, and shall perform a technical performance test at least once a year. If the City has received Subscriber complaints from at least five percent (5%) of the Grantee's customers within the City regarding the signal quality provided by Grantee, the Grantee shall undertake additional testing upon request by City, but such testing shall be undertaken no more than once a year, and the results thereof shall be made available to the City. In addition, the results of any tests performed by, or at the request of the FCC shall be provided to the City upon request.

(B) Grantee shall provide a Cable System of fiber optic cable with a bandwidth of 750 MHz. The System shall be capable of delivering a minimum of 77 channels of video programming.

#### **SECTION 15 - CUSTOMER SERVICE STANDARDS**

Except for the provision of internet access services, Grantee shall comply with the customer service standards as set forth in 47 CFR § 76.309, as such section may be altered and amended in the future. Grantee shall be responsible for knowing the current standards and for complying therewith.

#### **SECTION 16 - REPORTS AND REVIEWS**

(A) Grantee shall furnish, upon request, a report of its activities as appropriate. Such report shall include:

1. Grantee's most recent annual report;
2. Grantee's 10-K report, if required by the Securities and Exchange Commission;
3. A summary of complaints received by category, length of time taken to resolve, and action taken to provide resolution;
4. A statement of Grantee's current billing practices, and a sample copy of the bill format; and
5. A current copy of Grantee's Subscriber service contract.

(B) When the City deems it advisable, but no more often than every three (3) years during the term hereof, the City shall give notice to the Grantee and the public that it is commencing an evaluation of the Grantee's performance hereunder. The results of this evaluation shall be reported at a public City Council meeting. The primary purpose of this evaluation shall be to consider whether the Grantee has substantially complied with, or made all reasonable efforts to comply with, all substantive requirements of this Franchise, especially the customer service standards hereunder. An additional purpose of this evaluation will be to determine the necessity

of Grantee providing additional channels for educational and governmental access programming, under the provisions of Section 7 hereof.

(C) Notice of all evaluation sessions shall be published in the same way as a legal notice. The Grantee shall notify its subscribers of all evaluation sessions by announcement on at least one (1) of the access channels of the Cable System between the hours of 7:00 p.m. and 9:00 p.m. for five (5) consecutive days preceding each session. If no access channels have been activated, then Grantee shall provide notice to Subscribers through a bill insert at least five (5) days but no more than thirty (30) days preceding each session.

(D) If an evaluation proceeding has revealed deficiencies in the Grantee's performance under this Franchise, the City shall notify the Grantee and request that the deficiencies be corrected within a reasonable period of time. If the deficiencies involve substantial non-compliance and repeated non-compliance with this Franchise and are not, or cannot be, corrected within a reasonable period of time, the City may initiate a proceeding proposing the termination of the Franchise or other appropriate action.

(E) On request by the City, the Grantee shall file a report with the City covering system activity in the prior calendar year. The report shall include:

1. Changes in programming and rates; and
2. Changes in other services offered.

At the City's request, Grantee shall attend a City Council meeting for the purpose of presenting the Annual Performance Report and addressing comments and questions from the Council and members of the public.

(F) To assist in its review and evaluations, the City may enlist, at its own expense, an independent consultant to conduct an analysis of the Cable System and its performance and to

submit a report of such analysis to the City. Topics which may be addressed include, but shall not be limited to: franchise fees, services, application of new technologies, Cable System technical performance, Access Channels and related facilities and equipment, subscriber complaints, privacy, amendments, subsequent legal developments, including judicial and FCC rulings, and Grantee or City rules. During evaluations by the City, the Grantee shall cooperate fully with the City and shall provide, without cost, such existing information and documents as the City may reasonably request. Nothing in this Section shall be implied as reopening Franchise negotiations or making modifications to this Franchise.

**SECTION 17 - INSURANCE, INDEMNIFICATION, AND BONDS OR OTHER SURETY**

(A) The Grantee shall maintain in full force and effect, at its own cost and expense, during the term of the Franchise, Comprehensive General Liability Insurance in the amount of \$1,000,000 for bodily injury or death to each Person, \$1,000,000 for property damage resulting from any one accident, \$3,000,000 in an umbrella policy covering bodily injury, death, and property damages, and \$1,000,000 for all other types of liability. The Grantee shall provide a Certificate of Insurance designating the City as an additional named insured. Such insurance shall be noncancellable except upon thirty (30) days prior written notice to the City. Should insurance requirements not be maintained, the Grantor reserves the right to cause insurance to be in effect and charge Grantee for cost of designated coverage or to seek revocation of the Franchise.

(B) The Grantee agrees to indemnify, save and hold harmless, and defend the City, its officers, boards and employees, from and against any liability for damages and for any liability or claims resulting from property damage or bodily injury (including accidental death), which arise out of the Grantee's construction, operation, or maintenance of its Cable System, including, but

not limited to, reasonable attorney's fees and costs, provided that the City shall give the Grantee written notice of its obligation to indemnify the City within a reasonable time from receipt of a claim or action pursuant to this section. If the City determines that it is necessary for it to employ separate counsel, the costs for such separate counsel shall be the responsibility of the City. Grantee likewise waives all claims, damages and liability it could ever assert against City as to all claims, damages and liability which would not have arisen but for the exercise by Grantee of the rights and privileges herein described.

(C) Surety Bond. Within thirty (30) days after the award of this franchise, the Grantee shall file with the City a corporate surety bond with a surety company authorized to do business in the State of Florida and found acceptable by the City, in the amount of \$10,000, or such other guarantee that is acceptable to the City. This bond shall be used to insure: (i) the faithful performance by the Grantee of all provisions of this Franchise; (ii) compliance with all orders, permits and directions of any agency, commission, board, department, division or office of the City having jurisdiction over its acts or defaults under this Franchise; and (iii) the payment by the Grantee of any claims, liens and taxes due the City which arise by reason of the construction, operation or maintenance of the Cable System. Grantee shall provide this corporate surety bond at the time of filing the acceptance of this Franchise. The bond shall be maintained at \$10,000 during the entire term of the Franchise, even if amounts have to be withdrawn by the City pursuant to the terms of this Franchise. If the Grantee: (i) fails to pay to the City any compensation within the time fixed herein after thirty (30) days notice; (ii) fails to pay to the City any taxes due and unpaid; (iii) fails to repay the City, within thirty (30) days, any damages, costs or expenses which the City is compelled to pay by reason of any act or default of the Grantee in



connection with the Franchise; or (iv) fails, after thirty (30) days notice of such failure by the City Manager, to comply with any provision of the Franchise which the City Manager reasonably determines can be remedied by demand on the bond, the City Manager may immediately request payment of the amount thereof, with interest and any penalties, from the bond holder. Upon such request for payment, the City Manager shall notify the Grantee of the amount and date thereof.

**SECTION 18 - ENFORCEMENT AND TERMINATION OF FRANCHISE**

(A) In the event that the City believes that the Grantee has not complied with the terms of the Franchise, it shall notify the Grantee in writing of the exact nature of the alleged noncompliance.

(B) The Grantee shall have thirty (30) days from receipt of the notice described in Section 18(A): (1) to respond to the City, contesting the assertion of noncompliance, or (2) to cure such default, or (3) in the event that, by the nature of default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the City of the steps being taken and the projected date that they will be completed.

(C) In the event that the Grantee fails to respond to the notice described in Section 18(B) pursuant to the procedures set forth in such section, or in the event that the alleged default is not remedied by the date projected pursuant to Section 18(B) above, the City shall schedule a public hearing to investigate the default. Such public hearing shall be held at the next regularly scheduled meeting of the City which is scheduled at a time which is at least five (5) business days therefrom. The City shall notify the Grantee in writing of the time and place of such meeting and provide the Grantee with an opportunity to be heard.

(D) Subject to applicable federal and state law, in the event the City, after such meeting, determines that the Grantee is in default of any provision of the Franchise, the City may:

1. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages;
2. Commence an action at law for monetary damages or seek other equitable relief;  
or
3. In the case of a substantial default of a material provision of the Franchise, declare the Franchise Agreement to be terminated.

The Grantee shall not be relieved of any of its obligations to comply promptly with any provision of the Franchise by reason of any failure of the City to enforce prompt compliance.

#### **SECTION 19 - IMPOSSIBILITY OF PERFORMANCE**

Subject to the conditions stated herein, the Grantee shall not be held in default or noncompliance with the provisions of the Franchise, nor suffer any enforcement or penalty relating thereto, where such noncompliance or alleged defaults are caused by strikes, acts of God, manufacturers' shortages of material, lack of skilled labor, power outages, or other events reasonably beyond its ability to control. If Grantee desires to excuse its default or noncompliance because of manufacturers' shortages of material or lack of skilled labor, Grantee must provide documentation to Grantor of such shortages or lack of labor prior to Grantee's default or noncompliance. Such documentation shall include manufacturers' certified statements of inability to deliver materials to Grantee and/or statements by verifiable sources outside of Grantee's control as to the lack of skilled labor for this industry and region.

**SECTION 20 - MISCELLANEOUS PROVISIONS**

(A) In any action by the City or representatives that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

(B) Unless expressly otherwise agreed between the parties, every notice or response required by this Franchise to be served upon the City or the Grantee shall be in writing, and shall be deemed to have been duly given to the required party five business days after having been posted in a properly sealed and correctly addressed envelope when hand delivered or sent by certified or registered mail, postage prepaid.

The notices or responses to the City shall be addressed as follows:

City of Springfield  
3529 East Third Street  
P. O. Box 3717  
Springfield, FL 32401

The notices or responses to the Grantee shall be addressed as follows:

General Manager  
Comcast Cablevision of Panama City, Inc.  
1316 Harrison Avenue  
Panama City, Florida 32402  
Fax: (850) 769-8074

With a copy to:

Regional Vice-President, Public Affairs  
Comcast Cable Communications, Inc.  
300 Interstate North Parkway  
Suite 600  
Atlanta, Georgia 30339  
Fax: (678) 385-5101

The City and the Grantee may designate such other address or addresses from time to time by giving written notice to the other.

(C) The captions to sections contained herein are intended solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text herein.

(D) If any section, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Franchise, or any renewal or renewals thereof.

(E) The effective date of this Franchise is April 25, 2000, pursuant to the provisions of applicable law. This Franchise shall expire April 25, 2007, unless extended by the mutual agreement of the parties.

(F) By execution of this Agreement, the City and the Grantee acknowledge the validity of the terms and conditions of this Franchise Agreement under applicable law in existence on the Effective Date.

(G) This Franchise Agreement shall be deemed to be executed in the City of Springfield, State of Florida, and shall be governed in all respects, including validity, interpretation and effect, and construed in accordance with the laws of the State of Florida, as applicable to contracts entered into and performed entirely within the State.

(H) No provision of this Franchise Agreement shall be amended or otherwise modified, in whole or in part, except by an instrument, in writing, duly executed by the City and the Grantee,

which amendment shall be authorized on behalf of the City through the adoption of an appropriate resolution or order by the City, as required by applicable law.

Passed, adopted and effective this 25<sup>th</sup> day of April, 2000, subject to applicable federal, state and local law.

IN WITNESS WHEREOF, the parties hereto have entered into this Franchise Agreement on April 25, 2000.

[Signature]


Clerk

City of: Springfield  
By: [Signature]  
Title: Mayor

Accepted this 25 day of April, 2000, subject to applicable federal, state and local law.

[Signature]

Comcast Cablevision of Panama City, Inc.  
By: [Signature]  
Title: 3 Vice President

 Richard Mercado  
My Commission CC826916  
Expires April 14, 2003