

H-5

RESOLUTION H-0406-0 5

**A RESOLUTION TO APPROVE NEW FRANCHISE AGREEMENT WITH
CHARTER COMMUNICATIONS ENABLING SAID AGREEMENT**

WHEREAS, Franklin County is currently served by three (3) cable television providers; and

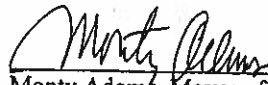
WHEREAS, one such provider, Charter Communications, has a franchise agreement that is set to expire and requires renewal; and

WHEREAS, a new franchise agreement covering the five-year period through _____ 2011 (Exhibit A) is necessary to continue cable service for North Franklin County and Sewanee areas.

NOW THEREFORE BE IT RESOLVED that the Franklin County Board of County Commissioners hereby approves of above referenced franchise agreement with Charter Communications (Exhibit A).

BE IT FURTHER RESOLVED that the County Mayor be authorized to execute necessary documents to secure the agreement.

Effective immediately upon passage this the 17 day of April, 2006


Monty Adams, Mayor of Franklin County

Attest: _____
Nina Tucker, County Clerk

Resolution Sponsored By: Commissioners: Larry Quinn & Jean Drend

Motion to Adopt: _____

Seconded By: _____

Vote: _____ Aye . _____ Nay

Declaration: _____

MA/jb

RECORDED IN
FRANKLIN COUNTY, TN
DATE Comm 11/8 BOOK # 19 PAGE 93-102

COUNTY CLERK

FRANCHISE/AGREEMENT

This Franchise Agreement ("Franchise") is between Franklin County, TN hereinafter referred to as the "Grantor" and Rifkin Acquisition Partners, LLC, locally known as CHARTER COMMUNICATIONS, hereinafter referred to as the "Grantee."

The Grantor hereby acknowledges that the Grantee has substantially complied with the material terms of the current Franchise under applicable law, and that the financial, legal, and technical ability of the Grantee is reasonably sufficient to provide services, facilities, and equipment necessary to meet the future cable-related needs of the community, and having afforded the public adequate notice and opportunity for comment, desires to enter into this Franchise with the Grantor for the construction and operation of a cable system on the terms set forth herein.

1. Definitions:

- a. "Cable Act" means the Cable Communications Policy Act of 1984, P.L. 98-549, 47 U.S.C. §521 Supp., as it may be amended or superseded.
- b. "Cable System," "Cable Service," "Cable Operator" and "Basic Cable Service" shall be defined as set forth in the Cable Act.
- c. "Council/Board" means the governing body of the Grantor.
- d. "Franchise" means the authorization granted hereunder of a franchise, privilege, permit, license or otherwise to construct, operate and maintain a Cable System within the Service Area.
- e. "Gross Revenues" means any revenue, as determined in accordance with generally accepted accounting principles, received by the Grantee from the operation of the Cable System to provide Cable Services within the Service Area, provided, however, that such phrase shall not include any taxes, fee or assessment of general applicability collected by the Grantee from Subscribers for pass-through to a government agency, including the FCC User Fee, or credits, refunds or deposits made to Subscribers or unrecovered bad debt. *Notwithstanding the foregoing, the following categories of revenue will be included in Gross Revenue for purposes of calculating franchise fees paid under Section 13 hereto: ___including but not limited to monthly basic, premium and pay-per-view service fees, installation fees, advertising fees less normal agency commissions, leased access channel fees, home shopping commissions, and converter rental fees. Gross revenue shall also include revenue received from cable modem service unless such service is determined to not be a cable service by applicable law. In the event cable modem service shall be determined by applicable law not to be a cable service, then the Grantor may exercise any*

right under applicable law to impose a fee, franchise or otherwise, or tax upon such service.

- f. "Service Area" shall mean the applicable geographic boundaries of the Grantor.
 - g. "Streets" means the public streets, avenues, highways, boulevards, concourses, driveways, bridges, tunnels, parks, parkways, waterways, alleys, all other rights-of-way and easements, and the public grounds, places or water within the applicable geographic boundaries of Grantor.
 - h. "Subscriber" means any person lawfully receiving any Cable Service from the Grantee.
2. **Granting of Franchise.** The Grantor hereby grants to Grantee a non-exclusive Franchise for the use of the Streets and dedicated easements within the Service Area for the construction, operation and maintenance of the Cable System, upon the terms and conditions set forth herein. Nothing in this Franchise shall be construed to prohibit the Grantee from offering any service over its Cable System that is not prohibited by federal or state law.
3. **Term.** The Franchise shall be for a term of five (5) years, commencing on the Effective Date of this Franchise as set forth in Section 14. This Franchise can be extended automatically for an additional term of *five (5)* years from such effective date, providing Grantee notifies Grantor in writing of its desire to exercise this extension (and enter renewal negotiations under the Cable Act) at least one (1) year before the expiration of this Franchise. If such a notice is given, the parties will then proceed under the federal Cable Act renewal procedures.
4. **Use of the Streets and Dedicated Easements.**
- a. Grantee shall have the right to use the Streets of the Grantor for the construction, operation and maintenance of the Cable System, including the right to repair, replace and enlarge and extend the Cable System, provided that Grantee shall utilize the facilities of utilities whenever practicable.
 - b. The facilities of the Grantee shall be installed underground in those Service Areas where existing telephone and electric services are both underground at the time of system construction. In areas where either telephone or electric utility facilities are installed aerially at the time of system construction, the Grantee may install its facilities aerially with the understanding that at such time as the existing aerial facilities are required to be placed underground by the Grantor, the Grantee shall likewise place its facilities underground.

- c. Grantee shall have the right to remove, trim, cut and keep clear of the Cable System, the trees in and along the Streets of the Grantor within reason.
- d. Grantee in the exercise of any right granted to it by the Franchise shall, at no cost to the Grantor, promptly repair or replace any facility or service of the Grantor which Grantee damages, including but not limited to any Street or sewer, electric facility, water main, fire alarm, police communication or traffic control.

5. Maintenance of the System.

- a. Grantee shall at all times employ ordinary care in the maintenance and operation of the Cable System so as not to endanger the life, health or property of any citizen of the Grantor or the property of the Grantor
- b. All construction practices and installation of equipment shall be done in accordance with all applicable sections of the National Electric Safety Code.
- c. The Cable System shall be designed, constructed and operated so as to meet those technical standards adopted by the FCC relating to Cable Systems contained in part 76 of the FCC's rules and regulations as may, from time to time, be amended.

6. Service.

- a. The Grantee shall make Cable Service distributed over the Cable System available to every residence within the Service Area where there is a minimum density of at least twenty five (25) residences per linear strand mile of cable as measured from Grantee's closest trunk line or distribution cable that is actively delivering Cable Service as of the date of such request for service. If such residence is located within 150 feet of Grantee's feeder cable, the Cable Service will be provided at Grantee's published rates for standard installation. Notwithstanding the foregoing, the Grantee shall have the right, but not the obligation, to extend the service into areas not meeting density standards. Grantee shall not be obligated to provide Cable Service into any area which is technically infeasible.
- b. The Grantor shall provide prior notice to the Grantee of its annexation of any contiguous territory which is being provided Cable Service by the Grantee or its affiliates. Such annexed area will be subject to the provisions of the franchise which previously covered that area throughout the term of this franchise, although the Grantor will replace the previous franchise authority. Grantee shall pay the Grantor franchise fees on revenue received from the operation of the Cable System to provide Cable Services in the Service Area and in any area annexed by the Grantor if the

Grantor has provided written notice to the Grantee prior to the date of such annexation

- c. Grantee shall, if requested, provide Basic Service and one free outlet to each Grantor public facility (educational and governmental) located within one hundred fifty (150) feet of existing service lines of the Grantee and within the jurisdictional limits of the Grantor: No monthly service fee shall be charged for such outlet. Grantee shall provide Basic Service to new construction hereafter for similar public facilities; provided they are within one hundred fifty (150) feet of the existing service lines of Grantee.
- d. Within one hundred and twenty (120) days of receipt of a written request from the Grantor, the Grantee shall provide the Grantor with one channel on a non-exclusive basis for non-commercial Educational and Governmental "EG" access programming. The channel at all times shall remain the property of Grantee, and Grantee shall be entitled to program such channel at its discretion and at any time period that the channel is not being used for "EG" purposes.

7. Insurance/Indemnity.

- a. The Grantee shall maintain in full force and effect, at its own cost and expense, during the term of the Franchise, Commercial General Liability Insurance in the amount of \$1,000,000 combined single limit for bodily injury and property damage. The Grantor shall be designated as an additional insured. Such insurance shall be noncancellable except upon thirty (30) days prior written notice to the Grantor. Upon written request, the Grantee shall provide a Certificate of Insurance showing evidence of the coverage required by this subsection.
- b. Grantee hereby agrees to indemnify and hold the Grantor, including its agents and employees, harmless from any claims or damages resulting from the actions of Grantee in constructing, operating or maintaining the Cable System. Grantor agrees to give the Grantee written notice of its obligation to indemnify Grantor within ten (10) days of receipt of a claim or action pursuant to this section. Notwithstanding the foregoing, the Grantee shall not be obligated to indemnify Grantor for any damages, liability or claims resulting from the willful misconduct or negligence of Grantor or for the Grantor's use of the Cable System.

8. Revocation

- a. Prior to revocation or termination of the Franchise, the Grantor shall give written notice to the Grantee of its intent to revoke the Franchise on the basis of a pattern of noncompliance by the Grantee, including one or more instances of substantial noncompliance with a material provision of the Franchise. The notice shall set forth the exact nature of the

noncompliance. The Grantee shall have sixty (60) days from such notice to either object in writing and to state its reasons for such objection and provide any explanation or to cure the alleged noncompliance. If Grantee has not cured the breach within such sixty (60) day time period or if the Grantor has not otherwise received a satisfactory response from Grantee, the Grantor may then seek to revoke the Franchise at a public hearing. The Grantee shall be given at least thirty (30) days prior written notice of such public hearing, specifying the time and place of such hearing and stating its intent to revoke the Franchise.

- b. At the hearing, the Grantor shall give the Grantee an opportunity to state its position on the matter, after which it shall determine whether or not the Franchise shall be revoked. The public hearing shall be on the record and a written transcript and a certified copy of the findings may be made available to the Grantee within a timely fashion. The Grantee may appeal such determination to an appropriate court. Upon revocation of the Franchise, Grantee may remove the Cable System from the Streets of the Grantor, or abandon the Cable System in place.

9. **Equal Protection**

- a. The Grantor agrees that any grant of additional franchises, licenses, consents, certificates or other authorizations by the Grantor to any other Person(s) to provide Cable Services, video services, or other television services utilizing any system or technology requiring use of the public rights of way, shall require that service be provided for the same territorial area of the Grantor as required by this Franchise and shall be competitively neutral and not be on terms and conditions (including, without limitation, the service area, EG capital grants and the franchise fee obligations) more favorable or less burdensome to the Person(s) of any such additional franchise, licenses, certificates or other authorizations, than those which are set forth herein.

B In the event federal, state or local law, rules or regulations are amended, modified or created that have the lawful effect of modifying the terms and conditions of this Franchise, during the Term or any extension thereof, then the parties shall modify this Franchise in such a way that is mutually agreeable to both parties. Grantee shall have the right to terminate this Franchise in the event Grantor and Grantee fail to mutually agree to modifications to Grantee's Franchise within sixty (60) days from the commencement of such modification negotiations

- c. Grantee shall have the right to terminate this Franchise and all obligations hereunder with ninety (90) days written notice to the Grantor, if Grantee does not in good faith believe it has maintained a commercially feasible

level of Subscriber penetration on Grantees Cable System. Grantee may consider Subscriber penetration levels outside the Franchise Area and other relevant considerations in making this determination. Notice to terminate under this Section shall be given to the Grantor in writing, with such termination to take effect no sooner than one hundred and twenty (120) days after giving such notice. Grantee shall also be required to give its then current Subscribers not less than ninety (90) days prior written notice of its intent to cease operations.

10. **Confidentiality.** If Grantee provides any books and records to the Grantor, the Grantor agrees to treat as confidential such books, records or maps that constitute proprietary or confidential information. Until otherwise ordered by a court or agency of competent jurisdiction, the Grantor agrees that, to the extent permitted by State and federal law, it shall deny access to any of Grantee's books and records marked confidential to any Person.

11. **Notices, Miscellaneous.**

- a. Every notice served upon the Grantor shall be delivered or sent by certified mail, return receipt requested, to:

Office of the County Mayor
1 South Jefferson Street
Winchester, TN 37398

and every notice served upon Grantee shall be delivered or sent by certified mail, return receipt requested, to:

Charter Communications
1774 Henry G. Lane
Maryville, TN 37801
Attention: VP/General Manager

With a copy to: Charter Communications
12405 Powerscourt Drive
St. Louis, MO 63131
Attention: Vice President of Government Affairs

With a copy to: Charter Communications
11 Commerce Road

100

Newtown, CT 06470
Attn: VP of Government Relations

- b. All provisions of this Franchise shall apply to the respective parties, their lawful successors, transferees and assigns.
- c. If any particular section of this Franchise shall be held invalid, the remaining provisions and their application shall not be affected thereby.

12. **Force Majeure.** The Grantee shall not be held in default under, or in noncompliance with the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by circumstances reasonably beyond the ability of the Grantee to anticipate and control. This provision includes work delays caused by waiting for utility providers to service or monitor their utility poles to which Grantee's Cable System is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary.

13. **Franchise Fee.**

- a. Grantee shall pay to the Grantor annually an amount equal to five percent (5%) of the Gross Revenues for such calendar year.
- b. Each year during which the Franchise is in force, Grantee shall pay Grantor no later than forty five (45) days after the end of each calendar quarter the franchise fees required by this section, together with a certified financial statement showing the basis for the computation of the total Gross Revenues actually received from the operation of the Cable System for the provision of Cable Service during the period for which such franchise fee payment is made. Late payment of said franchise fee shall accrue interest on the outstanding amount at rates published by the Internal Revenue Service for tax refunds and additional tax payments for the period of delinquency. Upon reasonable written notice, the Grantor shall have the right to inspect the Grantee's financial records used to calculate the Grantor's franchise fees, and the right to audit and to recompute any amounts determined to be payable under this section; provided this action takes place within three (3) years of the period payments were received by the Grantor, after which any such payment shall be considered final.

14. **Effective Date.** The Franchise granted herein will take effect and be in full force from such date of acceptance by Grantee recorded on the signature page of this Franchise. This Franchise shall expire on _____ unless extended in accordance with Section 3 of this Franchise or by the mutual agreement of the parties.

15. **Acceptance and Entire Agreement.** The Grantor and the Grantee, by virtue of the signatures set forth below, agree to be legally bound by all provisions and conditions set forth in this Franchise. The Franchise constitutes the entire agreement between the Grantor and the Grantee. No modifications to this Franchise may be made without an appropriate written amendment signed by both parties

Considered and approved this ____ day of _____, 2006

[Grantor]

Signature: _____

Name/Title _____

Accepted this ____ day of _____, 2006, subject to applicable federal, state and local law.

Rifkin Acquisition Partners, LLC I/k/a Charter Communication

Signature: _____

Name/Title: _____

Date: _____

Motion was made by Commissioner Stewart and seconded by Commissioner Shasteen to approve resolution to approve new franchise agreement with Charter Communications.

Roll call vote was held.

AYES: 15

Eric Stewart
Mark Stovall
J. M. "Hogan" McDonald
Joe Williams
Henry Arnold
Louise Irwin
Barbara Finney
Sue Hill
Angie P. Fuller
A L Shasteen
Larry Quinn
Karl Smith
Jean Snead
Ed Stovall
Bobby Scharber

NAYS: 0

Motion passed to approve the resolution.

H6-0406-06 A Resolution To Tennessee Housing Development Agency Home Grant (as follows):

Upon voice vote, motion passed 15 - 1 with Commissioner Finney voting no.

NEW BUSINESS/RESOLUTIONS:

The first item for consideration was Franchise Agreement - Cable TV (as follows):

FRANCHISE AGREEMENT

This Franchise Agreement (hereinafter, the "Agreement" or "Franchise Agreement") is made between Franklin County, Tennessee, and Comcast Cablevision of Nashville II, LLC (hereinafter, the "Grantee").

Franklin County, Tennessee, having determined that the financial, legal, and technical ability of the Grantee is reasonably sufficient to provide services, facilities, and equipment necessary to meet the future cable-related needs of the community, desires to enter into this Franchise Agreement with the Grantee for the construction and operation of a cable system on the terms and conditions set forth herein.

SECTION 1 Definition of Terms

1.1 Terms. For the purpose of this Franchise Agreement, the following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below. Unless otherwise defined herein, any term not defined herein shall have the meaning assigned to such term in the Cable Act.

"Cable Act" means Title VI of the Communications Act of 1934, as amended from time to time, 47 U.S.C. Sections 521 et seq.

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

"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 Customers within a community, but such term does not include (A) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility that serves Customers without using any public right-of-way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Cable Act, except that such facility shall be considered a Cable System (other than for purposes of Section 621(c)) to the extent such facility is used in the transmission of video programming directly to Customers, unless the extend of such use is solely to provide interactive on-demand service; (D) an open video system that complies with section 653 of the Cable Act; or (E) any facilities of any electric utility used solely for operating its electric utility systems.

Frankfran

RECORDED IN
FRANKLIN COUNTY, TN

DATE 11/18/94 BOOK 194 PAGE 210

COUNTY CLERK

"Control" means the ability to direct the policies and management of the Grantee.

"Customer" means a Person or user of the Cable System who lawfully receives Cable Service therefrom with the Grantee's expressed permission.

"Effective Date" means ____, 2001.

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

"Franchise" means the initial authorization, or renewal thereof, issued by the Franchising Authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, ordinance or otherwise, which authorizes construction and operation of the Cable System.

"Franchise Agreement" or "Agreement" shall have the meaning set forth in the preamble hereof.

"Franchise Area" means the present legal boundaries of Franklin County, Tennessee, as of the Effective Date, and shall also include any additions thereto, by annexation or other legal means.

"Franchising Authority" means Franklin County, Tennessee, or the lawful successor, transferee, designee, or assignee thereof.

"Grantee" shall have the meaning set forth in the preamble hereof.

"Gross Revenue" means any and all gross revenue actually received from the provision of Cable Service over the Cable System within the Franchise Area. "Gross Revenue" shall include monthly basic, premium and pay-per-view service fees, installation fees, advertising fees less normal agency commissions, leased access channel fees, home shopping commissions, and converter rental fees, 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. Gross Revenue shall also include revenue received from the provision of cable modem service, unless such service shall be determined to not be a cable service by applicable law. In the event cable modem service is determined by applicable law not to be a cable service, then the County may exercise any right under applicable law to impose a fee or tax upon such service, provided, however, revenue derived from the provision of cable modem service will not remain subject to a franchise fee as herein provided.

"Person" means any natural person or any association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for-profit or not-for profit, but shall not mean the Franchising Authority.

"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, 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 and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the Franchising Authority in the Franchise Area, which shall entitle the Franchising Authority and the Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System. Public Way shall also mean any easement now or hereafter held by the Franchising Authority within the Franchise Area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the Franchising Authority and the Grantee to the use thereof for the purposes of installing, operating, and maintaining the Grantee's Cable System over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the Cable System.

SECTION 2 Grant of Authority

2.1. Grant of Franchise. The Franchising Authority hereby grants to the Grantee under the Cable Act a nonexclusive Franchise, which authorizes the Grantee to construct, and operate a Cable System in, along, among, upon, across, above, over, under, or in any manner connected with Public Ways within the Franchise 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. Nothing in this Franchise shall be construed to prohibit the Grantee from offering any service over its Cable System that is not prohibited by federal, state or local law.

2.2. Term of Franchise. The term of the Franchise granted hereunder shall be for an initial term of fifteen (15) years, commencing upon the Effective Date of the Franchise, unless the Franchise is renewed or is lawfully terminated in accordance with the terms of this Franchise Agreement.

2.3. Renewal. Any renewal of this Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, as amended.

2.4. Reservation of Authority. Nothing in this Franchise Agreement shall (A) abrogate the right of the Franchising Authority to perform any public works or public improvements of any description, (B) be construed as a waiver of any codes or ordinances of general applicability promulgated by the Franchising Authority, or (C) be construed as a waiver or release of the rights of the Franchising Authority in and to the Public Ways.

2.5. Competitive Equity.

2.5.1. The Grantee acknowledges and agrees that the Franchising Authority reserves the right to grant one or more additional franchises to provide Cable Service within the Franchise Area; provided, however, that no such franchise agreement shall 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; public, education and government access channels and capital support; customer service standards; required reports and related record keeping; liquidated damages and other sanctions; and universal service. If any such additional and/or competitive franchise is granted by the Franchising Authority which, in the reasonable opinion of the Grantee, contains more favorable or less burdensome terms or conditions than this Franchise Agreement, then the Grantee may give written notice to the Franchising Authority stating the specific terms and/or conditions in the competitive franchise that are more favorable or less burdensome than those contained in this Franchise Agreement. Upon receipt of any such notice, if the Franchising Authority, acting reasonably, agrees with the Grantee's assertion, then the Franchising Authority shall modify this Franchise Agreement to include any more favorable or less burdensome term or condition, provided, the Grantee agrees, upon the request of the Franchising Authority, to also modify this Franchise Agreement to include any term or condition contained in the competitive franchise that is more favorable to the Franchising Authority or more burdensome to the Grantee, in order that one operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law.

2.5.2. Any franchise granted by the Franchising Authority shall be non-exclusive. Any Person desiring a new cable television franchise in the Franchising Area shall file with the Franchising Authority an application for a new cable television franchise in a form acceptable or specified by the Franchising Authority, and in accordance with procedures and schedules established by the Franchising Authority. In the event an application for a new cable television franchise is filed with the Franchising Authority proposing to serve the Franchising Area, in whole or in part, the Franchising Authority shall serve a copy of such application upon any existing Grantee or incumbent cable operator by registered or certified mail.

SECTION 3 The System

3.1. Permits and General Obligations. The Grantee shall be responsible for obtaining, at its own cost and expense, all permits, licenses, or other forms of approval or authorization necessary to construct, operate, maintain or repair the Cable System, or any part thereof, prior to the commencement of any such activity. Construction, installation, and maintenance of the Cable System shall be performed in a safe, thorough and reliable manner using materials of good and durable quality. All transmission and distribution structures, poles, other lines, and equipment installed by the Grantee for use in the Cable System in accordance with the terms

and conditions of this Franchise Agreement shall be located so as to minimize the interference with the proper use of the Public Ways and the rights and reasonable convenience of property owners who own property that adjoins any such Public Way.

3.2. Conditions on Street Occupancy.

3.2.1. New Grades or Lines. If the grades or lines of any Public Way within the Franchise Area are lawfully changed at any time during the term of this Franchise Agreement, then the Grantee shall, upon reasonable written notice from the Franchising Authority and at its own cost and expense, protect or promptly alter or relocate the Cable System, or any part thereof, so as to conform with any such new grades or lines. If public funds are available to any Person using such street or public right-of-way for the purpose of defraying the cost of any of the foregoing, the Franchising Authority shall upon written request of the Grantee make application for such funds on behalf of the Grantee.

3.2.2. Relocation at request of Third Party. The Grantee shall, upon reasonable prior written request of any Person holding a permit issued by the Franchising Authority to move any structure, temporarily move its wires to permit the moving of such structure; provided (i) the Grantee may impose a reasonable charge on any Person for the movement of its wires, and such charge may be required to be paid in advance of the movement of its wires; and (ii) the Grantee is given not less than ten (10) business days advance written notice to arrange for such temporary relocation.

3.2.3. Restoration of Public Ways. If in connection with the construction, operation, maintenance, or repair of the Cable System, the Grantee disturbs, alters, or damages any Public Way, the Grantee agrees that it shall at its own cost and expense replace and restore any such Public Way to a condition reasonably comparable to the condition of the Public Way existing immediately prior to the disturbance.

3.2.4. Safety Requirements. The Grantee shall, at its own cost and expense, undertake all necessary and appropriate efforts to maintain its work sites in a safe manner in order to prevent failures and accidents that may cause damage, injuries or nuisances. All work undertaken on the Cable System 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 Franchise Area.

3.2.5. Trimming of Trees and Shrubbery. The Grantee shall have the authority to trim trees or other natural growth overhanging any of its Cable System in the Franchise Area so as to prevent contact with the Grantee's wires, cables, or other equipment. All such trimming shall be done at the Grantee's sole cost and expense. The Grantee shall reasonably compensate the Franchising Authority for any damage caused by such trimming, or shall, in its sole discretion and at its own cost and expense, reasonably replace all trees or shrubs so damaged. Such replacement shall satisfy any obligations the Grantee may have to the Franchising Authority pursuant to the terms of this Section 3.2.5.

3.2.6. Aerial and Underground Construction. If all of the transmission and distribution facilities of all of the respective public or municipal utilities in any area of the Franchise Area are underground, the Grantee shall place its Cable Systems' 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. In any region(s) of the Franchise Area where the transmission or distribution facilities of the respective public or municipal utilities are both aerial and underground, the Grantee shall have the sole discretion to construct, operate, and maintain all of its transmission and distribution facilities, or any part thereof, aerially or underground. Nothing in this Section 3.2.6. shall be construed to require the Grantee to construct, operate, or maintain underground any ground-mounted appurtenances such as customer taps, line extenders, system passive devices, amplifiers, power supplies, pedestals, or other related equipment. Notwithstanding anything to the contrary contained in this Section 3.2.6., in the event that all of the transmission or distribution facilities of all of the respective public or municipal utilities are required to be placed underground after the Effective Date of this Franchise Agreement, the Grantee shall only be required to construct, operate and maintain all of its transmission and distribution facilities underground if it is given reasonable notice and access to the public and municipal utilities' facilities at the time that such are placed underground.

SECTION 4 Service Obligations

4.1. General Service Obligation. The Grantee shall provide Cable Service to every dwelling unit within the Franchise Area reaching the minimum density of at least twenty-five (25) dwelling units per mile as measured from the nearest point of connection to Grantee's existing distribution cable. The Grantee shall offer Cable Service to all new homes or previously unserved homes located within one hundred twenty five (125) feet of the Grantee's distribution cable.

The Grantee may elect to provide Cable Service to areas not meeting the above density standards. The Grantee may impose an additional charge in excess of its regular installation charge for any service installation requiring a drop in excess of the above standards. Any such additional charge shall be computed on a time plus materials basis to be calculated on that portion of the installation which exceeds the one hundred twenty five (125) foot standard set forth above.

4.2. Programming. The Grantee shall offer to all Customers a diversity of video programming services.

4.3. No Discrimination. Neither the Grantee nor any of its employees, agents, representatives, contractors, subcontractors, or consultants, nor any other Person, shall discriminate or permit discrimination between or among any Persons in the availability of

Cable Services provided in connection with the Cable System in the Franchise Area. It shall be the right of all Persons to continuously receive all available services provided on the Cable System so long as such Person's financial or other obligations to the Grantee are satisfied.

4.4. New Developments. The Franchising Authority shall provide the Grantee with written notice of the issuance of building or development permits for planned developments within the Franchise Area requiring undergrounding of cable facilities. The Franchising Authority agrees to require, as a condition of issuing the permit, the developer give the Grantee access to open trenches for deployment of cable facilities and written notice of the date of availability of trenches. Such notice must be received by the Grantee at least ten (10) business days prior to the availability of such trenches. Developer shall be responsible for the digging and backfilling of all trenches. The Grantee shall be responsible for engineering and deployment of labor applicable to its cable facilities. Installation of cable facilities from utility easements to individual homes or other structures shall be at the cost of the home/building owner or developer unless otherwise provided.

4.5. Prohibition against Reselling Service. No Person shall resell, without the express prior written consent of the Grantee, any Cable Service, program or signal transmitted over the Cable System by the Grantee.

SECTION 5

Fees and Charges to Customers

5.1. Rates, Fees, Charges. All rates, fees, charges, deposits and associated terms and conditions to be imposed by the Grantee or any affiliated Person for any Cable Service as of the Effective Date shall be in accordance with the FCC's rate regulations. Before any new or modified rate, fee, or charge is imposed, the Grantee shall follow the applicable FCC notice requirements and rules and notify affected Customers, which notice may be by any means permitted under applicable law. Except to the extent otherwise expressly permitted by applicable law, the Grantee shall provide Cable Service to each resident in the Franchise Area in accordance with a uniform rate structure throughout the Franchise Area. The preceding requirement shall not prevent the Grantee from using bulk, commercial, promotional and other rates in accordance with federal law.

SECTION 6

Customer Service Standards; Customer Bills; and Privacy Protection

6.1. Customer Service Standards. The Franchising Authority adopts the customer service standards and rules set forth in Part 76, §76.309 of the FCC's rules and regulations. The Grantee shall comply in all respects with the customer service requirements established by the FCC pursuant to §632(c) of the Cable Act and any corresponding regulations, thereto.

6.2. Customer Bills. Customer bills shall be designed in such a way as to present the information contained therein clearly and comprehensibly to Customers, and in a way that (A) is not misleading, (B) does not omit material information, and (C) does not mischaracterize any information. Notwithstanding anything to the contrary in Section 6.1, above, the Grantee may, in its sole discretion, consolidate costs on Customer bills as may otherwise be permitted by Section 622(c) of the Cable Act (47 U.S.C. §542(c)).

6.3. Privacy Protection. The Grantee shall comply with Section 631 of the Cable Act and regulations adopted pursuant thereto.

SECTION 7

Oversight and Regulation by Franchising Authority

7.1 Franchise Fees. The Grantee shall pay to the Franchising Authority franchise fees in an amount equal to five percent (5%) of annual Gross Revenue actually received from the operation of the Cable System to provide Cable Service in the Franchise Area; provided, however, that Grantee shall not be compelled to pay any higher percentage of franchise fees than any other cable operator providing service in the Franchise Area. The payment of franchise fees shall be made on a quarterly basis and shall be due forty-five (45) days after the close of each calendar quarter. Each franchise fee payment shall be accompanied by a certified report from a representative of the Grantee, which shows the basis for the computation of all Gross Revenue actually received from the operation of the Cable System for the provision of Cable Service in the Franchise Area during the period for which such franchise fee payment is made. If the franchise fee payment is not actually received by the Franchising Authority on or before the applicable due date set forth in this Section 7.1, interest shall accrue on the outstanding amount at rates published by the Internal Revenue Service for tax refunds and additional tax payments for the period of delinquency.

7.2. Franchise Fees Subject to Audit.

7.2.1. Upon reasonable prior written notice, during normal business hours, the Franchising Authority shall have the right to inspect the Grantee's financial records used to calculate the Franchising Authority's franchise fees, and the right to audit and to re-compute any amounts determined to be payable under this Section; provided, however, that any such audit shall take place within three (3) years from the date the Franchising Authority receives such payment, after which period any such payment shall be considered final.

7.2.2. Upon the completion of any such audit conducted by the Franchising Authority, the Franchising Authority shall provide to the Grantee a final audit report, which sets forth the Franchising Authority's findings in detail, including any and all substantiating evidence. The Grantee shall have thirty (30) days from the receipt of the audit report to provide the Franchising Authority with a written response to the audit report, including any substantiating evidence. Any "Finally Settled Amount(s)" due to the Franchising Authority as a result of such audit shall be paid to the Franchising Authority by the Grantee within thirty (30) days from

receipt of written notice of the Final Settlement Amount from the Franchising Authority. For purposes of this Section 7 the term "Finally Settled Amount(s)" shall mean the agreed upon underpayment, if any, to the Franchising Authority by the Grantee as a result of any such audit. The Franchising Authority shall bear the expense of any inspection or audit of the Grantee's books and records.

7.3. Oversight of Franchise. In accordance with applicable law, the Franchising Authority shall have the right to oversee, regulate and, on reasonable prior written notice, periodically inspect the construction, operation and maintenance of the Cable System in the Franchise Area, and all parts thereof, to monitor Grantee's compliance with the provisions of this Franchise Agreement.

7.4. Technical Standards. The Grantee shall comply with all appropriate technical standards of the FCC as published in subpart K of 47 C.F.R. § 76. To the extent those standards are altered, modified, or amended during the term of this Franchise, the Grantee shall comply with such alterations, modifications or amendments within a reasonable period after their adoption by the FCC. As provided in these rules, the Franchising Authority shall have, upon written request, the right to obtain a copy of tests and records required to be performed pursuant to the FCC's rules.

7.5. Maintenance of Books, Records, and Files.

7.5.1. Books and Records. Throughout the term of this Franchise Agreement, the Grantee agrees that the Franchising Authority, upon reasonable prior written notice to the Grantee, may review such of the Grantee's books and records regarding the operation of the Cable System and the provision of Cable Service in the Franchise Area which are reasonably necessary to monitor Grantee's compliance with the provisions of this Franchise Agreement at the Grantee's business office, during normal business hours and without unreasonably interfering with Grantee's business operations. Such books and records shall include, without limitation, any records required to be kept in a public file by the Grantee pursuant to the rules and regulations of the FCC. All such documents pertaining to financial matters that may be the subject of an audit by the Franchising Authority shall be retained by the Grantee for a minimum period of three (3) years.

7.5.2. File for Public Inspection. Throughout the term of this Franchise Agreement, the Grantee shall maintain at its business office, in a file available for public inspection during normal business hours, those documents required pursuant to the FCC's rules and regulations.

7.5.3. Proprietary Information. Notwithstanding anything to the contrary set forth in this Section 7, the Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature. The Franchising Authority agrees to treat any information disclosed by the Grantee as confidential and only to disclose it to employees, representatives, and agents of the Franchising Authority that have a need to know, or in order to enforce this Franchise Agreement and who agree to maintain the confidentiality of all such information. The Grantee shall not be required to provide Customer information in violation of

Section 631 of the Cable Act. For purposes of this Section 7 the terms "proprietary or confidential" include, but are not limited to, information relating to the Cable System design, Customer lists, Cable Service and marketing plans, financial information unrelated to the calculation of franchise fees or rates pursuant to FCC rules, or other information that is reasonably determined by the Grantee to competitively sensitive.

7.6. Transfer or Change of Control of Franchise. Neither the Grantee nor any other Person may transfer the Cable System or the Franchise without the prior written consent of the Franchising Authority, which consent shall not be unreasonably withheld. No such consent shall be required, however, for (i) a transfer in trust, by mortgage, hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or in the Cable System in order to secure indebtedness, or (ii) a transfer to an entity owned and/or Controlled by Comcast Corporation. Within thirty (30) days of receiving a request for transfer, the Franchising Authority shall, in accordance with FCC rules and regulations, notify the Grantee in writing of the information it requires to determine the legal, financial and technical qualifications of the transferee. To offset the costs incurred by the County to analyze the legal, financial and technical qualifications of the transferee, transferee will pay the Franchising Authority an amount not to exceed one thousand dollars (\$1,000) for the review of the request of transfer. If the Franchising Authority has not taken action on the Grantee's request for transfer within one hundred twenty (120) days after receiving such request, consent to the transfer shall be deemed given.

SECTION 8

Insurance and Indemnity

8.1. Insurance. Throughout the term of this Franchise Agreement, the Grantee shall, at its own cost and expense, maintain Comprehensive General Liability Insurance and provide the Franchising Authority, certificates of insurance designating the Franchising Authority and its officers, boards, commissions, councils, elected officials, agents and employees as additional insureds and demonstrating that the Grantee has obtained the insurance required in this Section 8. Such policy or policies shall be in the minimum amount of One Million Dollars (\$1,000,000.00) for bodily injury or death to any one person, and One Million Dollars (\$1,000,000.00) for bodily injury or death of any two or more persons resulting from one occurrence, and One Million Dollars (1,000,000.00) for property damage resulting from any one accident. Such policy or policies shall be non-cancelable except upon thirty (30) days prior written notice to the Franchising Authority. The Grantee shall provide workers' compensation coverage in accordance with applicable law. The Grantee shall indemnify and hold harmless the Franchising Authority from any workers compensation claims to which the Grantee may become subject during the term of this Franchise Agreement

8.2. Indemnification. The Grantee shall indemnify, defend and hold harmless the Franchising Authority, its officers, employees, and agents from and against 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

204

not limited to, reasonable attorneys' fees and costs, provided that the Franchising Authority shall give the Grantee written notice of its obligation to indemnify the Franchising Authority within ten (10) business days of receipt of a claim or action pursuant to this Section 8.2. If the Franchising Authority determines that it is necessary for it to employ separate counsel, the costs for such separate counsel shall be the responsibility of the Franchising Authority.

SECTION 9

System Description, Service and Education Government Access

9.1. During the term of this Agreement the Grantee's Cable System shall be capable of providing a minimum of forty (40) Channels of video programming with reception that shall meet technical FCC standards. Within thirty-six (36) months of the Effective Date of this Franchise Agreement, the Grantee shall upgrade the Cable System to a minimum capacity of 550 MHz.

9.2. Service to School Buildings. The Grantee shall provide free "Basic" and "Expanded Basic" tier Cable Service, and free installation of one outlet to each public and private school located in the Franchise Area within 150 feet of the Grantee's distribution cable.

9.3. Service to Governmental and Institutional Facilities. The Grantee shall provide free "Basic" and "Expanded Basic" tier Cable Service and free installation of one outlet to each non-residential County building located in the Franchise Area within 150 feet of the Grantee's distribution cable.

9.4. Education and Government Access. Within one hundred and twenty (120) days of receipt of a written request from the Franchising Authority, the Grantee shall provide the Franchising Authority with one channel on a non-exclusive basis for non-commercial Educational and Governmental "EG" access programming. The channel at all times shall remain the property of grantee, and the Grantee shall be entitled to program such channel at its discretion and at any time period that the channel is not being used for "EG" purposes.

SECTION 10

Enforcement and Termination of Franchise

10.1. Notice of Violation or Default. In the event the Franchising Authority believes that the Grantee has not complied with the material terms of the Franchise, it shall notify the Grantee in writing with specific details regarding the exact nature of the alleged noncompliance or default.

10.2. Grantee's Right to Cure or Respond. The Grantee shall have forty-five (45) days from the receipt of the Franchising Authority's notice described in Section 10.1, above: (A) to respond to the Franchising Authority, contesting the assertion of noncompliance or default, or (B) to cure such default, or (C) in the event that, by nature of the default, such default cannot be cured within the forty-five (45) day period, initiate reasonable steps to remedy such default and

notify the Franchising Authority of the steps being taken and the projected date that they will be completed.

10.3. Public Hearings. In the event the Grantee fails to respond to the Franchising Authority's notice described in Section 10.1., above, or in the event that the alleged default is not remedied within forty-five (45) days or the date projected pursuant to Section 10.2., above, the Franchising Authority shall schedule a public hearing to investigate the default. Such public hearing shall be held at the next regularly scheduled meeting of the Franchising Authority that is scheduled at a time, which is no less than ten (10) business days therefrom. The Franchising Authority shall notify the Grantee in writing of the time and place of such meeting and provide the Grantee with a reasonable opportunity to be heard.

10.4. Enforcement. Subject to applicable federal and state law, in the event the Franchising Authority, after such meeting, determines that the Grantee is in default of any provision of the Franchise, the Franchising Authority may:

10.4.1. seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages or seek other equitable relief; or

10.4.2. in the case of a substantial default of a material provision of the Franchise, declare the Franchise Agreement to be revoked in accordance with the following:

(i) The Franchising Authority shall give written notice to the Grantee of its intent to revoke the Franchise on the basis of a pattern of noncompliance by the Grantee, including one or more instances of substantial noncompliance with a material provision of the Franchise. The notice shall set forth with specificity the exact nature of the noncompliance. The Grantee shall have ninety (90) days from the receipt of such notice to object in writing and to state its reasons for such objection. In the event the Franchising Authority has not received a satisfactory response from the Grantee, it may then seek termination of the Franchise at a public hearing. The Franchising Authority shall cause to be served upon the Grantee, at least ten (10) days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to request termination of the Franchise.

(ii) At the designated hearing, the Franchising Authority shall give the Grantee an opportunity to state its position on the matter, present evidence and question witnesses, after which it shall determine whether or not the Franchise shall be revoked. The public hearing shall be on the record and a written transcript shall be made available to the Grantee within ten (10) business days. The decision of the Franchising Authority shall be in writing and shall be delivered to the Grantee in the manner set forth in Section 11.2 herein. The Grantee may appeal such determination to an appropriate court, which shall have the power to review the decision of the Franchising Authority "de novo" and to modify or reverse such decision as justice may require. Such appeal to the appropriate court must be taken within sixty (60) days of the issuance of the determination of the Franchising Authority.

(iii) The Franchising Authority may, at its sole discretion, take any lawful action that it deems appropriate to enforce its rights under the Franchise in lieu of revocation.

10.5. Technical Violation. The Franchising Authority agrees that it is not its intention to subject the Grantee to penalties, fines, forfeitures or revocation of the Franchise for so-called "technical" breach(es) or violation(s) of the Franchise, which shall include, but not be limited, to the following:

10.5.1. in instances or for matters where a violation or a breach of the Franchise by the Grantee was good faith error that resulted in no or minimal negative impact on the Customers within the Franchise Area; or

10.5.2. where there existed circumstances reasonably beyond the control of the Grantee and which precipitated a violation by the Grantee of the Franchise, or which were deemed to have prevented the Grantee from complying with a term or condition of the Franchise.

SECTION 11 Miscellaneous Provisions

11.1 Force Majeure. The Grantee shall not be held in default under, or in noncompliance with, the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default (including termination, cancellation or revocation of the Franchise), where such noncompliance or alleged defaults occurred or were caused by strike, riot, war, earthquake, flood, tidal wave, unusually severe rain or snow storm, hurricane, tornado or other catastrophic act of nature, labor disputes, governmental, administrative or judicial order or regulation or other event that is reasonably beyond the Grantee's ability to anticipate or control. This provision also covers work delays caused by waiting for utility providers to service or monitor their own utility poles on which the Grantee's cable and/or equipment is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary.

11.2. Notice. All notices shall be in writing and shall be sufficiently given and served upon the other party by hand delivery, first class mail, registered or certified, return receipt requested, postage prepaid, or by facsimile with confirmed transmission and addressed as follows:

The Franchising Authority: Franklin County
Attn: County Executive
One S. Jefferson Street
Winchester, TN 37398

The Grantee: Comcast Cablevision of Nashville II, LLC
General Manager

Nashville, TN 37228

Facsimile: (615) 242-7462

with a copy to:

Comcast Cable Communications, Southern Division
Attn: Vice President of Government Affairs
360 Interstate North Parkway, Suite 600
Atlanta, GA 30339
Facsimile: (678) 385-5101

11.3. Entire Agreement. This Franchise Agreement, including all Exhibits, embodies the entire understanding and agreement of the Franchising Authority and the Grantee with respect to the subject matter hereof. All ordinances or parts of ordinances or other agreements between the Grantee and the Franchising Authority that are in conflict with the provisions of this Franchise Agreement are hereby declared invalid and superseded and this Franchise Agreement shall control.

11.4. Severability. If any section, subsection, sentence, clause, phrase, or other portion of this Franchise Agreement is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

11.5. Governing Law. This Franchise Agreement shall be deemed to be executed in Franklin County, State of Tennessee, and shall be governed in all respects, including validity, interpretation and effect, and construed in accordance with, the laws of the State of Tennessee, as applicable to contracts entered into and performed entirely within the State.

11.6. Modification. 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 Franchising Authority and the Grantee, which amendment shall be authorized on behalf of the Franchising Authority through the adoption of an appropriate resolution or order by the Franchising Authority, as required by applicable law.

IN WITNESS WHEREOF, this Franchise Agreement has been executed by the duly authorized representatives of the parties as set forth below, as of this ____ day of ____, 2001.

Attest:

Franchising Authority:

By: _____

Name:

Title:

Attest:

Comcast Cablevision of Nashville II, LLC

By: _____

John H. Ridall, Jr,
President, Southern Division



Comcast Cable Communications, Inc.
660 Mainstream Drive
Nashville, TN 37228
Tel: 615.244.7462
Fax: 615.255.6528

January 11, 2002

Mr. Monty Adams, Franklin County Executive
No 1. South Jefferson Street
Courthouse Room 1
Winchester, Tennessee 37398

Re: Letter of Agreement between Franklin County, Tennessee, and Comcast Cablevision of Nashville II, LLC.

Dear Mr. Adams:

The purpose of this letter is to confirm the understanding reached between Comcast Cablevision of Nashville II, LLC (hereinafter "Comcast"), and Franklin County, Tennessee (hereinafter the "County"), regarding the purchase of production equipment in support of non-commercial educational and governmental programming in the County.

Within ninety (90) days of the January __, 2002, Effective Date of the Franchise Agreement between the County and Comcast, Comcast agrees to provide the County with the following equipment so long as the cost of such equipment does not exceed \$8000:

- (2) Digital cameras w/s video outputs
- (2) Tripods
- (1) Wireless microphone system (clip-on/handheld)
- (1) Character generator
- (1) Title Maker

Comcast and the County agree that the non-commercial educational and governmental programming will originate from Franklin County High School. Comcast further agrees to work with the County on exploring the feasibility of installing a fiber optic connection between Comcast's headend and the new Franklin County High School facility upon the completion of such high school facility.

Franklin County, Tennessee

Comcast Cablevision of Nashville II, LLC

By: _____
Name

Title

Date

By: _____
Name

Title

Date

Chairman Adams discussed both handouts.

Motion made by Commissioner McDonald, seconded by Commissioner Williams to accept and enter into this Franchise Agreement and the Letter of Agreement between Franklin County and Comcast.

Discussion was held.

Roll call vote was as follows:

AYES: 16

Lynn Bean
Ronnie Cowan
William Scharber
Clara Yates
Raymond Bean
Mark Stovall
J. M. McDonald
Joe Williams
Henry Arnold
Louise Irwin
Barbara Finney
Sue Hill
Robert Rose
A. L. Shasteen
Don Cofer
Larry Goodman

Nays: 0

Motion passed unanimously 16-0.

After further brief discussion concerning this item, the commission moved on to the next agenda item.

H-1 RE 1007-1

FRANCHISE AGREEMENT

By this FRANCHISE AGREEMENT, by and between VOLUNTEER WIRELESS, INC. d/b/a BLTV ("Franchisee") and FRANKLIN COUNTY ("County"), the Franchisee agrees to accept and abide by the terms and conditions of that certain Resolution adopted _____, 2007, attached hereto and incorporated herein as Exhibit "A" whereby County did grant to Franchisee a new franchise for the period of ten (10) years to operate a cable television system in Franklin County, Tennessee.

This _____ day of _____, 2007.

By: _____
Chairperson, County Commission
Eddie Clark

Franklin County Mayor
Richard Stewart
Franklin County, Tennessee

ACCEPTED BY:

VOLUNTEER WIRELESS, INC.
d/b/a BLTV

By: _____
Levoy Knowles, Executive Vice President

RECORDED IN
FRANKLIN COUNTY, TN
DATE _____
Comm 78 BOOK# 20 PAGE 656-671

COUNTY CLERK

VOLUNTEER WIRELESS, INC.
d/b/a BLTV
FRANCHISE AGREEMENT

WHEREAS, Volunteer Wireless, Inc. d/b/a BLTV has requested a franchise to own and operate a cable television system in Franklin County, Tennessee; and

WHEREAS, the Cable Television Act of 1977 enacted by the Tennessee Legislature, the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996, enacted by the Congress of the United States provide that each operator of a cable television system must have a franchise issued in order to provide cable television service within a jurisdiction.

NOW, THEREFORE, BE IT RESOLVED, that the Franklin County Board of Commissioners of Franklin County, Tennessee, adopt the following resolution in order to provide a consistent format which the County Commission shall utilize when contracting with companies desiring to construct, own and operate a cable television system within Franklin County, Tennessee, as follows:

Section 1
DEFINITIONS

For the purpose of this Resolution, the following terms, phrases, words, and their derivations shall have the meanings given herein, unless the context clearly indicates that another meaning is intended. The word "shall" is always mandatory, and not merely directory:

- A. County - "County" shall mean the County of Franklin.
- B. State. "State" shall mean the State of Tennessee.
- C. County Mayor. "County Mayor" shall mean the existing or succeeding Chief Executive Officer of the County, or his/her designee.
- D. County Commission; Commission. "County Commission" or "Commission" shall mean the present governing body of the County or any successor to the legislative powers of the present County Commission.
- E. County Clerk. "County Clerk" shall mean the existing or succeeding Clerk of the County Commission of Franklin County, Tennessee.

F. Franchise. "Franchise" shall mean the permission, license or authorization given hereunder to construct, operate and maintain a Cable Television System in the Unincorporated County.

G. Franchisee. "Franchisee" shall mean Volunteer Wireless, Inc. d/b/a BLTV or any successors, transferees or assignees of such Franchisee.

H. Cable Act. "Cable Act" shall mean the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996.

I. Federal Communications Commission; FCC. "Federal Communications Commission" or "FCC" shall mean that administrative agency of the Federal government responsible for cable television regulation on a national level, or its lawful successor.

J. Cable Television System. "Cable Television System" means (i) a system of coaxial cables, fiber optic cables, or other electrical conductors and equipment used or to be used primarily to receive or transmit video programming, radio signals, or other programming, originated directly or indirectly or taken off the air, from a broadcast tower, towers, or satellite, and to transmit them to the subscribers for a fee and (ii) subscriber interaction, if any, which is required for the selection of such video programming or other programming service. "Cable System" shall not include telephone service, internet access services or any type of satellite television or internet services.

K. NEC. "NEC" shall mean the National Electric Code.

L. NESC. "NESC" shall mean the National Electric Safety Code.

M. Application. "Application" shall include all written communications, in whatever form, made by the Franchisee to the County concerning the construction, rendition of

services, maintenance, or any other matter pertaining to the Cable Television System contemplated herein.

N. Person. "Person" shall mean any person, firm, partnership, association, corporation, Franchisee or organization of any kind.

O Subscriber. "Subscriber" shall mean a purchaser of any service delivered over the system to an individual dwelling unit or of service to be utilized in connection with a business, trade or profession.

P. Resolution. "Resolution" as used herein shall include this Resolution and as the same from time to time may be amended.

Q. Gross Annual Revenues. "Gross Annual Revenues" shall mean all compensation derived directly and indirectly by the Franchisee, or its subsidiaries, from or in connection with the operation of the Cable Television System pursuant to this Resolution, including, but not limited to, gross annual basic cable service receipts, gross annual premium channels receipts, all other cable television service receipts, gross annual advertising receipts, installation and reconnection fees, and converter and other equipment rentals, and expanded basic service tiers, pay-per-view, equipment sales, late fees, and compensation derived from programmers for the launch of new services, provided, however, that this shall not include any taxes on services furnished by the Franchisee herein, imposed directly upon subscriber or user by the State, County or other governmental entity and collected by the Franchisee on behalf of said governmental unit.

R. Street. "Street" shall mean the surface of and the space above and between any public street, road, highway, freeway, lane, path, public way or place, alley, court, sidewalk, boulevard, parkway, drive or other easement now or hereafter held by the County for the purpose of public travel and shall include such other easements or rights-of-way as shall be now held or

hereafter held by the County which shall, within their proper use and meaning, entitle the County and its Franchisee to the use thereof for the purpose of installing or transmitting Cable Television System transmission over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to a Cable Television System.

S. Franchise Area. "Franchise Area" is the present territorial limits of Franklin County, Tennessee, and for any area henceforth added thereto during the term of this Franchise.

Section 2 FRANCHISE AGREEMENT

There is hereby granted to Volunteer Wireless, Inc. d/b/a BLTV, by the County of Franklin, and the County Mayor of the Franklin County Commission is hereby authorized to execute a contract providing for the right, privilege and Franchise to construct, operate, maintain and upgrade a Cable Television System within the franchise area as herein defined, for a period of ten (10) years from the effective date of the contract with the County based on this Resolution, subject to the conditions and restrictions as hereinafter provided. Said contract may be renewed by the County for subsequent additional ten (10) year periods if such renewal is made in writing and in compliance with applicable state and federal laws.

Section 3 AUTHORITY NOT EXCLUSIVE

A. The right to use and occupy said franchise area is defined in Section 1 herein for the purposes herein set forth shall not be exclusive, and the County reserves the right to grant a similar use of said franchise area to any person or entity at any time during the period of this Franchise, in accordance with Title 7, Chapter 59, Part 201 of the Tennessee Code Annotated and other applicable federal and state law and guidelines.

B. If any other person enters into a substantially similar franchise agreement with the County that includes terms or provisions that are more favorable to that person than the terms hereof or are in addition to the terms hereof, those terms or provisions shall be added, at the option of the Franchisee, to this franchise, and the County shall be bound and obligated thereby as if such term(s) and/or provisions were set forth and fully included herein.

Section 4
GRANT TO USE STREETS

A. The County grants to Franchisee, its successors and assigns, the right to construct, erect, operate and maintain, in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated, and all extensions thereof, and additions thereto, in the County, poles, wires, cables, underground conduits, manholes, and other conductors and fixtures necessary for the maintenance and operation in the County of a cable system for the interception, retransmission, sale, and distribution of television signals, radio, data, or other electronic signals, as may be deemed appropriate by Franchisee, upon the limitations, terms and condition contained in this Resolution, as the same may be from time to time amended, and such right and franchise shall be ten (10) years in duration, subject only to such limitations as are now or as hereinafter may be provided by law.

B. The right to use and occupy said streets, alleys, public ways and places for the purposes herein set forth shall not be exclusive, and the County has previously granted and hereby reserves the right to grant a similar use of said streets, alleys, public ways, and places to any person at any time during the period of this franchise.

C. In consideration of the rights granted, the County has the right to fasten, suspend, and maintain on the poles of the Franchisee, its successors and assigns, all wire the County requires for fire alarm and police purposes.

Section 5
CONDITIONS OF STREET OCCUPANCY

A. All poles, lines, guys, cables, conduit, wires, or other appurtenances and appendages thereto used by the Franchisee under, along, over or across any streets, avenues, roads, alleys, bridges and other public ways of the County shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with the rights or reasonable conveniences of property owners who adjoin any of the said streets, alleys or other public ways and places.

B. In case of any disturbance by the Franchisee of pavement, sidewalk, driveway or other surfacing, the Franchisee shall, at its own cost and expense and in a manner approved by the Administrator or Superintendent of Roads, replace and restore all paving, sidewalk, driveway or surface of any street or alleys disturbed, in as good condition as before said work was commenced, and shall maintain the restoration in an approved condition for a period of one (1) year, except for damages due to actions of others subsequent to the restoration. However, should Franchisee fail to do so after thirty (30) calendar days notice in writing to said Franchisee by the County ^{Mayor M.B.} ~~Executive~~ or his designate of said County, the County may repair and replace such portions of the sidewalk or street or other public places that may have been disturbed by said Franchisee and the cost of the same plus a sum equal to fifteen percent (15%) of said cost to defray administration and engineering costs shall be paid by the Franchisee to the County.

C. Whenever any person obtains permission from the County to move any building or structure, Franchisee shall, upon five (5) days written notice, raise or remove wires or conductors to permit the free passage of the building. If Franchisee refuses to comply with the notice, the Road Superintendent, shall, upon proof of notice, raise the wires or conductors at Franchisee's expense.

D. In the event that at any time during the period of this franchise the County shall lawfully elect to alter or change the grade of any street, alley, or other public way, the Franchisee, upon reasonable notice by the County, shall make any necessary removals relaying and relocations of its lines and all appurtenances and appendages thereto at its own expense.

E. The Franchisee shall not place cable and poles or any appurtenances and appendages thereto where the same will interfere with any fire hydrant, water main or sanitary sewer lines. All such poles, lines, cable, guys, wires, conduits or other fixtures placed in any street, when feasible, shall be placed at the outer edge of the right-of-way and inside the curb line, and those placed in alleys shall be placed close to the line of the lot abutting on said alley, and then in such a manner as not to interfere with the usual travel on said streets, alleys and public ways.

Section 6 COMPLIANCE WITH APPLICABLE LAW AND RESOLUTIONS

A. The Franchisee shall, at all times during the life of this franchise, be subject to all lawful exercise of the police power by the County, and to such reasonable regulations as the County has or shall hereinafter by resolution or ordinance provide.

B. Franchisee shall be subject to lawful regulations heretofore or hereafter adopted by the Federal Communications Commission and should it now be or hereafter become subject to the jurisdiction of any other commission then also to the lawful rules and regulations adopted by such commission and also to the lawful rules and regulations adopted by any similar federal commission or state regulatory body having jurisdiction. If the Franchisee shall fail to comply with any material federal and/or state statute, rules, regulations, orders or conditions lawfully vested under federal law in any federal regulatory body and/or rules, regulations, orders and conditions lawfully vested in the County, the County shall have the right to terminate or cancel any franchise granted hereunder after written notice to the Franchisee to correct such failure or

664

default and such failure and defaults shall continue for a period of time specified in such notice, not less than ninety (90) days.

Section 7
GENERAL INDEMNIFICATION AND LIABILITY INSURANCE

A. It is expressly understood and agreed by and between the Franchisee and the County that the Franchisee shall hold the County harmless from all loss sustained by the County on account of any suit, judgment, execution, claim, or demand whatsoever, resulting from negligence on the part of the Franchisee in the construction, operation, or maintenance of its Cable Television System and/or video programming services in the County. The County shall notify the Franchisee's representative in the County within ten (10) days after the presentation of any claim or demand, either by suit or otherwise, made against the County on account of any negligence as aforesaid on the part of the Franchisee.

B. Franchisee hereby agrees annually to furnish to the County evidence of insurance necessary to protect the County. The amounts of such insurance to be carried for liability due to property damage shall be a minimum of \$250,000 as to any one occurrence; and against liability due to injury to or death of person, a minimum of \$500,000 as to any one person and a minimum of \$1,000,000 as to any one occurrence.

Section 8
APPROVAL OF TRANSFER

The Franchisee shall not sell or transfer its plant or system covered by this franchise to another, nor transfer any rights under this franchise to another without the approval of the Franklin County Commission, approval will not be unreasonably withheld. Provided, that no sale or transfer shall be effective until the vendee, assignee, or lessee has filed in the office of the County Recorder an instrument, duly executed, reciting the fact of such sale, assignment or lease, accepting the terms of the franchise and agreeing to perform all the conditions thereof.

Section 9
SYSTEM CAPACITY

A. The system shall be capable of continuous twenty-four (24) hour daily operation without severe material degradation of signal except during extremely inclement weather or immediately following storms that adversely affect utility services or damage major system components.

B. The system shall use equipment generally used in high quality, reliable, modern systems of similar design, including but not limited to, back-up power supplies capable of providing power for a reasonable period of time. The obligation to provide back-up power supplies requires the Franchisee to install equipment that will (1) cut in automatically on failure of commercial utility AC power, (2) revert automatically to commercial standby power when it is restored, and (3) prevent the standard power source from powering a "dead" utility line. In addition, the design and construction of the system shall include appropriate equipment that will permit and is capable of passing through the signals received at the headend without substantial alteration or deterioration.

C. All system connectors, external waterproofing, system expansion loops, drops and grounding shall be in compliance with the applicable NEC and NESC codes. Any variations in place from construction under the prior franchise shall be corrected during routine maintenance and replacement.

Section 10
CUSTOMER SERVICE AND SIGNAL QUALIFY REQUIREMENTS

The Franchisee shall:

(a) Comply with the technical standards provided by the Federal Communications Commission at 47 C.F.R. 76.601 through 76.609, as from time to time amended.

(b) Limit failures which leave five or more subscribers with no cable service to a minimum by locating and correcting such malfunctions properly and promptly, but in no event longer than twenty-four (24) hours after notice unless prevented by an act of God.

(c) In the case of any outage from any cause in which one or more customers are completely without cable service for 24 hours or more, the Franchisee shall calculate a pro rata reduction in the charge for cable service, to be itemized and included in the next regular bill to the customer(s) involved.

(d) Comply with the Customer Service and Consumer Protection Standards at 47 C.F.R. 76.309, as from time to time amended by the Federal Communications Commission.

(e) The Franchisee shall maintain an office within the County limits of Franklin County for the purpose of receiving payments, complaints, and normal business activities. Said office shall be open a minimum of five (5) days per week and eight (8) hours per day.

Section 11 SERVICE EXTENSION

The Cable Television System as contemplated herein shall be installed and maintained in accordance with the accepted industry standards and will meet all applicable technical standards of the Federal Communications Commission. The Cable Television System will be provided in the Franchise Area within the Ben Lomand Telephone service area within 36 months of approval of franchise. The number of miles will be calculated starting at the closest point of the activated cable system where the extension must be connected and will continue until reaching within 300 feet of the dwelling unit.

Section 12 FILING AND COMMUNICATIONS WITH REGULATORY AGENCIES

Copies of all petitions, applications, registrations and responses to complaints submitted by the Franchisee to the Federal Communications Commission shall also be submitted to the

County if requested. The County shall take all precautions to keep this information proprietary and confidential.

Section 13
PUBLIC, EDUCATIONAL & GOVERNMENTAL ACCESS CHANNELS
AND EMERGENCY BROADCAST SERVICES REQUIRED

The Franchisee shall reserve time on a minimum of one channel for public, educational and governmental (PEG) access use. With prior approval of the County, such channel(s) may be used by the Franchisee for other purposes when not required by PEG users. The Franchisee shall make available to PEG users, subject to advance scheduling and during the Franchisee's normal business hours, any studio facilities or equipment it may have at no charge.

Section 14
BROADCAST SERVICES

The Franchisee shall provide, but without charge and subject to the rules and regulations of the Federal Communications Commission, public emergency broadcast capabilities whereby the County can interrupt service on all channels in order to make such public emergency communications as it deems necessary.

Section 15
RIGHTS IN FRANCHISE

A. The right is hereby reserved to the County to adopt, in addition to the provisions herein contained and existing applicable resolutions and/or ordinances, such additional regulations as it shall find necessary in the exercise of the police power, provided that such regulations, by resolution or ordinance or otherwise, shall be reasonable, and not in conflict with the rights herein granted, and shall not be in conflict with the laws of the State of Tennessee.

B. The County shall have the right to supervise all construction and installation work performed subject to the provisions of this Resolution and to make such inspections as it shall find necessary to ensure compliance with governing Resolutions.

**Section 16
PERMITS**

The Franchisee shall be responsible for all building and construction permit fees and amounts for assessments for special benefits, such as sidewalks, street paving, and similar improvements.

**Section 17
AVAILABILITY OF BOOKS AND RECORDS**

The Franchisee shall fully cooperate in making available at reasonable times, and the County shall have the right to inspect at the Franchisee's office, upon reasonable notice and where reasonably necessary for the enforcement of the Franchise, any mutually agreed upon documents of the Franchisee that either support or reflect Gross Annual Revenues as set out in Section 1(R) herein and applicable to the Cable Television System, at any time during normal business hours.

**Section 18
FRANCHISE FEE**

In consideration of the terms of this franchise, and in conformity with 47 U.S.C. 542, Franchisee agrees to pay the County a sum of money equal to five percent (5%) of Franchisee's gross annual receipts per year. Such sum shall be payable quarterly, no later than the 20th of the month following the end of the quarter. This payment shall be in addition to any other tax or payment owed to the County by Franchisee, including ad valorem or business taxes.

**Section 19
SURRENDER RIGHT**

Franchisee may surrender this franchise at any time upon filing with the County Mayor a written notice of its intention to do so at least six (6) 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 the Franchisee in connection with this franchise shall terminate. Further,

should the Franchisee and/or its successors and assigns discontinue the business for which this franchise is granted, all poles, wires, cables and other devices shall be removed without expense to the County within ninety (90) days after demand for such removal is made by the County.

Section 20
NOTICES TO FRANCHISEE

At any time the County Mayor, Commission, members of the Commission, or resident of the County brings an issue regarding this Resolution, agreements or applications thereunder, or the activities of any Franchisee to a meeting or work session of the Commission, the County Administrative Officer will notify Franchisee. Such notification shall take place at least ten (10) days prior to the meeting or work session.

Section 21
SEVERABILITY

If any sections, subsection, sentence, clause, phrase, or portion of this Resolution 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 22
FULL FORCE AND EFFECT

This Resolution shall be in full force and effect from and after its final passage and the publication of this Resolution and/or its caption, the welfare of the public requiring it, and its acceptance by the Franchisee shall be implied from the continued provision of the services described herein after the enactment of this Resolution.

Section 23

ACCEPTANCE

This resolution and its terms and provisions shall be accepted by Franchisee by a written Franchise Agreement executed and acknowledged by Franchisee and filed with the Clerk of the Commission.

All resolutions or parts of resolutions in conflict herewith are hereby repealed.

On adoption by the County Mayor and the Franklin County Board of Commissioners, this Resolution shall be permanently recorded by the Commission as part of the official minutes of the County Commission, and shall have the full force and effect of all resolutions therein recorded.

SO ADOPTED, this 15th day of October, 2007.

Chairperson, County Commission
Eddie Clark

Franklin County Mayor
Richard Stewart
Franklin County, Tennessee

SO APPROVED, this 15th day of October, 2007.

Commissioners Johnny Hughes
 Arthur Knolls

Motion was made by Commissioner Scharber and seconded by Commissioner Cantrell to adopt this franchise agreement.

Chairman Clark called on Mr. Mike Birdwell to come forward and address the commission.

Mr. Birdwell said that he would like to clarify a couple of things in regard to this agreement, and that the agreement was probably similar to the one currently in place with the local cable provider. He said that (1) Volunteer Wireless was a subsidiary of Ben Lomand Telephone Co-op which was the local telephone company in Grundy County (2) This franchise agreement was only for the residents that use Ben Lomand Telephone Service and that Volunteer Wireless could not go out into Bell's territory. He said that right now there were about 29 customers in Franklin County and that Cooley's Rift in Monteagle had been turned over to Volunteer Wireless. (3) The percentage (5% of gross income) the county would receive would be the same received from the local provider.

Upon voice vote, ayes carried to adopt the franchise agreement.

The next agenda item was Animal Control Budget. A rabies animal control budget document was in the packet. A motion and amendment was made but was then withdrawn when Finance Director, Andrea Smith said that the document in the packet was not the resolution that she had sent over for approval. No one had a copy of the resolution. The commissioners said they could not vote on a resolution without first viewing a copy, and then they moved on to the next agenda item.

The next item on the agenda was Barge Waggoner Sumner & Cannon, Inc. (fully executed contract for the Plan of Corrective Action to address State Fire Marshal's reports re: the Franklin County Courthouse and Emergency Operations Center in Winchester, TN).

County Mayor Richard Stewart briefly addressed this agenda item. Chairman Clark said a motion to receive and file the report would be in order.

Motion was made by Commissioner Cantrell and seconded by Commissioner Shasteen to receive and file the document.

Upon voice vote, ayes carried.

The next three resolutions were considered under one motion as follows: (1) Resolution H-2 RE 1007-02 CI A Resolution To Appropriate Federal Grant Receipts For State Department Of Transportation, Governor's Highway Safety Office (2) H-2 RE 1007-02 CII A Resolution To Appropriate Federal Grant Receipts For State Department Of Transportation, Governor's Highway Safety Office for Sewanee, TN within Franklin County (3) H-2 RE 1007-02 CIII A Resolution To Appropriate Federal Grant Receipts For State Department Of Transportation, Governor's Highway Safety Office