

ORDINANCE NO. 324

AN ORDINANCE GRANTING TO MEDIACOM SOUTHEAST LLC A FRANCHISE, BEING THE NON-EXCLUSIVE RIGHT TO ERECT, MAINTAIN AND OPERATE IN, UNDER, OVER, ALONG, AND ACROSS THE STREETS, LANES, AVENUES, SIDEWALKS, ALLEYS, BRIDGES, HIGHWAYS AND EASEMENTS DEDICATED FOR COMPATIBLE USES AND OTHER PUBLIC PLACES IN THE TOWN OF HAVANA, FLORIDA AND THE SUBSEQUENT ADDITIONS THERETO, TOWERS, CABLES AND ANCILLARY FACILITIES FOR THE PURPOSE OF CONSTRUCTING, OPERATING, MAINTAINING AND REPAIRING BROADBAND TELECOMMUNICATIONS NETWORK, TRANSMISSION AND DISTRIBUTION BY CABLE OF TELEVISION SIGNALS FOR A PERIOD OF TEN (10) YEARS; REGULATING THE SAME AND PROVIDING FOR COMPENSATION OF THE TOWN; PROVIDING FOR CODIFICATION AND EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HAVANA, FLORIDA:

SECTION I - DEFINITIONS

For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- A. "Basic Cable Service" means the service tier which includes the re-transmission of local broadcast signals.
- B. "Grantor" is the TOWN OF HAVANA, FLORIDA.
- C. "Council" is the Town Council of the TOWN OF HAVANA, FLORIDA.
- D. "System" is a system operated and maintained by Franchisee utilizing certain electronic and other components which deliver to subscribing members of the public various broadband telecommunications services.
- E. "Cable Television Reception Service" means the delivery by Franchisee to television receivers (or any other suitable type of electronic terminal, cable modems, or receiver) of the electronic signals and other communications services carried over the system.
- F. "FCC" shall mean the Federal Communications Commission or any successor thereto.

G. "Franchisee" is MEDIACOM SOUTHEAST LLC.

SECTION II - TERRITORIAL AREA INVOLVED

The Franchisee agrees to provide its service to all persons residing within the territorial limits of Grantor as of the effective date of this franchise agreement.

Annexation Policy. As new areas are annexed to the Town, the Franchisee shall extend its cable television system as rapidly as practicable to serve such new areas; provided, however, that the Franchisee shall not be required to extend its cable television system throughout a new area if the number of homes in such area does not meet minimum density requirements sufficient to support such an extension. For the purpose of determining compliance with this provision, and to provide a reasonable policy requiring extension of the System, the Franchisee shall extend such plant to newly annexed areas of the Grantor having a minimum density of thirty-five (35) homes per street mile from the existing trunk line. A household shall be counted toward the density requirement when such household is on a lot or parcel which fronts or is bounded by the road, street or easement in which the System's trunk or feeder is or will be located. For purpose of this Franchise, household shall mean a room or rooms connected together, constituting a separate, independent housekeeping establishment for a family, for owner occupancy or rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or households which may be in the same structure, and containing sleeping, bathing, toilet and cooking facilities. The Franchisee shall submit to the Grantor a written policy as determined by the Franchisee for subscriber arrangements for nonstandard drops or for service to households greater than one hundred and fifty (150) feet from the road, street or easement described above.

The provisions of this section are not intended to require, nor shall such provisions be construed to mean, that Franchisee must overbuild other CATV systems or provide its services to customers in areas of the Grantor which have CATV services available from other sources.

SECTION III - LIABILITY AND INDEMNIFICATION

Franchisee shall, at all times, keep in effect the following types of coverage:

- (a) Workers' Compensation as required by Florida law.
- (b) Property damage liability insurance to the extent of Five Hundred Thousand (\$500,000.00) Dollars as to each occurrence and Five Hundred Thousand (\$500,000.00) Dollars aggregate, and personal injury liability

insurance to the extent of One Million (\$1,000,000.00) Dollars aggregate. Excess bodily injury and property damage of One Million (\$1,000,000.00) Dollars each occurrence and One Million (\$1,000,000.00) Dollars aggregate. Automobile bodily injury and property damage liability combined One Million (\$1,000,000.00) Dollars each occurrence.

Franchisee shall indemnify, protect and save harmless Grantor from and against any and all losses and physical damage to property and bodily injury or death to persons, including payments made under any Workers' Compensation law, which may arise out of the erection, operation, maintenance, use, repair, or removal of attachments or poles within the territory of Grantor, or by any act of Franchisee, its agents or employees, occupying under the terms of this Franchise. Franchisee shall carry insurance in the above described amounts naming the Grantor as an additional insured, to protect the Grantor from and against all claims, demands, actions, judgments, costs, expenses and liabilities which may arise or result, directly or indirectly, from or by reason of such loss, injury or damage. Franchisee shall also carry such insurance as it deems necessary to protect it from all claims under the Workers' Compensation laws in effect that may be applicable to Franchisee in accordance with Florida law. Insurance certificates evidencing that such insurance coverage is current shall be deposited periodically with and kept on file by the Grantor. Notice of any change(s) or cancellation(s) shall be immediately (within five days of such occurrence) furnished to Grantor.

These damages or penalties shall include, but shall not be limited to, damages arising out of copyright, infringements, and all other damages arising out of the installation, operations, or maintenance of the System authorized herein, whether or not any act or omission complained of is authorized, allowed or prohibited by this Ordinance. Franchisee or its agent shall notify Grantor at least thirty (30) days prior to any cancellation of such coverage and Grantor retains the right to terminate the Franchise if insurance is not properly maintained.

SECTION IV - TECHNICAL STANDARDS

Franchisee shall be governed by technical standards established by the FCC.

SECTION V - CUSTOMER SERVICE STANDARDS/OPERATION AND MAINTENANCE OF SYSTEM

Franchisee shall render efficient service, make repairs promptly, and interrupt service only for good cause for the shortest time possible. Such interruptions, insofar as possible, shall occur during periods of minimum use of the System.

SECTION VI - RESPONSE TIME

All service requests and complaints shall be responded to promptly within forty-eight (48) hours of receipt.

SECTION VII - FAILURE TO RESPOND

Failure on the part of Franchisee to return a customer to service within forty-eight (48) hours of receipt of complaint will, upon request by the customer, result in the issuance of a credit to that customer's account for the portion of a month the customer was without cable service.

SECTION VIII - LOCAL BUSINESS OFFICE

Throughout the term of the franchise, the Company shall maintain within the franchise area, a location, open during all normal business hours, for, at a minimum, the payment of customer bills. Payments made at any such location by the due date noted on the customer's bill shall not be considered delinquent.

SECTION IX - SERVICE TO SCHOOLS AND CITY; PUBLIC ACCESS

Franchisee shall, subject to the line extension provisions of Section II, provide basic cable service at no cost to public and non-public elementary and secondary schools, at one terminal junction for educational purposes upon request of the school system. Franchisee shall also provide without charge basic cable service and high speed internet service for the Cecil G. Trippe Municipal Building, the Police Department, and the Library, to all sets connected with such buildings. In addition, Franchisee shall also provide without charge a public access channel for public service announcements and broadcast of the meetings of the Gadsden County Commission, the Town Council of the Town of Havana, the Gadsden County School Board, and other public bodies and only high speed internet to TOWN'S MEDICAL CENTER, all as shown on Exhibit "A".

SECTION X - EMERGENCY USE OF FACILITIES

In the case of any emergency or disaster, Franchisee shall, upon request of the Grantor, make available its facilities to Grantor for emergency use during such emergency or disaster. If Grantor wishes to operate a Civil Emergency Alert System on a plan that is mutually acceptable to Grantor and Franchisee and provides Franchisee with the necessary equipment for such system, Franchisee shall permit the Civil Emergency Alert System to be broadcast on the System. Further, Franchisee shall maintain said equipment and provide for regularly scheduled testing by Grantor to insure that the equipment is functioning properly.

SECTION XI - SAFETY REQUIREMENTS

Franchisee shall, at all times, employ ordinary care and shall use and maintain commonly accepted methods and devices for preventing failures and accidents which may cause damages, injuries, or nuisances to the public.

SECTION XII - LIMITATIONS ON RIGHTS GRANTED

The following limitations are specifically imposed by Grantor on Franchisee:

(a) All transmission and distribution structures, lines, and equipment erected by Franchisee within or without the city limits of Havana involving poles owned by the Grantor shall be located in such a manner as determined by Grantor as to cause minimum interference with the proper use of streets, alleys and the public ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places, and said poles, towers, transmission and distribution structures, lines, and equipment shall be removed by Franchisee at its sole expense whenever Grantor finds that the same restrict or obstruct the operation or location of any future streets, alleys, or public ways and places within or without the territorial limits of Grantor.

(b) Construction and maintenance of the System shall be in accordance with the provisions of the National Electrical Safety Code, as may be amended from time to time, prepared by the National Bureau of Standards, the National Board of Fire Underwriters, and all applicable ordinances and regulations of Grantor which may be presently in effect, or changed by future ordinances.

(c) In case of disturbance of or damage to any street, sidewalk, alley, public way or paved area, Franchisee shall, at its own cost and expense and in a manner approved by Grantor, promptly replace and restore such street, sidewalk, alley, public way or paved areas in as good a condition as before such disturbance or damage occurred.

(d) If at any time during the period of this Ordinance, Grantor shall lawfully elect to alter or change the grade of any street, sidewalk, alley or other public way, Franchisee, upon reasonable notice by Grantor, shall promptly remove, relay and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.

(e) Franchisee shall on the request of any person holding a building moving permit or any person who wishes to remove trees or structures or other items from their property, temporarily raise or lower its wires to permit the moving of buildings or other items. The expense of such temporary removal or raising or lowering of

wires shall be paid by the person requesting the same, and the Franchisee shall have the authority to require such payment in advance. Franchisee shall be given not less than seventy-two (72) hours advance notice to arrange for such temporary wire changes.

(f) Subject to Grantor approval, Franchisee shall have the authority to trim trees that are overhanging the streets, alleys, sidewalks and public ways and places so as to prevent the branches of such trees from coming in contact with the wires and cables of Franchisee, except that at the option of Grantor, such trimming may be done by it or under its supervision and directions at the expense of Franchisee.

(g) Franchisee, shall, at its expense, protect, support, temporarily disconnect, relocate on the same street, alley or public place, or remove from the street, alley or public place, any property of Franchisee when required by Grantor by reason of traffic conditions, change of establishments of street grade, installation of sewers, drains, water pipes, power lines, signal lines, and tracks or any other type of structures or improvements by governments or governmental agencies when acting in a governmental or proprietary capacity, or other structure of public improvement; provided, however, that Franchisee shall in all cases have the privileges and be subject to the obligations to abandon any property of Franchisee in place as hereinafter provided.

(h) In all sections of Grantor's corporate limits where Grantor designates an area where all presently above ground services are to be placed underground, Franchisee shall place its wires underground on the same time schedule and on the same conditions that are applicable to the providing of other above ground services in the designated areas.

(i) In the event that the use of any part of the System is discontinued for any reason for a continuous period of twelve (12) months, or in the event such System or such System or property has been installed in any street or public place without complying with the requirements of this Ordinance, or the rights granted hereunder have been subject to the rights of the Grantor to acquire or transfer the System. Franchisee shall, at its sole expense, promptly remove from the streets or public places, all such property and poles of such System other than any which the Grantor may permit to be abandoned in place. In the event of such removal, Franchisee shall promptly restore the street or other areas to a condition satisfactory to Grantor.

(j) Any property of Franchisee to be abandoned in place shall be abandoned in such a manner as Grantor may prescribe. Upon permanent abandonment of the property of Franchisee in place, it shall submit to Grantor an instrument to be approved by Grantor, transferring to Grantor the ownership of such property.

SECTION XIII - OWNERSHIP AND REMOVAL OF FACILITIES

All cable and passive equipment for cable television reception service installed by Franchisee at a subscriber's location shall remain the property of Franchisee and Franchisee shall have the right to remove said cable and equipment. Upon termination of all service to any subscriber, Franchisee shall promptly remove all of its above ground facilities and equipment from the premises upon the request of such subscriber.

SECTION XIV - TRANSFER OF ORDINANCE

All right, title and interest of Franchisee in this Ordinance and the non-exclusive franchise granted herein shall be assignable only with the express prior written consent of Grantor, which shall not be unreasonably withheld.

SECTION XV - DURATION AND RENEWAL OF ORDINANCE

The rights granted to Franchisee herein shall become effective upon the passage of this Ordinance and shall continue for a period of ten (10) years from such effective date.

SECTION XVI - ERECTION, REMOVAL AND COMMON USE OF POLES

The following rules and regulations shall govern the erection, removal and common use of poles:

(a) No poles or other wire-holding structures shall be erected by Franchisee without prior approval of the designated representative of the Grantor with regard to locations, height, type or any other pertinent aspect. However, no locations of any pole or wire-holding structure of Franchisee shall be a vested interest and such poles or structures shall be removed or modified by Franchisee at its own expense, whenever the Grantor or its designated representative determines that the public convenience would be enhanced thereby.

(b) Where poles or other wire-holding structures already existing in use in serving by Grantor are available for use by Franchisee, the Grantor may require Franchisee to use such poles and structures if it determines that the public convenience would be enhanced thereby and the terms of the use available to Franchisee are mutually agreeable to Franchisee and Grantor pursuant to a separate pole attachment agreement.

(c) Where Grantor or a public utility serving Grantor desires to make use of poles or other wire-holding structures of Franchisee but agreement therefore with Franchisee cannot be reached, the Grantor may require Franchisee to permit such use for such consideration as is just and reasonable and upon such terms as Grantor determines the use would enhance the public convenience.

XVII - RATES AND CHARGES

A schedule of the rates and charges currently imposed by Franchisee is set forth in Exhibit B of this Ordinance. Grantor reserves the right to regulate such rates and charges to the extent permitted by any present or future regulatory law.

In the event that Grantor has authority to regulate rates, the following procedures shall be used:

(a) Before making any changes in the rates to subscribers for basic cable services, the Franchisee shall file in writing with Grantor a new proposed rate change at least thirty (30) days in advance of the proposed effective date for such rate change. If the Grantor takes no action to set the proposed rate change for hearing, said proposed rate change shall become effective upon the expiration of the 30-day notice period.

(b) If the Grantor wishes to hold a hearing on the proposed rate increase, the hearing shall be held within thirty (30) days of the filing of the proposed rate increase by the Franchisee. Following the hearing, the Grantor shall take final action on the proposed increase within thirty (30) days thereof.

XVIII - RATE CHANGES WITHOUT GRANTOR APPROVAL

The Franchisee shall have the right to pass along to subscriber increases in state and local sales taxes. The Franchisee shall not discriminate in rates between customers of the same category except to the extent permitted by the Cable Communications Policy Act of 1984 and Federal Communications Commissions regulations.

XIX - BOOKS AND RECORDS

The Franchisee shall keep full, true, accurate, and current books of account, which books and records shall be made available for inspection and copying by Grantor's authorized representative at all times.

XX - MODIFICATION OF OBLIGATIONS

In addition to any other remedies provided by law or regulation, Franchisee's obligations under this Ordinance may be modified, at its request, in accordance with Section 625 of the Cable Communications Policy Act of 1984 as it now exists, or as hereafter amended.

XXI - SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or

unconstitutional by any court of competent jurisdiction, or amended by the United States Congress or is superseded or preempted by FCC regulation, such portion shall not affect the validity of the remaining portions thereof.

XXII - NOTICES

All notices and other communications required hereunder shall be in writing and shall be deemed to have been given on the date of actual delivery if mailed, first class, registered or certified mail, return receipt requested, postage paid to the following respective addresses:

To Grantor:

Town Manager
Town of Havana
Post Office Box 1068
Havana, FL 32333

To Franchisee:

Senior Director Government Relations
Mediacom Southeast LLC
2432 South Main Street
Moultrie, GA 31768

With a copy to:

Vice President of Legal & Regulatory Affairs
Mediacom Southeast LLC
100 Crystal Run Road
Middletown, NY 10941

XXIII - PRIOR ORDINANCES

All prior ordinances and parts of ordinances in conflict herewith are hereby repealed as of the effective date of this Ordinance.

XIV - EFFECTIVE DATE

This ordinance shall take effect immediately upon its passage and approval as provided by law.

INTRODUCED in open session of the Town Council of the Town of Havana, Florida, on the 29th day of August, A.D. ~~2005~~ ²⁰⁰⁶.

PASSED in open session of the Town Council of the Town of Havana, Florida, on the 26th day of September, A.D. ~~2005~~ ²⁰⁰⁶.

7. J. Davis

Presiding Officer of the Town
Council of the Town of Havana,
Florida

ATTEST:

Howard L. McKinnon

Clerk of the Town of Havana and
Clerk of the Town Council thereof

ACCEPTANCE

The non-exclusive Franchise as granted under this Ordinance is
approved and accepted on this 25th day of January, A.D. 2005, by
Mediacom Communications. 2006

Bruce M. Muehl

Vice President, Legal & Regulatory
Affairs (or its authorized
representative)

EXHIBIT A

BASIC CABLE SERVICE AND HIGH SPEED INTERNET
TO MUNICIPAL BUILDINGS

Susan Freiden, Municipal Building, 711 N. Main Street,
Havana,
FL.

Havana Public Library, 203 5th Avenue E., Havana, FL.

Town of Havana Police Department, 121 7th Avenue E., Havana,
FL.

High Speed Internet only to the Town's Medical Center at 602
5th Avenue, Havana, FL.