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ORDINANCE NO. 90 - 04

AN ORDINANCE OF LIBERTY COUNTY, FLORIDA, GRANTING A FRANCHISE TO SOUTHEAST CABLE TV, INC. FOR THE CONSTRUCTION AND OPERATION OF A CABLE TELEVISION SYSTEM; PROVIDING DEFINITIONS; DESIGNATING THE SERVICE AREA; SETTING THE TERM OF THE FRANCHISE; PROVIDING FOR SYSTEM REGULATION AND STANDARDS OF SERVICE; PROVIDING FOR A FRANCHISE FEE; PROVIDING FOR COMPLIANCE TESTING AND MONITORING; SETTING FORTH INSURANCE AND INDEMNIFICATION REQUIREMENTS; PROVIDING FOR ENFORCEMENT AND TERMINATION; CONTAINING OTHER MISCELLANEOUS PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Liberty County, Florida, has determined that the financial, legal and technical ability of Southeast Cable TV, Inc. is reasonably sufficient to provide services, facilities, and equipment necessary to meet the future cable-related needs of the community;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LIBERTY COUNTY, FLORIDA as follows:

SECTION I

Definition of Terms

1.1 Terms. For the purpose of this Ordinance, the following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number:

- a. "Affiliate" means an entity which owns or controls, is owned or controlled by, or is under common ownership with the Grantee.
- b. "Basic Cable" is the tier of service regularly provided to all subscribers that includes the retransmission of local broadcast television signals, and the public educational and governmental channels.
- c. "Cable Act" means the Cable Communications Policy Act of 1984, as amended.
- d. "Cable Service" means (a) the one-way transmission to subscribers of video programming or other programming service, and (b) subscriber interaction, if any, which is required for the selection of such video programming or any other lawful communications programming service.
- e. "Cable System" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment or other communications equipment that is designed to provide Cable Service and other service to subscribers.
- f. "FCC" means Federal Communications Commission, or successor governmental entity thereto.

- o. "Subscriber" means a person or user of the Cable System who lawfully receives Cable Services or other service therefrom with the Grantee's express permission.
- p. "Video Programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

SECTION II

Grant of Franchise

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

2.2 Term. The Franchise granted pursuant to this Ordinance shall be for an initial term of fifteen (15) years from the effective date of this Ordinance unless otherwise lawfully terminated in accordance with the terms of this Ordinance.

2.3 Acceptance; Effective Date. The Grantee shall evidence its acceptance of the terms and conditions of this Franchise grant by having duly authorized officers of said corporation sign a certified copy of this Ordinance as adopted and file same with the Clerk of the Board of County Commissioners within thirty (30) days of the effective date hereof.

SECTION III

Standards of Service

3.1 Conditions of Street Occupancy. All transmission and distribution structures, poles, other lines, and equipment installed or erected by the Grantee pursuant to the terms hereof shall be so located as to cause a minimum of interference with the proper use of Public Ways and with the rights and reasonable convenience of property owners who own property that adjoins any of said Public Ways.

3.2 Restoration of Public Ways. If during the course of the Grantee's construction, operation, or maintenance of the Cable System there occurs a disturbance of any Public Way by the Grantee, it shall, at its expense, replace and restore such Public Way to a condition reasonably comparable to the condition of the Public Way existing immediately prior to such disturbance.

3.3 Relocation at Request of Franchising Authority. Upon its receipt of reasonable advance notice, not to be less than five (5) business days, the Grantee shall, at its own expense, protect, support, temporarily disconnect, relocate in the Public Way, or remove from the Public Way, any

Authority and the Grantee. The franchise fee payment shall be due and payable ninety (90) days after the close of the preceding calendar year. Each payment shall be accompanied by a thorough report from a representative of the Grantee showing the basis for the computation. In no event, shall the franchise fee payments required to be paid by the Grantee exceed five (5) percent of Gross Revenues received by the Grantee in the applicable 12-month period.

4.2 Rates and Charges. The Franchising Authority may not regulate the rates for the provision of Cable Service and other services, including, but not limited to, ancillary charges relating thereto, except as expressly provided herein and except as authorized pursuant to federal and state law including, but not limited to, the Cable Act and FCC Rules and Regulations relating thereto. The rates and charges charged by the Grantee for Basic Service are those set forth on Schedule 1 hereto which is incorporated herein by this reference. From time to time, and at any time, the Grantee has the right to modify such rates and charges including, but not limited to, the implementation of additional charges and rates; provided, however, that the Grantee shall give notice to the Franchising Authority of any such modifications or additional charges thirty (30) days prior to the effective date thereof. For the purpose of this section 4.2, the parties agree that the rates and charges for the provision of Basic Service are not considered to be fixed. Notwithstanding anything to the contrary set forth herein, rates and charges for second outlets for Basic Service shall be deregulated. The Grantee and the Franchising Authority consider the terms set forth in this section to be consistent with the express provisions of Section 626 of the Cable Act.

4.3 Conditions of Sale. Except to the extent expressly required by federal or state law, if a renewal or extension of the Grantee's Franchise is denied or the Franchise is lawfully terminated, and the Franchising Authority either lawfully acquires ownership of the Cable System or by its actions lawfully effects a transfer of ownership of the Cable System to another party, any such acquisition or transfer shall be at a fair market value, determined on the basis of the Cable System valued as a going concern.

If the Grantee's Franchise is lawfully revoked for cause and the Franchising Authority acquires ownership of the Cable System or by its actions effects a transfer of ownership of the Cable System to another person, any such acquisition or transfer shall be at an equitable price. The Grantee and the Franchising Authority agree that in the case of a lawful revocation of the franchise, at the Grantee's request, which shall be made in its sole discretion, the Grantee shall be given a reasonable opportunity to effectuate a transfer of its Cable System to a qualified third party at fair market value, determined on the basis of the Cable System valued as an ongoing concern. The Franchising Authority further agrees that during such a period of time, it shall authorize the Grantee to continue to operate pursuant to the terms of its prior Franchise; however, in no event shall such authorization exceed a period of time greater than six (6) months from the effective date of such revocation. If, at the end of that time, the Grantee is unsuccessful in procuring a qualified transferee or assignee of its Cable System which is reasonably acceptable to the Franchising authority, the Grantee and the Franchising Authority may avail themselves of any rights they may have pursuant to federal or state law; it being further agreed that the Grantee's continued operation of its Cable System during the six (6) month period shall not be deemed to be a waiver of,

6.2 Indemnification. The Grantee agrees to indemnify, save and hold harmless, and defend the Franchising Authority, its officers, boards and employees, from and against any liability for damages and for any liability or claims resulting from property damage or bodily injury, (including accidental death), which arise out of the Grantee's construction, operation, or maintenance of its Cable System, including, but not limited to, reasonable attorneys' fees and costs.

6.3 Bonds and Other Surety. Except as expressly provided therein, the Grantee shall not be required to obtain or maintain bonds or other surety as a condition of being awarded the Franchise or continuing its existence. The Franchising Authority acknowledges that the legal, financial, and technical qualifications of the Grantee are sufficient to afford compliance with the terms of the Franchise and the enforcement thereof. The Grantee and the Franchising Authority recognize that the costs associated with bonds and other surety may ultimately be borne by the subscribers in the form of increased rates for Cable Services. In order to minimize such costs, the Franchising Authority agrees to require bonds and other surety only in such amounts and during such times as there is a reasonably demonstrated need therefor. Initially, no bond or other surety will be required. In the event that the Franchising Authority, in its sole discretion, determines that it is necessary for the Grantee to post a surety bond to guarantee its performance, the Franchising Authority agrees to give the Grantee at least thirty (30) days prior written notice thereof.

SECTION VII

Enforcement and Termination of Franchise

7.1 Notice of Violation. In the event that the Franchising Authority believes that the Grantee has not complied with the terms of the Franchise, it shall notify the Grantee in writing of the exact nature of the alleged noncompliance.

7.2 Grantee's Right to Cure or Respond. The Grantee shall have thirty (30) days from receipt of the notice described in Section 7.1 to (a) respond to the Franchising Authority contesting the assertion of noncompliance, or (b) to cure such default or, in the event that, by the nature of the default, such default cannot be cured within the thirty (30) 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.

7.3 Public Hearing. In the event that the Grantee fails to respond to the notice described in Section 7.1 pursuant to the procedures set forth in Section 7.2, or in the event that the alleged default is not remedied within sixty (60) days after the Grantee is notified of the alleged default pursuant to Section 7.1, the Franchising Authority shall schedule a public meeting to investigate the default. Such public meeting shall be held at the next regularly scheduled meeting of the Franchising Authority which is scheduled at a time which is not less than five (5) business days therefrom. The Franchising Authority shall notify the Grantee of the time and place of such meeting and provide the Grantee with an opportunity to be heard.

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8.3 Actions of Franchising Authority. In any action by the Franchising Authority or representative thereof mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

8.4 Notice. Unless expressly otherwise agreed between the parties, every notice or response to be served upon the Franchising Authority or the Grantee shall be in writing, and shall be deemed to have been duly given to the required party five (5) business days after having been posted in a properly sealed and correctly addressed envelope by certified or registered mail, postage prepaid, at a Post Office or branch thereof regularly maintained by the U.S. Postal Service.

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

Chairman
Board of County Commissioners
Liberty County, Florida
Post Office Box 399
Bristol, Florida 32321

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

Southeast Cable TV, Inc.
Post Office Box 584
Boston, Georgia 31626

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

8.5 Descriptive Headings. The captions to Sections contained herein are intended solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text herein.

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

8.7 Effective Date. This Ordinance shall become effective according to law.

Passed and adopted this 12 day of April, 1990.

ATTEST:

[Signature]

BOARD OF COUNTY COMMISSIONERS,
LIBERTY COUNTY, FLORIDA.

[Signature]
JOHN T. SANDERS
CHAIRMAN