

FRANCHISE AGREEMENT
ORDINANCE NO.: 493

AN ORDINANCE GRANTING A FRANCHISE TO GTC, INC., d/b/a GT COM, OF PORT ST. JOE, FLORIDA TO CONSTRUCT, OPERATE AND MAINTAIN A TELECOMMUNICATION SYSTEM AND LINES CONNECTED THEREWITH.

BE IT ORDAINED BY THE CITY OF MEXICO BEACH, AS FOLLOWS:

SECTION 1
DEFINITIONS

For the purpose of this Franchise, the following terms, phrases, words and their derivations shall have the meanings given herein. 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 singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

A) "Telecommunication System" means wires, cables, underground conduits, manholes, and other fixtures necessary or proper for the maintenance and operation in the city of telecommunication system.

B) "City" means the City of Mexico Beach, a city in the State of Florida.

C) "Force Majeure" means a strike, acts of God, acts of public enemies, orders of any kind of a government of the United States of America or of the State of Florida or any of their departments, agencies, political subdivision, riots, hurricanes, tornadoes, volcanic activity, storms, floods, washouts, droughts, civil disturbances, explosions, partial or entire failure of utilities or any other cause or event not reasonably within the control of the disabled party.

D) "Grantee" means GTC, Inc., d/b/a GT Com., of Port St. Joe, Florida, its lawful successors, transferees or assigns.

E) "Grantor" means the City of Mexico Beach, Florida.

F) "Person" means any corporation, partnership, proprietorship or organization authorized to do business in the State or any natural person.

G) "Public Property" means any real property other than a street owned by any governmental unit.

H) "Street" means the surface of and the space above and below any street, road, highway, freeway, lane, path, way, alley, court, sidewalk, boulevard, parkway, drive, or any public easement or right-of-way now or hereafter held by the Grantor which shall entitle Grantee to the use thereof for the purpose of installing or transmitting over

poles, wires, cables, conductors, ducts, confluent, vaults, manholes, amplifiers, appliances, attachments and other property as may be ordinarily necessary and pertinent to a system.

D) “Cable Communications or System” means poles, wires, cables, underground conduits, manholes and other fixtures, necessary and proper for the maintenance and operation in the City of the telecommunication system and lines connected therewith.

SECTION 2 GRANT OF AUTHORITY

For the purposes of constructing, operating and maintaining a System within the territorial boundaries of the Grantor, Grantee may erect, install, construct, repair, replace, relocated, reconstruct, and retain in, on, over, under, upon, across and along the Streets, including over public right-of-way and through easements, within the Grantor such lines, cables, conductors, ducts, confluent, vaults, manholes, amplifiers, appliances, pedestals, attachments and other operating equipment as are necessary and pertinent to the operation of the System.

SECTION 3 COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES

A) This Franchise is granted pursuant to the terms and conditions contained herein. Such terms and conditions shall be subordinate to all applicable provisions of State and federal laws, rules and regulations.

B) Grantee's rights are subject to the police powers of the Grantor to adopt and enforce ordinances necessary to the health, safety and welfare of the public that are not otherwise inconsistent with the terms and conditions of this Franchise. Grantee shall comply with all applicable general laws and ordinances enacted by the City pursuant to that power.

SECTION 4 TERRITORIAL AREA INVOLVED

This Franchise is granted for the territorial boundary of the Grantor.

SECTION 5 FRANCHISE TERM

This Franchise shall commence upon the effective date of this Order and expire twenty (20) years thereafter unless renewed, revoked or terminated sooner as herein provided.

SECTION 6
FRANCHISE NON-EXCLUSIVE

The Franchise granted herein is non-exclusive. The Grantor specifically reserves the right to grant, at any time, one or more additional franchises for a System in accordance with State and federal law.

SECTION 7
WRITTEN NOTICE

All notices or demands required to be given under this Franchise shall be deemed to be given with delivered personally to the person designated below or upon the date actually received as evidenced by registered or certified mail receipt addressed as follows:

If to the Grantor: Office of City Clerk
 City of Mexico Beach
 P.O. Box 13425
 118 N. 14th Street
 Mexico Beach, FL 32410

If to the Grantee: GTC, Inc., d/b/a GT Com
 P.O. Box 220
 Port St. Joe, Florida 32457

Addresses may be changed by either party upon notice to the other party given as provided in this Section.

SECTION 8
REPAIR OF STREETS AND PROPERTY

Any and all Streets or Public Property or private property which are disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance or reconstruction of the System shall be promptly repaired by Grantee, at its expense, and to a condition as good as that prevailing prior to Grantee's work.

SECTION 9
DAMAGES AND DEFENSES

A) Grantee shall indemnify, defend and hold harmless the Grantor for all damages and penalties, at all times during the term of this Franchise, as a result of or due to Grantee's construction or operation of the System.

B) In order for the Grantor to assert its rights to be indemnified and held harmless, the Grantor must:

- 1) Promptly notify Grantee of any claim or legal proceeding that gives rise to such right;
- 2) Afford Grantee the opportunity to participate in and fully control any compromise, settlement, resolution or disposition of such claim or proceeding; and
- 3) Fully cooperate in the defense of such claim and make available to Grantee all such information under its control relation thereto.

SECTION 10
LIABILITY INSURANCE

A) Grantee shall maintain, throughout the term of this Franchise, liability insuring the Grantor and the Grantee with regard to all damages mentioned in Section 9 above in and the following minimum amounts:

- 1) One Million Dollars (\$1,000,000.00) for bodily injury or death resulting from any one accident.
- 2) Five Hundred Thousand Dollars (\$500,000.00) for bodily injury or death to any one person.
- 3) Fully cooperate in the defense of such claim and make available to Grantee all such information under its control relating thereto.

SECTION 11
TRANSFER OR ASSIGNMENT OF FRANCHISE

The Franchise granted herein shall not be transferred or assigned without written notice to the Grantor. There will be a \$50.00 transfer fee payable to the Grantor for each transfer or assignment.

SECTION 12
FRANCHISE RENEWAL

Any Franchise renewal shall be in accordance with applicable state and federal law.

SECTION 13
GRANTOR'S RIGHT TO REVOKE

In addition to all other rights which the Grantor has pursuant to law or equity, the Grantor reserves the right to revoke, terminate or cancel this Franchise and all rights and privileges pertaining thereto in the event that:

- A) Grantee violates any material provision of this Franchise, or
- B) Grantee practices any fraud upon the Grantor, or
- C) Grantee becomes insolvent, unable or unwilling to pay its debts, or its adjudged bankrupt.

SECTION 14
REVOCACTION PROCEDURES

A) The Grantor shall notify the Grantee of its intention to revoke, terminate or cancel this Franchise. The written notice shall describe in reasonable detail the specific violation so as to afford Grantee an opportunity to remedy the violation.

B) Grantee shall have ninety (90) days or such additional period of time as may be reasonable necessary after the receipt of the notice in which to correct the violation before the Grantor may formally revoke, terminate or cancel this Franchise. Grantee may, within thirty (30) days of receipt of the notice, notify the Grantor that there is a dispute as to whether a violation has in fact occurred. Such notice by Grantee to the Grantor shall stay the ninety (90) day period described above.

C) The Grantor shall hear the Grantee's dispute and shall determine whether a default or violation by Grantee has occurred. In the event that Grantor determines that a default or violation has occurred, the Grantor will supplement the decision with written findings of fact.

D) If after the hearing the dispute Grantee has been found to be in default, Grantee shall then have ninety (90) days from such a determination to remedy the violation or failure. At any time after that ninety (90) day period the Grantor may, by formal action at a public hearing affording reasonable notice and opportunity for Grantee to be heard, revoke, terminate or cancel this Franchise.

SECTION 15
REMOVAL UPON REVOCATION

Upon the revocation of this Franchise as herein provided, Grantee shall remove all of its attachments and wires from poles used as authorized herein.

SECTION 16
FORCE MAJEURE

If by reason of a Force Majeure any party is unable in whole or in part to carry out its obligations hereunder, that party shall not be deemed to be in violation or default during the continuance of such inability.

SECTION 17
SEVERABILITY

If any term, condition or section of this Franchise or the application thereof to any person or circumstance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition or Section to persons or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Franchise and all the terms, conditions and Sections hereof shall, in all other respects, continue to be effective and to be complied with.

SECTION 18
FRANCHISE COSTS

Notwithstanding anything to the contrary contained herein, Grantee expressly reserves the right to pass through as external cost any and all costs associated with meeting the requirements set forth in this franchise in accordance with the rules and regulations of the FCC. Nothing contained herein will be construed as an agreement to the contrary, or a waiver by Grantee of the right to pass such costs through.

SECTION 19
FRANCHISE FEE

As compensation for the rights herein granted, the Company shall comply with the Communications Services Tax Simplification Law Chapter 202, Florida Statutes.

SECTION 10
AMENDMENTS OR MODIFICATIONS

No amendment or modification to this Agreement shall be effective unless in writing and signed by the Grantee and the Grantor.

SECTION 21
DISCLAIMER OF THIRD PARTY BENEFICIARIES

This Agreement is solely for the benefit of the parties hereto and no right or cause of action shall accrue by reason hereof to or for the benefit of any third party not a party hereto. Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon or give any person or entity any right, remedy or claim under or by reason of this Agreement or any provisions or conditions hereof, other than the parties hereto and their respective successors and assigns.

SECTION 22
PASSAGE AND EFFECTIVE DATE

This Franchise, having been published as required, shall take effect and be in force from and after thirty (30) days following its final passage and approval.

Approved this 19th day of July, 2005.

ATTEST

City of Mexico Beach

By: Chuck Switzer
Its: Mayor

By: [Signature]
Its: City Attorney

GTC, INC., d/b/a GT COM

By: [Signature]
Its: V. PRESIDENT

Shona P. H. L. Klasto
Acting City Clerk