To: Representative Trey Traviesa
Senators Tom Lee and Rod Smith
Representatives Ed Jennings, Jr.; Larry Cretul; Dwight Stansel

In re: House Bill 1199 ("Consumer Choice Act of 2006")

The City Commission of the City of Gainesville has reviewed the Consumer Choice Act of 2006 and recognizes that the bill poses an important question as to who should and can regulate the cable and other video services industries in the State of Florida.

The proposed statewide franchising system for non-incumbent video providers is essentially a rubber stamp for all comers. Local governments have been franchising cable video providers for many years. Local governments have a vested interest in public safety and welfare and the efficient and effective management of increasingly crowded rights-of-way.

Clearly one of local governments' most fundamental obligations is to public safety; after all, the public safety function represents over 50% of the general expenditures of most of the cities and counties in Florida. The mandate to public safety means that we can't let people indiscriminately tear up our streets leaving unsafe conditions behind; we can't let people tear up our streets and hit gas and electric lines and break water and sewer mains; we can't let people hang overhead lines that violate national pole attachment safety standards and that create unsafe conditions at ground level during the attachment process; we can't let line workers leave dangerous wire litter behind in people's yards and on public property. Only local governments can ensure the public safety of their local citizens in the processes of infrastructure installation and maintenance. House Bill 1199's proposed language interferes with local governments' ability to ensure these elements of public safety and fails to provide an effective problem resolution mechanism at the State level.

Regarding citizen welfare, federal law has provided for it in several ways. First, the requirement for local broadcast carriage was encompassed in the 1992 Cable Act. The ability to receive locally broadcast signals was deemed important for citizens. Second, Congress solidified the use of PEG channels by requiring the provision of PEG channel access for any governments requesting them. These PEG channels have historically been seen as promoting the general welfare, because those channels have brought local government into the homes of interested cable subscribers, vastly improving the accessibility of government to all citizens, including the infirm, the handicapped, the indigent, and the homebound. Federal law and FCC regulations both support the policy that cable operators may provide support for such local programming in addition to cable access. By making white elephants of existing franchises which include PEG

channels and support, and establishing programming criteria which clearly disadvantage all smaller governments and most of the medium-sized ones in the State, the bill language clearly establishes two classes of citizens – those in large communities that already meet the PEG programming requirements and everybody else in the state who will lose cable access to their local governments.

Buildout and nondiscriminatory service provision are also inextricably linked to the welfare of local citizens. By prohibiting buildout requirements, the bill endsorses and promotes cherry-picking by video providers. This is diametrically opposed to the federal government's recognition in the telecommunications arena that access by all is in the national and public interest. It is also contrary to the current federal debate on how to provide broadband access to all. The inevitable result of HB 1199 is that poor and rural parts of the state and poor sections of all local jurisdictions within the state will be served differently than the wealthier and denser areas: less timely or with fewer choices or higher costs. Buildout provisions should be workable, but they should also be required and nondiscriminatory in their results, eventually mirroring the conditions under which current incumbents operate.

The state would issue carte blanche access to local rights-of-way to all comers, some of which are not financially capable of fixing problems they may create and none of which has a vested interest in either efficient or effective use of increasingly crowded infrastructure space. The result is that streets and sidewalks will be torn up more often; there will be more duplicative conduit underground and more gas, electric and other communications lines disrupted; there will be more pole attachments that interfere with electric power delivery and pose potential hazards in high winds. Rights-of-way are a precious and diminishing resource financed and maintained by local citizens, and it is local citizens and local governments who will best ensure the effective use of them.

Finally, the bill itself creates two classes of providers, giving vastly preferential treatment to new entrants and internet video providers while incorrectly conveying the message that the status quo will remain for all currently franchised incumbents. The vitiation of level playing field provisions will provide existing franchisees a cause of action under the federal Telecommunications Act of 1996, and existing franchise agreements and contracts are likely to be abrogated. This will impact local citizens and their local governments much sooner than the language of the bill implies and will clearly create an unfunded mandate for any local governments receiving PEG programming or other support from the incumbent cable providers, at least for those very few local governments which can meet the PEG programming standards at all.

In conclusion, we reiterate that only local governments can properly assess the playing field in their communities, ensuring that all teams are treated fairly and

that property belonging to the local citizenry is used efficiently and accessed safely.

Thank you for your attention to the interests of the City of Gainesville.

/s/ Pegeen Hanrahan, Mayor