



TO: Members of the Troy City Council
FROM: John M. Lamerato, Acting City Manager
Lori Grigg Bluhm, City Attorney
Cynthia Stewart, Community Affairs Director
DATE: March 28, 2006
SUBJECT: Transfer of WOW Cable Franchise

The City of Troy has previously approved two cable television franchise agreements, which allows Comcast and WOW! to provide service to the community. The WOW! franchise agreement was initially between the City of Troy and Ameritech New Media. This initial franchise was for 15 years, and expires on April 22, 2011. A copy of this initial franchise is attached for your review. This franchise was successfully transferred from Ameritech New Media to WideOpenWest (WOW!) in 2001. Now, there has been a proposed sale of the WOW! Internet, Cable and Phone to Racecar Acquisition, LLC, which is primarily Avista Capital Partners.

Prior to the transfer of a cable television franchise, a provider must complete an *Application for Franchise Authority Consent to Assignment or Transfer of Control of Cable Television Franchise* (a FCC Form 394 application), with supporting documentation detailing the credentials and financial position of the proposed new ownership, as well as any proposed changes in the daily operation of the cable television franchise. The City has 120 days to consider any such application, or else it will be automatically approved. This requires action as soon as possible, but in no event later than the April 17, 2006 City Council meeting.

This proposed transfer was announced in December 2005, and a copy of the press release and accompanying letter from WOW! are attached for your review. According to these items, as well as the application to transfer the franchise (FCC Form 394), the transfer is intended to be seamless to the cable subscribers. The brand name of WOW! will continue to be used, and the personnel and the office locations are proposed to be the same. There will not be any increases in the subscriber prices that are caused by this proposed transfer.

The application and accompanying financial and operational details have been reviewed by Tim Currier of Beier Howlett, who serves as the attorney for the ICCA (*Intergovernmental Cable Communications Authority*). He has recommended conditional approval of the cable franchise transfer. This conditional approval would incorporate the representations that were made in the application to transfer the franchise, as well as statements that were made subsequent to the application in response to the inquiries of the ICCA attorneys. The ICCA recommends conditional approval of the transfer of control of the franchise from WideOpenWest Holdings, LLC to Racecar Acquisition, LLC.. A proposed resolution is attached for your convenience.

As always, if you have any questions concerning the above, please let us know.

Proposed Resolution:

WHEREAS, WideOpenWest Michigan, LLC (WOW!) is a current cable franchisee for the City of Troy, a Local Franchise Authority within the Intergovernmental Cable Communications Authority (ICCA); and

WHEREAS, on December 27, 2005, WideOpenWest Holdings and Racecar Acquisition, LLC submitted an FCC Form 394 *Application for Franchise Authority Consent to Assignment or Transfer of Control of Cable Television Franchise*; and

WHEREAS, the City of Troy is relying upon such information as contained in the above referenced FCC Form 394 application and supporting documents, as well as additional supplemental information provided by WideOpenWest Holdings, LLC, in the consideration of the application, and based on the information provided therein, the City of Troy intends to approve the application and consent to the transfer of control of the cable television franchise currently held by WideOpenWest Holdings to Racecar Acquisition, LLC, upon the belief that the consent is in the best interest of the City of Troy.

NOW THEREFORE, BE IT RESOLVED:

The City of Troy CONSENTS to the transfer of control of the cable franchisee from WideOpenWest Holdings, LLC to Racecar Acquisition, LLC, in the manner described in the Agreement and Plan of Merger dated December 13, 2005, subject to the following conditions:

1. As soon as possible, and prior to the closing on the transfer of the cable franchise from WideOpenWest Holdings, LLC to Racecar Acquisition, LLC, WideOpenWest Michigan LLC will promptly notify the City of Troy in writing of any change in service or operation in the City of Troy's cable system and/or change in the personnel directly responsible for the operation of the City of Troy's system in contemplation of, or as a result of consummation of the Agreement and Plan of Merger; and
2. As soon as possible, and prior to the closing on the transfer of the cable franchise from WideOpenWest Holdings, LLC to Racecar Acquisition, LLC, WideOpenWest Michigan LLC will promptly and properly remediate all existing defaults under the current Cable Franchise Agreement with the City of Troy, and will also confirm in writing that it has no knowledge of any other defaults other than those identified and remedied; and
3. As soon as possible, and prior to the closing on the transfer of the cable franchise from WideOpenWest Holdings, LLC to Racecar Acquisition, LLC, WideOpenWest Michigan LLC and all of the parties to the Agreement and Plan of Merger dated December 13, 2005 will provide a written statement that the Transferee and Transferor will provide full and immediate cooperation with respect to the franchise fee review or audit being conducted by the City of Troy and/or the ICCA. All parties to the Agreement shall cooperate with the audit or fee review, which

includes but is not limited to transmitting all necessary information to the auditors and/or attorneys that have requested said information, within ten (10) days from the request; and

4. As soon as possible, and prior to the closing on the transfer of the cable franchise from WideOpenWest Holdings, LLC to Racecar Acquisition, LLC, Racecar Acquisition LLC agrees in writing to accept and be bound by the Cable Franchise Agreement and the current cable regulatory and telecommunications ordinances of the City of Troy. In all instances, Racecar Acquisition LLC will assume all obligations (known or unknown) of the existing franchise; and
5. The City of Troy and/or the other ICCA Communities allege that there is an existing default of the Cable Franchise Agreement, since the Franchisee has failed to pay the correct amount of franchise fees and PEG fees. The parties agree to cooperate in a review of these past payments, without admitting liability. However, if a default on the current Cable Franchise Agreement is found to exist, then it shall be remedied, as provided in condition #2; and
6. All prior agreements and undertakings by WideOpenWest Holdings, LLC, between WideOpenWest Holdings, LLC and the ICCA or any of the ICCA member communities, apart from the Franchise Agreement, shall remain in full force and effect, and Racecar Acquisition, LLC shall honor any such agreement or undertaking; and
7. The City of Troy's approval of the transfer of the Cable Franchise shall be automatically revoked if the Agreement and the Plan of Merger is not consummated by July 31, 2006, or if the Agreement and Plan of Merger is terminated prior to that time without having been consummated; and
8. The ICCA and the City of Troy shall be reimbursed within thirty days by any of the parties to the Agreement and Plan of Merger of December 13, 2005, for the reasonable expenses incurred by the ICCA and/or the City of Troy that are directly attributed to the ICCA or the City of Troy for their consideration of the transfer application.

The City of Troy's grant of consent to the transfer of the Cable Franchise Agreement, from WideOpenWest Holdings, LLC to Racecar Acquisitions, LLC, pursuant to the Agreement and Plan of Merger dated December 13, 2005, shall be effective immediately, subject to the above conditions. The Acting City Manager of the City of Troy is hereby authorized to enter into and execute and deliver a certificate, as well as such other documents that may be necessary, evidencing this resolution, as long as any additional documents are consistent with this resolution, without further act or resolution of the City Council.

WideOpenWest Michigan, LLC shall promptly notify the City of Troy upon the closing of the transaction, as described in the Agreement and Plan of Merger dated December 13, 2005.

December 14, 2005

Ms. Louise Schilling, Mayor
City of Troy
500 W. Big Beaver
Troy, Michigan 48084

Dear Mayor Schilling:

Since acquiring the cable system serving the City of Troy in 2001, WOW! has consistently provided customers a competitive choice. As a result of our strong growth performance and continued future opportunities for growth, our two largest investors are in the enviable position of being able to sell their majority stock ownership in the company.

Therefore, I am pleased to announce that on December 14 an agreement was reached with Avista Capital Partners to purchase majority ownership in WOW!. Avista specializes in private equity investments in growth-oriented media companies such as WOW!, and is enthusiastic about partnering with WOW! to continue to build our customer base. Additional information is included in the attached press release. Their website is www.avistacap.com.

The transfer of stock ownership will be completely transparent to our customers. The senior management and employees will continue in their same positions. We will continue to operate the system while remaining focused on the same basic fundamentals which enabled us to earn the distinction as the #1 company in Customer Satisfaction Among Cable/Satellite TV Subscribers as rated by J.D. Power and Associates. Senior management retains an ownership position and a vested interest in the continued success of the company.

WideOpenWest Michigan LLC will remain the legal entity which holds the franchise agreement with the City of Troy. However, the franchise agreement requires transfer notification in the event of a change to the stock ownership of the company. Very shortly, I will provide you with F.C.C. form 394, an application to transfer the existing agreement.

I appreciate the opportunity to serve you and look forward to the future with great excitement. If you have any questions, please contact me at 248.677.9030.

Sincerely,



Mark Dineen
Senior Vice President and General Manager

Cc: Gertrude Pareskevin – Cable Delegate



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FOR IMMEDIATE RELEASE

Contacts:

WideOpenWest: Cathy Kuo (720) 479-3518

Avista Capital Partners: Jeffrey Taufield, Kekst & Co. (212) 521-4815

Oak Hill Capital Partners: Rhonda Barnat, Abernathy MacGregor (212) 371-5999

ABRY Partners: Jay Grossman (617) 859-2959

AVISTA CAPITAL PARTNERS TO ACQUIRE WIDEPENWEST

NEW YORK, NY -- December 14, 2005 -- Avista Capital Partners announced today that it has reached an agreement to acquire cable operator WideOpenWest from Oak Hill Capital Partners and ABRY Partners. WideOpenWest operates cable systems in Illinois, Indiana, Michigan and Ohio and provides cable, high-speed Internet and digital telephone service under the brand name "WOW!" to 114 municipalities reaching over 1.4 million households. Avista Capital, based in New York, is a private equity firm focusing on investment in the media, energy and healthcare sectors.

Terms of the agreement were not disclosed. The sale is expected to close in the first half of 2006. The existing management team will continue to operate the company under the brand name "WOW!" after the close of the transaction. Northwestern Mutual, based in Milwaukee, and Standard Life Investments (USA), headquartered in Edinburgh, Scotland, have committed to be minority co-investors in the acquisition.

David Burgstahler, a partner of Avista Capital said, "We are extremely pleased to be partnering with WideOpenWest. We believe strongly in the continued future growth of the cable industry. WOW! is a great brand name and a strong strategic fit for Avista. We're confident in the company's opportunities for additional growth and enthusiastic about partnering with such an exceptional management team."

Colleen Abdoulah, president and chief executive officer of WideOpenWest said, "The WOW! team is excited to be working with Avista. The change in company ownership will be transparent to employees and customers. We remain committed to delivering our

customers an array of services which meets their needs, at a great value, backed by award winning customer service.”

"WideOpenWest is one of the fastest growing cable television companies in the country and we are delighted to have participated in the value that this management team has created," said J. Crandall, managing partner of Oak Hill Capital Partners.

“We have enjoyed our successful partnership with the WideOpenWest management team and believe that they will continue to generate industry-leading growth in the future,” said Jay Grossman, managing partner of ABRYS Partners.

Credit Suisse First Boston and Waller Capital acted as financial advisors to the company in connection with this transaction.

About WOW!

WOW! is a competitive provider of cable television, high-speed Internet, and telephone services. WOW! Cable features Basic Cable, Digital Cable, and advanced services such as HDTV and DVRs. WOW! Internet provides customers with a choice of high-speed connections from 112kbps all the way to 6Mbps. WOW! Phone offers the convenience of unlimited local, long distance, and local toll calling in the United States. Customers can bundle any two or three services together at a great value, while benefiting from the convenience of dealing with just one company for all their entertainment and telecommunications needs.

www.wowway.com

About Avista Capital Partners

Avista Capital Partners is a private equity firm with offices in New York, NY and Houston, TX. The firm was founded in 2005 by seven former Partners and nine former professionals from DLJ Merchant Banking Partners, the private equity affiliate of Credit Suisse Group. Avista seeks to make controlling or influential minority investments primarily in growth-oriented media, healthcare and energy companies. Through its team of seasoned investment professionals and industry experts, Avista seeks to partner with exceptional management teams to invest in and add value to well-positioned businesses.

www.avistacap.com

About Oak Hill Capital Partners

Oak Hill Capital Partners is a private equity firm with more than \$4.6 billion of committed capital from leading entrepreneurs, endowments, foundations, corporations, pension funds and global financial institutions. Robert M. Bass is the lead investor. Over a period of nearly 20 years, the professionals at Oak Hill Capital have invested in more

than 50 significant private equity transactions, including Genpact, The Container Store, Butler Animal Health Supply, EXLSERVICE, Progressive Moulded Products, TravelCenters of America, Blackboard, American Savings Bank (Washington Mutual), Bell & Howell (Proquest), Oreck Corporation and Wometco Cable Corporation. Oak Hill Capital is one of several Oak Hill partnerships, each of which has a dedicated and independent management team. These Oak Hill partnerships comprise over \$12 billion of investment capital across multiple asset classes, including private equity, special situations, high yield and bank debt, venture capital, real estate, a public equity exchange fund and a global fixed income and equity hedge fund.

About ABRY Partners

Founded in 1989, ABRY Partners is one of the most experienced and successful private equity investment firms in North America investing primarily in the media and communications industries. ABRY has completed over \$18 billion of leveraged transactions and other private equity and mezzanine investments across various media and communications sub-sectors including cable television, broadcast television and radio, wireless transmission towers, local wired telephony, business-to-business publishing and trade shows, in-store advertising and marketing, stadium-theater cinemas as well as other media and communications sub-sectors. The firm presently has over \$2.1 billion of capital under management on behalf of limited partners which include Fortune 100 pension funds, university endowments, leading insurance companies and commercial banks, and high net worth individuals. Selected equity investments to date include:

Atlantic Broadband, Avalon Cable Television (realized), Citadel Communications (realized), Consolidated Theaters, Country Road Communications, Cygnus Business Media, Monitronics International, Network Communications (realized), Nexstar Broadcasting, Pinnacle Towers (realized), Language Line Services, Billing Concepts (realized) and F+W Publications.

www.abry.com

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AMERITECH NEW MEDIA

CABLE FRANCHISE AGREEMENT

WITH

THE CITY OF TROY

(April 22, 1996)

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CABLE FRANCHISE AGREEMENT

THIS CABLE FRANCHISE AGREEMENT ("Agreement") is entered into effective as of _____, 1996, by the City of Troy, a municipal corporation organized under the laws of Michigan ("Issuing Authority"); and AMERITECH NEW MEDIA, INC., a Delaware corporation with its principal place of business at 300 South Riverside Drive, 18th Floor, Chicago, Illinois 60606 ("Franchisee").

Recitals

A. Authority to Grant Franchise. The Issuing Authority, pursuant to Section 621 of the Cable Communications Policy Act of 1984 as now in effect ("Federal Cable Act"), and pursuant to Chapter 63 of The City of Troy Ordinance—Cable Communications (Rev. 8-30-82) (the "Local Cable Ordinance"), is authorized to grant one or more nonexclusive franchises to construct, operate and maintain a cable television system within the municipal boundaries of the Issuing Authority (the "Service Area") and may not unreasonably refuse to award an additional competitive franchise.

B. Investigation of Franchisee. The Issuing Authority has analyzed fully and considered the technical ability, financial condition and legal qualifications of Franchisee.

C. Determination of Franchisee's Qualifications. The Issuing Authority, after such consideration, analysis and deliberation as are required by applicable law, has approved and found sufficient the technical, financial and legal qualifications of Franchisee to provide cable television service within the Service Area.

D. Analysis of Franchisee's Plans. The Issuing Authority has also considered and analyzed the plans (copy attached at end of this Agreement) of Franchisee for the construction and operation of a cable television system and found the same to be adequate, feasible and in the public interest.

E. Opportunity of Public to Comment. The public has had adequate notice and opportunity to comment on Franchisee's application to provide cable television service within the Service Area.

THEREFORE, the parties agree as follows:

1. Grant of Franchise

a. Grant and Term. The Issuing Authority grants to Franchisee for the term ("Term") of ~~15~~ ~~years~~ years commencing on the Effective Date (as defined below) the nonexclusive right and franchise ("Franchise") to construct, use, operate, own and maintain a cable system (as defined in the Federal Cable Act) ("Cable System") subject to all applicable local, state and federal laws and regulations. For purposes of this Agreement, the term "Effective Date" means the date that is eight working days after the approval of this Agreement by the Issuing Authority's City Council.

b. Easements and Rights-of-Way. Without reducing its police powers to adopt and enforce ordinances of general applicability necessary to the health, safety and welfare of the public, the Issuing Authority grants to Franchisee authority to use the Issuing Authority's streets, sidewalks, easements and rights-of-way for the purposes of this Agreement, and the Franchise shall be construed to authorize the construction of a Cable System over such rights-of-way and through compatible-use easements in accordance with Section 621(a)(2) of the Federal Cable Act, and to grant access to such easements whether or not such easements specifically contemplate or designate "Cable TV" and to include this grant in future easements and rights-of-way as they are created. The parties acknowledge and agree that the purpose of the Franchise is to authorize

Franchisee to construct, maintain and operate a Cable System and offer cable service in, along, among, upon, across, above, over or under the public rights-of-way within the Issuing Authority's boundaries as they may now exist or as they may be extended through annexation, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any public right-of-way or bridges such poles, wires, cables, conductors, ducts, conduits, manholes, amplifiers, attachments and Equipment (as defined below) as may be necessary or pertinent to the Cable System. For purposes of this Agreement, the term "Equipment" shall mean the equipment specified in the attached **Exhibit A**, *provided* that the Equipment installed by Franchisee in any public right-of-way shall not exceed by more than 10 percent the dimensions specified in the attached **Exhibit A** without the Issuing Authority's prior written consent. This Agreement shall be construed also to authorize Franchisee to construct and operate a Cable System over private easements within the boundaries of the Service Agreement which have been dedicated for compatible uses as set forth in Section 621 of the Federal Cable Act. Nothing in this Agreement shall be construed to prohibit Franchisee from offering any service over its Cable System that is not prohibited by state or federal law.

c. **Authority Not Exclusive.** The Franchise and the grant of authority for use of streets, sidewalks, easements and rights-of-way as conferred in this Section 1 are nonexclusive. Franchisee shall respect the rights and property of the Issuing Authority and other authorized users of streets, sidewalks, easements and rights-of-way, and property owners. Except as otherwise required by applicable law, disputes between Franchisee and parties other than the Issuing Authority over the use, pursuant to this Agreement, of the streets, sidewalks, easements and other rights-of-way shall be submitted to the Issuing Authority for resolution.

2. Franchise Fees and Costs

a. **Franchise Fees.** From and after the Effective Date of this Agreement and throughout the full Term of the Franchise, Franchisee shall pay to the Issuing Authority a franchise fee equal to five percent (5%) of annual gross revenues (as defined in the Local Ordinance as in effect on the date of this Agreement).

(1) **Quarterly Payments.** Franchisee shall pay the franchise fee to the Issuing Authority on a quarterly basis, with each franchise-fee installment being payable within 45 days after the end of the applicable calendar quarter.

(2) **Refundable Minimum Applicable to Fourth and Fifth Years.** Within 30 days after the Effective Date of this Agreement, Franchisee shall pay to the Issuing Authority \$75,000 which shall be applicable to the franchise fees payable by Franchisee under this Agreement in the fourth and fifth years of the Term. In the fourth year of the Term, the initial quarterly franchise-fee installments that would otherwise be payable under this Agreement shall be reduced by \$37,500, with the balance, if any, to be paid by Franchisee to the Issuing Authority; *provided, however*, that, if the total franchise fees payable by Franchisee for the entire fourth year of the Term are less than \$37,500, the Issuing Authority shall not be required to make up the amount of the shortfall. Similarly, in the fifth year of the Term, the initial quarterly franchise-fee installments shall be reduced by the sum of \$37,500, with the balance, if any, to be paid by Franchisee to the Issuing Authority; *provided, however*, that, if the total franchise fees payable by Franchisee for the entire fifth year of the Term are less than \$37,500, the Issuing Authority shall not be required to make up the amount of the shortfall.

b. **Franchise Costs.** Franchisee, within 60 days after receipt from the Issuing Authority of a written itemization, shall reimburse the Issuing Authority reasonable costs, not to exceed \$25,000, incurred in connection with the grant of this franchise.

c. **Application Fee.** On or before the date of this Agreement, Franchisee shall pay to the Issuing Authority a nonrefundable application fee of \$6,000.

3. Construction of Cable System

a. **Construction Schedule.** Construction of the Cable System and provision of service shall be in accordance with the construction schedule which is attached to this Agreement as **Exhibit B**. Franchisee shall give the Issuing Authority written notice within a reasonable time before the commencement of construction, but in no event shall said notice be given less than seven days before such commencement. Throughout the construction period, Franchisee shall give the Issuing Authority a weekly schedule of construction areas and planned street disturbances. Franchisee shall comply with all applicable construction requirements of Section 621(a)(2) of the Federal Cable Act.

b. **Maintenance.** Franchisee shall maintain all wires, conduits, cables and other real and personal property and facilities owned by Franchisee and used in the operation of the Cable System in good condition, order and repair in accordance with the Preventive Maintenance Program contained in the attached **Exhibit C**.

c. **Compliance with Law.** Franchisee shall comply with all applicable federal, state and local laws and regulations governing the construction, installation, operation and maintenance of a Cable System. Such laws and regulations shall include, without limitation, the requirements of Section 621(a)(2)(A) of the Federal Cable Act to ensure that:

- (1) The safety, functioning and appearance of the property and the convenience and the safety of other persons not be adversely affected by the installation or construction of facilities necessary for a cable system;
- (2) The cost of the installation, construction, operation or removal of such facilities be borne by the cable operator or, in the unusual circumstances covered by Subsection 3.e below, by a combination of Franchisee and subscriber(s); and
- (3) The owner of the property be justly compensated by Franchisee for any damages caused by the installation, construction, operation or removal of such facilities by Franchisee.

d. **Other Construction Concerns.** In addition to the above requirements:

(1) **Codes.** Franchisee shall comply with the provisions of the 1994 National Electrical Safety Code of the National Bureau of Standards, the National Electrical Code of the National Board of Fire Underwriters and the Bell Telephone System's code of Pole Line Construction, as such codes are in force as of the time of installation or other work.

(2) **Parallel Installation.** All cables and wires or other work shall be installed parallel with existing telephone and electric utility wires whenever possible.

(3) **Engineering and Safety.** Multiple cable configurations shall be in parallel arrangement and bundled in accordance with engineering and safety considerations:

(4) **Installation Above and Below Ground.** Except where otherwise provided by applicable law in areas where both telephone and electric utilities' facilities are above ground at the time of the installation of Franchisee's Cable System, Franchisee may install its facilities above ground. In areas where both the telephone and electric utility companies' facilities are underground, Franchisee shall install its facilities underground. If the same notice is given to Franchisee and to all telephone and electric utility companies of the Issuing Authority requesting that above-ground facilities be moved underground, Franchisee will comply with all such reasonable requests by the Issuing Authority to Franchisee. The Issuing Authority

shall coordinate among Franchisee, telephone and electric utility companies and/or users of public rights-of-way to ensure that relocation is done in the most economical and appropriate manner possible.

(5) **Identification of Franchisee's Cable.** Throughout the Term, Franchisee shall arrange to identify its cable drops (by color code, stamping, engraving, tags, stickers or other appropriate method to be selected by Franchisee in its sole discretion) so as to distinguish Franchisee's cable from that of all other cable operator(s) in the Service Area.

(6) **New Programming and Technology.** In furtherance of the general policy that the services provided be innovative and modern, Franchisee will pursue a continuous policy of incorporating new technical developments into the system and will identify and respond to changing community interests and desires regarding video programming where economically and technically feasible. The Issuing Authority includes this provision in the franchise to maintain its place as a leader in using innovative and new telecommunications technology in providing municipal services to residents, business and industry.

(7) **Emergency Alert System.** Franchisee shall install as part of its Cable System, and shall operate through the Term, an Emergency Alert System (EAS) (or the successor to that system) in accordance with all requirements imposed from time to time by the Federal Communications Commission, including, without limitation, the requirements that cable television systems transmit a visual EAS message on at least one channel (47 C.F.R. § 11.51(g)(3)) and that cable systems also provide video interruption and an audio EAS message on all channels, with the audio message further stating which channel is carrying the visual message (47 C.F.R. § 11.51(g)(2)).

In establishing Franchisee's EAS system pursuant to this Section, Franchisee shall:

- a) designate a channel (which may be the government channel) which will be used for emergency broadcasts of both audio and video;
- b) inform customers of the designated emergency channel at least daily on at least one channel (which may be the government channel) of the multi-channel system;
- c) maintain all channel video blanking capability able to be activated remotely by security measures deemed mutually agreeable by the Issuing Authority and Franchisee;
- d) test the emergency override system not less than every three months;
- e) cooperate with the Issuing Authority on the use and operation of the emergency alert override system; and
- f) develop a reasonable and practical plan (with the Issuing Authority's concurrence) in order to provide continuity of multi-channel service, and response to service calls in the event of a natural or man-made emergency.

e. **Installation Costs.** Franchisee shall build its Cable System so that it is capable of providing service to all residences located along public rights-of-way and public institutions located within the Service Area. Franchisee shall install its Cable System at then-prevailing installation charges except as provided below:

(1) **Drops Exceeding 175 Feet.** Where the drop to the customer's home is more than 175 feet in length, in addition to the prevailing installation charge, Franchisee may charge the customer the actual

difference between Franchisee's cost of installing a 175-foot drop and the cost of installing the longer drop required by the customer.

(2) **Service Area Extensions.** In any areas adjacent to the Service Area which are annexed by the Issuing Authority during the Term, where the residence of a customer requesting service is more than 500 feet from the existing Cable System (where above-ground installation is permitted) or 250 feet of distance from the existing Cable System (where underground installation is required), service will be provided if the customer requesting service (or persons, on a pro rata basis) contribute the actual cost of material and labor for the portion of construction that is beyond the then-applicable distances described above.

f. **Ownership of Installed Cable.** Franchisee shall own all cable installed by Franchisee within the Service Area; *provided, however*, that, if a similar requirement is imposed upon (by law, ordinance or regulation) all other cable operator(s) within the Service Area, Franchisee agrees that its customers shall own all cable installed by Franchisee inside the customers' dwellings *plus* such further length of cable extending beyond the dwellings' exteriors as is required by law.

4. Service Area Line Extension

a. **General Density Requirement.** During the Term of the Franchise, Franchisee shall be required to make service available to all homes within the Service Area *except for* the two areas along Maple Road which are described more particularly in the attached Exhibit E (collectively, the "Maple Road Areas").

b. **Exception for Maple Road Areas.** Notwithstanding the foregoing density requirements, Franchisee agrees that, in the Maple Road Areas, Franchisee shall make available the following actual cost-sharing arrangement with potential customers if Franchisee receives written requests from a minimum of 10 potential subscribers per linear mile or an equivalent pro rata number based upon the actual length of the extension:

(1) **Formula.** In such an actual cost-sharing arrangement, Franchisee's per-home passed share will be the result of dividing the per-mile actual cost of the entire project by 20. The customer's share will be the result of dividing the per-mile actual cost of the entire project by the number of serviceable homes per mile passed in the project and subtracting Franchisee's share. For example, in a one-mile project in the Maple Road Areas that has an actual cost of \$10,000 and passes 15 homes, Franchisee's share per home is \$500 (which is based upon $\$10,000/20$ homes per mile), and the customer's share is \$166.66 (which is based upon $\$10,000/15$ homes per mile, or \$666.66, *minus* Franchisee's share of \$500).

(2) **Installment Payments.** In such an actual cost-sharing arrangement, Franchisee will permit customer payment schedules for such installation to be paid in equal amounts over a six-month period, excluding, however, any deposit that Franchisee may require up front.

c. **Municipal Facilities.** During the Term, Franchisee shall provide, at no cost to the Issuing Authority, one above-ground cable drop of up to 175 feet and one cable converter (set top) box (if needed) to each municipal facility (as defined below) within the Service Area. If the Issuing Authority requests that a particular municipal facility receive either a cable drop which exceeds 175 feet in length and/or an underground installation, Franchisee may charge the Issuing Authority the actual difference between Franchisee's cost of installing a 175-foot above-ground drop and Franchisee's actual cost of installing the drop as requested by the Issuing Authority. For purposes of this Agreement, the term "municipal facilities" means only: (1) the public school buildings within the Service Area, (2) the public libraries within the Service Area, (3) the Issuing Authority's city hall (or comparable building), (4) police facilities within the Service Area, (5) fire facilities within the Service Area, and (6) up to 15 other facilities within the Service Area which are designated by the Issuing Authority in its absolute discretion.

5. Public, Educational and Governmental Channels; Higher Education/Leased Access Channel

a. **PEG Channels.** The parties acknowledge that, as of the Effective Date of this Agreement, another cable operator is currently producing and broadcasting on its Cable System within the Service Area public, educational and governmental ("PEG") access channel programming. Franchisee agrees that, to the extent necessary, Franchisee shall use its best efforts after the Effective Date of this Agreement to enter into a mutually acceptable agreement with the other cable operator so that, as soon as practicable after the Effective Date of this Agreement, Franchisee will be allowed to carry that PEG programming on Franchisee's Cable System for the balance of the Term of this Agreement. After entering into that agreement with the other cable operator, Franchisee shall begin to carry, and shall continue carrying, the PEG programming on three PEG channels on Franchisee's Cable System.

b. **Higher Education/Leased Access Channel.** During the Term, Franchisee shall provide for the use of Walsh College and all other state-accredited post-secondary-education institutions operating within the Service Area (collectively, the "Higher Education Institutions"), at the lease cost of One Dollar (\$1.00) per year, one channel (the "Higher Education/Leased Access Channel") provided that the Higher Education Institutions shall use the Higher Education/Leased Access Channel in keeping with the purposes set forth in the Institutions' corporate charters (or other governing document(s)) and within the limitations of all applicable local, state and federal laws, including the Higher Education Institutions' tax-exempt status under the U.S. Tax Code and I.R.S. regulations; provided, further, that under no circumstances shall the Higher Education Institutions use the Higher Education/Leased Access Channel to compete with Franchisee for the sale of advertising to private, for-profit businesses or entities; provided, further, that, to the extent that the Higher Education Institutions receive requests from others within the Service Area to use the Higher Education/Leased Access Channel for leased-access purposes, the Higher Education Institutions may accommodate such requests to the extent reasonably possible. The Higher Education Institutions shall give Franchisee at least six months' advance written notice of the Higher Education Institutions' intent to activate and use the Higher Education/Leased Access Channel. Franchisee may use the Higher Education/Leased Access Channel, or any portion of the channel, at any time that the channel is not being used by the Higher Education Institutions (or by other permitted users as contemplated above); provided, however, that, notwithstanding Franchisee's right to use the Higher Education/Leased Access Channel in the event it is not being used by the Higher Education Institutions (or other permitted users), at such time as the Higher Education Institutions request the return of the Higher Education/Leased Access Channel, Franchisee shall comply with that request and return or otherwise provide the Higher Education/Leased Access Channel to the control of the Higher Education Institutions within 60 days of the date of the Higher Education Institutions' request. To the extent that Franchisee is required by law to carry one or more so-called "leased access channels" on Franchisee's Cable System, the parties agree that, to the extent the parties are permitted by law to do so, Franchisee shall be entitled to treat for reporting purposes the Higher Education/Leased Access Channel as one of the leased access channels which Franchisee is required to carry.

c. PEG Access Support

(1) **One-Percent Payments.** Franchisee shall provide financial support to the Issuing Authority for the development and use of PEG access channel capacity, equipment and facilities by paying to the Issuing Authority in quarterly installments each year an amount equal to one percent (1%) of Franchisee's annual gross revenues on or before the dates on which Franchisee is required to pay Franchisee's quarterly franchise-fee installments based upon the same annual gross revenues.

(2) **Equipment Grant.** Within 30 days after the Effective Date of this Agreement, Franchisee shall pay to the Issuing Authority \$25,000 which the Issuing Authority may use in its absolute discretion to acquire equipment for PEG use.

(3) **Channel Relocation Fee.** Also within 30 days after the Effective Date of this Agreement, Franchisee shall pay to the Issuing Authority \$20,000 which the Issuing Authority may use in its absolute discretion to cover notification, marketing, engineering and other costs that the Issuing Authority may incur in connection with Franchisee's assignment of the Issuing Authority's PEG channels to channel positions on Franchisee's Cable System which differ from the channel positions now occupied by the channels on the incumbent cable operator's cable system.

d. **No Local Origination.** Franchisee shall not be required to operate a cablecasting studio in the Service Area. If, however, Franchisee elects in its sole discretion to operate a cablecasting studio in the Service Area, Franchisee shall comply with all applicable provisions of the Local Cable Ordinance governing Franchisee's operation of that studio for as long as Franchisee continues to operate the studio.

6. **Franchise Administration.** As one means to assist in the administration of the Franchise, the Issuing Authority (or its designated official or representative) and Franchisee shall make reasonable efforts to schedule and hold one Periodic (as defined below) conference with representatives from the Issuing Authority in order to discuss matters relating to the enforcement and administration of the Franchise. Such Periodic conferences may focus on franchise administration business matters including, but not limited to: (a) information supplied pursuant to scheduled and periodic preventive maintenance inspections; (b) public, educational, and governmental access support; (c) franchise fees; (d) response times, billing practices and other customer service items; (e) construction-related concerns; and (f) resolving or addressing concerns, questions or disputes with respect to multiple operators serving or attempting to serve the same subscriber or geographic area (including cutting of cable and/or damage to other facilities and equipment). For purposes of this provision, the term "Periodic" means: (a) quarterly until the construction of Franchisee's Cable System is completed; (b) semi-annually after the construction of Franchisee's Cable System is completed; and (c) where the parties mutually agree in good faith concerning the need to do so, the Issuing Authority and Franchisee may schedule and hold conferences more or less frequently than the foregoing requirements. Except in the case of an emergency, such conferences should be held within the normal business hours of Franchisee.

7. **Indemnification; Insurance; Performance and Completion Security**

a. **Indemnification.** To the extent permitted by law—

(1) **General Duty.** Franchisee agrees to defend, indemnify and save harmless the Issuing Authority and its employees, agents, servants, officers, directors, shareholders, elected officials, contractors, subcontractors and representatives (collectively, "Indemnified Party") against all damages, losses and expenses (including, without limitation, reasonable attorneys' fees and costs of suit or defense) arising from any claims, demands and suits for personal injury (fatal or nonfatal), property damage or claims of any other nature, to the extent such damages, losses or expenses arise out of or are caused by the negligent or other wrongful acts or failures to act of Franchisee or its employees, agents, servants, officers, directors, shareholders, officials, contractors, subcontractors or representatives. Notwithstanding the foregoing, this Subsection shall not apply to any liability which may accrue to the Issuing Authority with regard to the Issuing Authority's use of any channel provided for the Issuing Authority's use or arising out of the use of the emergency override capability required pursuant to this Agreement or the Local Cable Ordinance.

(2) **Franchisee's Additional Duty.** The Issuing Authority and Franchisee acknowledge that Section 635A of the Federal Cable Act limits the liability of the Issuing Authority to third parties in connection with the grant of the Franchise. In particular, Section 635A limits to injunctive and declaratory relief any relief in any court proceeding brought by a third party involving any claim arising from the regulation of cable service or from a decision to grant, renew, transfer or amend the Franchise, to the extent that relief is required by any other provision of federal, state or local law. Notwithstanding this provision, Franchisee agrees that, in addition to its duty to indemnify the Issuing Authority under Subsection 7.a(1) above, Franchisee shall indemnify and hold harmless the Issuing Authority against all damages, losses and expenses (including,

without limitation, reasonable attorneys' fees and costs of suit or defense) arising from third-party suits which either: (a) challenge the authority of the Issuing Authority to issue the Franchise; or (b) allege that, in issuing the Franchise, the Issuing Authority has acted in a disparate or discriminatory manner.

(3) **Notice and Defense.** The Indemnified Party shall give Franchisee reasonably prompt written notice of any claim, demand, action or proceeding for which indemnification will be sought under this provision of the Agreement and, if such claim, demand, action or proceeding is a third-party claim, demand, action or proceeding, Franchisee will have the right at its expense to assume the defense of such claim, demand, action or proceeding, using counsel reasonably acceptable to the Indemnified Party. The Indemnified Party shall have the right to participate, at its own expense, with respect to any such third-party claim, demand, action or proceeding that Franchisee so defends. In connection with any such third-party claim, demand, action or proceeding, Franchisee and the Indemnified Party shall cooperate with each other and provide each other with access to relevant books and records in their possession. No such third-party claim, demand, action or proceeding shall be settled without the prior written consent of the Indemnified Party, which consent the Indemnified Party shall not unreasonably withhold or delay.

b. **Liability Insurance.** Franchisee shall maintain in full force and effect, at its own cost and expense, during the Term of this Agreement:

- (1) Comprehensive General Liability insurance in the amount of \$5,000,000 per occurrence;
- (2) Comprehensive Automobile Liability insurance to the extent of \$5,000,000 per occurrence; and
- (3) Said insurance shall designate the Issuing Authority as an additional insured.

If the State of Michigan permits Franchisee to self-insure, then Franchisee may exercise its right and self-insure as long as the minimal insurance amounts outlined in this Section are met and maintained.

c. **Worker's Compensation Insurance.** Franchisee shall maintain in force, during the Term of this Agreement and any renewal or extension thereof, Worker's Compensation Insurance, covering its obligations under the Worker's Compensation statute, and shall show to the reasonable satisfaction of the Issuing Authority that such insurance is in effect at all times.

d. **Security for Performance**

(1) Franchisee shall furnish to the Issuing Authority security ("Security") for Franchisee's performance in an amount totaling at least twenty-five thousand dollars (\$25,000.00). This Security shall be provided in the form of a cash security fund, a letter of credit or some other form that is mutually agreeable to the parties. The purpose of this Security is to ensure performance of all requirements imposed by this Agreement on Franchisee *other than* Franchisee's construction obligations under this Agreement (which shall be covered by a construction letter of credit, as described below). Further, the purpose is to guarantee that should Franchisee not fulfill any obligations imposed by this Agreement (or, where applicable, the Local Cable Ordinance), then the Security may be used to make whole (to the extent of the Security) any monetary losses incurred by the Issuing Authority. The term of this Security shall expire one year immediately following the Effective Date of this Agreement; *provided, however*, that, if after the expiration of the Security Franchisee fails to perform when due any of its obligations under this Agreement (other than its construction obligations), and if Franchisee fails to cure that default within 30 days after its receipt of written notice describing that default, Franchisee shall immediately reinstate the Security and maintain the Security for the then-remaining balance of the Term.

(2) Franchisee shall also furnish to the Issuing Authority a construction/completion letter of credit ("Construction L/C") before it commences a construction, upgrade, rebuild or repair/maintenance project that has a capital construction cost or outlay exceeding fifty thousand dollars (\$50,000.00) in value. The amount of the initial Construction L/C shall equal \$750,000. The term of the Construction L/C shall be the actual construction period.

(3) The Construction L/C shall specifically guarantee that Franchisee will timely abide by its construction, upgrade, rebuild or repair/maintenance schedule for the Cable System and/or any timetable for technical and service improvements or additions to the Cable System as may be committed to, or agreed upon, from time to time by the Issuing Authority and Franchisee.

(4) If the Issuing Authority draws on either the Construction L/C or the Security as a result of Franchisee's failure to timely discharge its obligations or failure to construct and activate the Cable System or failure to complete a Cable System upgrade or rebuild or repair/maintenance, then Franchisee shall be required, within thirty (30) days, to replenish such Construction L/C or Security to the minimal level required by this Agreement.

8. Privacy

a. **Cable Tapping Prohibited.** Franchisee shall not, nor shall Franchisee knowingly permit any person, agency, or entity, without the customer's consent, to tap, or to arrange for the tapping, of any cable line, signal input device or customer outlet or receiver for any purpose except routine maintenance of the system, polling with audience participation or audience viewing surveys to support advertising research regarding viewers where individual viewer behavior cannot be identified.

b. **Invasion of Privacy Prohibited.** In the conduct of providing its services or pursuit of any collateral commercial enterprise resulting from its services, Franchisee shall take all action necessary to prevent an invasion of a customer's right to privacy as such right is defined by applicable law. Franchisee shall not without lawful court order utilize the Cable System's interactive two-way equipment or capability for personal surveillance of any customer or general citizen.

c. **Sale of Personalized Data Restricted.** Franchisee shall not sell or otherwise make available lists of the names and addresses of customers, or any list which identifies, by name, customer viewing habits, or personalized data pertaining to a customer's use of any of Franchisee's services without the express written consent of the customer to which the personalized data pertains. For purposes of this Section, "personalized data" shall mean the name and/or address of an individual customer directly associated with data obtained on his or her use of specific services provided by or through Franchisee. Nothing in this Agreement shall be construed to prevent, as a normal incident of commercial enterprise, the sale or availability of "non-personalized" or "aggregate data" which is not personalized data as defined in this Agreement.

d. **Landlord/Tenant.** Franchisee shall be required, in accordance with this Agreement and applicable law, to provide service to individual units of a multiple housing facility with all services offered to other dwelling units within the Service Area, so long as the owner of the facility consents in writing, if requested by Franchisee, to the following:

- (1) To Franchisee's providing of the service to units of the facility;
- (2) To reasonable conditions and times for installation, maintenance and inspection of the system of the facility premises;

- (3) To reasonable conditions promulgated by Franchisee to protect Franchisee's equipment and to encourage widespread use of the system; and
- (4) To not demand or accept payment from Franchisee for permitting Franchisee to provide service to the facility and to not discriminate in rental charges, or otherwise, between tenants who receive cable service and those who do not.

e. **Annual Compliance Statement.** After each year during the Term, Franchisee shall submit to the Issuing Authority an Annual Compliance Statement in substantially the same form as the attached Exhibit D, certifying as to Franchisee's compliance with all applicable provisions of the Local Cable Ordinance and this Agreement, including, without limitation, this Section 8.

9. **Taxes, Rates and Charges.** Nothing contained in this Agreement shall be construed to exempt Franchisee from any tax, levy or assessment which is or may later on be authorized by law. With respect to rates and charges, the parties agree that they will abide by federal law and Federal Communications Commission ("FCC") Regulations.

10. Assignment, Transfer or Sale of Franchise

a. **General.** There shall be no assignment of Franchisee's Franchise, in whole or in part, by Franchisee without the prior express written approval of the Issuing Authority. As used in this Agreement, the terms "assigned" and "transferred" shall mean any transaction which involves a "transfer of ownership in a cable system," within the meaning of 47 U.S.C. 537(a), as implemented by 47 C.F.R. Section 76.502 (with the exception of those transactions exempted in 47 U.S.C. 537(c)(3), as implemented by 47 C.F.R. Section 76.502(f)(3)).

b. **Three-Year Holding Requirements.** Franchisee shall comply with (where applicable) the Federal Cable Act's provisions and the FCC rules and regulations concerning the three-year holding requirements for the sale of a Cable System.

c. **Assignments Without Consent.** Any assignment or transfer without such prior written consent shall constitute a default of such Franchise and may be subject to revocation.

d. **120-Day Petition.** At least 120 days before such a proposed assignment of Franchisee's Franchise is scheduled to become effective, Franchisee shall submit a written petition ("Petition for Consent") for the Issuing Authority's written consent for such a proposed assignment. At the time Franchisee submits the Petition for Consent, Franchisee (or Franchisee's proposed assignee) shall also file with the Issuing Authority a substantially complete (as defined below) FCC Form 394 (or successor form) together with the information referenced in Subsections e, h and i of this Section. As used in this Subsection, the term "substantially complete" means that the Issuing Authority has been supplied with all information required by the request that is necessary to make a determination on the transfer request.

e. **Consent Not Unreasonably Withheld.** The Issuing Authority shall not unreasonably withhold its consent to such an assignment. However, in evaluating the Petition for Consent, the Issuing Authority may undertake, at the sole expense of Franchisee's proposed assignee, a technical inspection and audit of the system to determine whether the Cable System complies with all applicable technical codes, as well as complies with, and operates within, the construction and construction-related practices set forth in this Agreement. Also, the technical inspection and audit are designated to determine the technical integrity and stability of the present Cable System. In evaluating the Petition for Consent, the Issuing Authority may also analyze all franchise fees and any other moneys then owed by Franchisee to the Issuing Authority under this Agreement. Furthermore, the Petition for Consent shall include such financial information as the Issuing

Authority may require in order for the Issuing Authority to determine whether the potential assignee has the financial ability to assume the obligations of the Franchise. The Issuing Authority shall determine whether the potential assignee has the ability to assume the obligations of Franchisee.

f. Technical Inspection Deadlines. Should the Issuing Authority undertake a technical inspection pursuant to Subsection 10.e of this Agreement, the Issuing Authority shall conduct such inspection no sooner than 15 days after receiving the Petition for Consent, and the Issuing Authority shall receive the technical inspection and audit report at least 30 days before the proposed Cable System assignment, transfer or sale is to occur.

g. Opportunity to Cure. Should the Issuing Authority determine (as a result of the technical inspection and audit) that the Cable System does not comply with federal, state or local standards, then the current Franchisee shall have an opportunity to correct and/or cure the area of noncompliance or operational deficiency. In the alternative, the Issuing Authority may work with both the current Franchisee and the proposed assignee in order to cure, correct or resolve the area of noncompliance or operational deficiency.

h. Submission of Operational Reports and Data. If Franchisee has not previously supplied the Issuing Authority with certain operational reports and data, then Franchisee shall submit the following reports when it submits its FCC Form 394:

- (1) FCC Form 395-A relating to equal employment;
- (2) FCC Form 320 concerning cumulative leakage index (CLI);
- (3) periodic revenue statements in the form and format required by the Issuing Authority;
- (4) preventive maintenance reports in the form, frequency and detail required by the Issuing Authority; and
- (5) service outage logs in the form and format required by the Issuing Authority.

i. Submission of Sale Agreement or Summary of Obligations. At the time that Franchisee submits its written petition, it shall also submit a copy of the completed sales agreement, or a functionally equivalent instrument, between Franchisee and the proposed assignee, so that the Issuing Authority may discover the assumption of obligations by Franchisee and the proposed assignee with respect to the Cable System. In lieu of the sales agreement, the Issuing Authority may accept an attested summary of the obligations assumed by Franchisee and the proposed assignee. The Issuing Authority may request, and Franchisee shall provide, additional relevant information, so long as neither the request nor the submission of such information would be expressly prohibited by law.

j. Affidavit of Proposed Assignee. Before an assignment is approved by the Issuing Authority, the proposed assignee shall execute an affidavit stating that it has read, understood and will abide by both applicable law and this Agreement.

k. Assumption of Obligations by New Franchisee. In the event of any approved assignment, the new Franchisee will assume all obligations and liabilities of the former Franchisee.

l. Disposition of Petition for Consent. Consistent with both the Federal Cable Act and FCC implementing rules, the Issuing Authority shall have 120 days from the date of a substantially complete FCC Form 394—together with all required exhibits, data and reports—to act upon Franchisee's Petition for

Consent. The Issuing Authority may either approve the Petition for Consent or, for cause, not approve the Petition for Consent.

m. Failure to Act in 120 Days. Consistent with both the Federal Cable Act and the FCC implementing rules, should the Issuing Authority fail to act upon Franchisee's Petition for Consent within the 120-day time-frame, Franchisee's Petition for Consent shall be deemed granted unless the Issuing Authority and Franchisee otherwise agree to an extension of time in order to review the data submitted on behalf of the Petition for Consent.

n. Resubmission of Petition. Should the Issuing Authority, for cause, not approve a Petition for Consent, then Franchisee may immediately submit another Petition for Consent. In such a situation, then the 120-day time-frame runs anew. In such a situation, the procedural and substantive provisions of both federal and state law must be met.

o. Exception. This Section 10 shall not apply to any sale, assignment or transfer to one or more purchasers, assignees or transferees controlled by, controlling, or under common control with Franchisee, and Franchisee shall be permitted to effect any such sale, assignment or transfer without obtaining the prior approval of the Issuing Authority, *provided* that the Franchisee shall in any event fully comply with all federal, state and county laws and regulations that are applicable to the completion of such sale, assignment or transfer, and *provided further* that such sale, assignment or transfer shall not relieve Franchisee of its liability or obligation under this Agreement unless otherwise agreed to in writing by the Issuing Authority.

11. Renewal of Franchise. The Issuing Authority and Franchisee agree that any proceedings undertaken by the Issuing Authority that relate to the renewal of Franchisee's Franchise shall be governed by and comply with applicable federal law, including the renewal provisions in Section 626 of the Federal Cable Act as then in effect.

12. Force Majeure. Any delay, preemption, or other failure to perform, including but not limited to system construction, caused by factors beyond the parties' reasonable control, such as an act of God, war, riot, or government, administrative or judicial order or regulation, shall not result in a default of this Agreement. Each party shall exercise its reasonable efforts to cure any such delays and the cause thereof, and performance under the terms of this Agreement shall be excused for the period of time during which such factor continues.

13. Revocation of Franchise

a. Major Breach of Franchise. When any event, act or omission on the part of Franchisee occurs which represents a substantial or repeated violation of a material provision of this Agreement, then such event, act or omission may be considered a major breach of this Agreement. Under such circumstances, the Issuing Authority shall notify Franchisee in writing by certified mail, of the specific breach, and direct Franchisee to comply with all the provisions of this Agreement for which the Franchisee is in violation.

b. Events of Default. The events, acts and omissions referred to in this Section are the following: (1) bankruptcy; (2) insolvency; (3) failure to pay taxes or franchise fees; (4) failure to receive written Issuing Authority approval for assignment or transfer; or (5) a major breach of this Franchise (as noted in Subsection 13.a above) that remains uncured for the 60-day cure period described in Subsection 13.c below. They do not include events in the nature of force majeure.

c. Public Hearing

(1) Scheduling and Procedures. No sooner than 45 days after such written notice if notice of the breach is sent by certified mail to Franchisee, the Issuing Authority may set a date for a public hearing

on the matter. The hearing shall afford full due process to Franchisee and shall be held on the record. Both Franchisee and the Issuing Authority shall be permitted to compel the attendance of witnesses and the production of documents, to present evidence and to cross-examine witnesses. The public hearing may be canceled at any time, if the Issuing Authority is satisfied that Franchisee has corrected and/or cured the violation.

(2) **Notice.** The Issuing Authority shall provide written notice, by certified mail, to Franchisee of the time and place of said public hearing in a manner consistent with state law.

(3) **Evidence Regarding Status of Alleged Violation.** At the time of the hearing, Franchisee may present information on the current status of the alleged breach of the Franchise. If the situation has been resolved, or steps are being taken to resolve the situation, then Franchisee should present such information at the hearing.

(4) **Effect of Failure to Attend.** If Franchisee fails to attend the hearing, or submit a written response, or request a continuance of the hearing, then Franchisee shall be deemed to have waived its right to a further continuation of the matter, and may be declared in default of the Franchise.

d. **Alternatives if Violation is Found.** The Issuing Authority may (once it has held the public hearing) direct the Franchisee to take corrective action within a specified period of time, or may declare the Franchisee in default of this Agreement, and afterwards, revoke, terminate or cancel the Franchise.

e. **Notice to Franchisee.** If the Issuing Authority directs corrective action to take place within a specified time or declares the Franchisee in default of this Agreement, then that declaration shall be reduced to writing, and the notice of corrective action or default shall be mailed, by certified mail, or in the alternative may be hand-delivered, to Franchisee within 15 days of the Issuing Authority's action.

f. **Revocation for Failure to Correct Violation.** If, within 45 days after receipt of the notice of the Issuing Authority's direction of corrective action as provided in this Section, Franchisee does not take significant action to rectify the breach, or submit a plan detailing how the Franchisee will eliminate the breach, then the Issuing Authority may revoke Franchisee's Franchise and shall notify Franchisee immediately; *provided however*, that such revocation shall not be effective any earlier than 30 days following the date of such notification.

14. **Continuity of Service.** As to continuity of service, and subject to Franchisee's federal and state constitutional and statutory rights which the parties are deemed not to have waived under this Agreement, the parties agree as follows:

a. **Service After Revocation, Termination, Nonrenewal, Abandonment or Withdrawal.** Subject to applicable federal and state law, Franchisee shall provide service for an interim period of up to 24 months beyond:

- (1) Any then-existing Term of this Franchise Agreement or any renewal of the Term;
- (2) 45 days' notice from Franchisee to the Issuing Authority of Franchisee's proposed abandonment, withdrawal or cessation of service; or
- (3) The effective date of any revocation, termination or nonrenewal/expiration (absent renewal) of this Agreement.

b. **Issuing Authority Assistance.** During such interim period, the Issuing Authority will assist and otherwise use its best efforts to assist Franchisee in providing a satisfactory basis for Franchisee to continue providing service under this Agreement.

c. **Revenues.** During any such interim period in which Franchisee continues to provide service, Franchisee is entitled to all revenues collected, less any franchise fees or other moneys owed to the Issuing Authority; *provided, however*, that Franchisee is not required during any such interim period to provide service if the revenues collected are less than the operating costs incurred.

15. **Severability.** If any provision of this Agreement or any related agreement is held by any court or by any federal, state or county agency of competent jurisdiction to be invalid as conflicting with any federal, state or county law, rule or regulation now or later on in effect, or is held by such court or agency to be modified in any way in order to conform to the requirements of any such law, rule or regulation, that provision shall be considered as a separate, distinct and independent part of this Agreement or such other agreement, and such holding shall not affect the validity and enforceability of all other provisions of this Agreement or such other agreement. In the event that such law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the affected provision of this Agreement (or such other agreement) which had been held invalid or modified is no longer in conflict with the law, rules and regulations then in effect, that provision shall immediately return to full force and effect and shall afterwards be binding on the parties to this Agreement, *provided* that the Issuing Authority shall give Franchisee 60 days' written notice of such change before requiring compliance with that provision.

16. Relationship of This Agreement to Local Cable Ordinance and Federal Law

a. **Local Cable Ordinance Generally Controls.** Except as noted in Subsection 16.b below, the Local Cable Ordinance in effect on the Effective Date of this Agreement shall control and prevail.

b. **Exceptions.** In the case where this Agreement, as may be amended by mutual consent of the parties, contains a clarification or amendment with respect to one or more provisions or sections of the Local Cable Ordinance, and where such clarification or amendment is contained in this Agreement, then the specifically noted clarification or amendment contained in this Agreement controls, but only in those specific circumstances.

c. **Franchisee to Abide by the Governing Ordinance.** Franchisee agrees to abide by the Local Cable Ordinance in effect on the Effective Date of this Agreement (the "Governing Ordinance"). Amendment or modification of the Local Cable Ordinance or passage of a future ordinance by the Issuing Authority regulating cable operators shall not apply to Franchisee, and Franchisee shall continue to be governed by the Governing Ordinance in a legal, nonconforming status under the amended or new ordinance. Notwithstanding the above, Franchisee will be expected to comply with, and abide by, any valid present or future ordinance (1) necessary to implement the cable rate regulation provisions of federal law, or (2) generally applicable to all businesses in the Service Area.

d. **Applicability of Federal Law.** All provisions of the Governing Ordinance and this Agreement shall be governed by federal law.

17. Miscellaneous

a. **Entire Agreement; Amendment.** This Agreement, the documents that are referred to in this Agreement and the documents that are to be delivered pursuant to this Agreement constitute the entire agreement among the parties pertaining to the subject matter of this Agreement, and supersede all prior and contemporaneous agreements, understandings, negotiations and discussions of the parties, whether oral or

written, and there are no representations or other agreements among the parties in connection with the subject matter of this Agreement, except as specifically set forth in this Agreement. No amendment, supplement, modification, waiver or termination of this Agreement shall be binding unless executed in writing by the party to be bound by such amendment, supplement, modification, waiver or termination. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision of this Agreement, whether or not similar, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided in writing by the waiving party.

b. Notice

(1) **To Issuing Authority.** All notices required or permitted to be given to the Issuing Authority under any provisions of this Agreement shall be in writing and shall be deemed served:

- (a) When delivered by hand or by Federal Express or similar service to the Issuing Authority's offices during normal business hours; or
- (b) When mailed to any other person designated in writing in this Agreement to receive such notice, via certified mail, return receipt requested.

(2) **To Franchisee.** All notices required to be given to Franchisee under any provision of this Agreement shall be in writing and shall be deemed served when delivered by one of the methods described in Subsections 17.b(1)(a) and (b) above.

(3) **Addresses.** Notice shall be given to the following addresses:

If to Issuing Authority:

With a Copy to:

Attention: _____

If to Franchisee:

Ameritech New Media, Inc.
Attention: Renee M. Martin, Esq.
Vice President and General Counsel
300 South Riverside Plaza
Suite 1800 North
Chicago, Illinois 60606

With a Copy to:

Cross Wrock, P.C.
Attention: Steven W. Wells, Esq.
400 Renaissance Center
Suite 1900
Detroit, Michigan 48243

Either party may change its address for notice purposes at any time by giving notice of such address change in accordance with the foregoing.

c. **Successors.** Subject to Section 10 of this Agreement, this Agreement shall inure to the benefit of, and be binding upon, the parties and their respective successors and assigns.

d. **Counterparts; Headings.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but such counterparts shall together constitute but one and the same Agreement. The Table of Contents and the Section and Subsection headings in this Agreement are inserted for convenience of reference only and shall not constitute a part of this Agreement.

e. **Interpretation.** Unless the context requires otherwise, all words used in this Agreement in the singular number shall extend to and include the plural, all words in the plural number shall extend to and include the singular, and all words in any gender shall extend to and include all genders.

f. **Exhibits.** If a document or matter is disclosed in any Exhibit to this Agreement, it shall be deemed to be disclosed for all purposes of this Agreement without the necessity of specific repetition or cross-reference. Unless expressly provided otherwise, all capitalized terms used in any Exhibit to this Agreement shall have the definitions specified in this Agreement.

IN WITNESS OF THIS AGREEMENT, the parties have signed below, effective as of the Effective Date, by their duly authorized representatives.

WITNESSED:

Ester Corbin
Ester Corbin
MaryAnn Hays
MaryAnn Hays

WITNESSED:

Jonathan I. Taib
Jonathan I. Taib
Debra J. Theodore
Debra J. Theodore

CITY OF TROY

By Jeanne M. Stine
Jeanne M. Stine
Its Mayor
Tamara A. Renshaw
Tamara A. Renshaw
City Clerk

AMERITECH NEW MEDIA, INC.

By Walter J. Wagner
Walter J. Wagner
Its VP - Finance

EXHIBIT A—EQUIPMENT DIMENSIONS

1. **Node Boxes.** In each approximately 500-home cluster within the Service Area ("Cluster"), Franchisee contemplates installing one node box.
 - a. **Standard Node Box.** The standard node box measures 40" (l) x 24" (w) x 51" (h), and it sits upon a cabinet slab which measures 55" (l) x 38" (w) x 4" (h).
 - b. **Special Node Box.** In areas where it would be obtrusive or otherwise inappropriate to install a standard node box, Franchisee can install a special LPC (low profile) node box which measures 54" (l) x 24" (w) x 18" (h) upon a cabinet slab of the same dimensions given above.
2. **Hand Holes.** Franchisee contemplates installs from one-to-two hand holes (similar to manholes) in each Cluster. Hand holes are fiberglass enclosures which are buried and have the following dimensions: 30" (l) x 48" (w) x 36" (h).
3. **Pedestals**
 - a. **Standard Pedestals.** In each Cluster, Franchisee contemplates installing from 40-to-50 standard pedestals which have the following dimensions: 8" (l) x 8" (w) x 27" (h).
 - b. **Larger Pedestals.** Franchisee also contemplates installing in each Cluster from five-to-eight larger pedestals measuring 10" (l) x 10" (w) x 39" (h).
 - c. **Largest Pedestals.** Franchisee further contemplates installing in each Cluster from five-to-eight pedestals measuring 17" (l) x 11" (w) x 39" (h).

EXHIBIT B - CONSTRUCTION SCHEDULE

	Service to Initial Subscribers	Construction Completion
City of Troy	18 Months	36 Months

ANM ARCHITECTURE

The Ameritech New Media (ANM) network architecture is made up of three primary levels of geographic distribution. These levels are the Video Operations Center (VOC), the Video Serving Office (VSO) and the Video End Office (VEO). Each office in the hierarchy also provides the functions of the lower offices in that hierarchy. That is, a VSO can also be a VEO, and a VOC may also be a VSO and/or a VEO.

The VOC serves a metropolitan area. Control and management of the ANM distribution network are performed at the VOC. The VOC is also the primary entry point for multicast programming to the ANM network. Within the VOC, video, audio and data information for the metro serving area is collected and formatted for transport over the ANM inter-office distribution network. The VOC is also the primary operations point for the Integrated Network Management System (INMS) which provides continuous monitoring of all facilities and systems used to deliver ANM's services to customers. Inter-office communications and administrative traffic are carried by a separate interoffice network called the Management and Support Network (MSN).

Programming information received at the VOC is transported to VSOs via a fault tolerant fiber optic network called the Metropolitan Video Transport System (MVTS). The MVTS is designed for cost effective, distribution of digitized video/audio signals to multiple VSOs within the metropolitan area. The VOC and VSOs are connected by fiber paths in a redundant architecture to allow reliable delivery. The MVTS consists of equipment nodes at each office location. At these sites video/audio/data signals are added, dropped off, processed, multiplexed, converted from analog to digital and digital to analog, and combined for distribution to sites further downstream, or toward local users.

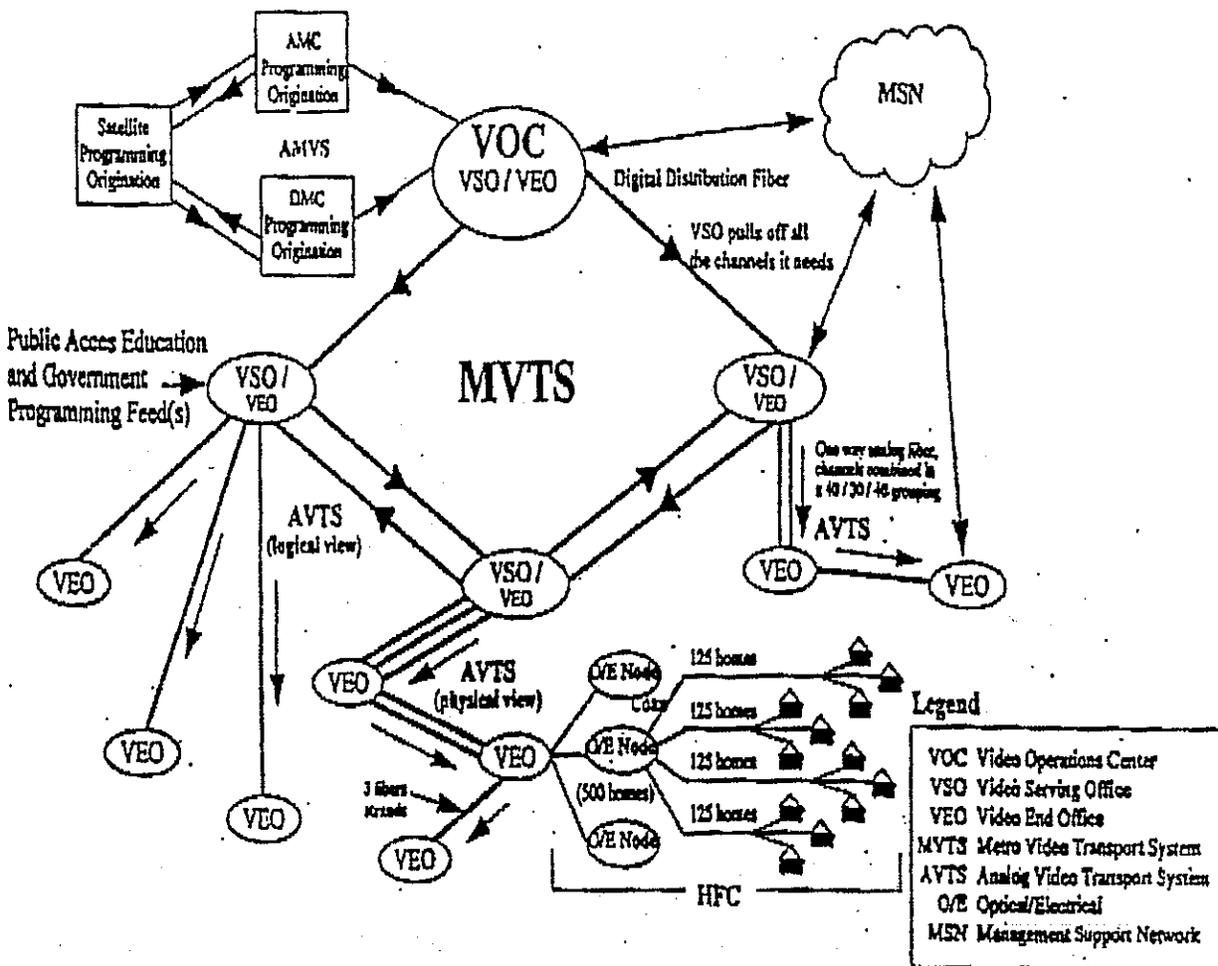
Each VSO within the MVTS ring initiated at the VOC is associated with its own serving area of subscribers. The VSO has the ability to support the distribution of services to some 200,000 or more homes within a given metropolitan area. At the VSO, the incoming signals are passed through an optical splitter which forwards one set of the incoming signals in their original digital form to the next VSO over the MVTS, and sends the other set of signals to MVTS de-multiplexers. These devices convert the optical signals to electrical signals, strip off a specified number of channels which are provided by the VOC for distribution to the VSO serving areas, demultiplex the selected digital signals, and convert them from digital-to-analog. Text and data may be inserted into the television signals at the VSO. The VSOs can also insert locally originated channels, such as public access, education and government for delivery only to their sub-sets of their specific serving area.

The VSO transports information to the VEOs via an analog fiber system called the Analog Video Transport System (AVTS). The AVTS is optimized for one-way delivery of Radio Frequency (RF) video "channels." All of the channels, ultimately available to an individual subscriber, are assembled at the VSO for delivery to the VEOs. The initial deployment three strands of fiber with channel groupings of 40 channels, 30 channels, and 40 channels¹ respectively. These groupings are based on optimizing the link performance and the "reach" of the AVTS network within the initial spectrum of 750 MHz. In addition, the VSO will be the preferred location where Public, Education and Government (PEG) access channels are inserted into the ANM network, but the VEO will also be used in some situations. By inserting this programming at the VEO or VSO, PEG information can be distributed either to individual communities or to groups of communities who may desire to share certain of the access channels.

¹ The DMC and SI services will use the remaining channels on the AVTS.

A typical VEO is designed to serve typically from 16,000 to 50,000 homes passed. The VEO receives the three optical signals from the VSO, converts them into electrical signals, filters and combines them into one multiplexed RF signal, and converts the result into an optical format for distribution through optical/electrical (O/E) conversion nodes to the consumer premises via the Hybrid-fiber Coaxial-cable (HFC) network. Each VEO also receives the upstream signaling information from the consumer subscriber terminals (STs) via optical fiber from the nodes, converts them into electrical signals, and manages their delivery to the appropriate routing and/or switching equipment at the VSO or VOC. VEO subscribers are grouped into nodes that are arranged geographically. Typical node sizing is around 500 homes passed. From each node, as many as four (4) coaxial cables are used to deliver all information streams to and from subscribers; optical cable is used to carry upstream and downstream communication back to and from the VEO.

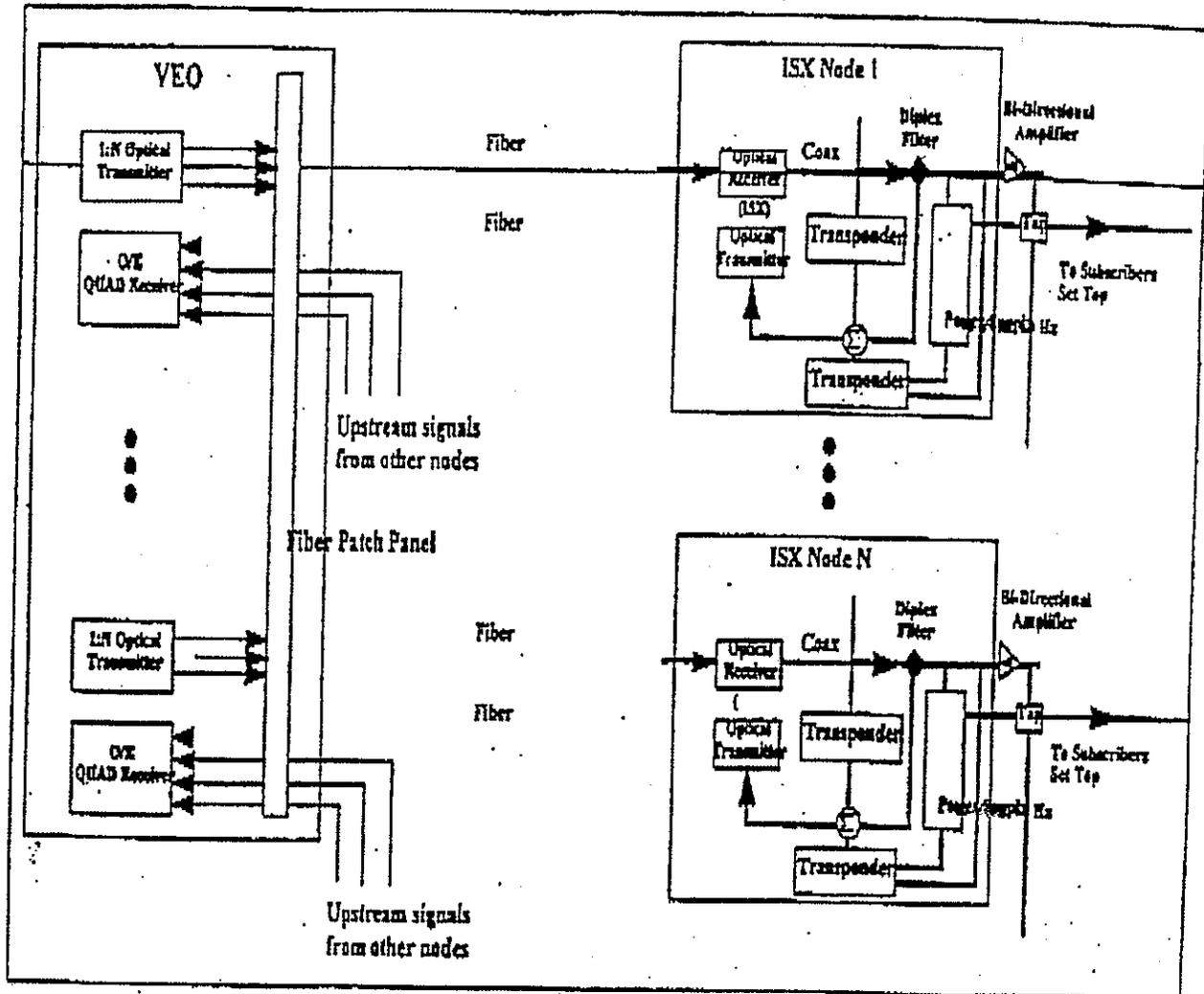
At the 500-home, optical/electrical, neighborhood (ISX) nodes, the downstream channels, within the 54-750 MHz spectrum, are received and sent over coaxial cable to the consumer premises. Upstream signaling from the subscriber equipment is sent over the same coaxial cable, but within the 5-40 MHz spectrum. The



HFC network uses bi-directional amplifiers in the outside plant to maintain appropriate signal levels for two-way communication and the video/audio transmission to subscribers.

At a pedestal or pole near the consumer, a port on a coaxial cable tap is used to connect a coaxial drop cable from the coaxial distribution network to the subscriber site. Inside wiring carries signals to and from the subscriber premise equipment. The 500-home node also contains power and battery back-up to support the active elements of the hybrid fiber coax plant. A transponder provides the node elements with a communication path back to the Network Management System for the administration and monitoring of system performance.

AMC HFC



Subscriber RF Interface

The subscriber RF interface will have its origination at the network provided ground block that will be placed at the subscriber's location and located in a network provided Network Interface Unit (NIU). The connection point to the Ameritech ANM network will be the subscriber side of the ground block which has the following physical characteristics:

Item	Specification
Connector Type	Female "F"
Nominal Center Conductor Diameter (In)	0.032 to 0.04
Thread Type	3/8"-32-2A
Impedance (Ω)	75 (Nominal)

The quality and level of the downstream (forward path) RF electrical signal provided at the ground block will be dependent on the number of amplifiers in cascade, and the distance that the subscriber is from the tap (improving with decreased distance), but will meet the specifications listed below:

Item	Specification*
Frequency Range (MHz) Forward Path	54 to 750
Frequency Range (MHz) Reverse Path	5 to 40
Maximum Visual Carrier Level Difference [After 30m of Drop Cable] (dB)	10.0
In Channel Frequency Response [-0.5 to 3.75 MHz Relative to Visual Carrier] (dB) ..	± 2.0
Minimum Signal Level per Visual Carrier (dBmV) ..	+3.0
Maximum Signal Level per Visual Carrier (dBmV) ..	+15.0
Minimum Visual Carrier to Noise (dB)	43.0
Maximum Composite Non-Coherent Triple Beat (dBc)	-51.0
Maximum Composite Non-Coherent Second Order (dBc)	-51.0
Hum Modulation of Visual Carrier (%)	3.0
Modulation Format:	
Analog	NTSC, AM-VSB
Digital	256-QAM
Digital Encoding Format:	MPEG-2

*ANM's specifications will be equal to or better than those required for compliance with the Federal Communications Commission Title 47, Part 76, Subpart K, Item 76. 601 ff. This includes changes anticipated by the FCC for 12/30/99 effectivity, at which time the specifications stated must be met at the subscriber terminal and not the subscriber tap or network ground block. The initial service offering will be carried in the 54 to 750 MHz frequency range. However, with upgrades in distribution equipment, that spectrum can be expanded to 1 GHz and beyond as driven by market demand and equipment availability.

All performance specifications are based on CW carriers. 256-QAM signals do not have periodic fixed frequency carriers like AM-VSB signals. The minimum carrier level specified for 256-QAM as the design objective represents the average power level into a 75 Ohms load read by an RMS power meter when an unmodulated CW sinusoidal carrier at the middle of a 6 MHz passband is transmitted by the network 256-QAM modulator. The CW carrier power level is set to the same average power read by an RMS power meter when an actual 256-QAM symbol stream is fed to the 256-QAM modulator at the head-end. As for the minimum visual carrier to noise ratio for 256-QAM, the design objective is to achieve a low enough probability of error for compressed image payload at that carrier-to-noise ratio after error correction.

CHANNEL CAPACITY

There are many configuration-options vis-à-vis the allocation of spectrum among the Analog Multicast, Digital Multicast, and Switched Interactive Applications.

In general, the 750 spectrum, initially to be made available for services, has been assigned to "upstream" (communications FROM subscribers), and "downstream" (communications TO subscribers). The upstream communications has been assigned spectrum in the range of 5 to 40 MHz, while downstream communications are contained within the range of 50 to 750 MHz.

The latter range is further subdivided among the "video, audio and data services" delivered to subscribers, and "network administration functions." The video services comprise approximately 110, 6-MHz "slots." These slots may contain video in either conventional NTSC television format—the same as broadcast over-the-air to conventional TV sets, or in "MPEG-2" digital format.

Initially, we expect 70 to 90 of the 110 slots to be occupied by the conventional NTSC analog video—that is, Analog Multicast Service. Of the 20 to 40 remaining slots, each that is dedicated to Digital Multicast use—a compressed digital broadcast of video—can support the equivalent of 12 analog TV channels, on average. (The data throughput rate of a digital "channel-slot" is such that there can be, as extremes, as few as two or three "high definition, color" videos, and as many as 20 "black and white" videos.) When assigned to "Switched Interactive" use—a session "dedicated" to the requesting subscriber rather than "broadcast," we expect the 6 MHz slot to support 15 simultaneously active subscribers—a range of 10 to 20, depending upon content mix.

If we were to assign the 110 channels as 70 and 40 for Analog Multicast and Digital Multicast, respectively, we might express channel capacity as $(70 \times 1) + (40 \times 12)$ or 550 "video channels." Note that if we were then to allocate, say, 10 of the Digital Multicast Channels to Switched Interactive use, we could continue to replicate and re-use those 10 channels, as many times as necessary within the total universe of users, to meet the total traffic demand of those users. This is done by combining the "same set" of multicast channels with "different sets" of switched channels, within the "different" HFC-feeds to "different groups" of subscribers.

Note that any capacity estimates, such as those above, represent "snapshots in time," representative of currently off-the-shelf techniques. Over time, we expect digital compression efficiencies to improve, and newer, data communication technologies to increase the "channel-slot" through-put.

SUBSCRIBER COAXIAL COMPONENTS

The performance of the subscriber indoor coaxial components will be very important to the quality of the video service. To that end, Ameritech is recommending the following characteristics for those components.

Coaxial Cable: The coaxial cable used inside the house should be RG-6 with a foil and braid structure and a minimum of 60% braiding. An RG-59 cable can also be used, but will introduce higher loss than the RG-6 design. All cable should have a 75 ohm impedance.

Splitters: Splitters should have a 75 ohm impedance, be bi-directional, low loss, have a high return loss (12.0 dB), and be rated minimally to 750 MHz (1 GHz is preferred). Unused splitter terminals must be terminated for optimum performance.

Connectors: Connectors should be "F" type with a 75 ohm impedance, have a low loss, and be of a design that provides good connectivity with the shield of the coaxial cable while not crushing the cable itself.

Indoor Amplifiers: Indoor amplifiers should be bi-directional with a passband of 54 to 750 MHz (54 to 1000 MHz is preferred) in the forward path, and minimally 5 to 40 MHz in the reverse path. They should also have a high return loss (12.0 dB), a low noise figure (10 dB), and have a 75 ohm impedance.

The ANM Architecture is designed using state-of-the-art electronics technology to deliver video information with the least possible amount of signal degradation and yet be economically viable. In addition, the ANM Architecture is flexible enough to integrate future technology advances in order to provide superior levels of service to the consumer.

EXHIBIT C—PREVENTIVE MAINTENANCE PROGRAM

1. Daily inspection, and adjustment if necessary, of the signal quality on each cable channel.
2. Daily scan, and adjustment if necessary, of carrier levels with spectrum analyzer.
3. Daily logging of any and all adjustments made to headend or the antenna tower.
4. Daily monitoring, and logging, of signal leakage, and repair if necessary, to ensure that Cable System is within FCC allowed levels.
5. Inspection of drops as integral part of every service call, and schedule for replacement, if necessary.
6. Inspection and recording of signal levels at the time of each service call.
7. Weekly monitoring, and adjustment if necessary, of headend audio and video carrier levels.
8. Monthly monitoring, and adjustment if necessary, of headend video cipher AGC levels.
9. Weekly monitoring, and adjustment if necessary, of satellite receiver input carrier:noise.
10. Monthly monitoring, and adjustment if necessary, of headend audio and video modulation levels.
11. Quarterly performance measurements in accordance with FCC technical specifications (and adjustment if necessary) at a minimum of four extremities of the distribution system to include:
 - a. Video and audio signal levels;
 - b. Overall difference in signal level or response flatness;
 - c. Hum modulation;
 - d. Carrier:noise; and
 - e. Signal ingress.
12. Monthly monitoring, and adjustment if necessary, of headend scrambler levels.
13. Annual inspection, and repair if necessary, of all standby power supplies.
14. Semi-annual monitoring, and adjustment if necessary, of headend RF input levels to off-air processors.
15. Semi-annual inspections, and repair if necessary, of:
 - a. Antenna tower;
 - b. All earth stations; and
 - c. Buildings and fences.

16. Semi-annual extremity tests in accordance with FCC technical specifications (and adjustment if necessary) of the distribution system to include:
 - a. Cross modulation distortion;
 - b. Composite second and third order products; and
 - c. RF sweep response.
17. Annual testing of cumulative leakage index in accordance with FCC technical specifications.
18. Annual extremity tests (and adjustment if necessary) of the distribution system in accordance with FCC technical specifications to include:
 - a. Twenty-four hour signal level stability; and
 - b. Channel response flatness.

EXHIBIT D—ANNUAL COMPLIANCE STATEMENT

THE UNDERSIGNED CERTIFIES individually and on behalf of AMERITECH NEW MEDIA, INC., a Delaware corporation ("Franchisee")—in connection with Franchisee's provision of cable services pursuant to a Cable Franchise Agreement ("Cable Agreement") dated as of _____, 1996 between Franchisee and the City of Troy ("Issuing Authority")—that:

1. **Position**—I am a duly elected and qualified officer of the Company.

2. **Compliance.** To the best of my knowledge and belief, Franchisee is on the date of this Certificate in full compliance with all applicable provisions of the Cable Agreement and of the Local Cable Ordinance (as defined in the Cable Agreement), including, without limitation, Section 8 of the Cable Agreement (Privacy).

IN WITNESS OF THIS CERTIFICATE, the undersigned has signed this document as of _____, 199_.

Subscribed and sworn to before me
this ____ day of _____, 199_.

Notary Public, _____ County, _____

My Commission Expires: _____

EXHIBIT E - MAPLE ROAD AREAS

North side of Maple Road - Fifteen Mile Road extending from I-75 to
John R Road.

New TCT

5.4. **Publicity:** Company shall undertake the following publicity activities at its own expense:

5.4.1. Company shall list the PEG Channels in all print and cablecast program guides.

5.4.2. Company shall pay \$10,000 each time one or more PEG channels are relocated. The \$10,000 shall cover all channels moved at the time for all affected ICCA communities. Of such \$10,000, \$5,000 shall be expended by Company to advertise and publish the channel change(s) on the cable system and through bill stuffers and \$5,000 shall be made available to the affected ICCA member(s) for use in advertising the new channel location.

5.5. **Leased Access:** Company shall make available suitable channel capacity for leased access by third parties unaffiliated with Company to the extent from time to time required by federal law and regulations. Company shall have the sole responsibility for all operating aspects and for the fixing of rates and conditions for leased access use.

5.6. **Interconnect:** Company will use its reasonable best efforts to interconnect with Municipality's competing cable operator for the distribution of PEG Channels and their programming. This undertaking will be satisfied if Company agrees to pay its own costs for wiring to the interconnect location and to pay not less than fifty (50%) percent of any interconnection equipment needs at the interconnect location.

v.6
ICCA

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Approved
2.14

6. **INDEMNITY AND INSURANCE**

6.1. **Disclaimer of Liability:** Municipality shall not at any time be liable for injury or damage occurring to any person or property from any cause whatsoever arising out of Company's construction, maintenance, repair, use, operation, condition or dismantling of Company's Cable System or Company's provision of Cable Service.

6.2. **Indemnification:** Company shall, at its sole cost and expense, indemnify and hold harmless Municipality, ICCA and their respective elected or appointed officers, officials, employees and representatives (including persons identified in Exhibit I) acting in their official capacity (hereinafter referred to as "Indemnitees"), from and against:

6.2.1. Any and all liability, obligation, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or be asserted against the Indemnitees by reason of any act or omission of Company, its personnel, employees, agents, contractors or subcontractors, resulting in personal injury, bodily injury, or death to any person or damage to, loss of or destruction of tangible or intangible property, libel, slander, invasion of privacy and unauthorized use of any trademark, tradename, copyright, patent, service mark or any other right of any person, firm or corporation, which may arise out of or be in any way connected with the construction, installation, operation, maintenance or condition of the Cable System (including those arising from any matter contained in or resulting from the transmission of programming over the Cable System but excluding any programming provided by

America

5. **Public, Educational and Governmental Channels; Higher Education/Leased Access Channel**

a. **PEG Channels.** The parties acknowledge that, as of the Effective Date of this Agreement, another cable operator is currently producing and broadcasting on its Cable System within the Service Area public, educational and governmental ("PEG") access channel programming. Franchisee agrees that, to the extent necessary, Franchisee shall use its best efforts after the Effective Date of this Agreement to enter into a mutually acceptable agreement with the other cable operator so that, as soon as practicable after the Effective Date of this Agreement, Franchisee will be allowed to carry that PEG programming on Franchisee's Cable System for the balance of the Term of this Agreement. After entering into that agreement with the other cable operator, Franchisee shall begin to carry, and shall continue carrying, the PEG programming on three PEG channels on Franchisee's Cable System.

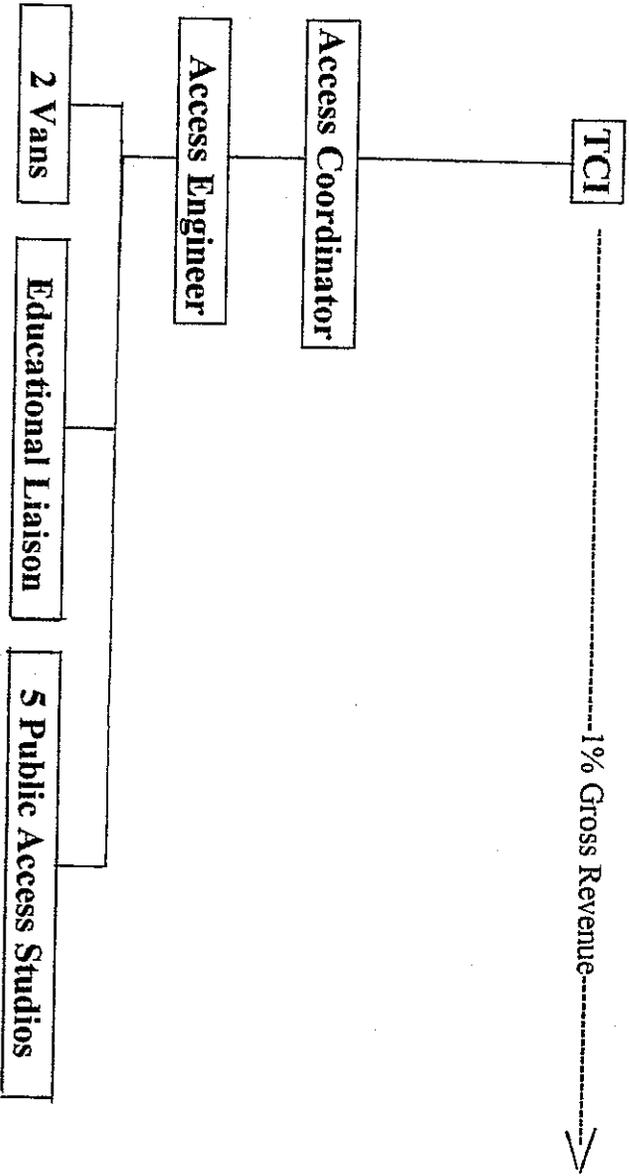
b. **Higher Education/Leased Access Channel.** During the Term, Franchisee shall provide for the use of Walsh College and all other state-accredited post-secondary-education institutions operating within the Service Area (collectively, the "Higher Education Institutions"), at the lease cost of One Dollar (\$1.00) per year, one channel (the "Higher Education/Leased Access Channel") *provided* that the Higher Education Institutions shall use the Higher Education/Leased Access Channel in keeping with the purposes set forth in the Institutions' corporate charters (or other governing document(s)) and within the limitations of all applicable local, state and federal laws, including the Higher Education Institutions' tax-exempt status under the U.S. Tax Code and I.R.S. regulations; *provided, further*, that under no circumstances shall the Higher Education Institutions use the Higher Education/Leased Access Channel to compete with Franchisee for the sale of advertising to private, for-profit businesses or entities; *provided, further*, that, to the extent that the Higher Education Institutions receive requests from others within the Service Area to use the Higher Education/Leased Access Channel for leased-access purposes, the Higher Education Institutions may accommodate such requests to the extent reasonably possible. The Higher Education Institutions shall give Franchisee at least six months' advance written notice of the Higher Education Institutions' intent to activate and use the Higher Education/Leased Access Channel. Franchisee may use the Higher Education/Leased Access Channel, or any portion of the channel, at any time that the channel is not being used by the Higher Education Institutions (or by other permitted users as contemplated above); *provided, however*, that, notwithstanding Franchisee's right to use the Higher Education/Leased Access Channel in the event it is not being used by the Higher Education Institutions (or other permitted users), at such time as the Higher Education Institutions request the return of the Higher Education/Leased Access Channel, Franchisee shall comply with that request and return or otherwise provide the Higher Education/Leased Access Channel to the control of the Higher Education Institutions within 60 days of the date of the Higher Education Institutions' request. To the extent that Franchisee is required by law to carry one or more so-called "leased access channels" on Franchisee's Cable System, the parties agree that, to the extent the parties are permitted by law to do so, Franchisee shall be entitled to treat for reporting purposes the Higher Education/Leased Access Channel as one of the leased access channels which Franchisee is required to carry.

c. **PEG Access Support**

(1) **One-Percent Payments.** Franchisee shall provide financial support to the Issuing Authority for the development and use of PEG access channel capacity, equipment and facilities by paying to the Issuing Authority in quarterly installments each year an amount equal to one percent (1%) of Franchisee's annual gross revenues on or before the dates on which Franchisee is required to pay Franchisee's quarterly franchise-fee installments based upon the same annual gross revenues.

(2) **Equipment Grant.** Within 30 days after the Effective Date of this Agreement, Franchisee shall pay to the Issuing Authority \$25,000 which the Issuing Authority may use in its absolute discretion to acquire equipment for PEG use.

Chain of Control and Funding of Public Access in Original Franchise



Total Annual TCI Cost for Access Operation
 \$800,000 + or -
 Staff
 Studio Rental
 Equipment
 Etc.

ICCA 11 Member Board
 Troy Appoints 1
 Weighted Votes

OC4 16 Member Board
 Troy Appoints 1

Receives Annual Contract from
 from ICCA to Promote
 Public Access and use of Studios
 Full 1% passed through

Total Annual Cost to TCI
 To Promote Public Access
 \$400,000 + or -

From 11 Communities

AMERITECH NEW MEDIA, INC.
FRANCHISE FEE PAYMENT CERTIFICATE
CITY OF TROY

For period ending: _____

GROSS RECEIPTS:

Installation	_____
Basic	_____
(Basic Service, FM Service Tier, A/O)	
Expanded Basic Service	_____
Premium Services	_____
Equipment (converter and remote)	_____
Pay Per View	_____
Advertising	_____
Itemized Franchise Fees	_____
Leased Access	_____
Other	_____
TOTAL GROSS RECEIPTS	_____

I have reviewed the foregoing and certify that Ameritech New Media, Inc., has reported all revenues subject to franchise fees in Troy.

Authorized Signature

Date

LAWRENCE R. TERNAN
STEPHEN W. JONES
FRANK S. GALGAN
KENNETH J. SORENSEN
JEFFREY K. HAYNES
TIMOTHY J. CURRIER
JOSEPH F. YAMIN
MICHAEL C. GIBBONS
KATHERINE B. ALBRECHT
MICHAEL P. SALHANEY
C. LYNN GATES
MARY M. KUCHARAK
JEFFREY S. KRAGT
KEITH C. JABLONSKI
VICTOR A. VEPRASKAS, IV

BEIER HOWLETT
PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
200 EAST LONG LAKE ROAD, SUITE 110
BLOOMFIELD HILLS, MICHIGAN 48304-2361

TELEPHONE: (248) 645-9400

tcurrier@beierhowlett.com

DEAN G. BEIER
(1917 - 2003)

OF COUNSEL
JAMES L. HOWLETT
DANIEL C. DEVINE, SR.
ROBERT G. WADDELL
PHYLLIS AIUTO ZIMMERMAN
JOHN F. SHANTZ

SPECIAL COUNSEL
DONALD H. GILLIS

PONTIAC TELEPHONE
(248) 338-9903

FACSIMILE
(248) 645-9344

beierhowlett.com

February 16, 2006

TO: ICCA City Managers, City Attorneys
And ICCA Delegates

Re: Transfer Control of WideOpen West
Holdings, LLC to Racecar Acquisitions LLC

Dear Ladies and Gentlemen:

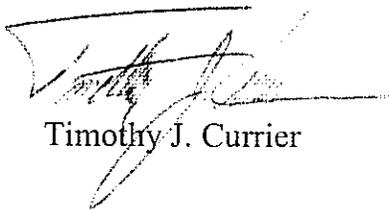
Enclosed you will find the following with respect to the above matter:

1. A letter dated February 14, 2006 to the members of the ICCA Board;
2. A letter dated February 15, 2006 to the communities of the ICCA;
3. A Resolution of the ICCA Recommending to the Member Communities the Adoption of the Resolution Granting Consent to the Transfer of Control of the Cable Television System; and,
4. A Resolution Granting Consent to the Transfer Control of the Cable Television System.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

BEIER HOWLETT, P.C.


Timothy J. Currier

TJC/jc
Enclosures

LAWRENCE R. TERNAN
STEPHEN W. JONES
FRANK S. GALGAN
KENNETH J. SORENSEN
JEFFREY K. HAYNES
TIMOTHY J. CURRIER
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VICTOR A. VEPRASKAS, IV

BEIER HOWLETT
PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
200 EAST LONG LAKE ROAD, SUITE 110
BLOOMFIELD HILLS, MICHIGAN 48304-2361
TELEPHONE: (248) 645-9400

DEAN G. BEIER
(1917 - 2003)

OF COUNSEL
JAMES L. HOWLETT
DANIEL C. DEVINE, SR.
ROBERT G. WADDELL
PHYLLIS AIUTO ZIMMERMAN
JOHN F. SHANTZ

SPECIAL COUNSEL
DONALD H. GILLIS

PONTIAC TELEPHONE
(248) 338-9903

FACSIMILE
(248) 645-9344

beierhowlett.com

February 14, 2006

Intergovernmental Cable Communications Authority
26815 Scotia Road
Huntington Woods, MI 48070

**Re: Transfer Control of WideOpen West
Holdings, LLC to Racecar Acquisition LLC**

Dear Members of the ICCA Board:

We have completed our review of the documents furnished by the parties of the above referenced transfer. This letter contains our report and recommendation regarding this matter:

A. **Timing.** As you are aware, the Local Franchising Authority (LFA) must generally act upon an application for franchise authority consent to transfer control of a cable television franchise (FCC Form 394) prior to the expiration of 120 days from the LFA's receipt of Form 394.

WideOpen West's transmittal letter to Form 394 is dated December 22, 2005. The LFAs received Form 394 on December 27, 2005. Therefore, the LFA must act upon the application for consent on or before 120 days from the date your community received Form 394. If the LFA fails to do so, it will be deemed to have given its unconditional consent to the transfer. We stated that the LFA's must "generally" respond to the application prior to the expiration of the 120-day period. That period is subject to an extension that the applicants, or either of them, failed to file in a timely fashion the information required by Form 394 or such information as reasonably required by the LFA. Section 617 of the Communications Act of 1934, as amended (47 USC 537) states a franchise authority shall have 120 days to act upon a request for transfer of approval if the request "...contains or is accompanied by such information as required in accordance with Commission regulations by the Franchising Authority".

The LFA may require, either in its regulatory ordinance, or in the Franchise Agreement, or otherwise, additional information which is relevant and reasonable to request. It is in this regard that you are in receipt of all written inquiries dated January

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18, 2006 and the January 26, 2006, January 27, 2006, and the January 30, 2006 responses thereto. Further, Mr. Mark Dineen and Mr. Craig D. Martin, representatives from WideOpen West, conferred with the undersigned on February 9, 2006 at the offices of Beier Howlett. Representatives of WideOpen West plan to appear before the ICCA Board meeting of February 15, 2006.

B. Possible Actions by the LFA. We believe you are aware, but it is worth repeating, the possible actions of the LFA in response to an application for consent to transfer control are:

1. Consent to the Transfer;
2. Failure to take any action prior to the expiration of a 120-day period from the LFA's receipt of the application for consent in which case consent will be deemed unconditionally granted unless the LFA applicants agree to an extension of time.
3. Disapprove the application. It is expressly provided under the Franchise Agreement, and is presumed under application law, the LFA may not withhold its consent unreasonably and hence must have reasonable grounds for this disapproval.
4. Consent, subject to reasonable conditions.

C. Parties involved in the transfer. The transferor is WideOpen West Holdings, LLC, which is a Delaware Limited Liability Company. WideOpen West's Network, Inc., WideOpen West, Illinois, Inc., WideOpen West, Ohio, Inc. and WideOpen West Cleveland, Inc. are wholly owned subsidiaries of WideOpen West Holdings, LLC. WideOpen West Finance, LLC is a wholly owned subsidiary of WideOpen West Illinois, Inc., WideOpen West of Ohio, Inc. and WideOpen West Cleveland, Inc. In turn, WideOpen West Finance, LLC owns WideOpen West Illinois, LLC, WideOpen West Michigan, LLC, WideOpen West of Ohio, LLC and Wide Open West Cleveland LLC. The transferee in this transaction is Racecar Acquisition, LLC, which is a Delaware Limited Liability Company. Racecar Acquisition, LLC is a wholly owned subsidiary of Racecar Holdings, LLC, also a Delaware Limited Liability Company. Racecar Holdings, LLC is owned by Avista Capital Partners, (which is the control investor), certain minority co-investors and Management Investors. Messrs. Thompson Dean and Steven Webster control Avista. Mr. Dean is from New York City, New York, and Mr. Webster is from Houston, Texas.

D. Documents Reviewed. Documents furnished to the ICCA Communities in connection with the transfer and reviewed by our office include the following:

1. Transmittal correspondence dated December 22, 2005 from Mr. Mark Dineen, Senior Vice President/General Manager of WideOpen West.

2. A proposed Resolution authorizing the consent to transfer the control of the LFA's cable franchise.

3. FCC Form 394 dated December 22, 2005 (application for Franchise Authority Consent to Assignment or Transfer of Control of cable television franchise) and related exhibits and documents.

4. The January 26, 2006 letter from Mr. D. Craig Martin, General Counsel of WideOpen West to the undersigned, the January 27, 2006 letter from D. Craig Martin to the undersigned and the January 30, 2006 letter to the undersigned. In addition, the January 26, 2006 letter had attached thereto several exhibits including a September 13, 2005 letter from Thompson Dean and Steven Webster describing the financing arrangements, which were received pursuant to an understanding of confidentiality. A December 12, 2005 letter from Credit Suisse First Boston LLC regarding financing also received pursuant to an understanding of confidentiality; proforma projected income statements and balance sheets also received pursuant to an understanding of confidentiality.

5. An unredacted copy of the Agreement and Plan of Merger by WideOpen West, LLC, Racecar Acquisitions, LLC and other parties thereto dated December 13, 2005 and accompanying schedules which were received pursuant to an understanding of confidentiality as to the heretofore redacted material.

E. Summary of Pertinent Information. Pertinent information furnished in the various sections and exhibits of Form 394 as well as the additional information that is identified above are set forth below:

1. Agreement and Plan of Merger dated December 13, 2005. The purchase price, subject to the adjustments set forth in the Agreement, has been redacted from the 394 application provided to the LFAs and pursuant to the understanding of confidentiality will not be discussed in this report.

In response to my inquiry of January 18, 2006, Mr. D. Craig Martin, WOW's general counsel advised as follows:

Racecar Acquisition, LLC hereby certifies that the consummation of the Agreement and Plan of Merger by and among WideOpen West, LLC and Racecar Acquisition, LLC dated as of December 13, 2005 will not cause any increases in subscriber prices in the membership communities of the Intergovernmental Cable Communications Authority signed by Ben Silbert, Vice President of Racecar Acquisition, LLC dated January 26, 2006.

Further, in response to my letter of January 18, 2006 Mr. Martin advises as follows:

"Racecar Acquisition, LLC hereby certifies that upon consummation of the Agreement and Plan of Merger by and among WideOpen West Holdings, LLC and Racecar Acquisition, LLC dated as of December 13, 2005 Racecar Acquisition, LLC will assume all obligations known or unknown of each franchise between WideOpen West, LLC and the member communities of the Intergovernmental Cable Communications Authority signed by Racecar Acquisitions, LLC Ben Silbert, Vice President January 26, 2006." (Exhibit 5)

2. Statement Regarding Completeness. (Exhibit 1) The Agreement states that the closing of the transaction will be July 31, 2006.

This appears to us to constitute a guarantee by Racecar Acquisitions, LLC of the obligations of WideOpen West under the franchise.

3. Financial Data (Exhibits 9 to the 394 Application and Exhibits 2, 3 and 4 (all received under an understanding of confidentiality) to the letter of January 26, 2006 from D. Craig Martin.

Under these tabs, the transferee explains that it is a newly formed privately held limited liability company that does not issue stock and that the assets of WideOpen West may be pledged to secure indebtedness at sometime in the future. Under Exhibit 9 attached to the 394 application, the following statement regarding the financial statements of the transferee is made:

Upon consummation of the transaction, the transferee will succeed to own and control, all of the assets and operations of WOW! as it presently

exists. Attached are the most recent financial statements for WOW!, prepared in accordance with generally accepted accounting principles, including a balance sheet and an income statement for at least one full year that has been prepared in the ordinary course of business. The financial statements are marked "CONFIDENTIAL" and are to be maintained by the franchise authority and its agents as confidential to the extent permissible by law. The WideOpen West consolidated balance sheet for December 31, 2004 shows total assets of \$283,334,340 of which \$4,668,764 is in cash and \$252,358,226 is the plant property equipment net of accumulated depreciation.

F. Statement Regarding Technical Qualification (Exhibit 10). A response to our January 18, 2006 letter and the January 26, 2006 response by Mr. Martin. As you are aware, ICCA and its member communities previously considered and approved the technical qualifications of the current franchise holder pursuant to a 394 application dated June 6, 2001 franchise to franchise from Ameritech New Media, Inc. to WideOpen West Holdings, LLC. We are informed that the WOW! senior management team consisting of Colleen Abdoulah, President and CEO; Steven Cochran, Chief Financial Officer; Michael Brody, Chief Technical Officer; Kathy Kuo, Senior Vice President of Marketing and Sales; Mark Dineen, Senior Vice President; Calvin Fee; Randy Nungester; Michael Furst; Janice Turner and Craig Martin, General Counsel and Secretary will all be remaining with WideOpen West after the Agreement and Plan of Merger has been fully implemented. In addition, we are informed that WideOpen West has a total of 225 employees in Michigan that services 42 LFA's including the member communities of the ICCA. In addition, WideOpen West Michigan, LLC is serviced by the Customer Care Center in Colorado Springs, Colorado with 275 employees. Of the employees identified above, 146 are service (broadband) technicians, 59 are Michigan administrators, managers and supervisors, and 275 are the service representatives, managers and support staff at the Customer Care Center in Colorado. In addition, WideOpen West engages four independent contractors to meet the franchise needs of the member communities with respect to service matters.

G. Resolution and Ordinance Granting to the Transfer Control of the Cable Television System and Franchise.

Contained with the material, but not in tab form, was a model Resolution prepared by the applicants for adoption by the local franchise authorities of ICCA. It is our recommendation for the reasons set forth below that the LFAs of ICCA should approve the transfer, but not by adoption of the model resolution. Instead, the LFA should adopt a different Resolution by ordinance, if that method of adoption is required by your charter, one which approves the transfer subject to specific conditions. We are

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mindful that back in 2001 we approached the transfer of the franchise from Ameritech New Media with some serious concerns. Over the last 4 ½ years WideOpen West has demonstrated that it is a very capable provider of cable television services to our communities with a particularly good record regarding customer service. In addition, we are informed that its customer base has grown from 293,000 basic customers to over 344,000. We, therefore, recommend that the ICCA and the municipalities adopt the attached form of Resolution of approval subject to conditions.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

BEIER HOWLETT, P.C.

A handwritten signature in black ink, appearing to read "Timothy J. Currier", written over a horizontal line.

Timothy J. Currier
Attorney for the
Intergovernmental Cable Communications Authority

TJC/jc

LAWRENCE R. TERNAN
STEPHEN W. JONES
FRANK S. GALGAN
KENNETH J. SORENSEN
JEFFREY K. HAYNES
TIMOTHY J. CURRIER
JOSEPH F. YAMIN
MICHAEL C. GIBBONS
KATHERINE B. ALBRECHT
MICHAEL P. SALHANEY
C. LYNN GATES
MARY M. KUCHARAK
JEFFREY S. KRAGT
KEITH C. JABLONSKI
VICTOR A. VEPRASKAS, IV

BEIER HOWLETT
PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
200 EAST LONG LAKE ROAD, SUITE 110
BLOOMFIELD HILLS, MICHIGAN 48304-2361
TELEPHONE: (248) 645-9400

DEAN G. BEIER
(1917 - 2003)

OF COUNSEL
JAMES L. HOWLETT
DANIEL C. DEVINE, SR.
ROBERT G. WADDELL
PHYLLIS AIUTO ZIMMERMAN
JOHN F. SHANTZ

SPECIAL COUNSEL
DONALD H. GILLIS

PONTIAC TELEPHONE
(248) 338-9903

FACSIMILE
(248) 645-9344

beierhowlett.com

February 15, 2006

Communities in the Intergovernmental
Cable Communications Authority

Re: Transfer to Racecar Acquisitions, LLC

Dear Members of the Intergovernmental
Cable Communications Authority:

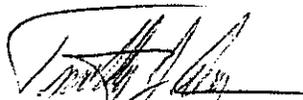
All of the members of the ICCA, with the exception of Auburn Hills and Oakland Township have been using WideOpen West Michigan, LLC as one (1) of their (2) cable television providers. As I am sure you are aware, recently ICCA and the communities have been in receipt of a request to the transfer control of the WideOpen West Michigan, LLC cable television system to Racecar Acquisitions, LLC. Enclosed you will find our report to ICCA regarding the review of the transfer documents as well as additional information, which we received with respect to this matter.

ICCA has recommended that the transfer be approved with conditions. The Resolution adopted by ICCA and recommended by ICCA to your community for adoption is enclosed. From a review of our report, and from discussions with each of your individual delegates to ICCA, I am sure you will appreciate the effort that ICCA put in to review this matter resulting in this recommendation.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

BEIER HOWLETT, P.C.



Timothy J. Currier
Attorney for the
Intergovernmental Cable Communications Authority

TJC/jc