

RESOLUTION NO. _____

A RESOLUTION APPROVING THE TRANSFER OF THE CABLE
TELEVISION FRANCHISE FOR THE
TOWN OF CHESTERFIELD, NEW HAMPSHIRE
FROM WARNER CABLE COMMUNICATIONS INC.

WHEREAS, the Town of Chesterfield, New Hampshire (the "Town") granted a franchise to operate a cable television system pursuant to the Town of Chesterfield Cable Television Franchising Ordinance granted to Warner Cable Communications Inc. ("WCCI"), formerly Warner Amex Cable Communications Inc., dated April 19, 1984 (the "Franchise");

WHEREAS, Time Warner Entertainment Company, L.P. ("TWE"), of which WCCI is a general partner, and Multi-Channel TV Cable Company, an affiliate of Adelphia Communications Corp ("Adelphia"), have negotiated an Asset Exchange Agreement (the "Agreement") pursuant to which TWE will transfer substantially all of the assets of its cable television system serving the Town (the "System"), including its rights under the Franchise, to Adelphia;

WHEREAS, TWE and Adelphia have filed a Form 394,

WHEREAS, the Franchise requires that the Town grant its consent to an assignment of the Franchise; and

WHEREAS, WCCI, TWE, and Adelphia have requested that the Town consent to the assignment and transfer of the Franchise by WCCI to TWE and immediately thereafter by TWE to Adelphia.

NOW, THEREFORE, BE IT RESOLVED BY THE SELECTBOARD OF THE TOWN OF CHESTERFIELD, NEW HAMPSHIRE:

1. The Town does hereby consent to the transfer of the Franchise and all of WCCI's rights, powers, and privileges under the Franchise from WCCI to TWE and immediately thereafter from TWE to Adelphia;

2. The foregoing consent to the transfer and assignment of the Franchise shall be effective upon consummation of the transfer of the System by TWE to Adelphia (the "Effective Date"), at which time the Town shall automatically release WCCI, TWE, and their predecessors from all obligations and liabilities under the Franchise that relate to periods from and after the Effective Date. Notice of the Effective Date shall be given to the Town.

TOWN OF CHESTERFIELD

CABLE TELEVISION FRANCHISING ORDINANCE

EFFECTIVE DATE: April 19, 1994

Agreed to as amended per footnote below*

ATTEST:

Jean Pittreich
By:

William M. Mitchell
XXXX X. XXXXXXXX William M. Mitchell

John H. Leahy
John H. Leahy

James Milani
Selectmen

ATTEST:

Gregory J. Dunn
By: Gregory J. Dunn
Vice President
Legal Affairs

WARNER AMEX CABLE COMMUNICATIONS INC.

S. A. Rennard
By: S. A. Rennard
Vice President
Eastern Operations

* This system shall not expand beyond the junction of Welcome Hill and Cross Road without a review of the Town of Chesterfield's Cable Television Franchising Ordinance.

SECTION 1. DEFINITIONS:

- a. Franchising Authority - The Town of Chesterfield Selectmen.
- b. "Cable Television System" shall mean a system composed of, without limitation, antenna, cables, wires, lines, towers, wave guides, or any other conductors, converters; equipment or facilities, designed, constructed or wired for the purpose of producing, receiving, amplifying and distributing by coaxial cable and/or visual radio, television, electronic or electrical signals to and from persons, subscribers and locations in the franchise area.
- c. Franchise - A grant of authority to operate a cable television system for the period of time specified therein.
- d. Franchisee - A Person, partnership, or corporation granted a franchise by the Selectmen to operate a cable television system within the boundaries of the Town of Chesterfield.
- e. Subscriber - Any person, firm, corporation, or other entity receiving for any purpose the service of the Franchisee.
- f. Public Street - shall mean all roadways within the Town of Chesterfield on which the cable television franchise is located, including the town maintained roads, non-town maintained roads and state highways.
- g. Broadcaster - denotes a person or organization utilizing a system channel for purposes of production and/or transmission of material or programs, as contrasted with receipt thereof, with or without compensation to the Franchisee.
- h. Amplifier - A device used to boost the strength of an electronic signal. Amplifiers are spaced at intervals throughout a cable system to rebuild the strength of television signals which weaken as they pass through the cable network.
- i. Antenna - A device used to transmit or receive broadcast signals.
- j. Audio - The aural components of a television signal, also, aural broadcasting such as AM and FM radio.
- k. Broadcasting - Transmitting electromagnetic signals in a multi-directional pattern over the air.
- l. Cable TV (Community Antenna Television or CATV) A communications system which distributes broadcast programs and original programs and services by means of coaxial cable.
- m. Full Network Station - A commercial television broadcast station that generally carries 85 per cent of the hours of programming offered by one of the three major national networks during its weekly prime time hours.
- n. Public Channel - The channel maintained by the Company for its local origination cablecasting, for local governmental, educational and public use.

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- o. House Drop - The coaxial cable that connects each building or home to the nearest feeder line of the cable network.
- p. Independent - A TV station that has no exclusive affiliation which obliges it to carry programs from one of the national networks.
- q. Interferences - Energy which tends to interfere with the reception of the described signals, such as fading from airline flights, r-f interference from adjacent channels, or "ghosting" from reflecting objects such as mountains and buildings.
- r. Local Origination Channel - A channel on a cable system (exclusive of broadcast signals) which is programmed by the cable operator and subject to his exclusive control.
- s. Network - Group of radio or television outlets linked by cable or microwave that transmit identical programs simultaneously, or the company that produces programs for them. The primary television networks in the U.S. are the American Broadcasting Company, the Columbia Broadcasting Company, and the National Broadcasting Company.
- t. Performance Standards - The minimum technical criteria that must be met by CATV systems, consistent with standards set by the FCC.
- u. Pole Attachment - When CATV systems use existing pole lines maintained by power and telephone companies, an attachment contract must be negotiated between the parties of interest.
- v. Public Use - Use by members of the general public of the public channel for legitimate purposes.
- w. Video - The visual components of a television signal.

SECTION 2. PURPOSE:

The purpose of this chapter is to provide for the regulation and control of community antenna television (CATV) systems in the Town of Chesterfield in the public interest in accordance with the provisions of New Hampshire Revised Statutes Annotated 53-C and the Rules and Regulations of the Federal Communications Commission of the United States.

SECTION 3. FRANCHISE:

- a. The Selectmen may grant to one or more persons, partnerships, or corporations a franchise for the occupation or use of the public streets in the Town for construction, maintenance and operation of a cable television system in accordance with the provisions of this ordinance and for all applicable state and federal laws, rules and regulations.
- b. Upon continuing full and complete performance by franchisee of each and

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every term of this agreement, the permission herein granted shall continue for a term of five years; and at the expiration of five years, this permission shall renew itself automatically so long as complete performance of the terms hereof is continued by franchisee for successive periods of five years each.

c. Nothing in this ordinance shall affect the right of the Selectmen to grant more than one person, partnership, or corporation a franchise to use or occupy the public streets for the purpose of constructing, maintaining and operating a cable television system or other broadband communications facility within the Town of Chesterfield.

SECTION 4. CONDITIONS OF STREET OCCUPANCY:

a. All transmission and distribution structures, lines, and equipment erected by the Company within the franchise area shall be so located as to cause minimum interference with the proper use of streets, and other public ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners whose properties adjoin any of the said street or other public ways and places. The Company shall install and maintain its wires, cables, fixtures, and other equipment in such manner that they will not interfere with any installations of the Town or of a public utility serving the Town.

b. In case of disturbance of any street, public way, or paved area, as a result of the operations of the Company, the Company shall, at its own cost and expense and in a manner approved by the Town, replace and restore such street, public way or paved area in as good a condition as before the work involving such disturbance was done.

c. Any poles or other fixtures placed in any public way by the Company shall be placed in such manner not to interfere with the usual travel on such public way.

d. The Company shall, on the request of any person holding a building moving permit issued by the Town, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or raising or lowering of wires shall be paid by the person requesting the same, and the Company shall have the authority to require such payment in advance. The Company shall be given not less than ninety-six (96) hours advance notice to arrange for such temporary wire changes.

e. The Company shall have the authority to trim trees upon and overhanging streets and public ways and places of the franchise area so as to prevent the branches of such trees from coming in contact with the wires and cables of Company.

f. If at any time during the term of the franchise the cables, wires, or other like facilities of public utilities are placed underground, the Company may, at that time, to the extent feasible, place its cables, wires or other like facilities underground to the maximum extent that existing technology

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reasonably permits the Company to do so.

g. The Company shall protect, support, temporarily disconnect, relocate in the same street or other public place, or remove from the street or other public place (all such activity of the Company being herein referred to as "relocation") any property of the Company when reasonably required by the Town by reason of traffic conditions, public safety, street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines, and tracks or any other type of structures or improvements by public agencies; provided, however, that the Company shall be entitled to reimbursement for the costs incurred by it in connection with such relocation from a private contractor who is performing the work necessitating such relocation and the Company shall have the right to insist upon receiving appropriate security for the relocation expenses and anticipated to be incurred by it prior to effecting such relocation.

SECTION 5. SAFETY REQUIREMENTS:

a. The Company shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

b. All structures and all lines, equipment and connection in, over, under and upon the streets, sidewalks, alleys, and public ways or places of the franchise area, wherever situated or located, shall at all times be kept and maintained in a safe, suitable condition, and in good order and repair.

SECTION 6. FRANCHISE PAYMENTS:

The Company shall pay to the Town, on or before March 31 of each year a franchise fee of Two Hundred Dollars (\$200.00).

Section 7. INDEMNIFICATION OF TOWN:

a. The Company shall at all times indemnify and hold harmless, the Town from all claims, actions, suits, liability, loss, expense or damages of every kind and description (herein collectively referred to as "claims") which may accrue to or be suffered or claimed by any person or persons arising out of the negligence of the Company in the ownership, construction, repair, replacement, maintenance and operation of the Cable Television System. The Town shall give the Company prompt written notice of any such claims filed against it.

b. The Company shall maintain insurance in the following amounts:

- (1) \$50,000 property damage in any one accident;
- (2) \$500,000 for personal injury to one person;
- (3) \$1,000,000 for personal injury in any one accident;

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provided, however, that all such insurance may contain reasonable deductible provisions.

SECTION 8. NON-INTERRUPTION OF SERVICE:

In the event the Company shall fail to provide service to a substantial number of subscribers for a continuous period of sixty (60) days, the franchising authority shall have the right to terminate the franchise after public hearing at which the Company has an opportunity to be heard.

SECTION 9. APPROVAL OF TRANSFER:

The Company shall not sell or transfer its plant or system to another nor transfer any rights under this franchise to another, except as security for monies borrowed, without Selectmens' approval. Such Selectmens' approval shall not be unreasonably withheld.

SECTION 10. NEW DEVELOPMENTS:

It shall be the policy of the Town liberally to amend this franchise upon application of the Company, when necessary to enable the Company to take advantage of any developments in the field of transmission of television and radio signals which will afford it an opportunity more effectively, efficiently or economically to serve its customers.

SECTION 11. MISCELLANEOUS PROVISIONS:

When not otherwise prescribed herein, all matters herein required to be filed with the Town shall be filed at the Selectmens' office.

SECTION 12. COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES:

The Company shall at all times during the life of this franchise be subject to all lawful exercise of the police power by the Town. The Town reserves the right to adopt from time to time such amendments hereto as may be necessary to exercise of the police power. Such regulation shall be reasonable and not destructive to the rights herein granted and not in conflict with the laws of the State or other local laws or regulations.

SECTION 13. VIOLATIONS:

a. It shall be unlawful for any person to construct, install or maintain within any public street in the Town, or within any other public property of the Town, or within any privately-owned area within the Town which has not yet become a public street but is designated or delineated as a proposed public street on any tentative subdivision map approved by the Town, any equipment or facilities for distributing any television signals or radio signals through CATV system, unless a franchise authorizing such use of such street or property or area has first been obtained, and unless such franchise is in full force and effect.

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b. It shall be unlawful for any person, firm or corporation to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of the franchise CATV system within this Town for the purpose of enabling himself or others to receive any television signal, radio signal, picture, program or sound, without payment to the operator of said system.

c. It shall be unlawful for any person, without the consent of the owner, to wilfully tamper with, remove or injure any cables, wires, or equipment used for distribution of television signals, radio signals, pictures, programs or sound.

SECTION 14. PENALTIES:

Any person violating or failing to comply with any of the provision of Section 13 of this Ordinance shall be guilty of a misdemeanor and for each day of violation or failure to comply may be punished by a fine not to exceed \$100.00 or by imprisonment for a term not to exceed thirty (30) days or by both such fine and imprisonment.

SECTION 15. SEVERABILITY:

If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held illegal, invalid or unconstitutional by the decision of any court or regulatory body of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. The Selectmen hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause, and phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared illegal, invalid or unconstitutional. The invalidity of any portion of this Ordinance shall not abate, reduce or otherwise affect any consideration or other obligation required of the Company. All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.