

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is entered into this 25th day of July, 2002, by and between the North Suburban Communications Commission (hereinafter the "Commission"), a joint powers commission consisting of the cities of Arden Hills, Falcon Heights, Lauderdale, Little Canada, Mounds View, New Brighton, North Oaks, Roseville, St. Anthony and Shoreview (hereinafter the "Member Cities"), and MediaOne North Central Communications Corp. d/b/a AT&T Broadband (hereinafter "Company").

WHEREAS, Company and the Member Cities entered into individual cable television franchises, which became effective on October 1, 1998 (collectively, the "Franchises"); and

WHEREAS, the Commission administers and enforces the Franchises pursuant to the current Joint and Cooperative Agreement (hereinafter the "Agreement"); and

WHEREAS, the Commission represents to Company that it is authorized under the Agreement to take such actions as necessary to coordinate, administer, and enforce the Franchises; and

WHEREAS, § 7.1.a of the Franchises requires Company to provide an upgrade to the existing coaxial Institutional Network with 54 channel capacity in the 5-450 MHz spectrum in accordance with the franchise renewal proposal submitted by Company's predecessor in interest on August 4, 1997 (the "Proposal"); and

WHEREAS, § 7.1.a of the Franchises also requires that the institutions designated in Exhibit B of the Franchises must be connected to the Institutional Network, along with any new city hall facilities; and

WHEREAS, § 7.1.c of the Franchises also requires the Company to construct and maintain fiber optics to the Institutional Network nodes, including 2 fibers in conjunction with the coaxial cable to transmit the 54 channels required under § 7.1.a, and 4 additional dark shadow fibers for use of the institutions listed in Exhibit B; and

WHEREAS, the Arden Hills City Hall and the North Oaks City Hall are listed in Exhibit B and are currently connected to the Institutional Network via coaxial cable; and

WHEREAS, § B-8 of the Proposal proposed that Company shall furnish four-count shadow fiber along that part of the subscriber network that parallels the institutional network, as part of Company's overall Institutional Network obligations; and

WHEREAS, §2.1 of the Franchises provides that the Company shall comply with all provisions of its Proposal, which is expressly incorporated therein by reference; and

WHEREAS, § 2.10 of the Franchises states that Company shall provide a free subscriber network drop and outlet to all institutions designated in Exhibit B, including the Arden Hills City Hall and the North Oaks City Hall; and

WHEREAS, the Commission and Company have differed in their interpretation of the meaning of the provisions of the Franchises relating to the four-count dark shadow fiber; and

WHEREAS, the Commission and Company desire to resolve their differences and have common understanding of the provisions of the Franchises and Proposal, which are specifically referenced herein;

NOW, THEREFORE, the Commission and Company agree that this Memorandum of Understanding shall clarify and further define Company's obligation under the Franchises with respect to the Institutional Network and the four-count dark fiber specified in § B-8 of the Proposal.

1. Company shall, without charge to the Commission, the Member Cities or any Institutional Network user, extend four (4) single-mode dark fibers from the nearest System point interconnected back to the Shoreview Hub to:
 - a. the Arden Hills City Hall facility located at 1245 West Highway 96, Arden Hills, Minnesota 55112; and
 - b. any future North Oaks City Hall facility located within five hundred (500) feet of the existing Institutional Network.

The Arden Hills City Hall dark fiber connection shall be completed within sixty (60) days of the effective date of this Memorandum of Understanding. With respect to the any future qualifying North Oaks City Hall facility, Company shall construct and complete the dark fiber connection specified herein within sixty (60) days of receiving a written request from the Commission. The four (4) single-mode dark fibers connected to the Arden Hills City Hall and any qualifying North Oaks City Hall facility shall be passively terminated to connectors at the patch panel of the primary telephone equipment room within each facility, or at another internal site designated by the Commission.

2. It is understood and agreed that § B-8 of the Proposal shall not be construed by the Commission to require Company to provide four (4) shadow fibers from cable system nodes to any institution(s) designated in Exhibit B, at Company's cost, other than those institutions specified herein and those institutions already connected to nodes via four count shadow fiber, after the effective date of this Memorandum of Understanding. All other requirements and standards under the Franchises shall remain in full force and effect at all times, in accordance with the terms of the Franchises, and are not superseded or modified in any way by this Memorandum of Understanding. In this regard, nothing herein shall be construed to relieve Company of its ongoing obligation to furnish four-count shadow dark fiber, free of charge, from the Shoreview Hub or Roseville Hub, as applicable, to the Institutional Network nodes, and any dark fibers from the Institutional Network nodes to those institutions already receiving such dark fiber on the effective date of this Memorandum of Understanding. Company shall also continue to provide all other fiber previously given to the Commission, free of charge or otherwise, pursuant to § B-8 of the Proposal and § 7.1.c of the Franchises.

3. Repair and maintenance of the four (4) dark fibers specified in paragraph 1 shall be in accordance with the Franchises. All other dark fiber provided pursuant to § B-8 of the Proposal and § 7.1.c of the Franchises, as well as all other Institutional Network facilities and plant, shall continue to be maintained and repaired in accordance with the Franchises.

4. Attached to this Memorandum of Understanding as Exhibit 1 is a map depicting the upgraded Institutional Network and all fiber, whether dark or currently in use by the institutions(s), that has been constructed by Company under the requirements of the Franchises and this Memorandum of Understanding up through the effective date of this Memorandum of Understanding, including the dark fiber to be extended to the Arden Hills City Hall facility specified in paragraph 1 above, as well as the subscriber network fiber that parallels the coaxial portion of the Institutional Network. The Commission and Company agree that the Institutional Network, shadow dark fibers from Hubs to Institutional Network nodes, dark fibers from such nodes to individual institutions, and available subscriber network fiber paralleling Institutional Network coaxial cable, all as depicted on Exhibit 1, fulfill Company's obligations under the Franchises up through the effective date of this Memorandum of Understanding.

5. The Commission shall have access to up to four fibers, if available, pursuant to § B-8 of the Proposal and this Memorandum of Understanding at current and/or future splice points.

6. In exchange for Company's commitment in paragraph 1, the Commission hereby waives all claims of violations of the I-Net performance standards set forth in Exhibit D of the Franchises that are known to exist as of the effective date of this Memorandum of Understanding. The Commission does not waive, now or in the future, any violation(s) of the I-Net performance standards set forth in Exhibit D that may arise after the effective date hereof, unless it does so in writing, as provided in the Franchises. Except for the limited waiver specified in this paragraph 6, the Commission and the Member Cities reserve all of their rights and powers under applicable federal, state and local laws, regulations, ordinances and decisions.

7. Company and the Commission agree that Exhibit B of the Franchises shall be interpreted as follows:

a. an "X" in the "I-Net" and/or "Sub" columns for a particular institution denotes that the institution had an I-Net and/or subscriber network connection, respectively, as of the effective date of the Franchises, and is to retain a free I-Net connection, if the "X" is in the "I-Net" column, and/or a free subscriber network drop, outlet and basic cable service, if the "X" is in the "Sub" column, throughout the term of the Franchises or any extension(s) thereof;

b. an "N" in the "I-Net" and/or "Sub" columns for a particular institution denotes that the institution did not require an I-Net and/or subscriber network connection as of the effective date of the Franchises, but that an I-Net connection and/or a free subscriber network drop, outlet and basic cable service could be required after the effective date, in accordance with the terms of the Franchises. Specifically, if there is an "N" in the "I-Net" column for a particular institution, that institution shall be connected to the institutional network, upon request, if it is

located less than five hundred feet from the existing institutional network, or if such institution agrees to reimburse Company for its actual costs in excess of the five hundred foot installation actual costs. If there is an "N" in the "Sub" column for a particular institution, that institution shall receive a free subscriber network drop, outlet and basic cable service, upon request, if it is located five hundred feet or less from the existing subscriber network, or if such institution agrees to reimburse Company for its actual costs in excess of the five hundred foot installation actual costs;

c. a "Y" in the "I-Net" column for a particular institution denotes that the institution shall receive an institutional network connection, upon request, if it is located less than five hundred feet from the existing institutional network, or if such institution agrees to reimburse Company for its actual costs in excess of the five hundred foot installation actual costs; and

d. a "Y" in the "Sub" column for a particular institution denotes that the institution shall receive a free subscriber network drop, outlet and basic cable service, upon request, if it is located five hundred feet or less from the existing subscriber network, or if such institution agrees to reimburse Company for its actual costs in excess of the five hundred foot installation actual costs.

8. Neither the Commission nor Company waives any rights they may have during the franchise renewal process, including (but not limited to) the formal and informal renewal processes set forth in 47 U.S.C. § 546. The Commission and Company each acknowledge and agree that this Memorandum of Understanding was negotiated in good faith. Both Company and the Commission agree not to assert, and specifically waive any and all rights either may have, now and in the future, to assert that as of the effective date any provision, term or condition of this Memorandum of Understanding is unenforceable under or preempted by federal, state or local law.

9. If a term, condition or provision of this Memorandum of Understanding shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and shall continue to be effective. In the event that any provision of this Memorandum of Understanding is voided or altered by a court, the Federal Communications Commission or any other entity with jurisdiction over the parties, the Commission and Company mutually agree to make any amendments to this Memorandum of Understanding necessary to effectuate the original intent of the Commission and Company, and to preserve the benefits bargained for by each party. If the parties cannot agree on appropriate amendments, remaining issues shall be submitted to binding arbitration.

10. This Memorandum of Understanding shall bind and benefit the parties hereto, and their respective heirs, beneficiaries, administrators, executors, receivers, trustees, successors and assigns.

11. This Memorandum of Understanding shall not be changed, modified or amended, in whole or in part, unless an appropriate written instrument is executed by the Commission and Company.

12. Any violation of paragraph 1 of this Memorandum of Understanding by the Company shall be considered a material breach of the Franchises. The balance of this Memorandum of Understanding shall be considered a clarification of the referenced applicable Franchise provisions, and such Franchise provisions shall be interpreted and enforced accordingly.

13. Nothing herein shall be construed to give any person, other than Company, the Commission or the Member Cities, a right to assert any claim or cause of action against Company, the Commission, the Member Cities or their employees, elected or appointed officials, officers, directors, boards or agents.

14. As used herein, the word "shall" is mandatory, and the word "may" is permissive. Unless otherwise expressly stated, the words herein shall be given the meaning set forth in the Franchises or in other applicable law, and if not defined therein, words shall be given their common and ordinary meaning.

15. The understandings and agreements between the Commission and Company herein are intended to clarify and further define the meaning of the Franchises.

16. This Memorandum of Understanding embodies the entire understanding and agreement of the parties with respect to the subject matter hereof and merges and supersedes all prior representations, agreements and understandings, whether oral or written, between the Commission and Company with respect to the subject matter hereof including, without limitation, any or all written or oral statements or representations by any official, employee, agent, attorney, consultant or independent contractor of the Commission or Company.

17. This Memorandum of Understanding shall be effective on the date it is executed by Company and the Commission.

Executed this 25th day of July, 2002.

**NORTH SUBURBAN COMMUNICATIONS
COMMISSION**

By: *David Sand*

Its: Chair

By: *Adomella*

Its: Secretary

**MEDIAONE NORTH CENTRAL COMMUNICATIONS
CORP. D/B/A AT&T BROADBAND**

By: *J. S. Hall*

Its: *Market CFO*

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