

STATE OF NORTH CAROLINA

COUNTY OF IREDELL

**CABLE TELEVISION SYSTEM INTERLOCAL AGREEMENT FOR THE
JOINT OPERATION OF A CABLE TELEVISION SYSTEM**

Mission

The Towns of Davidson, Mooresville, and Cornelius and the County of Mecklenburg will provide state-of-the-art, locally owned essential communication infrastructure delivering robust products, economic development, and superior service.

This Interlocal Agreement (the "Agreement") is entered into effective August ¹⁴~~1~~, 2007 by and among the Town of Mooresville, North Carolina, the Town of Davidson, North Carolina, (with Mooresville and Davidson referred to collectively as "Operating Parties") and the Town of Cornelius, North Carolina, and the County of Mecklenburg, North Carolina (with Mooresville, Davidson, Cornelius, and Mecklenburg referred to collectively as "Parties") pursuant to N.C.G.S. § 160A-460, et. seq.

WHEREAS, under the cable ordinance enacted by each of the Parties, each Party has the individual right to purchase the cable system serving residents in its jurisdiction, which cable television system is currently owned (in part) by Adelphia Prestige Cablevision, LLC and owned (in part) and is currently operated by Time Warner NY Cable, LLC ("Time Warner") pursuant to a Settlement Agreement dated July 28, 2006, and approved by the Bankruptcy Court for the Southern District of New York on August 16, 2006; and

WHEREAS, each of the Parties has resolved to exercise its right of first refusal to purchase the cable system serving its individual community (the individual systems shall be referred to collectively as the "System"); and

WHEREAS, the Parties have negotiated Asset Purchase Agreements with Adelphia Communications Corporation, the parent of Adelphia Prestige Cablevision, LLC, and with Time Warner, respectively, (collectively, the "Purchase Agreements") to acquire the System; and

WHEREAS, North Carolina law authorizes local governments to enter into joint undertakings and create joint agencies to own and operate a public enterprise; and

THEREFORE, in consideration of the mutual promises and covenants contained herein the Parties agree as follows:

Art. 1. Enabling Statutes – Article 20 of Chapter 160A and G.S. § 153A-445(a)(1) of the North Carolina General Statutes provide that local governments may enter into a joint undertaking of any power, function, public enterprise, or right of local government, and create a joint agency to effect that undertaking; G.S. § 160A-311(7) includes cable television system as a type of public enterprise that may be operated by such municipalities. Further, G.S. § 160A-312 authorizes a municipality to acquire, construct, establish, enlarge, improve, maintain, own and operate and contract the operation of any of any or all of the public enterprises as defined in Article 20 of Chapter 160A to furnish services to the city and its citizens.

Art. 2. Joint Agency – The Parties hereby grant to each other and to the Joint Agency as established herein, its successors and assigns, all of the powers necessary by law, contract, agreement, or otherwise, the ability to own and operate a communication system and associated services in that Party's jurisdiction.

To this end, the Parties hereby create a Joint Agency to effectuate the agreement and intent of the Parties regarding the subject matter of this Interlocal Agreement to be known initially as the "MI Connection Communications System". The name of the Joint Agency may be changed from time to time by the Board of Directors.

Art. 3. Purpose - The purpose of the Joint Agency is to own, upgrade, manage and operate the cable television system that will be acquired by the Parties pursuant to the Purchase Agreements, and to provide any and all associated services which may be offered over the system. This includes, but is not limited to, video, telephone, and internet services, within the corporate limits of the Parties, the unincorporated areas of Mecklenburg County and Iredell County, and such other areas as may be permitted by law.

Art. 4. Board of Directors - The Joint Agency will be governed by a Board of Directors comprised of five (5) voting Directors and one (1) non-voting Director. All Directors shall serve two-year terms, but are eligible for re-appointment. Such voting Directors shall be appointed as follows: the Town of Mooresville shall appoint two (2) voting Directors and the Town of Davidson shall appoint two (2) voting Directors. The right to appoint the fifth voting Director for a two (2) year term shall alternate between the Town of Davidson and the Town of Mooresville, commencing with the Town of Davidson. The Town of Cornelius may appoint one (1) non-voting Director to represent the interests of the Town of Cornelius on the terms and conditions as set out herein. The non-voting Director shall not be eligible to hold any administrative or other position on the Board of Directors, and shall not be counted for the purposes of establishing a quorum. The Board of Directors shall elect a Chairperson and a Secretary/Treasurer from its members. Each voting Director will have one vote except as otherwise specified in this Agreement.

Unless otherwise specified in this Agreement, a quorum of the Board for the transaction of business shall consist of a minimum of three (3) voting Directors. Unless otherwise specified in this Agreement, once a quorum is constituted, a simple majority of voting Directors (but not less than three (3) affirmative votes) is required to approve an item of the Board's business.

Every five (5) years after the date of this agreement, the Board of Directors will consider and recommend to the Parties any changes in the number and appointment of the Board of Directors it deems advisable. Nothing herein shall preclude the Board of Directors from considering and recommending to the Parties any changes in the number of Directors and appointment of the Board of Directors on a more frequent basis.

Operating Parties shall indemnify and hold harmless the Board of Directors and its individual members against any and all expenses, judgments, fines, penalties, settlements and other amounts actually and reasonably incurred by either them individually or as a Board in connection with the defense or settlement of any actions, with respect to the acts or omissions of such Board of Directors or its individual members which are the subject of any civil proceeding, provided that such Director or Board of Directors acted in good faith and in a manner which such member or Board believed to be in the best interests of the Parties; except that no indemnification shall be made hereunder in respect of any claim, issue or matter as to which such member or Board shall have been adjudged liable in the performance of his or her duty to the Parties unless, and then only to the extent that the court in which such Proceeding is or was pending shall determine upon application that, in view of all the circumstances of the case, such director or Board is fairly and reasonably entitled to indemnification for such Expenses.

Art. 5. By-laws - By vote of a minimum of four (4) members, the Board of Directors is authorized to establish such By-laws as are necessary to govern its deliberations and actions not inconsistent with the terms of this Agreement.

Art. 6. Meetings - The Board of Directors shall meet at least one time each calendar quarter, or as otherwise established in its By-Laws.

Art. 7. Accounting, Legal, and Employee service - The Board of Directors is given the authority to contract with one or more third parties to provide necessary management, accounting, operational, and legal services to the Joint Agency necessary for the operation of a communications system and associated systems and services, including the authority to hire any employees or to contract out any or all of the Joint Agency's functions to another entity.

Art. 8. Change or Sale of Interest - At no time may a Party convey its interest in the communications system or in the Joint Agency to anyone except as set out herein.

A conveyance of the entire communications system must be authorized by an affirmative vote of each of the Operating Parties to this Agreement subject however to the condition that before a conveyance becomes final, all debts of the communications system must be satisfied prior to the actual closing of the conveyance.

Art. 9. Duration - This Agreement shall last until terminated by the Operating Parties but in no event beyond any time that the law prohibits.

Art. 10 Pre-Closing Financing - The Town of Mooresville will be responsible, on behalf of the Parties, for making the following payments out of its current operating budget:

- (i) Funding of the \$1.5 million buyers deposit required by the Purchase Agreements.
- (ii) Establishing a \$1.5 million line of credit to the Joint Agency until the proceeds of the Installment Financing are available to the Agency.
- (iii) Payments to all advisors and consultants, including the future System manager, for services rendered from the effective date of this Agreement through the date the proceeds of the Installment Financing described in Article 11 are available to the Joint Agency.

The Town of Mooresville shall be entitled to reimbursement of these costs out of the proceeds of the Installment Financing, within 60 days of the proceeds of the Installment Financing being available to the Agency. In the event that such Installment Financing does not occur, the Town of Davidson agrees to reimburse the Town of Mooresville fifty percent (50%) of any money expended by the Town of Mooresville pursuant to this Article.

Art. 11 Long Term Financing and Operating Costs

11.1 The Parties understand and agree that the Town of Mooresville will enter into an installment financing (the "Installment Financing") to finance, on behalf of the Parties and the Joint Agency, the acquisition of, improvement to, and operation of the System. Mooresville agrees to pay when due all amounts due with respect to the Approved Loan. The proceeds of the Installment Financing will, in effect, be loaned to the Joint Agency. The Joint Agency agrees to pay Mooresville any amounts due with respect to the Installment Financing not later than the business day before due from Mooresville.

11.2 The Parties acknowledge that for federal income tax purposes, the Installment Financing will be treated as an issuance of debt by

Mooreville and a loan of Installment Financing proceeds to the Joint Agency. The Joint Agency agrees to comply with all laws, regulations and rules regarding the Installment Financing necessary to ensure that the Installment Financing maintains its tax-exempt status, including, without limitation, not meeting the private business tests set forth in IRC § 141(b), complying with arbitrage yield restrictions, paying all required rebate, and complying with the terms of the tax certificate and all related documents executed in connection with the Installment Financing.

11.3 The Parties acknowledge that (1) they and the members of the predecessor consortium to the Joint Agency (which included other governmental units) have since June, 2005, pursuant to joint undertakings and on behalf of the Joint Agency, incurred costs relating to acquisition of the System and its financing, and (2) proceeds of the Installment Financing will be used to reimburse the Parties and those predecessor members for their respective agreed upon shares of those costs.

11.4 To the extent revenues and assets of the System are not adequate to pay operating costs of the System (including debt service on the Installment Financing), the Operating Parties agree, to the extent of their respective Financial Interests, as defined in Article 16 to provide to the Joint Agency on a timely basis any and all funds necessary to operate the System. If either Operating Party defaults in that obligation, the other Operating Party is obligated to fulfill that obligation.

Art. 12. Budget No later than June 30th of each fiscal year the Board of Directors shall adopt a budget for the next fiscal year.

Art. 13. Allocations and Distributions

13.1 Profits and Losses. The Profits and Losses of the Joint Agency shall be allocated among the Operating Parties in accordance with their respective Financial Interests as of the first day of the Fiscal Year in which the Profits and Losses are incurred.

13.2 Distributions. Distributions to the Operating Parties may be made based upon their respective Financial Interests upon the approval of at least four (4) Directors. No distributions shall be made unless the Joint Agency has cash on hand from operations equal to the lesser of (i) two months programming costs plus six months operating expenses or (ii) Five Million Dollars (\$5,000,000.00).

13.3 Liquidation. In the event of the sale or other disposition of all or substantially all of the property and assets of the Joint Agency, all cash and other assets of the Joint Agency shall be distributed in the following order:

- (a) To payment of the debts and satisfaction of the other obligations of the Joint Agency, including on a first priority basis to Mooreville an amount necessary to defease the Installment Financing and then to any other Party for any other loan to the Joint Agency;

(b) To the establishment of any reserves deemed appropriate by the Directors for any liabilities or obligations of the Joint Agency, which reserves will be held for the purpose of paying liabilities or obligations and, at the expiration of a period the Directors deem appropriate, will be distributed in the manner provided in Article 20;

(c) To the payment to the Parties, after restoring any capital deficiency in any Operating Party's Capital Account, of the positive balances in each Operating Party's respective Capital Account, pro rata, in proportion to the positive balances in those Capital Accounts after giving effect to all allocations and distributions under Article 15 for all prior periods, including the period during which the process of liquidation occurs; and thereafter,

(d) To the Operating Parties in proportion to their respective Financial Interests.

Art. 14. Joint Agency Property - Each Party shall convey, assign, transfer and deliver any property that the Party would otherwise be entitled to receive (other than real property) that is part of the System. For this purpose, each Party shall designate the Joint Agency as its "designee" under the Purchase Agreements. Further, each Party shall take ownership of any real property located within its corporate limits or territorial boundaries which it is entitled to receive under the Purchase Agreements, and shall grant the Joint Agency a leasehold interest in such real property, assigning the use of such real property to the Joint Agency for the operation of the System for nominal consideration. Any Party owning real property that is part of the System shall hold such assets in trust for the benefit of the Joint Agency.

Art. 15. Capital Accounts

15.1 A Capital Account shall be established for each Operating Party and shall be credited with each Operating Party's initial and any additional Capital Contributions. All contributions of property to the Joint Agency by an Operating Party shall be valued and credited to the Operating Party's Capital Account at such property's Gross Asset Value on the date of contribution. All Distributions of property to an Operating Party by the Joint Agency shall be valued and debited against such Operating Party's Capital Account at such property's Gross Asset Value on the date of such Distribution.

15.2 Each Operating Party's Capital Account shall at all times be determined and maintained pursuant to the principles of this Article 15. Each Operating Party's Capital Account shall be increased by:

(i) The amount of Profits allocated, and the amount of items of income and gain specially allocated, to the Operating Party pursuant to this Agreement; and

(ii) The amount of any Joint Agency liabilities assumed by the Operating Party or which are secured by any Joint Agency Property distributed to such Operating Party.

15.3 Each Operating Party's Capital Account shall be decreased by:

(i) The amount of Losses allocated, and the amount of items of deduction and loss specially allocated, to the Operating Party pursuant to this Agreement;

(ii) The amount of Capital Proceeds distributed to the Operating Party pursuant to this Agreement; and

(iii) The amount of any liabilities of the Operating Party assumed by the Joint Agency or which are secured by any property contributed by such Operating Party to the Joint Agency.

Art. 16 Financial interest - Each Operating Party will share in the financial risks and rewards of the System and be required to share in any debt service payments and operating costs not covered by the System revenues in accordance with its respective Financial Interest.

The Financial Interest of each Operating Party in the Joint Agency shall be calculated as follows: the number of Subscribers within the particular Operating Party's annexed boundaries and extraterritorial planning jurisdiction (as defined under North Carolina law), divided by the total number of Subscribers within the Operating Parties' annexed boundaries and extraterritorial planning jurisdiction. A "Subscriber" is an individual customer billing account, whether cable only, internet service only, telephone service only or two or more of said services bundled. Each single service customer account and each bundled service customer account shall count as one subscriber for purposes of this agreement. The Financial Interest of each Party will be calculated as of the date of purchase of the System and as of each June 30 thereafter.

Article 17. Expelled Party Interest - If any Party fails to make a required payment as required under this Agreement or any related Agreement binding any of the Parties to this Agreement and such failure continues for ninety (90) days following the defaulting Party's receipt of written notice of such failure such Party in default shall automatically be expelled from the Joint Agency on the one hundredth (100th) day following the defaulting Party's receipt of the written notice of such failure unless the Board of Directors votes, prior to such date, not to expel the defaulting Party from the Joint Agency. In the event that the Board of Directors should vote not to expel, the defaulting Party's appointed Directors may not vote on any

matter affecting the Joint Agency and the quorum and minimum voting requirements shall be adjusted accordingly.

Any Party expelled from the Joint Agency shall forfeit its ownership interest in the Joint Agency and all Joint Agency assets including the expelled Party's Capital Account without compensation. Each Party agrees, and affirmatively waives any claim to the contrary, that debts of any expelled Party to the Joint Agency or to other Parties and any negative balance in such Party's capital account at the time of expulsion will not be affected or forgiven because of its expulsion from the Joint Agency.

In the event that a Party is expelled, the percentage ownership and voting interests of the remaining Parties in the Joint Agency shall be recalculated and determined based on the provisions of Article 4, and the required number of votes found elsewhere in this Agreement lowered by the votes of the expelled party.

Art. 18. Franchise Rights - To the extent permitted by law, each Party hereby agrees to grant franchise rights to the Joint Agency so that the Joint Agency may provide all Joint Agency services currently offered to customers or offered in the future within that Party's jurisdiction, whether or not the Party is still a member of the Joint Agency.

Art. 19. Fiscal Year and percent ownership audit - The Joint Agency's fiscal year shall begin on July 1 and end on June 30. Within one-hundred twenty (120) days after the end of each fiscal year, the Board of Directors shall have prepared and submit to the governing body of each Party audited financial statements for the Joint Agency, which shall include the audited percentage ownership of each Party based on subscriber counts at the end of the fiscal year.

Art. 20. Amendment and Termination - This Agreement may be amended in writing or terminated only by unanimous vote of the Operating Parties, each Party having one vote and exercised in accordance with Article 25.

Prior to any termination of the Joint Agency the Parties shall pay all liabilities of the Joint Agency. Upon conveyance of some or all of the System held by the Joint Agency, the Operating Parties agree that all debts of the Joint Agency, including any debt incurred by an Operating Party on behalf of the Joint Agency and with approval of the Joint Agency, will be paid before any distribution of funds to any Party. If such distribution is warranted and approved by the Board of Directors, the funds shall be distributed to each Party.

Art. 21. Transfer Agreements It is understood and agreed that the Town of Cornelius and the County of Mecklenburg each desire to convey

and transfer their respective interests in the Joint Agency to the Operating Parties pursuant to Transfer Agreements executed subsequent to and contemporaneously with this Agreement, which transfers are hereby approved and shall not require a separate vote of the Parties. Following such transfers, the Town of Cornelius and the County of Mecklenburg shall no longer have any of the rights or obligations of a Party, except as set out in the Transfer Agreements and in Article 4 herein. The Joint Agency hereby assumes joint responsibility with the Operating Parties for compliance with the Transfer Agreements.

Art. 22. Severability – If any portion of this Agreement is held invalid, illegal or unenforceable, such determination shall not impair the enforceability of the remaining terms and provisions contained herein, provided the purposes, intent and objects of this Agreement may be attained and achieved through the enforcement of such remaining terms and provisions.

Art. 23. Enforcement and Governing Law – This Agreement shall be governed by the law of North Carolina, with any actions arising under this Agreement to be under the jurisdiction of the courts of Iredell County, North Carolina.

Art. 24. Entire Agreement/Paragraph Headings – This Agreement sets forth the entire understanding between the Parties and supersedes all previous agreements, arrangements and understandings among the Parties pertaining to the subject matter hereof, whether written or oral, and may not be amended except as provided herein. This Agreement is intended to be binding upon and for the benefit of only the Parties and no term or condition hereof is intended to benefit, nor may any term or condition hereof be enforced by any other party not a party to this Agreement. Paragraph headings are for convenience only and shall not be deemed a controlling part of this Agreement.

Art. 25. Execution and Voting by Parties – Any Party shall take any action required or permitted by this Agreement by acting pursuant to resolution adopted by the Governing Board of the respective Party. The signatures of the Mayors or Chairman of the Governing Boards of each Party constitute approval of each Party to this Agreement. Resolutions of the Governing Boards of each Party ratifying this Agreement are attached to this Agreement.

Art. 26. Attachments Incorporated by Reference – The following documents, attached hereto, are incorporated by reference into this Agreement.

- (a) Separation Plans (Attached as Exhibits 1 and 2)
- (b) Transfer Agreement for the Town of Cornelius (Attached as Exhibit 3)

- (c) Transfer Agreement for the County of Mecklenburg (Attached as Exhibit 4).

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their corporate names by duly authorized officers in duplicate originals, one of which is retained by each of the parties, the day and year as set out by each party.

TOWN OF MOORESVILLE

By:

Bill Thunberg
Bill Thunberg, Mayor

Attest:

Janet O. Pope
Janet O. Pope, Town Clerk

TOWN OF DAVIDSON

By:

Randy Kincaid
Randy Kincaid, Mayor

Attest:

Peggy St. Smith
Peggy St. Smith, Town Clerk

TOWN OF CORNELIUS

By:

Gary T. Knox
Gary T. Knox, Mayor
Susan R. Medlin, Mayor Pro Tem

Attest:

Carolyn Sigmon
Carolyn Sigmon, Town Clerk

COUNTY OF MECKLENBURG

By:

Jennifer Roberts
Jennifer Roberts, Chairman
HARRY L. JONES, Sr., County Manager

Attest:

Janice S. Paige
Janice S. Paige, Clerk to the Board