



**City of Gahanna
Signature Report
Ordinance**

200 South Hamilton Road
Gahanna, Ohio 43230

File Number: ORD-0204-2001

Date Passed: 10/15/2001

APPROVING AN APPLICATION FOR FRANCHISE AUTHORITY CONSENT TO THE ASSIGNMENT OF THE CABLE TELEVISION FRANCHISE FROM AMERITECH NEW MEDIA, INC. DBA AMERICAST TO WIDOPENWEST OHIO, LLC, AND TO DECLARE AN EMERGENCY

WHEREAS, the City of Gahanna ("the City") has been certified as a franchising authority by the Federal Communications Commission ("FCC") and has the authority to grant cable television franchises in the City in accordance with the laws of the United States, the rules and regulations of the FCC, the laws of the State of Ohio and the City's Code of General Ordinances ("Code"); and

WHEREAS, pursuant to Ordinance No. 980343, the City on September 8, 1998 granted a non-exclusive franchise ("Franchise") to Americast for the construction, operation, and maintenance of a cable television system ("System) in the City for a period of fifteen (15) years; and

WHEREAS, Americast and WideOpenWest ("WOW") jointly submitted to the City their application on FCC Form 394, application for Franchise Authority Consent to Assignment of the Cable Television Franchise ("Application"), dated June 6, 2001, requesting that the City acknowledge receipt of, and approve, the Application; and

WHEREAS, Americast and Wide Open West Holdings, LLC ("WOH), have entered into an Asset Purchase Agreement dated May 23, 2001 for the Sale of the Americast Cable System to WOH; and

WHEREAS, WOW is an entity that is wholly owned and controlled by WOH; and

WHEREAS, the Asset Purchase Agreement will result in WOW, through WOH, assuming all the rights and obligations of Americast pertaining to Americast Cable System; and

WHEREAS, pursuant to Section XXV of the Franchise, the City's approval is required prior to the assignment or transfer or control of a cable television franchise providing cable television service in the City; and

WHEREAS, based on a review and examination of the Application, the City is willing to grant its approval of the proposed Assignment of the Franchise, subject to certain conditions which are necessary to protect the public interest, and without which the City would not approve the

Assignment of the Franchise; and

WHEREAS, it is appropriate to allow Assignment of the Franchise to be executed quickly in order to allow for the transfer to take place in a timely controlled manner, all for the preservation of the public peace, health, safety and welfare;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GAHANNA, STATE OF OHIO:

Section 1. That the proposed Application is approved subject to the following conditions:

- a) WOW must execute and deliver to the City, by October 31, 2001, an Assignment Agreement ("Agreement") mutually agreed upon by the parties, said agreement attached hereto as EXHIBIT A and made a part hereof; and
- b) WOW will notify the City of the final consummation of the closing at the Asset Purchase Agreement between Americast and WOH within thirty (30) business days of such consummation; and
- c) WOW acknowledges and agrees that WOW continues to be obligated to fulfill as past, present, continuing and future commitments, duties, and obligations of the cable operator as set forth in the Franchise; and
- d) WOW agrees to comply with all obligations under the Franchise and applicable law; and
- e) WOW represents and warrants that it will be fully capable to meet the legal, financial and technical obligations under the Franchise and continue to operate the cable television system in the City; and
- f) WOW agrees that within thirty (30) days of the closing of the Asset Purchase Agreement, WOW shall reimburse the City for its reasonable attorney costs and consultant fees incurred up to a total of Two Thousand Five Hundred Dollars (\$2,500) in connection with the Assignment Agreement and the Assignment of the Franchise.

Section 2. That failure to meet the conditions specified in Section 1 by WOW prior to any subsequent transfer or assignment of the Franchise shall be cause for the City to exercise any and all appropriate remedies under the Franchise.

Section 3. That even if all the conditions set forth in Section 1 are satisfied, this approval shall be void and of no force or effect if:

- a) the Assignment of the Franchise is consummated on terms substantially different from those described in the Application and its exhibits; or
- b) any representation provided in the Application to the City regarding the Assignment of the Franchise are substantially incomplete or materially misleading.

Section 4. That this approving ordinance shall not be construed to:

a) prejudice or limit any past, present or future rights the City may have to review the technical, legal, financial and character qualifications of the cable operator during any Franchise renewal proceedings; or

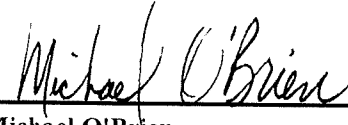
b) waive any of the City's rights with respect to Americast's and/or WOW's compliance with the terms, conditions, requirements, and obligations set forth in the franchise, including the City's right to complete Americast and/or WOW to comply with the lawful provisions of the Franchise.

Section 5. That they Mayor, or his or her designees, is authorized to submit notice of such approval to the FCC.

Section 6. That the Mayor is authorized to propose, at the appropriate time, such ordinances as are necessary to amend the Code to reflect the assignment of the Franchise, and to negotiate and execute an appropriate Assignment Agreement, attached hereto as EXHIBIT A and made a part herein.

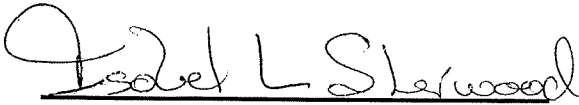
Section 7. That, for the reasons set forth in the preamble hereinabove, this ordinance is declared emergency legislation and shall be in full force and effect after passage by this Council and on date of signature approval by the Mayor.

This Ordinance was Adopted as an Emergency, this 15th day of October, 2001.



Michael O'Brien
President of Council

ATTESTED to and PRESENTED to the Mayor;
this 17th day of October, 2001.



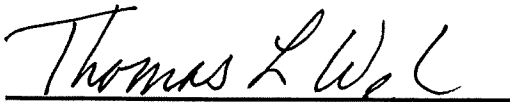
Isobel L. Sherwood, CMC
Clerk of Council

APPROVED by the Mayor, this
19th day of Oct. 2001.



Rebecca W. Stinchcomb
~~Acting~~ Mayor

Approved as to form:



Thomas L. Weber
City Attorney