

COUNCIL OF THE DISTRICT OF COLUMBIA

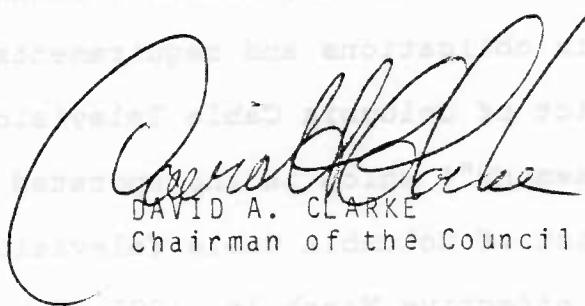
NOTICE

D.C. LAW 6-59

"Cable Television Franchise Agreement
Modification Act of 1985".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 6-288 on first and second readings, September 10, 1985, and September 24, 1985, respectively. Following the signature of the Mayor on September 30, 1985, this legislation was assigned Act No. 6-83, published in the October 18, 1985, edition of the D.C. Register, (Vol. 32 page 5812) and transmitted to Congress on October 3, 1985 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 6-59, effective November 19, 1985.



DAVID A. CLARKE
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

October 3, 4, 7, 8, 9, 10, 11, 16, 17, 18, 21, 22, 23, 24, 25, 28, 29, 30,
31

November 1, 4, 5, 6, 7, 8, 12, 13, 14, 15, 18

D.C. LAW 6 - 59

AN ACT

EFFECTIVE DATE NOV 19 1985

D.C. ACT 6 - 83

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

SEP 3 0 1985

To amend the District of Columbia Cable Television Franchise Award Act of 1984, the Cable Television Communications Act of 1981, and the Cable Television Franchise Agreement between District Cablevision, Inc., and the District of Columbia to modify certain terms, conditions, and requirements of the District of Columbia Cable Television Franchise.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,
 That this act may be cited as the "Cable Television Franchise Agreement Modification Act of 1985".

Sec. 2. Findings.

The Council of the District of Columbia ("Council") finds that:

(a) On June 18, 1985, the District Cablevision, Inc., ("DCI") filed a request with the District of Columbia Office of Cable Television ("Office") seeking modification of certain obligations and requirements contained in the District of Columbia Cable Television Franchise Agreement ("Agreement") which is incorporated by reference in the District of Columbia Cable Television Franchise Award Act of 1984, effective March 14, 1985 (D.C. Law 5-163; D.C. Code, sec. 43-1813.1 note).

(b) The DCI request for modification has been made on the basis of section 3.12.07 of the Agreement, specifically

Note,
 D.C. Code,
 secs. 43-
 1802.1 &
 43-1813.1
 (1986 supp.)

subsection (b)(1) and (2), which provides for modification upon a successful showing by the Grantee that the standards set forth therein relating to commercial impracticability or economic viability have been met.

(c) The DCI request constitutes a petition for modification of franchise requirements as contemplated by section 625 of the Cable Communications Policy Act of 1984, approved October 30, 1984 (98 Stat. 2779; 47 U.S.C. 545), and requires a final decision by the District no later than October 16, 1985.

(d) The modification request submitted by DCI covers modifications to the District franchise including, but not limited to, a reduction in system channel capacity from 78 to a minimum of 54 channels; utilization of 450 mhz technology in place of 550 mhz technology; replacement of all equipment and facilities for public and municipal access with a 1 time only grant of \$500,000 each to the Public Access Corporation and the District; reduction of channel capacity reserved for public access use from 8 to 4 channels; revised funding of public access programming to 1% of the Grantee's annual gross revenues or \$100,000, whichever is greater; a revised schedule of payment for the \$750,000 award fee; deregulation of rates, service, and tier structuring; a revision in programming services; a revision in construction schedule and plans; replacement of an activated institutional network with a shadow trunk cable for institutional use which is to be activated in the future upon sufficient commercial demand; revision of security fund

requirements; elimination of payment and construction bond requirements; redefinition of gross revenues; payment by subscribers of the added cost for extra-long drops or nonstandard installation; a relaxation of minimum technical standards; an exemption permitting nonwiring of buildings already wired with competing technology; revision of the construction start sunset date; and establishment of an investment criteria for construction of the system.

(e) On June 27, 1985, the Office forwarded a recommendation to the Council on the DCI request in accordance with section 3.12.07 of the Agreement, and has recommended Council adoption of all of the DCI modification requests except for the DCI request relating to revision of the security fund provisions of the Agreement, and establishment of an investment criteria for construction of the system.

(f) On July 2, 1985, the Council, through its Committee on Public Services and Cable Television, conducted a public hearing on the DCI request to allow DCI an opportunity to present its case for modification of the Agreement under the provisions of section 3.12.07 of the Agreement and section 625 of the Cable Communications Policy Act of 1984.

(g) On July 9, 1985, the Council adopted emergency legislation temporarily revising the Agreement in a number of respects in order to relieve DCI of certain imminent breaches of the Agreement pending a final decision by the Council on the DCI modification request. The emergency

legislation also directed DCI to provide the Council with further information relating to construction and financing of the cable system.

(h) On August 31, 1985, DCI supplied the Council, through the Office, with the information requested in the July 9, 1985, emergency legislation, and also proffered several additional amendments to the Agreement, including, but not limited to, a redefinition of fair market value, exoneration of \$125,000 of franchise fee payments due in 1985, revision of Security Fund requirements, revision of the standards and procedures for Agreement modification, and revision of the requirement for installation of the Institutional Network.

Sec. 3. Finding on commercial impracticability.

Pursuant to section 3.12.07(b)(1) of the Agreement and section 625 of the Cable Communications Policy Act of 1984, the Council finds and determines after careful consideration of the testimony and evidence adduced and submitted in the context of the July 2, 1985, public hearing, and the content of the June 18, 1985, DCI request that DCI has failed to make a case for commercial impracticability as a ground justifying modification of the Agreement and therefore denies the DCI request for modification on this ground.

Sec. 4. Finding on economic viability.

(a) Pursuant to section 3.12.07(b)(2) of the Agreement, the Council finds and determines after careful consideration of the testimony and evidence adduced and submitted in the context of the July 2, 1985, public hearing

and the content of the June 18, 1985, DCI request that DCI has encountered extraordinary unforeseen circumstances in that DCI has been unable to generate any investment interest in its franchise with the District and that this fact will lead to the bankruptcy of DCI.

(b) In consideration of the threat to the economic viability of the system posed by DCI's current situation, the Council deems the following modifications appropriate, and revises the Agreement as follows:

(1) Sections 1.9, 1.15, 3.2, 3.3, 3.8.02 c, 3.8.02c(1), 3.9.01, 3.9.03, 3.9.04, 3.10.06, 3.12.01 b, 3.12.01 c, 3.12.06, 3.12.07, 3.12.07(b)(2); the first 7 sentences of section 4.2; sections 4.4, 4.4.03, 4.4.04, 4.6, 5.1, 5.6, 5.6.03, 5.11, 5.12 a, 5.15.02 a, 5.15.06, 5.15.06 a, 5.16.02(a), 5.16.03, 6.1, 6.2, 6.5.01, 6.5.02, 6.7.02, 7.2, 7.2.01, 7.2.02, 7.2.03, 7.2.04, 7.3.01, 8.1, 9.2, 9.3 a(4), 12.2.01, and 12.4 are amended by striking the material enclosed in brackets and inserting the new material indicated by underscoring, as indicated in the attachment marked "Franchise Agreement Amendments" appended to this act.

(2) The following new sections are added to the Franchise Agreement, as indicated in the attachment marked "Franchise Agreement Amendments" appended to this act: 1.5a, 4.6.02, and 6.3.

(3) Sections 3.8.02 a, 3.8.02 b, 5.2, 5.3, 5.5, 6.3, 6.6, 6.7.01, 7.3.02, 8.2, 8.3, 8.4, 8.5, 8.6, 8.7, 9.2.02, and 9.2.03 are repealed, as indicated in the

attachment marked "Franchise Agreement Amendments" appended to this act.

(4) Exhibits A, B, C, D, E, F, G, H, and I are repealed and replaced by new Exhibits A and B.

Sec. 5. Authorization for franchise assignment.

(a) Pursuant to Section 21 of the Cable Communications Act of 1981, effective August 21, 1982 (D.C. Law 4-142; D.C. Code, sec. 43-1820), the Council authorizes an assignment of the District of Columbia cable television franchise by DCI to a limited partnership formed pursuant to the Partnership Memorandum of Understanding attached to the DCI August 31, 1985, filing and identified as exhibit A ("Limited Partnership") between DCI, a District of Columbia corporation and current holder of the District of Columbia cable television franchise, and T.C.I. Development Corporation, a Colorado corporation. The assignment authorized shall be for the remaining term of the District of Columbia franchise which commenced March 14, 1985, and shall be subject to the terms and conditions of the law of the District of Columbia, the United States, and the Agreement as modified by this act relating to cable television services and facilities.

(b) The assignment authorized is specifically conditioned and made subject to the terms and conditions and equity and ownership interests contained in the document entitled Partnership Memorandum of Understanding which is attached to the DCI August 31, 1985, filing as Exhibit A. Any further assignment or transfer of the franchise to any

business entity other than the Limited Partnership, including the exercise of options in the agreement for mutual buy-out, or any change in ownership or equity interests of the partners, or any business reorganization including a change of form to a corporation or other entity of the Limited Partnership shall require the express approval of the Council.

(c) The authorization for assignment of this franchise is specifically conditioned upon execution of a management agreement by the Limited Partnership and an affiliate of Community Telecommunication, Inc., upon terms and conditions relating to management and operational control and other subjects as contained in the document entitled Management Agreement which is attached to the August 31, 1985, DCI filing as Exhibit B.

(d) The authorization for assignment of the franchise as contained in this section, and the modifications of the Agreement as effected by this act, shall be null and void and shall have no force and effect unless a partnership agreement upon the terms and conditions of the Partnership Memorandum identified as Exhibit A in the DCI August 31, 1985, filing is executed by DCI and the T.C.I. Development Corporation by September 24, 1985, and unless a management agreement upon the terms and conditions of the Management Agreement identified as Exhibit B in the DCI August 31, 1985, filing is executed between the Limited Partnership and Community Telecommunications, Inc., by September 24, 1985, and unless the Limited Partnership executes the modified

Agreement accepting the terms and conditions of the District of Columbia franchise as modified by this act by September 30, 1985.

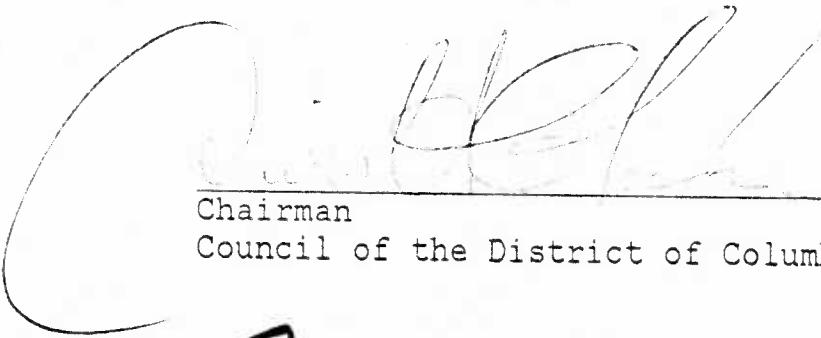
(e) The execution by the Limited Partnership of the modified Agreement as specified in subsection (d) of this section shall bind the Limited Partnership to the terms and conditions of the District of Columbia franchise as modified by this act, and shall subject the Limited Partnership to liability for recourse taken by the District for breaches of the District of Columbia franchise.

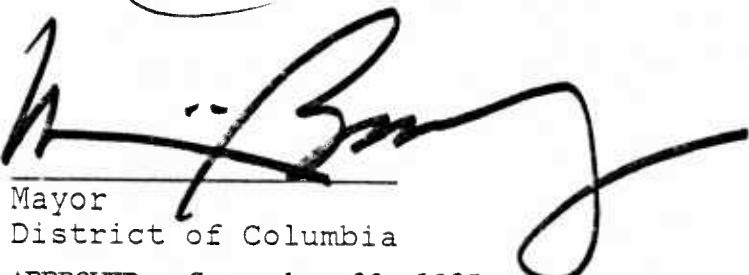
Sec. 6. Inconsistent provisions.

The terms, conditions, and provisions of the Agreement as modified by this act shall remain in full force and effect notwithstanding any inconsistency or repugnancy with terms, conditions, and provisions of the Cable Television Communications Act of 1981, in effect prior to this act. Any term, condition, or provision of the Cable Television Communications Act of 1981 in effect prior to this act which is inconsistent or repugnant with a term, condition, or provision of the Agreement as modified by this act shall be deemed repealed by this act to the extent of its inconsistency or repugnancy with the Agreement as modified by this act. As between inconsistencies in the terms of the Agreement and the terms of the Agreement as modified by this act, the terms as modified by this act shall control unless a contrary intent is indicated.

Sec. 7. This act shall take effect after a 30-day period of Congressional review following approval by the

Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code, sec. 1-233(c)(1)).


Chairman
Council of the District of Columbia


Mayor
District of Columbia

APPROVED: September 30, 1985

ATTACHMENT TO

CABLE TELEVISION FRANCHISE AGREEMENT MODIFICATION

ACT OF 1985

"FRANCHISE AGREEMENT AMENDMENTS"

1.5a. "Commencement of construction" or "commence construction" means the time and date when construction of the cable television system is considered to have commenced, which shall be when the first strand is attached to poles or cable placed underground.

1.9 "Fair market value" means the price that a willing buyer would pay to a willing seller for the cable system as a going concern based on an evaluation consistent with industry practice at the time, but not taking into account the remaining term of the Franchise.

1.15 "Gross Revenues" means all revenues received by the Grantee which are derived from the sale of entertainment and ancillary services, excluding revenues received by the Grantee from competitive institutional services, customer deposits, and sales, excise or other taxes collected for direct pass-through to local or federal government.

3.2 Franchise Fee. Grantee shall pay to the District an annual franchise fee equal to five percent (5%) of annual gross revenues or \$250,000, whichever is greater. The annual franchise fee shall be payable quarterly. Grantee's fiscal quarters for payment of the annual franchise fee shall extend from January 1 to March 31 for the 1st quarter; from April 1 to June 30 for the 2nd quarter; from July 1 to September 30 for the 3rd quarter; and from Ocotober 1 to December 31 for the 4th quarter. Commencing with the effective date of the franchise, Grantee shall file with the Office within 30 days after the expiration of each of the quarters stipulated herein, a financial statement clearly showing the gross revenues received by Grantee during the preceding quarter. Grantee shall pay to the Office at the time the statement is filed a sum equal to five percent (5%) of gross revenues received during the preceding quarter or \$62,500, whichever is greater, provided that for calendar year 1985, the quarterly payment and financial statement shall be submitted on or before March 14, 1985, and October 31, 1985, and such payments shall fully discharge Grantee's payment and financial statement obligations for such calendar year. If, at the expiration of the fourth quarter, payments have exceeded both five percent (5%) of gross revenues and \$250,000, the District shall remit to Grantee the difference between the amount of such total payments and the greater of five percent (5%) of gross revenues or \$250,000. Grantee shall also file with

the Office within 120 days after the expiration of the 4th quarter, an annual report, prepared and audited by a certified public accountant acceptable to the Office, showing the yearly total gross revenues.

3.3 Payment of Award Fee and Reimbursement of District

of Columbia Expenses. No later than October 24, 1985, Grantee shall pay to the Office, a franchise award fee in the amount of Two Hundred and Fifty Thousand Dollars (\$250,000) which payment shall be nonrefundable and shall be made payable by certified check to the order of the D.C. Treasurer. In addition, Grantee shall pay to the Office an additional sum of Five Hundred Thousand Dollars (\$500,000) as reimbursement to the District for its other expenses in awarding this franchise, payable in two installments as follows: \$250,000 no later than October 1, 1986, and \$250,000 no later than October 1, 1987. These payments shall also be nonrefundable and made payable by certified check to the order of the D.C. Treasurer.

3.8.02 Performance Bond. Not later than thirty (30) days prior to the scheduled date for commencement of construction, Grantee shall file with the Office a good and sufficient performance bond in the penal sum equal to Three Million Dollars (\$3,000,000) in favor of the District to cover any material breach of any duty by Grantee assured by such bond. Grantee shall be permitted to reduce the amount of the bond to not less than One Million Dollars (\$1,000,000) upon completion of construction as provided for in Exhibit A. Such bond shall be with a surety company authorized by the Superintendent of Insurance, D.C., to transact business in the District of Columbia.

(1) Such bond shall for the life of the franchise insure the faithful performance and proper fulfillment of all obligations including construction obligations, set forth in this Agreement, and shall also cover the cost of removal of any properties installed by Grantee in the event said Grantee shall default in the performance of its obligations under this Agreement.

3.9 Security Fund.

3.9.01 On or before January 2, 1986, Grantee shall deposit with a bank within the District of Columbia in an interest-bearing escrow account established in the name of the District an amount in the sum of Five Hundred Thousand Dollars (\$500,000) as security. Of said amount, no less than One Hundred Thousand Dollars (\$100,000) must be in cash; with Four Hundred Thousand Dollars (\$400,000) in the form of an irrevocable letter of credit, the form of which is subject to the approval of the Corporation Counsel of the District of Columbia. The amounts deposited into said escrow account by Grantee shall constitute the Security Fund. The Security Fund shall be replenishable up to a limit (including the initial Five Hundred Thousand Dollars (\$500,000) of Two Million Dollars (\$2,000,000). Of said amount, at all times no less than One Hundred Thousand Dollars (\$100,000) must be in cash with Four Hundred Thousand Dollars (\$400,000) in the form of an irrevocable letter of credit, the form of which is subject to approval by the Corporation Counsel of the District of Columbia. Grantee shall be entitled to interest on all cash amounts remaining in the Security Fund, and the District at Grantee's request shall take appropriate action to secure release of accrued interest on a quarterly basis to Grantee's designated account.

3.9.03 Immediately after failure of Grantee to pay to the District, when due, the Franchise Fee amount provided for in Section 3.2, the Award Fee for the Reimbursement of District of Columbia Expenses provided for in Section 3.3, or payments to the District and the Public Access Corporation provided for in Sections 7.2.01, 7.2.02 and 7.3.01, respectively, of this Agreement, the Office may assess and withdraw the amount due from the Security Fund with three (3) days prior notice to Grantee.

3.9.04 The Office may assess the Security Fund for the following after thirty (30) days notice to Grantee to pay:

- a. sums to reimburse the District for costs incurred by the District to correct violations of this Agreement not corrected by Grantee, after due notice;
- b. monetary remedies, penalties, or liquidated damages assessed against Grantee pursuant to Sections 4.4.01 and 9.3 of this Agreement;
- c. reimbursement of costs for restoration of any damage or disturbance caused to the public way as may be required by Section 3.10 of this Agreement; and
- d. other sums due under the terms of this Agreement.

The Office may assess and withdraw from the Security Fund the amount due from the date of violation of this Agreement, for assessments made under subsections (a), (b), (c), and (d) of this Section, with interest compounded daily and set at the one-year United States Treasury bill rate existing on the date of violation by Grantee, plus three (3) percentage points, and any liquidated damages; provided however, if Grantee seeks judicial review of any part of its liability for payment due within thirty (30) days after the notice from the Office, the Office may not withdraw the amount in controversy from the Security Fund until issuance of a final court order sustaining such liability. In the event that Grantee seeks judicial review, and a court order sustaining such liability is issued, Grantee shall be liable and the

Security Fund shall be assessed the compounded interest and liquidated damages provided herein from the date of violation until full payment is made from the Security Fund or Grantee.

3.10.06 Where permitted by District law, construction of the cable system shall be above ground. In all other instances where both electrical and telephone utility wiring are located underground within separate conduit, either at the time of initial construction or subsequent thereto, and there is adequate capacity in the existing telephone utility conduit for television cable, the cable shall be located underground within the existing telephone utility conduit. If there is not adequate capacity in the existing underground telephone conduits, the District shall determine whether cable wiring should be located underground or overhead. Nothing in this Section shall be construed to supercede any provision of existing laws or regulations with respect to the prohibition of the installation of overhead wiring in certain areas of the District of Columbia.

3.12.01 b. Grantee does not obtain by March 14, 1986, adequate financial resources to perform its obligations pursuant to this Agreement in a timely manner. Adequate financial resources shall constitute at least Twenty Million Dollars (\$20,000,000) in immediately available cash, lines of credit, and/or firm construction financing commitments, to allow Grantee to perform its obligations under this Agreement. Where the Office and Grantee disagree as to whether the financial resources specified above are available to Grantee, they shall appoint financial experts to arbitrate this issue, under the procedures contained in Section 14 of this Agreement. If the arbitrators decide that Grantee does not have such financial resources available, the franchise shall terminate immediately upon the arbitrators' decision.

c. Grantee has not commenced construction of the cable television system by June 1, 1986.

3.12.06 Renewal. Renewal of the Franchise granted hereunder shall be accomplished in accordance with the requirements and procedures set forth in D.C. Law 4-142 as amended, and in accordance with Section 626 of the Cable Communications Policy Act of 1984, which section shall control in the event of any conflict between it and any provision of law or of this Agreement.

3.12.07 Amendment to the Agreement

3.12.07 b. Economic Viability.

(1) As provided in the Cable Communications Policy Act of 1984, this Agreement shall be modified where Grantee has demonstrated that a requirement for facilities or equipment is commercially impracticable and that the proposed modification is appropriate on such grounds. This impracticability must result from a change in conditions beyond the control of Grantee the non-occurrence of which was a basic assumption on which the requirement was based.

(2) In any other event where Grantee encounters extraordinary circumstances beyond the control of Grantee in connection with the construction or operation of the cable system, and such circumstances are likely to, or do in fact adversely impact the economic viability of the cable system as a whole, Grantee may petition the Office for modification of this Agreement. Grantee's petition shall be submitted to the Office, which shall within 30 days hold a hearing on the petition. Within 60 days of the submittal of Grantee's petition the Office shall make findings and recommendations on the record utilizing the modification standard specified in this subsection, and shall transmit such findings and recommendations along with the record to the Council for final decision. The Council shall review and act upon the Office's findings and recommendations and shall not unreasonably withhold appropriate relief where Grantee has sufficiently demonstrated that modification of this Agreement is necessary.

to ensure the economic viability of the cable television system as a whole. For purposes of this subsection, "extraordinary circumstances" shall mean facts, events, particular incidents or results the occurrence or risk of which ordinary experience or prudence could not in fact foresee. "Appropriate relief" shall mean that relief necessary to reasonably assure economic viability and which is consistent with protection and furtherance of the public interest in cable television. "Economic viability" shall mean the economic opportunity to operate in such a fashion that the Grantee can recoup operating costs, including the cost of capital, and shall include consideration of such factors including but not limited to return on investment, bank covenants, cash flow, cost per mile, alternate delivery systems, negative impact of subscriber churn, utility duct rental costs, and abuse of system service or property. The Council in fashioning appropriate relief may adopt and impose such reasonable terms and conditions and may provide for future review of any modification adopted as may be deemed appropriate.

4.2 Construction and Service Schedule. Grantee shall complete construction of the cable television system and offer service to all residents within sixty (60) months after the scheduled date of commencement of construction. Grantee shall use all reasonable efforts to negotiate pole line attachment agreements or their equivalent with the utility pole owners within three (3) months after the effective date of this franchise. Grantee shall, within ninety (90) days of the effective date of this franchise, file the documents required to obtain all licenses, permits and authorizations necessary to commence construction. Grantee shall file all documents required for necessary licenses, permits, and authorizations which are required in the conduct of its business with due diligence thereafter. Grantee shall complete construction of the cable television system in accordance with the standards set forth in Exhibit A. Grantee shall file monthly written reports with the Office commencing thirty (30) days after the effective date of this franchise, stating any delays in obtaining all necessary federal and District licenses, permits, and authorizations required for the conduct of its business. DCI shall, prior to September 1, 1985, supply the Council through the District of Columbia Office of Cable Television with the following:

- (a) A firm construction schedule detailing neighborhood by neighborhood wiring under the proposed modified construction plan and;

- (b) A detailed map clearly indicating how construction will proceed annually neighborhood by neighborhood, and;
- (c) A legally binding memorandum of understanding with C & P outlining modifications to the current C & P/D.C.I. construction agreement.
- (d) A map and schedule for construction of the institutional network that indicates the portion, if any, which the District government might use prior to commercial use by others.

4.4 Remedies for Delay in Construction or Service

Schedule. The Office may in its sole discretion apply any or all of the following remedies for delays in the construction of the cable television system including delays in meeting construction and service dates set forth in Exhibit A of this Agreement when such delays are due to causes which are within Grantee's reasonable control.

4.4.03 Exercise its rights under the performance bond for delays exceeding one (1) year.

4.4.04 Initiate the termination procedures set forth in Section 3.12.01 of this Agreement if Grantee fails to commence construction of the cable television system by June 1, 1986.

4.6.01 Provision of Residential Service. Subject to the provisions of Section 4.6.02, Grantee shall offer and be ready to deliver all residential services to all residents of the District of Columbia at uniform installation charges and monthly rates. In areas where the cable has been activated, Grantee shall offer services to new residences within ninety (90) days after occupancy, except as provided in Section 12.4 of this Agreement.

4.6.02 Non-Standard Installations. If a subscriber requests a non-standard installation for aesthetic purposes including, but not limited to, optional underground construction, concealed wiring or routing from the tap to the dwelling unit that differs from the easiest route that could otherwise be taken (usually following the telephone drop) which results in greater costs, Grantee may charge the subscriber for such non-standard installation in an amount equal to the cost of labor plus overhead and materials in accordance with industry standards. Grantee shall provide such subscriber a written estimate of the cost of such installation and obtain the subscriber's written consent prior to any such installation; provided, however, that Grantee may require an advance payment of such costs from such subscriber as a condition of performing the requested installation.

5.1 System Configuration. The cable television system shall consist of a residential network. Grantee shall provide capacity on the residential network system for an institutional network system. If Grantee determines that there is a need for additional channel capacity or the activation of upstream channel capacity for its institutional network system, Grantee shall provide such additional capacity or activate any or all of such capacity either on the subscriber network system or on a separate institutional network system upon its determination that such capacity is technically and economically feasible.

Grantee shall construct a residential network system utilizing one trunk and one feeder cable, providing a minimum upper limit bandwidth of 550 MHz with return transmission paths, which shall be capable of transmitting seventy-nine (79) channels downstream and four (4) channels upstream (trunk only). Such system shall be designed and capable of being a 550 MHz system with 550 MHz high capacity passives to provide a minimum of seventy-nine (79) channels downstream and initially be activated at a minimum upper limit bandwidth of 450 MHz providing a minimum of fifty-four (54) channels downstream, activated upon initiation of service to subscribers. Grantee shall expand the initial channel capacity of such system as soon as 550 MHz technology has been reasonably perfected to ensure high performance and quality throughout the distribution network system and as soon as reasonably practicable pursuant to its finding that such additional channel

capacity is needed and economically feasible. When it is technically and economically feasible, Grantee shall expand the initial capacity of those portions of its cable television system utilizing an alternative technology or combination thereof as soon as reasonably practicable after notice by the Office pursuant to its finding that such additional channel capacity is needed.

5.6 Institutional Network

5.6.01 Grantee shall install trunk cable for a separate institutional network wherever it installs trunk cable for the underground residential network. However, additional construction of the I-Net shall not occur until demand for such a system develops. Grantee shall determine, at its sole discretion, the number and types that will be offered, based upon the financial viability of such services and the legal and regulatory environment. Grantee shall have the right to compete for provision of all I-Net services and shall complete construction of the I-Net as demand justifies. Prior to such time, I-Net trunk shall be available for direct use by the District where the District adds electronics and passives as required. Ten percent (10%) of the capacity of any completed and activated portion of the I-Net shall be reserved for the use of the District on the same terms and conditions as capacity reserved on the Residential Network for municipal use.

5.6.03 Subject to construction as specified in
5.6.01, if any segment of the institutional network remains to
be activated after the completion of construction of the resi-
dential network, the Office at any time thereafter may require
Grantee to activate any such unactivated segment within six
months after issuance of the direction; provided that, in no
event shall the Office issue a directive before the fourth
anniversary date of the scheduled date for commencement of
construction as set forth in Exhibit A.

5.11 Status Monitoring. Upon activation of bidirectional capability of the cable television system, Grantee shall provide an automatic status monitoring system as an integral part of the network.

5.12.01 Technical Standards. Grantee shall at all times during the term of this franchise, comply at least with the minimum technical standards required by the Federal Communications Commission.

5.15.02a. All cable system services that are being provided on an operational basis, excluding tests and demonstrations, to the urban cable systems in the top twenty DMA's (Designated Market Areas) for cable television, as identified by the most current A.C. Nielsen Co. or another acceptable standard rating service, that are not provided by the Grantee; and

5.15.06 Based upon the findings transmitted by the Office to the Council, the Council may direct Grantee to provide those services which are technically and economically feasible and which are being provided to a majority of urban cable systems in the top 20 DMA's within a reasonable time.

5.16.02a. Grantee shall maintain an office in the franchise territory which shall be open during all usual business hours, have a publicly listed telephone, and be so operated to receive subscriber complaints and requests for repairs or adjustments on a twenty-four (24) hour a day basis.

5.16.03 Grantee shall maintain a repair force of technicians capable of responding to subscriber complaints or request for services on the next business day after receipt of the complaint or request. No charge shall be made to the subscriber for this service; provided, however, that after the first service call a reasonable charge may be made if faulty operation is due to the fault of the subscriber. Grantee's business days shall consist of Monday through Saturday.

6.1 Municipal Channels. During the term of this Agreement, at no charge to the District, Grantee shall provide the District on its residential network system two (2) municipal channels. The District shall have exclusive control of this municipal channel capacity, provided, however, that the District shall not utilize such municipal channel capacity to provide directly or otherwise, commercial programming services in competition with Grantee. The municipal channels shall be utilized for non-commercial programming and purposes without any charges by the District to any subscriber. Grantee shall have no authority or control over any programming cablecast on such dedicated channels. Programming cablecast on such dedicated channels shall not be considered origination cablecasting for purposes of Grantee's compliance with Section 76 Subpart G of the FCC rules and regulations unless otherwise determined by the FCC with respect to Grantee. Grantee shall have no responsibility for programming cablecast on municipal channels. Nothing in this Section shall be construed to imply that Grantee is a common carrier. Upon demonstration by the District of full utilization of the municipal channel capacity, Grantee shall exercise its best efforts to provide additional channel capacity to the District on its cable television system to meet the reasonable needs of the District unless to do so would place an unreasonable economic burden on Grantee.

6.2 Services and Programming. Grantee shall provide subscriber television services in two (2) price tiers upon activation and initiation of service on the 450MHz 54 channel cable television system specified in Section 5.1. Upon expansion and activation of the cable television system to 79 channels as provided for in Section 5.1, Grantee shall provide subscriber television services in three (3) price tiers. Throughout the term of the franchise Grantee shall provide to subscribers broad categories of programming and nonprogramming services typically provided by cable television in comparable markets, subject to technical feasibility. In the two (2) price tier construct as required by this section, Grantee shall maintain a mix and quality and to the extent practicable, a level of services comparable to the mix, quality and level of services for equivalent tiers proposed in Grantee's franchise application. In the three (3) price tier construct as required by this section, Grantee shall maintain a mix, quality, and level of services comparable to the mix, quality and level of service for equivalent tiers proposed in Grantee's franchise application. Grantee shall have the right to change services and monthly subscriber fees upon thirty (30) days prior written notice to the Office and the subscribers affected thereby, subject however to Section 9.2, and provided however that any change in service shall maintain the mix, quality, and level of services being provided by the Grantee as required by this section.

6.3 Pay Television. Grantee shall offer a broad range of optional pay television services of the same general class typically provided by cable television systems in major urban areas.

6.5 Leased Channel Service.

6.5.01 Grantee shall offer channel capacity for commercial use at such terms, conditions and rates as may be negotiated with each licensee, subject to the requirements of Federal law.

6.5.02 At least one of the leased channels shall be reserved for District of Columbia based businesses. Thirty-five percent of the leased channels shall be reserved for lease to black and other minority businesses and organizations.

6.7 Interactive Service.

6.7.02 Potential interactive services to be provided by Grantee to residential network subscribers when technically and economically viable shall include, but not be limited to, the following:

Home shopping, home banking, electronic mail, opinion polling, personal computer connection, community information service, security, pay per view, video game downloading.

7. Support for Public Cable Service.

7.2 Grantee Support for Public Cable Services.

Notwithstanding any other provision of this Agreement or of Grantee's proposal to the contrary, Grantee's obligation to provide support of public access and municipal programming (whether in cash, in-kind, or through the provision of facilities and/or equipment) is expressly limited to the provision of channel capacity as specified in Section 6.1 and 7.2.04 hereof, and to the cash payments and facilities and services specified below.

7. Support for Public Cable Service.

7.2.01 Grantee shall pay to the District Five Hundred Thousand Dollars (\$500,000) on March 14, 1989, to be used by the District for municipal programming. As construction of the cable system passes such facilities, Grantee shall provide at least one (1) basic tier I service outlet, at no charge to the District, to the following facilities under the control or ownership of the District including public schools, educational institutions, police and fire stations, public school buildings used for municipal purposes, hospitals, health clinics, and municipal agency offices provided, however, that such facilities shall be accessible by aerial plant or by existing C&P building area conduit for installation of the drop cable. At any time, the Office may designate which facilities shall be provided and which shall receive basic tier I residential cable services, at no installation charge or monthly rate. All such facilities shall be provided free access to the full range of institutional cable services as such services are offered to commercial customers. Access to institutional services shall mean physical connection to the cable system, which shall provide the facility with capability to transmit and/or receive signals of any type with the addition of appropriate modulator/demodulation and interface equipment.

7.2.02 Grantee shall pay to the Public Access Corporation Five Hundred Thousand Dollars (\$500,000) on March 14, 1988, to be used by the Public Access Corporation for access programming.

7.2.03 Grantee shall build, equip, and maintain a studio within the District of Columbia. The studio shall be operational by March 14, 1987 and shall be used for local origination, public access and municipal programming. Grantee's production equipment used for local origination programming shall be made available on reasonable notice for municipal and public access programming. Grantee shall submit the following to the Office no later than September 14, 1986:

- a. plans for studio location;
- b. proposed regulations for shared use of the studio by public access and municipal access users, and Grantee;
- c. proposed regulations governing public and municipal access use of production equipment used by Grantee for local origination or other Grantee programming, including a description of the production equipment to be made available.

All regulations and plans as specified above, and any Grantee amendment thereof, shall require approval by the Office. The Office shall submit to the Council for its review and approval all plans and regulations which the Office proposes to approve under this section. An approval of a plan or regulation by the Office shall take effect 60 days after its submittal to the Council unless a resolution disapproving such a plan or regulation or a part thereof is passed by the Council. The Council in such resolution may provide for such terms and conditions of Office approval of a plan or regulation as is deemed appropriate.

7.2.04 Grantee shall provide four channels for public access. Any dedicated but non-operational and unused channel capacity reserved for either public or municipal access, may be utilized by the Grantee for other purposes and programming, provided however that Grantee must dedicate such channels to municipal or public use within six (6) months after a request by the Office for such channels.

7.3 Additional Public Services.

7.3.01 In addition to any other obligations specified in this Section, Grantee will commence on March 14, 1986, payment to the Public Access Corporation of the greater of 1% of gross revenues or \$100,000 per year.

8. RATES AND CHARGES

8.1 Initial Rates and Charges. Grantee shall provide services and facilities at rates and charges which Grantee shall establish and which are reasonable, compensatory and consistent with the provisions of this Section 8, Section 6.2 and Section 9.2. Exhibit B includes a representative listing of rates and charges for the 54 channel cable system which Grantee believes to be reasonably compensatory and appropriate. Grantee shall have the authority and right to change rates and charges, including monthly subscriber fees, upon thirty (30) days prior written notice to the Office and the subscribers effected thereby, subject to the requirements of Section 9.2.

9.2 Rate Regulation.

Rate regulation shall apply to Grantee to the extent Grantee is not exempt from local rate regulation by preemption of federal law. Grantee shall have the authority to set rates and charges for services for which local rate regulation is not preempted, provided however that such rates shall not be unreasonable or excessively compensatory.

9.3a. (4) For repeated or willful individual failure to furnish, maintain, and continue to offer service to any dwelling unit within the District at such time as the system is made operational in that area of the District unless specifically exempted by this Agreement, Grantee shall pay \$10 per day per dwelling unit for each incident so long as the violation continues.

12.2 Continuity of Service Mandatory

12.2.01 It shall be the right of all subscribers to continue receiving service insofar as their financial and other obligations to Grantee are honored. In the event Grantee elects to rebuild, modify, or sell the system, or the District gives notice of intent to terminate or fails to renew the franchise, Grantee shall act so as to ensure to the extent practicable that all subscribers receive continuous, uninterrupted service regardless of the circumstances.

In the event of a change of franchisee, or in the event a new operator acquires the system, Grantee shall cooperate with the District and the new franchisee or operator in maintaining continuity of service to all subscribers. During such period, Grantee shall be entitled to reasonable costs for its services when it no longer operates the cable television system.

12.4 Tenant Rights. Subject to the provisions of of Exhibit A, Grantee shall be required to provide to tenants in individual units of a multiple housing facility all services offered to other subscribers within the franchise territory. However, the Office shall waive this requirement to provide service if Grantee submits written evidence that the landlord of the multiple housing facility has demanded, either or both of the following:

- a. Excessive payments; or
- b. Unreasonable conditions for installation, inspection and maintenance of the Grantee's system.

EXHIBIT A

The following construction and service schedule, construction map, neighborhood construction schedule, and trunk routing map shall be used to judge Grantee compliance with the construction requirements of this Agreement.

Grantee shall meet or exceed all schedules and requirements contained in this Exhibit.

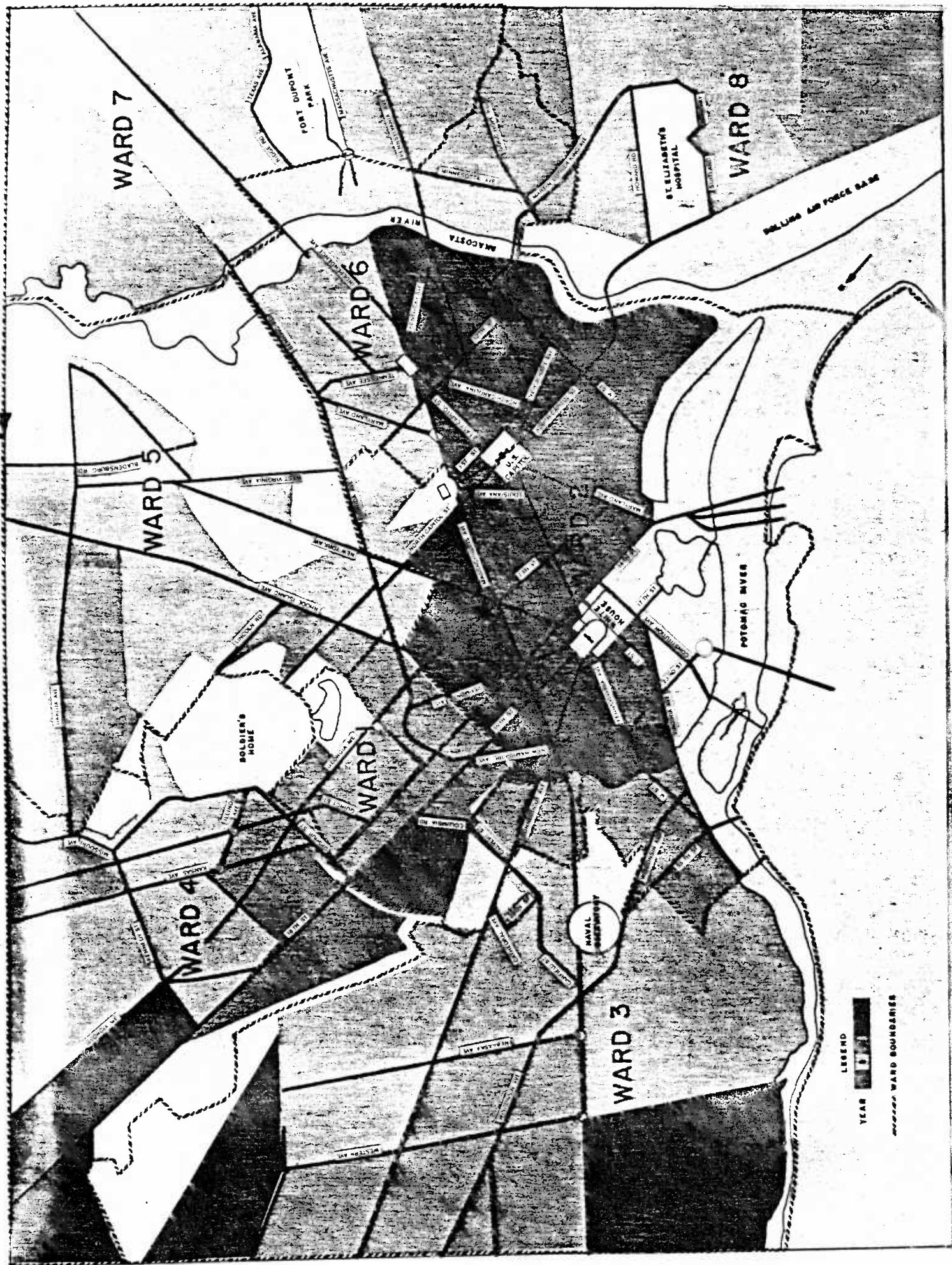
EXHIBIT A

CONSTRUCTION AND SERVICE SCHEDULE

1. DCI shall commence construction not later than June 1, 1986. Prior to such date, Grantee shall obtain pole attachments, complete detailed engineering design, place equipment orders, commence construction of headend and obtain necessary licenses.

2. Construction of the residential network shall proceed in accordance with the following schedule:

<u>Month from Commencement of Construction</u>	<u>Activity</u>
0-12	Complete construction and provide service to 14% of the dwelling units within the Franchise Area.
13-24	Complete construction and provide service to 43% of the dwelling units within the Franchise Area.
25-36	Complete construction and provide service to 70% of the dwelling units within the Franchise Area.
37-60	Complete construction and provide service to 100% of the dwelling units within the Franchise Area. Thereafter continuously maintain 100% coverage to the entire District, including new developments and reconstructed areas.

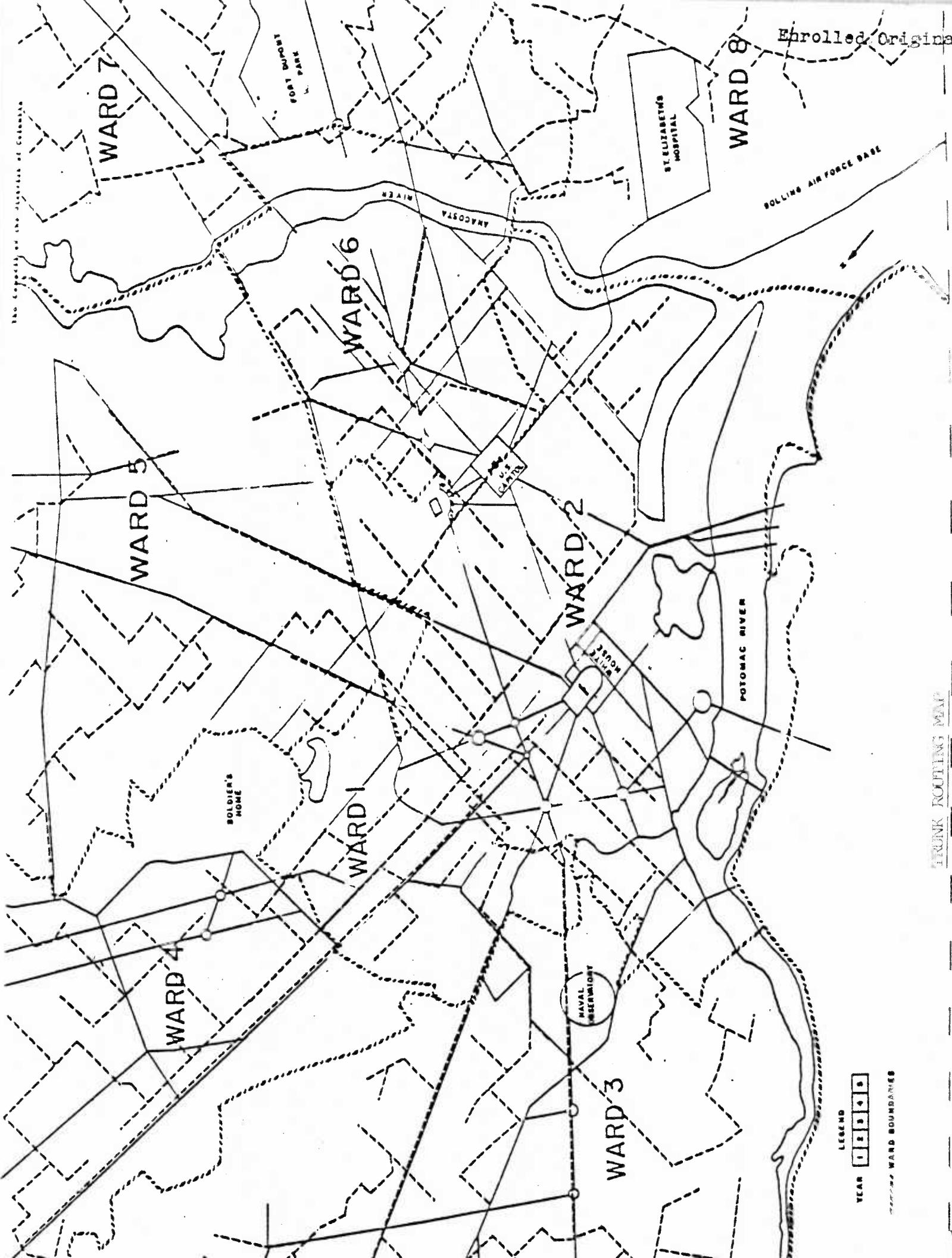


CONSTRUCTION SCHEDULE BY NEIGHBORHOOD, D OF C

WARD 1	WARD 2	WARD 3	WARD 4	WARD 5	WARD 6	WARD 7	WARD 8
North Dupont Circle Columbia Heights Shaw Le Droit Park Adams Morgan	Crestwood Petworth	Bloomingdale Truxton Circle Edgewood	Old Anacostia Woodland Randle Highland	Randle Highland Good Hope Woodland Naylor Village Hillcrest Fairfax Village Dupont Park Penn Branch	Buena Vista Knox Hill		
Woodley Park Cathedral Mass Ave. Georgetown Burleith Foxhall Villa Forest Hills Cleveland Park	Petworth Brightwood Park Port Totem LaMont Manor Park Takoma	Trinidad Kingman Park Ivy City Aboretum Brookland Fort Lincoln Langdon	Pairlawn Twining Greenway	Greenway Marshall Hights Beuning Hights Port Davis Northeast Bound Shipley Terr. Congress Hights Washington Highlands	Barry Farms Buena Vista Douglass Knox Hill		
Park View Cardozo Columbia Heights	Stanton Park North Capitol Street	Riggs Lanond Chevy Chase Friendship Pk. American U. Park Tenley Circle MacLean Gardens	Lamond Riggs Queens Chapel Mich. Park Woodridge Brookland Langdon	Stanton Park Capitol East Kirtzman Park	River Terrace Mayfair Parkside Eastland Gardens Bellview Deanwood Burville Lincoln Hights Central Northeast	Washington Highlands	
Adams Morgan Kalorama Sheridan Kalor- and Woodley Park Lanier Heights Mt. Pleasant	Shaw Logan Circle Dupont Circle West End	Hawthorn Barnaby Woods Pinchurst Chevy Chase Spring Valley Potomac Palisades	Colonial Vill. North Portaleast. Sheperd Park Brightwood	Capitol Hill Lincoln Park Near Southeast	Foggy Bottom K St. Corridor Downtown Le Mell SW Employment SW Renewal Buzzard Point		

Enrolled Original

TRUNK ROUTE 3 Map



LEGEND
YEAR 1880
WARD BOUNDARIES

COUNCIL OF THE DISTRICT OF COLUMBIA

County Board of Education - City Schools



EXHIBIT B

REGULATIONS OF THE OFFICIAL COUNCIL ADOPTED

Pursuant to the

REPRESENTATIVE TIER STRUCTURE

On January 1, 1993, the District of Columbia Council adopted the Representative Tier Structure. This structure provides for three levels of service: Basic Service, Tier II, and Tier III.

REPRESENTATIVE TIER STRUCTUREBASIC SERVICE

\$3.95 per month

Channels 2-22

TIER II

\$12.95 per month

Channels 23-54



COUNCIL OF THE DISTRICT OF COLUMBIA
Council Period Six — First Session

RECORD OF OFFICIAL COUNCIL VOTE

DOCKET NO: B 6-288

Item on Consent Calendar

ACTION & DATE: Adopted First Reading, 9-10-85

VOICE VOTE: By Majority, Member Schwartz voted no
Recorded vote on request

Wilson, Winter and Shackleton

Absent:

ROLL CALL VOTE: — RESULT (/ / / /)

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					RAY					SPAULDING				
CRAWFORD					ROLARK					WILSON				
JARVIS					SCHWARTZ					WINTER				
KANE					SHACKLETON									
MASON					SMITH, JR.									

X — Indicates Vote

A.B. — Absent

N.V. — Present, not voting

CERTIFICATION RECORD

Rosenau. Smith
Secretary to the Council

9/30/85

Date

Item on Consent Calendar

ACTION & DATE: Adopted Final Reading, 9-24-85

VOICE VOTE: By Majority, Members Schwartz and Wilson voted no
Recorded vote on request

Absent: all present

ROLL CALL VOTE: — RESULT (/ / / /)

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					RAY					SPAULDING				
CRAWFORD					ROLARK					WILSON				
JARVIS					SCHWARTZ					WINTER				
KANE					SHACKLETON									
MASON					SMITH, JR.									

X — Indicates Vote

A.B. — Absent

N.V. — Present, not voting

CERTIFICATION RECORD

Rosenau. Swan
Secretary to the Council

9/30/85

Date

Item on Consent Calendar

ACTION & DATE:

VOICE VOTE:

Recorded vote on request

Absent:

ROLL CALL VOTE: — RESULT (/ / / /)

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					RAY					SPAULDING				
CRAWFORD					ROLARK					WILSON				
JARVIS					SCHWARTZ					WINTER				
KANE					SHACKLETON									
MASON					SMITH, JR.									

X — Indicates Vote

A.B. — Absent

N.V. — Present, not voting

CERTIFICATION RECORD