Present: Councillors T. Jackson (Chair), S. Duvall (1st Vice Chair), M. McCarthy, B. McHattie, B. Morelli and R. Pasuta

Absent with Regrets: Councillor S. Merulla – Other City Business

Also Present: Councillors B. Bratina and T. Whitehead
A. Bradford, Acting General Manager, Community Services
F. Biancucci, Assistant Chief, Fire Prevention Officer
P. Thorburn, Assistant Deputy
J. Warner, Project Manager, Facilities
B. Young, Acting Manager, Municipal Law Enforcement
D. Clarke, Project Manager, Continuous Improvement
T. Morasse, Senior Policy Analyst
D. Brodati, Manager, Policy and Program Development
S. Paparella, Legislative Assistant, City Clerk’s Office

THE EMERGENCY & COMMUNITY SERVICES COMMITTEE PRESENTS REPORT 08-009 AND RESPECTFULLY RECOMMENDS:

1. Roomers and Boarders Update (Report PED05215(b)/SPH05066(b)) (City Wide) (Item 5.1)

That Report PED05215(b)/SPH05066(b) – Roomers and Boarders Update be received.
2. **Tenant Advisory Committee Meeting Minutes, dated March 14, 2008 (Item 5.2)**

   That the Tenant Advisory Committee meeting Minutes, dated March 14, 2008, be received.

3. **Hamilton Historical Board Meeting Minutes, dated March 11, 2008 (Item 5.3)**

   That the Hamilton Historical Board meeting Minutes, dated March 11, 2008, be received.

4. **Hamilton Historical Board Meeting Minutes, dated April 8, 2008 (Item 5.4)**

   That the Hamilton Historical Board meeting Minutes, dated April 8, 2008, be received.

5. **Seniors Advisory Committee Meeting Minutes, dated April 4, 2008 (Item 5.5)**

   That the Seniors Advisory Committee meeting Minutes, dated April 4, 2008, be received.

6. **Retaining Mountain Cablevision as Trunked Radio Fibre Supplier (HES08007) (City Wide) (Item 8.1)**

   (a) That the Fiber Optic Services contract, between the City of Hamilton (City) and Mountain Cablevision Limited (attached as Appendix A to Report 08-009) for the provision of fibre optic services for the City of Hamilton Trunked Radio System, be approved.

   (b) That the City of Hamilton (City) retains Mountain Cablevision Limited as the sole supplier of fibre optic services for linking of radio sites for an additional term, in accordance with the Fiber Optic Services contract (attached as Appendix A to Report 08-009).

   (c) That the Mayor and City Clerk be authorized and directed to execute the Fiber Optic Services contract (attached as Appendix A to Report 08-009), between the City of Hamilton (City) and Mountain Cablevision Limited, in a form satisfactory to the City Solicitor.
FOR THE INFORMATION OF COUNCIL:

(a)  **CHANGES TO THE AGENDA (Item 1)**

The Clerk noted the following changes to the agenda:

(i)  Added as Item 4.1 – A delegation request made by Tom Cooper, on behalf of the Community Heat Response Committee, respecting an upcoming staff report regarding the 2008 Heat Response Plan.

(ii) Added as Item 4.2 – A delegation request made by Ron Sherigan, on behalf of the Food, Shelter and Housing Advisory Committee, respecting an upcoming staff report regarding the Ontario Works Back to School and Winter Clothing Allowances.

The June 4, 2008, Agenda of the Emergency & Community Services Committee was approved, as amended.

(b)  **DECLARATIONS OF INTEREST (Item 2)**

There were none declared.

(c)  **APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING (Item 3)**

3.1  May 21, 2008

The Minutes of the May 21, 2008 meeting of the Emergency & Community Services Committee was approved, as presented.

(d)  A delegation request made by Tom Cooper, on behalf of the Community Heat Response Committee, respecting an upcoming staff report regarding the 2008 Heat Response Plan (Item 4.1)

The delegation request made by Tom Cooper, on behalf of the Community Heat Response Committee, respecting an upcoming staff report regarding the 2008 Heat Response Plan, was approved.
(e) A delegation request made by Ron Sherigan, on behalf of the Food, Shelter and Housing Advisory Committee, respecting an upcoming staff report regarding the Ontario Works Back to School and Winter Clothing Allowances (Item 4.2)

The delegation request made by Ron Sherigan, on behalf of the Food, Shelter and Housing Advisory Committee, respecting an upcoming staff report regarding the Ontario Works Back to School and Winter Clothing Allowances, was approved.

(f) Tom Cooper, of McQuesten Legal & Community Services on behalf of the Roomers and Boarders Committee of Hamilton, respecting Item 5.1 – Roomers and Boarders Update (Report PED05215(b)/SPH05066(b)) (City Wide) (Item 6.1)

Tom Cooper spoke in support of the staff report and provided additional suggestions as to how the City of Hamilton could assist in ensuring that boarding houses maintain at least the minimum standards of living with respect to safe, healthy and sanitary conditions.

It was also suggested that unlicensed and/or unsafe rooming houses, within the City, be identified, licensed and made to comply with acceptable standards. As well, it was recommended that inspections of rooming houses be performed proactively on an annual basis.

The presentation made by Tom Cooper, on behalf of the Roomers and Boarders Committee of Hamilton, respecting Item 5.1 – Roomers and Boarders Update, was received.

(g) Roomers and Boarders Update (Report PED05215(b)/SPH05066(b)) (City Wide) (Item 5.1)

Councillor McCarthy asked staff to clarify if Report PED05215(b)/SPH05066(b) was inclusive of all work that staff was going to undertake with respect to this matter. She also directed that if staff were to come back to Committee with any additional recommendations or information, which would require further investigation/work with respect to roomers and boarders, that the additional work be flagged and noted as work above and beyond what was addressed in Report PED05215(b)/SPH05066(b).
(h) **David Premi Architects, Update on the Hamilton Farmers' Market Draft Design (Item 7.1)**

David Premi, of David Premi Architects, provided Committee with an overview and Powerpoint presentation of the draft design for the Hamilton Farmers' Market and the Hamilton Public Library.

The presentation made by David Premi, of David Premi Architects, respecting the draft design for the Hamilton Farmers' Market, was received.

(i) **ADJOURNMENT (Item 13)**

There being no further business, the Committee adjourned at 3:00 p.m.

Respectfully submitted,

Councillor T. Jackson, Chair  
Emergency & Community Services Committee

Stephanie Paparella  
Legislative Assistant  
June 4, 2008
Fibre Optic Services Contract

Made as of the day of , 2008.

Between

City of Hamilton
(the “City”)

And: Mountain Cablevision Limited
141 Hester Street
Hamilton, Ontario, L9A 2N9, of the Second Part
(the “Contractor”)

WHEREAS:

The Contractor carries on the business of, supplying and installing and maintaining fiber optic telecommunications Services.

The City operates a Motorola Smartnet II Simulcast Trunking Radio System, which supplies voice radio-communications for most City Departments. The System currently uses a combination of Microwave, T1 copper, and Fiber Optic services to supply the interconnections between radio sites and communications centers.

The City and Contractor desire to enter into this Agreement respecting the terms and conditions governing the supply, installation and maintenance of Fiber Optic Telecommunications Services described herein and in other Contract Documents by the Contractor to the City.

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and undertakings contained in this Agreement, the parties agree as follows:

1. Interpretation

   (1) In this Agreement,

      (a) “Business Day” means a day other than a Saturday, Sunday, public holiday or other day on which banks in Hamilton are authorized or required by law to be closed;

      (b) “Confidential Information” means all information relating to either party or to that party’s business, products, sales, customers, trade secrets, technology or financial position to which access is obtained by or granted to the other party under this Contract,
which at the time when it was disclosed to the recipient of that information was marked or otherwise designated as confidential, provided that this term shall not include any information that:

(i) is or becomes publicly available through no fault of the recipient;

(ii) was already in the rightful possession of the recipient to its being disclosed by the other party;

(iii) is independently developed by the recipient;

(iv) is lawfully obtained by the recipient from a third party;

(v) is disclosed with the written consent of the party whose information it is; or

(vi) is disclosed under court order or other legal compulsion, including the Municipal Freedom of Information and Protection of Privacy Act.

(c) “Contract” means the contractual relationship arising between the parties under this Agreement (including all Schedules to this Agreement) and any of the other Contract Documents;

(d) “Contract Documents” means this Agreement, the Tender Documents, the Bid, and all correspondence, Specifications and drawings further detailing, explaining or modifying the Work or Services;

(e) “Equipment” means all the electronic apparatus and power supplies connecting the fiber up to,

(i) the DS3 connection point of the Alcatel multiplexers, and

(ii) T1 connection point where the apparatus converts directly from fiber to T1;

(f) “Fibre Optic Network” means the Fibre Optic Telecommunications Equipment and circuits servicing the Trunking Radio sites;

(g) “Services” shall mean:

i. A high speed fibre optic telecommunications circuit in a bi-directional ring configuration which is dedicated exclusively to the City of Hamilton. Within the Ring, there are five (5) attachment points (nodes), namely:

119 King Street (Ellen Fairclough Building)
155 King William Street (Police HQ)

71 Main Street West (City Hall)

729 Upper Sherman (Fire Dispatch)

711 Concession Street (Henderson Hospital)

The characteristics of the associated Equipment allow for the transmission of data in either direction around the Ring to achieve a failsafe circuit.

ii. A dedicated fibre optic T1 line from 729 Upper Sherman to the Binbrook Radio Shelter located at the Binbrook Fire Station in the (former) Village of Binbrook.

iii. A dedicated fibre optic T1 circuit from 711 Concession Street to the (former) City of Stoney Creek City Hall at 777 Highway #8

iv. A dedicated fibre optic T1 circuit from 711 Concession Street to 700 Woodward Avenue (City Water Treatment Plant).

(h) “Specifications” means that portion of the Contract Documents, wherever located and whenever issued consisting of the written requirements and standards for materials, systems, workmanship, and the services necessary for the performance of the Work;

(i) “Term” means the term of this Contract as provided in section 12, and any extension of the term as made in accordance with that section;

(2) In this Agreement, unless the context otherwise necessitates,

(a) a word importing the masculine, feminine or neuter gender only includes members of the other genders;

(b) a word defined in or importing the singular number has the same meaning when used in the plural number, and vice versa;

(c) a reference to any Act, bylaw, rule or regulation or to a provision thereof shall be deemed to include a reference to any Act, bylaw, rule or regulation or provision enacted in substitution therefor or amendment thereof; and

(d) the headings to each section are inserted for convenience of reference only and do not form part of the Contract;

(e) all accounting terms have the meaning recognised by or ascribed to those terms by the Canadian Institute of Chartered Accountants;
(f) all references to time shall be deemed to be references to current time in the City;

(g) words and abbreviations which have well-known technical or trade meanings are used in the Contract Documents in accordance with such recognized meanings.

2. Subcontractors

(1) It is hereby expressly provided that the City consents to and acknowledges that some Services have been sub-contracted to FiberWired, a Hamilton Utilities Company, hereafter referred to as FibreWired, including any lawful successor thereof. No other subcontracting is permitted hereunder without the prior written consent of the City, which consent shall not be unreasonably withheld.

(2) No subcontracting by the Contractor shall relieve the Contractor of any responsibility for any obligation of the Contractor under this Agreement, but despite the approval of any subcontractor by the City, the Contractor shall be fully responsible for every subcontractor’s activities, works and acts and shall either, in person or through an accredited agent, receive all notices, communications, orders, instructions or legal services as if the Contractor were performing the sub-contracted Work or Maintenance Services with its own resources.

(3) Nothing contained in the Contract Documents shall create any contractual relationship between the City and a subcontractor, or any other supplier to the Contractor or other person performing any of the Work on the Contractor’s behalf.

3. Workplace Safety

(1) The Contractor shall be responsible for all aspects of occupational health and safety with respect to the performance of Services

(2) Without restricting subsection (1), the Contractor shall be solely responsible for construction, health and safety at the Place of the Work and for compliance with the rules, regulations, and practices required by the applicable construction, health and safety legislation including any applicable requirements under the Workers' Compensation Act, and the Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Services.

4. Trunking Radio Administrator

(1) The Trunking Radio Administrator shall be the representative of the City for the administration of the Contract.
(2) In all matters relating to assessing performance of the Services, and payment therefore, and in all situations involving actual, recommended or proposed changes, the Contractor shall take direction only from the Trunking Radio Administrator.

(3) The Contractor may rely upon his written instructions and the City shall bear the risk for all costs and losses, if any, resulting from such reliance, but the City shall not be responsible for, nor shall the Contractor be excused from liability arising from, the improper implementation of the Trunking Radio Administrator's instructions.

(4) In the event any other person purports to direct or recommend the performance of any portion of the Services which the Contractor is not already bound to perform, the Contractor shall seek and obtain the concurrence of the Trunking Radio Administrator before proceeding.

(5) In this section, the term “Trunking Radio Administrator” includes his or her designate.

5. Technical Requirements

5.1 Circuits

The point to point optical circuits shall be dedicated exclusively to this project.

5.2 Jacks, etc.

The Contractor shall supply all power supplies and batteries sufficient to provide four (4) hours of back-up power in case of a power or charger failure, provided that the Contractor shall be entitled to assume that 115 Volts AC is normally available at all times, but not that there is an uninterrupted power supply.

5.3 Repair and Response

(1) The Contractor shall provide Services for the Fiber Optic Network with respect to outages, repair service and support in accordance with the Specifications, such Services be provided on a twenty-four (24) hour per day, seven (7) days per week and 365 days per year basis.

(2) Repairs and replacements of defective components comprising the Fiber Optic Network shall be carried out on an unscheduled basis, if required.

(3) Where an alarm occurs or in the event that the City reports a malfunction, a defect, an outage or other problem, it shall be dealt with in accordance with schedule II.

5.4 Reliability of System

(1) Each network node shall be designed for 99.99% reliability.
(2) The entire Ring circuit of the system shall have a reliability of 99.7%, so as to result in not more than 1575 minutes of unscheduled down time per year.

(3) The Contractor hereby assumes responsibility for the upkeep of customer owned Alcatel multiplexing equipment,

(4) The Contractor shall establish and maintain a dedicated inventory of spare Equipment for use when required in the provision of the Services, and in particular shall maintain a substantial number of spare modules for all customer owned Alcatel equipment.

(5) The Contractor shall retain care, control and possession of the spare Equipment and the spare Alcatel Multiplexing equipment during the Term hereof and shall maintain such inventory of spare Equipment at its own risk and expense.

(6) In the event of termination of this Agreement for any reason whatsoever, or at such other time as the City may elect, all such spare City owned Alcatel multiplexing equipment shall be delivered immediately into the possession of the City at the City cost, in good condition and working order, free and clear of all Encumbrances whatsoever.

(7) The Contractor shall be completely familiar with the operation, programming and service of the Customer owned Alcatel RDI3104 DS3 to T1 terminal equipment. Documentation for the Alcatel equipment will by supplied by the City.

(8) The cost of all parts, labor, and travel time provided by the Contractor under this section shall be incorporated in the monthly charges.

(9) All corrective action to restore the Fiber Optic Network shall be undertaken by the Contractor within two (2) hours and all on-site problem resolutions shall be undertaken within four (4) hours.

6. Payments, Rebate Policy, and Options

(1) The Contractor shall invoice the City each month in advance, according to the schedule of pricing contained in Appendix I of this Contract.

(2) The rebate policy shall be as documented in Schedule 1 of this Contract.

7. Additional Services

(1) Where the City of Hamilton wishes to have the Contractor provide additional services, or to amend the Services being provided under this Agreement, the City of Hamilton may request the Contractor to provide a quote in that regard, by written request specifying the amended Work or the additional services to be performed in connection therewith.
(2) The Contractor, acting in good faith, shall provide the City of Hamilton with a proposal with respect thereto, including an implementation schedule.

(3) Once agreed upon, the parties shall set out a detailed statement of services, as the case may be, the specifications pertaining thereto, the basis, if any, upon which the Contractor may terminate such specific additional services or amended Services prior to their completion, and an implementation schedule in an addendum hereto which shall form a schedule to this Contract.

Upon entering into such an addendum, such additional or amended Services, as applicable, shall be deemed to be provided under this Agreement, but no additional or amended Services shall be construed as having been ordered by the City unless and until confirmed by a purchase order number issued by the City’s purchasing division.

8. Warranties/Default/Remedies

8.1 Warranties of the Contractor

The Contractor expressly warrants as follows:

(a). Where the Contractor is a corporation, that it is duly incorporated and organized and is a subsisting corporation, and has all requisite powers, capacities, licenses and permissions under its governing legislation and the other laws applicable to it, and under its articles of incorporation, bylaws and governing resolutions to,

(i) own the assets which the Contractor has represented to the City as belonging to the Contractor, whether in connection with this Contract or otherwise;

(ii) carry on all businesses in which the Contractor is engaged, and

(iii) enter into, exercise its rights and perform and comply with its obligations under this Contract,

and that all actions, conditions and things have been done, taken or fulfilled with respect thereto, that are required by law, contract or otherwise.

(b). The Contractor is not a party to any Contract or subject to any regulatory restriction under the terms of which the Contractor is prohibited or restricted from entering into any of the obligations assumed, liabilities imposed, or restrictions accepted by the Contractor under this Contract.

(c). No litigation, arbitration or administrative proceeding is current or pending, so far as the Contractor is aware, in respect of the Contractor or
any of its subsidiaries, which appears reasonably likely to have a materially adverse effect on the Contractor and its subsidiaries taken as a whole that might reasonably be considered to compromise the ability of the Contractor to perform its obligations under this Contract.

(d). There are no outstanding judgments, writs of execution, work orders, injunctions, or administrative or regulatory directives against the Contractor or any of the Contractor’s assets that might reasonably be seen to have a materially adverse impact upon the Contractor’s prospects or condition or those assets, so as to compromise the ability of the Contractor to perform its obligations under this Contract.

8.2 Covenants of the Contractor

The Contractor covenants and agrees with the City that as long as the Contract remains in effect, it shall:

(a) perform its obligations under the Contract in a timely and workmanlike manner;

(b) refrain from and prevent waste from being committed on or against any assets of the City entrusted to its care under this contract (reasonable wear and tear excepted);

(c) observe all laws and conform to all valid requirements of any governmental authority with respect to all or any part of its business and assets, and all covenants, terms and contracts upon or under which any of the Contractor’s assets are held, and all terms and conditions relating to any franchise or license held by the Contractor and required in connection with the Contractor’s operations as those operations relate to the performance of its obligations under this Contract; and

(d) notify the City of any material change in its circumstances, or judgment, writs of execution, work orders, injunctions, or administrative or regulatory directives against the Contractor or any of its subsidiaries, or pertaining to its assets, that might reasonably be seen to have a materially adverse impact on the Contractor's ability to perform its obligations under this Contract.

8.3 Default

(1) The following are acts or events of default by the Contractor:

(a) where any warranty given by the Contractor is false or misleading in any material respect;

(b) where there is a breach of any covenant by the Contractor;
(c) where any formal or informal proceeding for the dissolution of, liquidation of, or winding up of, the affairs of the Contractor is instituted by or against the Contractor, or where a resolution is passed or any other act undertaken for the winding up of the Contractor;

(d) where the Contractor is placed under receivership by any creditor or under an order of a court;

(e) where the Contractor applies for the reorganization of its debts or other obligations, or is adjudged bankrupt or becomes insolvent, or a petition in bankruptcy is filed against the Contractor, or where the Contractor applies for protection under the Bankruptcy and Insolvency Act or the Companies Creditors Arrangement Act or makes an assignment for the general benefit of creditors, or where proceedings of any type are instituted in any jurisdiction in respect of the alleged insolvency or bankruptcy of the Contractor;

(f) where the Contractor fails to perform any of the material obligations set forth in this Contract and such default in the case of a default which is remediable continues for a period of thirty (30) days after written notice of such failure has been given by the non-defaulting party;

(g) where the Contractor or any of its agents, employees, or subcontractors gives or offers any gratuity or attempts to bribe any member of City Council or any official, officer, employee, agent or independent consultant thereof;

(h) where the Contractor fails or ceases to carry on business in the ordinary course for a period of three consecutive Business Days, or for any six non-consecutive Business Days in any 90 day period;

(i) where the business or operations of the Contractor are placed under the control of any administrative or regulatory agency and the City, acting reasonably, is of the opinion that the Contractor’s ability to perform its obligations hereunder has been materially adversely affected thereby, or the authority of the Contractor to carry on business as a telecommunications company is suspended or cancelled by any administrative or regulatory authority.

(2) The following shall be acts or events of default by the City,

(a) where the City fails to pay an amount owed to the other when due under this Contract (other than an amount which the other party bona fide disputes is owing) and that breach is not cured within fourteen (14) days after written notice is given to the City of such default, provided that such written notice shall conspicuously state...
that termination of the Contract shall result from such non-payment;

(b) where the City fails to perform any obligations set forth in this Contract, provided that where that failure is capable of being remedied, that failure has continued unremedied for a period of thirty (30) days after written notice of that failure has been given by the non-defaulting party.

(3) Subject to such prior notice as a party is entitled to under subsections (1) or (2), where an act or event of default occurs, the non-defaulting party shall have the right to terminate this Contract, by giving written notice to that effect to the other party.

(4) The termination of this Contract for default or otherwise shall not relieve a party from,

(a) the obligation to pay any amount owing under the Contract, but any such obligation shall be subject to all such rights of set off to which that party is entitled;

(b) the obligation to indemnify the other party in respect of any costs or expenses;

(c) its liability for damages in respect of any breach of this Contract which occurred prior to the termination of the Contract.

8.4 Settlement of Balance Owing

Subject to any right of set-off, upon termination of this Contract, each party shall forthwith pay to the other party, all amounts due and owing by that party to the other party as of the date of termination.

8.5 Indemnification

(1) The Contractor hereby indemnifies and shall save the City, its elected officials, officers and employees harmless from and against any claims, proceedings, penalties, expenses and costs (including reasonable legal costs on a solicitor and client basis) that are incurred by, or made or instituted against any of them, or to which they may be liable by reason of the Contractor carrying out any obligation to which it is subject, or exercising any right to which it is entitled, under this Agreement, except to the extent that the same are caused by the negligence or deliberate wrongdoing of the person entitled to that indemnity.

(2) The right of indemnification granted under subsection (1) shall extend to any amount paid by the person entitled to indemnification in the settlement of any claim, and in entering into any such settlement, that
person may exercise reasonable discretion as to the amount to be paid, but that person shall serve prior notice of any intended settlement on the Contractor, at least five (5) Business Days prior to agreeing to any such settlement.

(3) The rights of indemnification conferred under this section on the elected officials, officers and employees of the City may be enforced by the City as trustee on behalf of each of those persons respectively to the same extent and for the full amount as if that right related to the City itself.

8.6 Limitation of Damages

(1) Subject to the obligation of the Contractor to indemnify the City in respect of claims by third parties, in no event shall either party be held liable to the other for any claim for

(a) punitive, exemplary or aggravated damages;

(b) indirect or consequential damages,

(c) damages for loss of profits or venue;

8.7 Costs of the City

The Contractor shall pay to the City forthwith upon demand all reasonable costs, charges and expenses (including reasonable legal fees and disbursements on a solicitor and client basis) of or incurred by the City in connection with, or in respect of, the enforcement by the City of its rights under this Agreement.

9. Giving of Notice

(1) Any notice, instruction or document required or permitted to be given or served by this Contract or by law may be given personally or by telex or fax (where the intended recipient is equipped to receive such a form of telecommunication) or by prepaid courier or regular mail,

(a) where given by the City, at the last address of the Contractor according to the records of the City; and

(b) where given by the Contractor, to the System Administrator, Trunking Radio, 1375 Upper Ottawa Street, Hamilton, ON L8W 3L5, fax: 905-318-5713

and either party may by notice given in accordance with this subsection change its address for the purposes of this subsection.

(2) Any notice shall be deemed (in the absence of evidence of prior receipt) to have been received by the intended recipient the same day if personally
served, the next business day if sent by telex or fax, and on the fifth business day next following where sent by mail or courier.

10. Force Majeure
A party shall not be liable to the other party to the extent that the failure, inability or refusal to perform its obligations under this Agreement is attributable to such performance being rendered impossible or impractical directly by reason of fire, flood, labor dispute, act of God or any other cause (whether or not of the same character as the foregoing) beyond the reasonable control of that party.

11. Further Assurances

The parties shall each draw, execute and deliver at its own expense, all such instruments and documents, and do all such acts and things as the other may from time to time reasonably consider necessary or advisable for the purpose of carrying out the intent and provisions of this Agreement.

12. Term of Agreement

(1) The term of this Agreement shall be for two (2) years from the date of this Agreement, but that term shall be automatically extended for a further period of one (1) year, unless at least thirty (30) days prior to an expiration date, a party to this Agreement gives the other party written notice of the termination of this Agreement.

(2) Upon the expiration of the first renewal of this Agreement, the term of the Agreement shall be automatically extended for a further period of one (1) year, unless at least thirty (30) days prior to an expiration date, a party to this Agreement gives the other party written notice of the termination of this Agreement, but no further renewal shall take place after the completion of the term of that second renewal.

(3) Nothing in this section shall be construed as to restrict the right of either party to terminate this Contract as provided in paragraph 8.3(3).

13. Severability

Where any provision of this Agreement or any of the other Contract documents is held by a court of competent jurisdiction to be unlawful or otherwise invalid or unenforceable under any statute, regulation, ordinance or other rule of law, that term shall be deemed to be modified or deleted to the extent necessary to comply with that rule of law, and the remaining provisions thereof shall remain in full force unaffected.

14. Amendments to be in Writing

This Contract shall not be deemed to be or construed as having been amended as a result of any oral communication between the parties or as a result of any practice
of the parties, but all amendments to this Contract shall be in writing and shall be signed by both parties, provided that any such Contract may be executed in counterpart form.

15. No Implied Waiver

The failure of either party at any time to require performance by the other party of any provision of this Contract shall in no way affect the right to require performance at any subsequent time of that or any other provision of the Agreement, nor shall the waiver of either party of any right under this Contract or any breach of any provision of this Contract constitute a waiver of any other breach or right, as the case may be.

16. Acknowledgement of Receipt of Copy of Contract

Each party acknowledges the receipt of a true copy of this Agreement signed by the other party, and of each of the other Contract Documents.

17. Assignment

This Agreement shall not be assigned by the Contractor without the prior written consent of the City, which consent shall not be unreasonably withheld.

18. Successors

This Agreement shall enure to the benefit of, and be binding upon, the Parties hereto and their respective successors, trustees and assigns.

SIGNED, SEALED AND DELIVERED as of the date first above written

Mountain Cablevision Ltd.

per: __________________________
Vice President, Operations

I have authority to bind the Corporation

City of Hamilton

per: ____________________________

Fred Eisenberger, Mayor

Kevin Christenson, City Clerk
Schedule 1 – Pricing

This document details the monthly pricing and fee structure for the Trunking Radio Fibre Optic Services.

Fibre Optic Ring:
1) DS3 Terminal equipment, five sites and connection charges $7,500

Point-to-point Circuits:
2) Binbrook Fire Hall / Upper Sherman Fire Hall
   T1 full duplex circuit and terminal equipment $1,300

3) Stoney Creek / Henderson Hospital
   2 x T1 full duplex circuit and terminal equipment $1,000

4) Woodward Avenue / Henderson Hospital
   2 x T1 full duplex circuit and terminal equipment $1,000

Maintenance of City owned Multiplex equipment
Alcatel RDI 3104 Multiplexor equipment / -48V power supplies Included in DS3 charges

Terms of payment:
All applicable taxes are extra.
Payment for invoices is due and payable in 30 days.
Outstanding balances beyond 30 days will have an interest rate of 1.5% per month.
Schedule 2

Call Out Procedure - City Of Hamilton Trunking Radio Fibre Optic Circuits

In the event of a network node alarm or other condition affecting the City of Hamilton Trunking Radio fibre optic circuits, the following procedure is to be followed to contact repair personnel as appropriate.

Service Call Process
Mountain Cablevision provides technical support services 24 hours per day; seven days a week. The following information is used to provide the customer with the necessary information to generate a service call to ensure repair work is handled in an efficient manner. During normal business hours, Mountain will attempt to provide a live hand off to a Senior Network Technician. Outside normal business hours, a technician will be paged and you will receive a call back within 30 minutes.

Mountain’s Technical Services Department should be contacted in the following manner:

Service Requests: 905.667.7423

When placing a call, please be prepared to provide the following information:
Your name
Company Address, including city
Phone Number
A brief description as to the nature of the problem and the site location(s) affected.

Priority 1:
Customer network connection is down or there is a critical impact to the customer's business operations. Operation of the network is severely degraded, or significant aspects of the customer's business operation are being negatively impacted by unacceptable network performance.
Mountain Cablevision and the customer will commit necessary resources around the clock to resolve the situation. Any supporting technical information should be conveyed to the responding technician.
A technician will be paged and you will receive a call back within 30 minutes.

Priority 2:
Operational performance of the network is impaired while most business operations remain functional. Customer requires information or assistance on Mountain Cablevision network capabilities, installation, or configuration. There is clearly minimal or no impact to the customer's business operation.
Mountain Cablevision and the customer are willing to provide resources during normal business hours to restore service to satisfactory levels or to provide information or assistance as requested. Your request will be dispatched to a Senior Network Technician and you will be contacted upon review of your request.