

ORIGINAL



BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

JEFF HATCH-MILLER - CHAIRMAN
WILLIAM A. MUNDELL
MARC SPITZER
MIKE GLEASON
KRISTIN K. MAYES

2006 MAR -2 P 4: 38
AZ CORP COMMISSION
DOCUMENT CONTROL

IN THE MATTER OF THE FORMAL
COMPLAINT OF ACCIPITER
COMMUNICATIONS, INC., AGAINST
VISTANCIA COMMUNICATIONS, L.L.C.,
SHEA SUNBELT PLEASANT POINT, L.L.C.,
AND COX ARIZONA TELCOM, LLC.

DOCKET NO. T-03471A-05-0064

NOTICE OF FILING

Cox Arizona Telcom, LLC hereby files the attached documents identified in: (i) the February 3, 2006 letter from Commissioner Mayes to Mark DiNunzio, with the exception of documents numbered C00307 and C00626 and (ii) the February 9, 2006 letter from Maureen Scott to Michael Patten.

RESPECTFULLY SUBMITTED this 2^d day of March, 2006.

COX ARIZONA TELCOM, LLC.

By 
Michael W. Patten
Roshka DeWulf & Patten, PLC
One Arizona Center
400 East Van Buren Street, Suite 800
Phoenix, Arizona 85004

Original and 13 copies of the foregoing filed this 2nd day of March 2006 with:

Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

ROSHKA DeWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

1 Copy of the foregoing hand-delivered/mailed
2 this 2nd day of March 2006 to:

3 Dwight Nodes, Esq.
4 Administrative Law Judge
5 Hearing Division
6 Arizona Corporation Commission
7 1200 West Washington Street
8 Phoenix, Arizona 85007

9 Maureen Scott, Esq.
10 Legal Division
11 Arizona Corporation Commission
12 1200 West Washington Street
13 Phoenix, Arizona 85007

14 Ernest G. Johnson
15 Director, Utilities Division
16 Arizona Corporation Commission
17 1200 West Washington Street
18 Phoenix, Arizona 85007

19 Martin A. Aronson
20 William D. Cleaveland
21 Morrill & Aronson, P.L.C.
22 One East Camelback Road, Suite 340
23 Phoenix, Arizona 85012

24 Michael M. Grant, Esq
25 Gallagher & Kennedy
26 2575 East Camelback Road
27 Phoenix, Arizona 85016

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By Mary Appolito

DINunzio, Mark (CCI-Phoenix)

From: DiNunzio, Mark (CCI-Phoenix)
Sent: Wednesday, July 16, 2003 3:07 PM
To: Kelley, Mary (CCI-Phoenix), Arthurs, Tisha (CCI-Phoenix)
Subject: Vistancia Contract

Did either of you have any problems with the way the developer negotiated use of the easements for Vistancia? My understanding is that Qwest and another carrier are fighting the way the developer wanted to negotiate the use of the easement. I know we are the preferred provider for this area but just wanted to know if we had a problem with this too or were able to accept it since we landed the contract. If we did have a problem with it, please let me know as it could set a precedent for other areas we may want to serve. Thanks

Mark A. DiNunzio
Manager, Regulatory Affairs
Office - 623-322-8006
Fax - 623-322-8037
Cell - 602-741-3740
mark.dinunzio@cox.com

DiNunzio, Mark (CCI-Phoenix)

From: Arthurs, Tisha (CCI-Phoenix)
Sent: Wednesday, July 16, 2003 3:32 PM
To: DiNunzio, Mark (CCI-Phoenix), Kelley, Mary (CCI-Phoenix)
Subject: RE Vistancia Contract

Mark,

The developer is the one who pushed with the City of Peoria for the private easements in a public community. The terms of the easements were set up for us. They paid us a \$3 million dollar capital contribution and wanted to insure that they would get at least some of that money back through the revenue share program. The revenue share terms are set high enough that they will really have to perform in order to recoup any of their capital contribution. If the RGU's were shared between multiple providers they would never reach the penetration expectations that we set for them. This sort of agreement has been successfully executed in another location (state). I can get you in touch with their guru if you want to dialog it further.

Best regards,
Tisha Arthurs
Cox Communications
Sr Account Executive
(623)322-7857

-----Original Message-----

From: DiNunzio, Mark (CCI-Phoenix)
Sent: Wednesday, July 16, 2003 3:07 PM
To: Kelley, Mary (CCI-Phoenix), Arthurs, Tisha (CCI-Phoenix)
Subject: Vistancia Contract

Did either of you have any problems with the way the developer negotiated use of the easements for Vistancia? My understanding is that Qwest and another carrier are fighting the way the developer wanted to negotiate the use of the easement. I know we are the preferred provider for this area but just wanted to know if we had a problem with this too or were able to accept it since we landed the contract. If we did have a problem with it, please let me know as it could set a precedent for other areas we may want to serve. Thanks.

Mark A. DiNunzio
Manager, Regulatory Affairs
Office - 623-322-8006
Fax - 623-322-8037
Cell - 602-741-3740
mark.dinunzio@cox.com

-----Original Message-----

From: DiNunzio, Mark (CCI-Phoenix)
Sent: Monday, September 08, 2003 2:57 PM
To: McIntyre, Bryan (CCI-Phoenix), Salk, Bill (CCI-Phoenix), Thornton, Frank (CCI-Phoenix); Gosney, Kenneth (CCI-Phoenix)
Subject: RE: Cox Northwest Valley serving area

I am in the process of getting a copy of the map that shows where Accipiter Communications, Inc serves. I don't believe it has detail down to street level either but at least it should define by range and township where they serve and where the 928 boundaries for them lie. The ACC is trying to shrink their rather large map down and will contact me once they have something we can pick up. Keep you all posted.

Mark

-----Original Message-----

From: McIntyre, Bryan (CCI-Phoenix)
Sent: Monday, September 08, 2003 2:16 PM
To: Salk, Bill (CCI-Phoenix); DiNunzio, Mark (CCI-Phoenix); Thornton, Frank (CCI-Phoenix); Gosney, Kenneth (CCI-Phoenix)
Subject: RE: Cox Northwest Valley serving area

We do need to clarify a few things.

Should the Sun City West, Westbrook & El Mirage BRA's be excluded from this list of nodes?

Also, should the box listed as Lake Pleasant be inclusive or excluded?

We will list all nodes in the defined region and list if they are fully or partially within the boundaries. We will also list if Cox phone is released by node.

Concern: There may be some nodes where only half of the node is within the boundaries and we may need a detailed map (down to street level) to be able to direct the ICOMS folks what addresses to pull for the report needed. Otherwise they will pull all customers out of the node and some may and may not fall into the actual boundaries. Let me know if we need to get down to this level.

Thanks

-----Original Message-----

From: Salk, Bill (CCI-Phoenix)
Sent: Thursday, September 04, 2003 2:02 PM
To: McIntyre, Bryan (CCI-Phoenix), Gosney, Kenneth (CCI-Phoenix), Thornton, Frank (CCI-Phoenix)
Cc: DiNunzio, Mark (CCI-Phoenix)
Subject: FW: Cox Northwest Valley serving area

Frank, Bryan & Ken: I will be out of the office until Sept 11th. Can you please coordinate this research and provide feedback to Mark, thanks.

-----Original Message-----

From: DiNunzio, Mark (CCI-Phoenix)
Sent: Thursday, September 04, 2003 1:45 PM
To: Salk, Bill (CCI-Phoenix)
Subject: Cox Northwest Valley serving area

Bill-

As you are aware, we currently have a situation in Scottsdale whereby we are serving customers out of the 480 exchange when in reality, it is the 928 exchange. To matters even more complex, the area in question will become part of the local calling area (i e , 480) come June 31, 2004

There is another area very similar to the one we are currently dealing with in Scottsdale in the northwest valley Accipiter Communications is the incumbent provider of local service there and what I wanted to know is if we currently have any customers in the area as defined by the attached map The map shows the Accipiter exchange area I am not sure if we serve any customers but was hoping you could help Please let me know if you could provide me information as to whether or not we serve customers there and out of what nodes so I could have ICOMs run a report listing the customers. Thanks for your help

<< File. service area_001 pdf >>

Mark A. DiNunzio
Manager, Regulatory Affairs

Office - 623-322-8006

Fax - 623-322-8037

Cell - 602-741-3740

mark.dinunzio@cox.com <<mailto:mark.dinunzio@cox.com>>

<<<mailto:mark.dinunzio@cox.com>>>

DiNunzio, Mark (CCI-Phoenix)

From: DiNunzio, Mark (CCI-Phoenix)
Sent: Tuesday, September 23, 2003 8:54 AM
To: Thornton, Frank (CCI-Phoenix), Hensman, Kenny (CCI-Phoenix), Gosney, Kenneth (CCI-Phoenix)
Cc: McIntyre, Bryan (CCI-Phoenix), Salk, Bill (CCI-Phoenix), Deschane, Cindi (CCI-Phoenix), Ball, Delynn (CCI-Phoenix), Garrett, Douglas (CCI-Emeryville)
Subject: RE: Cox Northwest Valley serving area

All-

Kenny and I met with two ACC staff members yesterday to discuss, among other things, those areas where we may be serving outside the assigned area code - specifically, the north Scottsdale area in a development by Luxor Homes where we have served customers using 480 when it is assigned a 928 area code and the pending Vistancia area

As noted in my first email, the N Scottsdale area is a bit more complex due to the Commission making the decision to make this area where Luxor Homes is building part of the local calling area and subsequently, part of the 480 calling area. This will happen on June 30, 2004. My understanding is that we have removed those addresses that would fall in this area from ICOMs so we do not serve additional customers with numbers from the wrong area code. If there is any good news out of any of this, it is that we anticipate that only three more homes would be completed and requesting service within the timeframe in which this area goes to 480 (at which point, all of this is moot and we can serve everyone). I will continue to explore ways to work with the ACC staff to see if there would be a way to serve any customers requesting service between now and June 30, 2004 on a temporary basis out of the 480 area from one of our peds in the area (that's where you come in Kenny in that from a technical perspective, it is possible to do this but we may run into some ACC issues)

As for Vistancia, some of that development falls within Qwest's service territory (623) and some falls within Accipiter Communications area (928). The Commission ruled that within Accipiter's service area, calls would be local calling into the Phx metro area. That is the good news in that while we would have to assign customers a 928 number, their calls would be local and not toll. There is also a ACC docket open involving Accipiter and Qwest where Accipiter may take over the entire area where Vistancia lies. We are getting a copy of that order to review. If you have any questions, please let me know. Thanks

Mark

-----Original Message-----

From: Thornton, Frank (CCI-Phoenix)
Sent: Friday, September 19, 2003 8:26 AM
To: Hensman, Kenny (CCI-Phoenix); DiNunzio, Mark (CCI-Phoenix); Gosney, Kenneth (CCI-Phoenix)
Cc: McIntyre, Bryan (CCI-Phoenix); Salk, Bill (CCI-Phoenix); Deschane, Cindi (CCI-Phoenix); Ball, Delynn (CCI-Phoenix)
Subject: RE: Cox Northwest Valley serving area

Once the decision is made to serve the 928 area, and Mark secures permission, the NIMS team acquires the inventory

-----Original Message-----

From: Hensman, Kenny (CCI-Phoenix)
Sent: Friday, September 19, 2003 8:16 AM
To: Hensman, Kenny (CCI-Phoenix); DiNunzio, Mark (CCI-Phoenix); Gosney, Kenneth (CCI-Phoenix)
Cc: McIntyre, Bryan (CCI-Phoenix); Salk, Bill (CCI-Phoenix); Thornton, Frank (CCI-Phoenix); Deschane, Cindi (CCI-Phoenix); Ball, Delynn (CCI-Phoenix)
Subject: RE: Cox Northwest Valley serving area

All, With the legal description provided by Mark to Ken Gosney, I've been able to line out the Accipiter Service area line in a map book. For the Vistancia project formerly known as Lakeland Village and White Peak Ranch, the south half is in the Qwest Local area however the North area falls into the Accipiter area.

Mark who asks for Area Code assignment when??? Dev, City, Operator ???

-----Original Message-----

From: Hensman, Kenny (CCI-Phoenix)
Sent: Tuesday, September 09, 2003 12:45 PM

7/8/03

Pleasant Point - Lake Pleasant
- Shea & Sunbelt

40 K residents
5 schools

model by
June 2003

* 94 of 2003
homes ready
Sales 91 of 2003
Pre-Sales

Quest
Asipiter
own
franchise of
Communications

→ Quest is requiring capital costs
\$ of 3 million but they
will give the rights to
Asipiter if forced to build.

City of Peoria

1,000/year

750 - 1200/year

Jeff McQueen
VP Finance

Lakeland Village 1st - pattern experienced
White peaks Ranch 2nd

Time Charge & Local Charges

603, 480 & 623

will not do bulk per Sunbelt
By Dept. of Real Estate

Commercial 2003 & 2004

CONFIDENTIAL

C01253
CONFIDENTIAL

9/16 - Vistancia - Pleasant Point
 Shea Development (40K Residents
 Sun Belt Holdings) [5 schools
 750/years - 15 yrs
 Commercial 2005 - occupied 2/16/06
 Lakeland Village, 1st
 White Peaks Ranch 2nd
 models June 03
 Q4, Q3 homes ready
 Q1 - pre-sales

6 mi
 #17 ←

1) 2 mil cap - Exclusive
 2) 3 mil cap - non-Exclusive
 3) Franchise Reg. - no phone

people
 Rick Andrine - Shea
 Kurt Smith - surprise farms
 John Graham - Sun Belt
 (Sept 27th)

1) - Revenue Share
 2) - Commercial properties
 3) - one contract w/ Commercial

CLEC licence - looking into
 currently
 ? they will still need
 quest or Cox to
 connect

- multiple HOA's - could be diff.
 Buys potentially

CONFIDENTIAL

C01256
 CONFIDENTIAL

VISTANCIA MEETING 02-24-03

• \$3 million extra to build barrier for
new project access.

CONFIDENTIAL

C01261
CONFIDENTIAL

Kelley, Mary (CCI-Phoenix)
From: Kelley, Mary (CCI-Phoenix)
Sent: Monday, November 18, 2002 10:41 AM
To: 'Curt Smith'
Subject: RE: Agreement

Hi Curt,

Thanks for your e-mail. I am working on the term. Your points are well taken. In light of the fact that the residential is 20 years I may be able to gain approval. The 10 year term is what corporate always uses as a term. I will see what I can do about 4c.

Thanks.

Mary Kelley
Commercial Access Account Manager
Cox Business Services
Work 623-322-7472
Fax 623-322-7983

-----Original Message-----

From: Curt Smith [<mailto:csmith@sunbeltholdings.com>]
Sent: Friday, November 15, 2002 9:00 AM
To: Kelley, Mary (CCI-Phoenix)
Cc: Mark Hammons
Subject: RE: Agreement

In a first review, I have two major concerns with the agreement. First is the term. The residential agreement is for 20 years and this is for only 10. since this is only a service commitment I think the term should be at least as long as the residential agreement. Second,

in paragraph 4c Cox is only obligated to provide service when a minimum number of subscribers to make the services economically feasible are in place. This just doesn't work. We need a commitment to serve the first and ongoing customers. This is a very critical point as I mentioned before.

-----Original Message-----

From: Kelley, Mary (CCI-Phoenix) [<mailto:Mary.Kelley@cox.com>]
Sent: Wednesday, November 13, 2002 6:32 PM
To: Curt Smith
Cc: Walker, Jeffrey (CCI-Phoenix)
Subject: Agreement

Hi Curt,

I am glad I was able to speak with you when I dropped off the agreement the other day. As I mentioned the agreement came from our Atlanta legal department just prior to my dropping it off. I would be happy to discuss any questions or comments you may have prior to our meeting on Wednesday, November 13th, 2002 at 7:30am. I am out of the office all day tomorrow but will return Friday am. Please feel free to contact me.

As I mentioned when I came by, I am sending the agreement via e-mail so that you can red-line it. I would need the changes by Monday, November 18th in order to give the Atlanta legal department time to respond by our Wednesday meeting. Thank you.

<<DRAFT Vistancia commercial agreement>>



CONFIDENTIAL

C01372
CONFIDENTIAL

From: Drake, Paul (CCI-Phoenix)
Sent: Monday, October 14, 2002 4:20 PM
To: 'mhammons@sunbeltholdings.com'
Cc: Sjostrom, Dan (CCI-Phoenix); Arthurs, Tisha (CCI-Phoenix)
Subject: Vistancia Marketing Compensation

Contacts: Mark Hammons
Attachments: Vistancia Revenue Share Estimate.xls

Mark,

Thank you for your time today to go over the revenue share schedule Dan prepared for Vistancia. As per our discussion, we feel that Option 2, with the bulking of video, will have far better success in reaching higher penetrations on Cox High Speed Internet and Cox Digital Phone and will offer more opportunity for greater returns. However we do understand the concerns of placing too much burden on the HOA fees. With that said, Cox is still very interested in partnering with Shea/Sunbelt on this very special project and will work to provide you the best product, service and customer support available in the industry today. We look forward to reaching a tentative agreement and completing final contracts by Nov. 15th in order to meet your specific construction deadlines.

Should you have any questions, please do not hesitate to call Tisha Arthurs or myself.



Vistancia Revenue
Share Estima...

Paul Drake

Director, New Business Development
Cox Communications
(623) 322-7802

Kelley, Mary (CCI-Phoenix)
From: Arthurs, Tisha (CCI-Phoenix)
Sent: Friday, November 01, 2002 10:22 AM
To: Kelley, Mary (CCI-Phoenix)
Subject: RE: Vistencia Agreement

Mary,
Shea/Sunbelt will not place the conduit for us but will include in their purchase agreements to the commercial buyers that they have to place that conduit for us. The reason for this is that Shea/Sunbelt only develops the land and then sells it to someone else to construct buildings. However they can mandate that the buyer place the conduit for us.

I gave Nolan a map that shows the commercial locations after the meeting we had here a few weeks ago. So they should have them.

As far as a follow up meeting goes, Mark Hammons is looking for times they have available for late next week or early the following. I will be sure to include you in the meeting planner I send out.

REDACTED

Best regards,
Tisha Arthurs
Cox Communications
Sr. Account Executive
(623)322-7857

-----Original Message-----

Kelley, Mary (CCI-Phoenix)
From: Kelley, Mary (CCI-Phoenix)
Sent: Thursday, October 31, 2002 3:00 PM
To: Arthurs, Tisha (CCI-Phoenix)
Subject: Vistencia Agreement

Tisha,

REDACTED

A couple questions we do need answers on: Will the developers be paying for the conduit placement for commercial buildings so that when a tenant wants service we do not have to tear up new asphalt, landscaping, etc... Generally, developers place conduit and give us the right to use it, will this be the case? And, do you have a map of the area so that we understand the location of the commercial property? I realize this would be preliminary information subject to change. That would be helpful for Don Belina.

CONFIDENTIAL

C01388
CONFIDENTIAL

11/25/02

Conference Call: Linda Trickey
Curt Smith
Mary Kelley

- ✓ (1) Will Cox place conduct? } Sent e-mail to Steve Rizley,
- ✓ (2) 6 months notice? } Shelia Crosby + Robert Carter
- ✓ (3) Pre-wire specs (Operation)
- ✓ (4) Insurance (LT)

Left a mess for Tish. re: status + timeline

Linda - leaves Wed. 12/26 noon ret. 2nd
Curt - leaves Wed. 12/27 noon ret. 3rd
Mary - leaves ~~Wed.~~ Wed. until M. 2nd

12/3 Updated Tish

CONFIDENTIAL

C01636
CONFIDENTIAL

Sumbelt Holdings, 2/13/03

Curt, Mark, Paul, Me

Be sure to have Kenny notify me if we run into any roadblocks w/ MCDOT, City of Peoria etc.

Sumbelt gives us \$5 million and we give them back \$3 million to keep out the competition.

Access Entity about ready, "Nameuse"

* Set meeting w/ Dan + Howard for Tuesday.

2/18/03

Howard Dan
Paul Me

What are we missing. They are giving us an interest free loan.

Howard feels we should proceed with legal over seeing.

CONFIDENTIAL

C01769
CONFIDENTIAL

Residential

1. City of Peoria in place of Maricopa

20 yrs
5 yr automatic

Term ~~15~~ yrs not 25 15 years w/ 15 year automatic renew
no discretion to terminate. Project will be 25 yrs
plus build out. *Paul suggest 20yr. 5yr renewal*
Surprise Farms 1/3 the size with 25yr Term

Talk to Dan

3. Paragraph 4B

Transferrance - Shea pays upfront capital + does
not want to money transferring

Cox can tie to Master HOA. Shea Sumbel will
provide copy.

Change copy to "Cox Shall" not "Cox May"
H ^{made} _{home} _{complet} at the project info center

4. 5D - how do we incorporate the compensation schedule

Call Mark

5. 6E - no backbone discussion only drops
Beef up timely + effective manner language

6. 11A - Shea wants a provision to protect them
from us walking away after a year w/ the \$2 million
Capital contribution

get Dan's view on payback if we stop
servicing - check w/ Jennifer
franchise driven

Vistancia 10/8/02

Byron	Franklin
Curt	Dan
Rick	Paul
Mark	Sheila

* Add 5 wks to Negotiating *

Options:
Guest gave up their franchise by the corporation commission to Incipator, who can only provide phone.

Shea can guarantee to keep out competition, Cox can purchase the knowledge, what is it worth to us.

Shea is very adamant about seeing our models Franklin committing to look at their return of \$2 million.

Shea wants to know what they are going to make.

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Vistancia Nolaam Meeting w/Mark 9/9/02
 9/17/02
 Mark Hummons } Sumbelt
 Curt Smith }
 Byron Augustine } Shea 750-1000 homes per year
 Kirk Andreene } Commercial 2005 occupants
 2006

Ellen- There will be a business park. ⁹entitled ^{planned} 100 acres (65 acres
 Where does the CBS 1-800 number go? ^{million} \$?

- Shea's biggest concern is how Cox can support the business parks.

done Set up a meeting for commercial engineers to meet w/Mark for design questions

Surprise ^{forums} agreement ✓
 For Marketing Compensation on phone anything above 75% we split the cost with Shea, or lessen capital contribution

November 2003 live service

Shea will give marketing agreement and would like marketing compensation

- done
1. Nolaam will work with Mark on Engineering this week.
 2. September 27 draft (Marry CBS & Marketing Agreement, get w/ Dan on financials.)

3-29-01

CONFIDENTIAL

91 days to open
December - TV & radio buys

11/25/03

* When advertising CDC - make sure language does not separate out other CDC communities

* Get w/Brian about tomorrow's meeting w/Swabett

- Early planning for training the Trilogy Sales group.

- all 3 services on move-in / Sales rep (builder) takes the order and sends to Cox so homeburger doesn't have to. Cox to follow up after the fact.

Bob Williams
General Sales
Manager

623/928 will need to be noted in COMS so the person taking order knows.

Ask Mark D. Nunzio about doing 623 in 928 and getting hand slapped later.

CONFIDENTIAL

C01784
CONFIDENTIAL

Sjostrom, Dan (CCI-Phoenix)

Subject: Vistancia capital contribution
Location: Howard's office

Start: Tue 2/18/2003 10:00 AM
End: Tue 2/18/2003 11:00 AM

Recurrence: (none)

Meeting Status: Accepted

Required Attendees: Arthurs, Tisha (CCI-Phoenix); Drake, Paul (CCI-Phoenix); Tigerman, Howard (CCI-Phoenix);
Sjostrom, Dan (CCI-Phoenix)

Paul and I met with Sunbelt Holdings today and they are giving us some pretty creative ways to keep the competition out.
From a financial stand point we need your input.

Hayes, Yvonne (CCI-Atlanta)

From: Trickey, Linda (CCI-Atlanta)
Sent: Thursday, October 09, 2003 5:01 PM
To: Lesa J. Storey
Subject: RE: Vistancia

You do have my correct phone number. We had a problem with our network. I'll look into the other issue.

Linda

-----Original Message-----

From: Lesa J. Storey [mailto:lstorey@sbplc.com]
Sent: Thursday, October 09, 2003 1:50 PM
To: Trickey, Linda (CCI-Atlanta)
Subject: RE: Vistancia

Linda,

My client is checking into the payment amount, and I'll let you know what they say. I also wanted to bring another item to your attention: Curt Smith informed me yesterday that Cox had withdrawn its authorization (or is not willing to provide authorization) for Mike Patten to represent the Vistancia developer in litigation against Accipiter regarding the enforceability of the CSER/MUE structure at Vistancia that we discussed in our conversation yesterday. Apparently, Mike had initially been retained to advise regarding the general enforceability of the structure under Arizona and federal law, and Cox had consented to that representation. My client then asked that Mike become more heavily involved in preparing/posturing the matter for potential litigation with Accipiter, and Cox balked at letting him get involved to that extent. Unfortunately, Curt Smith did not have the name of the Corporate Counsel at Cox who was involved in that decision (I'm sure Mike would know). So, my client is now in the process of searching for alternate Arizona counsel (and for the reasons we discussed yesterday, is having difficulty in that regard). I don't know if there is anything that can be done at this point to change Cox's mind, but thought that, at a minimum, you would want to know what has transpired. Also--I apparently took down your number incorrectly yesterday: I had (404) 269-7496, but I don't believe that is correct (based on my attempt to reach you via phone this morning).

Best regards,

Lesa

-----Original Message-----

From: Trickey, Linda (CCI-Atlanta) [mailto:Linda.Trickey@cox.com]
Sent: Wednesday, October 08, 2003 11:23 AM
To: Lesa J. Storey
Subject: RE: Vistancia [mx]

Lesa,

You may want to double-check the dollar amounts that Developer has already paid Cox. I think the \$1,125,000 is incorrect, considering there should have been three payments of \$750,000 each. Thanks.

Linda

-----Original Message-----

From: Lesa J. Storey [mailto:lstorey@sbplc.com]
Sent: Monday, September 29, 2003 3:47 PM

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CONFIDENTIAL

C02253
CONFIDENTIAL

From: Drake, Paul (CCI-Phoenix)
Sent: 9/30/2002 3:45:55 PM (Eastern Time)
To: Vincent, Franklin (CCI-Phoenix)
CC: Tigerman, Howard (CCI-Phoenix); Crosby, Sheila (CCI-Phoenix); Sjostrom, Dan (CCI-Phoenix); Arthurs, Tisha (CCI-Phoenix)
Subject: RE: Pleasant Point Revenue Share

Franklin,

I can certainly understand the direction you wish to take in setting parameters for Marketing Compensation, but let's not lose site of something we are doing here that we have never done with another developer and that is requesting a capital contribution of \$2 million dollars right up front. Shea is in agreement to the idea of a capital contribution but in doing so I am sure they are trying to see a way of recouping the advance, no differently than we would.

Their recommendation, after stating they felt our penetration recommendations were low, was to participate 50/50 in the revenue share above 75% penetration. In Dan's analysis, that's not something we do not want to do, but we need to be more flexible in trying to meet Shea's wishes. I know they are looking at a flat percentage to make matters cleaner. It will be a hard enough sell to go below the 50%, but I truly believe we can easily negotiate a 25% flat marketing compensation for anything above 75% penetration. With that high level of penetration, or possibly even higher with the exclusive marketing agreement, and obtaining a sizeable contribution as well, it's got to make sense.

To do anything differently would certainly not put us in the driver's seat of cooperative negotiations and could possibly drive Shea to continue their direction in becoming a CLEC. Something I am sure we all do not want to see. Because if they do go that direction, and are successful with it, there is a strong chance that every other developer with a new MPC will be looking at that option as a means to gain revenue and control over the infrastructure. It's a gamble I'm not sure we want to risk.

Additionally, Dan is running some bulk analysis' based on our last meeting with Shea, that could change the whole picture regarding penetration numbers. Once he has that done, I would like to have a strategy meeting, armed with the new information, and see if we can more closely meet Shea's wishes in working towards a win/win for both partners.

Paul Drake
Director, New Business Development
Cox Communications
(623) 322-7802

-----Original Message-----

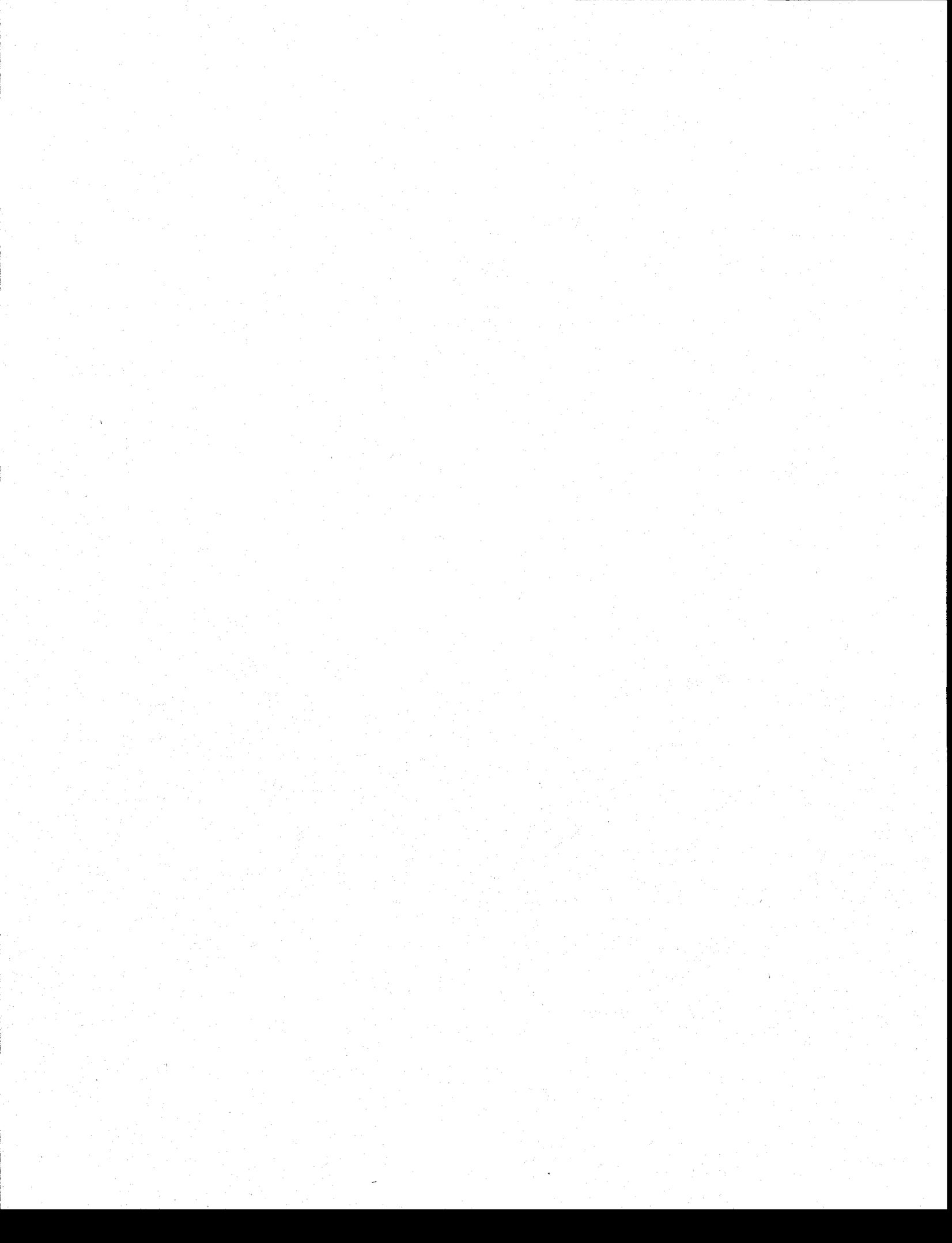
From: Vincent, Franklin (CCI-Phoenix)
Sent: Friday, September 27, 2002 9:50 AM
To: Sjostrom, Dan (CCI-Phoenix)
Cc: Drake, Paul (CCI-Phoenix); Tigerman, Howard (CCI-Phoenix)
Subject: RE: Pleasant Point Revenue Share

Already responded to this (see attached) and we were going back to them with alternatives/proposals. What is the status of that or the response to what we went back with?

<< Message: RE: Pleasant Point Revenue Share >>

CONFIDENTIAL

C02984
HIGHLY CONFIDENTIAL





memorandum

DATE: July 15, 2002
TO: Sheila Crosby
Vice President, Sales
FROM: Paul Drake
Director, New Business Development
RE: 2003 Capital Investment for Cox Digital Builder Program

Sheila,

As you are aware, New Business Development has initiated an extensive campaign to target the top 50 homebuilders as well as the Master Planned Communities in the Metro Phoenix area to capture the market, increase our penetration and establish lasting partnerships through exclusive marketing agreements with our developer/builder partners. In doing so we are able to promote our products and services as well as establish a base of operations for the Direct Sales Team in those developments we have secured an exclusive marketing presence. An to insure we maintain that presence, it is critical that we have the displays, kiosks and other relevant materials to fully present our partnership as well as the products that set us apart form our competitors.

The following justification is for the Capital Investment to provide the needed material in the Master Planned Community Home Finding Centers where we have secured exclusive marketing agreements and maintain a marketing presence in the builder's model sales offices to enhance the sales activities of the IN & On and Retail Sales teams. I am requesting the amount of \$500,000 to be budgeted for 2003 to support the Cox Digital Community Builder Program. That amount will be broken down to \$125,000 quarterly to be expensed as follows.

\$100,000 for the purchase of kiosks to be displayed in the model sales offices of the top 50 builders we secure exclusive marketing agreements as well as our existing partners such as Pulte, Del Webb, etc. Each builder has approximately 10 to 15 active communities. Not all model complexes are suited for a full kiosk marketing display. We are anticipating approximately 25 to 30 kiosks being utilized and rotated throughout the Valley as model sales complexes closes and new ones open. Those developments were we cannot utilize a kiosk will use smaller table top displays, such as brochure stands, framed information posters etc.

\$400,000 for the required equipment to set up interactive displays in the Home Finding Centers for the following Master Planned Developments.

Surprise Farms - 1st quarter 2003
KB Homes Sales Center -- 1st quarter 2003

CONFIDENTIAL

HIGH CONFIDENTIAL C00318

From: Drake, Paul (CCI-Phoenix)
Sent: 9/6/2002 4:42:01 PM (Eastern Time)
To: Arthurs, Tisha (CCI-Phoenix); Salk, Bill (CCI-Phoenix); Dougall, Herb (CCI-Phoenix); Carter, Robert (CCI-Phoenix); Sjostrom, Dan (CCI-Phoenix)
CC: Crosby, Sheila (CCI-Phoenix); Kirk, Percy (CCI-Phoenix); Carter, Kris (CCI-Phoenix)
Attachments: Cox follow-up.doc
Subject: FW: Meeting on Monday

Ladies and Gentleman,

After many changes to scheduling, we have finally coordinated a meeting with the principles from Shea Homes to finalize our proposal to serve the Pleasant Point master planned development, now called Vistancia. In doing so, Byron Augustine, their Director of Information Technology has provided a list of items they would like to have answered and/or discussed in Monday's meeting. In that the majority of these questions are far beyond the scope of NBD to negotiate/discuss, it is imperative that we have both your input as well as attendance at the meeting on Monday Sept. 9th.

Just to give you a sense of where we are with Shea on this significant West Valley project, the offer that was presented to them was we would provide all services to the development, based on two conditions. One, they would enter into an exclusive marketing agreement gaining high visibility/presence of Cox in the project and Two, provide a \$2 million capital contribution. They have tentatively accepted the offer and this meeting is to enter into negotiations to finalize the agreement and provide them additional details on what we can provide.

Please let either myself, Tisha or Kris know your availability or your designate for the meeting as soon as possible.

Thank you

Paul Drake
Director, New Business Development
Cox Communications
(623) 322-7802

-----Original Message-----

From: Byron Augustine [mailto:byron.augustine@jfshea.com]
Sent: Friday, September 06, 2002 1:04 PM
To: Drake, Paul (CCI-Phoenix)
Subject: Meeting on Monday

Hi Paul, I understand that we are all confirmed for Monday next week. In updating the team on current progress this past week we also put together a brief list of items we would like to discuss or have answered during our meeting. I know you may not be able to get answers or info regarding all the questions before we meet because of the late request, but any of the info you can provide Monday would be greatly appreciated. Please let me know if you have any questions or need help with directions on Monday. <<Cox follow-up.doc>>

CONFIDENTIAL

C01377
CONFIDENTIAL

From: Drake, Paul (CCI-Phoenix)
Sent: 9/6/2002 4:42:01 PM (Eastern Time)
To: Arthurs, Tisha (CCI-Phoenix); Salk, Bill (CCI-Phoenix); Dougall, Herb (CCI-Phoenix); Carter, Robert (CCI-Phoenix); Sjostrom, Dan (CCI-Phoenix)
CC: Crosby, Sheila (CCI-Phoenix); Kirk, Percy (CCI-Phoenix); Carter, Kris (CCI-Phoenix)
Attachments: Cox follow-up.doc
Subject: FW: Meeting on Monday

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Please let either myself, Tisha or Kris know your availability or your designate for the meeting as soon as possible.

Thank you

Paul Drake
Director, New Business Development
Cox Communications
(623) 322-7802

-----Original Message-----

From: Byron Augustine [mailto:byron.augustine@jfshea.com]
Sent: Friday, September 06, 2002 1:04 PM
To: Drake, Paul (CCI-Phoenix)
Subject: Meeting on Monday

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CONFIDENTIAL

C01378
CONFIDENTIAL

Hayes, Yvonne (CCI-Atlanta):
From: Trickey, Linda (CCI-Atlanta)
Sent: Wednesday, November 06, 2002 1:26 PM
To: Kelley, Mary (CCI-Phoenix)
Subject: RE: Vistencia Agreement

Redacted

Linda Trickey
Corporate Counsel
Cox Communications, Inc.
tel: (404) 269-7496
fax: (404) 843-5845
email: linda.trickey@cox.com

-----Original Message-----

From: Kelley, Mary (CCI-Phoenix)
Sent: Friday, November 01, 2002 7:24 PM
To: Trickey, Linda (CCI-Atlanta)
Cc: Arthurs, Tisha (CCI-Phoenix)
Subject: FW: Vistencia Agreement

Redacted

Mary Kelley

Commercial Access Account Manager
Cox Business Services
Work 623-322-7472
Fax 623-322-7983

-----Original Message-----

From: Arthurs, Tisha (CCI-Phoenix)
Sent: Friday, November 01, 2002 10:22 AM
To: Kelley, Mary (CCI-Phoenix)
Subject: RE: Vistencia Agreement

Mary,
Shea/Sunbelt will not place the conduit for us but will include in their purchase agreements to the commercial buyers that they have to place

CONFIDENTIAL

**C01425
CONFIDENTIAL**

Redacted

Mary Kelley

Commercial Access Account Manager

Cox Business Services

Work 623-322-7472

Fax 623-322-7983

---Original Message---

From: Arthurs, Tisha (CCI-Phoenix)

Sent: Friday, November 01, 2002 10:22 AM

To: Kelley, Mary (CCI-Phoenix)

Subject: RE: Vistencia Agreement

Mary,

Shea/Sunbelt will not place the conduit for us but will include in their purchase agreements to the commercial buyers that they have to place that conduit for us. The reason for this is that Shea/Sunbelt only develops the land and then sells it to someone else to construct buildings. However they can mandate that the buyer place the conduit for us.

I gave Nolan a map that shows the commercial locations after the meeting we had here a few weeks ago. So they should have them.

As far as a follow up meeting goes, Mark Hammons is looking for times they have available for late next week or early the following. I will be sure to include you in the meeting planner I send out.

Redacted

4/12/2005

CONFIDENTIAL

C01429
CONFIDENTIAL

Cox Communications, Inc.
tel: (404) 269-7496
fax: (404) 843-5845
email: linda.trickey@cox.com

-----Original Message-----

From: Kelley, Mary (CCI-Phoenix)
Sent: Friday, November 01, 2002 7:24 PM
To: Trickey, Linda (CCI-Atlanta)
Cc: Arthurs, Tisha (CCI-Phoenix)
Subject: FW: Vistencia Agreement

Redacted

Mary Kelley

Commercial Access Account Manager
Cox Business Services
Work 623-322-7472
Fax 623-322-7983

-----Original Message-----

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Sent: Friday, November 01, 2002 10:22 AM
To: Kelley, Mary (CCI-Phoenix)
Subject: RE: Vistencia Agreement

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I gave Nolan a map that shows the commercial locations after the meeting we had here a few weeks ago. So they should have them.

CONFIDENTIAL

C01432
CONFIDENTIAL

Email approval to complete agreement

Kelley, Mary (CCI-Phoenix)

From: Kelley, Mary (CCI-Phoenix)

Sent: Monday, November 25, 2002 4:33 PM

To: Carter, Robert (CCI-Phoenix); Rizley, Steve (CCI-Phoenix); Crosby, Shella (CCI-Phoenix)

Subject: Open items for Vistancia Commercial Access Agreement

I just finished a call with Curt Smith of Sunbelt Holdings where we discussed the changes he submitted to me in the Vistancia agreement. We worked through most items but there are 2 major items that need to be finalized:

1. Sunbelt/Shea expects all backbone "conduit" to be placed and paid for by Cox however, Sunbelt/Shea will open the trenches at their cost. In the commercial agreement there is an exhibit that all parcels sold will require the buyer to place a conduit for the purpose of Cox providing service to the building. This will save ATF (construction, permits, etc..) cost to Cox. This scenario saves us cost to bring service to a building and is the reverse of our normal situation where we do not place backbone conduit to commercial buildings but end up paying to bring service up to a building (exhibit A).

NOTE: At this time, there is only a general plan by the developer in relation to what commercial buildings will be built or how the land will be parceled so I can not estimate what the cost of placing conduit will be. With the above summary, are we willing to agree to place and pay for all conduit to commercial buildings for Vistancia?

2. Also in the agreement, we asked for 12 months notice on working with a building owner once they determine what they expect to build on their parcel. Curt Smith is willing to give 6 months notice. I incorporated the notice for budgetary planning purposes. I understand Curt asking for less time because some owners work on an aggressive schedule. Are we willing to live with a 6 month notice to bring service to a building, knowing at times, requests may come to fruition late 4th quarter?

Please let me know your response to the two items above or feel free to call me to discuss.
Thank you.

Mary Kelley
Commercial Access Account Manager
Cox Business Services
Work 623-322-7472
Fax 623-322-7983

CONFIDENTIAL

C01639
CONFIDENTIAL

-----Original Message-----

From: Crosby, Sheila (CCI-Phoenix)
Sent: Wednesday, November 27, 2002 9:50 AM
To: Kelley, Mary (CCI-Phoenix)
Cc: Arthurs, Tisha (CCI-Phoenix)
Subject: RE: Open items for Vistancia Commercial Access Agreement

Mary, did you get your answers yesterday?

Sheila Crosby
Vice President of Sales
Desk: 623-322-7922
Fax: 623-322-7918
Mobile: 602-694-0745
Sheila.Crosby@cox.com

-----Original Message-----

From: Kelley, Mary (CCI-Phoenix)
Sent: Monday, November 25, 2002 4:33 PM
To: Carter, Robert (CCI-Phoenix); Ritzley, Steve (CCI-Phoenix); Crosby, Sheila (CCI-Phoenix)
Subject: Open items for Vistancia Commercial Access Agreement

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2. Also in the agreement, we asked for 12 months notice on working with a building owner once they determine what they expect to build on their parcel. Curt Smith is willing to give 6 months notice. I incorporated the notice

CONFIDENTIAL

C01640
CONFIDENTIAL

From: Arthurs, Tisha (CCI-Phoenix)
Sent: 12/16/2002 9:58:08 AM (Eastern Time)
To: Drake, Paul (CCI-Phoenix)
Subject: FW: Revisions

fyi

Best regards,
Tisha Arthurs
Cox Communications
Sr. Account Executive
(623) 322-7857

-----Original Message-----

From: Curt Smith [mailto:csmith@sunbeltholdings.com]
Sent: Monday, December 16, 2002 8:41 AM
To: Kelley, Mary (CCI-Phoenix); Arthurs, Tisha (CCI-Phoenix)
Cc: Mark Hammons
Subject: RE: Revisions

I am still waiting for comments from an attorney working on our access provisions. As soon as I hear anything I will let you and Tisha know. Sorry for the delay. We are definately going forward with COX and look forward to a great relationship in the future.

-----Original Message-----

From: Kelley, Mary (CCI-Phoenix) [mailto:Mary.Kelley@cox.com]
Sent: Monday, December 16, 2002 8:34 AM
To: Curt Smith
Subject: RE: Revisions

Hi Curt,

Do we have anything to discuss regarding the agreement? Can we set a meeting time for tomorrow? I want to be able to track down Linda if I need to. Please let me know so that I can allow time. I will be here this morning but have meetings this afternoon.

Mary Kelley
Commercial Access Account Manager
Cox Business Services
Work 623-322-7472
Fax 623-322-7983

-----Original Message-----

From: Curt Smith [mailto:csmith@sunbeltholdings.com]
Sent: Thursday, December 12, 2002 7:52 AM
To: Kelley, Mary (CCI-Phoenix)
Subject: RE: Revisions

The changes to paragraph 8 are acceptable and we have worked out language for the recording issue. We are taking one last look at the provisions dealing with the use right issue that should get you better penetration and will have comments if any later this week. Thanks for your help on this matter. I think we are very close if not there and should be able to sign this next week.

-----Original Message-----

From: Trickey, Linda (CCI-Atlanta) [mailto:Linda.Trickey@cox.com]

CONFIDENTIAL

C01649
CONFIDENTIAL

Section 1.05. WHEREAS, Grantee desires the private and personal grant of a Service Easement over and across designated portions of the Development, privately and personally vesting in Grantee the exclusive and perpetual right to privately contract for the establishment of Facilities within the Service Easement Area.

Section 1.06. WHEREAS, the Plats to be recorded by the Grantor with respect to the Development shall designate the Service Easement Area for the Service Easement as Drainage Utility and Sanitary Sewer Easements (D.U. & S.S.E.).

Section 1.07. WHEREAS, Grantee shall cause, by virtue of private contracts, extensive improvements to be made to and within the Development for the Mandatory Common Service, which improvements shall be situated on, over, under and across the Service Easement Area and make available the Mandatory Common Services within the Development.

Section 1.08. WHEREAS, certain Common Service Providers have developed expertise in providing Common Services to their customers, which expertise are currently and on a continuing basis being employed to develop superior, novel and cost competitive Communication Services.

Section 1.09. WHEREAS, to the extent technologically feasible, Grantor desires to have Advanced Telecommunications Capabilities, bundled services and billing, available at the Development.

Section 1.10. WHEREAS, Grantor and Grantee anticipate continued deregulation of electricity, water and gas, as well as other utilities (such as those related to the Communication Services), which deregulation facilitates individual users having the ability to aggregate and negotiate discounted Communication Services and Utility Services charges.

THIS INDENTURE WITNESSETH, that in consideration of ten dollars (\$10.00), the mutual covenants contained in this Easement and other good and valuable consideration, the receipt and sufficiency of which are by this Easement acknowledged, the Parties to this Easement agree as follows:

ARTICLE II - EASEMENT

Section 2.01. Grant of In Gross Easement. Grantor hereby declares, creates, transfers, assigns, grants and conveys unto Grantee, its grantees, licensees, lessees, franchisees, successors and assigns, an exclusive and perpetual right, privilege and easement over, upon, under, in, through and across the In Gross Easement Area for the limited purpose of identifying and contracting, in Grantee's sole and complete discretion, with any and all of the Common Service Providers allowed to provide or otherwise make available Facilities and Common Services for the Development and within the In Gross Easement Area ("In Gross Easement"). The Grantee shall have the exclusive right to identify and contract with Common Service Providers to provide or make available Common Services to the Development within the In Gross Easement Area. This grant shall not entitle Grantee to install, repair or relocate Facilities within the In Gross Easement Area, except in the Service Easement Area. The Owners and the Association shall be entitled to construct or otherwise erect barriers or other temporary or permanent obstructions or structures as provided in **Section 2.04** hereof. Grantor and its grantees, licensees, lessees, franchisees, successors and assigns agree that no barriers or competing Facilities or other obstructions, permanent or temporary, of any form shall be placed or erected or permitted within the In Gross Easement Area so as to impair or lessen or compromise, in any fashion, directly or indirectly, Grantee's exclusive and perpetual In Gross Easement and rights affiliated with such In Gross Easement. The In Gross Easement is intended, and shall be, for the exclusive, private and personal benefit of the Grantee and its grantees, licensees, lessees, franchisees, successors and assigns who have been identified by and contracted with the Grantee to provide Common Services within the Development pursuant to this Easement. The In Gross Easement may not and shall not be impaired, limited, lessened or transferred, sold or granted, in any fashion by Grantor or its grantees, licensees, lessees, franchisees, successors or assigns. Grantor hereby relinquishes and is prohibited from, without limitation, granting any rights, permits, licenses, rights-of-way or easements over the In Gross Easement Area to any Person, directly or indirectly, or through an intermediary or series of intermediaries or third parties, which would permit or otherwise allow the establishment of any Common Services or Facilities for Common Services on, over, under or across the In Gross Easement Area (collectively, "Prohibited In Gross Easement Transfers"). The Grantor and its grantees, licensees, lessees, franchisees, successors and assigns shall be divested of any and all authority to declare, create, transfer, assign, grant or otherwise convey any Prohibited In Gross Easement Transfers, except as provided in **Section 2.08**, **Section 2.09** and **Section 2.10** hereof. The In Gross Easement is intended, and shall, "run with the land" and be binding upon the Grantor and its grantees, licensees, lessees, franchisees, successors, and assigns, including, without limitation, any Owner, the Association and their heirs,

executors, administrators, legal representatives, grantees, licensees, lessees, franchisees, successors and assigns. Any title or interest in the In Gross Easement Area shall reflect this In Gross Easement.

Section 2.02. Grant of Service Easement. Grantor hereby declares, creates, transfers, assigns, grants and conveys unto Grantee, its grantees, licensees, lessees, franchisees, successors and assigns, an exclusive and perpetual right, privilege and easement over, upon, under and across the Service Easement Area (a) to construct, lay, install, own, operate, lease, license, franchise, allocate, assign, modify, alter, supplement, inspect, maintain, repair, reconstruct, replace, remove, relocate, expand or otherwise service in the Service Easement Area any and all necessary or desirable Facilities of any type used to provide or make available any Common Services within the Development, (b) to excavate and perform any necessary or desirable work upon and under the surface of the Service Easement Area as and when required to make available Common Services or service the Facilities in the Development, and (c) to create and provide ingress and egress to and from the Service Easement Area at any time (collectively, (a), (b) and (c) shall constitute the "Service Easement"). The Service Easement is intended, and shall be, for the exclusive private and personal benefit of Grantee and its grantees, licensees, lessees, franchisees, successors and assigns who have been identified by and contracted with the Grantee to provide Common Services within the Development pursuant to this Easement. Grantor covenants and agrees that no barriers or competing Facilities or other obstructions, permanent or temporary, of any form shall be placed or erected or permitted within the Service Easement Area so as to impair or lessen or compromise, in any fashion, directly or indirectly, Grantee's exclusive and perpetual easement and private right to exclusively and perpetually identify, or contract with, third parties that shall own and operate Facilities on, over, under and across the Service Easement Area to provide Common Services within the Development, in Grantee's sole and absolute discretion. The Service Easement is intended, and shall be, for the exclusive, private and personal benefit of the Grantee and its grantees, licensees, lessees, franchisees, successors and assigns who have been identified by and contracted with the Grantee to provide Common Services within the Development pursuant to this Easement. The Service Easement may not and shall not be further impaired, limited, lessened or transferred, sold or granted, in any fashion, directly or indirectly, by Grantor or its grantees, licensees, lessees, franchisees, successors or assigns. Grantor and its grantees, licensees, lessees, franchisees, successors or assigns hereby relinquish and are prohibited from, without limitation, granting rights, permits, licenses, rights-of-way and easements over the Service Easement Area to any Person, directly or indirectly, or through an intermediary or series of intermediaries or third party(s), which would permit the establishment of any Common Services or Facilities for Common Services on, over, under or across the Service Easement Area (collectively "Prohibited Service Easement Transfers"). The Grantor and its grantees, licensees, lessees, franchisees, successors or assigns shall be divested of any and all authority to declare, create, transfer, assign, grant or convey any Prohibited Service Easement Transfers, except as provided in Section 2.08, Section 2.09 and Section 2.10 hereof. The Service Easement is intended, and shall, "run with the land" and be binding upon the Grantor and its grantees, licensees, lessees, franchisees, successors, and assigns, including, without limitation, any Owner, the Association and their heirs, executors, administrators, legal representatives, grantees, licensees, lessees, franchisees, mortgagees, successors and assigns. Any title or interest in the Service Easement Area shall reflect this Service Easement.

Section 2.03. Use of Easement. The Combined Easement shall be for the private, personal, exclusive and perpetual use and benefit of Grantee and its grantees, licensees, lessees, franchisees, successors and assigns who have been identified and contracted with Grantee to own, install, repair, relocate, expand, or otherwise service the Facilities used by Common Service Providers in providing Common Services to the Development in accordance with this Easement. Grantor agrees and stipulates that, due to the private, personal and exclusive nature of the grant conveyed in this Easement, no other Common Services use of the Combined Easement Area shall be made by any Person, including Grantor and its grantees, licensees, lessees, franchisees, successors or assigns.

Section 2.04. Owner and Association Improvements. The Owners and their successors in interest, shall be entitled to place such temporary or permanent barriers or other permanent obstructions and structures within the Owner Improvement Area as the Owner desires, from time to time, except as prohibited by this Easement and the Declarations. The Association and its successors in interest shall be entitled to construct or otherwise erect barriers or other temporary or permanent obstructions or structures in the Common Areas (as defined in the Declarations), except as prohibited by this Easement and the Declarations. No barriers or other temporary or permanent obstructions or structures shall be placed by the Owners or the Association in the Service Easement Area.

CONFIDENTIAL

C01658
CONFIDENTIAL

81 days to open
December - TV leadre buys

11/27/03

* When advertising CDC - make sure language does not separate out other CDC communities

* Get w/Brian about tomorrow's meeting w/Surbelt

- Early summary for training the Trilogy sales group.

- all 3 services on move-in / Sales rep (builder) takes the order and sends to Cox so homebuyer doesn't have to. Cox to follow up after the fact.

Bob Williams
General Sales
Manager

623/928 will need to be noted in COMS so the person taking order knows.

Ask Mark D. Nunzio about doing 623 in 928 and getting hand slapped later.

CONFIDENTIAL

C01784
CONFIDENTIAL

From: Drake, Paul (CCI-Phoenix)
Sent: Tuesday, March 11, 2003 5:39 PM
To: Sjostrom, Dan (CCI-Phoenix)
Cc: Arthurs, Tisha (CCI-Phoenix)
Subject: FW: Cox Agreements

Importance: High

Attachments: AGM_COX_4_cox_res_finaldraft (03-10-03).doc; AGM_cox_comm_3
finaldraft (03-10-03).DOC; DVComparison_AGM_COX_2_cox_res_finaldraft CLEAN
(1-28-03)-AGM_COX_4_cox_res_finaldraft (03-10-03).doc;
DVComparison_AGM_cox_comm_1_finaldraft (1-21-03)-AGM_cox_comm_3
finaldraft (03-10-03).doc; LIC_JM_3 Non-ExclusiveLicenseAgreement(Vistancia)-Commercial
(03-04-03).doc; LIC_JM_3 Non-ExclusiveLicenseAgreement(Vistancia)-Residential
(03-04-03).doc


AGM_COX_4 AGM_cox_comm_3 DVComparison_AG DVComparison_AG LIC_JM_3 LIC_JM_3
cox_res_finaldraft .. finaldraft (03-... M_COX_2 cox_res..M_cox_comm_1 fi...m-ExclusiveLicenseAn-ExclusiveLicenseA
Dan,

Here they are. Will need your review fairly soon so we can wrap up. Legal has them to view the language. need you to review the terms of the \$3 million to be sure we are ok with what they are proposing.

Any questions, let us know.....

Paul Drake
Business Development
Cox Business Services
(623) 322-7802

-----Original Message-----

From: Mark Hammons [mailto:mhammons@sunbeltholdings.com]
Sent: Tuesday, March 11, 2003 1:30 PM
To: Drake, Paul (CCI-Phoenix); Arthurs, Tisha (CCI-Phoenix)
Cc: Curt Smith
Subject: FW: Cox Agreements

At long last...here are the residential and commercial agreements for Vistancia as well as the license agreement for your review. Please let me know if you would like to sit down with Curt and I to review.

Thanks

Mark

> -----Original Message-----

> **From:** Curt Smith
> **Sent:** Tuesday, March 11, 2003 7:45 AM
> **To:** Mark Hammons
> **Subject:** Cox Agreements

> Here are the latest versions. Included are redlines of the Residential and Commercial agreements and clean license agreements.

> > <<AGM_COX_4_cox_res_finaldraft (03-10-03).doc>> > > <<AGM_cox_comm_3
finaldraft (03-10-03).DOC>> > > <<DVComparison_AGM_COX_2_cox_res_finaldraft CLEAN

CONFIDENTIAL

C01951
CONFIDENTIAL

From: Trickey, Linda (CCI-Atlanta)
Sent: Wednesday, October 01, 2003 10:37 AM
To: 'Les J. Storey'
Subject: RE: Vistancia

Les J,

I am going to have to call you tomorrow or Friday. I have to travel to Missouri today to assist my sister who is going through her first round of chemo. Are there any times on Thursday or Friday that you know will not work for you?

Also, I had not heard about the rearranging. What is the reason for it? Thanks.

Linda

-----Original Message-----

From: Les J. Storey [mailto:lstorey@sbplc.com]
Sent: Monday, September 29, 2003 3:47 PM
To: Trickey, Linda (CCI-Atlanta)
Subject: RE: Vistancia

That time would work for me--I'll assume you will call me (my direct line is 602-522-0202). Also, have you heard from Curt Smith within the last week or so regarding the rearranging he wants to do (essentially putting the provisions regarding Cox payment of fees in the Non-Exclusive License being granted under the CSER, rather than having those provisions appear in the Co-Marketing Agreement and Property Access Agreement)? If Curt hasn't contacted you about that yet, I can walk you through it when we speak on Wednesday.

Les J. Storey
Storey & Burnham PLC
3030 E. Camelback Road
Suite 265
Phoenix, AZ 85016
Main Line: (602) 468-0111
Direct Line: (602) 522-0202
Fax Line: (602) 468-1335
email: lstorey@sbplc.com

-----Original Message-----

From: Trickey, Linda (CCI-Atlanta) [mailto:Linda.Trickey@cox.com]
Sent: Friday, September 26, 2003 12:15 PM
To: lstorey@sbplc.com
Subject: Vistancia

Les J,

I think we are close to executing the additional documents for Vistancia, but I wanted to spend some time with you to make sure I have a comfort level as to where we are. Do you have some availability next week, specifically Wednesday, to go over the CSER, etc. ? My preference is 12:00 noon ET, which I believe is 9:00 a.m. your time.

I look forward to hearing from you. Thanks.

Regards,

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From: Curt Smith (csmith@sunbeltholdings.com)
Sent: Friday, October 03, 2003 11:57 AM
To: Christie, Tisha (CCI-Phoenix)
Subject: FW: Revised Agreements

Attachments: DVComparison_LIC_JM_7 Non-ExclusiveLicenseAgreement(Vistancia telecom)-Commercial clean (06-27-03)-LIC_JM_8 Non-ExclusiveLicenseAgreement(Vistancia telecom)-Commercial clean (09-25-03).doc; DVComparison_LIC_JM_8 Non-ExclusiveLicenseAgreement(Vistancia telecom)-Residential clean (06-27-03)-LIC_JM_9 Non-ExclusiveLicenseAgreement(Vistancia telecom)-Residential clean (09-25-03).doc; DVComparison_AGM_cox_comm_5 Vistancia commercial final redline (04-04-03)-AGM_cox_comm_6 Vistancia commercial amd restated (09-25-03)1.doc; DVComparison_AGM_COX_6 Vistancia residential final redline (04-04-03)-AGM_COX_7 Vistancia residential amd restated (09-25-03).doc



DVComparison_LIC DVComparison_LIC DVComparison_AG DVComparison_AG
_JM_7 Non-Excl... _JM_8 Non-Excl... _M_COX_comm_5 Vi...M_COX_6 Vistanc...

> -----Original Message-----

> From: Curt Smith
> Sent: Friday, October 03, 2003 7:29 AM
> To: Tisha Arthurs (E-mail); Mary Kelley (E-mail)
> Cc: Mark Hammons
> Subject: Revised Agreements

> Attached are revised copies of the Marketing and License Agreements for Vistancia. These move all financial payments from Cox to the License Agreements. Please review these and let me know if the changes are acceptable. We really need to get these done ASAP.
> Thanks for you help.

> > <<DVComparison_LIC_JM_7 Non-ExclusiveLicenseAgreement(Vistancia telecom)-Commercial clean (06-27-03)-LIC_JM_8 Non-ExclusiveLicenseAgreement(Vistancia telecom)-Commercial clean (09-25-03).doc>> > > <<DVComparison_LIC_JM_8 Non-ExclusiveLicenseAgreement(Vistancia telecom)-Residential clean (06-27-03)-LIC_JM_9 Non-ExclusiveLicenseAgreement(Vistancia telecom)-Residential clean (09-25-03).doc>> > > <<DVComparison_AGM_cox_comm_5 Vistancia commercial final redline (04-04-03)-AGM_cox_comm_6 Vistancia commercial amd restated (09-25-03)1.doc>> > > <<DVComparison_AGM_COX_6 Vistancia residential final redline (04-04-03)-AGM_COX_7 Vistancia residential amd restated (09-25-03).doc>>

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