

CITY OF MASON

201 West Ash St.
Mason, MI 48854-0370

City Hall 517-676-9155
Fax 517-676-1330

CITY COUNCIL MEETING - COUNCIL CHAMBER

Monday, August 11, 2014

7:30 p.m.

AGENDA

1. Call to Order
2. Roll Call
3. Pledge of Allegiance and Invocation
4. Announcements
5. People from the Floor
6. Consent Agenda
 - A. Approval of Minutes
 - Regular Council Meeting: July 21, 2014
 - B. Approval of Bills
7. Regular Business
 - A. Resolution 2014-40—A Resolution Approving Uniform Video Franchise Agreement Submitted by Michigan Bell Telephone Company D/B/A AT&T Michigan
 - B. Resolution 2014-41—A Resolution Accepting Michigan Strategic Fund Community Development Block Grant (CDBG) Number MSC 213004-ESB as Provided Through the Michigan Economic Development Corporation (MEDC) for 124 and 140 East Ash Street, Mason, Michigan
 - C. Resolution 2014-42—Performance Resolution for Governmental Agencies
 - D. Motion – Mason Library Flat Roof Repair
 - E. Motion – 972 N. Mason St. – Asbestos Abatement Services
8. Unfinished Business
9. New Business
10. Correspondence
11. Liaison Reports
12. Councilmember Reports
13. Administrator's Report
 - Primary Results, August 5, 2014 Election
14. Adjournment

**CITY OF MASON
REGULAR CITY COUNCIL MEETING
MINUTES OF JULY 21, 2014**

Mayor Clark called the meeting to order at 7:31p.m. in the Council Chambers at 201 W. Ash Street, Mason, Michigan. Naeyaert led the Pledge of Allegiance and offered the invocation.

Present: Councilmembers: Brown, Bruno, Clark, Droscha, Ferris, Mulvany, Naeyaert
Absent: Councilmember: None
Also present: John Stressman, Chief of Police/Acting City Administrator
Deborah J. Cwierniewicz, City Clerk
Eric Smith, Finance Director/Treasurer
Ken Baker, DPW Superintendent
Kathy Revels, Human Resource Coordinator
Dennis McGinty, City Attorney
Michael Kluck, City Labor Attorney

ANNOUNCEMENTS

None.

PEOPLE FROM THE FLOOR

Jerry Collie, Representative of Local Union 1390 - City of Mason Employees, stated that he and Jeff Rewerts, City of Mason employee/Union 1390 Representative, were present to comment regarding City Council Resolution No. 2014-35 - Resolution for Changing MERS Benefits. Handouts were provided to Council: City Council Resolution No. 97-43, dated October 20, 1997, City Council Resolution No. 98-3, dated February 2, 1998, IV. Employer Contributions and Funded Status – Table 10, and a letter from the Chapter Chairperson to the City Administrator, and then from the City Administrator to the City Council, dated October 17, 1997. Rewerts commented that City Council Resolution No. 97-43, states that the employment classification, General – Union (01) AFSCME, would pay the cost difference to change from MERS Benefit Plan B-2, F55-15, to B-3, F55-15. Following the 1997 contract, the city paid the difference every year until October of 2010. At that time, Union (01) AFSCME employees were required to pay the difference and have been paying it to date. Mr. Rewerts cited benefit percentage rates from the MERS Actuarial Summary Report.

Presentation—DPW Superintendent Ken Baker - 2013 Water Quality Report

Baker gave a brief overview of the State mandated Water Quality Report for 2013. Discussion ensued regarding various details of the report.

CONSENT AGENDA

MOTION by Droscha, second by Brown,
to approve the Consent Agenda as follows:
A. Approval of Minutes - Regular Council Meeting: July 7, 2014
B. Approval of Bills - \$92,252.61
MOTION APPROVED UNANIMOUSLY

REGULAR BUSINESS

Resolution 2014-37—Support for Proposal 1

MOTION by Naeyaert, second by Brown,
to consider Resolution No. 2014-37 read.
MOTION APPROVED UNANIMOUSLY

Resolution No. 2014-37 was introduced by Naeyaert and seconded by Brown.

A brief discussion ensued regarding Proposal 1.

**CITY OF MASON
CITY COUNCIL RESOLUTION NO. 2014-37
SUPPORT FOR PROPOSAL 1
July 21, 2014**

WHEREAS, the City of Mason, as have other local governments in Michigan, has struggled with unstable funding necessary to provide needed service; and

WHEREAS, Michigan businesses have struggled with an uncompetitive tax on business; and

WHEREAS, small businesses and manufacturers power our economy and are the largest contributor of job growth in Michigan; and

WHEREAS, no other state in our region taxes businesses the way Michigan does, most of which don't tax at all, making Michigan significantly less competitive in job creation and business investment; and

WHEREAS, Michigan communities have struggled with diminishing revenues for years to pay for essential services like police, fire, emergency medical, jails, schools; and

WHEREAS, Michigan communities have relied on the shrinking resource of Personal Property Tax revenue to provide other community services as well, including roads, transportation, libraries and parks; and

WHEREAS, a bi-partisan Michigan Legislature has voted to reform the antiquated Personal Property Tax to increase Michigan's competitiveness with other states by eliminating an onerous tax, thereby allowing more business investment and more jobs created by providing a stable revenue source for local communities; and

WHEREAS, Proposal 1 is not a Constitutional Amendment, but the Constitution of the State of Michigan requires voters approve certain changes in local taxes; and

WHEREAS, local governments, with unstable funding needed to provide service, as well as businesses, have struggled with an uncompetitive tax for years; and

WHEREAS, Proposal 1 on the August 5, 2014 ballot, will make Michigan more competitive, helping Michigan communities attract more business and talent and create local jobs; and

WHEREAS, Proposal 1 is supported by the Michigan Municipal League, the Michigan Townships Association, the Michigan Association of Chiefs of Police, the Michigan Association of Police, the Michigan Community College Association, Michigan Farm Bureau, the Small Business Association of Michigan, the Michigan Sheriffs' Association, the Michigan Chamber of Commerce, the National Association of Independent Businesses and the Michigan Manufactures Association, among others; now

THEREFORE BE IT RESOLVED, that the City Council of the City of Mason, Michigan hereby expresses its strong support for Proposal 1 to eliminate the unfair double tax, strengthen our communities, and urge the residents of Mason to vote YES on Proposal 1 on the August 5, 2014 ballot.

Yes (5) Brown, Clark, Droscha, Ferris, Naeyaert
No (2) Bruno, Mulvany

RESOLUTION APPROVED

Resolution 2014-38—Resolution Declaring Ingham County Fair Non-Profit Organization

MOTION by Naeyaert, second by Droscha,
to consider Resolution No. 2014-38 read.

MOTION APPROVED

Resolution No. 2014-38 was introduced by Naeyaert and seconded by Droscha.



State of Michigan
Michigan Gaming Control Board
Richard C. Husted, Director
100 West 10000
Lansing, MI 48240
Phone: (313) 462-4840
Fax: (313) 462-4825
Email: rchusted@mgcib.com
www.mgcb.com

CITY OF MASON
CITY COUNCIL RESOLUTION NO. 2014-29

A RESOLUTION RECOGNIZING THE "SUN DRIED MUSIC FESTIVAL, INC." A NON-PROFIT ORGANIZATION IN THE CITY OF MASON

June 2, 2014

LOCAL GOVERNING BODY RESOLUTION FOR CHARITABLE GAMING LICENSES
(Revised by MCL 482.102(2)(f))

At a Regular meeting of the City of Mason
called to order by Leon Clark on 6-2-2014
at 7:30 a.m./p.m. the following resolution was offered:

Moved by Malvany and supported by Farris
that the request from Sundried Music Festival of Mason
county of Ingham, asking that they be recognized as a
nonprofit organization operating in the community for the purpose of obtaining charitable
gaming licenses, be considered for Approval

APPROVAL	DISAPPROVAL
Yes: <u>(7)</u>	Yes: _____
Nays: <u>(0)</u>	Nays: _____
Absent: <u>(0)</u>	Absent: _____

I hereby certify that the foregoing is a true and complete copy of a resolution offered and
accepted by the City of Mason at a Regular
meeting held on 6-2-2014

SIGNED: Deborah Cwierneiwick
Deborah Cwierneiwick, City Clerk
201 W. Ash st., Mason, MI 48854

Authority: MCL 482.102 of the Public Act of 1972, as amended
MSL 2013 SP 0230(2) (Rev. 02-13)

RESOLUTION APPROVED

Resolution 2014-39—A Resolution Approving "Making Mason Memories" as Theme Song for the Sesquicentennial Celebration

MOTION by Droscha, second by Brown,
to consider Resolution No. 2014-39 read.

MOTION APPROVED

Resolution No. 2014-39 was introduced by Brown and seconded by Droscha.

Discussion was held whether there should have been an opportunity for persons other than those on the Sesquicentennial Steering Committee to submit a sesquicentennial theme song for consideration.

CITY OF MASON
CITY COUNCIL RESOLUTION NO. 2014-39
RESOLUTION APPROVING "MAKING MASON MEMORIES"
AS THEME SONG FOR SESQUICENTENNIAL CELEBRATION
July 21, 2014

WHEREAS, the City of Mason Sesquicentennial Steering Committee was established to coordinate, plan and facilitate a yearlong sesquicentennial celebration to commemorate the City's past, present and future; and

WHEREAS, the intent is to increase civic pride, honor our history, stimulate the local economy and help focus on the future as we salute our past; and

WHEREAS, the Steering Committee has organized official events and opportunities to celebrate within the community, sharing the official logo with all organizations to help define and celebrate this time; and

WHEREAS, the Steering Committee, worked with the cooperation of songwriter Dewey Longuski to create the theme song for the Mason Sesquicentennial, "Making Mason Memories;" and

WHEREAS, the Steering Committee did vote and unanimously choose Longuski's song, "Making Mason Memories" as the theme song for the sesquicentennial celebration.

NOW THEREFORE BE IT RESOLVED, that the Mason City Council does hereby recognize Dewey Longuski's song, "Making Mason Memories" as the official theme song for the Mason Sesquicentennial celebration.

Yes (5) Brown, Droscha, Ferris, Mulvany, Naeyaert
No (2) Bruno, Clark

RESOLUTION APPROVED

Motion—Street Closure Request for Maple Street – The Andy Minshall/Heather Allen Leukemia Fund

Ms. Christine Ramon submitted a request to close Maple Street from QD's driveway to Jefferson Street on July 27, 2014, from 11:00 a.m. – 2:00 p.m. to hold a fundraiser for the Andy Minshall/Heather Allen Leukemia Fund.

MOTION by Naeyaert, second by Droscha,
to approve the street closure request by Christine Ramon, Director of The Leuko Freaks, for Maple Street between Quality Dairy's driveway and Jefferson Street on July 27, 2014, from 11:00 a.m. – 2:00 p.m. to hold a fundraiser for the Andy Minshall/Heather Allen Leukemia Fund.

MOTION APPROVED

UNFINISHED BUSINESS

Council inquired about the City Council DVD of May 19, 2014. Cwierniewicz informed Council that a recovery specialist has been contacted; although it appears unlikely that recovery of the disk will be successful, efforts continue.

NEW BUSINESS

Council inquired about the following matter:

- The bike race that was held last Saturday traveled through downtown, specifically on Maple Street and through the Farmers Market. Stressman stated that there was no bike race request filed for Saturday, July 19, 2014. Farmers Market Director Elaine Ferris stated that the bike race organizer had confirmed the route with her prior to the race, but forgot to change the route given to the racers.

CORRESPONDENCE

All correspondence was distributed.

LIAISON REPORTS

Naeyaert informed Council regarding Planning Commission business.

COUNCILMEMBER REPORTS

No report at this time.

ADMINISTRATOR'S REPORT

Stressman informed the Commission regarding current City business.

EXECUTIVE SESSION

Attorney Client Privileged Communication Dated July 13, 2012

MOTION by Droscha,
to adjourn to executive session to discuss an attorney/client privileged communication dated July 21, 2012.

Yes (7) Brown, Bruno, Droscha, Ferris, Mulvany, Naeyaert, Clark

No (0)

MOTION APPROVED

The meeting adjourned to executive session at 8:16 p.m. and reconvened at 9:24 p.m.

Resolution 2014-35—Resolution for Changing MERS Benefits

MOTION by Naeyaert, second by Droscha,
to consider Resolution No. 2014-35 read.

MOTION APPROVED

Resolution No. 2014-35 was introduced by Mulvany and seconded by Ferris.

MOTION by Naeyaert, second by Droscha,
to take a brief recess.

Yes (6) Brown, Bruno, Droscha, Ferris, Naeyaert, Clark

No (1) Mulvany

MOTION APPROVED

A brief recess was taken at 9:26 p.m. and the meeting reconvened at 9:39 p.m. Mayor Clark requested a roll call vote for Resolution No. 2014-35.

Yes (3) Brown, Ferris, Mulvany

No (4) Bruno, Droscha, Naeyaert, Clark

MOTION FAILED

ADJOURNMENT

The meeting adjourned at 9:40 p.m.

Deborah J. Cwierniewicz, City Clerk

Leon R. Clark, Mayor

08/08/2014 09:35 AM
User: JJ
DB: Mason City

INVOICE APPROVAL BY INVOICE REPORT FOR CITY OF MASON
EXP CHECK RUN DATES 07/23/2014 - 08/12/2014
BOTH JOURNALIZED AND UNJOURNALIZED
BOTH OPEN AND PAID
COUNCIL APPROVAL REPORT
AUGUST 11, 2014

Vendor Code Invoice GL Number	Vendor Name Invoice Description GL Description	Invoice Date	Amount
08012	ANDERSON SERVICE		
90962 592-000.00-202.001	INSTALL REMOTE CONDENSER UNIT FOR DEHUMIDIFIER INSTALL REMOTE CONDENSER UNIT DEHUMIDIFI	08/07/2014	5,123.00
		VENDOR TOTAL:	5,123.00
07234	ARGUS-HAZCO		
5003380 101-000.00-202.001	REPAIR 3 SCBA PACKS & SHIPPING REPAIR 3 SCBA PACKS/SHIPPING	08/07/2014	5,633.64
		VENDOR TOTAL:	5,633.64
06474	CONSUMERS ENERGY		
AUG 2014 592-559.00-920.000	ELECTRICITY 6/20 - 7/21 ELECTRICITY 6/20 - 7/21	08/01/2014	9,376.86
AUG-14 101-448.00-926.000	ELECTRIC 7/1-7/31/14 ELECTRIC 7/1-7/31/14	08/07/2014	7,136.48
AUG-14 592-555.00-920.000	ELECTRIC 6/24-7/23/14 ELECTRIC 6/24-7/23/14	08/07/2014	10,330.03
		VENDOR TOTAL:	26,843.37
08031	ED BIRKMEIJER WELL DRILLING LTD		
8858 592-558.00-970.017 592-558.00-970.017	WELL #8 DRILL OUT WELL/SET STEEL CASING WELL #8-DRILL OUT TO 400 FEET WELL #8 - SET STEEL CASING/PVC SCREEN	08/07/2014	5,000.00 13,593.55 18,593.55
		VENDOR TOTAL:	18,593.55
05016	GRANGER		
JULY-14 101-528.00-818.000	2293 - JULY REFUSE CUSTOMERS 2293 - JULY REFUSE CUSTOMERS	08/07/2014	27,676.51
		VENDOR TOTAL:	27,676.51
05050	LANSING ICE & FUEL		
1421201 661-568.00-731.000	1996.2 GALLONS FUEL JULY DPW JULY 2014 DPW, 1996.2 GALLONS FUEL	08/05/2014	5,957.65
		VENDOR TOTAL:	5,957.65
07569	MICHIGAN METER TECHNOLOGY GROUP		
92297 592-556.00-970.000	HH ARB METER READER HH ARB METER READER	08/07/2014	5,593.00
		VENDOR TOTAL:	5,593.00
06480	MICHIGAN MUNICIPAL RISK		
M0001051 101-272.00-910.000	1ST INSTALLMENT GENERAL FUND CONTRIBUTION 1ST INSTALLMENT GENERAL FUND CONTRIBUTIO	08/07/2014	44,323.00

08/08/2014 09:35 AM
User: JJ
DB: Mason City

INVOICE APPROVAL BY INVOICE REPORT FOR CITY OF MASON
EXP CHECK RUN DATES 07/23/2014 - 08/12/2014
BOTH JOURNALIZED AND UNJOURNALIZED
BOTH OPEN AND PAID
COUNCIL APPROVAL REPORT
AUGUST 11, 2014

Vendor Code	Vendor Name	Invoice Date	
Invoice	Invoice Description		
GL Number	GL Description		Amount
R0001051	1ST INSTALLMENT RETENTION FUND CONTRIBUTION	08/07/2014	
101-272.00-910.000	1ST INSTALLMENT RETENTION FUND CONTRIBUT		7,500.00
VENDOR TOTAL:			51,823.00
TOTAL - ALL VENDORS:			147,243.72

I hereby certify that I have reviewed the above bills and expenses and to the best of my knowledge and belief, they cover expenditures of City services and materials and are within current budget appropriations.



Martin A. Colburn
City Administrator

CITY OF MASON

STAFF AGENDA REPORT TO CITY COUNCIL

Meeting Date: August 11, 2014

Agenda Item: 7 (A)

AGENDA ITEM

Resolution 2014-40 – A Resolution Approving Uniform Video Franchise Agreement Submitted by Michigan Bell Company D/B/A AT&T Michigan

EXHIBITS

- Cable Franchise Agreement
- Letter of Request from AT&T dated July 8, 2014
- Memorandum to City Council from City Attorney Dennis McGinty dated July 28, 2014

STAFF REVIEW

City Clerk

SUMMARY STATEMENT

On July 10, 2014, a proposed cable television franchise agreement to do business in the City of Mason was received from AT&T. The agreement was forwarded to the City Attorney for review.

City Attorney McGinty elaborates in paragraph four of his July 28, 2014 memorandum to Council that the City may not charge more for franchise fees or peg fees than that being paid by the incumbent provider, which is 3.5% for franchise fees and 0% for peg fees. Therefore, on page four and page six of the agreement, these appropriate percentages have been entered.

A letter was mailed to the applicant on July 12, 2014, informing them that their application is complete.

RECOMMENDED ACTION

Approve Resolution 2014-40.

Introduced:

Second:

**CITY OF MASON
CITY COUNCIL RESOLUTION NO. 2014-40**

**A RESOLUTION APPROVING UNIFORM VIDEO FRANCHISE AGREEMENT
SUBMITTED BY MICHIGAN BELL TELEPHONE COMPANY D/B/A AT&T MICHIGAN**

August 11, 2014

WHEREAS, the Uniform Video Services Local Franchise Act, 2006 PA 480 ("Act 480"), adopted by the Michigan legislature effective January 1, 2007, required the Michigan Public Service Commission to issue an order establishing a standardized form for the uniform video services local franchise agreement to use by all franchising entities in Michigan; and

WHEREAS, on July 10, 2014, the Mason City Clerk received an application from Michigan Bell Telephone Company d/b/a AT&T Michigan, dated July 8, 2014, submitting a proposed Uniform Video Service Local Franchise Agreement to the City Clerk in the form published by the MPSC; and

WHEREAS, the City Clerk, upon the advice and recommendation of the City Attorney, has advised the applicant that the proposed franchise agreement is complete in the form required by Act 480 and the uniform franchise published by the MPSC; and

WHEREAS, the submitted franchise leaves the amount of the local franchise fee to be paid pursuant to paragraph VI - Fees, subparagraph A(ii) of the proposed franchise agreement to be an amount as established by the City as franchise entity and leaves the amount of local gross revenues to be paid as support for PEG pursuant to paragraph VIII, subparagraph A-2 of the proposed franchise agreement to be an amount as established by the City as the franchise entity; and

WHEREAS, subsection 6(1)(a) of Act 480 stipulates that a video service provider shall pay to the franchising entity an annual video service provider fee in an amount equal to the percentage of gross revenues paid to the franchising entity by the incumbent video provider with the largest number of subscribers; and

WHEREAS, the Mason City Council, by City Council Resolution No. 2007-35, adopted June 18, 2007, received and placed on file a Uniform Video Service Local Franchise Agreement with Millennium Digital Media Systems, LLC, a Delaware corporation, which provided an annual video service provider fee to be paid to the City of Mason at paragraph VI, subparagraphs A(ii) thereof in the amount of 3.5% of gross revenues and PEG fees to the City of Mason as support for the cost of PEG access facilities and services at paragraph VI, subparagraphs A(ii) thereof in the amount of 0%; and

WHEREAS, the Uniform Video Service Local Franchise Agreement with Millennium Digital Media Systems, LLC, was subsequently transferred to WideOpenWest, d/b/a WOW, pursuant to a purchase and sale agreement dated August 16, 2011, pursuant to notice of transfer filed with the City dated January 9, 2012, which company remains the incumbent video service provider in the city of Mason with the largest number of subscribers; and

WHEREAS, subsection 6(8) of Act 480 allows the franchising entity to establish a fee to be paid for PEG services in the community in an amount not to exceed the fees currently paid by the incumbent provider, not to exceed 2% of gross revenues; and

WHEREAS, pursuant to paragraph II of the Uniform Video Local Service Franchise Agreement, subsection (M), if the provider is not an incumbent video provider, the provider must note in Attachment 1 to its proposed Uniform Video Local Service Franchise Agreement, the date on which the provider expects to provide video services in the area identified under section 2(3)(e) of the Act as the City of Mason Video Service Area; and

WHEREAS, the submitted franchise includes Attachment 1 to the proposed agreement which includes confidential Attachments A and B, respectively, the “video service area footprint” and the date on which AT&T expects to begin to provide video services in the video service area, which information has been designated as trade secrets and commercial or financial information which must be kept confidential pursuant to section 11 of Act 480 and order of the Michigan Public Service Commission.

NOW, THEREFORE, BE IT RESOLVED that:

1. The Uniform Video Service Local Franchise Agreement filed with the Clerk on July 10, 2014, by Michigan Bell Telephone Company d/b/a AT&T Michigan, is hereby received and placed on file.
2. Paragraph VI - Fees - on page 4 of the submitted franchise agreement shall be completed by inserting “3.5%” at subparagraph A(ii), which number shall be the percentage of gross revenues to be paid by the provider to the City of Mason during the term of the franchise agreement and that page 4 attached hereto shall be substituted for page 4 of the submitted agreement.
3. Paragraph VIII - PEG Fees - on page 6 of the submitted franchise agreement, shall be completed by inserting 0.0% as the percentage of gross revenues to be paid as support for the cost of PEG access facilities on services. Page 6 attached hereto shall be substituted for page 6 of the submitted agreement.
4. The City Administrator shall transmit to Michigan Bell Telephone Company, d/b/a AT&T Michigan, a copy of this resolution and the completed pages 4 and 6 of the franchise agreement.

5. The City Administrator is authorized to execute page 9 of the Video Service Franchise Agreement and page 2 of Attachment 1 to the franchise agreement on behalf of the City of Mason and deliver executed copies to the provider.

6. The City Clerk shall protect the designated confidential information submitted by AT&T as contained in Exhibits A and B to Attachment 1 of the agreement from public disclosure and shall exempt such information from any response to a FOIA request and make the information available only to and for the use of city officials as are necessary to approve the franchise agreement or perform any other task for which the information is submitted, except as otherwise required by law.

Yes

No

CLERKS CERTIFICATION: I hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the Mason City Council at a public meeting held on Monday, August 11, 2014, the original of which is part of the Council's minutes.

Deborah J. Cwierniewicz, City Clerk
City of Mason
Ingham County, Michigan

Drafted by and approved as to form:

Dennis E. McGinty (P17407)
Mason City Attorney
601 Abbot Road, PO Box 2502
East Lansing, MI 48826-2502

UNIFORM VIDEO SERVICE LOCAL FRANCHISE AGREEMENT

THIS UNIFORM VIDEO SERVICE LOCAL FRANCHISE AGREEMENT ("Agreement") is made, pursuant to 2006 PA 480, MCL 484.3301 *et seq.*, (the "Act") by and between the City of Mason, a Michigan municipal corporation (the "Franchising Entity"), and Michigan Bell Telephone Company, a Michigan corporation doing business as AT&T Michigan.

I. Definitions

For purposes of this Agreement, the following terms shall have the following meanings as defined in the Act:

- A. "Cable Operator" means that term as defined in 47 USC 522(5).
- B. "Cable Service" means that term as defined in 47 USC 522(6).
- C. "Cable System" means that term as defined in 47 USC 522(7).
- D. "Commission" means the Michigan Public Service Commission.
- E. "Franchising Entity" means the local unit of government in which a provider offers video services through a franchise.
- F. "FCC" means the Federal Communications Commission.
- G. "Gross Revenue" means that term as described in Section 6(4) of the Act and in Section VI(D) of the Agreement.
- H. "Household" means a house, an apartment, a mobile home, or any other structure or part of a structure intended for residential occupancy as separate living quarters.
- I. "Incumbent video provider" means a cable operator serving cable subscribers or a telecommunication provider providing video services through the provider's existing telephone exchange boundaries in a particular franchise area within a local unit of government on the effective date of this act.
- J. "IPTV" means internet protocol television.
- K. "Local unit of government" means a city, village, or township.
- L. "Low-income household" means a household with an average annual household income of less than \$35,000.00 as determined by the most recent decennial census.
- M. "METRO Act" means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, 2002 PA 48, MCL 484.3101 *et seq.*
- N. "Open video system" or "OVS" means that term as defined in 47 USC 573.
- O. "Person" means an individual, corporation, association, partnership, governmental entity, or any other legal entity.
- P. "Public rights-of-way" means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easements dedicated for compatible uses.
- Q. "Term" means the period of time provided for in Section V of this Agreement.
- R. "Uniform video service local franchise agreement" or "franchise agreement" means the franchise agreement required under the Act to be the operating agreement between each franchising entity and video provider in this state.
- S. "Video programming" means that term as defined in 47 USC 522(20).
- T. "Video service" means video programming, cable services, IPTV, or OVS provided through facilities located at least in part in the public rights-of-way without regard to delivery technology, including internet protocol technology. This definition does not include any video programming provided by a commercial mobile service provider defined in 47 USC 332(d) or provided solely as part of, and via, a service that enables users to access content, information, electronic mail, or other services offered over the public internet.
- U. "Video service provider" or "Provider" means a person authorized under the Act to provide video service.
- V. "Video service provider fee" means the amount paid by a video service provider or incumbent video provider under Section 6 of the Act and Section VI of this Agreement.

II. Requirements of the Provider

- A. An unfranchised Provider will not provide video services in any local unit of government without first obtaining a uniform video service local franchise agreement as provided under **Section 3 of the Act** (except as otherwise provided by the Act).
- B. The Provider shall file in a timely manner with the Federal Communications Commission all forms required by that agency in advance of offering video service in Michigan.
- C. The Provider agrees to comply with all valid and enforceable federal and state statutes and regulations.
- D. The Provider agrees to comply with all valid and enforceable local regulations regarding the use and occupation of public rights-of-way in the delivery of the video service, including the police powers of the Franchising Entity.
- E. The Provider shall comply with all Federal Communications Commission requirements involving the distribution and notification of federal, state, and local emergency messages over the emergency alert system applicable to cable operators.
- F. The Provider shall comply with the public, education, and government programming requirements of Section 4 of the Act.
- G. The Provider shall comply with all customer service rules of the Federal Communications Commission under 47 CFR 76.309 (c) applicable to cable operators and applicable provisions of the Michigan Consumer Protection Act, 1976 PA 331, MCL 445.901 to 445.922.
 - i. Including but not limited to: MCL 445.902; MCL 445.903 (1)(a) through 445.903(1)(cc); MCL 445.903(1)(ff) through (jj); MCL 445.903(2); MCL 445.905; MCL 445.906; MCL 445.907; MCL 445.908; MCL 445.910; MCL 445.911; MCL 445.914; MCL 445.915; MCL 445.916; MCL 445.918.
- H. The Provider agrees to comply with in-home wiring and consumer premises wiring rules of the Federal Communications Commission applicable to cable operators.
- I. The Provider shall comply with the Consumer Privacy Requirements of 47 USC 551 applicable to cable operators.
- J. If the Provider is an incumbent video provider, it shall comply with the terms which provide insurance for right-of-way related activities that are contained in its last cable franchise or consent agreement from the Franchising Entity entered before the effective date of the Act.
- K. The Provider agrees that before offering video services within the boundaries of a local unit of government, the video Provider shall enter into a Franchise Agreement with the local unit of government as required by the Act.
- L. The Provider understands that as the effective date of the Act, no existing Franchise Agreement with a Franchising Entity shall be renewed or extended upon the expiration date of the Agreement.
- M. The Provider provides an exact description of the video service area footprint to be served, pursuant to **Section 2(3)(e) of the Act**. If the Provider is not an incumbent video Provider, the date on which the Provider expects to provide video services in the area identified under **Section 2(3)(e) of the Act** must be noted. The Provider will provide this information in Attachment 1 - Uniform Video Service Local Franchise Agreement.
- N. The Provider is required to pay the Provider fees pursuant to **Section 6 of the Act**.

III. Provider Providing Access

- A. The Provider shall not deny access to service to any group of potential residential subscribers because of the race or income of the residents in the local area in which the group resides.
- B. It is a defense to an alleged violation of Paragraph A if the Provider has met either of the following conditions:
 - i. Within 3 years of the date it began providing video service under the Act and the Agreement; at least 25% of households with access to the Provider's video service are low-income households.
 - ii. Within 5 years of the date it began providing video service under the Act and Agreement and from that point forward, at least 30% of the households with access to the Provider's video service are low-income households.
- C. **[If the Provider is using telecommunication facilities]** to provide video services and has more than 1,000,000 telecommunication access lines in Michigan, the Provider shall provide access to its video service to a number of households equal to at least 25% of the households in the provider's telecommunication

service area in Michigan within 3 years of the date it began providing video service under the Act and Agreement and to a number not less than 50% of these households within 6 years. **The video service Provider is not required to meet the 50% requirement in this paragraph until 2 years after at least 30% of the households with access to the Provider's video service subscribe to the service for 6 consecutive months.**

- D. The Provider may apply to the Franchising Entity, and in the case of paragraph C, the Commission, for a waiver of or for an extension of time to meet the requirements of this section if 1 or more of the following apply:
- i. The inability to obtain access to public and private rights-of-way under reasonable terms and conditions.
 - ii. Developments or buildings not being subject to competition because of existing exclusive service arrangements.
 - iii. Developments or buildings being inaccessible using reasonable technical solutions under commercial reasonable terms and conditions.
 - iv. Natural disasters
 - v. Factors beyond the control of the Provider
- E. The Franchising Entity or Commission may grant the waiver or extension only if the Provider has made substantial and continuous effort to meet the requirements of this section. If an extension is granted, the Franchising Entity or Commission shall establish a new compliance deadline. If a waiver is granted, the Franchising Entity or Commission shall specify the requirement or requirements waived.
- F. The Provider shall file an annual report with the Franchising Entity and the Commission regarding the progress that has been made toward compliance with paragraphs B and C.
- G. Except for satellite service, the provider may satisfy the requirements of this paragraph and Section 9 of the Act through the use of alternative technology that offers service, functionality, and content, which is demonstrably similar to that provided through the provider's video service system and may include a technology that does not require the use of any public right-of-way. The technology utilized to comply with the requirements of this section shall include local public, education, and government channels and messages over the emergency alert system as required under Paragraph II(E) of this Agreement.

IV. Responsibility of the Franchising Entity

- A. The Franchising Entity hereby grants authority to the Provider to provide Video Service in the Video Service area footprint, as described in this Agreement and Attachments, as well as the Act.
- B. The Franchising Entity hereby grants authority to the Provider to use and occupy the Public Rights-of-way in the delivery of Video Service, subject to the laws of the state of Michigan and the police powers of the Franchising Entity.
- C. The Franchising Entity shall notify the Provider as to whether the submitted Franchise Agreement is complete as required by the Act within 15 business days after the date that the Franchise Agreement is filed. If the Franchise Agreement is not complete, the Franchising Entity shall state in its notice the reasons the Franchise Agreement is incomplete. The Franchising Entity cannot declare an application to be incomplete because it may dispute whether or not the applicant has properly classified certain material as "confidential."
- D. The Franchising Entity shall have 30 days after the submission date of a complete Franchise Agreement to approve the agreement. If the Franchising Entity does not notify the Provider regarding the completeness of the Franchise Agreement or approve the Franchise Agreement within the time periods required under **Section 3(3) of the Act**, the Franchise Agreement shall be considered complete and the Franchise Agreement approved.
- i. If time has expired for the Franchising Entity to notify the Provider, The Provider shall send (via mail: certified or registered, or by fax) notice to the Franchising Entity and the Commission, using Attachment 3 of this Agreement.
- E. The Franchising Entity shall allow a Provider to install, construct, and maintain a video service or communications network within a public right-of-way and shall provide the provider with open, comparable, nondiscriminatory, and competitively neutral access to the public right-of-way.
- F. The Franchising Entity may not discriminate against a video service provider to provide video service for any of the following:
- i. The authorization or placement of a video service or communications network in public right-of-way.
 - ii. Access to a building owned by a governmental entity.
 - iii. A municipal utility pole attachment.
- G. The Franchising Entity may impose on a Provider a permit fee only to the extent it imposes such a fee on incumbent video providers, and any fee shall not exceed the actual, direct costs incurred by the Franchising Entity for issuing the relevant permit. A fee under this section shall not be levied if the Provider already has

paid a permit fee of any kind in connection with the same activity that would otherwise be covered by the permit fee under this section or is otherwise authorized by law or contract to place the facilities used by the Provider in the public right-of-way or for general revenue purposes.

- H. The Franchising Entity shall not require the provider to obtain any other franchise, assess any other fee or charge, or impose any other franchise requirement than is allowed under the Act and this Agreement. For purposes of this Agreement, a franchise requirement includes but is not limited to, a provision regulating rates charged by video service providers, requiring the video service providers to satisfy any build-out requirements, or a requirement for the deployment of any facilities or equipment.
- I. Notwithstanding any other provision of the Act, the Provider shall not be required to comply with, and the Franchising Entity may not impose or enforce, any mandatory build-out or deployment provisions, schedules, or requirements except as required by **Section 9 of the Act**.
- J. The Franchising Entity is subject to the penalties provided for under Section 14 of the Act.

V. Term

- A. This Franchise Agreement shall be for a period of 10 years from the date it is issued. The date it is issued shall be calculated either by (a) the date the Franchising Entity approved the Agreement, provided it did so within 30 days after the submission of a complete franchise agreement, or (b) the date the Agreement is deemed approved pursuant to **Section 3(3) of the Act**, if the Franchising Entity either fails to notify the Provider regarding the completeness of the Agreement or approve the Agreement within the time periods required under that subsection.
- B. Before the expiration of the initial Franchise Agreement or any subsequent renewals, the Provider may apply for an additional 10-year renewal under **Section 3(7) of the Act**.

VI. Fees

- A. A video service Provider shall calculate and pay an annual video service provider fee to the Franchising Entity. The fee shall be 1 of the following:
 - i. If there is an existing Franchise Agreement, an amount equal to the percentage of gross revenue paid to the Franchising Entity by the incumbent video Provider with the largest number of subscribers in the Franchising Entity.
 - ii. At the expiration of an existing Franchise Agreement or if there is no existing Franchise Agreement, an amount equal to the percentage of gross revenue as established by the Franchising Entity of 3.5 % (percentage amount to be inserted by Franchising Entity which shall not exceed 5%) and shall be applicable to all providers
- B. The fee shall be due on a quarterly basis and paid within 45 days after the close of the quarter. Each payment shall include a statement explaining the basis for the calculation of the fee.
- C. The Franchising Entity shall not demand any additional fees or charges from a provider and shall not demand the use of any other calculation method other than allowed under the Act.
- D. For purposes of this Section, "gross revenues" means all consideration of any kind or nature, including, without limitation, cash, credits, property, and in-kind contributions received by the provider from subscribers for the provision of video service by the video service provider within the jurisdiction of the franchising entity.
 - 1. **Gross revenues shall include all of the following:**
 - i. All charges and fees paid by subscribers for the provision of video service, including equipment rental, late fees, insufficient funds fees, fees attributable to video service when sold individually or as part of a package or bundle, or functionally integrated, with services other than video service.
 - ii. Any franchise fee imposed on the Provider that is passed on to subscribers.
 - iii. Compensation received by the Provider for promotion or exhibition of any products or services over the video service.
 - iv. Revenue received by the Provider as compensation for carriage of video programming on that Provider's video service.
 - v. All revenue derived from compensation arrangements for advertising to the local franchise area.
 - vi. Any advertising commissions paid to an affiliated third party for video service advertising.
 - 2. **Gross revenues do not include any of the following:**
 - i. Any revenue not actually received, even if billed, such as bad debt net of any recoveries of bad debt.
 - ii. Refunds, rebates, credits, or discounts to subscribers or a municipality to the extent not already offset by subdivision (D)(i) and to the extent the refund, rebate, credit, or discount is attributable to the video service.

- iii. Any revenues received by the Provider or its affiliates from the provision of services or capabilities other than video service, including telecommunications services, information services, and services, capabilities, and applications that may be sold as part of a package or bundle, or functionality integrated, with video service.
 - iv. Any revenues received by the Provider or its affiliates for the provision of directory or internet advertising, including yellow pages, white pages, banner advertisement, and electronic publishing.
 - v. Any amounts attributable to the provision of video service to customers at no charge, including the provision of such service to public institutions without charge.
 - vi. Any tax, fee, or assessment of general applicability imposed on the customer or the transaction by a federal, state, or local government or any other governmental entity, collected by the Provider, and required to be remitted to the taxing entity, including sales and use taxes.
 - vii. Any forgone revenue from the provision of video service at no charge to any person, except that any forgone revenue exchanged for trades, barter, services, or other items of value shall be included in gross revenue.
 - viii. Sales of capital assets or surplus equipment.
 - ix. Reimbursement by programmers of marketing costs actually incurred by the Provider for the introduction of new programming.
 - x. The sale of video service for resale to the extent the purchaser certifies in writing that it will resell the service and pay a franchise fee with respect to the service.
- E. In the case of a video service that is bundled or integrated functionally with other services, capabilities, or applications, the portion of the video Provider's revenue attributable to the other services, capabilities, or applications shall be included in gross revenue unless the Provider can reasonably identify the division or exclusion of the revenue from its books and records that are kept in the regular course of business.
 - F. Revenue of an affiliate shall be included in the calculation of gross revenues to the extent the treatment of the revenue as revenue of the affiliate has the effect of evading the payment of franchise fees which would otherwise be paid for video service.
 - G. The Provider is entitled to a credit applied toward the fees due under **Section 6(1) of the Act** for all funds allocated to the Franchising Entity from annual maintenance fees paid by the provider for use of public rights-of-way, minus any property tax credit allowed under **Section 8 of the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (METRO Act)**, 2002 PA 48, MCL 484.3108. The credits shall be applied on a monthly pro rata basis beginning in the first month of each calendar year in which the Franchising Entity receives its allocation of funds. The credit allowed under this subsection shall be calculated by multiplying the number of linear feet occupied by the Provider in the public rights-of-way of the Franchising Entity by the lesser of 5 cents or the amount assessed under the **METRO Act**. The Provider is not eligible for a credit under this section unless the provider has taken all property tax credits allowed under the **METRO Act**.
 - H. All determinations and computations made under this section shall be pursuant to generally accepted accounting principles.
 - I. Any claims by a Franchising Entity that fees have not been paid as required under **Section 6 of the Act**, and any claims for refunds or other corrections to the remittance of the Provider shall be made within 3 years from the date the compensation is remitted.
 - J. The Provider may identify and collect as a separate line item on the regular monthly bill of each subscriber an amount equal to the percentage established under **Section 6(1) of the Act**, applied against the amount of the subscriber's monthly bill.
 - K. The Franchising Entity shall not demand any additional fees or charges from a Provider and shall not demand the use of any other calculation method other than allowed under the Act.

VII. Public, Education, and Government (PEG) Channels

- A. The video service Provider shall designate a sufficient amount of capacity on its network to provide for the same number of public, education, and government access channels that are in actual use on the incumbent video provider system on the **effective date of the Act** or as provided under **Section 4(14) of the Act**.
- B. Any public, education, or government channel provided under this section that is not utilized by the Franchising Entity for at least 8 hours per day for 3 consecutive months may no longer be made available to the Franchising Entity and may be programmed at the Provider's discretion. At such a time as the Franchising Entity can certify a schedule for at least 8 hours of daily programming for a period of 3 consecutive months, the Provider shall restore the previously reallocated channel.
- C. The Franchising Entity shall ensure that all transmissions, content, or programming to be retransmitted by a video service Provider is provided in a manner or form that is capable of being accepted and retransmitted by a Provider, without requirement for additional alteration or change in the content by the Provider, over the

particular network of the Provider, which is compatible with the technology or protocol utilized by the Provider to deliver services.

- D. The person producing the broadcast is solely responsible for all content provided over designated public, education, or government channels. The video service Provider *shall not* exercise any editorial control over any programming on any channel designed for public, education, or government use.
- E. The video service Provider is not subject to any civil or criminal liability for any program carried on any channel designated for public, education, or government use.
- F. If a Franchising Entity seeks to utilize capacity pursuant to **Section 4(1) of the Act** or an agreement under **Section 13 of the Act** to provide access to video programming over one or more PEG channels, the Franchising Entity shall give the Provider a written request specifying the number of channels in actual use on the incumbent video provider's system or specified in the agreement entered into under **Section 13 of the Act**. The video service Provider shall have 90 days to begin providing access as requested by the Franchising Entity. The number and designation of PEG access channels shall be set forth in an addendum to this agreement effective 90 days after the request is submitted by the Franchising Entity.
- G. A PEG channel shall only be used for noncommercial purposes.

VIII. PEG Fees

- A. The video service Provider shall also pay to the Franchising Entity as support for the cost of PEG access facilities and services an annual fee equal to one of the following options:
 - 1. If there is an existing Franchise on the effective date of the Act, the fee (enter the fee amount _____) paid to the Franchising Entity by the incumbent video Provider with the largest number of cable service subscribers in the Franchising Entity as determined by the existing Franchise Agreement;
 - 2. At the expiration of the existing Franchise Agreement, the amount required under (1) above, which is 0.0 % of gross revenues. (The amount under (1) above is not to exceed 2% of gross revenues);
 - 3. If there is no existing Franchise Agreement, a percentage of gross revenues as established by the Franchising Entity and to be determined by a community need assessment, is _____% of gross revenues. (The percentage that is established by the Franchising Entity is not to exceed 2% of gross revenues.); and
 - 4. An amount agreed to by the Franchising Entity and the video service Provider.
- B. The fee required by this section shall be applicable to all providers, pursuant to Section 6(9) of the Act.
- C. The fee shall be due on a quarterly basis and paid within 45 days after the close of the quarter. Each payment shall include a statement explaining the basis for the calculation of the fee.
- D. All determinations and computations made under this section shall be pursuant to generally accepted accounting principles.
- E. Any claims by a Franchising Entity that fees have not been paid as required under **Section 6 of the Act**, and any claims for refunds or other corrections to the remittance of the Provider shall be made within 3 years from the date the compensation is remitted.
- F. The Provider may identify and collect as a separate line item on the regular monthly bill of each subscriber an amount equal to the percentage established under **Section 6(8) of the Act**, applied against the amount of the subscriber's monthly bill.
- G. The Franchising Entity shall not demand any additional fees or charges from a Provider and shall not demand the use of any other calculation method other than allowed under the Act.

IX. Audits

- A. No more than every 24 months, a Franchising Entity may perform reasonable audits of the video service Provider's calculation of the fees paid under **Section 6 of the Act** to the Franchising Entity during the preceding 24-month period only. All records reasonably necessary for the audits shall be made available by the Provider at the location where the records are kept in the ordinary course of business. The Franchising Entity and the video service Provider shall each be responsible for their respective costs of the audit. Any additional amount due verified by the Franchising Entity shall be paid by the Provider within 30 days of the Franchising Entity's submission of invoice for the sum. If the sum exceeds 5% of the total fees which the audit determines should have been paid for the 24-month period, the Provider shall pay the Franchising Entity's reasonable costs of the audit.
- B. Any claims by a Franchising Entity that fees have not been paid as required under **Section 6 of the Act**, and any claims for refunds or other corrections to the remittance of the provider shall be made within 3 years from the date the compensation is remitted.

X. Termination and Modification

This Franchise Agreement issued by a Franchising Entity may be terminated or the video service area footprint may be modified, except as provided under **Section 9 of the Act**, by the Provider by submitting notice to the Franchising Entity. The Provider will use Attachment 2, when notifying the Franchising Entity.

XI. Transferability

This Franchise Agreement issued by a Franchising Entity or an existing franchise of an incumbent video service Provider is fully transferable to any successor in interest to the Provider to which it is initially granted. A notice of transfer shall be filed with the Franchising Entity within 15 days of the completion of the transfer. The Provider will use Attachment 2, when notifying the Franchising Entity. The successor in interest will assume the rights and responsibilities of the original provider and will also be required to complete their portion of the Transfer Agreement located within Attachment 2.

XII. Change of Information

If any of the information contained in the Franchise Agreement changes, the Provider shall timely notify the Franchising Entity. The Provider will use Attachment 2, when notifying the Franchising Entity.

XIII. Confidentiality

Pursuant to Section 11 of the Act: Except under the terms of a mandatory protective order, trade secrets and commercial or financial information designated as such and submitted under the Act to the Franchising Entity or Commission are exempt from the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246 and **MUST BE KEPT CONFIDENTIAL**.

- A. The Provider may specify which items of information should be deemed "confidential." It is the responsibility of the provider to clearly identify and segregate any confidential information submitted to the franchising entity with the following information:
 "[insert PROVIDER'S NAME]
 [CONFIDENTIAL INFORMATION]"
- B. The Franchising Entity receiving the information so designated as confidential is required (a) to protect such information from public disclosure, (b) exempt such information from any response to a FOIA request, and (c) make the information available only to and for use only by such local officials as are necessary to approve the franchise agreement or perform any other task for which the information is submitted.
- C. Any Franchising Entity which disputes whether certain information submitted to it by a provider is entitled to confidential treatment under the Act may apply to the Commission for resolution of such a dispute. Unless and until the Commission determines that part or all of the information is not entitled to confidential treatment under the Act, the Franchising Entity shall keep the information confidential.

XIV. Complaints/Customer Service

- A. The Provider shall establish a dispute resolution process for its customers. Provider shall maintain a local or toll-free telephone number for customer service contact.
- B. The Provider shall be subjected to the penalties, as described under **Section 14 of the Act**, and the Franchising Entity and Provider may be subjected to the dispute process as described in **Section 10 of the Act**.
- C. Each Provider shall annually notify its customers of the dispute resolution process required under **Section 10 of the Act**. Each Provider shall include the dispute resolution process on its website.
- D. Before a customer may file a complaint with the Commission under **Section 10(5) of the Act**, the customer shall first attempt to resolve the dispute through the dispute resolution process established by the Provider in **Section 10(2) of the Act**.
- E. A complaint between a customer and a Provider shall be handled by the Commission pursuant to the process as described in **Section 10(5) of the Act**.
- F. A complaint between a Provider and a franchising entity or between two or more Providers shall be handled by the Commission pursuant to the process described in **Section 10(6) of the Act**.
- G. In connection with providing video services to the subscribers, a provider shall not do any act prohibited by Section 10(1)(a-f) of the Act. The Commission may enforce compliance to the extent that the activities are not covered by **Section 2(3)(l) in the Act**.

XV. Notices

Any notices to be given under this Franchise Agreement shall be in writing and delivered to a Party personally, by facsimile or by certified, registered, or first-class mail, with postage prepaid and return receipt requested, or by a nationally recognized overnight delivery service, addressed as follows:

If to the Franchising Entity:
(must provide street address)

If to the Provider:
(must provide street address)

City of Mason:

201 West Ash Street

444 Michigan Avenue

Mason, Michigan 48854

Room 1670

Detroit, Michigan 48226

Attn: City Clerk

Attn: Yvette Collins, Director - External Affairs

Fax No.: 517-676-1330

Fax No.: 313.496.9332

Or such other addresses or facsimile numbers as the Parties may designate by written notice from time to time.

XVI. Miscellaneous

- A. Governing Law. This Franchise Agreement shall be governed by, and construed in accordance with, applicable Federal laws and laws of the State of Michigan.
- B. The parties to this Franchise Agreement are subject to all valid and enforceable provisions of the Act.
- C. Counterparts. This Agreement may be signed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute on and the same agreement.
- D. Power to Enter. Each Party hereby warrants to the other Party that it has the requisite power and authority to enter into this Franchise Agreement and to perform according to the terms hereof.
- E. The Provider and Franchising Entity are subject to the provisions of 2006 Public Act 480.

IN WITNESS WHEREOF, the Parties, by their duly authorized representatives, have executed this Franchise Agreement.

City of Mason, a Michigan Municipal Corporation

By

Print Name

Title

Address

City, State, Zip

Phone

Fax

Email

Michigan Bell Telephone Company, a Michigan Corporation, doing business as AT&T Michigan

By

Print Name
Jim Murray

Title
President

Address
221 North Washington Square

City, State, Zip
Lansing, Michigan 49833

Phone
517.334.3400

Fax
517.334.3429

Email
m42325@att.com

FRANCHISE AGREEMENT
(Franchising Entity to Complete)

Date submitted:
Date completed and approved:



Jim Murray
President
AT&T Michigan
221 N. Washington Square
Lansing, MI 49833
Office: (517) 334-3400
Fax: (517) 334-3429

July 8, 2014

Via UPS Overnight Delivery

Deb Cwierniewicz
Clerk of the City of Mason
201 West Ash Street
Mason, Michigan 48854

Re: Video Service Local Franchise Agreement for AT&T Michigan

Dear Ms. Cwierniewicz :

Pursuant to Section 3 of 2006 Public Act 480, MCL 484.3303 ("Act 480") and the January 30, 2007 Order ("Order") and the April 16, 2009 Order of the Michigan Public Service Commission ("Commission"), in Case No. U-15169, Michigan Bell Telephone Co. doing business as AT&T Michigan ("AT&T"), hereby files the enclosed Uniform Video Service Local Franchise Agreement ("Agreement") by and between the City of Mason, a Michigan municipal corporation (the "Franchising Entity") and AT&T (the "Provider"). The Commission's Order and Instructions may be found at the following Commission web link: http://www.cis.state.mi.us/mpsc/orders/comm/2007/u-15169_01-30-2007.pdf

The enclosed filing includes the standard form Agreement approved by and required for use by the Commission, and it has been completed in accordance with the Commission's Instructions issued in the Order. AT&T does not have specific information with regard to an existing franchise agreement with an incumbent provider in the City of Mason. Section 6(1)(a) of Act 480 provides that "[i]f there is an existing franchise agreement, an amount equal to the percentage of gross revenues paid to the franchising entity by the incumbent video provider with the largest number of subscribers in the franchising entity" shall be the franchise fee. Section 6(1)(b) of Act 480 provides "[a]t the expiration of an existing franchise agreement or if there is no existing franchise agreement, an amount equal to the percentage of gross revenues as established by the franchising entity not to exceed 5% and shall be applicable to all providers" as an annual franchise fee for providing video services.

In addition, for the support of public, education, and government ("PEG") access facilities and services, Section 6(8)(a) of Act 480 provides "[i]f there is an existing franchise on the effective date of this act, the fee paid to the franchising entity by the incumbent video provider with the largest number of

Ms. Deb Cwierniewicz

July 8, 2014

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cable service subscribers in the franchising entity as determined by the existing franchise agreement" shall be the PEG fee. And Section 6(8)(c) of Act 480 provides "[i]f there is no existing franchise agreement, a percentage of gross revenues as established by the franchising entity not to exceed 2% to be determined by a community needs assessment" for the support of public, education, and government ("PEG") access facilities and services. Accordingly, please insert the franchise fee, if any, into Section "VI. Fees" and the PEG support fee, if any, into Section "VIII. PEG Fees", pursuant to the above noted statutory requirements. On May 3, 2007, the Michigan Public Service Commission noted at page 3 of its Order Establishing An Expedited Hearing And Directing The City Of Southfield To Show Cause in Case No. U-15281, that it is the Franchising Entity's responsibility to fill in the applicable franchise fee and PEG fee.

The submission also includes Attachment 1 to the Agreement. Pursuant to Section 11 of Act 480, Section "XIII. Confidentiality" of the Agreement, and page 1 of the Instructions for Uniform Video Service Agreement issued in the Order, AT&T has deemed both the "Video Service Area Footprint" and "the date on which AT&T expects to begin to provide video services in part of the Video Service Area Footprint" as Confidential Information. The Confidential Information for Attachment 1 has been set forth in Confidential Attachments A and B respectively, and has been placed in a separate, sealed envelope and clearly identified by the label of the envelope as follows:

(AT&T Michigan "CONFIDENTIAL INFORMATION")

Pursuant to Section XIII of the Agreement, Section 11 of Act 480, and the Commission's Instructions, the City of Mason as the Franchising Entity receiving the information so designated as confidential is required (a) to protect such information from public disclosure, (b) exempt such information from any response to a Freedom of Information Act ("FOIA") request made under MCL 15.231 to 15.246, and (c) make the information available only to and for use only by such local officials as are necessary to approve the Agreement or perform any other task for which the information is submitted.

It is important to note that AT&T's map demonstrates the exact footprint within which AT&T intends to offer video services and thus is consistent in full with the purpose for which it is prepared. AT&T's "video service area footprint" map complies with Section 2(3)(e) of Act 480. Section 2(3)(e) provides that a uniform video service local franchise agreement include "an exact description of the video service area footprint to be served, as identified by a geographic information system digital boundary meeting or exceeding national map accuracy standards."

AT&T's video service area footprint map is prepared using digital geographic data created by AT&T's Geographic Information System (GIS) application. GIS-mapping systems use software to combine multiple "layers" of information to create maps tailored for specific purposes, such as demonstrating the precise area in which AT&T intends to offer video services. Maps created using AT&T's GIS-mapping system meet or exceed all pertinent national map accuracy standards.

AT&T's GIS-created maps are created using GIS-mapping technology. GIS-mapping systems are comprised of individual map elements, which are "intelligent" in the sense that each individual map element contains an encoded database record that includes a unique identifier attribute

Ms. Deb Cwierniewicz

July 8, 2014

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and spatial coordinate attributes for each individual map element (such as longitude and latitude). AT&T's GIS-mapping application uses wire center boundaries hand-digitized by AT&T, which are highly accurate for all map preparation purposes.

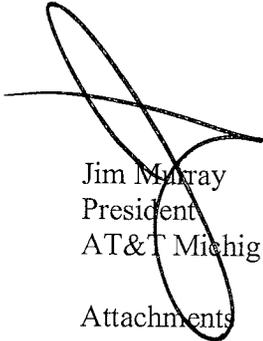
AT&T's GIS-mapping application uses data sources that have latitude and longitude coordinates embedded in and associated with all the points, lines and boundaries on all state and municipality maps used by AT&T, to create the video service area footprint maps. Those portions of the AT&T wire centers which are outside the boundaries of the City of Mason are not included in the map.

AT&T's GIS-mapping application uses geographic data from several sources. For example, AT&T secures landbase data, including city and state boundaries, from NAVTEQ®, which is recognized as a leader in GIS data and a provider of GIS application data in North America. Data and maps received from NAVTEQ® are specifically designed to comply with all national map accuracy standards. In sum, AT&T's map complies with the requirements of Section 3(3)(e) of Act 480 and includes "an exact description of the video service area footprint to be served, as identified by a geographic information system digital boundary meeting or exceeding national map accuracy standards."

The City of Mason has 15 business days beginning on July 9, 2014 within which to notify AT&T if the Agreement is complete. If the City of Mason does not notify AT&T regarding the completeness of the Agreement within this 15 business day period, pursuant to Section 3(3) of Act 480, the Agreement shall be deemed complete. Any notice by the City of Mason regarding the completeness of the Agreement must comply with Section 3(2) of Act 480 and must be sent by facsimile to each of the representatives of AT&T identified in Section "XV. Notices" of the enclosed Agreement.

AT&T has a proud history and tradition of providing home phone service for many decades to residents in the geographic area now located in the City of Mason. We are looking forward to serving your community in new ways.

If there are any questions concerning the enclosed filing, please contact Yvette Collins, Director, External Affairs at 313-496-8162.



Jim Murray
President
AT&T Michigan

Attachments

cc: Andy Solon, AT&T External Affairs Manager

MEMORANDUM

TO: Mason City Council

FROM: Dennis E. McGinty, City Attorney *DEM*

RE: **AT&T MICHIGAN UNIFORM VIDEO SERVICES LOCAL FRANCHISE AGREEMENT**

DATE: July 28, 2014

On July 10, 2014, the Mason City Clerk received an application from AT&T Michigan seeking approval of a Uniform Video Services Local Franchise Agreement with the City of Mason. Video service franchise agreements are regulated in Michigan by the Uniform Video Services Local Franchise Act, 2006 PA 480, which became effective January 1, 2007. The City's incumbent cable provider, WOW, formerly Millennium Digital Media Systems, LLC, is currently operating under a uniform video services franchise approved by the City Council on June 18, 2007.

Act 480 is intended to make the granting of video franchises and their terms uniform throughout the state of Michigan and required the Michigan Public Service Commission to prepare and publish a standard form of franchise agreement to be used by all local franchising authorities.

Act 480 and the uniform video franchise agreement published by the MPSC leave very little to the discretion of local communities with respect to the terms of the franchise agreement and the responsibilities of the video services provider under the agreement. There are basically two choices which the City Council may make – specifically, the amount of the cable franchise fee to be paid to the City for the privilege of operating in the community and the amount, if any, to be paid by the video services provider to support public, educational, or government video programming services.

Under subsection 6(1) of Act 480, the local authority can charge a franchise fee not to exceed 5% and under subsection 6(8) of Act 480, the City may, after first conducting a local needs assessment, charge a PEG fee of not to exceed 2%. However, in the case where there is already an incumbent video services provider under an existing franchise, the City may charge no more for franchise fees or PEG fees than that being paid by the incumbent provider which, in this case, is 3.5% for franchise fees and 0% for PEG fees.

The franchise submitted by AT&T leaves the amount of franchise fees blank at page four and the amount of PEG fees blank at page six. If the City wishes to charge a franchise fee, it must do so by completing pages 4 and 6 and we recommend that Council do so by inserting the same percentages here as currently pertain to its incumbent provider.

Page 2
July 28, 2014

Section 3 of Act 480 sets stringent time limits for the review and approval process for franchise applications, stating that the City must determine whether the application is complete within 15 business days of receipt and must act to approve the franchise within 30 days of receipt of the application. If the Council fails to act to approve within the required 30 days, the franchise is deemed approved.

Paragraph II(M) of the standard franchise published by the MPSC also requires that any new provider also indicate on Attachment 1 to the Uniform Video Services Local Franchise Agreement the date on which the provider expects to provide video services in the city and the area of the city within which it intends to provide video service. AT&T has complied with this requirement by submitting with its application confidential Attachments A and B in place of the information otherwise required to be set forth on page 2 of Attachment 1 of the standard application form published by the MPSC. These attachments are designated by AT&T as confidential information. Pursuant to section 11 of Act 480 and the order and instructions issued by the MPSC, material designated by a franchise applicant as trade secrets and confidential commercial or financial information which are submitted to the franchising entity as such are exempt from disclosure under the Michigan Freedom of Information Act, 1976 PA 422, and must be kept confidential. We have, therefore, included this requirement in paragraph 6 of the enclosed resolution which we have prepared for City Council to act upon this franchise request.

bks

Enclosure

cc Martin A. Colburn w/enc

CITY OF MASON
STAFF AGENDA REPORT TO CITY COUNCIL

Meeting Date: August 11, 2014

Agenda Item: 7 (B)

AGENDA ITEM

Resolution 2014-41—A Resolution Accepting Michigan Strategic Fund Community Development Block Grant (CDBG) Number MSC 213004-ESB as Provided Through the Michigan Economic Development Corporation (MEDC) for 124 and 140 East Ash Street, Mason, Michigan

EXHIBITS

Community Development Grant Agreement

STAFF REVIEW

Administration

SUMMARY STATEMENT

The City of Mason has been awarded Community Development Block Grant (CDBG) Number MSC 213004-ESB in the amount of \$446,000 through the Michigan Economic Development Corporation (MEDC) for redevelopment of 124 and 140 East Ash Street. As detailed previously, the City of Mason, Ingham County Landbank and Ash Street Redevelopment, LLC have entered into a development agreement, working cooperatively to remove blight and rehabilitate the properties. The closing of the properties with Ash Street Redevelopment, LLC taking ownership from the Ingham County Landbank occurred on July 22, 2014.

Signature authority is necessary for the City Administrator Martin Colburn or his designee for implementation and managing the grant.

RECOMMENDED ACTION

Move to approve Resolution 2014-41.

Introduced:
Second:

**CITY OF MASON
CITY COUNCIL RESOLUTION NO. 2014-41**

**A RESOLUTION ACCEPTING THE MICHIGAN STRATEGIC FUND COMMUNITY
DEVELOPMENT BLOCK GRANT (CDBG) NUMBER MSC 213004-ESB AS PROVIDED
THROUGH THE MICHIGAN ECONOMIC DEVELOPMENT CORPORATION (MEDC)
FOR 124 AND 140 EAST ASH STREET, MASON, MICHIGAN**

August 11, 2014

WHEREAS, on September 16, 2013 the Mason City Council held a public hearing and approved Resolution 2013-37 authorizing the City of Mason to apply to the Michigan Economic Development Corporation (MEDC) for a blight reduction grant for 124 and 140 E. Ash Street, Mason, Michigan for the Community Development Block Grant (CDBG) Program; and

WHEREAS, the City of Mason, Ingham County Landbank and Ash Street Redevelopment, LLC have entered into a development agreement, working cooperatively to remove blight and rehabilitate the properties; and

WHEREAS, MEDC has forwarded a Community Development Grant Agreement for Grant No. MSC 213004-ESB, offering \$446,000, with the performance to be executed through February 29, 2016; and

WHEREAS, to initiate and manage the grant, signature authority is necessary for the City Administrator Martin Colburn or his designee; and

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Mason hereby accepts MEDC Community Development Block Grant Number MSC 213004-ESB to remove blight and rehabilitate the properties at 124 and 140 East Ash Street and provide signature authority to the City Administrator Martin Colburn or his designee to implement and manage the grant.

Yes ()

No ()

CLERK'S CERTIFICATION: I hereby certify that the foregoing is a true and accurate copy of a resolution adopted by the City Council at its regular meeting held Monday, August 11, 2014, the original of which is part of the City Council minutes.

Deborah J. Cwierniewicz, City Clerk
City of Mason
Ingham County, Michigan

STATE OF MICHIGAN

COMMUNITY DEVELOPMENT GRANT AGREEMENT

BETWEEN THE

MICHIGAN STRATEGIC FUND

AND THE

CITY OF MASON

STATE OF MICHIGAN

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

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Attachment A: Project Budget

Attachment B: Project Description

I. GRANT OFFER FOR MICHIGAN CDBG NO. MSC 213004-ESB

The Fund Manager of the Michigan Strategic Fund (the “Grantor”), acting pursuant to Resolution 2013-187 of the Michigan Strategic Fund Board, hereby offers to the City of Mason (the “Grantee”), grant assistance subject to the Grant Agreement.

The maximum amount of grant assistance hereby offered is \$446,000 (the “Grant”), but in no event shall the amount of the grant assistance exceed more than fifty percent (50%) of the building improvements portion of the project financed with the Grant, Local matching funds, Private matching funds, and MHCDF Grant funds. If the actual cost is less than shown in the Total Authorized Budget (See Section II(A)(1)), the amount of the Grant shall be reduced on a proportional basis. The Grantee shall be responsible for any cost overruns.

The term of work performance shall be twenty-four (24) months from March 1, 2014 through February 29, 2016 (the “Term”), plus additional time to meet reporting or other procedural requirements. The Grant will only be made available for the Grantee’s eligible expenses, which occur during the Term in accordance with the Grant Agreement. The Grant is dependent upon the Grantor’s continued receipt of Community Development Block Grant funds and the availability of adequate funds.

If the Grantee will not start construction by October 1, 2014 (the “Commencement Period”), then the Grantee must seek and receive in writing an extension of the Commencement Period from the Grant Administrator prior to the expiration of the Commencement Period, otherwise this Grant Agreement shall terminate and no longer be in effect. In the event this Grant Agreement is terminated as set forth herein, the Grantee must request that the Grant be reapproved by the MSF Board before it may be reinstated.

This Grant Offer does not commit the Grantor to approve requests for additional funds during or beyond this grant.

The foregoing Grant Offer is hereby accepted and it is agreed that the funds made available will be used only as set forth herein and in the attached Special and General Terms and Conditions. The signatories below warrant that they are empowered to enter into this Agreement.

Dated this _____ day of _____, 2014

Dated this _____ day of _____, 2014

Mark Morante
Fund Manager
Michigan Strategic Fund

Martin Colburn
City Administrator
City of Mason

Counterparts; Facsimile, Electronic and PDF Signatures; Copies – This Agreement may be executed in any number of counterparts, each of which, when executed shall be deemed an original, and all of which together, shall constitute one and the same agreement. This agreement may be delivered by facsimile, or PDF or other electronic format and in such circumstances, may be relied upon to the same extent as though such copy was an original.

II. SPECIAL TERMS AND CONDITIONS

For Michigan CDBG under Title I of
the Housing and Community Development Act
of 1974, as amended.
CFDA #: 14.228

EFFECTIVE DATE: March 1, 2014

GRANT NO.: MSC 213004-ESB

TITLE: 124 and 140 Ash Street Redevelopment Project

GRANTEE / ADDRESS: City of Mason
201 W. Ash Street
Mason, Michigan 48854

GRANT ADMINISTRATOR /
ADDRESS: Grant Administrator
300 North Washington Square
Fourth Floor
Lansing, Michigan 48913
Phone: (517) 335-7008

TOTAL AUTHORIZED BUDGET

1. Sources of funds for the project under this Grant Agreement consist of:

State Cash Contributions	\$ 446,000
MSHDA CDBG	\$ 402,500
Local Cash Contributions	\$ 50,000
Private Cash Contributions	\$ 850,000
Other Cash Contributions	<u>\$ 500,000</u>
TOTAL	\$2,248,500

2. Application of funds to the project supported under this Grant Agreement consists of:

PLEASE REFER TO ATTACHMENT A FOR THE AUTHORIZED BUDGET FOR THIS PROJECT.

B. SCOPE OF WORK

The Scope of Work of the Grantee under this grant shall be to undertake and complete the following activities, as further detailed in the Grantee's Part 1 Application received November 4, 2013, and Part 2 Application received December 6, 2013, subject to the limitations set forth in the Grant Agreement and applicable federal and state laws, rules and regulations:

1. Prior to the commitment of any project funds, incurring any project costs, and Grantor disbursement of the Grant, the Grantee shall provide for approval by the Grant Administrator a copy of the complete Environmental Review Record (including the Environmental Assessment), and secure written approval by the Grant Administrator for the Request for Release of Funds and Certification. The Request for Release of Funds and Certification represents local completion of the environmental review procedures and requirements as set forth in 24 CFR Part 58, "Environmental Review Procedures for Title I Community Development Block Grant Program," issued by the U.S. Department of Housing and Urban Development. Project costs include costs to be paid by the Grant and other local, public and private funds.
2. If the Grantee will be engaging the consultant, supplier, or contractor then the Grantee shall comply with the procurement process required by 24 CFR Part 85. Among other things, this regulation applies to all CDBG funded engineering and consultant contracts as well as all CDBG funded construction contracts.
 - a. For supplies and service contracts such as engineering and consulting less than or equal to \$100,000, the Small Purchase Procedures as provided in 24 CFR Part 85 may be used. In accord with this regulation and prior to Grantor disbursement of the Grant, the Grantee shall provide for approval by the Grant Administrator documentation that price or rate quotations were obtained from an adequate number of qualified sources and a copy of the executed contract.
 - b. For supplies and service contracts such as engineering and consulting greater than \$100,000, Grantee must use competitive negotiation through a Request for Proposal (RFP) or Request for Qualifications (RFQ) process as provided in 24 CFR Part 85. In accord with this regulation and prior to Grantor disbursement of the Grant, the Grantee shall provide for approval by the Grant Administrator a copy of the locally published RFP / RFQ, a list of respondents to the RFP / RFQ, Grantee's evaluation and recommendation for the award of the contract(s), and the executed contract(s).
 - c. For construction related contracts, Grantee must use the procurement by Sealed Bids Process as provided in 24 CFR Part 85. In accord with this regulation and prior to Grantor disbursement of the Grant, the Grantee shall provide for approval by the Grant Administrator a copy of the locally published advertisement for bids and the bid tabulation.
3. If the Grantee will not be engaging the consultant, supplier, or contractor, then the procurement process required by 24 CFR Part 85 shall not apply.
4. If the project uses the Grant for demolition to be followed by on-site construction activities, the Grantee shall provide for approval by the Grant Administrator a copy of all bidding documents or other evidence of compliance with federal labor standards for all construction activities financed in whole or in part with the Grant. Such approval must be secured prior to Grantor disbursement of the Grant for relevant construction activities.

5. If the project involves the installation of machinery and equipment and the installation cost is greater than 20% of the total cost of the machinery and equipment, the Grantee shall provide for approval by the Grant Administrator a copy of all bidding documents or other evidence of compliance with federal labor standards for all installation activities financed in whole or in part with CDBG funds. Such approval must be secured prior to Grantor disbursement of the Grant.
6. If the project uses the Grant for construction activities on private property, the Grantee shall provide for approval by the Grant Administrator a copy of all bidding documents or other evidence of compliance with federal labor standards for all construction activities financed with any other matching funds on said private property. Such approval must be secured prior to Grantor disbursement of the Grant.
7. If the project involves acquisition, including donations, of real estate, permanent easements and/or right-of-ways, or the relocation of persons, families or farms, the Grantee shall provide for approval by the Grant Administrator documentation of compliance with the Uniform Relocation and Real Property Acquisition Policies Act of 1970. Such approval must be secured prior to Grantor disbursement of the Grant.
8. If the project involves the demolition or conversion of an occupied dwelling unit or a vacant occupiable dwelling unit, the Grantee shall provide for approval by the Grant Administrator documentation of compliance with Section 104(d) of the Housing and Community Development Act of 1974. Such approval must be secured prior to Grantor disbursement of the Grant.
9. If the Project involves improving and/or acquiring real property in whole or in part using Grant funds in excess of \$100,000, the Grantee shall provide for approval by the Grant Administrator a Real Property Management Report (RPMR) prior to Grantor disbursement of the Grant, annually, at close out, and when the property is no longer needed for its original purpose.

If the real property acquired and/or improved with the Grant is no longer needed for its original purpose at any time during the project and up to five years from close out, the Grantee shall request disposition instructions from the Grantor prior to disposing of the real property acquired or improved in whole or in part with the Grant. Depending on the disposition request, the Grantee may be required to return a portion of the Grant to the Grantor.

10. If the Project involves acquiring personal property in whole or in part using Grant funds in excess of \$100,000, the Grantee shall provide for approval by the Grant Administrator a Personal Property Management Report (PPMR) prior to disbursement of the Grant, annually, at close out, and when the property is no longer needed for its original purpose.

If the personal property acquired with the Grant is no longer needed for its original purpose at any time during the project and after project close out, the Grantee shall request disposition instructions from the Grantor prior to disposing of the personal property acquired in whole or in part with the Grant. Depending on the current per unit

fair market value of the personal property, the Grantee may be required to return a portion of the Grant to the Grantor.

11. Grantee is responsible for ensuring that all contractors working on the project are CDBG eligible and properly licensed, bonded, and insured.
12. The Grant must be requested on a reimbursement basis or when there is an immediate cash need for the funds.
13. The Grantee shall expend up to \$446,000 of the Grant for building improvements. This structure is blighted as defined by Michigan Law, MCL 125.2652. The project activities are further described in Attachment B.
14. The national objective compliance for the acquisition of real property must be based on the use of the property after the acquisition takes place. The initial determination is based on the planned use of the property, but the final determination is based on the actual use.
15. When property is acquired for the purpose of clearance to remove specific conditions of blight or physical decay, the clearance is considered to be the actual use of the property. Any subsequent use made of the property following clearance must comply with Section II(B)(9).
16. The Grantor may, in its sole discretion, after discussion with representatives of the Grantee, modify or reduce the total amount of grant assistance offered under this Agreement or terminate this Agreement and demand full repayment of disbursed grant proceeds if the Grantee violates, fails, or refuses to comply with any term, condition, or provision of this Agreement.
17. The Grantee shall provide Program Progress Reports beginning October 15, 2014, and every six (6) months thereafter.
18. The Grantee shall provide a final Payment Request within 60 days of the expiration of the Term. Payment Requests received after this time will not be processed.
19. The Grantee shall provide a final Program Progress Report and all other required close out documents specified by the MSF within 120 days of the expiration of the Term.
20. The Grantee shall provide documentation that at least one public hearing was held after grant award and prior to formal grant closeout. Such documentation shall be provided prior to formal grant closeout.
21. During each of the Grantee's fiscal years in which a disbursement of the Grant is made under this Agreement, the Grantee shall file an Audit Report. This Audit Report must be prepared by an independent auditor, and be in compliance with the requirements of OMB Circular A-133, or as required by the Grant Administrator. This Audit Report shall be filed with the Grant Administrator within 30 days after completion of the audit, but not later than nine months after the close of the Grantee's fiscal year.

22. Whenever possible, auditees shall make positive efforts to utilize small businesses, minority-owned firms, and women's business enterprises, in procuring audit services as stated in the A-102 Common Rule, OMB Circular A-110, or the FAR (48 CFR part 42), as applicable.

III. GENERAL TERMS AND CONDITIONS

1. Applicability to Sub Recipients and Contractors: Where performance of the grant project is carried out by any sub recipient or contractor of the Grantee, the provisions of the Grant Agreement shall be made binding on such sub recipient or contractor by the Grantee. This shall be accomplished by a written agreement or contract between the Grantee and sub recipient or contractor. Where the term “Grantee” appears in this Grant Agreement it shall be read to include any sub recipient or contractor of the Grantee.

The ultimate legal responsibility for insuring compliance with requirements of the Grant Agreement is that of the Grantee designated in the Grant Offer.

2. Compliance by the Grantee: The Grantee shall comply with all applicable provisions of the following:
 - a. “Statement of Assurances” as included in the Application.
 - b. Compliance with Section 3 of the Housing and Urban Development Act of 1968, as amended.
 - c. Compliance with Title I of the Housing and Community Development Act of 1974, as amended (Fair Housing).
3. Maintenance of Records: The Grantee shall maintain records which will allow assessment of the extent of Grantee performance of the Scope of Work and which allow for the comparison of actual outlays with budgeted amounts. The Grantee’s overall financial management system must ensure effective control over, and accountability for, all funds received. Accounting records must be supported by source documentation such as time sheets and invoices.
4. Retention of Records: The Grantee shall retain all financial records, supporting documents, statistical records, and all other pertinent records until notified by the MSF.
5. Amendments. The Grantee must obtain prior written approval of the Grant Administrator for grant amendments as follows:
 - a. changes of substance in the Scope of Work including new activities or alterations of existing approved activities;
 - b. extensions to the term of work performance for completion of project activities;
 - c. for Grants of less than \$100,000, cumulative changes among approved CDBG funded budget items which exceed \$5,000 or five (5) percent of the Grant, whichever is the lesser amount; and
 - d. for Grants of \$100,000 or more, cumulative changes among approved CDBG funded budget items which exceed \$10,000 or five (5) percent of the Grant, whichever is the lesser amount.

The amendment request must be submitted by an authorized local official of the Grantee.

6. Suspension of Grant: When the Grantee has failed to comply with the grant award stipulations, standards, or conditions, the Grantor may, on reasonable notice to the Grantee, suspend the grant and withhold further payments, or prohibit the Grantee from incurring additional obligations of grant funds, pending corrective action by the Grantee or a decision to terminate in accordance with these Terms and Conditions. The Grantor will allow all necessary and proper costs, which the Grantee could not reasonably avoid during the period of suspension, provided they meet the provisions of OMB Circular A-87.
7. Termination for Cause: The Grantor may terminate this grant in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the conditions of the grant. The Grantor will promptly notify the Grantee in writing of the determination and the reasons for the termination, together with the effective date. Payments made to recipients, or recoveries by the Grantor, will be in accordance with the legal rights and liabilities of the parties.
8. Termination for Convenience: The Grantor or the Grantee may terminate this grant in whole, or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of the Grant. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. The Grantee shall not incur new obligation for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Grantor will allow full credit to the Grantee for the Grantor's share of the noncancelable obligations that were properly incurred by the Grantee prior to termination.
9. The Grantee and political subdivisions, agencies, and instrumentalities thereof, when engaged in letting contracts or procuring products or services which involved funds obtained from the Grantor shall ensure that bid specifications, project agreements, other controlling documents, and any other local requirements do not:
 - a. require bidders, offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations on the same or related projects;
 - b. discriminate against bidders, offerors, contractors or subcontractors for refusing to become or remain signatories or otherwise adhere to agreements with one or more labor organizations on the same or related construction projects; or
 - c. require any bidder, offeror, contractor, or subcontractor to enter into, adhere to or enforce any agreement that requires its employees as a condition of employment to:
 - i. become members of or become affiliated with a labor organization; or
 - ii. pay dues or fees to a labor organization, over an employee's objection, in excess of the employee's share of labor organization costs relating to collective bargaining, contract administration or grievance adjustment.

PROJECT BUDGET
MICHIGAN COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

MICHIGAN ECONOMIC DEVELOPMENT CORPORATION

1. Applicant: City of Mason	MSC 213004-ESB		2. Project Title: 124 and 140 Ash Street Redevelopment			
3. Project Cost Elements	4. Project Funding Sources (Identify all other funding sources)					
Activities	CDBG	Local	Private	MHCDF Grant	MSHDA CDBG	TOTAL
Building Improvements	\$446,000	\$50,000	\$352,850	\$46,220	\$0	\$895,070
Architecture and/or Engineering	\$0	\$0	\$71,850	\$0	\$0	\$71,850
Demolition	\$0	\$0	\$0	\$251,411	\$0	\$251,411
Property Acquisition	\$0	\$0	\$150,000	\$0	\$0	\$150,000
Administration	\$0	\$0	\$0	\$0	\$52,500	\$52,500
Residential Improvements	\$0	\$0	\$275,300	\$0	\$350,000	\$625,300
Site Improvements	\$0	\$0	\$0	\$202,369	\$0	\$202,369
TOTAL	\$446,000	\$50,000	\$850,000	\$500,000	\$402,500	\$2,248,500

PROJECT INFORMATION AND DESCRIPTION

1. Describe the overall proposed project. Include all work activities, including but not limited to, leases, property/easement acquisitions, demolition, rehabilitation, and/or historic preservation for which the grant and other matching funds will be used.

The overall proposed project is to convert the (2) oldest buildings in Mason's downtown into a fully revitalized mixed-use development. The first building is 2-stories with a partial basement and the second building is 3-stories with a full basement. There have been (2) additions that were added to the South (alley) side of the buildings that will be completely removed back to the original façades and this area will be improved as parking for the tenants. Across the alley there is a small piece of property that is joined to one of the buildings. Currently, there is a small Centralized Maintenance Unit (CMU) storage garage build here. This will also be removed and the property will be improved as parking to match/join the new parking and site layout. The exterior of the building and site will receive full rehabilitation. The facades will receive historic restoration of the brick, windows, storefronts, trims and cornices to replicate the original building design. The ground level commercial space (5,160 sq.ft.) will be fully occupied via lease by Oracle Financial Solutions. This group will also occupy an additional 1,434 square feet on the 3rd floor that will be utilized as a lounge/conference space. These spaces will be finished as class "A" office space while still preserving or highlighting any of the buildings historical elements. The building will also house (10) single bed residential living units that will be serviced by a new internal elevator and two new stair systems. The unit finishes are set to exceed that of the criteria set forth by the MSHDA design standards and will also include designs for barrier free and/or accessible unit(s). Amenities of the units include individual clothes washers and dryers, solid surface counters, upgraded appliances, high ceilings, exposed brick, and highlighted historic elements. The lower level will be rehabilitated to house building storage, mechanical space, and additional storage for the residential living units. Overall, the project boasts many elements that will complement the downtown location and connectivity to the other surrounding businesses. The completed building and site will be a transformational project for this region.

2. Provide the history of the problems associated with this project and explain how this project will eliminate specific conditions of blight or physical decay.
Please see attached letter from City Building Official John Heckaman, dated August 20, 2013.

124 - 128 East Ash Street

HISTORY: The exact date when these two stores were built is unknown. However, for nearly 100 years, 124 East Ash housed the furniture business of Mason's long family

line (Stroud, McDonald, Ball & Dunn) of furniture dealers/undertakers. The stores were eventually merged and the present front façade was added in 1964.

140-144 East Ash Street

HISTORY: The three-story building at 140-144 East Ash Street was built for Charles Sackrider and N. T. McGeorge in 1867. It was called "one of the most magnificent brick blocks that can be found in the west." (Ingham County News, May 1, 1867) Chas. H. Sackrider was a Mason physician from 1855 to 1881. Sackrider, McGeorge & Co. opened a mammoth dry goods and grocery store. By October of 1867 it was called Sackrider and McRobert. The west half of this building became a farm implement business about 1884. A.A. Howlett & Co. acquired it in 1911 and continued until 1963 in this location.

ARCHITECTURAL DESCRIPTION: This is a three-story commercial building with very little of the original architectural character remaining. The upper two stories are faced with brick which is capped with a metal coping. There are seven, three over two horizontal bar pattern window openings on the second floor, all of which have been altered in height from the original openings. The sash presently occupying these openings is of aluminum construction which post dates the period of the building. The third story has two remaining openings that have been also scaled down in height and glazed with aluminum sash that match the second floor.

The storefront of this building consists of large panes of glass set in aluminum frames with corrugated aluminum below the windows at the masonry piers at either end of the building and at the transom area above the display windows. A recessed entryway located at the center of the building provides access to a stairway to the upper level and to store spaces on either side of the entrance.

Please see the numerous photos we have attached, as well as the detailed analysis by Building Inspector John Heckaman. This property has been neglected and is an extremely blighted and obsolete building. At this time, the building is not functional nor can it be used, as it is not built to proper codes, or improve to a usable state. The crux of this project will remediate this building, make it productive with both commercial and residential space, add value to these parcels, as well as the surrounding neighborhood. As referenced by the Mason Historic District Commission, this project will be an asset to the historic downtown district.

The project will eliminate all of the problems that have been identified due to complete nature of the renovation. Blight, hazardous materials and health and safety concerns will all be eliminated upon completion of the project.

3. Using bullets, list the CDBG funded activities

- Exterior Building Improvements (structural, sand blasting, masonry, lintels, cornices, windows and storefronts, entries, roof, parapets, insulation)

- waterproofing, etc.)
- MSHDA Rental Rehab - Interior Residential build-out

4. Using bullets, list the Match funded activities

- Architecture
- Engineering
- Property acquisition
- Entire structure rehabilitation
- Mason DDA Façade Grant
- Residential build-out

5. Other than the preliminary cost estimates, describe the status of any engineering and/or architectural plans or specifications for this property location. If engineering and/or architectural plans or specifications have been completed, please provide copies.

Progress design documents attached

If completed, are they attached?

Yes N/A

PLEASE NOTE:

Costs for engineering and/or architectural plans to be funded with non-CDBG funds may be incurred at the UGLG's own risk with written authorization from the MSF and may be included in the project budget as match.

Costs for engineering and/or architectural plans to be funded with CDBG funds may be incurred with written authorization from the MSF once the Grant Agreement has been executed and may be included in the project budget. CDBG Procurement requirements apply to all CDBG funded activities.

CDBG funds may be jeopardized or withdrawn if written authorization from the MSF has not been provided prior to signing an engineering and/or architectural contract for expenses other than the preliminary costs for completing the Part 1 Application.

6. List and describe the status of any local, state and federal permits required for implementation of the proposed project.

The project has already received City site plan approval for the activities described. Once the design documents are finished the project will be submitted for building plan review.

7. Describe all leases, easements, and property option/purchase agreements needed in order to complete the project activities at this property location. Include the anticipated seller, buyer, property description/location and cost.

The property is currently owned by the Ingham County Land Bank. RKH Investments, or an entity to be formed, will be executing a Development Agreement and Option for

Purchase upon completion of the development services. In conjunction with that, RKH will be executing a formal commercial lease with Oracle for the commercial space. Once the project moves to construction, RKH will seek qualified tenants and leases for the residential units.

PLEASE NOTE:

Costs for acquiring real property, to be fully funded with non-CDBG monies, may be included in the project budget as match and may be incurred at the UGLG's own risk once the environmental review and Uniform Act requirements have been completed and written authorization to incur these costs has been provided by the MSF.

Costs for acquiring real property, to be partially or fully funded with CDBG monies, may be included in the project budget and may be incurred with written authorization from the MSF once the environmental review and Uniform Act requirements have been completed and the Grant Agreement has been executed by all parties.

CDBG funds will be jeopardized or withdrawn if written authorization from the MSF has not been provided prior to signing option/purchase/lease/easement agreements.

8. Are there tenants at this property address?

Yes No

If so, are they residential or business tenants?

Residential Business N/A

Please provide the following for each tenant:

Name: [REDACTED]

Business Address: [REDACTED]

Phone #: [REDACTED]

E-mail: [REDACTED]

9. In the below space, provide a project timeline that includes the anticipated start and completion dates for the following activities (attachments are not acceptable).

Activities	Start date	End date
Engineering and/or design	April 1, 2013	November 31, 2013
Property acquisition, if applicable	N/A	Jan. 18, 2014
Bidding, if applicable	October 31, 2013	December 1, 2013
CDBG funded construction	January 31, 2014	December 31, 2015
Match funded construction		January 31, 2014
		December 31, 2015

PLEASE NOTE:

When completing the timeline, please refer to Application Guide with regard to when project costs can be incurred.

10. Provide pictures of the proposed site.

Attached: Yes No

NATIONAL OBJECTIVE

11. Blight elimination projects must provide certification from a Licensed Building Inspector that the project site meets the definition of blight as defined in the Brownfield Redevelopment Financing Act 381 of 1996, MCL 125.2652 (e)(i-iv) and (vii), the reasoning for that determination, and how the proposed project will eliminate the blight causing elements.

Attached: Yes No

12. Does the project meet multiple definitions of Blight?

Yes No

If yes, describe:

The property at 124 and 140 E. Ash:

- Has been declared a public nuisance in accordance with a local housing, building, plumbing, fire, or other related code or ordinance.
- Is an attractive nuisance to children because of physical condition, use, or occupancy.
- Is a fire hazard or is otherwise dangerous to the safety of persons or property.
- Has had the utilities, plumbing, heating, or sewerage permanently disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use.
- Is property owned or under the control of a land bank fast track authority, whether or not located within a qualified local governmental unit. Property included within a Brownfield plan prior to the date it meets the requirements of this subdivision to be eligible property shall be considered to become eligible property as of the date the property is determined to have been or becomes qualified as, or is combined with, other eligible property. The sale, lease, or transfer of the property by a land bank fast track authority after the property's inclusion in a Brownfield plan shall not result in the loss to the property of the status as blighted property for purposes of this act.

CITY OF MASON
STAFF AGENDA REPORT TO CITY COUNCIL

Meeting Date: August 11, 2014

Agenda Item: 7 (C)

AGENDA ITEM

Resolution 2014-42— Performance Resolution for Governmental Agencies

EXHIBITS

None

STAFF REVIEW

Administration

SUMMARY STATEMENT

The Michigan Department of Transportation (MDOT) requires the attached Performance Resolution for purposes of issuing to a municipal utility an "Individual Permit for Use of State Highway Right of Way" (form 2205), or an "Annual Application and Permit for Miscellaneous Operations Within State Highway Right of Way" (form 2205B). This permit applies for the recent driveway/apron work performed at the Mason Fire Department.

RECOMMENDED ACTION

Move to approve Resolution 2014-42.

**PERFORMANCE RESOLUTION FOR
GOVERNMENTAL AGENCIES**

This Performance Resolution is required by the Michigan Department of Transportation for purposes of issuing to a municipal utility an "Individual Permit for Use of State Highway Right of Way" (form 2205), or an "Annual Application and Permit for Miscellaneous Operations Within State Highway Right of Way" (form 2205B).

RESOLVED WHEREAS, the City of Mason

(city, village, township, etc.)

hereinafter referred to as the "GOVERNMENTAL AGENCY," periodically applies to the Michigan Department of Transportation, hereinafter referred to as the "DEPARTMENT," for permits, referred to as "PERMIT," to construct, operate, use and/or maintain utility or other facilities, or to conduct other activities, on, over, and under State Highway right of way at various locations within and adjacent to its corporate limits;

NOW THEREFORE, in consideration of the DEPARTMENT granting such PERMIT, the GOVERNMENTAL AGENCY agrees that:

1. Each party to this Agreement shall remain responsible for any claims arising out of their own acts and/or omissions during the performance of this Agreement, as provided by law. This Agreement is not intended to increase either party's liability for, or immunity from, tort claims, nor shall it be interpreted, as giving either party hereto a right of indemnification, either by Agreement or at law, for claims arising out of the performance of this Agreement.
2. Any work performed for the GOVERNMENTAL AGENCY by a contractor or subcontractor will be solely as a contractor for the GOVERNMENTAL AGENCY and not as a contractor or agent of the DEPARTMENT. The DEPARTMENT shall not be subject to any obligations or liabilities by vendors and contractors of the GOVERNMENTAL AGENCY, or their subcontractors or any other person not a party to the PERMIT without its specific prior written consent and notwithstanding the issuance of the PERMIT. Any claims by any contractor or subcontractor will be the sole responsibility of the GOVERNMENTAL AGENCY.
3. The GOVERNMENTAL AGENCY shall take no unlawful action or conduct, which arises either directly or indirectly out of its obligations, responsibilities, and duties under the PERMIT which results in claims being asserted against or judgment being imposed against the State of Michigan, the Michigan Transportation Commission, the DEPARTMENT, and all officers, agents and employees thereof and those contracting governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof, pursuant to a maintenance contract. In the event that the same occurs, for the purposes of the PERMIT, it will be considered as a breach of the PERMIT thereby giving the State of Michigan, the DEPARTMENT, and/or the Michigan Transportation Commission a right to seek and obtain any necessary relief or remedy, including, but not by way of limitation, a judgment for money damages.
4. The GOVERNMENTAL AGENCY It will, by its own volition and/or request by the DEPARTMENT, promptly restore and/or correct physical or operating damages to any State Highway Right of Way resulting from the installation construction, operation and/or maintenance of the GOVERNMENTAL AGENCY'S facilities according to a PERMIT issued by the DEPARTMENT.
5. With respect to any activities authorized by PERMIT, when the GOVERNMENTAL AGENCY requires insurance on its own or its contractor's behalf it shall also require that such policy include as named insured the State of Michigan, the Transportation Commission, the DEPARTMENT, and all officers, agents, and employees thereof and those governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof, pursuant to a maintenance contract.

- 6. The incorporation by the DEPARTMENT of this resolution as part of a PERMIT does not prevent the DEPARTMENT from requiring additional performance security or insurance before issuance of a PERMIT.
- 7. This resolution shall continue in force from this date until cancelled by the GOVERNMENTAL AGENCY or the DEPARTMENT with no less than thirty (30) days prior written notice to the other party. It will not be cancelled or otherwise terminated by the GOVERNMENTAL AGENCY with regard to any PERMIT which has already been issued or activity which has already been undertaken.

BE IT FURTHER RESOLVED, that the following position(s) are authorized to apply to the DEPARTMENT for the necessary permit to work within State Highway Right of Way on behalf of the GOVERNMENTAL AGENCY.

Name	and/or	Title
Martin Colburn		City Administrator
Leon Clark		Mayor

I HEREBY CERTIFY that the foregoing is a true copy of a resolution adopted by
 the City Council
 (Name of Board, etc)
 of the City of Mason of Ingham
 (Name of GOVERNMENTAL AGENCY) (County)

at a City Council meeting held on the _____ day
 of _____ A.D. 2014.

Signed _____ Title _____

CITY OF MASON

STAFF AGENDA REPORT TO CITY COUNCIL

Meeting Date: August 11, 2014

Agenda Item: 7 (D)

AGENDA ITEM

Motion – Mason Library Flat Roof Repair

EXHIBITS

- Quote from Streamline Enterprises Inc.

STAFF REVIEW

Zoning & Development Department

SUMMARY STATEMENT

During this past winter, the Library experienced water leaking through the flat roof portion of the building. Upon examination of the roof it was evident that the flat roof system had settled and not longer shed water properly. The result was standing water and ice that put substantial stress on the seams and flashing causing failure and water infiltration to the interior of the building.

Staff solicited quotes from four different roofing companies. It is the intent to provide a roof system that positively sloped and drains water way and off of the roof area. The quotes received from each company include slope for positive drainage. The following quotes were received:

Streamline Enterprises Inc.	\$7,560
Morrow Roofing	\$8,600
Bornor Restoration Inc.	\$20,608
NDJ Construction	\$23,500

Streamline Enterprises Inc. offers a 20 year warranty on roofing materials and a 10 year warranty on installation.

RECOMMENDED ACTION

Move to accept the proposal from Streamline Enterprises Inc. in the amount of \$7,560 and authorize the City Administrator to enter into an agreement for roofing repair services.

CITY OF MASON

STAFF AGENDA REPORT TO CITY COUNCIL

Meeting Date: August 11, 2014

Agenda Item: 7 (E)

AGENDA ITEM

Motion – 972 N. Mason St. – Asbestos Abatement Services

EXHIBITS

Quote from Asbestos Abatement Inc. – July 7, 2014

STAFF REVIEW

Zoning & Development Department

SUMMARY STATEMENT

Located at the north end of North Mason Street, this property is approximately one acre in size and has a single family home that was constructed around 1930. The City acquired this property in May of 2010. Due to its age and condition, the City intends to remove this structure by means of mechanical demolition.

The following quotes were received from the three companies solicited:

Asbestos Abatement Inc.	\$6,950.00
HBC Contracting	\$7,850.00
MI Insulation	No quote received

RECOMMENDED ACTION

Move to accept the proposal from Asbestos Abatement Inc. in the amount of \$6,950.00 and authorize the City Administrator to enter into an agreement for asbestos abatement services.

**Asbestos
Abatement
Incorporated**

July 7, 2014

2420 N. Grand River
Lansing, Michigan 48906-3914
(517) 323-0052
Fax (517) 323-7382

City of Mason
Attn: Dave Haywood
201 W. Ash St.
Mason, MI 48854

RE: 972 N. Mason St- Asbestos Removal

Asbestos Abatement Inc. is pleased to provide you with the following proposal for your consideration. All of our prices include labor, materials, equipment, insurance, disposal, and applicable taxes. Asbestos Abatement Inc. completes all of its projects in a professional and timely manner.

Scope:

The project consists of the removal of approximately 350 sq ft of drywall JC from various areas, removal of 1100 sq ft of transite siding, removal of 1100 sq ft of tar paper that was under the transite siding and removal of 458 sq ft of asbestos flooring.

A PCM air clearance is included in this quote. Work hours are M-F during normal business hours. The amount of asbestos being removed requires us to file a State of Michigan Asbestos Notification, a process which has a 10 day waiting period before work could begin. Non-prevailing wages are figured for this quote.

Price = \$6,950.00

This price is valid for 60 days from the date listed at the top. If you have any questions feel free to call me. Thank you.

Respectfully,



Eric Kuznicki, Estimator



Accepted By: _____
Signature

Print Name: _____

Title: _____ Date: _____

City of Mason

201 W. Ash St.
P.O. Box 370
Mason, MI 48854-0370
www.mason.mi.us



City Hall 517 676-9155
Police 517 676-2458
Fax 517 676-1330
TDD 1-800-649-3777

MEMORANDUM

TO: Honorable Mayor and Council Members
FROM: Martin Colburn, City Administrator
DATE: August 11, 2014
RE: City Administrator's Report

Primary Results, August 5, 2014 Election

Our local elections held at Mason City Hall went off well. We had a total of 996 ballots cast. Unfortunately, we are running under 20% of registered voters in participation. State Proposal 1 in removing the Personal Property Tax was approved overwhelmingly. The Capital Area District Library's request of 1.56 mills was approved as well. Congratulations to Councilmember Naeyaert as she was elected as the 14th District Ingham County Commissioner. Attached are the local election results.

The General Election will be held on November 4, 2014. Please note that a little over 39% of the ballots cast are by absentee voters.

