CITY OF BURTON

FINANCE COMMITTEE MEETING

DECEMBER 21, 2015

MINUTES

Council Chambers	Regular Meeting	6:00 PM

4303 S. CENTER ROAD
BURTON, MI 48519

This meeting was opened by Chairman Vaughn Smith at 6:00 PM.

A. ROLL CALL

Attendee Name	Title	Status	Arrived
Tom Martinbianco	Councilman	Present	
Dennis O'Keefe	Councilman	Present	
Vaughn Smith	Chairman	Present	

B. STAFF PRESENT

Paula Zelenko, Mayor
Rik Hayman, Chief of Staff
Doug Bingaman, Treasurer
Ginger Burke-Miller, Controller
Racheal Boggs, Clerk's Office
Sue Warren, Human Resources

C. AUDIENCE PARTICIPATION

None.

D. MINUTES APPROVAL

Minutes were not approved during this meeting.

E. COMMITTEE DISCUSSION ON THE FOLLOWING ITEMS:

A. Discussion and possible recommendation to Burton City Council on the Fund Balance Policy.

Mrs. Burke-Miller presented a draft of the City of Burton Fund Balance Policy. She stated we can change it if we need to. She asked for the Finance Committee's thoughts.

Mr. Smith stated implementing something like this will keep the city at a comfortable financial range. It is very judicious of us and shows financial responsibility.

Mr. Martinbianco stated the objective is to tell the council what you want to do and we will give you the resources to do it.

Mr. Smith said when the administration does the budget, they will need to take this into account.

Mr. O'Keefe said we have had good conversations about this over the past year. He likes the three year average and percentage as opposed to the flat dollar amount.

Motion to send Fund Balance Policy to City Council for approval.

RESULT:	**RECOMMENDED [UNANIMOUS]**	**Next: 1/4/2016 6:00 PM**
MOVER:	Dennis O'Keefe, Councilman	
SECONDER:	Tom Martinbianco, Councilman	
AYES:	Martinbianco, O'Keefe, Smith	

B. Discussion and possible recommendation to Burton City Council on Late Fees on Water and Sewer Bills.

Mr Smith stated this idea began with a Burton resident who is on SSI. She states by the time she gets her bill, she doesn't have time to prepare to pay it. He stated he received his personal water bill on November 30th and it was due December 15th. The late fee if paid after the 15th was around $11.00. He would like to explore some options to make it a little easier for our residents.

Mayor Zelenko stated we may have a logistical issue with the company we use to print our bills if we extend the late fee time period to 30 days.

Mr. Bigaman said there would be no adverse affect by changing the due date if all our residents were billed quarterly. However, we have about 1,100 monthly customers; they would receive inaccurate bills. If we changed the billing date to the 30th, anytime a customer paid after the due date or after the 25th of the month when we send the file to the printer, we would be sending out a bill for one amount when they actually owe something else. Currently, we have an unofficial grace period of about 5-6 days.

Mr. Smith asked what the interest rate is for a late fee.

Mr. Bingaman stated it is a 10% penalty. He recommends reducing the penalty instead of changing the due date.

Mr. O'Keefe said it doesn't sound like we have much wiggle room with the 15 days. He thinks 10% seems a little steep and he would be in favor of reducing the penalty.

Mr. Martinbianco said 10% is a large amount to employ on the residents. He suggests reducing the penalty to 5%.

Mayor Zelenko stated if this is in an ordinance, we would need to do an ordinance change.

Motion to send late fee change from 10% to 5% to City Council for approval.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Tom Martinbianco, Councilman
SECONDER:	Dennis O'Keefe, Councilman
AYES:	Martinbianco, O'Keefe, Smith

C. Discussion and possible recommendation to the Burton City Council on break-out of employee wages, benefits and MERS.

Mayor Zelenko said we may want to do a workshop on the break-out of MERS benefits.

D. Discussion and possible recommendation to the Burton City Council to approve and authorize the Mayor and Clerk to enter into a Sale Agreement with D & D Holdings in the amount of $615,000.00 for city owned lots in Mallard Ponds and Cross Creek and to include the additional terms & conditions regarding city owned lots in Burton Estates.

Mr. Dinha of Clarkston stated he made a purchase agreement to purchase three developments: Mallard Ponds, Cross Creek and Burton Estates. He is interested in building houses on each one of these lots. He has found the market to be much stronger for condos as opposed to single family homes. He feels Burton Estates will be problematic. He would like to propose to the city that he purchase the other two developments and build houses a few at a time in Burton Estates and see how it goes. If successful, he would purchase the remaining lots. His interest only lies in Burton because he would control all three developments. If he was not able to get Burton Estates, he wouldn't want the other projects due to the risk. He is asking the committee for a three year period.

Mr. O'Keefe asked if Mr. Dinha intends to buy three more lots if the first three houses go well.

Mr. Dinha stated he would invest the money from the first three houses into the purchase of two or three more lots.

Mr. O'Keefe asked the City Attorney for clarification about the special assessment on the purchase agreement.

Attorney Doyle stated the total price; cash payment and assumption of special assessments will not exceed $615,000.00.

Mr. Conn stated this is essentially the same contract as before. The difference is we are stretching out the payment program and lot purchases for Burton Estates. It also stated if another buyer comes along he will have the first right of refusal.

Mr. Dinha said their logic is if someone comes along and wants to build, he doesn't want to tie up progress in the city. He stated we should have a period of time to act or pass on it.

Mr. O'Keefe asked what timeframe is anticipated.

Mr. Dinha stated he hopes to get started within 60 days.

Mr. O'Keefe asked if the Attorney and Mayor were supporters of the contract.

Attorney Doyle stated she feels comfortable with this agreement from a legal standpoint.

Mayor Zelenko stated yes, she would like to go forward with it.

Mr. Martinbianco asked what are the next steps, financially.

Mayor Zelenko stated our intent all along was to get the property on the tax rolls and try to make enough on the purchase to try to pay down the bonds.

Motion to send sale agreement with D & D Holdings to City Council for approval.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Dennis O'Keefe, Councilman
SECONDER:	Tom Martinbianco, Councilman
AYES:	Martinbianco, O'Keefe, Smith

E. Discussion and possible recommendation to the Burton City Council to approve and authorize the Mayor and Clerk to enter into the Michigan Uniform Video Services Franchise Agreement with Comcast of Flint.

Attorney Doyle stated in November of 1985, the city adopted ordinance 20-A-4. Subsequently throughout the following years, it was amended several times. Effective January 1, 2007, the Michigan Uniform Video Services Local Franchise Act began requiring a uniform franchise agreement from companies such as Comcast which meant when our contract was up after the 30 years, we cannot renew it. We can cancel or enter into another agreement. The only difference between the previous agreement and this one is the franchise fee which began at 3% and is now 5%. PEG fees (Public Education and Government) on page six of the agreement is an option to take a percentage up to 2% of the 5% franchise fee and set it aside for PEG dollars.

Mayor Zelenko stated the way she understood PEG dollars from the past is that they pass that cost along to the residents. We live stream our meetings and I don't think this will benefit our residents.

Mr. Smith asked if we table this, what are the ramifications?

Attorney Doyle stated we would not have cable service beginning in January.

Mr. Martinbianco stated this is a monopoly; there are no competitors and no other option for us.

Mr. O'Keefe asked if we commit to not having the PEG dollars can we modify it at some point in time.

Mayor Zelenko stated she didn't see an expiration date on the agreement.

Mr. Hayman stated this is all governed by the FCC so the real reason there is no competition is because of federal regulations. He feels we have no other choice.

Mr. Martinbianco stated he doesn't support this. He thinks there are other options.

Mr. O'Keeke recommend to send this to City Council and Mr. Smith seconded the motion.

Motion to forward the Franchise Agreement with Comcast to City Council for approval.

RESULT:	**RECOMMENDED [2 TO 1]**	**Next: 12/21/2015 7:00 PM**
MOVER:	Dennis O'Keefe, Councilman	
SECONDER:	Vaughn Smith, Chairman	
AYES:	O'Keefe, Smith	
NAYS:	Martinbianco	

Meeting was adjourned at 7:15 PM.

AGENDA ITEM (ID # 2013)

DOC ID: 2013

Discussion and possible recommendation to Burton City Council on the Fund Balance Policy.

ATTACHMENTS:

- Fund Balance Burton (PDF)

RESULT:	**RECOMMENDED [UNANIMOUS]**	**Next: 1/4/2016 6:00 PM**
MOVER:	Dennis O'Keefe, Councilman	
SECONDER:	Tom Martinbianco, Councilman	
AYES:	Tom Martinbianco, Dennis O'Keefe, Vaughn Smith	

City of Burton

Fund Balance Policy

Purpose

To specify the size and composition of the City's desired fund balance and to identify certain requirements for classifying fund balance in accordance with GASB Statement No. 54. It is essential that the City maintain adequate levels of unreserved fund balance to mitigate risk that can occur from unforeseen revenue fluctuations, unanticipated expenditures and similar circumstances. The fund balance also provides cash flow liquidity for the City's general operations and working capital for community development and improvement projects.

Policy

Positive fund balance is created from excess revenues over expenditures. Fund balance is a fund's net assets, mostly made up of cash and investments, and unless otherwise restricted, available for use in a myriad of ways (savings, investments, inter-fund loans, contributions to funds, etc.). There are five components of fund balance:

1. Non-spendable Fund Balance – this portion of fund balance is non-spendable because of its form, for example inventory and non-financial assets, or because of legal or contractual requirements.
2. Restricted Fund Balance – this portion of fund balance is restricted due to external limitations placed on the use of the funds. The restriction typically comes from outside the local government as a condition of the revenue source.
3. Committed Fund Balance – fund balance is committed if a limitation is set in place by formal action of the City Council prior to the end of the fiscal year. The limitation remains binding until the City Council takes formal action to remove it.
4. Assigned Fund Balance – Fund balance may be assigned to reflect the intended use of the resource or is intended to be used for a specific purpose not so designated by the City Council. The assignment of funds may come from the City Treasurer or the Mayor. Less formality is needed to impose, remove or modify a constraint reflected in Assigned Fund Balance. No funds other than the General Fund may have Unassigned Fund Balance, therefore any amounts remaining in excess of Non-spendable, Restricted or Committed funds in funds other than the General Fund will automatically be reported as Assigned Fund Balance. If any portion of existing fund balance will be used to eliminate a projected deficit in the subsequent year's budget, this amount will also be categorized as Assigned Fund Balance.

5. Unassigned Fund Balance – the General Fund, and no other governmental fund, may have resources that cannot be classified in one of the four categories described above. Only the General Fund can report a surplus, an Unassigned Fund Balance.

Utilization of Fund Balance

As required by GASB 54, the City's policy shall be that when multiple classifications are available and appropriate for a specific purpose, fund balance will be used first from the most restrictive category (Non-spendable) in order, to the least restrictive (unassigned fund balance).

Minimum Fund Balance

For the General Fund, the budget shall be prepared and activities managed to result in an ending unassigned fund balance of at least 20% of the average of the past (3) fiscal year general fund expenditures, except in the case of an emergency or financial distress. Circumstances of emergency or financial distress shall be reported to the City Council at the earliest practical time.

When fund balance approaches its minimum threshold the following measures, in priority order, may be used to build up fund balance:

1. Cut or delay pay-as-you-go capital improvements
2. Cut general operating expenditures
3. Increase rates and charges funding specific services to make them self-sufficient where possible
4. Increase millage

Other Provisions

Designating Fund Balance categories

City Council is the only entity capable of authorizing the Mayor to designate a committed fund balance for a specific purpose. Such action shall be performed in a properly called and conducted meeting of the Council and shall require a majority vote of Council members.

Status of this policy

The terms and conditions of this policy shall supersede and replace other statements by the City of Burton on this subject. This policy shall remain in force and effect until replaced or contradicted by later action of the Burton City Council or other competent authority.

Finance Committee
4303 S. Center Road
Burton, MI 48519

ADOPTED

Meeting: 12/21/15 06:00 PM
Department: Clerk's Office
Category: Discussion
Prepared By: Teresa M. Karsney
Department Head: Teresa M. Karsney

AGENDA ITEM (ID # 2014)

DOC ID: 2014

Discussion and possible recommendation to Burton City Council on Late Fees on Water and Sewer Bills.

ATTACHMENTS:

- Late Fee Letter (PDF)

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Tom Martinbianco, Councilman
SECONDER:	Dennis O'Keefe, Councilman
AYES:	Tom Martinbianco, Dennis O'Keefe, Vaughn Smith

Teresa M. Karsney

From: Vaughn Smith <vaughnsmith161@hotmail.com>
Sent: Thursday, December 10, 2015 8:04 PM
To: Teresa M. Karsney
Subject: FW: Burton Utilities bill

Hi Teresa,

Here is the resident's email.

Thanks,

Vaughn Smith

Ph. 810-516-9614

Date: Tue, 24 Nov 2015 16:00:09 +0000
From: spurdue4@sbcglobal.net
To: vaughnsmith161@hotmail.com
Subject: Burton Utilities bill

Vaughn,
Looking at the increase in City of Burton's utilities increase made recently, I feel time maybe to address the late fee time period. A lot of community residents receive a once a month checks from SSA, SSI, or Pensions payments. In so if there payment doesn't fall in the time period of the City of Burton utilities bill they are always paying a late fee. And now with the increase, it becomes very difficult for them. I don't know if or what could be done is this matter , but simply extending a late fee date to a 30 day period would help.

Sandy Purdue

Discussion and possible recommendation to the Burton City Council on break-out of employee wages, benefits and MERS.

ATTACHMENTS:

- Burton City Council Budget requests for 2016-17 (DOC)

The Burton City Council has been asked by Mayor Zelenko to provide in writing what specifically the City Council is requesting for how the City Council wants to receive the budget information for the 2016-17 Budget.

- In reviewing the City Budget for the 2015-16 Budget year, council members expressed difficulty in tracking the following budget information.
    - Each individual employee's:
        - Salaries permanent.
        - Overtime.
        - Fringes.

- The Burton City Council is asking for the 2016-17 Budget that the BS & A module be constructed in the following manner.
    - Each individual employee's
        - Salaries permanent. (should include sick & vacation days, shift premiums, **Longevity**)
        - Overtime. As explained by Ginger, according to the May 27th, 6:30 pm Budget meeting page 3, is handled differently for the police versus the other city departments. Specifically in the Police Department, police overtime goes to salary permanent and all other departments, overtime goes to fringe benefits.
        - The City Council desires all departments be handled the same, with overtime going to **a new** overtime line, **as opposed** to fringe benefits **or salaries permanent lines**.
        - Fringes. Fringes should be broken down in the following categories.
            - MERS
            - **Insurances. i.e.** Life and Health insurance, vision, dental, short and long term disability.
            - Lump sum payouts.
            - Remainder in miscellaneous. i.e. education, etc.

- The last request from the Burton City Council is for each budget item, a prior year comparison **column be added**.

Finance Committee
4303 S. Center Road
Burton, MI 48519

Meeting: 12/21/15 06:00 PM
Department: Clerk's Office
Category: Contract
Prepared By: Teresa M. Karsney
Department Head: Teresa M. Karsney

ADOPTED

AGENDA ITEM (ID # 2049)

DOC ID: 2049

Discussion and possible recommendation to the Burton City Council to approve and authorize the Mayor and Clerk to enter into a Sale Agreement with D & D Holdings in the amount of $615,000.00 for city owned lots in Mallard Ponds and Cross Creek and to include the additional terms & conditions regarding city owned lots in Burton Estates.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Dennis O'Keefe, Councilman
SECONDER:	Tom Martinbianco, Councilman
AYES:	Tom Martinbianco, Dennis O'Keefe, Vaughn Smith

Finance Committee
4303 S. Center Road
Burton, MI 48519

SCHEDULED

Meeting: 12/21/15 06:00 PM
Department: Clerk's Office
Category: Agreement
Prepared By: Teresa M. Karsney
Department Head: Teresa M. Karsney

AGENDA ITEM (ID # 2050)

DOC ID: 2050

Discussion and possible recommendation to the Burton City Council to approve and authorize the Mayor and Clerk to enter into the Michigan Uniform Video Services Franchise Agreement with Comcast of Flint.

ATTACHMENTS:

- Comcast franchise agreement (PDF)
- City of Burton Ordinance 20-A-4 (PDF)
- City of Burton Ordinance 20-A-7 (PDF)

RESULT:	**RECOMMENDED [2 TO 1]**	**Next: 12/21/2015 7:00 PM**
MOVER:	Dennis O'Keefe, Councilman	
SECONDER:	Vaughn Smith, Chairman	
AYES:	Dennis O'Keefe, Vaughn Smith	
NAYS:	Tom Martinbianco	

COMCAST

Sent Via UPS

November 25, 2015

Ms. Teresa Karsney, Clerk
City of Burton
4303 S. Center Rd
Burton, MI 48519

Re: Michigan Uniform Video Service Local Franchise Agreement

Dear Ms. Karsney:

In accordance with the instructions set forth by the Michigan Public Service Commission in its provision of the Uniform Video Service Local Franchise Agreement, enclosed please find two completed Uniform Video Service Local Franchise Agreements along with the necessary Attachment 1s thereto filed on behalf of Comcast of Flint, Inc. Kindly return one executed copy of the Agreement to me in the self addressed stamped envelope.

If you have any questions, please contact me directly at 517-334-5686 or Leslie Brogan, Senior Director of Government Affairs, at 517-334-5890. We look forward to continuing to be the company that your residents look to first for the communication products and services that connect them to what's important in their lives.

Sincerely,

John P. Gardner

John P. Gardner
Director of External Affairs
Comcast, Heartland Region
1401 E. Miller Rd.
Lansing, MI 48911

Enclosure

INSTRUCTIONS FOR
UNIFORM VIDEO SERVICE LOCAL FRANCHISE AGREEMENT

Pursuant to 2006 Public Act 480, MCL 484.3301 *et seq*, any Video Service Provider seeking to provide video service in one or more service areas in the state of Michigan after January 30, 2007, shall file an application for a Uniform Video Service Local Franchise Agreement with the Local Unit of Government ("Franchising Entity") that the Provider wishes to service. Pursuant to Section 2(2) of 2006 PA 480, "Except as otherwise provided by this Act, a person shall not provide video services in any local unit of government without first obtaining a uniform video service local franchise as provided under Section 3." Procedures applicable to incumbent video service providers are set forth below.

As of the effective date (January 1, 2007) of the Act, no existing franchise agreement with a Franchising Entity shall be renewed or extended upon the expiration date of the agreement. The incumbent video Provider, at its option, may continue to provide video services to the Franchising Entity by electing to do one of the following:

1. Terminate the existing franchise agreement before the expiration date of the agreement and enter into a new franchise under a uniform video service local franchise agreement.

2. Continue under the existing franchise agreement amended to include only those provisions required under a uniform video service local franchise.

3. Continue to operate under the terms of an expired franchise until a uniform video service local franchise agreement takes effect. An incumbent video Provider with an expired franchise on the effective date has <u>120</u> days after the effective date of the Act to file for a uniform video service local franchise agreement.

On the effective date (January 1, 2007) of the Act, any provisions of an existing Franchise that are inconsistent with or in addition to the provisions of a uniform video service local Franchise Agreement are unreasonable and unenforceable by the Franchising Entity.

If, at a subsequent date, the Provider would like to provide video service to an additional Local Unit of Government, the Provider must file an additional application with that Local Unit of Government.

<u>The forms shall meet the following requirements:</u>

- The Provider must complete both the "<u>Uniform Video Service Local Franchise Agreement</u>" and "<u>Attachment 1 - Uniform Video Service Local Franchise Agreement</u>" forms if they are seeking a new/renewed Franchise Agreement, and send the forms by mail (certified, registered, first-class, return receipt requested, or by a nationally recognized overnight delivery service) to the appropriate Franchising Entity. Until otherwise officially notified by the Franchising Entity, the forms shall be sent to the Clerk or any official with the responsibilities or functions of the Clerk in the Franchising Entity. **"<u>Attachment 2 - Uniform Video Service Local Franchise Agreement</u>" is not required to be filed at this time *unless* it is being used regarding amendments, terminations, or transfers pertaining to an <u>existing</u> Uniform Video Service Local Franchise Agreement. (Refer to Sections X to XII of the Agreement, as well as Section 3(4-6) of the Act.)**

- 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.

    1. 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]"

2. 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.

3. 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.

- Responses to all questions must be provided and must be amended appropriately when changes occur.

- All responses must be printed out, typed, signed/dated (where appropriate), and mailed (certified, registered, first class, return receipt requested, or by a national recognized overnight delivery service) to the appropriate party.

- The Agreement and Attachments are templates. Tab through the documents and fill in as appropriate, use the appropriate "dropdown box" (City/Village/Township) when indicated.

- For sections that need explanation, if the Provider runs out of space, the Provider should then submit the application with typed attachments that are clearly identified.

- The Franchising Entity shall notify the Provider as to whether the submitted Franchise Agreement is complete as required by this 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."

- A 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 this subsection, the franchise agreement shall be considered complete and the Franchise Agreement approved. The Provider shall notify both the Franchising Entity and the Michigan Public Service Commission of such an approved and completed Agreement by completing **Attachment 3 - Uniform Video Service Local Franchise Agreement**.

- For changes to an existing Uniform Video Service Local Franchise Agreement (amendments, transfers, or terminations), the Provider must complete the "**Attachment 2 - Uniform Video Service Local Franchising Entity**" form, and send the form to the appropriate Franchising Entity.

- For information that is to be submitted to the Michigan Public Service Commission, please use the following address:

  Michigan Public Service Commission
  Attn: Video Franchising
  6545 Mercantile Way
  P.O. Box 30221
  Lansing, MI 48909

  Fax: (517) 241-6217

Questions should be directed to the Telecommunications Division, Michigan Public Service Commission at (517) 241-6200.

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 Burton, a Michigan municipal corporation (the "Franchising Entity"), and Comcast of Flint, Inc., a Michigan Corporation doing business as Comcast.

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 terms as defined in 47 USC 522(5).
B. "Cable Service" means that terms 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.

Attachment: Comcast franchise agreement (2050 : Franchise Agreement with Comcast)

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 ______% (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, barters, 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 (_0_) 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 % 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)

City of Burton:

____

____

____

Attn: ____________________

Fax No.: ____________________

If to the Provider:
(must provide street address)

1.
41112 Concept Dr.
Plymouth, MI 48170
Attn: VP of Government Affairs
Fax No.: 248-233-4719

2.
600 Galleria Pkwy
Atlanta, GA 30339
Attn: Sen. Vice President, Government Relations

3.
One Comcast Center
Philadelphia, PA 19103
Attn: Government Affairs Department

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 Burton, a Michigan Municipal Corporation

By

Print Name

Title

Address

City, State, Zip

Phone

Fax

Email

Comcast of Flint, Inc., a Michigan Corporation doing business as Comcast

By
Timothy P. Collins
Print Name
Regional Senior Vice President
Title
41112 Concept Drive
Address
Plymouth, MI 48170
City, State, Zip
734-254-1525
Phone
248-233-4719
Fax
Tim_Collins@cable.comcast.com
Email

FRANCHISE AGREEMENT *(Franchising Entity to Complete)*

Date submitted:
Date completed and approved:

ATTACHMENT 1

UNIFORM VIDEO SERVICE LOCAL FRANCHISE AGREEMENT
(Pursuant To 2006 Public Act 480)
(Form must be typed)

Date: November 20, 2015		
Applicant's Name: Comcast of Flint, Inc		
Address 1: 41112 Concept Dr.		
Address 2		Phone: 248-233-4700
City: Plymouth	State: MI	Zip: 48170
Federal I.D. No. (FEIN): 31-0873877		

Company executive officers:

Name(s): Timothy P. Collins
Title(s): Regional Senior Vice President

Person(s) authorized to represent the company before the Franchising Entity and the Commission:

Name: John P. Gardner		
Title: Director, External Affairs		
Address: 1401 E. Miller Rd. Lansing, MI 48911		
Phone: 517-334-5686	Fax: 517-334-1880	Email: John_Gardner@cable.comcast.com

Name: Leslie A. Brogan		
Title: Senior Director, Government Affairs		
Address: 1401 E. Miller Rd., Lansing, MI 48911		
Phone: 517-334-5890	Fax: 517-334-1880	Email: Leslie_Brogan@cable.comcast.com

Describe the video service area footprint as set forth in Section 2(3e) of the Act. (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.)

As an incumbent provider, Comcast, is satisfying this requirement by allowing a franchising entity to seek right-of-way related information comparable to that required by a permit under the metropolitan extension telecommunications rights-of-way oversight act, 2002 PA 48, MCL 484.3101 to 484.3120, as set forth in its last cable franchise entered before the effective date of this act.

[**Option A**: for Providers that Options B and C are not applicable, a description based on a geographic information system digital boundary meeting or exceeding national map accuracy standards]

[**Option B:** for Providers with 1,000,000 or more access lines in Michigan using telecommunication facilities to provide Video Service, a description based on entire wire centers or exchanges located in the Franchising Entity]

[**Option C**: for an Incumbent Video Service Provider, it satisfies this requirement by allowing the Franchising Entity to seek right-of-way information comparable to that required by a permit under the METRO Act as set forth in its last cable franchise or consent agreement from the Franchising Entity entered into before the effective date of the Act]

Pursuant to Section 2(3)(d) of the Act, if the Provider is not an incumbent video Provider, provide the date on which the Provider expects to provide video services in the area identified under Section 2(3)(e) (the Video Service Area Footprint).

Date:

For All Applications:

Verification
(Provider)

I, Timothy P. Collins, of lawful age, and being first duly sworn, now states: As an officer of the Provider, I am authorized to do and hereby make the above commitments. I further affirm that all statements made above are true and correct to the best of my knowledge and belief.

Name and Title (printed): Timothy P. Collins, Regional Senior Vice President	
Signature: T. P. Collins	*Date:* 11-24-2015

(Franchising Entity)

City of Burton, a Michigan municipal corporation

By

Print Name

Title

Address

City, State, Zip

Phone

Fax

Email

Date

RICHARD A. HAMILTON • ATTORNEY AT LAW • 702 CHURCH STREET • FLINT, MICHIGAN 48502 • TELEPHONE (313) 767-6860

CITY OF BURTON
GENESEE COUNTY, MICHIGAN

ORDINANCE NO. 20-A-4

AN ORDINANCE AMENDING ORDINANCE 20-A OF THE CITY OF BURTON, BEING AN ORDINANCE GRANTING COMCAST CABLEVISION A FRANCHISE TO OPERATE A CABLE TELEVISION SYSTEM IN THE CITY OF BURTON.

[redacted]

THE CITY OF BURTON ORDAINS:

Section 1

City of Burton Ordinance No. 20-A is hereby amended to read as follows:

Section 1. Definitions. For the purpose of this Ordinance the following terms, phrases, words and derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number.

A. The word "shall" is always mandatory and not merely directory.

B. "City" is the City of Burton, Genesee County, Michigan.

C. "Company" is Comcast Cablevision, 3008 Airport Drive, Flint, Michigan.

D. "System" is a system of coaxial cables or other electrical conductors and transmission equipment used or to be used primarily to receive television or radio signals directly or indirectly off-the-air and any other services provided Company for a fee.

Section 2. Grant of Non-Exclusive Franchise. The City hereby grants to the Company the non-exclusive franchise right, privilege, authority and easement for a period of thirty (30) years from the effective date hereof, unless sooner terminated pursuant to the provisions of this Ordinance, to construct, erect, suspend, install, renew, maintain and otherwise own and operate throughout the City in, upon, along, across, above, over, and under the streets, alleys, easements, public ways and public places as now laid out or dedicated, and all extensions thereof, and additions thereto, in the City, a system of poles, wires, cables, underground conduits, ducts, trenches, conductors, amplifying equipment, manholes, fittings, and any and all other fixtures, appliances and appurtenances necessary for the installation, ownership, maintenance and operation in the City of a System either separately or in conjunction with any other public utility maintaining the same in the City.

This franchise shall further include the right, privilege, easement, and authority to construct, erect, suspend, install, lay, renew, repair, maintain and operate such poles, wires, cables, underground conduits, manholes, ducts, trenches, fixtures, appliances and appurtenances for the purpose of distribution of inhabitants within the limits of the City. Without limiting the generality of the foregoing, this franchise shall and does hereby include the right, in, over and upon the streets, sidewalks, alleys, easements, public grounds, and places in the City for the purpose of installing, erecting, operating or in any other way acquiring the use of, as by leasing, all poles, lines and equipment necessary to operate a System and the right to make connections to subscribers, the right to repair, replace and enlarge said lines, equipment and connections. Notwithstanding the rights granted above, Company will relocate, at its sole expense, any of its property or equipment aforementioned, upon the written direction of the City, in the event City Council deems such relocation necessary to accomodate another use in the area of the installation.

Section 3. Compliance with Applicable Laws and Ordinances. The Company shall at all times during the life of this Ordinance be subject to all lawful exercise of the police power by the City and to such reasonable regulation by the City as this Ordinance shall hereafter provide. The Company shall comply with all laws, statutes, codes, ordinances, rules, or regulations applicable to its business, including those of the Federal Communications Commission, and will comply with all applicable equal employment opportunity laws, rules and regulations.

Section 4. Effective Date and Term. This Ordinance shall take effect and be in full force after final passage and publication thereof, as provided by law, and said Ordinance shall continue in full force and effect for a term of thirty (30) years upon the terms and conditions set forth herein. This Ordinance may be renewed for a subsequent thirty (30) year term on such terms as the City and the Company may agree. No renewal may be granted except as adopted by the City Council at a public hearing.

Section 5. Territorial Area Involved. This Ordinance is related to the present and future territorial limits of the City.

RICHARD A. HAMILTON • ATTORNEY AT LAW • 702 CHURCH STREET • FLINT, MICHIGAN 48502 • TELEPHONE (313) 767-6880

Section 6. Liability and Indemnification.

A. The Company shall indemnify City for all damages and penalties which the City may legally be required to pay as a result of the grant of authority to it under the terms of this Ordinance. These damages or penalties shall include all damages arising out of the installation, operation or maintenance of the System authorized herein, whether or not any act or omission complained of is authorized, allowed, or prohibited by this Ordinance.

B. The Company shall pay all expenses incurred by the City in defending itself with regard to all damages and penalties mentioned in subdivision A above. These expenses shall include all out-of-pocket expenses, such as attorney fees.

C. The Company shall maintain throughout the term of this Ordinance liability insurance insuring the City and the Company in the minimum amounts of:

1. A General Public Liability Policy with single limit coverage in an amount not less than Three Million Dollars ($3,000,000.00);

2. An Automobile Liability Policy with single limit coverage in an amount not less than Five Million Dollars ($5,000,000.00);

3. Workers' Compensation Insurance in accordance with the statutory requirements of the State of Michigan.

Certificates of Insurance shall be provided annually through the term of this franchise. Utilization of an Umbrella Policy to meet the liability limits is permissible upon the submittal of said policy for review and approval by the City Attorney.

Section 7. Service Standards and Requirements.

A. The Company shall maintain the technical quality of its service to be comparable with the highest level of service available in the industry in Michigan, so as to provide its subscribers with the highest possible level of quality and reliability.

B. The System shall meet all applicable F.C.C. radiation specifications as provided for in paragraph 76.605(a)(12) of the Commission's rules. Conformance to said standards will ensure non-interference with any other type of communications system operating in or near the City.

C. Whenever it shall be necessary to shut off or interrupt service for the purpose of making repairs, adjustments

RICHARD A. HAMILTON • ATTORNEY AT LAW • 702 CHURCH STREET • FLINT, MICHIGAN 48502 • TELEPHONE (313) 767-8880

or installations, the Company shall do so at such time as will cause the least amount of inconvenience to its subscribers and unless such interruption is unforeseen and immediately necessary, shall give reasonable notice thereof to its subscribers. If, for any reason, service to a subscriber is interrupted for a period in excess of twenty-four (24) consecutive hours on all channels, Company shall, upon request of a subscriber, credit the account of a subscriber a prorated amount for the period of interrupted service.

D. Upon termination of service to any subscriber, the Company shall promptly remove its facilities and equipment from the premises of such subscriber upon his request.

Section 8. Safety Requirements.

A. The Company shall at all times employ ordinary care, and shall install and maintain in use commonly accepted methods and devices for preventing failure and accidents which are likely to cause damage, injuries, or nuisance to the public.

B. The Company shall install and maintain its wires, cables, fixtures, and other equipment in accordance with the requirements of the National Electrical Safety Code and local ordinances which are applicable.

C. All structures and all lines, equipment, and connections, in or over, under and/or upon the streets, sidewalks, alleys, and public ways or places of the City wherever situated or located, shall be kept and maintained at all times in a safe, suitable, substantial condition, and in good order and repair.

Section 9. New Developments.

A. It shall be the policy of the City to discuss reasonable amending of this Ordinance, upon application of the Company, when necessary to enable the Company to respond to changes in Federal Communications Commission regulations, and to take advantage of any developments in the field of transmission of television signals and related services which will afford it an opportunity to more effectively, efficiently, or economically serve its customers and the same are not to the detriment of its customers. Such amendments shall be made by the City in accordance with F.C.C. law and regulation.

B. It shall be the policy of the Company to be receptive to any request from the City to discuss and implement the reasonable amending of this Agreement in order to provide additional services which the City may desire and which are economically feasible.

RICHARD A. HAMILTON • ATTORNEY AT LAW • 702 CHURCH STREET • FLINT, MICHIGAN 48502 • TELEPHONE (313) 767-6860

RICHARD A. HAMILTON • ATTORNEY AT LAW • 702 CHURCH STREET • FLINT, MICHIGAN 48502 • TELEPHONE (313) 767-6860

<u>Section 10.</u> <u>Erection, Removal and Common Use of Poles.</u> Poles or other wireholding structures may be erected on public land by the Company subject to the approval of the City with regard to location, height, type and any pertinent aspects.

<u>Section 11.</u> <u>Conditions on Street Occupancy.</u>

A. Company shall comply with all of the provisions of Ordinance No. 25 of the City of Burton relating to the utilization of the right-of-ways of the City.

B. The Company shall have the authority, under the supervision of the City, to trim trees upon the overhanging streets, alleys, sidewalks, and public ways and places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Company.

C. The Company shall, at the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of the building. The expense of such temporary removal, raising and lowering of wires shall be paid by the person requesting the same, and the Company shall have the authority to require such payment in advance. The Company shall be given not less than seventy-two (72) hours advance notice to arrange for such temporary wire changes.

<u>Section 12.</u> <u>System Line Extension.</u> The Company shall extend the System beyond the System's original line maps when a potential customer density of thirty-five (35) homes per mile is available. Upon request of an individual customer, the Company shall extend its distribution line up to a maximum of one hundred fifty (150) feet. The Company may, at its option, extend beyond the required distance and charge the applicant the cost of material and labor to install the additional footage.

<u>Section 13.</u> <u>Rights Reserved to City.</u>

A. The right is hereby reserved to the City to adopt, in addition to the provisions contained herein, such additional regulations as it shall find necessary in the exercise of the police power; provided that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the right herein granted.

B. The City shall have the right, during the life of this Ordinance, to install and maintain, free of charge, upon the poles of the Company any wire and pole fixtures necssary for any public purpose, on the condition that such wire and pole fixtures do not interfere with the operation of the System.

C. The Company shall file with the City any maps, plans and other materials relating to the physical plant of the Company. Such maps, and plans shall be updated annually.

Section 14. Community Access Channels. The Company shall set aside two (2) channels on the System for the non-exclusive use of the City residents in the basic service level. It is understood that the Company shall be entitled to program such channels in its discretion, during any period that the channels are not otherwise being programmed. The Company agrees to add additional channels for Community Access programming upon the request of the City upon a showing that the channels are carrying original programing for at least eighty percent (80%) of the time between 6:00 A.M. and 8:00 P.M. for eight (8) consecutive weeks.

Section 15. Access Facilities. The Company shall make available to the City on a non-exclusive shared basis, one studio and one mobile production vehicle for the production and presentation of cablecast programs of particular interest to the citizens of the City. Such facility shall be adequately staffed by the Company's trained personnel. The Company will, upon request of the City, train City officials and community representatives in the proper techniques of cablecasting and local access programming, and will add additional equipment at the request of the City if a need exists.

Section 16. Emergency Override. The System shall be engineered to provide an audio alert system to allow authorized City officials, in conjunction with civil defense, to automatically override the audio portion of all channels and report emergency information. In the case of an emergency or disaster, the Company shall, upon request of the City, make available its facilities to the City for emergency use during the emergency or disaster period.

Section 17. Service to Municipal and Educational Facilities. The Company shall provide, upon request, to any school or municipal building in cabled areas one drop of basic service without charge for installation or monthly service.

Section 18. Franchise Fee. The Company shall pay to the City, on a quarterly basis no later than thirty (30) days after March 31st, June 30th, September 30th and December 31st of each year, a fee of three percent (3%) of the gross subscriber revenues, from the effective date of this Ordinance until January 1, 1993. City may, at its sole option, by amendment of this

Ordinance, increase the fee to four percent (4%) of the gross subscriber revenues for the period from January 1, 1993 to January 1, 1998. City may, at its sole option, by further amendment of this Ordinance, increase the fee to five percent (5%) of the gross subscriber revenues after January 1, 1998. For purposes of definition, gross subscriber revenues shall mean: (1) any and all compensation and other consideration received directly or indirectly by the Company from subscribers within the City of Burton in payment of regularly furnished services of the cable television system in the transmission of broadcast television radio signals and original cablecast programming of Company; (2) any and all compensation and other consideration received directly or indirectly by the Company from subscribers within the City of Burton in payment for receipt of signals other than broadcast television radio or original cable programming of the Company, whether for pay television, facsimile transmission, return or response communication and whether or not transmitted and encoded or processed to permit reception by only selected subscribers; or in payment for installation, disconnection or reconnection fees; (3) any income, compensation or other consideration received by the Company derived from any form of advertising on a prorata basis with other communities serviced by the Company; and (4) any income, compensation or other consideration received on a prorata basis with other communities serviced by the Company for lease or rental of any services in connection therewith such as studio and equipment rental and production costs or any signal permitted or designated by the F.C.C. to be so leased or rented. Gross revenue shall not include any taxes collected by the Company on behalf of the City or other taxing authority, nor shall it include security deposits or other escrowed monies. Each payment shall be accompanied by a certified accounting sworn to by an officer of the Company, under the pains and penalties of perjury, indicating the basis for the computation and such other relevant facts as required by the City.

<u>Section 19.</u> <u>Change of Ownership.</u> The Company may, with the approval of the City, sell, assign or transfer its System or any right under this franchise to another. Written notice of such sale, assignment or transfer shall be given the City not less than thirty (30) days prior thereto and shall be conditioned upon the vendee, assignee or transferee filing with City an instrument duly executed, reciting the fact of such sale, assignment or transfer, and containing an acceptance of the terms of this Agreement and agreeing to perform all requirements thereof. Such sale, assignment or transfer shall not be effective unless approved by City, which approval shall not be unreasonably withheld.

RICHARD A. HAMILTON • ATTORNEY AT LAW • 702 CHURCH STREET • FLINT, MICHIGAN 48502 • TELEPHONE (313) 767-6860

RICHARD A. HAMILTON • ATTORNEY AT LAW • 702 CHURCH STREET • FLINT, MICHIGAN 48502 • TELEPHONE (313) 767-6860

Section 20. Forfeiture of Franchise

If the Company shall fail to comply with any of the provisions of this grant or shall default in any of its undertakings or obligations hereunder and shall fail within sixty (60) days after receipt of written notice from the City to correct such default or non-compliance, then the City shall have the right consistent with Federal law to revoke any or all rights and privileges granted hereunder.

Section 21. Company Office. The Company shall maintain a business office at the address above stated or at a suitable location in the area so that cable television maintenance service shall be available within twenty-four (24) hours to subscribers, upon telephone request, during reasonable business hours. All subscribers complaints regarding the quality of service, equipment malfunctions and similar matters shall be acted upon by the Company within seventy-two (72) hours. The Administrative Assistant of the City is designated as the official in charge of cable television franchise matters in the community.

Section 22. Access. No owner of any dwelling or mobile home park or his agent shall forbid or prevent any tenant or occupant of such dwelling or mobile home park from receiving cable television service from Company, nor demand nor accept payment in any form as a condition of permitting the installation of such service in the dwelling or mobile home park or portion thereof occupied by such tenant or occupant as his place of residence, nor discriminate in rental charges or otherwise against any such tenant or occupant receiving cable television service from Company; provided, however, that such owner or his agent may require that the installation of cable television facilities conform to all reasonable conditions necessary to protect the safety, functioning, appearance and value of the premises and the convenience, safety and well being of other tenants or occupants. And further provided, that the Company installing any such facilities for the benefit of a tenant or occupant in any dwelling or mobile home park shall agree to indemnify the owner thereof for any damage or compensate the owner thereof for any taking caused by the installation, operation or removal of such facilities and for any liability which may arise out of such installation, operation or removal. The Company shall also indemnify the City for any damages arising from the application of this section.

Section 23. Privacy. The Company shall not permit any part of its System to be used by any person or governmental agency for an electronic eavesdropping or surveillance or for any monitory purpose which constitutes an invasion of the right to privacy of any subscriber or user of such System, unless such eavesdropping, surveillance or monitoring is performed pursuant to existing state and federal laws by a governmental law enforcement agency. Company shall not permit the transmission of any signal, oral, visual or digital, including "polling" the channel selection, from any subscriber's premises without first obtaining the permission of the subscriber. This provision is not intended to prohibit the use of transmission of signals useful only for the control or measurement of System performance, or used only for billing subscribers, or detecting theft of service. Company shall not permit the installation of any special terminal equipment in any subscriber's premises that will permit transmission from subscriber's premises of two-way services utilizing oral, visual or digital signals without first obtaining the written permission of the subscriber. Company, or any of its agents or employees, shall not, without the specific authorization of the subscriber involved, sell or otherwise make available to any party any list which identifies the names, addresses, telephone numbers, identities or the viewing habits of individual subscribers, except as required for billing purposes.

Section 24. Equivalent Services. The number of programmed channels of the System shall at all times be at least as great or greater than the number of programmed channels on any other system which the company operates in the Flint metropolitan area. If, at any time, the Company agrees to provide a greater number of programmed channels or remuneration in the form of franchise fees or other similar charges to any city, township, village or municipality in the Flint metropolictan area currently being served, then the Company shall grant the same services or remuneration to the City by amendment of the Ordinance if the City should so desire.

Section 25. Severability. In the event that any section or part of this Agreement shall be held invalid, such invalidity shall not affect the remaining sections or portions of this Agreement.

Section 26.

This Ordinance shall be published in a newspaper circulated within the City of Burton, Genesee County, Michigan.

Section 2

This Ordinance shall be published in a newspaper circulated within the City of Burton, Genesee County, Michigan.

RICHARD A. HAMILTON • ATTORNEY AT LAW • 702 CHURCH STREET • FLINT, MICHIGAN 48502 • TELEPHONE (313) 767-6860

This Ordinance shall become effective January 1, 1986.

Ordinance introduced on:
June 2, 1986

Ordinance enacted:
June 16, 1986

CITY OF BURTON

By: Jane L. Nimcheski
Jane L. Nimcheski, Mayor

By: Shirley Hillaker
Shirley Hillaker, Clerk

RICHARD A. HAMILTON • ATTORNEY AT LAW • 702 CHURCH STREET • FLINT, MICHIGAN 48502 • TELEPHONE (313) 767-6860

RICHARD L. AUSTIN • ATTORNEY AT LAW • 702 CHURCH STREET • FLINT, MICHIGAN 48502 • TELEPHONE (810) 767-6860

CITY OF BURTON
GENESEE COUNTY, MICHIGAN

ORDINANCE NO. 20-A-7(c)

AN ORDINANCE AMENDING ORDINANCE NO. 20-A OF THE CITY OF BURTON, BEING AN ORDINANCE GRANTING COMCAST CABLEVISION A FRANCHISE TO OPERATE A CABLE TELEVISION SYSTEM IN THE CITY OF BURTON BY INCREASING THE FRANCHISE FEE PAID TO THE CITY BY COMCAST CABLEVISION

THE CITY OF BURTON ORDAINS:

SECTION I

Section 18 of City of Burton Ordinance no. 20-A, as amended, and Section I of City of Burton ordinance No. 20-A-5, are hereby amended to read as follows:

Franchise Fee. The Company shall pay to the City, on a quarterly basis no later than thirty (30) days after March 31st, June 30th, September 30th and December 31st of each year, a fee of five percent (5%) of the gross subscriber revenues from and after January 1, 1998, until further amendment of this Ordinance. For purposes of definition gross subscriber revenues shall mean:
(1) any and all compensation and other consideration received directly or indirectly by the Company from subscribers within the City of Burton in payment of regularly furnished services of the cable television system in the transmission of broadcast television radio signals and original cablecast programming of Company;
(2) any and all compensation and other consideration received directly or indirectly by the Company from subscribers within the City of Burton in payment for receipt of signals other than broadcast television radio or original cable programming of the Company, whether for pay television, facsimile transmission, return or response communication and whether or not transmitted and encoded or processed to permit reception by only selected subscribers; or in payment for installation, disconnection or reconnection fees;
(3) any income, compensation or other consideration received by the Company derived from any form of advertising on a prorata basis with other communities serviced by the Company; and
(4) any income, compensation or other consideration received on a prorata basis with other communities serviced by the Company for lease or rental of any services in connection therewith such as studio and equipment rental and production costs or any signal permitted or designated by the F.C.C. to be so leased or rented. Gross revenue shall not include any taxes collected by the Company on behalf of the City or other taxing authority, nor shall it

include security deposits or other escrowed monies. Each payment shall be accompanied by a certified accounting sworn to by an officer of the Company, under the pains and penalties of perjury, indicating the basis for the computation and such other relevant facts as required by the City.

SECTION II

All other provisions of said City of Burton Ordinance 20-A, as amended, are hereby ratified and confirmed.

SECTION III

This Ordinance shall become effective January 1, 1998.

This Ordinance shall be published in a newspaper circulated within the City of Burton, Genesee County.

A copy of this Ordinance may be inspected at the Burton City Hall, 4303 S. Center Road, Burton, Michigan 48519, during regular business hours.

CITY OF BURTON

Ordinance Introduced:

December 1, 1997

By: Charles Smiley
Charles Smiley, Mayor

Enacted:

December 15, 1997

By: Gayle K. Webster
Gayle Webster, Clerk

Effective date:

January 1, 1998

RICHARD L. AUSTIN • ATTORNEY AT LAW • 702 CHURCH STREET • FLINT, MICHIGAN 48502 • TELEPHONE (810) 767-6860