

**CITY OF GROSSE POINTE WOODS**  
**20025 Mack Plaza**  
**Regular City Council Meeting Agenda**  
**Monday, June 4, 2012**  
**7:30 p.m.**

1. CALL TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE
4. RECOGNITION OF COMMISSION MEMBERS
5. ACCEPTANCE OF AGENDA
6. APPOINTMENTS
  - A. Planning Commission (Mayoral)
    1. Richard Rozycki
    2. Tonja Stapleton
  - B. Library Board (Council)
    1. Rebecca Reiter
7. MINUTES
  - A. Council 05/21/12
  - B. Committee-of-the-Whole 05/21/12, w/recommendations:
    1. Planning Commission Appointments
  - C. Planning Commission 04/24/12
  - D. Mayor's Mack Avenue Business Study Committee 04/18/12
  - E. Historical Commission 04/12/12
8. COMMUNICATIONS
  - A. Resignation – Al Dickinson, Planning Commission
9. BIDS / PROPOSALS/  
CONTRACTS
  - A. Contract: AT&T Long Distance Renewal
    1. Memo 05/29/12 – Information Technology Manager
    2. AT&T Long Distance High Volume Calling Plan Services/Master Agreement
10. CLAIMS/  
ACCOUNTS
  - A. Labor Attorney
    1. Keller Thoma 05/01/12
  - B. City Attorney
    1. Don R. Berschback 05/30/12
    2. Charles T. Berschback 05/30/12
11. NEW BUSINESS/PUBLIC COMMENT
12. ADJOURNMENT

**Lisa Kay Hathaway, MMC  
City Clerk**

**IN ACCORDANCE WITH PUBLIC ACT 267 (OPEN MEETINGS ACT)  
POSTED AND COPIES GIVEN TO NEWSPAPERS**

The City of Grosse Pointe Woods will provide necessary, reasonable auxiliary aids and services, such as signers for the hearing impaired, or audio tapes of printed materials being considered at the meeting to individuals with disabilities. All such requests must be made at least five days prior to a meeting. Individuals with disabilities requiring auxiliary aids or services should contact the City of Grosse Pointe Woods by writing or call the City Clerk's office, 20025 Mack Plaza, Grosse Pointe Woods, MI 48236 (313) 343-2440 or Telecommunications Device for the Deaf (TDD) 313 343-9249.

<p><b>NOTE TO PETITIONERS: YOU, OR A REPRESENTATIVE, ARE REQUESTED TO BE IN ATTENDANCE AT THE MEETING SHOULD COUNCIL HAVE QUESTIONS REGARDING YOUR REQUEST</b></p>
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6B

## LIBRARY TRUSTEE APPLICATION



Library trustees serve appointed four year terms on the Library Board of Trustees. Each Grosse Pointe municipality and Harper Woods is represented on the board with one additional at-large member. Board members are responsible for hiring and evaluating the Director of the Library, and to oversee the fiscal management and general library business. The library board meets once a month with additional meetings required occasionally. This position requires a minimum commitment of six hours per month. Applicants must be a qualified elector of the library district. There are no other specific qualifications; however, current board members have demonstrated their belief in a strong, fiscally sound and progressive library.

Please complete the application below if you are a resident of Grosse Pointe Park, Grosse Pointe Woods or Grosse Pointe Shores. You may include a resume, if available. In addition to the application, please prepare a brief letter covering the following topics:

- How many years have you lived in the community?
- Why do you want to serve on the Library Board?
- What talents would you bring to the Library Board?
- Have you had experience working with or in a library? If yes, where?
- What do you feel is the most important issue facing the Grosse Pointe Public Library?

**Return by Friday, May 4, 2012 by 5:00 p.m. to:**

Central Library

10 Kercheval

Grosse Pointe Farms, Michigan 48236

Attention: Secretary, Library Board of Trustees

NAME:

Rebecca Reiter

ADDRESS:

1597 Newcastle Rd, Grosse Pointe Woods

TELEPHONE:

Home: 313 881 3622

Work: 248-560-8392

Fax:

E-mail: rebecca.reiter@hotmail.com

OCCUPATION:

Training and Development Administrator

LIST YOUR COMMUNITY SERVICE AND ORGANIZATIONS OF WHICH YOU ARE A MEMBER, Please indicate any leadership roles and note the dates of involvement.

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PLEASE NAME TWO REFERENCES:

NAME

RELATIONSHIP

TELEPHONE

1. Ted Stephens

Brother-in-law

248-321-0817

2. Shelley Riebel

Colleague-President  
MBC Michigan Business  
Consultants.

586-784-4445

May 30, 2012

Central Library  
10 Kercheval  
Grosse Pointe Farms, Michigan 48236

Dear Secretary, Library Board of Trustees,

I would like to be considered for the open Library Trustee position. I have two elementary aged children in the Grosse Pointe Public School system and feel very strongly that our libraries play an integral part in education.

My husband and I moved to Grosse Pointe Woods in May 2005. We knew that the public schools in Grosse Pointe were outstanding and we wanted to raise our family in this wonderful community. The Woods Branch opened shortly after we moved and we were very impressed with how well it was designed and the many benefits it offers.

I believe my skill set will benefit the Library Board. My best traits are my interpersonal, communication and organizational skills. As you will see in the attached resume, my qualifications detail my work experience and background.

In summary, I have been the Training and Development Administrator for Tognum America for 6 years and I have been with the company for 9 years. In my current role, I am responsible for the training and development for over 600 salaried and hourly employees nationwide. To supplement our employee's internal and external training, I created and maintain the Human Resources Library which includes books, CD's and DVD's for employee use.

I also supervise and train a new German intern every six months. They assist me with training processes and I teach them the importance of quality and how it relates to our government contracts. This learning experience is a part of their study abroad programs.

Thank you for your consideration.

Best regards,

A handwritten signature in cursive script that reads "Rebecca Reiter".

Rebecca Reiter  
Grosse Pointe Woods Resident

**REBECCA REITER**  
1597 Newcastle Road  
Grosse Pointe Woods, Michigan 48236  
Phone: 313-881-3622  
[RebeccaReiter@hotmail.com](mailto:RebeccaReiter@hotmail.com)

### SUMMARY

Training and Development Administrator for 600 employees. Plan, develop, evaluate, improve, and communicate HR training and development programs, policies and procedures. Ten years experience as Customer Service Representative and Asset Manager. Excellent communication skills and ability to work with all types of individuals and cultures.

### PROFESSIONAL EXPERIENCE

**Tognum America Inc. formerly MTU Detroit Diesel, Novi, Michigan**  
Manufacturer of Large Off-Highway diesel engines

7/03 – present

#### Training and Development Administrator

##### Training

- Work with HR manager to create entire training program for MTU Detroit Diesel
- Design and recommend companywide employee development and training
- Advisor to management and employees regarding training and development related questions, analyzing training and development needs and recommending training options
- Solicit and review proposals for training and development services and determine if new providers are required
- Responsible for registration and maintaining employee training records
- Responsible for course customization and administration of LMS online compliance training
- Coordinate and facilitate International Assessment Center for employee promotions to management
- Coach employees in preparation for next level promotions and preparation for assessment center
- Analyze results from assessment center with employee and their director and develop training plans as needed
- Administer safety compliance process in co-operation with Safety Engineer and Management
- Created company training catalog
- Manage HR Resource Library and the training catalog by reviewing feedback evaluations and adding or deleting training as needed
- Manage the company Tuition Reimbursement Program, including updating the policy as needed
- Creator and administrator of company Mentor program
- Schedule and coordinate internal training events
- Train, mentor and supervise American and German interns

##### HR Generalist

- Administer HR programs, policies and procedures and help resolve work-related problems
- Maintain company compliance with federal and state laws by completing reporting requirements, auditing HR documentation, and following established procedures
- Responsible for creating Purchase Requests for HR contracts and all employee training in SAP
- Lead difficult HR processes, including investigating claims and complaints, refereeing disputes, administering disciplinary procedures, and terminating employees
- Responsible for working with managers to create, edit and present Performance Improvement Plans to employees
- Manage “Jeans Days for Charity” program
- Manage annual United Way campaign

##### Quality Management

- Design and develop evaluation tools, surveys, and evaluate feedback regarding instructor performance and the effectiveness of training programs, providing recommendations for improvement
- Manage KPI for training effectiveness by surveying employees, managers and training providers
- “Sensei” for the HR department regarding ISO 9001 audits (HR records used as example to rest of the organization)
- Maintain HR controlled documents for ISO Quality standards
- Developed New Hire Checklist to integrate new hires in their department and to reduce turnover and meet ISO requirements
- Worked as a member of a team which created a learning organization and implemented roadmap for a multinational business with four sites in North America

Human Resource Assistant – Salaried Personnel Representative

7/03 – 1/06

Handled administration for Human Resources

- Recruited, identified and screened qualified candidates from multiple resources
- Maintained applicant flow log and job requisition log
- Scheduled interviews and processed application paperwork
- Processed job recommendations paperwork, prepared and sent offer letters
- Scheduled physicals, collected and processed new hire paperwork and change of status documents
- Created and trained classroom style New Hire Orientation program
- Researched and presented business case to management that streamlining current New Hire Orientation to online training was more effective
- Researched and presented case on which online LMS system company should purchase
- Mentored interns for on-the-job training
- Performed exit interviews

GE CAPITAL, Troy, Michigan

2/96-8/02

Fortune 100 commercial leasing company, formerly Heller Financial & Dana Commercial Credit

Asset Manager

Assisted customers with inquiries regarding their lease and end-of-lease options

- Calculated end of lease buyouts and established fair market values on equipment which assisted customers when purchasing leased equipment
- Contacted U.S. and Canadian customers regarding past due payments by sending letters based on severity of past due payments to decrease delinquency of accounts

Human Resource Intern

Assisted the Human Resource Department with special projects to complete requirements necessary for internship

- Headed Talk Listen Conclude (TLC) team with creating and developing “A Day in the Life” interdepartmental cross-training programs by establishing employee job roles and responsibilities
- Assisted Human Resource Department by completing job descriptions for all employee positions after discussing each position with department supervisor
- Facilitated new hire orientations which introduced new employees to the company and its policies

Residual Analyst

3/97 – 9/99

Assisted large national account with maintenance and reconciliation of their 2,400 leases

- Managed the progression of one of Dana Commercial Credit’s largest national accounts by working closely with their account representatives to reconcile their 2,400 leases
- Established fair market value of lease equipment to negotiate the customer’s option to purchase this equipment

Customer Service Representative

2/96 – 3/97

Answered 800 lines to assist customers with account issues

- Answered between 50 to 100 calls on 800 lines to assist customers with lease inquiries and payments
- Reconciled customer accounts to assure that all payments were applied properly to benefit accounting record accuracy

**EDUCATION**

Bachelor of Science, Human Resource Development  
Specializing in Training and Development  
Minor in Labor Relations  
Oakland University, Rochester Hills, Michigan



COUNCIL  
05-21-12 -61

MINUTES OF THE REGULAR CITY COUNCIL MEETING OF THE CITY OF GROSSE POINTE WOODS  
HELD ON MONDAY, MAY 21, 2012, IN THE COUNCIL-COURT ROOM OF THE MUNICIPAL  
BUILDING, 20025 MACK PLAZA, GROSSE POINTE WOODS, MICHIGAN.

The meeting was called to order at 7:30 p.m. by Mayor Novitke.

Roll Call: Mayor Novitke  
Council members: Bryant, Ketels, Koester, McConaghy, Shetler  
Absent: Granger

Also Present: City Administrator Fincham  
Treasurer/Comptroller Irby  
Director of Public Safety Pazuchowski  
Director of Public Services Ahee  
Building Inspector Tutag  
City Attorney Berschback  
Deputy City Clerk Ryska

Motion by McConaghy, seconded by Shetler, that Council Member Granger be excused from tonight's meeting.

Motion carried by the following vote:  
Yes: Bryant, Ketels, Koester, McConaghy, Novitke, Shetler  
No: None  
Absent: Granger

Council, Administration, and the audience Pledged Allegiance to the Flag.

The following Commission members were in attendance:

- George McMullen, Board of Review
- Debra McCarthy, Beautification Advisory Commission

Motion by Bryant, seconded by Ketels, that all items on tonight's agenda be received, placed on file, and taken in order of appearance.

Motion carried by the following vote:  
Yes: Bryant, Ketels, Koester, McConaghy, Novitke, Shetler  
No: None  
Absent: Granger

COUNCIL  
05-21-12 -62

Motion by McConaghy, seconded by Ketels, regarding **Southeastern Michigan Council of Governments (SEMCOG)**, that the City Council appoint Council Member Bryant as the Representative and Delegate.

Motion carried by the following vote:

Yes: Bryant, Ketels, Koester, McConaghy, Novitke, Shetler  
No: None  
Absent: Granger

Motion by Bryant, seconded by Shetler, regarding **Southeastern Michigan Council of Governments (SEMCOG)**, that the City Council appoint City Administrator Fincham as the Alternate Representative and Delegate.

Motion carried by the following vote:

Yes: Bryant, Ketels, Koester, McConaghy, Novitke, Shetler  
No: None  
Absent: Granger

Motion by Ketels, seconded by Shetler, that the following minutes be approved as submitted:

1. City Council Minutes dated May 7, 2012.

Motion carried by the following vote:

Yes: Bryant, Ketels, Koester, McConaghy, Novitke, Shetler  
No: None  
Absent: Granger

Motion by Ketels, seconded by Shetler, regarding **Road Improvement Ballot Language**, that the City Council concur with the recommendation of the Committee of the Whole at their meeting on May 14, 2012, and approve the Road Improvement Program Bonding Proposition language for placement on the November 6, 2012 Election ballot:

Shall the City of Grosse Pointe Woods, County of Wayne, Michigan, borrow the principal sum of not to exceed Ten Million Dollars (\$10,000,000), payable in not to exceed ten (10) years from the date of issue, and issue its unlimited tax general obligation bonds, in one or more series, to pay the cost of acquiring and constructing road improvements in the City together with curb and gutter improvements and all related costs? The *estimated* millage to be levied in 2013 is 0.3723 mills (\$0.37 per \$1,000 of taxable value) and the estimated simple average annual millage rate required to retire the bonds is 2.1422 mills (\$2.14 per \$1,000 of taxable value).

Motion carried by the following vote:

Yes: Bryant, Ketels, Koester, McConaghy, Novitke, Shetler  
No: None  
Absent: Granger



COUNCIL  
05-21-12 -63

Motion by Bryant, seconded by Shetler, regarding **Headlee Amendment Ballot Language**, that the City Council concur with the recommendation of the Committee of the Whole at their meeting on May 14, 2012, and approve the Millage Proposal language for placement on the November 6, 2012 Election ballot:

Shall the limitation on the amount of taxes which may be imposed on taxable property in the City of Grosse Pointe Woods be increased by 1.85 mills (\$1.85 per \$1,000 of taxable value) for ten (10) years, 2013 to 2022 inclusive, in excess of the limitation imposed by the Headlee Amendment to the Michigan Constitution and Michigan Compiled Laws section 211.34d, to provide funds for municipal purposes, including [police and fire services, parks and recreation, and other public services]? If approved and levied in its entirety, this new additional millage would raise approximately \$1,119,000 in 2013.

Motion carried by the following vote:

Yes: Bryant, Ketels, Koester, McConaghy, Novitke, Shetler

No: None

Absent: Granger

Motion by Bryant, seconded by Ketels, that the following minutes be approved as submitted:

1. Committee of the Whole Minutes dated May 7, 2012.
2. Committee of the Whole Minutes dated May 14, 2012.

Motion carried by the following vote:

Yes: Bryant, Ketels, Koester, McConaghy, Novitke, Shetler

No: None

Absent: Granger

Motion by McConaghy, seconded by Bryant, regarding **2012 Perch Derby**, that the City Council concur with the Citizens' Recreation Commission at their meeting on May 8, 2012, and approve a total amount not to exceed \$1,650.00 to fund the 2012 Perch Derby.

Motion carried by the following vote:

Yes: Bryant, Ketels, Koester, McConaghy, Novitke, Shetler

No: None

Absent: Granger

**THE MEETING WAS THEREUPON OPENED AT 7:36 P.M. FOR A PUBLIC HEARING ON THE PROPOSED 2012/13 GENERAL BUDGET AND MILLAGE RATE.**

Motion by McConaghy, seconded by Bryant, that for purposes of public hearing, the following items be received and placed on file:

COUNCIL  
05-21-12 -64

1. Proposed Budget and Appropriation Resolution
2. Memo 05/16/12 – City Administrator & Treasurer/Comptroller, w/attachments
3. Affidavit of Legal Publication

Motion carried by the following vote:

Yes: Bryant, Ketels, Koester, McConaghy, Novitke, Shetler

No: None

Absent: Granger

The Chair asked if anyone in the audience wished to speak in favor of the proposed budget. The following individuals were heard:

City Administrator Fincham presented, summarized, and recommended adoption of the proposed budget. Treasurer/Comptroller Irby recommended that it be adopted as presented.

The Chair asked if anyone in the audience wished to speak in opposition to the proposed budget. The following individuals were heard:

Joe Sucher  
730 S. Oxford

Jim Schultz  
20045 Holiday

Stephanie Mann  
2050 Brys Dr.

Brian Carson  
1363 Lochmoor

Nancy Hames  
1225 Sunningdale

Pete Waldmeir  
514 Hollywood

Chris Kaczanowski  
19888 William Ct.

Judy Sheehy  
941 Woods Ln.

Mike Juliano  
976 Hampton

Lisa Pinkos-Howle  
1239 Sunningdale

Motion by Bryant, seconded by Shetler, that the public hearing be closed at 9:00 p.m.  
PASSED UNANIMOUSLY.

Motion by McConaghy, seconded by Bryant, regarding **2012/13 Fiscal Year Budget and Millage Rate**, that the City Council adopt the following Resolution:

CITY OF GROSSE POINTE WOODS

CERTIFIED RESOLUTION

Motion by \_\_\_\_\_, seconded by \_\_\_\_\_, that the Council adopts the following resolution:

COUNCIL  
05-21-12 -65

CITY OF GROSSE POINTE WOODS  
BUDGET AND APPROPRIATION RESOLUTION

WHEREAS, a public notice has been previously given, as required by City Charter and State of Michigan Public Act 5 of 1982, that a public hearing would be held at 7:30 p.m. on Monday, May 21, 2012, for the purpose of receiving comments on the proposed 2012-13 City Budget and the intent to levy Property Tax Revenues within the said City of Grosse Pointe Woods; and;

WHEREAS, a full and final public hearing has been held on proposed 2012-13 City Budget, and the proposed Increase in Property Taxes, it is therefore the opinion and judgment of Council that the aforesaid proposed 2012-13 City Budget is in all things appropriate, correct and should be approved and that the property Tax Levy to finance the 2012-13 City Budget should be approved accordingly.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Grosse Pointe Woods, Michigan, that the proposed 2012-13 City Budget and the proposed property Tax Levy for the fiscal year 2012-13 as finally reviewed (and/or changed by) the Council at this public hearing be adopted and the amounts as contained in the aforesaid budget should be appropriated as designated and property tax levied accordingly.

BE IT RESOLVED that there are those sums of revenue which are deemed necessary to be raised by ad valorem tax levies on all real and personal property within the City of Grosse Pointe Woods, and that the City Clerk be and is hereby directed to certify such amounts to the City Assessor for the spread on the 2012 City Tax Roll at the rate of 12.5260 mills per thousand of the current City of Grosse Pointe Woods taxable valuation for general operations; at the rate of .0810 per thousand of the current City of Grosse Pointe Woods taxable valuation for Act 359 Public Relations; at the rate of .3578 mills per thousand of the current City of Grosse Pointe Woods taxable valuation for Advanced Emergency Medical Services; at the rate of .9362 per thousand of the current City of Grosse Pointe Woods taxable value for Public Safety Retirement purposes; at the rate of 2.0251 mills per thousand of the current City of Grosse Pointe Woods taxable valuation for Solid Waste.

Motion carried by the following vote:

Yes:

No:

Absent:

CERTIFICATION

I, Lisa Kay Hathaway, Clerk of the City of Grosse Pointe Woods, do hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the Council on Monday, May 21, 2012, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be, or have been, made available as required by said Act.

Motion carried by the following vote:

Yes: Bryant, Ketels, Koester, McConaghy, Novitke, Shetler

No: None

Absent: Granger

The Chair declared a recess at 9:00 p.m., and reconvened at 9:18 p.m.

COUNCIL  
05-21-12 -66

Motion by McConaghy, seconded by Bryant, regarding **Cub Scout Campout**, that Council approve Cub Scout Pack #85's request to hold an overnight campout at the Lake Front Park on Saturday, June 23, 2012.

Motion carried by the following vote:

Yes: Bryant, Ketels, Koester, McConaghy, Novitke, Shetler  
No: None  
Absent: Granger

Motion by McConaghy, seconded by Ketels, regarding **Monthly Financial Report – April 2012**, that the City Council refer this report to the Finance Committee.

Motion carried by the following vote:

Yes: Bryant, Ketels, Koester, McConaghy, Novitke, Shetler  
No: None  
Absent: Granger

Motion by Koester, seconded by Bryant, regarding the **City Tree Removal Contract**, that the Council award a two-year contract (July 1, 2012, through June 30, 2014) to:

Michigan Tree & Landscaping, Inc.  
30528 Garfield  
Roseville, MI 48066

For tree removal services, in a total amount not to exceed \$37,000 per fiscal year, from Account No. 101-465-818.000, contingent upon approval of the 2012/13 and 2013/14 budgets.

Motion carried by the following vote:

Yes: Bryant, Ketels, Koester, McConaghy, Novitke, Shetler  
No: None  
Absent: Granger

Motion by Ketels, seconded by Bryant, to adjourn tonight's meeting at 9:21 p.m. PASSED UNANIMOUSLY.



COMMITTEE OF THE WHOLE  
05-21-12 – 22

MINUTES OF THE MEETING OF THE COMMITTEE OF THE WHOLE OF THE CITY OF GROSSE POINTE WOODS HELD ON MONDAY, MAY 21, 2012, IN THE COUNCIL/COURT ROOM OF THE MUNICIPAL BUILDING, 20025 MACK AVENUE, GROSSE POINTE WOODS, MICHIGAN.

PRESENT: Mayor Novitke  
Council Members Bryant, Granger (9:26 p.m.), Ketels, Koester, McConaghy, Shetler

ABSENT: None

ALSO PRESENT: City Administrator Fincham  
Director of Public Services Ahee  
Deputy City Clerk Ryska

Mayor Novitke called the meeting to order at 9:22 p.m.

Motion by Bryant, seconded by Shetler, that Council Member Granger be excused from tonight's meeting.

Motion carried by the following vote:

Yes: Bryant, Ketels, Koester, McConaghy, Novitke, Shetler  
No: None  
Absent: Granger

Motion by Bryant, seconded by Shetler, that all items on tonight's agenda be received, placed on file, and taken in order of appearance.

Motion carried by the following vote:

Yes: Bryant, Ketels, Koester, McConaghy, Novitke, Shetler  
No: None  
Absent: Granger

The first item on the agenda was regarding **Planning Commission vacancies**. Mayor Novitke stated the need to fill the vacancy created by the resignation of Rob Nederhood and a vacancy due to the anticipated resignation of Al Dickinson. Three candidates were interviewed at a Committee of the Whole meeting on May 14, 2012.

Motion by McConaghy, seconded by Granger, that the Committee recommend that the City Council voice no objection to the mayoral appointment of **Richard Rozycki** to the Planning Commission to fill the vacancy created by the resignation of Rob Nederhood, with a term ending December 31, 2013.

Motion carried by the following vote:

Yes: Bryant, Granger, Koester, McConaghy, Novitke, Shetler  
No: Ketels  
Absent: None

Motion by McConaghy, seconded by Granger, that the Committee recommend that the City Council voice no objection to the mayoral appointment of **Tonja Stapleton** to the Planning Commission to fill a vacancy created by the anticipated resignation of Al Dickinson, with a term ending December 31, 2012.

Motion carried by the following vote:

Yes: Bryant, Granger, Ketels, Koester, McConaghy, Novitke, Shetler  
No: None  
Absent: None

Motion by McConaghy, seconded by Bryant, that Planning Commission vacancies be removed from the Committee of the Whole agenda.

Motion carried by the following vote:

Yes: Bryant, Granger, Ketels, Koester, McConaghy, Novitke, Shetler  
No: None  
Absent: None

The next item on the agenda was regarding **Cook Schoolhouse** and the ADA upgrades. Director of Public Services Ahee stated that the rear of the schoolhouse is complete and ready for a future ADA compliant ramp. At this time, the ADA compliant bathroom renovation is near completion. In approximately one month the bathroom, drywall, and cabinets will be complete and the schoolhouse will be ready for room rental. City Attorney Berschback confirmed that the bathroom renovation does not require the entire building to be ADA compliant.

Motion by Ketels, seconded by Bryant, that the meeting of the Committee of the Whole be adjourned at 9:48 p.m. PASSED UNANIMOUSLY.

Approved by Commission 05/22/12



PLANNING COMMISSION  
04/24/12 – 012

MINUTES OF THE PLANNING COMMISSION OF THE CITY OF GROSSE POINTE WOODS HELD ON TUESDAY, APRIL 24, 2012, IN THE COUNCIL-COURT ROOM OF THE MUNICIPAL BUILDING, 20025 MACK AVENUE, GROSSE POINTE WOODS, MICHIGAN.

The meeting was called to order at 7:32 p.m. by Chair Gilezan.

Roll Call: Chair Gilezan  
Dickinson, Evola, Fuller, Hamborsky, Richardson, Vaughn

Absent: Vitale

Also Present: Building Official Tutag  
Recording Secretary Babij Ryska

Also in Attendance: Council Member Ketels, Planning Commission Representative

Motion by Vaughn, seconded by Evola, that Commission Member Vitale be excused from tonight's meeting.

MOTION CARRIED by the following vote:

YES: Dickinson, Evola, Fuller, Gilezan, Hamborsky, Richardson, Vaughn  
NO: None  
ABSENT: Vitale

Motion by Richardson, seconded by Evola, that all items on tonight's agenda be received, placed on file, and taken in order of appearance.

MOTION CARRIED by the following vote:

YES: Dickinson, Evola, Fuller, Gilezan, Hamborsky, Richardson, Vaughn  
NO: None  
ABSENT: Vitale

Chair Gilezan welcomed Council Member Ketels, as Planning Commission Representative for being in attendance at tonight's meeting.

Motion by Evola, seconded by Richardson, regarding **Approval of Minutes**, that the Planning Commission Workshop and Regular Meeting minutes dated March 27, 2012 be approved.

MOTION CARRIED by the following vote:

YES: Dickinson, Evola, Fuller, Gilezan, Hamborsky, Richardson, Vaughn  
NO: None  
ABSENT: Vitale

## PLANNING COMMISSION

04/24/12 – 013

The next item on the agenda was the **Building Official's Monthly Report**. Mr. Tutag reported the following:

- Currently working on building inspections for annual business licenses.
- Meeting with representatives of The Rivers project tomorrow.
- Attended Mayor's Mack Avenue Business Study Committee last week. A number of issues were discussed.
  - Council Representative Ketels addressed the Commission outlining the topics discussed at the meeting. He stated that the City is still working with the County on a solution to streamline the permitting process and right of way issues. Also, the I.T. Department is working on a webpage designated for businesses in the community as well as an email system to easily relay information to businesses.

Commission Member Vaughn gave the **April 2012 Council Reports**:

- April 2<sup>nd</sup> meeting: First reading of the Ordinance to amend Chapter 50 to add Section 50-185, Prohibited Uses, as recommended by the Planning Commission. Council also referred the proposed Solar Energy Ordinance to the Committee of the Whole.
- April 16<sup>th</sup> meeting: During public comment, residents inquired about the possible Headlee override. Council Representative Ketels stated that nothing is final yet and if the Council decides to go for a Headlee override it would be on the November ballot for voters to decide.

Commission Member Vitale is scheduled to attend the May Council Meetings.

The following **Sub-Committee Reports** were provided:

**2020 Plan** – Commission Member Hamborsky stated that the Sub-Committee had an excellent and productive meeting on Saturday. They discussed some physical improvements they would like to see on Mack Avenue as well as some solutions to current issues. The Sub-Committee will hold a couple more meetings before making a presentation to the Planning Commission in Fall.

**Special Sign Ordinance** – Commission Member Vaughn stated the Sub-Committee will have a meeting next Saturday and will report to the Commission next month.

Hearing no objections, under New Business the following items were addressed:

- Commission Member Dickinson stated that there are a number of highly qualified applicants for the Planning Commission vacancy, he will take this as an opportunity to submit his resignation, and Council will appoint two new members.



PLANNING COMMISSION

04/24/12 – 014

- Commission Member Dickinson stated that he is a member of the Distinguished Alumni Selection Committee for Grosse Pointe North High School. The Committee has chosen to honor six alumni, who demonstrate commendable achievements and contributions, on May 14, 2012, from 7:00 p.m. through 9:00 p.m. at the High School. This is the first ceremony of its kind and Mr. Dickinson encourages attendance.
- Chair Gilezan took a moment to recognize and thank Commission Member Dickinson for his many years of model service to this community. Mr. Dickinson has made a great impact on many people and he is wished the best of luck.

Motion by Vaughn, seconded by Evola, to adjourn the Planning Commission meeting at 8:06 p.m.  
Passed unanimously.

Approved by Committee 05/23/12

MAYOR'S MACK AVENUE BUSINESS STUDY COMMITTEE  
04-18-12 - 07

MINUTES OF THE MEETING OF THE MAYOR'S MACK AVENUE BUSINESS STUDY COMMITTEE OF THE CITY OF GROSSE POINTE WOODS HELD ON WEDNESDAY, APRIL 18, 2012, IN THE LAKE ROOM OF THE COMMUNITY CENTER, 20025 MACK AVENUE, GROSSE POINTE WOODS, MICHIGAN.

The meeting was called to order at 6:03 p.m. by Chair Ketels.

Roll Call: Kevin Ketels, Chair  
Robert E. Novitke, Mayor  
Jennifer Boettcher  
Daniel Curis  
William Matouk  
Richard Shetler Jr.  
John Vitale (6:07 p.m.)

Absent: Thomas Fahrner  
George Koueiter

Also Present: Alfred Fincham, City Administrator  
Gene Tutag, Building Official  
Gary Capps, Information Technology Manager  
Melanie Ryska, Deputy City Clerk

Also in attendance: Angelo DiClemente, Mack Avenue Business Association (MABA)  
Peter Ahee, Ahee Jewelers  
Ron Agacinski, Wayne County Deputy Director of Engineering  
Sara Eaton Martin, Grosse Pointe Patch

Motion by Fahrner, seconded by Shetler, regarding **Approval of Minutes**, that the Mayor's Mack Avenue Business Study Committee meeting minutes dated March 15, 2012 be approved.

MOTION CARRIED by the following vote:

YES: Boettcher, Curis, Ketels, Matouk, Novitke, Shetler, Vitale  
NO: None  
ABSENT: Fahrner, Koueiter, Myers

The first item on the agenda was to **Continue Discussion: Mack Avenue Right of Way issues**. Ron Agacinski, Wayne County Deputy Director of Engineering, reported to the Committee that the County cannot delegate permitting authority over the right of ways to the City at this time. It is unknown if an indemnification could be upheld considering that anything in the right of way is the ownership of the County, not the City. As an alternate solution, the Committee recommended that the County contract out the inspection process to expedite permitting.

Mr. Agacinski also reported that Bucci's outdoor café request is conditionally approved. The County needs a Resolution of indemnification stating that the City will maintain the landscaping and not charge the County. Additionally, if Bucci decides to eliminate the landscaping and utilize concrete, such as stamped concrete, a Resolution would not be needed.

Discussion followed regarding a resolution as to the consistency problem with the permitting process. Mr. Agacinski stated that in order to streamline the process the County would have to amend the regulations, which could take a great deal of time. Also, additional staff would need to be hired.

Chair Ketels summarized the discussion and requested that the County attend the next meeting to address the following issues:

- Streamlining the permit process by either hiring additional staff or contracting services to Grosse Pointe Woods.
- Working on a long-term solution, which may include amending current regulations.
- Continue to pursue the possibility of granting the City permitting authority over the right of ways.

Building Official Tutag inquired as to whether or not banners could be hung over Mack Avenue. Mr. Agacinski stated that he would contact Mr. Tutag with an official answer.

The next item on the agenda was **Discussion: Information Technology**. As requested by the Committee, I.T. Manager Capps presented a sample webpage encompassing information geared toward businesses. Included on the page are links to sign up for community alerts through Nixle or Mail Chimp. Discussion ensued regarding the need for two different outlets. It was determined the City should use Mail Chimp for general alerts, such as events and Nixle for emergency notifications. Businesses will have to sign up for both if they choose to do so.

Additional topics discussed included incorporating links to the Chamber of Commerce and the Mack Avenue Business Association, and somehow announce new businesses. Committee members made further suggestions and consensus of the Committee was to forward this proposed webpage to the City Council for consideration.

Under New Business, the following items were addressed:

- Angelo DiClemente, President of the Mack Avenue Business Association (MABA), distributed a publication with their new logo. He stated he has invited the media to the MABA meetings in an effort to promote events being spearheaded by the Association and the Chamber. Mr. DiClemente shared his enthusiasm of the proactive approach the Association is taking toward reinventing itself.
- City Administrator Fincham stated that he received an email from Chuck VanDoorne, the Vice President of the MABA, and will determine the need for proper power sources for the Side Walk Sale scheduled for May 17<sup>th</sup> through 19<sup>th</sup>. Mr. Fincham also asked if the Association would still like to have bike inspections at the Bike Decorating

MAYOR'S MACK AVENUE BUSINESS STUDY COMMITTEE

04-18-12 – 09

Contest. Mr. DiClemente stated they are looking into pre-registration, which will determine if the Association is still interested in that service.

- Building Official Tutag reported there is approximately a 94% occupancy rate on Mack Avenue. He also reported that new businesses – Yogo-Hut, Home Solutions, Grosse Pointe Music – are now open. New owners are renovating Cueter's old auto repair location, and a new accountant and specialty meat shop are in the process of opening in the City.

The next Committee meeting will be held on May 23<sup>rd</sup> at 6:00 p.m.

Motion by Vitale, seconded by Shetler, to adjourn the meeting at 7:17 p.m. Passed Unanimously.

Approved by Commission 05/10/12

RECEIVED

APR 30 2012

CITY OF GROSSE POINTE WOODS

GROSSE POINTE WOODS HISTORICAL COMMISSION

MINUTES APRIL 12 2012

COOK SCHOOLHOUSE

20025 Mack, Grosse Pointe Woods, MI 48236

I. Call to Order

The regular meeting of the Grosse Pointe Woods Historical Commission was called to order by Chairman Joe Mason at 7:33 p.m.

II. Roll Call

Present: Colleen D'Agostino, Mary Kay Ferry, Suzanne Kent, Joe Mason, Lynne Millies, Sean Murphy, John Parthum, Shirley Hartert, Gordon Michaelson, Del Harkenrider, Council Representative Art Bryant

Excused: Eric Lindquist,

III. Approval of Agenda

Ayes all. Motion carried.

IV. Approval of Minutes

Motion by Hartert, seconded by Murphy to approve minutes as read. Ayes all.

V. Items

a. **Report of Treasurer:** The Commission account has a balance of \$2106.00. The balance for the Cook Schoolhouse Account is \$8250.53.

b. **Lake Front Park Chronology:** Kent and Ferry will meet with Jan Treuter next Wednesday to discuss the chronology.

c. **Cook School Projects:** Two possible donations were presented to the commission. One was a two-student desk circa 1901. This seemed an appropriate donation and was accepted. The second donation (a spindle back arm chair) did not meet the criteria for donations.

d. **Questers donation for pictures:** Murphy will use gator board for framing of pictures. Ferry will meet with Nancy Renick of the Questers to show her the sample framing.

e. **Memorial Day planning:** Reviewed member's assignments. Arrangements for the fly-over should be completed within the new few weeks. All other contacts for the ceremony have been made. The DPW will be contacted on the Thursday before Memorial Day for necessary work, risers, etc.

VI. New Business

a. **Tree Commission:** Decision on having documents with historical commission files is postponed until we receive documents for appraisal.

b. A decision by city council on the purchase of a ramp or lift for the schoolhouse has had no action.

**VII. Comments**

a. The open schoolhouse in March had 30 visitors and donations totaling \$21.00  
Open house on April 21 will have Mason, Parthum and D'Agostino hosting.

b. It was mentioned that David Pingree received his Eagle Scout award. The construction of the shutters for the schoolhouse windows was the project for which he received his reward.

**VIII. Adjournment:** 9:02 p.m.

**The next meeting of the Grosse Pointe Woods Historical Commission will be held on May 10, 2012 at 7:30 p.m. in the Conference Room.**

Respectfully submitted,

Colleen D'Agostino, Secretary

8A  
RECEIVED

JUN 01 2012

May 31, 2012

CITY OF GROSSE PTE. WOODS

Mayor Robert Novitke  
City of Grosse Pte. Woods  
20025 Mack Plaza Drive  
Grosse Pte. Woods, Mi. 48236

Dear Bob,

It is not without mixed emotions but, nevertheless,  
I feel that this is an appropriate time to submit my  
resignation from the Planning Commission effective  
June 1, 2012.

It has always been an honor to represent our City in  
some capacity, and I especially feel privileged, Bob,  
to have served with your astute leadership for so  
many years.

With all sincerity,



Allen G. Dickinson

cc: Lisa Hathaway, City Clerk  
Grant Gilezan, Chair, Planning Commission

CITY OF GROSSE POINTE WOODS  
INFORMATION TECHNOLOGY  
MEMORANDUM

9A  
RECEIVED

MAY 29 2012

CITY OF GROSSE PTE. WOODS

DATE: May 29, 2012  
TO: Alfred Fincham, City Administrator  
CC: Dee Ann Irby, City Treasurer/Comptroller  
FROM: Gary Capps, Information Technology Manager  
SUBJECT: AT&T Long Distance Renewal

The *long distance* service contract from our current telephone service provider, AT&T, is at the end of the term and I would like to have the renewal contract placed on the June 4, 2012 Council Agenda for approval. I have reviewed the new contract and I am confident that all of the features are pricing (*MIDeal State contract pricing \$.0245 per minute*) are same as previous contract. The contract was also reviewed by the City Attorney.

Funds are budgeted and available spread across various departmental #921 accounts. I recommend purchasing the following services from **AT&T Corp, One AT&T Way, Bedminster NJ 07921-0752** in an amount not to exceed \$125/mo for renewal of our *long distance* contracts for a term of 3 years:

**AT&T Long Distance High Volume Calling Plan Service - MIDeal State contract pricing \$.0245 per minute**  
- Covers all 93 telephone lines. There are 52 DID PRI lines and the remaining 41 are copper trunk lines.

With our current phone configuration AT&T owns the infrastructure and is ultimately responsible for repairing lines when they have issues. Our 911 service is also located in an AT&T zone and is integrated with our phone lines. Recommend approval of the above stated and do not believe any benefit will accrue to the City to seek further competitive bids.

  
Al Fincham, City Administrator

5-29-12  
Date

  
Dee Ann Irby, City Treasurer/Comptroller

5-29-12  
Date

Council Approval Required





AT&T LONG DISTANCE HIGH VOLUME CALLING PLAN SERVICES  
Provided Pursuant to Custom Terms  
Pricing Schedule

AT&T MA Reference No. \_\_\_\_\_

<b>Customer</b>	<b>AT&amp;T</b>
City of Grosse Pointe Woods Street Address: 20025 Mack Plaza Drive City: Grosse Pointe Woods State: MI Zip Code: 48236 Country: USA	AT&T Corp.
<b>Customer Contact (for notices)</b>	<b>AT&amp;T Sales Contact Information and for Contract Notices</b> <input checked="" type="checkbox"/> <b>Primary Contact AT&amp;T</b>
Name: Gary Capps Title: IT Manager Street Address: 20025 Mack Plaza Drive City: Grosse Pointe Woods State/Province: MI Zip Code: 48236 Country: USA Telephone: 313-343-2525 x 205 Fax: Email: gcapps@gpwmil.us Customer Account Number or Master Account Number:	Name: Buddy Fryer Street Address: 150 E Gay Street City: Columbus State/Province: OH Zip Code: 43215 Country: USA Telephone: 614 223-4664 Fax: Email: hf1787@att.com Sales/Branch Manager: Stone SCVP Name: Perone Sales Strata: GEM Sales Region: <b>MW</b> <u>With a copy to:</u> AT&T Corp. One AT&T Way Bedminster, NJ 07921-0752 ATTN: Master Agreement Support Team Email: mast@att.com
<b>AT&amp;T Solution Provider or Representative Information (if applicable)</b> <input type="checkbox"/>	
Name: _____ Company Name: _____ Agent Street Address: _____ City: _____ State: _____ Zip Code: _____ Telephone: _____ Fax: _____ Email: _____ Agent Code: _____	

This Pricing Schedule for the service(s) identified below ("Service") is part of the Agreement referenced above.

<b>Customer</b> (by its authorized representative)	<b>AT&amp;T</b> (by its authorized representative)
By:	By:
Name:	Name:
Title:	Title:
Date:	Date:

Approved for Signature

Charles T. Berschback  
City Attorney

AT&T and Customer Confidential Information

**AT&T LONG DISTANCE HIGH VOLUME CALLING PLAN SERVICES**  
**Provided Pursuant to Custom Terms**  
**Pricing Schedule**

**1. SERVICE and SERVICE PROVIDER**

Service	Service Provider	Service Publication
Long Distance Service - High Volume Calling IV	Long Distance, LLC d/b/a AT&T Long Distance ("AT&T")	Voice Product Reference and Pricing Guidebook: <a href="http://servicepublications.att.com">http://servicepublications.att.com</a>

**2. PRICING SCHEDULE TERM and EFFECTIVE DATES**

Pricing Schedule Term	36 Months
Pricing Schedule Term Start Date	When this Pricing Schedule is implemented in the AT&T billing system
Effective Date of Rates and Discounts	Pricing Schedule Term Start Date
Rates Following End of Pricing Schedule Term	Non-stabilized High Volume Calling IV Out of Term rates then in effect in the Service Publication

**3. EARLY TERMINATION OF PRICING SCHEDULE**

Calculation of Early Termination Charges
50% of the remaining Minimum Annual Commitment for each year remaining in the Pricing Schedule Term plus 100% of any waived Non Recurring Charges, Accelerated Discount Credits, Sign-on Bonus and Rebates.

**4. RATES and CHARGES**

**A. Domestic AT&T High Volume Calling Plan Rates - Per Minute**

	High Volume Switched Outbound Calling <sup>2</sup>	High Volume Switched Toll Free Calling <sup>1 &amp; 2</sup>
Interstate <sup>3</sup>	\$0.0245	\$0.0245
Intrastate		
Michigan	\$0.0245	\$0.0245

<sup>1</sup> TFS and optional features for TFS have additional recurring and non-recurring charges. Unless otherwise specified in this Pricing Schedule, the rates in the Service Publication will apply.

<sup>2</sup> Additional Payphone Origination Charges may apply.

<sup>3</sup> Interstate calls from any state where Customer has long distance Services are eligible for the Interstate rates.

**B. Domestic Recurring and Non-Recurring Charges for Toll Free Service**

	Monthly Recurring Charge	One Time Charge	Change Charge
TFS National Directory Assistance Listing (800-555-1212) (per TFS Number)	\$0.00	\$0.00	
Toll Free Call Routing 1 - 3 plans (per TFS Number)	\$0.00	\$100.00	\$100.00
Toll Free Call Routing 4 - 99 plans (per TFS Number)	\$50.00	\$100.00	\$100.00
Toll Free Alternate Routing Selection (per TFS Number)			\$50.00
Busy/No Answer Overflow (per trunk group)	\$0.00		\$50.00
Real-Time ANI Delivery (per trunk group)	\$0.00	\$200.00	
DNIS (per trunk group)	\$0.00	\$250.00	\$50.00
Toll Free Service Number terminated over a Switched facilities (per TFS Number)	\$5.00	\$0.00	

AT&T LONG DISTANCE HIGH VOLUME CALLING PLAN SERVICES  
Provided Pursuant to Custom Terms  
Pricing Schedule

5. MINIMUM ANNUAL COMMITMENT

Minimum Annual Commitment, per year	\$600.00
Under-Utilization Charge	Difference between the amount billed to Customer for the year (excluding taxes and surcharges) and the Minimum Annual Commitment

- A. The rates for all other intrastate and interstate traffic shall be then current rates set forth in the AT&T High Volume Calling IV that are in effect on the Effective Date of this Pricing Schedule (as specified in the Service Publications) for the Term of this Pricing Schedule.
- B. If the Minimum Annual Commitment does not match a Minimum Annual Commitment in the Service Publications, the next lower Minimum Annual Commitment will be used to determine rates for all other interstate and intrastate traffic.
- C. **Customer Mass Outbound Calling Device Usage.** CUSTOMER SHALL NOT USE AUTODIALERS, PREDICTIVE DIALERS OR OTHER DEVICES THAT GENERATE AUTOMATED OUTBOUND CALLS IN CONJUNCTION WITH PRODUCTS AND SERVICES PROVIDED UNDER THIS PRICING SCHEDULE IS STRICTLY PROHIBITED. AT&T MAY TERMINATE THIS PRICING SCHEDULE IMMEDIATELY IF CUSTOMER USES SUCH DEVICES.

End of Document



## MASTER AGREEMENT

<b>Customer</b> City of Grosse Pointe Woods Street Address: 20025 Mack Plaza Drive City: Grosse Pointe Woods State/Province: MI Zip Code: 48236 Country: USA	<b>AT&amp;T</b> AT&T Corp. AT&T
<b>Customer Contact (for notices)</b> Name: Gary Capps Title: IT Manager Street Address: 20025 Mack Plaza Drive City: Grosse Pointe Woods State/Province: MI Zip Code: 48236 Country: USA Telephone: 313-343-2525 x 205 Fax: Email: gcapps@gpwwmi.us	<b>AT&amp;T Contact (for notices)</b> Street Address: 675 West Peachtree Street City: Atlanta State/Province: GA Zip Code: 30308 Country: USA  With a copy to: AT&T Corp. One AT&T Way Bedminster, NJ 07921-0752 ATTN: Master Agreement Support Team Email: mast@att.com

This Master Agreement ("Master Agreement"), between the customer named above ("Customer") and the AT&T entity named above ("AT&T"), is effective when signed by both Customer and AT&T.

<b>Customer</b> (by its authorized representative)	<b>AT&amp;T</b> (by its authorized representative)
By:	By:
Name:	Name:
Title:	Title:
Date:	Date:

Approved for Signature

Charles T. Berschback  
City Attorney

Date: 5-16-12

## 1. INTRODUCTION

1.1 **Overview of Documents.** This Master Agreement and the following additional documents (collectively, the "Agreement") shall apply to all services and equipment AT&T provides Customer pursuant to this Agreement ("Services") and shall continue in effect so long as Services are provided under this Agreement:

- (a) **Pricing Schedules.** A "Pricing Schedule" means a pricing schedule (including related attachments) or other document that is attached to or is later executed by the parties and references this Master Agreement. A Pricing Schedule includes the Services, the pricing (including discounts and commitments, if applicable) and the pricing schedule term ("Pricing Schedule Term").
- (b) **Tariffs and Guidebooks.** "Tariffs" are documents containing the descriptions, pricing and other terms and conditions for a Service that AT&T or its Affiliates file with regulatory authorities. "Guidebooks" are documents (designated as Guidebooks or Price Lists) containing the descriptions, pricing and other terms and conditions for a Service that were but no longer are filed with regulatory authorities. Tariffs and Guidebooks can be found at [att.com/servicepublications](http://att.com/servicepublications) or other locations AT&T may designate.
- (c) **Acceptable Use Policy.** AT&T's Acceptable Use Policy ("AUP") applies to (i) Services provided over or accessing the Internet and (ii) wireless (i.e., cellular) data and messaging Services. The AUP can be found at [att.com/aup](http://att.com/aup) or other locations AT&T may designate.
- (d) **Service Guides.** The descriptions, pricing and other terms and conditions for a Service not covered by a Tariff or Guidebook may be contained in a Service Guide, which can be found at [att.com/servicepublications](http://att.com/servicepublications) or other locations AT&T may designate.

1.2 **Priority of Documents.** The order of priority of the documents that form this Agreement is: Pricing Schedules; this Master Agreement; the AUP; and Tariffs, Guidebooks and Service Guides; provided that, Tariffs will be first in priority in any jurisdiction where applicable law or regulation does not permit contract terms to take precedence over inconsistent Tariff terms.

1.3 **Revisions to Documents.** Subject to Section 8.2(b) (Materially Adverse Impact), AT&T may revise Service Publications at any time.

1.4 **Execution by Affiliates.** An AT&T Affiliate or Customer Affiliate may sign a Pricing Schedule in its own name, and such Affiliate contract will be a separate but associated contract incorporating the terms of this Agreement. Customer and AT&T will cause their respective Affiliates to comply with any such separate and associated contract.

## 2. AT&T DELIVERABLES

2.1 **Services.** AT&T will either provide or arrange to have an AT&T Affiliate provide Services to Customer and its Users, subject to the availability and operational limitations of systems, facilities and equipment. Where required, an AT&T Affiliate authorized by the appropriate regulatory authority will be the service provider.

2.2 **AT&T Equipment.** Services may be provided using equipment owned by AT&T that is located at the Site ("AT&T Equipment"), but title to the AT&T Equipment will remain with AT&T. Customer must provide electric power for the AT&T Equipment and keep the AT&T Equipment physically secure and free from liens and encumbrances. Customer will bear the risk of loss or damage to the AT&T Equipment (other than ordinary wear and tear) except to the extent caused by AT&T or its agents.

2.3 **Software.** Any software that AT&T furnishes to Customer will be governed by the written terms and conditions applicable to such software. Title to such software remains with AT&T or its supplier. Customer must comply with all such terms and conditions, and they take precedence over this Agreement as to such software.

## 3. CUSTOMER'S COOPERATION

3.1 **Access Right.** Customer will in a timely manner allow AT&T access as reasonably required for the Services to property and equipment that Customer controls and will obtain at Customer's expense timely access for AT&T as reasonably required for the Services to property controlled by third parties such as Customer's landlord. AT&T will coordinate with and, except in an emergency, obtain Customer's consent to enter upon Customer's property and premises, which consent shall not be unreasonably withheld. Access rights mean the right to construct, install, repair, maintain, replace and remove access lines and network facilities and the right to use ancillary equipment space within a building for Customer's connection to AT&T's network. Customer must provide AT&T timely information and access to Customer's facilities and equipment as AT&T reasonably requires for the Services, subject to Customer's reasonable security policies. Customer will furnish any conduit, holes, wireways, wiring, plans, equipment, space, power/utilities and other items as AT&T reasonably requires for the Services and will obtain any necessary licenses, permits and consents (including easements and rights-of-way). Customer will have the Site ready for AT&T to perform its work according to a mutually agreed schedule.

3.2 **Safe Working Environment.** Customer will ensure that the location at which AT&T installs, maintains or provides Services is a safe working environment, free of Hazardous Materials and reasonably suitable for the Services. "Hazardous Materials" mean any substance or material capable of posing an unreasonable risk to health, safety or property or whose use, transport, storage, handling, disposal or release is regulated by any law related to pollution, to protection of air, water or soil or to health and safety. AT&T shall have

## MASTER AGREEMENT

no obligation to perform work at a location that is not a suitable and safe working environment or to handle, remove or dispose of Hazardous Materials.

3.3 **Users.** "User" means anyone who uses or accesses any Service provided to Customer. Customer will cause Users to comply with this Agreement and is responsible for Users' use of any Service unless expressly provided to the contrary in an applicable Service Publication.

3.4 **Resale of Services.** Customer may not resell the Services or rebrand the Services for resale to third parties without AT&T's written consent.

### 4. PRICING AND BILLING

4.1 **Pricing and Pricing Schedule Term; Terms Applicable After End of Pricing Schedule Term.** The prices listed in a Pricing Schedule are stabilized until the end of the Pricing Schedule Term and will apply in lieu of the corresponding prices set forth in the applicable Service Publication. No promotion, credit, discount or waiver set forth in a Service Publication will apply. At the end of the Pricing Schedule Term, Customer may continue Service (subject to any applicable notice or other requirements in a Service Publication for Customer to terminate a Service Component) under a month-to-month service arrangement at the prices, terms and conditions in effect on the last day of the Pricing Schedule Term. AT&T may change such prices, terms or conditions on 30 days' prior notice to Customer.

4.2 **Additional Charges and Taxes.** Prices set forth in a Pricing Schedule are exclusive of and Customer will pay all taxes (excluding those on AT&T's net income), surcharges, recovery fees, customs clearances, duties, levies, shipping charges and other similar charges (and any associated interest and penalties resulting from Customer's failure to timely pay such taxes or similar charges) relating to the sale, transfer of ownership, installation, license, use or provision of the Services, except to the extent Customer provides a valid exemption certificate prior to the delivery of Services. To the extent required by law, Customer may withhold or deduct any applicable taxes from payments due to AT&T, provided that Customer will use reasonable commercial efforts to minimize any such taxes to the extent allowed by law or treaty and will furnish AT&T with such evidence as may be required by relevant taxing authorities to establish that such tax has been paid so that AT&T may claim any applicable credit.

4.3 **Billing.** Unless a Service Publication specifies otherwise, Customer's obligation to pay for a Service Component begins upon availability of the Service Component to Customer. Customer will pay AT&T without deduction, setoff or delay for any reason (except for withholding taxes as provided in Section 4.2 – Additional Charges and Taxes or in Section 4.5 – Delayed Billing; Disputed Charges). At Customer's request, but subject to AT&T's consent (which may not be unreasonably withheld or withdrawn), Customer's Affiliates may be invoiced separately, and AT&T will accept payment from such Affiliates. Customer will be responsible for payment if Customer's Affiliates do not pay charges in accordance with this Agreement. AT&T may require Customer or its Affiliates to tender a deposit if AT&T determines, in its reasonable judgment, that Customer or its Affiliates are not creditworthy, and AT&T may apply such deposit to any charges owed.

4.4 **Payments.** Payment is due within 30 days after the date of the invoice (unless another date is specified in an applicable Tariff or Guidebook) and must refer to the invoice number. Charges must be paid in the currency specified in the invoice. Restrictive endorsements or other statements on checks are void. Customer will reimburse AT&T for all costs associated with collecting delinquent or dishonored payments, including reasonable attorneys' fees. AT&T may charge late payment fees at the lowest of (a) 1.5% per month (18% per annum), (b) for Services contained in a Tariff or Guidebook at the rate specified therein, or (c) the maximum rate allowed by law for overdue payments.

4.5 **Delayed Billing; Disputed Charges.** Customer will not be required to pay charges for Services invoiced more than 6 months after close of the billing period in which the charges were incurred, except for calls assisted by an automated or live operator. If Customer disputes a charge, Customer will provide notice to AT&T specifically identifying the charge and the reason it is disputed within 6 months after the date of the affected invoice, or Customer waives the right to dispute the charge. The portion of charges in dispute may be withheld and will not be considered overdue until AT&T completes its investigation of the dispute, but Customer may incur late payment fees in accordance with Section 4.4 (Payments). Following AT&T's notice of the results of its investigation to Customer, payment of all properly due charges must be made within ten (10) business days, and AT&T will reverse any late payment fees that were invoiced in error.

4.6 **MARC.** Minimum Annual Revenue Commitment ("MARC") means an annual revenue commitment set forth in a Pricing Schedule that Customer agrees to satisfy during each 12-consecutive-month period of the Pricing Schedule Term. If Customer fails to satisfy the MARC for any such 12-month period, Customer will pay a shortfall charge in an amount equal to the difference between the MARC and the total of the applicable MARC-Eligible Charges incurred during such 12-month period, and AT&T may withhold contractual credits until Customer pays the shortfall charge.

### 4.7 Adjustments to MARC.

(a) In the event of a business downturn beyond Customer's control, or a corporate divestiture, merger, acquisition or significant restructuring or reorganization of Customer's business, or network optimization using other Services, or a reduction of AT&T's

## MASTER AGREEMENT

prices, or a force majeure event, any of which significantly impairs Customer's ability to meet a MARC, AT&T will offer to adjust the affected MARC to reflect Customer's reduced usage of Services (with a corresponding adjustment to the prices, credits or discounts available at the reduced MARC level). If the parties reach agreement on a revised MARC, AT&T and Customer will amend the affected Pricing Schedule prospectively. This Section 4.7 will not apply to a change resulting from Customer's decision to use service providers other than AT&T. Customer will provide AT&T notice of the conditions Customer believes will require the application of this provision. This provision does not constitute a waiver of any charges, including monthly recurring charges and shortfall charges, Customer incurs prior to amendment of the affected Pricing Schedule.

- (b) If Customer, through merger, consolidation, acquisition or otherwise, acquires a new business or operation, Customer and AT&T may agree in writing to include the new business or operation under this Agreement. Such agreement will specify the impact, if any, of such addition on Customer's MARC or other volume or growth discounts and on Customer's attainment thereof.

### 5. CONFIDENTIAL INFORMATION

5.1 **Confidential Information.** Confidential Information means: (a) information the parties or their Affiliates share with each other in connection with this Agreement or in anticipation of providing Services under this Agreement (including pricing or other proposals), but only to the extent identified as Confidential Information in writing; and (b) except as may be required by applicable law or regulation, the terms of this Agreement.

5.2 **Obligations.** A disclosing party's Confidential Information will, for a period of 3 years following its disclosure to the other party (except in the case of software, for which the period is indefinite): (a) not be disclosed, except to the receiving party's employees, agents and contractors having a need-to-know (but only if such agents and contractors are not direct competitors of the other party and agree in writing to use and disclosure restrictions as restrictive as this Section 5) or to the extent authorized to be revealed by law, governmental authority or legal process (but only if such disclosure is limited to that which is so authorized and prompt notice is provided to the disclosing party to the extent practicable and not prohibited by law, governmental authority or legal process); (b) be held in confidence; and (c) be used only for purposes of using the Services, evaluating proposals for new services or performing this Agreement (including in the case of AT&T to detect fraud, to check quality and to operate, maintain and repair the Services).

5.3 **Exceptions.** The restrictions in this Section 5 will not apply to any information that: (a) is independently developed by the receiving party without use of the disclosing party's Confidential Information; (b) is lawfully received by the receiving party free of any obligation to keep it confidential; or (c) becomes generally available to the public other than by breach of this Agreement.

5.4 **Privacy Laws.** Each party is responsible for complying with the privacy laws applicable to its business. If Customer does not want AT&T to comprehend Customer data to which it may have access in performing Services, Customer must encrypt such data so that it will be unintelligible. Customer is responsible for obtaining consent from and giving notice to its Users, employees and agents regarding AT&T's processing the User, employee or agent information in connection with providing Service. Unless otherwise directed by Customer in writing, if AT&T designates a dedicated account representative as Customer's primary contact with AT&T, Customer authorizes that representative to discuss and disclose Customer's customer proprietary network information to any employee or agent of Customer without a need for further authentication or authorization.

### 6. LIMITATIONS OF LIABILITY AND DISCLAIMERS

#### 6.1 Limitation of Liability.

- (a) EITHER PARTY'S ENTIRE LIABILITY AND THE OTHER PARTY'S EXCLUSIVE REMEDY FOR DAMAGES ON ACCOUNT OF ANY CLAIM ARISING OUT OF AND NOT DISCLAIMED UNDER THIS AGREEMENT SHALL BE:
- (i) FOR BODILY INJURY, DEATH OR DAMAGE TO REAL PROPERTY OR TO TANGIBLE PERSONAL PROPERTY PROXIMATELY CAUSED BY A PARTY'S NEGLIGENCE, PROVEN DIRECT DAMAGES;
  - (ii) FOR BREACH OF SECTION 5 (Confidential Information), SECTION 10.1 (Publicity) OR SECTION 10.2 (Trademarks), PROVEN DIRECT DAMAGES;
  - (iii) FOR ANY THIRD-PARTY CLAIMS, THE REMEDIES AVAILABLE UNDER SECTION 7 (Third Party Claims);
  - (iv) FOR CLAIMS ARISING FROM THE OTHER PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, PROVEN DAMAGES; OR
  - (v) FOR CLAIMS OTHER THAN THOSE SET FORTH IN SECTION 6.1(a)(i)-(iv), PROVEN DIRECT DAMAGES NOT TO EXCEED, ON A PER CLAIM OR AGGREGATE BASIS DURING ANY TWELVE (12) MONTH PERIOD, AN AMOUNT EQUAL TO THE TOTAL NET CHARGES INCURRED BY CUSTOMER FOR THE AFFECTED SERVICE IN THE RELEVANT COUNTRY DURING THE THREE (3) MONTHS PRECEDING THE MONTH IN WHICH THE CLAIM AROSE.
- (b) EXCEPT AS SET FORTH IN SECTION 7 (Third Party Claims) OR IN THE CASE OF A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL,

## MASTER AGREEMENT

CONSEQUENTIAL, PUNITIVE, RELIANCE OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOST PROFITS, ADVANTAGE, SAVINGS OR REVENUES OR FOR INCREASED COST OF OPERATIONS.

- (c) THE LIMITATIONS IN THIS SECTION 6.1 SHALL NOT LIMIT CUSTOMER'S RESPONSIBILITY FOR THE PAYMENT OF ALL PROPERLY DUE CHARGES UNDER THIS AGREEMENT.

6.2 **Disclaimer of Liability.** AT&T WILL NOT BE LIABLE FOR ANY DAMAGES ARISING OUT OF OR RELATING TO: INTEROPERABILITY, ACCESS OR INTERCONNECTION OF THE SERVICES WITH APPLICATIONS, DATA, EQUIPMENT, SERVICES, CONTENT OR NETWORKS PROVIDED BY CUSTOMER OR THIRD PARTIES; SERVICE DEFECTS, SERVICE LEVELS, DELAYS OR ANY SERVICE ERROR OR INTERRUPTION, INCLUDING INTERRUPTIONS OR ERRORS IN ROUTING OR COMPLETING ANY 911 OR OTHER EMERGENCY RESPONSE CALLS OR ANY OTHER CALLS OR TRANSMISSIONS, (EXCEPT FOR CREDITS EXPLICITLY SET FORTH IN THIS AGREEMENT); LOST OR ALTERED MESSAGES OR TRANSMISSIONS; OR UNAUTHORIZED ACCESS TO OR THEFT, ALTERATION, LOSS OR DESTRUCTION OF CUSTOMER'S (OR ITS AFFILIATES', USERS' OR THIRD PARTIES') APPLICATIONS, CONTENT, DATA, PROGRAMS, INFORMATION, NETWORKS OR SYSTEMS.

6.3 **Disclaimer of Warranties.** AT&T MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, SPECIFICALLY DISCLAIMS ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT AND SPECIFICALLY DISCLAIMS ANY WARRANTY ARISING BY USAGE OF TRADE OR BY COURSE OF DEALING. FURTHER, AT&T MAKES NO REPRESENTATION OR WARRANTY THAT TELEPHONE CALLS OR OTHER TRANSMISSIONS WILL BE ROUTED OR COMPLETED WITHOUT ERROR OR INTERRUPTION (INCLUDING CALLS TO 911 OR ANY SIMILAR EMERGENCY RESPONSE NUMBER) AND MAKES NO GUARANTEE REGARDING NETWORK SECURITY, THE ENCRYPTION EMPLOYED BY ANY SERVICE, THE INTEGRITY OF ANY DATA THAT IS SENT, BACKED UP, STORED OR SUBJECT TO LOAD BALANCING OR THAT AT&T'S SECURITY PROCEDURES WILL PREVENT THE LOSS OR ALTERATION OF OR IMPROPER ACCESS TO CUSTOMER'S DATA AND INFORMATION.

6.4 **Application and Survival.** The disclaimer of warranties and limitations of liability set forth in this Agreement will apply regardless of the form of action, whether in contract, equity, tort, strict liability or otherwise, of whether damages were foreseeable and of whether a party was advised of the possibility of such damages and will apply so as to limit the liability of each party and its Affiliates and their respective employees, directors, subcontractors and suppliers. The limitations of liability and disclaimers set out in this Section 6 will survive failure of any exclusive remedies provided in this Agreement.

## 7. THIRD PARTY CLAIMS

7.1 **AT&T's Obligations.** AT&T agrees at its expense to defend and either to settle any third-party claim against Customer, its Affiliates and its and their respective employees and directors or to pay all Damages that a court finally awards against such parties for a claim alleging that a Service provided to Customer under this Agreement infringes any patent, trademark, copyright or trade secret, but not where the claimed infringement arises out of or results from: (a) Customer's, its Affiliate's or a User's content; (b) modifications to the Service by Customer, its Affiliate or a third party, or combinations of the Service with any non-AT&T services or products by Customer or others; (c) AT&T's adherence to Customer's or its Affiliate's written requirements; or (d) use of a Service in violation of this Agreement.

7.2 **Customer's Obligations.** Customer agrees at its expense to defend and either to settle any third-party claim against AT&T, its Affiliates and its and their respective employees, directors, subcontractors and suppliers or to pay all Damages that a court finally awards against such parties for a claim that: (a) arises out of Customer's, its Affiliate's or a User's access to or use of the Services and the claim is not the responsibility of AT&T under Section 7.1; (b) alleges that a Service infringes any patent, trademark, copyright or trade secret and falls within the exceptions in Section 7.1; or (c) alleges a breach by Customer, its Affiliate or a User of a software license agreement governing software provided in connection with the Services.

7.3 **Infringing Services.** Whenever AT&T is liable under Section 7.1, AT&T may at its option either procure the right for Customer to continue using, or may replace or modify, the Service so that it is non-infringing.

7.4 **Notice and Cooperation.** The party seeking defense or settlement of a third-party claim under this Section 7 will provide notice to the other party promptly upon learning of any claim for which defense or settlement may be sought, but failure to do so will have no effect except to the extent the other party is prejudiced by the delay. The party seeking defense or settlement will allow the other party to control the defense and settlement of the claim and will reasonably cooperate with the defense. The defending party will use counsel reasonably experienced in the subject matter at issue and will not settle a claim without the written consent of the party being defended, which consent will not be unreasonably withheld or delayed, except that no consent will be required to settle a claim where relief against the party being defended is limited to monetary damages that are paid by the defending party under this Section 7.



## 8. SUSPENSION AND TERMINATION

8.1 **Termination of Agreement.** This Agreement may be terminated immediately upon notice by either party if the other party becomes insolvent, ceases operations, is the subject of a bankruptcy petition, enters receivership or any state insolvency proceeding or makes an assignment for the benefit of its creditors.

8.2 **Termination or Suspension.** The following additional termination provisions apply:

- (a) **Material Breach.** If either party fails to perform or observe any material warranty, representation, term or condition of this Agreement, including non-payment of charges, and such failure continues unremedied for 30 days after receipt of notice, the aggrieved party may terminate the affected Service Components and, if the breach materially and adversely affects the entire Agreement, terminate the entire Agreement. If Customer is in breach, AT&T may elect to suspend (and later terminate) the affected Service Components and, if the breach materially and adversely affects the entire Agreement, suspend (and later terminate) the entire Agreement.
- (b) **Materially Adverse Impact.** If AT&T revises a Service Publication, the revision has a materially adverse impact on Customer and AT&T does not effect revisions that remedy such materially adverse impact within 30 days after receipt of notice from Customer, then Customer may, as Customer's sole remedy, elect to terminate the affected Service Components on 30 days' notice to AT&T, given not later than 90 days after Customer first learns of the revision to the Service Publication. "Materially adverse impacts" do not include changes to non-stabilized pricing, changes required by governmental authority, or assessment of or changes to additional charges such as surcharges or taxes.
- (c) **Internet Services.** If Customer fails to rectify a violation of the AUP within 5 days after receiving notice from AT&T, AT&T may suspend the affected Service Components. AT&T reserves the right, however, to suspend or terminate immediately when: (i) AT&T's suspension or termination is in response to multiple or repeated AUP violations or complaints; (ii) AT&T is acting in response to a court order or governmental notice that certain conduct must be stopped; or (iii) AT&T reasonably determines that (a) it may be exposed to sanctions, liability, prosecution or other adverse consequences under applicable law if AT&T were to allow the violation to continue; (b) such violation may harm or interfere with the integrity, normal operations or security of AT&T's network or networks with which AT&T is interconnected or may interfere with another customer's use of AT&T services or the Internet; or (c) such violation otherwise presents an imminent risk of harm to AT&T, AT&T's customers or its or their respective employees.
- (d) **Fraud or Abuse.** AT&T may terminate or suspend an affected Service or Service Component and, if the activity materially and adversely affects the entire Agreement, terminate or suspend the entire Agreement, immediately by providing Customer with as much advance notice as is reasonably practicable under the circumstances if Customer: (i) commits a fraud upon AT&T; (ii) uses the Service to commit a fraud upon another party; (iii) unlawfully uses the Service; (iv) abuses or misuses AT&T's network or Service; or (v) interferes with another customer's use of AT&T's network or services.
- (e) **Infringing Services.** If the options described in Section 7.3 (Infringing Services) are not reasonably available, AT&T may at its option terminate the affected Services or Service Components without liability other than as stated in Section 7.1 (AT&T's Obligations).
- (f) **Hazardous Materials.** If AT&T encounters any Hazardous Materials at the Site, AT&T may terminate the affected Services or Service Components or may suspend performance until Customer removes and remediates the Hazardous Materials at Customer's expense in accordance with applicable law.

### 8.3 Effect of Termination.

- (a) Termination or suspension by either party of a Service or Service Component does not waive any other rights or remedies a party may have under this Agreement and will not affect the rights and obligations of the parties regarding any other Service or Service Component.
- (b) If a Service or Service Component is terminated, Customer will pay all amounts incurred prior to the effective date of termination.

### 8.4 Termination Charges.

- (a) If Customer terminates this Agreement or an affected Service or Service Component for cause in accordance with the Agreement or if AT&T terminates a Service or Service Component other than for cause, Customer will not be liable for the termination charges set forth in this Section 8.4.
- (b) If Customer or AT&T terminates a Service or Service Component prior to Cutover other than as set forth in Section 8.4(a), Customer (i) will pay any termination or cancellation charges set out in a Pricing Schedule or Service Publication, or (ii) in the absence of such specified charges, will reimburse AT&T for time and materials incurred prior to the effective date of termination, plus any third party charges resulting from the termination.

## MASTER AGREEMENT

- (c) If Customer or AT&T terminates a Service or Service Component after Cutover other than as set forth in Section 8.4(a), Customer will pay applicable termination charges as follows: (i) 50% (unless a different percentage is specified in the Pricing Schedule) of the monthly recurring charges for the terminated Service or Service Component multiplied by the months remaining in an applicable Minimum Payment Period; (ii) if termination occurs before the end of an applicable Minimum Retention Period, any associated credits or waived or unpaid non-recurring charges; and (iii) any charges incurred by AT&T from a third party (i.e., not an AT&T Affiliate) due to the termination. The charges set forth in Sections 8.4(c)(i) and (ii) will not apply if a terminated Service Component is replaced with an upgraded Service Component at the same Site, but only if the Minimum Payment Period or Minimum Retention Period, as applicable, (the "Minimum Period") and associated charge for the replacement Service Component are equal to or greater than the corresponding Minimum Period and associated charge for the terminated Service Component, respectively, and if the upgrade is not restricted in the applicable Service Publication.
- (d) In addition, if Customer terminates a Pricing Schedule that has a MARC, Customer will pay an amount equal to 50% of the unsatisfied MARC for the balance of the Pricing Schedule Term.

### 9. IMPORT/EXPORT CONTROL

Neither party will use, distribute, transfer or transmit any equipment, services, software or technical information provided under this Agreement (even if incorporated into other products) except in compliance with all applicable import and export laws, conventions and regulations.

### 10. MISCELLANEOUS PROVISIONS

10.1 **Publicity.** Neither party may issue any public statements or announcements relating to the terms of this Agreement or to the provision of Services without the prior written consent of the other party.

10.2 **Trademarks.** Each party agrees not to display or use, in advertising or otherwise, any of the other party's trade names, logos, trademarks, service marks or other indicia of origin without the other party's prior written consent, which consent may be revoked at any time by notice.

10.3 **Force Majeure.** Except for payment of amounts due, neither party will be liable for any delay, failure in performance, loss or damage due to fire, explosion, cable cuts, power blackout, earthquake, flood, strike, embargo, labor disputes, acts of civil or military authority, war, terrorism, acts of God, acts of a public enemy, acts or omissions of carriers or suppliers, acts of regulatory or governmental agencies or other causes beyond such party's reasonable control.

10.4 **Amendments and Waivers.** Any supplement to or modification or waiver of any provision of this Agreement must be in writing and signed by authorized representatives of both parties. A waiver by either party of any breach of this Agreement will not operate as a waiver of any other breach of this Agreement.

#### 10.5 Assignment and Subcontracting.

(a) Customer may, without AT&T's consent but upon notice to AT&T, assign in whole or relevant part its rights and obligations under this Agreement to a Customer Affiliate. AT&T may, without Customer's consent, assign in whole or relevant part its rights and obligations under this Agreement to an AT&T Affiliate. In no other case may this Agreement be assigned by either party without the prior written consent of the other party (which consent will not be unreasonably withheld or delayed). In the case of any assignment, the assigning party shall remain financially responsible for the performance of the assigned obligations.

(b) AT&T may subcontract to an Affiliate or a third party work to be performed under this Agreement but will remain financially responsible for the performance of such obligations.

(c) In countries where AT&T does not have an Affiliate to provide a Service, AT&T may assign its rights and obligations related to such Service to a local service provider, but AT&T will remain responsible to Customer for such obligations. In certain countries, Customer may be required to contract directly with the local service provider.

10.6 **Severability.** If any portion of this Agreement is found to be invalid or unenforceable or if, notwithstanding Section 10.10 (Governing Law), applicable law mandates a different interpretation or result, the remaining provisions will remain in effect and the parties will negotiate in good faith to substitute for such invalid, illegal or unenforceable provision a mutually acceptable provision consistent with the original intention of the parties.

10.7 **Injunctive Relief.** Nothing in this Agreement is intended to or should be construed to prohibit a party from seeking preliminary or permanent injunctive relief in appropriate circumstances from a court of competent jurisdiction.

10.8 **Legal Action.** Any legal action arising in connection with this Agreement must be filed within two (2) years after the cause of action accrues, or it will be deemed time-barred and waived. The parties waive any statute of limitations to the contrary.

10.9 **Notices.** Any required notices under this Agreement shall be in writing and shall be deemed validly delivered if made by hand (in which case delivery will be deemed to have been effected immediately), or by overnight mail (in which case delivery will be deemed to have been effected one (1) business day after the date of mailing), or by first class pre-paid post (in which case delivery will be deemed to

## MASTER AGREEMENT

have been effected five (5) days after the date of posting), or by facsimile or electronic transmission (in which case delivery will be deemed to have been effected on the day the transmission was sent). Any such notice shall be sent to the office of the recipient set forth on the cover page of this Agreement or to such other office or recipient as designated in writing from time to time.

**10.10 Governing Law.** This Agreement will be governed by the law of the State of New York, without regard to its conflict of law principles, unless a regulatory agency with jurisdiction over the applicable Service applies a different law. The United Nations Convention on Contracts for International Sale of Goods will not apply.

**10.11 Compliance with Laws.** Each party will comply with all applicable laws and regulations and with all applicable orders issued by courts or other governmental bodies of competent jurisdiction.

**10.12 No Third Party Beneficiaries.** This Agreement is for the benefit of Customer and AT&T and does not provide any third party (including Users) the right to enforce it or to bring an action for any remedy, claim, liability, reimbursement or cause of action or any other right or privilege.

**10.13 Survival.** The respective obligations of Customer and AT&T that by their nature would continue beyond the termination or expiration of this Agreement, including the obligations set forth in Section 5 (Confidential Information), Section 6 (Limitations of Liability and Disclaimers) and Section 7 (Third Party Claims), will survive such termination or expiration.

**10.14 Agreement Language.** The language of this Agreement is English. If there is a conflict between this Agreement and any translation, the English version will take precedence.

**10.15 Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to its subject matter. Except as provided in Section 2.3 (Software), this Agreement supersedes all other agreements, proposals, representations, statements and understandings, whether written or oral, concerning the Services or the rights and obligations relating to the Services, and the parties disclaim any reliance thereon. This Agreement will not be modified or supplemented by any written or oral statements, proposals, representations, advertisements, service descriptions or purchase order forms not expressly set forth in this Agreement.

## 11. DEFINITIONS

**"Affiliate"** of a party means any entity that controls, is controlled by or is under common control with such party.

**"Cutover"** means the date Customer's obligation to pay for Services begins.

**"Damages"** means collectively all injury, damage, liability, loss, penalty, interest and expense incurred.

**"Effective Date"** of a Pricing Schedule means the date on which the last party signs the Pricing Schedule unless a later date is required by regulation or law.

**"MARC-Eligible Charges"** means the recurring and usage charges (including amounts owed under Section 8.4(c)(i)), after deducting applicable discounts and credits (other than outage or SLA credits), that AT&T charges Customer for the Services identified in the applicable Pricing Schedule as MARC-contributing. The following are not MARC-Eligible Charges: (a) charges for or in connection with Customer's purchase of equipment; (b) taxes; and (c) charges imposed in connection with governmentally imposed costs or fees (such as USF, PICC, payphone service provider compensation, E911 and deaf relay charges).

**"Minimum Payment Period"** means the Minimum Payment Period identified for a Service Component in a Pricing Schedule or Service Publication during which Customer is required to pay recurring charges for the Service Component.

**"Minimum Retention Period"** means the Minimum Retention Period identified for a Service Component in a Pricing Schedule or Service Publication during which Customer is required to maintain service to avoid the payment (or repayment) of certain credits, waived charges or amortized charges.

**"Service Component"** means an individual component of a Service provided under this Agreement.

**"Service Publications"** means Tariffs, Guidebooks, Service Guides and the AUP.

**"Site"** means Customer's physical location, including Customer's collocation space on AT&T's or its Affiliate's or subcontractor's property, where AT&T installs or provides a Service.

**KELLER THOMA**  
A PROFESSIONAL CORPORATION

COUNSELORS AT LAW  
440 EAST CONGRESS  
5TH FLOOR  
DETROIT, MICHIGAN 48226  
313.965.7610  
FAX 313.965.4480  
www.kellerthoma.com

RECEIVED

MAY 17 2012

CITY OF GROSSE PTE. WOODS  
FEDERAL I.D. 38-1996878

CITY OF GROSSE POINTE WOODS

20025 Mack Plaza

Grosse Pointe Woods, MI 48236

Attention: Mr. Al Fincham, City Administrator

May 01, 2012

Client: 000896

Matter: 000000

Invoice #: 97940

REGARDING: GENERAL MATTERS

For professional services rendered and expenses incurred relative  
to the above matter:

TOTAL

\$82.50

Q7.  
8-17-12

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FEDERAL I.D. 38-1996878

CITY OF GROSSE POINTE WOODS  
20025 Mack Plaza  
Grosse Pointe Woods, MI 48236  
**Attention: Mr. Al Fincham, City Administrator**

May 01, 2012  
Client: 000896  
Matter: 000000  
Invoice #: 97940

Page: 1

RE: GENERAL MATTERS

For Professional Services Rendered through April 30, 2012

DATE	ATTY	DESCRIPTION	HOURS
04/17/2012	TLF	Attention to receipt and review of documents from Ms. Irby regarding organization of Finance Department; telephone call to Ms. Irby regarding same.	0.50
Total Services			\$82.50

  

ATTORNEY	HOURS	RATE	AMOUNT
TLF THOMAS L. FLEURY	0.50	\$165.00	\$82.50
Total Amount Due			\$82.50

8  
Orth  
5-1-12

10B

**DON R. BERSCHBACK**  
ATTORNEY AND COUNSELOR AT LAW  
24053 JEFFERSON AVENUE  
ST. CLAIR SHORES, MICHIGAN 48080-1530

(586) 777-0400  
FAX (586) 777-0430  
E-MAIL donberschback@yahoo.com

OF COUNSEL  
CHARLES T. BERSCHBACK \*

May 30, 2012

Skip Fincham, City Administrator  
City of Grosse Pointe Woods  
20025 Mack Plaza  
Grosse Pointe Woods, MI 48236

RE: May 2012 Billing/DRB

<u>DATE</u>	<u>DESCRIPTION OF SERVICES</u>	<u>TIME</u>
5.1.12	Memo re. business license (.25); FOIA (.25); millage issue (.25); attention to COW and CC matters (.50)	1.25
5.7.12	Review of weekend packet, TCs, emails, and letter correspondence (1.00);	1.00
5.8.12	Appearance at Court of Appeals on F. Nali case and follow up (1.50); TCs re. outside litigation(.25);	1.75
5.9.12	Municipal Court (.25); FOIA (.25); miscellaneous emails and TCs (.50)	1.00
5.11.12	Work on outside litigation (.50); ordinance and millage work (.75);	1.25
5.14.12	Review of weekend packet, TCs, emails, and follow up (1.50); preparation for and attendance at CC meeting and follow up (1.50)	3.00
5.18.12	Review of contracts (.50); TCs, emails and memos re. FOIA, use of City phones (.25); millage review and follow up (.25)	1.00
5.21.12	Review of weekend packet and follow up (1.25); emails, TCs, and letter correspondence (1.00); attendance at COW and CC meetings (2.25)	4.50
5.23.12	Attendance at Municipal Court (2.25); meetings with SF and LKH (.50)	2.75
5.29.12	Review of weekend packet, work on COW and CC matters (1.00); review of Nali correspondence and Court of Appeals Decision (.25)	1.25

DRB = 16.75 hours x \$155.00

BALANCE DUE:

\$ 2,906.25

Breakdown

General	16.25 hours
Municipal Court	2.50 hours
Bldg/Planning Comm.	0 hours
MTT	0 hours

TC - Telephone

CTB - Charles T. Berschback

DRB - Don R. Berschback

DAI - DeeAnn Irby

GPCRDA - Grosse Pointe Clinton Refuse Disposal Authority

LKH - Lisa K. Hathaway

CC - City Council

PC - Planning Commission

C&E - Comp and Eval

GT - Gene Tutag

CEW-Conference of Eastern Wayne

SF - Skip Fincham

LFP - Lakefront Park

MTT - Michigan Tax Tribunal

*C.T.*

**CHARLES T. BERSCHBACK**

ATTORNEY AT LAW

24053 EAST JEFFERSON AVENUE

ST. CLAIR SHORES, MICHIGAN 48080-1530

(586) 777-0400

FAX (586) 777-0430

clbwlaw@yahoo.com

CHARLES T. BERSCHBACK

DON R. BERSCHBACK

OF COUNSEL

May 30, 2012

Alfred "Skip" Fincham  
City Administrator  
City of Grosse Pointe Woods  
20025 Mack Plaza  
Grosse Pointe Woods, MI 48236

0.7.

RE: May Billing/ CTB Only

<u>DATE</u>	<u>DESCRIPTION OF SERVICES</u>	<u>TIME</u>
5/1/2012	Work on CMC; meeting with Judge's Clerk and Sheriff's Dept. (1.00); TCs re: Court docket (.25)	1.25
5/2/2012	Municipal Court docket (1.50); TT meeting, calls on 2 cases (.75); meeting with SF, follow up (.50); TCs re: Rivers (.25)	3.00
5/4/2012	Work on TT files, summary of recent TT opinions for assessor and appraiser (2.00)	2.00
5/7/2012	Work on TT files; emails, calls (.50); review of Council package, all calls regarding agenda items (1.50); attendance at Council meeting and COW (3.00)	5.00
5/8/2012	Review of warrant request, research, TCs Det. Bur (.50); TC GS, emails and calls on cases (.25)	0.75
5/9/2012	TT files (.25); prep for Hage Appeal oral argument (1.00)	1.25
5/10/2012	Appearance in Wayne County on Hage appeal; Municipal Court ruling affirmed; prep of Court Order and follow up with GT (2.50); review of warrants; follow up calls with victims, etc. (.50); work on Sunrise tax appeal TT (.25); review/approval of printing contract, review of Condo Act memo (Rivers), review of Storm Drainage Facility Agreement (Rivers) (.50)	3.75
5/11/2012	Continued work on contracts and agreement from 5-10 (.50); TT work, Motion to Compel, TC GS (1.00); review of Motion to Dismiss OWI case, research, draft of response (1.00)	2.50
5/14/2012	Review of docket (.25); preparation of discharges for SOC liens (.25); work on CMC warrant (.25); work on T.T. cases, all calls, preparation of Motions to Compel, emails (.75) \$50.00 Motion Fee	1.50
5/15/2012	Work on four T.T. cases, calls, emails, review of Knollwood Golf case, T.T. Opinion (1.60); TCs re. AT&T (.25)	1.75
5/16/2012	Municipal Court a.m. docket (3.25); meetings with DAI, SF, review of AT&T issue (.25); Municipal Court p.m. docket, evidentiary hearing on OWI case (2.25)	5.75
5/17/2012	Attendance in Harper Woods Court for Municipal Court Appeal (1.50); finalized T.T. Memo on Lochmoor (.25); review of T.T. Consent Judgment, Flagstar, email to GS, call with appraiser (.50);	

TCs on police matters, review of FOIA response (.25)	2.50
5/18/2012 Work on Lochmoor case and other T.T. cases (1.75); calls on pending Municipal Court cases (.50)	2.25
5/21/2012 Work on TT cases (1.00); work on Municipal Court (.50)	1.50
5/22/2012 Preparation for Municipal Court docket, calls with attorneys and Court (.50); TT case (.25); review of OMA cases and issue (.25)	1.00
5/23/2012 Municipal Court a.m. docket and review of warrants (3.50); review of Consent Judgment on Peoples (Talmer) Bank; calls, revisions to opposing counsel's Judgment, meeting with GS and letter (.50)	4.00
5/24/2012 Calls on Municipal Court, warrants; TCs Det Bur and attorneys (.50); work on TT cases (.50)	1.00
5/29/2012 Calls on new warrants and Municipal Court matters (.25); work on new fireworks law and ordinance review (1.50); work on TT file (1.00)	2.75
5/30/2012 Work on TT files (.25); work on Det Bur FOIAs, TCs re: Municipal Court (.25)	0.50

CTB = 44.00 hours at \$140.00 per hour

Costs: TT Motion Fees

**TOTAL DUE:**

\$ 6,160.00

\$ 50.00

**\$ 6,210.00**

TC - Telephone

SF - Skip Fincham

ST - Susan Tobin

DAI - DeeAnn Irby

DAP Director Andrew Pazuchowski

M/C - Mayor and Council

GT - Gene Tutag

LH - Lisa Hathaway

Det. Bur. - Detective Bureau

PC - Planning Commission

TT - Tax Tribunal

GS - Ginger Soles

#### **Breakdown**

General	10.00 hours
Municipal Court	20.75 hours
Building/Planning Commission	0 hours
Tax Tribunal	13.25 hours