

From: [Adam Bruski](#)
To: [MPSCEDOCKETS;](#)
CC: [Leone, Vincent \(AG\);](#)
Subject: Verified Response - Filing for Case No U-16182
Date: Thursday, March 04, 2010 11:56:29 AM
Attachments: [Verified Response of Cablemax.pdf](#)

To whom it may concern:

Please file the attached Verified Response of CableMax Communications, LLC in the above-referenced matter.

Thank you for your assistance,

Adam D. Bruski
Attorney for CableMax

--

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STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

| | |
|--------------------------------------------------|------------------|
| In the matter, on the Commission's own motion,) | |
| directing CableMax Communications to show) | |
| cause why it should not be found in violation) | Case No. U-16182 |
| of the Uniform Video Services Local Franchise) | |
| Act, 2006 PA 480, MCL 484.3301 <i>et seq.</i>) | |
| _____) | |

VERIFIED RESPONSE OF CABLEMAX COMMUNICATIONS, LLC

NOW COMES CableMax Communications, LLC ("CableMax") by and through its counsel, Lambert, Leser, Isackson, Cook & Giunta, P.C., and for its Verified Response to the Opinion and Order of the Michigan Public Service Commission dated January 11, 2010 (the "Order") hereby states as follows:

I. INTRODUCTION

1. On January 11, 2010 the Commission entered the Order, requesting that CableMax respond to potential violations of the Uniform Video Services Local Franchise Act, 2006 PA 480, MCL §§ 484.3301 *et seq.* (the "Act").
2. Specifically the Commission noted the following possible violations of the Act:
 - a. That CableMax may be in violation of MCL § 484.3302(2) due to its alleged failure to enter into Uniform Video Services Local Franchise Agreements before operating video service in Michigan.
 - b. That CableMax may be in violation of MCL § 484.3303(1) to MCL. § 484.3303(6) for allegedly failing to enter into Uniform Video Service Local Franchise Agreements and by allegedly failing to provide notice to local communities of any changes that may be occurring.

- c. That CableMax may be in violation of MCL § 484.3306(1), which pertains to the designation and payment of franchise fees.
 - d. That CableMax may be in violation of MCL § 484.3310, which pertains to customer protections and dispute resolution procedures.
 - e. That CableMax may be in violation of MCL § 484.3310(5)(a), which requires a provider to respond to an informal customer complaint in 10 days.
3. CableMax addresses each of these allegations as follows in this Verified Response.

II. GENERAL FACTUAL BACKGROUND

- 4. CableMax is a Michigan limited liability company consisting of two members, Mat Killinger and Mike Westley.
- 5. CableMax was formed with the intention of operating several small cable operations in communities in Michigan.
- 6. In July 2008, the principals of CableMax arranged for what they believed to be the transfer and purchase of the equipment and rights to operate cable systems in Brutus, Unionville, and Akron/Fairgrove from Pine River Cable.¹
- 7. The cost of this purchase was \$50,000.00.
- 8. The systems were purchased under the assumption that Pine River Cable was authorized to operate in those areas and was the owner of saleable assets.

¹ Upon information and belief, "Pine River Cable" is an assumed name of Phoenix Communications, Inc. a domestic profit corporation. Pine River Cable is also the subject of proceedings before the Commission in case no. U-16181.

9. At the time, CableMax was unaware of the requirement that a Uniform Video Service Local Franchise Agreement (“Franchise Agreement”) be in place between a provider and the local franchising entity.
10. CableMax later discovered that Pine River Cable either never had Franchise Agreements or that they had expired.
11. CableMax attempted to secure agreements with each of the local franchising entities as detailed below.
12. In April of 2009, prior to CableMax learning of the defects in the original transaction, Pine River Cable offered to sell additional operations in Nashville, Fine Lake, Mesick, and Kaleva.
13. CableMax agreed to purchase these operations for \$74,000.00 and entered into a second asset purchase agreement.
14. The second agreement purports to transfer to CableMax all of Pine River Cable’s franchises, authorizations, and permits.
15. CableMax paid Pine River Cable \$10,000.00 of the purchase price in cash and entered into a promissory note for the remainder.
16. The Asset Purchase Agreement required Pine River Cable to deliver, upon closing, “[a]n assignment and assumption agreement for the Franchises, Assumer [sic] contracts and certain other Assets”. This agreement was never delivered.
17. Upon commencing operations in these communities, CableMax learned that Pine River Cable had under disclosed the current customer lists and that there might defects in Pine River Cable’s franchise agreements with these communities.

18. Based on these defects, CableMax opted to cease payment on the agreement and allow the systems to revert back to Pine River Cable per the terms of the contract.

19. In December 2009, due to the defects in the transactions with Pine River Cable, the costs of operation, and delinquencies in its accounts receivable, CableMax shut down completely and has no intention of resuming operations.

III. SPECIFIC RESPONSES TO THE COMMISSION'S ALLEGATIONS

A. The Alleged Failure of CableMax to Enter Into Franchise Agreements under MCL §§ 484.3302 and 484.3303

1. Akron/Fairgrove

20. CableMax entered into a Franchise Agreement with the Village of Akron on September 18, 2008.² Exhibit A.

21. The term of this agreement was fifteen years.

22. CableMax believes that this was a valid franchise agreement as required by MCL §§ 484.3302 and 484.3303.

23. In addition, CableMax believed that it was sold all necessary authorizations to operate by Pine River Cable.

2. Unionville

24. CableMax sent the Franchise Agreement attached as Exhibit B to the Village of Unionville on January 12, 2009.

25. The Village of Unionville sent the return letter attached as part of Exhibit B to CableMax on or about February 18, 2009.

² Please note that while the typed date on the signature page of this agreement is August 16, 2005 the date entered by the Village president and (CableMax believes) the proper effective date of the agreement is September 18, 2008.

26. This letter states that the Village had added a percentage for the franchise and requested that a map be included. In addition, the Village noted that it could not consider a transfer of any agreement to CableMax as "all previous franchises were null and void".

27. CableMax believed that it was sold all necessary authorizations to operate by Pine River Cable.

3. Brutus

28. CableMax sent copies of the uniform franchise agreement for Brutus to the Township Clerks for Burt Township and Maple River Township on January 12, 2009 as demonstrated by the certified mail receipts attached as Exhibit C.

29. CableMax received no response to these mailings.

30. Pursuant to MCL § 484.3303(3) CableMax believes that the non-response from the local franchising entity within thirty days created a valid franchise agreement for this area.

31. In addition, CableMax believed that it was sold all necessary authorizations to operate by Pine River Cable.

4. Fine Lake, Mesick, Kaleva, and Nashville

32. CableMax believed that it was sold all necessary authorizations to operate by Pine River Cable in these areas.

33. However, once it became clear that this was not the case, CableMax ceased payments to Pine River Cable and under the terms of the Asset Purchase Agreement, the systems reverted to Pine River Cable.

B. The Alleged Failure to CableMax to Provide Notice of Changes to the Local

Franchising Entities Pursuant to MCL § 484.3303(6)

34. CableMax believed it was sold all necessary authorizations to operate in the areas indicated in the Order.
35. When it became clear to CableMax that the agreements between Pine River Cable and the local franchising entities were either expired or non-existent, CableMax undertook to either secured proper agreements or discontinue service in those areas.
36. CableMax ceased operations in Mesick and Kaleva in June of 2009. CableMax sent letters to all affected customers.
37. In Brutus, Akron, Nashville, and Fine Lake, CableMax could no longer pay its content providers towards the end of 2009 and necessarily began to cease transmitting certain channels. In early December 2009, CableMax provided notices on two channels informing customers that they would be ceasing operations.
38. These customers were not invoiced for their service in either November or December 2009.
39. CableMax is in the process of attempting to retrieve its customer data to determine what amounts may be outstanding to prepaid customers. However this has been hampered by the refusal of a former employee to turn over the computer used to track customer data.
40. Upon information and belief, CableMax believes its total maximum subscriber base in all of the communities was less than 100 households.

41. CableMax was unaware of a duty to, and consequently did not, inform the local franchising entities of changes in service or its intent to discontinue service in December 2009.

C. The Alleged Failure to CableMax to Pay Franchise Fees Under MCL § 484.3306(1)

42. None of the Franchise Agreements in place between CableMax and local franchising entities provided for a fee to be paid to the local franchising entity.

43. As CableMax has never seen copies of any of the Franchise Agreements that may have been in place between Pine River Cable and the local franchising entities, it can neither admit nor deny that it is liable for payment of fees to these entities, even if such agreements were assigned to and assumed by CableMax.

D. The Alleged Failure to CableMax to Comply with the Customer Service

Requirements of MCL § 484.3310

44. Counsel for CableMax has requested and received copies of the specific complaints filed with the Commission so that CableMax may review them and respond to each.

45. CableMax is in the process of reviewing these complaints so that it may respond in detail. However, as noted above, this process is hampered by CableMax's inability to access its customer data contained on the computer held by the former employee.

46. In general terms, CableMax responds to the allegations as summarized in the Commission's Order as follows.

47. CableMax's operations were hindered from the very beginning by the defects in the sale of the systems from Pine River Cable.

48. In addition, when CableMax did attempt to provide service, it was confronted by accounts with substantial delinquencies – a situation which made it difficult for

CableMax to operate in an efficient manner and for it to purchase programming content from its suppliers.

49. As noted above, when it became clear that CableMax could no longer financially afford to continue operations, it attempted to inform customers either by letter or through announcements on the cable programming.

50. CableMax is aware that some customers may have paid in advance for up to one year of service. CableMax will attempt to verify these complaints when it is able to again access its customer records, but believes this situation does not apply to any more than ten of its customers. All others were invoiced monthly and, as noted above, as CableMax realized it could no longer continue to operate, it did not bill customers in either November or December 2009.

51. In December 2009, CableMax could no longer afford to pay for its telephone service and the customer service line was discontinued.

IV. RELIEF REQUESTED AND VERIFICATION

WHEREFORE, for the reasons stated herein, CableMax respectfully requests that the Commission take into account facts set forth in this Verified Response in determining what further actions to take against CableMax.

I, Mat Killinger, as a member of CableMax Communications, LLC have read and made this Verified Response and attest that those facts stated of my own knowledge are true and those matters stated of which I have been informed I believe to be true after reasonable inquiry.

/s/ Mat Killinger

Mat Killinger

Member, CableMax Communications, LLC

Subscribed and sworn to before me on 23/04/2010

/s/ April K Roth

April K Roth

Notary public, State of Michigan, County of Midland.

My commission expires 12/13/2012

Respectfully submitted,

Dated: March 4th 2010

LAMBERT, LESER, ISACKSON,
COOK & GIUNTA, P.C.

By: Adam D. Bruski

Adam D. Bruski (P70030)

Attorney for CableMax

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Midland, MI 48640

(989) 631-7626

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EXHIBIT A

FRANCHISE AGREEMENT

This Franchise Agreement ("Franchise") is between the Village of Akron, Tuscola County, MI, hereafter referred to as the "Grantor" and Cable Max Communication, L.L.C., hereafter referred to as the "Grantee."

The Grantor hereby acknowledges that the Grantee has substantially complied with the material terms of the current Franchise under applicable law, and that the financial, legal, and technical ability of the Grantee is reasonably sufficient to provide services, facilities, and equipment necessary to meet the future cable-related needs of the community, and having afforded the public adequate notice and opportunity for comment, desires to enter into this Franchise with the Grantee for the construction and operation of a cable system on the terms set forth herein.

1. Definitions:

- a. "Cable Act" means the Cable Communications Policy Act of 1984, P.L. 98-549, 47 U.S.C. §521 Supp., as it may be amended or superseded.
- b. "Cable System," "Cable Service," "Cable Operator" and "Basic Cable Service" shall be defined as set forth in the Cable Act.
- c. "Council/Board" means the governing body of the Grantor.
- d. "Franchise" means the authorization granted hereunder of a franchise, privilege, permit, license or otherwise to construct, operate and maintain a Cable System within the Service Area.
- e. "Service Area" shall mean the geographic boundaries of the Grantor.
- f. "Streets" means the public streets, avenues, highways, boulevards, concourses, driveways, bridges, tunnels, parks, parkways, waterways, alleys, all other right-of-way and easements, and the public grounds, places or water within the geographic boundaries of Grantor.
- g. "Subscriber" means any person lawfully receiving any Cable Service from the Grantee.

- 2. **Granting of Franchise:** The Grantor hereby grants to Grantee a non-exclusive Franchise for the use of the streets and dedicated easements within the Service Area for the construction, operation and maintenance of the Cable System, upon the terms and conditions set forth herein. Nothing in this Franchise shall be construed to prohibit the Grantee from offering any service over its Cable System that is not prohibited by federal or state law.

1. The purpose of this document is to provide a comprehensive overview of the current state of the project and to identify the key areas for improvement.

2. The project has been successful in many respects, but there are several areas that need to be addressed. These include the need for better communication, more frequent updates, and a more structured approach to the work.

3. The following are the key areas for improvement:

4. The first area is communication. It is essential that all team members are kept informed of the project's progress and any changes that may occur.

5. The second area is updates. Regular updates should be provided to the project manager and the steering committee.

6. The third area is structure. A clear plan of action should be developed, and the team should be organized to follow this plan.

7. The fourth area is resources. It is important to ensure that the team has the necessary resources to complete the project successfully.

8. The fifth area is risk management. A risk register should be maintained, and the team should be aware of the potential risks to the project.

9. The sixth area is quality control. A quality management system should be implemented to ensure that the project meets the required standards.

10. The seventh area is documentation. All project documents should be properly maintained and accessible to all team members.

11. The eighth area is stakeholder engagement. It is important to keep all stakeholders informed and involved in the project.

12. The ninth area is project closure. A clear plan should be developed for the final stages of the project.

3. **Term:** The Franchise shall be for a term of Fifteen (15) years, commencing on the Effective Date of this Franchise as set forth in Section 13. This Franchise will be automatically extended for an additional term of five (5) years from such effective date, unless either party notifies the other in writing of its desire to not exercise this automatic extension (and enter renewal negotiations under the Cable Act) at least three (3) years before the expiration of this Franchise. If such a notice is given, the parties will then proceed under the federal Cable Act renewal procedures.

4. **Use of the Streets and Dedicated Easements:**

- a. Grantee shall have the right to use the Streets of the Grantor for the construction, operation and maintenance of the Cable System, including the right to repair, replace and enlarge and extend the Cable System, provided that Grantee shall utilize the facilities of utilities whenever practicable.
- b. The facilities of the Grantee shall be installed underground in those Service Areas where existing telephone and electric services are both underground at the time of system construction. In areas where either telephone or electric utility facilities are installed aerially at the time of system construction, the Grantee may install its facilities aerially with the understanding that at such time as the existing aerial facilities are required to be placed underground by the Grantor, the Grantee shall likewise place its facilities underground.
- c. Grantee shall have the right to remove, trim, cut and keep clear of the Cable System, the trees in and along the Streets of the Grantor.
- d. Grantee in the exercise of any right granted to it by the Franchise shall, at no cost to the Grantor, promptly repair or replace any facility or service of the Grantor, which Grantee damages, including but not limited to any Street
or sewer, electric facility, water main, fire alarm, police communication or traffic control.

5. **Maintenance of the System:**

- a. Grantee shall at all times employ ordinary care in the maintenance and operation of the Cable System so as not to endanger the life, health or property of any citizen of the Grantor or the property of the Grantor.

- b. All construction practices and installation of equipment shall be done in accordance with all applicable sections of the Nation Electric Safety Code.
- c. The Cable System shall be designed, constructed and operated so as to meet those technical standards adopted by the FCC relating to Cable Systems contacted in part 76 of the FCC's rules and regulations as may, from time to time, be amended.

6. Service:

- a. The Grantee shall make Cable Service distributed over the Cable System available to every residence within the Service Area where there is a minimum density of at least thirty (30) residences per linear strand mile of cable (excluding any home subscribing to any satellite service) as measured from Grantee's closest trunk line or distribution cable that is actively delivering Cable Service as of the date of such request for service. If such residence is located within 125 feet of Grantee's feeder cable, the Cable Service will be provided at Grantee's published rates for standard installation. Notwithstanding the foregoing, the Grantee shall have the right, but not the obligation, to extend the Cable System into any portion of the Service Area where another operator is providing Cable Service, or into any annexed area, which is not contiguous to the present Service Area of the Grantee. Grantee shall not be obligated to provide Cable Service into any area, which is financially or technically infeasible.
- b. The Grantor shall provide prior notice to the Grantee of its annexation of any contiguous territory, which is being provided Cable Service by the Grantee or its affiliates. Such annexed area will be subject to the provisions of the franchise, which previously covered that area throughout the term of this Franchise, although the Grantor will replace the previous franchise authority. Grantee shall pay the Grantor franchise fees on revenue received from the operation of the Cable System to provide Cable Services in the Service Area and in any area annexed by the Grantor if the Grantor has provided written notice to the Grantee prior to the date of such annexation.
- c. Grantee shall provide Basic Service and one free outlet to each of the following public facilities located within one hundred twenty-five (125) feet of existing service lines of the Grantee and within the jurisdictional limits of the Grantor: Village Hall, Fire Department, Police Department and public schools. No monthly service fee shall be charged for such outlet. Grantee shall provide Basic Service to new construction hereafter for similar public facilities; provided they are within one hundred twenty-five (125) feet of the existing service lines of Grantee.

7. Insurance/Indemnity:

- a. The Grantee shall maintain in full force and effect, at its own cost and expense, during the term of the Franchise, Commercial General Liability Insurance in the amount of \$1,000,000 combined single limit for bodily injury and property damage. The Grantor shall be designed as an additional insured. Such insurance shall be noncancelable except upon thirty (30) days prior written notice to the Grantor. Upon written request, the Grantee shall provide a Certificate of Insurance showing evidence of the coverage required by this subsection.
- b. Grantee hereby agrees to indemnify and hold the Grantor, including its agents and employees, harmless from any claims or damages resulting from the actions of Grantee in constructing, operating or maintaining the Cable System. Grantor agrees to give the Grantee written notice of its obligation to indemnify Grantor within ten (10) days of receipt of a claim or action pursuant of this section. Notwithstanding the foregoing, the Grantee shall not be obligated to indemnify Grantor for any damages, liability or claims resulting from the willful misconduct or negligence of Grantor or for the Grantor's use of the Cable System.

8. Revocation:

- a. Prior to revocation or termination of the Franchise, the Grantor shall give written notice to the Grantee of its intent to revoke the Franchise on the basis of a pattern of noncompliance by the Grantee, including one or more instances of substantial noncompliance with a material provision of the Franchise. The notice shall set forth the exact nature of the noncompliance. The Grantee shall have sixty (60) days from such notice to either object in writing and to state its reasons for such objection and provide any explanation or to cure the alleged noncompliance. If Grantee has not cured the breach within such sixty (60) day time period or if the Grantor has not otherwise received a satisfactory response from Grantee, the Grantor may then seek to revoke the Franchise at a public hearing. The Grantee shall be given at least (30) days prior written notice of such public hearing, specifying the time and place of such hearing and stating its intent to revoke the Franchise.
- b. At the hearing, the Grantor shall give the Grantee an opportunity to state its position on the matter, present evidence and question witnesses, after which it shall determine whether or not the Franchise shall be revoked.

The public hearing shall be on the record and written transcript and a certified copy of the findings shall be made available to the Grantee within

ten (10) business days. The Grantee may appeal such determination to an appropriate court, which shall have the power to review the decision of the Grantor de novo.

- c. Upon revocation of the Franchise, Grantee may remove the Cable System from the Streets of the Grantor, or abandon the Cable System in place.

9. Equal Protection: The Grantor agrees that any grant of additional franchises, licenses, certificates or other authorizations by the Grantor to any other entity to provide Cable Services, video services, or other television services using the public rights of way, shall require that service be provided for the same territorial area of the Grantor as required by this Franchise and shall not be on terms and conditions (including, without limitations, the franchise fee obligations) more favorable or less burdensome to the grantee of any such additional franchise, licenses, certificates or other authorizations, than those which are set forth herein. Additionally, if another provider of Cable Services, video services or other television services is lawfully authorized by any other governmental entity to provide such services using the public rights of way in the Service Area, Grantor shall, upon a request from Grantee, modify Grantee's Franchise to establish similar rights and obligations.

10. Confidentiality: If Grantee provides any books and records to the Grantor, the Grantor agrees to treat as confidential such books, records or maps that constitute proprietary or confidential information. Until otherwise ordered by a court or agency of competent jurisdiction, the Grantor agrees that, to the extent permitted by State and Federal law, it shall deny access to any of Grantee's books and records marked confidential to any Person.

11. Notices, Miscellaneous:

- a. Every notice served upon the Grantor shall be delivered or sent by certified mail, return receipt requested to:

Village of Akron
4380 Beach Street, PO Box 295
Akron, MI 48701
ATTN: Shari Hadaway, Akron Village Clerk

And every notice served upon Grantee shall be delivered or sent by certified mail, return receipt requested, to:

Attention: Michael Westly
Cable Max Communication L.L.C.
3785 E. Colonville Road
Clare, Michigan 48617

With a copy to: Cable Max Communication L.L.C.
3785 E. Colonville Road
Clare, Michigan 48617
Attention: Vice-President of Governmental Affairs

- b. All provisions of this Franchise shall apply to the respective parties, their lawful successors, transferees and assigns.
- c. If any particular section of this Franchise shall be held invalid, the remaining provisions and their application shall not be affected thereby.
- d. In the event of any conflict between this Franchise and any Grantor ordinance or regulation, this Franchise will prevail.

12. Force Majeure: The Grantee shall not be held in default under, or in noncompliance with the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by circumstances reasonably beyond the ability of the Grantee to anticipate and control. This provision includes work delays caused by waiting for utility providers to service or monitor their utility poles to which Grantee's Cable System is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary.

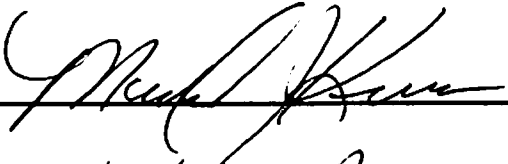
13. Effective Date: The Franchise granted herein will take effect and be in full force from such date of acceptance by Grantee recorded on the signature page of this Franchise. This Franchise shall expire on **August 25, 2020**, unless extended in accordance with Section 3 of this Franchise or by the mutual agreement of the parties.

14. Acceptance and Entire Agreement: The Grantor and the Grantee, by virtue of the signature set forth below, agree to be legally bound by all provisions and conditions set forth in this Franchise. The Franchise constitutes the entire

agreement between the Grantor and the Grantee. No modifications to this Franchise may be made without an appropriate written amendment signed by both parties.

Considered and approved this 16th day of August, 2005.

Village of Akron

Signature 

Name/Title Village President

Date 9-18-08

Accepted this _____ day of _____, 200 , subject to applicable federal, state and local tax.

Cable Max Communication

Signature _____

Name/Title _____

Date _____

EXHIBIT B

UNIFORM VIDEO SERVICE LOCAL FRANCHISE AGREEMENT

THIS UNIFORM VIDEO SERVICE LOCAL FRANCHISE AGREEMENT ("Agreement") is made, pursuant to 2006 PA 480, MCL 484.3301 *et seq.*, (the "Act") by and between the Village of Unionville, a Michigan municipal corporation (the "Franchising Entity"), and Cablemax Communications LLC, a Michigan, limited liability corporation doing business as CableMax Communications LLC.

I. Definitions

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

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

II. Requirements of the Provider

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

III. Provider Providing Access

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

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

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

IV. Responsibility of the Franchising Entity

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

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

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

V. Term

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

VI. Fees

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

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

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

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

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

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

VIII. PEG Fees

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

IX. Audits

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

X. Termination and Modification

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

XI. Transferability

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

XII. Change of Information

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

XIII. Confidentiality

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

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

XIV. Complaints/Customer Service

- A. The Provider shall establish a dispute resolution process for its customers. Provider shall maintain a local or toll-free telephone number for customer service contact.
- B. The Provider shall be subjected to the penalties, as described under **Section 14 of the Act**, and the Franchising Entity and Provider may be subjected to the dispute process as described in **Section 10(3) of the Act**.
- C. Each Provider shall notify its customers of the dispute resolution process required under **Section 10 of the Act**.
- D. In connection with providing video services to the subscribers, a provider shall not do any act prohibited by **Section 10(1)(a-f)** of the Act. The Commission may enforce compliance to the extent that the activities are not covered by **Section 2(3)(l)** in the Act.

XV. Notices

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

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

If to the Provider:
(must provide street address)

Village of Unionville :

Attn: _____
Fax No.: _____

Cablemax Communications

103 S Westlawn Dr

Midland, MI 48640

Attn: Mat Killinger

Fax No.: 989-835-5231

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

XVI. Miscellaneous

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

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

Village of [Unionville, a Michigan Municipal Corporation]

[Cablemax communications LLC, a Michigan Limited Liability corporation doing business as [Cablemax Communications LLC]

By _____
Print Name _____
Title _____
Address _____
City, State, Zip _____
Phone _____
Fax _____
Email _____

By _____
Mat Killinger
Print Name _____
Mat Killinger
Title _____
Member
Address _____
103 S Westlawn Dr
City, State, Zip _____
Midland, MI 48640
Phone _____
989-205-7546
Fax _____
mkkillinger1@yahoo.com
Email _____

FRANCHISE AGREEMENT *(Franchising Entity to Complete)*

Date submitted:

Date completed and approved:

ATTACHMENT 1

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

| | | |
|-----------------------------------------------|-----------|---------------------|
| Date: 12-4-2008 | | |
| Applicant's Name: CableMax Communications LLC | | |
| Address 1: 103 S Westlawn Dr | | |
| Address 2: | | Phone: 989-205-7546 |
| City: Midland | State: MI | Zip: 48640 |
| Federal I.D. No. (FEIN): 26-3084149 | | |

Company executive officers:

| |
|-------------------------------------|
| Name(s): Mat Killinger/Mike Westley |
| Title(s): Member/Member |

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

| | | |
|-----------------------------------------------|------|------------------------------|
| Name: Mat Killinger | | |
| Title: Member | | |
| Address: 103 S Westlawn Dr. Midland, MI 48640 | | |
| Phone: 989-205-7546 | Fax: | Email: mkillinger1@yahoo.com |

Describe the video service area footprint as set forth in Section 2(3e) of the Act. (An exact description of the video service area footprint to be served, as identified by a geographic information system digital boundary meeting or exceeding national map accuracy standards.)

The service footprint consist of the entire village of Unionville.

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

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

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

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

Date: 12-4-2008

For All Applications:

Verification
(Provider)

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

| | |
|-------------------------------------------------|-------|
| Name and Title (printed): Mat Killinger, Member | |
| Signature: | Date: |

(Franchising Entity)

Village of Unionville, a Michigan municipal corporation

| |
|------------------|
| By |
| Print Name |
| Title |
| Address |
| City, State, Zip |
| Phone |
| Fax |
| Email |
| Date |

ATTACHMENT 2

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

Affected Franchise Agreement(s):

Date:

Type of Change (Check one): ☐ Amended ☐ Termination ☐ Transfer

Current information on record:

| | | |
|--------------------------|--------|--------|
| Applicant's Name: | | |
| Address 1: | | |
| Address 2: | | Phone: |
| City: | State: | Zip: |
| Federal I.D. No. (FEIN): | | |

For Amended Agreement(s):

Agreement that is being Amended:

Types of Amendments:

A. Change in Legal Name or assume business name, etc; (Approval from Secretary of State must be attached.)

| |
|-------------------|
| 1. Existing Name: |
| 2. New Name: |

B. Change in Principal Business Address or Name of Person Authorized to Receive Notice:

1. New Principal/business office address:

| | |
|-------------------|------|
| Address 1: | |
| Address 2: | |
| City, State, Zip: | |
| Email: | |
| Phone: | Fax: |

2. New Name and Title of person authorized to receive notice:

| | |
|-------------------|--------|
| Name: | Title: |
| Address 1: | |
| Address 2: | |
| City, State, Zip: | |
| Email: | |
| Phone: | Fax: |

C. Increase/Decrease in the Territory:

1. Reason for the change:

2. Description of change:

3. List the new unit(s) and unincorporated area(s) to be served under this change:

D. Additional changes (please attach any additional changes that have been made, which have not been previously recorded in this Attachment):

For Termination:

Effective date of Termination:

Agreement associated with the Termination:

Identify the number of customers covered by the Agreement being terminated:

Identify the method used to notify the Franchising Entity of the termination of service (Attach a copy of the notification):

For Transfer of Agreement(s):

(A transfer will require the new franchise holder or new controlling parent company to complete the information for the "New Agreement Holder")

Name of Current Franchise Holder:

Contact Name:

Address 1:

Address 2:

City, State, Zip:

Email:

Phone:

Fax:

Federal I.D. No. (FEIN):

ATTACHMENT 2

| | |
|----------------------------------------------------------------------------------|-------------|
| Name of New Franchise Holder or controlling parent company as applicable: | |
| Contact Name: | |
| Address 1: | |
| Address 2: | |
| City, State, Zip: | |
| Email: | |
| Phone: | Fax: |
| Federal I.D. No. (FEIN): | |
| Email: | |

Company executive officers:

| |
|--------------------------------------------------------------------------------------------------------|
| Name(s): |
| Title(s): |
| Person(s) authorized to represent the company before the Franchising Entity and the Commission: |

Describe the video service area footprint as set forth in Section 2(3)(e) of the Act. (An exact description of the video service area footprint to be served, as identified by a geographic information system digital boundary meeting or exceeding national map accuracy standards.)

| |
|--|
| |
|--|

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

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

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

Explain the transaction that defines the transferee as a successor in interest (Attachments are acceptable):

| |
|------------------------------------------|
| |
|------------------------------------------|

Effective date of Transfer:

(Per 2006 Public Act 480: A notice of transfer shall be filed with the Franchising Entity within 15 days of the completion of the transfer)

Agreement associated with the Transfer:

For All Applications:

**Verification
(Provider)**

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

Name and Title (printed):

Signature:

Date:

(Franchising Entity)

City of [insert NAME of City/Village/Township], a Michigan municipal corporation

By

Print Name

Title

Address

City, State, Zip

Phone

Fax

Email

Date

ATTACHMENT 2

ATTACHMENT 3

UNIFORM VIDEO SERVICE LOCAL FRANCHISE AGREEMENT (Form must be typed)

THE UNIFORM VIDEO SERVICE LOCAL FRANCHISE AGREEMENT ("Agreement") is considered completed and approved on this date 12/4, 2008, pursuant to 2006 PA 480, Section 3(3) between Village of [Unionville, a Michigan municipal corporation (the "Franchising Entity"), and Cablemax Communications LLC, a Michigan corporation doing business as Cablemax Communications LLC.

Pursuant to Section 3(3) of the Act, "A Franchising Entity shall have 30 days after the submission date of a complete franchise agreement to approve the agreement. If the Franchising Entity does not notify the Provider regarding the completeness of the franchise agreement or approve the franchise agreement within the time periods required under this subsection, the franchise agreement shall be considered complete and the franchise agreement approved."

The Uniform Video Service Local Franchise Agreement was first filed on [insert month & day], 20[insert two digit year], and has exceeded the 30 day submission date (pursuant to Section 3(3) of the Act) on [insert month & day], 20[insert two digit year]. Attachment 3 is being sent as a notification of a Franchise Agreement that is considered completed and approved to both City of [insert NAME of City/Village/Township], a Michigan municipal corporation (the "Franchising Entity"), as well as the Michigan Public Service Commission.

(Provider)

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

| | |
|---------------------------|-------|
| Name and Title (printed): | |
| Signature: | Date: |

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

UNIONVILLE MI 48767

| | | | |
|---------------------------------------------------|----|--------|------------------|
| Postage | \$ | \$1.34 | 0910 |
| Certified Fee | | \$2.70 | 04 |
| Return Receipt Fee (Endorsement Required) | | \$2.20 | Postmark Here |
| Restricted Delivery Fee (Endorsement Required) | | \$0.00 | |
| Total Postage & Fees | \$ | \$6.24 | 01/12/2009 |

| | |
|---------------------------------|--|
| Sent To | |
| CAROL GANGLER | |
| Street, Apt. No., or PO Box No. | |
| 6454 MARRY ST. PO BOX 257 | |
| City, State, ZIP+4 | |
| Unionville MI 48767 | |

PS Form 3800, May 2000

See Reverse for Instructions

7000 1670 0007 0000 0497 0002

Village of Unionville

6454 Merry St. P.O. Box 257

Unionville, MI 48767

(989) 674-2244 Fax (989) 674-0063

The Village of Unionville is an Equal Opportunity Employer

February 18, 2009

Cablemax Communications

Mat Killinger

3785 E. Colonville Rd.

Clare MI 48617

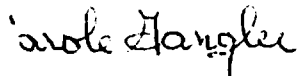
Dear Mr. Killinger,

Enclosed you will find your copy of the Franchise Agreement you sent to our office. As you will notice it is not signed. We have added the percentage of this franchise.

This agreement cannot be considered a transfer since all previous franchises were null and void pursuant to Section 2(3)(e) of Public Act 480.

A map was not included to the village of your video service as set forth in Section 2(3e) of Public Act 480. Therefore, the village feels Cablemax is not in compliance with this act.

Sincerely,



Carole Gangler

Village Clerk

EXHIBIT C

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

CHEBOYGAN MI 49721

| | | |
|---------------------------------------------------|---------|------------------|
| Postage | \$ 1.34 | 0910 |
| Certified Fee | \$2.70 | 04 |
| Return Receipt Fee (Endorsement Required) | \$2.20 | Postmark Here |
| Restricted Delivery Fee (Endorsement Required) | \$0.00 | |
| Total Postage & Fees | \$ 6.24 | 01/12/2009 |

Sent To
 BURT Twp. Clerk
 Street, Apt. No., or PO Box No.
 4271 E. Burt Lk. Rd
 City, State, ZIP+4
 Cheboygan MI 49721

PS Form 3800, May 2000

See Reverse for Instructions

7000 1670 0007 6653 3148

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

ALANSON MI 49706

| | | | | |
|------------------------------------------------|----|--------|------------|---------------|
| Postage | \$ | \$1.34 | 0910 | Postmark Here |
| Certified Fee | | \$2.70 | 04 | |
| Return Receipt Fee (Endorsement Required) | | \$2.20 | | |
| Restricted Delivery Fee (Endorsement Required) | | \$0.00 | | |
| Total Postage & Fees | \$ | \$6.24 | 01/12/2009 | |

Sent To
 Maple River Twp Clerk
 4989 N. US Hwy 31
 State, ZIP+4
 ALANSON MI 49706
 Form 3800, May 2009 See Reverse for Instructions

1670 0007 6653 3070