

THIRD AMENDMENT TO ACCESS MANAGEMENT CONTRACT
BETWEEN THE CITY OF MILWAUKEE AND
MILWAUKEE ACCESS TELECOMMUNICATION AUTHORITY, INC.

This Amendatory Agreement is made this ___ day of _____, 2007, by and between the City of Milwaukee, a municipal corporation (“City”), and the MATA Community Media, Inc., formerly known as Milwaukee Access Telecommunication Authority, Inc., a nonprofit corporation (“Contractor”), who agree as follows:

RECITALS

Whereas, The City, acting pursuant to Common Council Resolution File No. 991747, and the Contractor entered into an April 20, 2000 Access Management Contract (the “Original Agreement”); and

Whereas, The City, acting pursuant to Common Council Resolution File No. 000491, and the Contractor entered into an Amendment to the Original Agreement modifying certain approval and funding dates (the “First Amendment”); and

Whereas, The City, acting pursuant to Common Council Resolution File No. 031356, and the Contractor entered into a Second Amendment to the Agreement granting funds to satisfy certain mortgage liens on Contractor’s real property (the “Second Amendment”; the Original Agreement as amended by the First and Second Amendments is hereafter referred to as the “Agreement”); and

Whereas, Under the terms of the Agreement, Contractor is to provide specified community and educational access services for the 17 year term of the Agreement; and

Whereas, The Agreement designates Contractor as an Access Manager for purposes of Chapter 99-11, MCO, and Section 7 of the Time Warner Franchise Agreement, and assigns control and management of certain public and educational access channels, facilities and resources under such franchise; and

Whereas, The City on April 25, 2007, entered into an agreement with AT&T Wisconsin, authorizing AT&T Wisconsin to use and occupy the City's rights-of-way to provide U-verse TV services; and

Whereas, The City desires to assign control and management of certain public and educational access channels, facilities and resources under the City's agreement with AT&T Wisconsin to Contractor; and

Whereas, The Common Council by Resolution File No. _____ adopted _____, 2007, has authorized the proper City officers to execute this Third Amendment on behalf of the City;

Now, Therefore, The parties agree as follows:

A. Under the Recitals of the Agreement, after the fourth Whereas clause, a new clause is inserted to read as follows:

Whereas, The City has entered into an agreement with AT&T Wisconsin (AT&T) to provide certain channels, facilities and resources for local public and educational use and it is desirable to assign control and management of these channels, facilities and resources under this agreement to Contractor; and

B. Section 3 of the Agreement is amended by adding, after the last sentence:

Contractor's use of assigned channel capacity is also subject to all terms and conditions of the City's agreement with AT&T.

C. Section 4.7 of the Agreement is amended to read:

4.7 Undertake other activities as necessary to comply with the public and educational access specifications of Chapter 99, MCO, ~~and~~ the Franchise Agreement between the City and Time Warner, and the agreement between the City and AT&T as applicable to Contractor under this Agreement; and

D. Section 8.25 of the Agreement is created to read:

8.25 Under a schedule established by the City Clerk, but not less than annually, the City shall provide an additional amount to Contractor equal to two-thirds of the PEG Grant payments received under the agreement between the City and AT&T.

E. Section 11.7.1 of the Agreement is amended to read:

11.7.1 All local producers and users (not to include the Contractor, which is governed by Section 11.7.2) of any of the public and educational access facilities or channels shall agree in writing to hold harmless, defend, and indemnify Time Warner, AT&T, the City and the City's officers, agents, and employees from any and all liability or other injury (including the reasonable cost of defending claims of litigation) arising from or in connection with failure to comply with applicable federal laws, rules, regulations or other requirements of local, state or federal authorities; claims of libel, slander, invasion of privacy, or the infringement of common law or statutory copyright; unauthorized use of any trademark, trade name or service mark; for breach of contractual or other obligations owing to third parties by Time Warner, AT&T or the City; and for any other injury or damage in law or equity, which claims result from the use of a public and educational facility or channel.

F. Section 12.3 of the Agreement is amended to read:

12.3 To secure all of its obligations under this Agreement, Contractor hereby grants to City a security interest in all of the assets and interests, including but not limited to, Contractor deposit accounts, inventory and all equipment and fixtures hereafter acquired by Contractor with funds provided by the City pursuant to the January 1, 2000 renewal Franchise Agreement and pursuant to the City's 2007 agreement with AT&T. Contractor agrees to take all steps reasonably requested by City to perfect and enforce the City's security interest, including the execution and processing of financial statements and continuation statements under the Uniform Commercial Code. Contractor will also notify any institution with which it now or hereafter maintains any deposit account containing the above funds of the existence of the City's security interest in the account.

G. Section 19.5 of the Agreement is created to read:

19.5 INCORPORATION OF AGREEMENT WITH AT&T. Except as herein modified, all terms and conditions of the City's 2007 agreement with AT&T, and any amendments or modifications to it, are incorporated herein by reference. Contractor agrees to comply with each provision of the agreement that is applicable to Contractor.

D. Except as herein modified or amended, the Agreement remains in full force and effect.

Dated at Milwaukee, Wisconsin, this ____ day of _____, 2007.

CITY OF MILWAUKEE

Ronald D. Leonhardt, City Clerk

Date: _____

COUNTERSIGNED:

Comptroller

Date: _____

MILWAUKEE ACCESS
TELECOMMUNICATION AUTHORITY, INC.

By:

Date: _____

Approved as to content this
____ day of _____, 2007.

Deputy City Attorney

Approved as to form and execution
this ____ day of _____, 2007.

Deputy City Attorney