

VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL WORKSHOP
JANUARY 27TH, 2009 AGENDA

SUBJECT:	TYPE:	SUBMITTED BY:
Project Lightspeed Screening Letter	✓ Resolution Ordinance Motion Discussion Only	Enza Petrarca Village Attorney

SYNOPSIS

A resolution has been prepared to authorize the execution of a letter agreement with AT&T allowing the Village to accept cash in lieu of the screening requirement contained in the Village Standards for the Construction of Facilities on the Public Rights-of-Way.

STRATEGIC PLAN ALIGNMENT

The Five Year Plan and Goals for 2008-2013 identified *Top Quality Infrastructure and Facilities* and the supporting objectives of *Vibrant Major Corridors* and *Preservation of our Residential and Neighborhood Character*.

FISCAL IMPACT

Payments in the amount of \$1,500 per Video Ready Access Devices (VRAD's) installation will be deposited in the General Fund.

RECOMMENDATION

Approval on the February 3, 2009 consent agenda.

BACKGROUND

As part of the implementation of AT&T's Project Lightspeed, location of Video Ready Access Devices (VRAD's) in the public way has been occurring within the Village. There have been 35 permits issued for placement of VRAD's within Village right-of-way. Four permits are pending. Pursuant to both Illinois law and the Village's own standards regarding location of these facilities in the public right of way, landscape screening may be required by the Village. AT&T has offered to pay the Village \$1,500 dollars for each VRAD located or to be located in the Village's ROW in lieu of the required landscaping.

Staff supports the payment in lieu of landscaping as it allows the Village to select what it believes to be the most appropriate landscape screening for a site and also allows the Village to distribute the funds as it sees fit. This allows for additional screening at some sites when deemed necessary by the Village.

ATTACHMENTS

Resolution

Letter of agreement from AT&T

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING EXECUTION OF A LETTER OF AGREEMENT BETWEEN THE VILLAGE OF DOWNERS GROVE AND AT&T ILLINOIS

BE IT RESOLVED by the Village Council of the Village of Downers Grove, DuPage County, Illinois, as follows:

1. That the form and substance of a certain Letter of Agreement (the "Agreement"), between the Village of Downers Grove (the "Village") and AT&T Illinois ("AT&T"), allowing for the acceptance of cash in lieu of the screening requirement contained in the Village Standards for the Construction of Facilities on the Public Rights-of-Way, as set forth in the form of their Letter of Agreement dated January 5, 2009 submitted to this meeting with the recommendation of the Village Manager, is hereby approved.

2. That the Village Manager and Village Clerk are hereby respectively authorized and directed for and on behalf of the Village to execute, attest, seal and deliver the Agreement, substantially in the form approved in the foregoing paragraph of this Resolution, together with such changes as the Manager shall deem necessary.

3. That the proper officials, agents and employees of the Village are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform all obligations and commitments of the Village in accordance with the provisions of the Agreement.

4. That all resolutions or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed.

5. That this Resolution shall be in full force and effect from and after its passage as provided by law.

Mayor

Passed:

Attest: _____
Village Clerk



Marc D. Blakeman
Regional Vice President
External Affairs

AT&T Illinois
225 West Randolph Street
Floor 27B
Chicago, Illinois 60606

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January 5, 2009

Mayor Ron Sandack
Village of Downers Grove
801 Burlington Avenue
Downers Grove, Illinois 60515

Dear Mayor Sandack:

AT&T Illinois ("AT&T") is in the process of installing facilities in the public rights-of-way ("ROW"), as that term is defined in the Cable and Video Competition Law of 2007, 220 ILCS §21-201(q), within the Village of Downers Grove, Illinois (the "Village") in connection with AT&T's network upgrade, known as Project Lightspeed. As part of this upgrade process, AT&T remains committed to working with the Village pertaining to facility screening, which term shall be deemed to include landscaping and the maintenance of the screening and landscaping ("Screening").

In furtherance of this commitment, AT&T hereby agrees to be bound by the terms contained in this letter (hereafter referred to as the "Agreement"). AT&T shall make a payment to the Village of One Thousand Five Hundred Dollars (\$1,500.00) (a "Payment") for each separate Video-Ready Access Device ("VRAD") located in the ROW of the Village ("AT&T's Facilities"). The Payments shall be used by the Village for Screening related to AT&T's Facilities, subject to the following terms:

1. The Village shall assume all responsibilities, including all costs, expenses and liabilities, related to the screening of AT&T's Facilities within the Village, particularly as required under Section 15(e)(2) of The Village of Downers Grove Standards for the Construction of Facilities on the Public Rights of Way. In fulfilling its responsibilities, the Village shall comply with all applicable land use and safety regulations including, but not limited to, the Illinois Underground Utilities Facilities Damage Prevention Act, 220 ILCS 50/1 *et seq.* and acknowledges that AT&T must have a four (4) foot set-back from all four sides of every VRAD cabinet, upon which no Screening or obstruction will be placed, such that every VRAD cabinet may be easily accessed by AT&T. The Village agrees that it will not place screening in a manner which will impede access by AT&T to AT&T Facilities. If AT&T finds that placement of the screening by the Village has impeded access to AT&T Facilities, the Village agrees that it will resolve the issue of accessibility to the satisfaction of AT&T, including removal, relocation and/or trimming of such Screening at the Villages expense.

2. Except for its responsibility to make the Payments to the Village in a timely manner which shall be interpreted to mean as close as reasonably possible following the date of permit issuance, AT&T shall not be responsible for any costs, expenses or liabilities related to the Screening of AT&T's Facilities within the Village.

3. As long as this Agreement remains in effect, AT&T's Facilities shall not be subject to the Village Code standards referenced in paragraph 1 above or any other applicable Village Code provisions regarding Screening including, but not limited to, security requirements, the posting of a bond, letter of credit or the establishment of an escrow account.

Please express your agreement and acceptance of the terms of this Agreement by signing below.

Sincerely,



Marc D. Blakeman
Regional Vice President, External Affairs

AGREED TO AND ACCEPTED:

VILLAGE OF DOWNERS GROVE

By: _____

Name: _____

Title: _____