



**Telecommunications Advisory Commission**  
**January 12, 2021**  
**Community Center Large Room**  
**4170 Morse Avenue**  
**Lincolnwood, Illinois 60712**  
**6:00 P.M.**  
**Meeting Held Via GoToMeeting**

**IN-PERSON PARTICIPATION:** In accordance with the recently adopted amendments to the Illinois Open Meetings Act permitting the Telecommunications Advisory Commission to conduct a virtual meeting, members of the public are allowed to be physically present in the Large Room in the Community Center at 4170 Morse Avenue, subject to room capacity and social distancing requirements. Accordingly, the opportunity to view the virtual meeting at Village Hall is available on a “first come, first-served” basis. Those members of the public present at Community Center will be able to provide real-time comments in person on the computer available in the Community Center. Anyone who does not desire, or who is not able, to be physically present at Village Hall can watch the Telecommunications Advisory Commission meeting on-demand by visiting the Village website or by clicking [www.lincolnwoodil.org/on-demand/](http://www.lincolnwoodil.org/on-demand/).

- I. Call to Order
- II. Roll Call
- III. Approval of Minutes
- IV. New Business
  - a. Proposed Changes to Village Code
  - b. Comcast Franchise Agreement
- V. Public Forum

Statement Regarding Public Comment

Anyone wishing to respectfully share thoughts about any matter concerning the Village of Lincolnwood Telecommunications Advisory Commission may do so

by submitting an email to [administration@lwd.org](mailto:administration@lwd.org) prior to the commencement of the meeting. All Emails received will be read aloud during the Public Comment portion of the agenda. Emails should be kept to under 200 words to allow time for others to be heard and for the Telecommunications Advisory Commission to progress through the public meeting agenda. The Telecommunications Advisory Commission typically does not immediately respond to public comments or engage in open dialogue, but the Telecommunications Advisory Commission is actively listening to all comments.

## VI. Adjournment

Posted: January 7, 2021

By: Charles Meyer, Assistant Village Manager

**Village of Lincolnwood  
Telecommunications Advisory Commission  
February 14, 2019  
Village Hall  
Board Conference Room  
6:35 P.M.  
**Unapproved Minutes****

**Commissioners Present**

Brad Fox, Chair  
Andrew Gavrilos  
Joan Freidman

**Commissioners Absent**

Jeffrey Light  
Talha Rizvi

**Trustee Liaison**

Georjean Hlepas Nickell

**Staff Present**

Charles Meyer, Assistant Village Manager

**Guests**

Barb Adams, Village Attorney

**I. Call to Order**

- a. The meeting was called to order at 6:35P.M. By Commissioner Fox.

**II. Roll Call**

- a. Commissioner Fox called the Roll. A quorum was present.

**III. Approval of Minutes**

- a. A motion was made by Commissioner Fox to approve the minutes of June 26, 2018 Telecommunications Advisory Commission. The motion was seconded by Commissioner Friedman. The motion was approved via a voice vote.

**IV. New Business**

- a. 7366 N Lincoln Avenue
  - i. Mr. Meyer provided a summary of the proposed items for 7366 N Lincoln Avenue, which includes the replacement of the current equipment owned by Sprint with new equipment to be owned by Sprint. Items of note for the new equipment included:

1. The current poles supporting the antennae would stay in place.
    2. This change will allow for 5G service.
    3. There will be added weight to the structure to ensure that the equipment is safe.
  - ii. Ms. Adams explained that the FCC rules give guidance on what can and can be regulated locally. Ms. Adams and Mr. Meyer stated that based on the similar size of equipment it was believed that the Sprint request would be considered replacement of existing equipment and would limit the Village's ability to make regulatory changes to the proposed change. Ms. Adams stated that the equipment needs to be kept at the same height.
  - iii. Trustee Hlepas Nickell asked about the weight for the additions and if the roof could accommodate the additional weight.
    1. Mr. Meyer stated that the engineering report, which would be reviewed by the Village's own engineering staff, states that the added weight would not be an issue for the structure.
  - iv. Trustee Hlepas Nickell asked if there would be a desire for screening
    1. Ms. Adams said that we can ask them to add screening in light of the new use to the south of the facility.
    2. Mr. Meyer stated that there would be a request to keep the color of the equipment consistent with the color of roof in line with what was previously approved.
- b. Model Agreement for Small Wireless Facilities
  - i. Ms. Adams explained that when the TAC met during the summer of 2018 regarding amendments to facilities in the right of way the concept of small wireless facilities (SWF) was also discussed. Ms. Adams stated that the State said that if a wireless provider wants to place items in the right of way communities have to allow it. Ms. Adams provided an overview and definition of the size limitations that lead to small wireless facilities. Ms. Adams said that if something goes onto Village facilities the Village can create a standard that all communities have to agree to and consider to be allowed in Lincolnwood. Ms. Adams said that the purpose of the Model Agreement was to create a baseline standard for future uses.

- ii. Commissioner Fox asked if there is a way to know how many can SWF can be submitted.
    - 1. Ms. Adams stated that when wireless carriers submit an application it would include how many SWF will be placed and where.
  - iii. Commissioner Freidman asked if Sprint put up 5G would Sprint also put up SWF.
    - 1. It was stated that SWF was designed to address gaps in coverage and if Sprint needs to put up SWF in addition to the new 5G antennae they may do so.
  - iv. Trustee Hlepas Nickell asked if there can be an issue with the SWF if they are together and can impact their interaction and disrupt the signal.
    - 1. Ms. Adams stated that there can be issues when this occurs and that normally the SWF will be placed at different heights to ensure that the signals are not in conflict.
  - v. Trustee Hlepas Nickell voiced a concern of the clutter for multiple boxes on the same pole
    - 1. Ms. Adams stated that weight limits on poles can serve as a deterrent for multiple requests on the same pole.
    - 2. It was requested by the TAC to include language in the Model Agreement to protect against cluttering.
- c. Public WiFi Internet Access
- i. Mr. Meyer provided a summary of the public wireless internet topic. It was stated that due to the widespread use of smart devices there was a request from a citizen to see if the Village would be able to provide public wireless to the community. Research by staff found that the majority of communities do not provide public wireless or will provide for it in targeted areas such as business districts.
  - ii. Commissioner Freidman asked if the wireless would be secure.
    - 1. Mr. Meyer stated that it would be open and that users would likely have to sign a waiver before they log on that limits the Village's own liability.
  - iii. Commissioner Gavrilos stated that many people currently have their own option of using a wireless network while away from their homes through Comcast or their own internet service provider that would make the Village issued public wireless not needed.
  - iv. Trustee Hlepas Nickell suggested that public wireless be recommended to Tucker Development for consideration at

the District 1860 Site. This site will likely become a hub for visitors so it may be advantageous to ask Tucker Development to incorporate wireless into their project.

- v. A motion was made by Commissioner Friedman to recommend that the Village not proceed with the Village-issued wireless due to concerns of security, unknown costs, and that residents currently have their own options to receive wireless service. The motion was seconded by Chairman Fox. The motion was passed via a voice vote.

#### **V. Public Forum**

- a. No comments were received from the public as there were none in attendance.

#### **VI. Adjournment**

- a. Commissioner Gavrilos made a motion to adjourn the meeting. Commissioner Fox seconded the motion. The meeting was adjourned by via voice vote at 7:27 P.M.

Next Meeting: To be determined

**Minutes Recorded by: Charles Meyer, Assistant Village Manager**



---

# MEMORANDUM

---

**TO:** Chair and Commissioners of the Telecommunications Advisory Commission

**FROM:** Charles Meyer, Assistant Village Manager

**DATE:** January 12, 2021

**SUBJECT:** Small Wireless Facility Ordinance Modifications

---

## **Background**

At the Village Board Meeting on October 20, 2020, the Village Board referred to the Telecommunications Advisory Commission (TAC) regulations for consideration related to small wireless facilities (SWF). The Village has enacted SWF regulations a number of years ago and has been engaged by SWF providers to emplace this equipment within the Village. Based on the Village's experience with these requests the Village Attorney has recommended that the Village consider new regulations related to future permit requests and confirming any equipment used within Lincolnwood is in compliance with guidelines from the Federal Communications Commission (FCC).

## **Discussion**

The Village allows for the construction of facilities in Village rights-of-way, including utilities and telecommunications providers such as small wireless providers. The Village's rights-of-way become more crowded as new facilities are constructed in the rights-of-way, including pipes, conduit, and fiber optic cable, among other facilities. For example, the Village has received and issued three permits related to the construction of SWFs and the Village may expect dozens more permits will be requested in the coming years from various wireless infrastructure providers and their services providers.

In speaking with the Village Attorney and in reviewing the Village Code, it was determined that the Village may want to consider amendments to the Village's rights-of-way standards in order to be able to properly manage the use of the Village's rights-of-way. The amendments are simply to require applicants to provide some additional information to the Village, including maps depicting (a) existing facilities and proposed facilities, (b) estimates of the total number of facilities, and (c) when the Village can expect the facilities to be constructed. The amendments also would include statements or confirmation that all structures and equipment used in Village rights-of-way are in compliance with all applicable federal and State of Illinois standards for the environment.

The Village Attorney has drafted some language for consideration related to these topics. In regards to the provision of providing a map of proposed or considered locations, the Village Attorney has drafted the following options:

- Modification to Section 6-2-15 (Construction of Utility Facilities in Village Rights-of-Way) to add the following subsections 6-1-15(A)(7):
  - *Diagram / Map. Each user of public right-of-way must provide a detailed diagram or map showing all places within the Village where the applicant has existing facilities within right-of-way and where the applicant plans or intends to install any other facility in right-of-way at any time within three years following issue of a permit for use of right-of-way.*
- Modification to Section 6-2-21 (Small Wireless Facilities) amended to add the following Subsections 6-2-21(D)(13) and 6-2-21(D14)
  - *Environmental Assessment. A copy of an environmental assessment review or report pursuant to the National Environmental Policy Act (NEPA) or any related rule or guidance, that establishes compliance of the proposed SWF to applicable federal standards or that the SWF is by rule exempt from an environmental impact statements under NEPA.*
  - *Diagram / Map. A diagram or map as required under Subsection 6-2-15(A)(7)*

It is requested that this proposed language is discussed at the next meeting to provide a recommendation to the Village Board.

**Financial Impact**

None

**Recommendation**

It is recommended that the proposed language is reviewed and discussed at the January 12, 2021 Meeting. It is requested that following the discussion, TAC makes recommendations for the Village Board's consideration related to SWF.

**Documents Attached**

None



---

# MEMORANDUM

---

**TO:** Chair and Commissioners of the Telecommunications Advisory Commission

**FROM:** Charles Meyer, Assistant Village Manager

**DATE:** January 12, 2021

**SUBJECT:** Comcast Franchise Negotiation

---

## **Background**

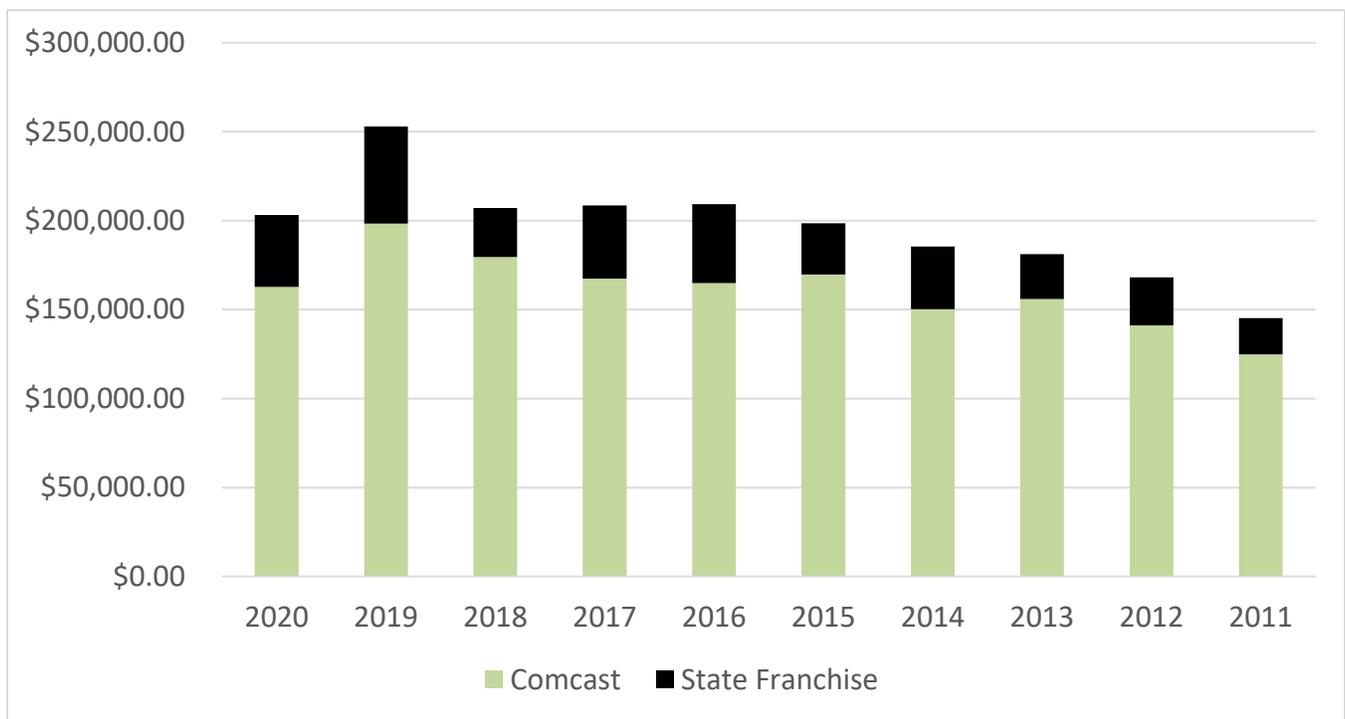
Every ten years the Village reviews and negotiates with Comcast of Illinois, Inc. (“Comcast”) a Franchise Agreement (“Agreement”) to provide media services to Lincolnwood residents. Since the last Agreement was finalized by the Telecommunications Advisory Commission (“TAC”) the Metropolitan Mayors Caucus (“MMC”) developed a template for future franchise agreements that was used as part of the negotiation process. The purpose of this memorandum is to present the proposed Comcast Franchise to the TAC for consideration and approval.

## **Discussion**

Starting earlier this year began the process of working with Comcast regarding their Agreement which expires later this year. The purpose of the Agreement is to provide a standard level of service and coverage for Lincolnwood residents. From an operational perspective, there are not any customer service or operational issues ongoing in regards to the Comcast Franchise. The Village receives very few complaints about Comcast and any issues raised are normally addressed in an expeditious manner.

To provide some background regarding the Comcast Franchise, and telecommunications franchises in general, the Village for the last several years collects approximately \$200,000 through associated fees. There currently is a Comcast franchise, which is overseen by the Village, and two State-issued franchises for AT&T and RCN. The information related to these franchises is presented on the next page:

Year	Comcast	State Franchise	Total
2020	\$162,875.59	\$40,278.51	\$203,154.10
2019	\$198,328.63	\$54,652.27	\$252,980.90
2018	\$179,591.17	\$27,573.42	\$207,164.59
2017	\$167,451.52	\$41,207.80	\$208,659.32
2016	\$165,001.17	\$44,303.45	\$209,304.62
2015	\$169,831.82	\$28,715.22	\$198,547.04
2014	\$150,283.76	\$35,253.13	\$185,536.89
2013	\$156,064.30	\$25,056.34	\$181,120.64
2012	\$141,059.29	\$27,017.59	\$168,076.88
2011	\$124,785.20	\$20,547.84	\$145,333.04
<b>Total</b>	<b>\$1,615,272.45</b>	<b>\$344,605.57</b>	<b>\$1,959,878.02</b>



In reviewing the initial proposal from Comcast, the Village Attorney created a redline version of the document that compared all of the changes from the current Agreement and the proposed Agreement from Comcast. In reviewing these changes, the Village Attorney referenced the Village’s Code, the MMC Agreement that now serves as a baseline for these types of agreements, and reviewed neighboring communities’ agreements with Comcast to find best practices. It is recommended that members of TAC review this document, which is listed as “Redline Comparison Agreement” in the attachments section to get an understanding of the changes that were discussed. To assist with looking at the changes, a separate summary sheet that includes the major changes and a note, where applicable, was also created to guide this discussion and is attached at “Comparison Table”.

In the negotiation process, the Village sought to maintain the same level of service for residents while also preserving the rights of Lincolnwood.

Areas of note in which the Agreement as presented would be different from the Village Code and may require changes to the Village Code include:

- Definition of “Public Way” as presented in the Agreement is different from the definition in the Village Code.
- Section 2.5 in regards to “Reservation of Authority” as presented in the Agreement is different from the Village Code in regards to the rights of the Village to utilize the Public Ways.
- Sections 3.2 and 3.3 in regards to language proposed by Comcast, which is aligned with the MMC, that would allow for Comcast to be compensated for the moving of their equipment as part of projects along with the option for Comcast to use above ground facilities if they already exist. Staff and the Village Attorney have reviewed this provision and support maintaining the language in the Code that would require for undergrounding of new utilities and for the Village not compensating for potential projects in the right of way that would require the moving of Comcast equipment. Staff will be seeking direction on this item.
- Section 7.2 in Indemnification includes language not in the Code that states, “If the Village elects in its own discretion to employ additional counsel, the costs for such additional counsel for the Village shall be the responsibility of the Village.” Operationally, the Village does adhere to this provision and will hire its own Counsel in its defense as determined by the Mayor and Village Board.

While these items mark changes from the Village Code, the discussion during the TAC meeting will be going through the proposed Agreement, which is attached as “Comcast Agreement with Revisions” to review the changes from the current Agreement and to receive feedback from TAC.

It would be requested that at the conclusion of the discussion, TAC makes a recommendation for the Village Board’s consideration to approve the Comcast Agreement. The Agreement would then be presented to the Village Board at their December 15, 2020 Meeting for approval.

### **Financial Impact**

None

### **Recommendation**

It is recommended that the attached documents are reviewed and discussed at the next meeting of TAC.

### **Documents Attached**

1. Redline Comparison Agreement
2. Comparison Table
3. Comcast Agreement with Village Revisions

**CABLE TELEVISION FRANCHISE AGREEMENT  
BY AND BETWEEN**

**COMCAST OF ILLINOIS XII, L.P.**

**AND**

**THE**

**The**

**VILLAGE OF LINCOLNWOOD, ILLINOIS**

**And**

**COMCAST OF ILLINOIS IV, INC.**

This Draft Renewal Franchise Agreement is the result of discussions between the Metropolitan Mayors Caucus and Comcast, and is being submitted for discussion purposes under the informal process pursuant to 47 USC 546 (h).

This Franchise Agreement (hereinafter, the “Agreement” or “Franchise Agreement”) is made between the Village of Lincolnwood, Illinois (hereinafter, the “Village”), ~~an Illinois home rule municipal corporation,~~ and Comcast of Illinois ~~XIIIV, L Inc.P., (the hereinafter, “Grantee”), a New Jersey limited partnership;~~ this — day of —, —, ~~2010~~ (the “Effective Date”).

The Village, having determined that the financial, legal, and technical abilities of the Grantee are reasonably sufficient to provide the services, facilities, and equipment necessary to meet the ~~present and~~ future cable-related needs of the community, desires to enter into this Franchise Agreement with the Grantee for the construction, operation and maintenance of a Cable System on the terms and conditions set forth ~~in this Agreement~~ herein.

This Agreement is entered into by and between the parties under the authority ~~and shall be governed by~~ of the Cable ~~Communications Policy Act of 1984, as amended from time to time, 47 U.S.C. §§ 521 et seq.~~ Act, the Illinois Constitution of 1970, including the Village’s home rule powers, and the Illinois Municipal Code, as amended from time to time, ~~including without limitation, 65 ILCS 5/11-42-11 (the “and shall be governed by the Cable Act and the Illinois Municipal Code”)~~, as amended from time to time; provided that any provisions of the Illinois Municipal Code that are inconsistent with the Cable Act shall be deemed to be preempted and superseded.

**SECTION 1: Definition of Terms**

For the purpose of this Franchise Agreement, ~~unless otherwise defined in this Agreement,~~ capitalized terms, phrases, words, and abbreviations shall have the meanings ascribed to them in the Cable Act, ~~as the Cable Act is~~ unless otherwise defined ~~in this Section~~ herein.

"Cable Act" or "Act" means the Cable Communications Policy Act of 1984, as amended by the Cable Consumer Protection and Competition Act of 1992 and the Telecommunications Act of 1996, 47 U.S.C. §§ 521 et seq., as the same may be amended from time to time.

"Cable Operator" means any Person or group of Persons: who provides Cable Service over a Cable System and directly or through one or more affiliates owns a significant interest in ~~the~~such Cable System; or who otherwise controls or is responsible for, through any arrangement, the management and operation of such a Cable System.

"Cable Service" or "Service" means the one-way transmission to Subscribers of Video Programming or Other Programming Service and Subscriber interaction, if any, which is required for the selection or use of such Video Programming or Other Programming Service.

"Cable System" or "System," has the meaning set forth in 47 U.S.C. § 522 of the Cable Act, and means ~~the~~ Grantee's facilities, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment, that is designed ~~and used solely~~ to provide Cable Service which includes Video Programming and which is provided to multiple Subscribers within the Franchise Area. ~~"Cable System" and "System" do, but such term does~~ not include (i) a facility that serves only to re-transmit the television signals of one or more television broadcast stations; (ii) a facility that serves Subscribers without using any public right-of-way, (iii) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the ~~Act~~Communications Act of 1934, as amended, except that ~~the~~such a facility shall be considered a Cable System (other than for purposes of section 621(c) of the Cable Act) to the extent ~~the~~such facility is used in the transmission of Video Programming directly to Subscribers, unless the extent of ~~the~~such use is solely to provide Interactive On-Demand Services; (iv) an open video system that complies with section 653 of the Cable Act; or (v) any facilities of any electric utility used solely for operating its electric utility systems.

"Channel" or "Cable Channel" means a portion of the electromagnetic frequency spectrum which is used in a ~~cable system~~Cable System and which is capable of delivering a television channel as a television channel is defined by the Federal Communications Commission by regulation.

~~"Customer", "Cable Subscriber"~~ or "Subscriber" means a Person who lawfully receives and pays for Cable Service with the Grantee's express permission.

"FCC" means the Federal Communications Commission, or successor governmental entity thereto.

"Franchise" means ~~an~~the initial authorization, or ~~its~~ renewal (~~including a renewal of an authorization which has been granted subject to Section 626 of the Cable Act [47 U.S.C. §§ 546])~~thereof, issued by the Village, whether ~~the~~such authorization is designated as a franchise, agreement, permit, license, resolution, contract, certificate, ~~agreement~~, ordinance or otherwise, which authorizes the construction or operation of athe Cable System.

"Franchise Agreement" ~~means~~or "Agreement" shall mean this Agreement, ~~as it may be amended from time to time~~ and any amendments or modifications hereto.

“Franchise Area” means the present legal boundaries of the Village as of the Effective Date, and shall also include any additions thereto, by annexation or other legal means as provided in this Agreement.

“Grantee” shall mean Comcast of California/Colorado/Illinois~~XH/Indiana/Michigan, L.P./LLC~~

“Gross Revenue” means the Cable Service revenue ~~derived~~received by the Grantee from the operation of the Cable System in the Franchise Area to provide Cable Services, calculated in accordance with generally accepted accounting principles. Cable Service revenue includes monthly ~~basic~~Basic Cable Service, cable programming service regardless of Service Tier, premium and pay-per-view video fees ~~on all tiers of Cable Service~~, advertising and home shopping revenue, installation fees, and equipment rental fees. Gross ~~Revenue~~revenues shall also include ~~the~~such other revenue sources ~~directly related to the provision of~~from Cable Service ~~delivered over the Cable System~~ as may now exist or hereafter develop ~~from the operation of the Cable System within the Village~~, provided that ~~these~~such revenues, fees, receipts, or charges may be lawfully ~~be~~ included in the ~~Gross Revenue~~gross revenue base for purposes of computing the Village’s permissible ~~Franchise Fee~~franchise fee under the Cable Act, as amended from time to time. Gross Revenue shall not include refundable deposits, bad debt, investment income, programming launch support payments, third party advertising sales commissions and agency fees, nor any taxes, fees or assessments imposed or assessed by any governmental authority. Gross Revenues shall include amounts collected from Subscribers for Franchise Fees pursuant to *City of Dallas, Texas v. F.C.C.*, 118 F.3d 393 (5<sup>th</sup> Cir. 1997), and amounts collected from non-Subscriber revenues in accordance with the Court of Appeals decision resolving the case commonly known as the “Pasadena Decision,” *City of Pasadena, California et. al., Petitions for Declaratory Ruling on Franchise Fee Pass Through Issues, CSR 5282-R, Memorandum Opinion and Order, 16 FCC Rcd. 18192 (2001)*, and *In re: Texas Coalition of Cities for Utility Issues v. F.C.C.*, 324 F.3d 802 (5th Cir. 2003).

~~“Illinois Level Playing Field Statute” means Section 11-42-11 of the Illinois Municipal Code, 65 ILCS 5/11-42-11.~~

“Initial Franchise Service Area” means that portion of the Franchise Area served by the Grantee’s Cable System as of the Effective Date of this Franchise Agreement. ~~The Initial Franchise Area as of the Effective Date is depicted in the Franchise Area Map attached to this Agreement as Exhibit A.~~

“Person” means any natural person or any association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for-profit or not-for profit, but shall not mean the Village.

“Public, Educational and Governmental (PEG) Access Channel” shall mean a video Channel designated for non-commercial use by the Village, the public, and/or educational institutions such as public or private schools, but not “home schools,” community colleges, and universities.

“Public, Educational and Government (PEG) Access Programming” shall mean non-commercial programming produced by any Village residents or organizations, schools and government entities and the use of designated facilities, equipment and/or Channels of the Cable System in accordance with 47 U.S.C. 531 and this Agreement.

“Public Way” shall mean, pursuant and in addition to Chapter 6, Article 2 of the Village of Lincolnwood, Illinois, Municipal Code, the surface of, and the space above and below, any street, alley, other land or waterway, dedicated or commonly used for pedestrian or vehicular traffic or other similar purposes, including, but not limited to, public utility easements and other easements dedicated for compatible uses, now or hereafter held by the Village in the Franchise Area, to the extent that the Village has the right and authority to authorize, regulate, or permit the location of facilities other than those of the Village. Public Way shall not include any real or personal Village property that is not specifically described in this definition and shall not include Village buildings, fixtures, and other structures and improvements, regardless of whether they are situated in the Public Way.

~~“Village” means the Village of Lincolnwood or its designees.~~

~~“Village Code” means The Municipal Code of~~

“Standard Installation” means those installations to Subscribers that are located up to one hundred twenty-five (125) feet from the existing distribution system (Cable System).

“Village” means the Village of Lincolnwood, as it has been and may, from time to time hereafter, be amended Illinois or the lawful successor, transferee, designee, or assignee thereof.

“Video Programming” or “Programming” means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

## **SECTION 2: Grant of Authority**

2.1. ~~—Grant of Franchise. The Village, by Village Pursuant to Section 621(a) of the Cable Act, 47 U.S.C. § 541 (a), and 65 ILCS 5/11-42-11(a) of the Illinois Municipal Code, and Ordinance No. 2010-\_\_\_,\_\_\_ approving and authorizing the execution of this Agreement, the Village hereby grants to the Grantee a nonexclusive Franchise authorizing the Grantee to construct and operate a Cable System in the Public Ways within the Franchise Area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain a Cable System in any Public Ways in the Franchise Area which includes the Way such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the Cable System, and to provide Cable Services and the others such services over the Cable System as may be lawfully allowed, over the Cable System.~~

2.2. ~~—Police Powers. Nothing in this Franchise Agreement shall be construed as an abrogation by the Village of any of its police powers to adopt and enforce generally applicable ordinances deemed necessary by the Village for the health, safety, and welfare of the public, and~~

~~the Grantee shall comply with all generally applicable laws, codes and ordinances enacted by the Village pursuant to that police power.~~

2.3. Term of Franchise. The term of the Franchise granted hereunder shall be ten (10) years from the Effective Date, unless the Franchise is renewed or is lawfully terminated in accordance with the terms of this Franchise Agreement and/or applicable law. From and after the Effective Date of this Franchise Agreement, the Parties acknowledge that this Franchise Agreement is intended to be the sole and exclusive Franchise Agreement between the Parties pertaining to the Grantee's Franchise for the provision of Cable Service.

2.4.2.3. Renewal. Any renewal of this Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, ~~47 U.S.C. §546,~~ as amended, and any applicable State law which may exist at the time of renewal and which is not superseded by the Cable Act.

2.4. Police Powers. Nothing in this Franchise Agreement shall be construed as an abrogation by the Village of any of its police powers to adopt and enforce generally applicable ordinances deemed necessary for the health, safety, and welfare of the public, and the Grantee shall comply with all generally applicable laws and ordinances enacted by the Village pursuant to such police power.

2.5. Reservation of Authority. Nothing in this Franchise Agreement shall (A) abrogate the right of the Village to ~~authorize the use of Public Ways for public purposes or to~~ perform any public works or public improvements of any description, (B) be construed as a waiver of any ~~laws, codes or ordinances of general applicability promulgated or enforceable~~ by the Village, or (C) be construed as a waiver or release of the rights of the Village in and to the Public Ways.

2.6. Competitive Equity.

A2.6.1. Additional Franchise. ~~In the event the Village grants an additional Franchise to use and occupy the any Public Way for the purposes of operating a Cable System, the additional Franchise shall only be granted in accordance with applicable federal, state and local law, including the Illinois Level Playing Field Statute, 65 ILCS 5/11-42-11.~~

B2.6.2. Franchise or Similar Application. ~~In the event an application for a new cable television franchise or other similar authorization is filed with the Village proposing to serve the Franchise Area, in whole or in part, the Village shall to the extent permitted by law promptly notify the Grantee of, or require the filing of, an application to be notified, and include a copy of the such application to the Grantee.~~

2.6.3. Provided that appropriate vehicle safety markings have been deployed, Grantee's vehicles shall be exempt from parking restrictions of the Village while used in the course of installation, repair and maintenance work on the Cable System.

### **SECTION 3: Construction and Maintenance of the Cable System**

3.1. Construction Standards. ~~Except as may be otherwise provided in this Franchise Agreement, the Grantee shall comply with all generally applicable requirements established~~

~~in provisions of Chapter 6, Article 2 of the Village of Lincolnwood, Illinois, Municipal Code in Article 1A, entitled “Construction of Utility Facilities in Village Rights-of-Way,” of Chapter 12, entitled “Public Ways, Properties and Signs, as may be amended from time to time.”~~

3.2. Aerial and Underground Construction. At the time of Cable System construction, if all of the transmission and distribution facilities of all of the respective public or municipal utilities in any area of the Franchise Area are underground, the Grantee shall place its Cable Systems’ transmission and distribution facilities underground, provided that such underground locations are actually capable of accommodating the Grantee’s cable and other equipment without technical degradation of the Cable System’s signal quality. In any region(s) of the Franchise Area where the transmission or distribution facilities of the respective public or municipal utilities are both aerial and underground, the Grantee shall have the discretion to construct, operate, and maintain all of its transmission and distribution facilities or any part thereof, aerially or underground. Nothing in this Section shall be construed to require the Grantee to construct, operate, or maintain underground any ground-mounted appurtenances such as customer taps, line extenders, system passive devices, amplifiers, power supplies, pedestals, or other related equipment.

3.3. Undergrounding and Beautification Projects.

3.3.1. In the event ~~all~~ the Village requires users of the Public Way who operate aerial facilities to relocate ~~such aerial facilities underground as part of an undergrounding or neighborhood beautification project, the~~ facilities underground, Grantee shall participate in the planning for relocation of ~~the~~ its aerial ~~portion of its Cable System facilities, if any,~~ contemporaneously with ~~other utilities~~ such users. ~~The Grantee’s relocation costs shall be included in any computation of necessary project funding. The Grantee shall be entitled to reimbursement of~~ reimbursed its relocation costs ~~under this Section~~ from public or private funds; ~~or payment in advance from private funds;~~ allocated for the project to the same extent as ~~the~~ such funds are made available to other users of the Public Way; ~~if any,~~ provided that any utility’s exercise of authority granted under its tariff to charge consumers for the said utility’s cost of the project ~~shall~~ that are not reimbursed by the Village shall not be considered to be public or private funds.

~~3.3.—Removal, Relocation or Modification.—Consistent with Subsection 3.2 of this Agreement, any removal, relocation or modification of the Cable System shall be governed by Section 12-1A-18 of the Village Code~~

3.3.2. The Grantee shall not be required to relocate its facilities unless it has been afforded at least sixty (60) days notice of the necessity to relocate its facilities. Upon adequate notice the Grantee shall provide a written estimate of the cost associated with the work necessary to relocate its facilities. In instances where a third party is seeking the relocation of the Grantee’s facilities or where the Grantee is entitled to reimbursement pursuant to the preceding Section, the Grantee shall not be required to perform the relocation work until it has received payment for the relocation work.

**SECTION 4: Service Obligations**

~~4.1. General Service Obligation.~~

~~A.~~

4.1. Initial Service Obligations. As of the Effective Date of this Agreement, ~~the~~ Grantee’s Cable System has been designed to provide, and is capable of providing, Cable Service to residential Customers throughout the Initial Franchise Service Area. The Grantee shall continue to make Cable Service available in the Initial Service Area throughout the term of this Agreement, ~~and the~~ Grantee shall extend its Cable System and provide service consistent with the provisions of this Franchise Agreement.

~~B4.2. Expansion of Franchise Area~~General Service Obligation. The Grantee shall make Cable Service available beyond the Initial Franchise Service Area to every residential dwelling unit within the Franchise Area where the minimum density is at least thirty (30) dwelling units per mile and within one linear Cable System network mile of as measured from the existing Cable System’s technically feasible connection point. Subject to the density requirement, Grantee shall offer Cable Service to all new ~~dwelling units~~homes or previously unserved ~~dwelling units~~homes located within one hundred twenty-five (125) feet of the Grantee’s distribution cable (e.g., a “Standard Installation”).

~~C4.2.1. Extension of System and Service.~~ The Grantee may elect to provide Cable Service to areas not meeting the above density and distance standards. The Grantee may impose an additional charge in excess of its regular installation charge for any service installation requiring a drop or line extension in excess of a Standard Installation. Any such additional charge shall be computed on a time plus materials basis plus a reasonable rate of return.

4.24.3. Programming. The Grantee agrees to provide, ~~at a minimum,~~ cable programming services in the following broad categories:

<del>Children’s</del> Oriented	General Entertainment	Family
Ethnic/Minority	Sports	Weather
<u>Educational</u>	Arts, Culture and Performing Arts	News & Information
<del>Educational</del>		

Pursuant and subject to federal law, all Video Programming decisions, excluding PEG Access Programming, are at the sole discretion of the Grantee.

4.34.4. Technical Standards. The Grantee shall comply with all applicable technical standards of the FCC as published in 47 C.F.R. ~~§76.601 et seq., as amended from time to time.~~

~~4.4. Customer Service Obligations.~~ ~~The Village and the Grantee acknowledge that the customer service requirements and standards and customer privacy protections are set forth in the Cable and Video Customer Protection Law, 220 ILCS 5/22-501 et seq., Part 76, Subpart K, as amended from time to time (“Customer Protection Law”). Enforcement of. The Grantee shall cooperate with the Village in conducting inspections related to these requirements;~~

~~standards, and protections, and the penalties for non-compliance, shall be consistent with the Customer Protection Law upon reasonable prior written request from the Village based on a significant number of Subscriber complaints.~~

4.5—~~New Developments.~~

~~A.—Underground Utilities. In cases of new construction or property development where utilities are to be placed underground, the Village agrees to require the developer or property owner to provide the Grantee written notice concurrent with notice to the other utilities of the construction or development, and of the particular date on which open trenching will be available for the Grantee’s installation of conduit, pedestals, and/or vaults and laterals for the Cable System. The Grantee shall also provide specifications to the developer or property owner as needed for trenching. Costs of trenching and easements required to bring service to the development shall be borne by the developer or property owner; except that if the Grantee fails to install its conduit, pedestals and/or vaults and laterals for the Cable System during the period (not less than 10 days) when the trenches are available, as designated in the notice given by the property owner or developer to the Grantee, then any additional cost shall be borne by the Grantee.~~

~~B.—General Notice. The Annexations and New/Planned Developments. In cases of annexation the Village shall provide the Grantee written notice of such annexation. In cases of new construction, planned developments or property development where undergrounding or extension of the Cable System is required, the Village shall notify, provide or require cause the developer or property owner to notify, provide notice of the Grantee of any and all planned developments in its Franchise Area or those located in areas expected to be annexed same. The Such notices shall be provided at the time of notice to all other utilities or other like occupants of the Village’s Public Ways, and shall include sufficient information to allow the Grantee sufficient foresight into the future demands on its design, engineering, construction, and capital resources Way. If advance notice of these developments such annexation, new construction, planned development or property development is not provided, the Grantee shall be allowed an adequate time to prepare, plan and provide a detailed report as to the timeframe for it to construct its facilities and provide the services required under this Franchise Agreement.~~

4.6. Service to School Buildings and Governmental Facilities.

~~A. 4.6.1. The Village may request that Grantee provide Cable Service and the corresponding equipment to the location(s) specified in Attachment A, and shall specify the requested level of services and number of outlets for each location. The Village shall notify Grantee in writing whether it wishes to be invoiced at standard rates as disclosed by Grantee for these services and equipment or to have the charges deducted from the franchise fee payment due pursuant to this franchise. In the event the FCC Third 621 Order is reversed on appeal on the issue of complimentary services (pending at the 6<sup>th</sup> Circuit at the time of this Agreement) and that reversal becomes final, the Village and the Grantee acknowledge will revert to the provisions of 220 ILCS 5/22-501(f), whereby the Grantee shall provide complimentary Basic Cable Service, one Digital Transport Adapter (or its current equivalent if equipment is necessary to receive the service) and a free Standard Installation at one outlet to all eligible buildings as defined in said the state statute. Eligible buildings shall not include buildings leased to non-governmental~~

third parties or buildings such as storage facilities at which government employees are not regularly stationed.

~~B.~~ 4.6.2. Long Drops. The Grantee may impose an additional charge in excess of its regular installation charge for any service installation requiring a drop or line extension in excess of a Standard Installation. Any such additional charge shall be computed on a time plus materials basis to be calculated on that portion of the installation that exceeds a Standard Installation.

~~4.7.—Customer Reports.—The Grantee shall provide to the Village annually during the term of this Agreement a report as required pursuant to 220 ILCS 5/22-501(g).~~

4.7. Emergency Alerts. At all times during the term of this Franchise Agreement, the Grantee shall provide and maintain an “Emergency Alert System” (“EAS”) consistent with applicable Federal law and regulation – including 47 C.F.R., Part 11 and the “State of Illinois Emergency Alert System State Plan” – as may be amended from time to time. The Village must become qualified and authorized to activate the EAS, through the authorized State EAS plan. The Village agrees to indemnify and hold the Grantee harmless from any damages or penalties arising out of the negligence of the Village, its employees or agents in using such system.

4.8. Customer Service Obligations. The Village and Grantee acknowledge that the customer service standards and customer privacy protections are set forth in the Cable and Video Customer Protection Law, 220 ILCS 5/22-501 et seq. and enforcement provisions are included in Chapter 13, Article 4 of the Lincolnwood, Illinois, Municipal Code. Enforcement of such requirements and standards and the penalties for non-compliance with such standards shall be consistent with the Cable and Video Customer Protection Law, 220 ILCS 5/22-501 et seq.

## **SECTION 5: Oversight and Regulation by City/County/Village**

### 5.1. Franchise Fees:

~~A.—Amount.~~ The Grantee shall pay to the Village a Franchise ~~fee~~Fee in an amount equal to five percent (5%) of annual Gross Revenues received from the operation of the Cable System to provide Cable Service in the Franchise Area; provided, however, that Grantee shall not be compelled to pay any higher percentage ~~rate for Franchise~~of fees than any other ~~Person paying a~~ video service provider ~~fee or similar fee,~~ under state authorization or otherwise, providing ~~similar~~ service in the Franchise Area. The payment of Franchise Fees shall be made on a quarterly basis and shall be due forty-five (45) days after the close of each calendar quarter. If mailed, the Franchise Fee shall be considered paid on the date it is postmarked. Each Franchise Fee payment shall be accompanied by a report prepared by a representative of the Grantee showing the basis for the computation of the franchise fees paid during that period. Any undisputed Franchise Fee payment which remains unpaid in whole or in part, after the date specified herein shall be delinquent. For any delinquent Franchise Fee payments ~~owed by the Grantee in accordance with this Section 5.1 which are not made on or before the due dates,~~ the Grantee shall make ~~the~~such payments including interest at the prime lending rate as quoted by JP Morgan Chase Bank U.S.A. & Company or its successor, computed from time due until paid.

Any undisputed overpayments made by the Grantee to the Village shall be credited upon discovery of ~~the~~such overpayment until ~~the~~such time when the full value of ~~the~~such credit has been applied to the Franchise Fee liability otherwise accruing under this ~~section~~Section.

~~B. — Change in Amount~~5.1.1. The Parties acknowledge that, at present, the Cable Act limits the Village to collection of a maximum permissible Franchise Fee of five percent (5%) of Gross Revenues. ~~If, during~~In the ~~term of this Agreement,~~event that a change in the Cable Act ~~is modified to authorize~~would allow the Village to ~~collect a~~increase the Franchise ~~fee at a rate greater than~~Fee above five percent (5%) ~~of Gross Revenues,~~ and the Village actually proposes to increase the Franchise Fee in exercise of such authority, the Village may ~~unilaterally~~ amend ~~this Agreement~~the Franchise Fee percentage. ~~Following the determination~~ to increase the required percentage to be paid by the Grantee to the Village up to the amount permitted by the Cable Act, provided that: (i) the amendment is competitively neutral; (ii) the Village conducts a public hearing on the proposed amendment; (iii) the Village approves the amendment by ordinance; and (iv) the Village notifies the Grantee at least ninety (90) days prior to the effective date of the amendment. ~~If, during the term of this Agreement, the Cable Act is modified to reduce the Village's authority under this Agreement to collect a Franchise fee to a rate less than five percent (5%) of Gross Revenues~~Franchise Fee and enactment of an ordinance enabling the same, the Village shall ~~unilaterally amend this Agreement to decrease the required percentage to be paid by the Grantee to the Village to an amount permitted by the Cable Act,~~ provided that: (i) the amendment is competitively neutral; (ii) the Village conducts a public hearing on the proposed amendment; (iii) the Village approves the amendment by ordinance; and (iv) the Village ~~notifies the~~notify the Grantee of its intent to collect the increased Franchise Fee, and Grantee ~~at least~~shall have a reasonable time (not to be less than ninety (90) days ~~prior to the effective date of the amendment~~from receipt of notice from the City) to effectuate any changes necessary to begin the collection of such increased Franchise Fee. In the event that the Village increases said Franchise Fee, the Grantee shall notify its Subscribers of the Village's decision to increase said fee prior to the implementation of the collection of said fee from Subscribers as required by law.

~~C~~

5.1.2. In the event a change in state or federal law requires the Village to reduce the franchise fee percentage that may be collected, the parties agree the Grantee shall reduce the percentage of franchise fees collected to the lower of: i) the maximum permissible franchise fee percentage; or ii) the lowest franchise fee percentage paid by any other Cable Operator granted a Cable Franchise by the Village pursuant to the Cable Act, and Section 11-42-11 of the Illinois Municipal Code; provided that: (a) such amendment is in compliance with the change in state or federal law; (b) the Village approves the amendment by ordinance; and (c) the Village notifies Grantee at least ninety (90) days prior to the effective date of such an amendment.

~~D. — Due Date. The payment of Franchise fees shall be made on a quarterly basis and shall be due forty five (45) days after the close of each calendar quarter. Each Franchise fee payment shall be accompanied by a report prepared by a representative of the Grantee showing the basis for the computation of the Franchise fees paid during that period, including the Gross Revenues for the Cable System.~~

~~E.~~

5.1.3. Taxes Not Included. The Grantee acknowledges and agrees that the term “Franchise Fee” does not include any tax, fee, or assessment of general applicability (including any such tax, fee, or assessment imposed on both utilities and Cable Operators on their services but not including a tax, fee, or assessment which is unduly discriminatory against Cable Operators or Cable Subscribers).

5.2. Franchise Fees Subject to Audit. The Village and Grantee acknowledge that the audit standards are set forth in the Illinois Municipal Code at 65 ILCS 5/11-42-11.05 (Municipal Franchise Fee Review; Requests For Information). Any audit shall be conducted in accordance with generally applicable auditing standards.

5.2.1 In accordance with 65 ILCS 5/11-42-11.05 (k), the Village shall provide on an annual basis, a complete list of addresses within the corporate limits of the Village. If an address is not included in the list or if no list is provided, the Grantee shall be held harmless for any franchise fee underpayments (including penalty and interest) from situsing errors.

5.3.—

Books and Records.

~~A.— Access to Books and Records. Upon fourteen (14) days’ notice to the Grantee, the Village or its designated independent representative shall have the right to examine books and records reasonably related to the Grantee’s compliance with its obligations under this Agreement, including the fees described in Sections 5.1 and 8.5 of this Agreement. The Village shall have no right to examine any aspect of the books and records that does not reasonably relate to the Grantee’s obligations under this Agreement.~~

~~B.— Confidentiality and Proprietary Information.~~ Notwithstanding anything to the contrary set forth ~~herein in this Agreement~~, the Grantee ~~is~~ shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature, with the exception of the information directly related to an audit of Franchise Fees as set forth in Section 5.2. The Village agrees to treat any information disclosed by the Grantee ~~and designated as proprietary and~~ as confidential and only to disclose it to those ~~officials,~~ employees, representatives, and agents of the Village that have a need to know in order to ~~administer and~~ enforce this Franchise Agreement and who agree to maintain the confidentiality of all ~~the~~ such information. For purposes of this Section, the terms “proprietary or confidential” include, but are not limited to, information relating to the Cable System design, customer lists, marketing plans, financial information unrelated to the calculation of Franchise ~~fees or other amounts due under this Agreement~~ Fees or rates pursuant to FCC rules, or other information that is reasonably determined by the Grantee to be competitively sensitive. ~~The~~ Grantee may make proprietary or confidential information available for inspection but not copying or removal by the ~~Village~~ Franchise Authority’s representative. In the event that the Village has in its possession and receives a request under ~~a state “sunshine,” public records~~ the Illinois Freedom of Information Act (5 ILCS 140/1 et seq.), or similar law for the disclosure of information the Grantee has designated as confidential, trade secret or proprietary, the Village shall notify ~~the~~

Grantee of ~~the~~such request and cooperate with ~~the~~ Grantee in opposing ~~the~~such request ~~to the extent permitted by law and at the Grantee's expense. The~~ Grantee shall indemnify and defend the Village from and against any claims arising from the Village's opposition to disclosure of any information ~~the~~ Grantee designates as proprietary or confidential. Compliance by the Village with an opinion or directive from the Illinois Public Access Counselor or the Illinois Attorney General under the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.*, or with a decision or order of a court with jurisdiction over the Village, shall not be a violation of this Section.

**SECTION 6: ~~Transfers and Changes of~~ Transfer of Cable System or Franchise or Control of Grantee**

6.1. ~~Transfers of Interest.~~—Neither the Grantee nor any other Person may ~~assign or transfer this Franchise Agreement or the Franchise or sell, assign or~~ transfer the Cable System or the Franchise without the prior written consent of the Village, which consent shall not be unreasonably withheld or delayed.

6.2. ~~Transfers of Control.~~ No transfer of control of the Grantee, defined as an acquisition of fifty-one percent (51%) or greater ownership interest in ~~the~~ Grantee, ~~the Cable System, or the Cable System assets~~ shall take place without the prior written consent of the Village, which consent shall not be unreasonably withheld or delayed.

6.3. ~~Exceptions.~~ No consent shall be required, however, for (i) a transfer in trust, by mortgage, hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or in the Cable System in order to secure indebtedness, or (ii) a transfer to an entity directly or indirectly owned or controlled by Comcast Corporation.

6.4. ~~Requirements.~~ The Grantee, and any proposed transferee under this Section 6, shall submit a written application to the Village containing or accompanied by such information as is required in accordance with applicable law and FCC regulations, specifically including a completed Form 394 or its successor, and in compliance with the processes established for transfers under FCC rules and regulations, including Section 617 of the Cable Act, 47 U.S.C. §537. Within thirty (30) days after receiving a request for consent, the Village shall, in accordance with FCC rules and regulations, notify the Grantee in writing of the additional information, if any, it requires to determine the legal, financial and technical qualifications of the transferee or new controlling party. If the Village has not taken final action on the Grantee's request for consent within one hundred twenty (120) days after receiving ~~the~~such request, consent shall be deemed granted. As a condition to granting of any consent, the Village may require the transferee to agree in writing to assume the obligations of the Grantee under this Franchise Agreement.

6.5. Any transfer of control resulting from or after the appointment of a receiver or receivers or trustee or trustees, however denominated, designated to take over and conduct the business of the grantee, whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of a one hundred twenty (120) day period, shall be treated as a transfer of control

pursuant to 47 U.S.C. §537 and require the Village's consent thereto in the manner described in Section 6 above.

## **SECTION 7: Insurance and Indemnity**

7.1. Insurance. Throughout the term of this Franchise Agreement, the Grantee shall, at its own cost and expense, maintain ~~coverages as set forth in Section 12-1A-8 of the Village Code including but not limited to Commercial General Liability, Auto and Employee Liability Insurances~~such insurance and provide the Village certificates of insurance ~~designating the Village and its officers, boards, commissions, councils, elected officials, agents and employees as additional insureds and demonstrating that the Grantee has obtained the insurance required in this Section. The policy or policies shall be in the minimum amount of five million dollars (\$5,000,000.00) for bodily injury or death to any one person, and five million dollars (\$5,000,000.00) for bodily injury or death of any two or more persons resulting from one occurrence, and five million dollars (\$5,000,000.00) for property damage resulting from any one accident. The policy or policies shall be non-cancelable except upon thirty (30) days prior written notice to the Village. The Grantee shall provide workers' compensation coverage in accordance with applicable law. The Grantee shall indemnify and hold harmless the Village from any workers compensation claims to which the Grantee may become subject during the term of this Franchise Agreement~~in accordance with Chapter 6, Article 2 of the Lincolnwood Municipal Code.

7.2. Indemnification. The Grantee shall indemnify, defend and hold harmless the Village, its officers, employees, and agents (the "Indemnitees") from and against any ~~liability or injuries, claims resulting from property damage or bodily injury (including accidental death) that arise out of the Grantee's construction, operation, maintenance or removal of the Cable System, provided that the~~demands, judgments, damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense (the "Indemnification Events"), arising in the course of the Grantee constructing and operating its Cable System within the Village. The Grantee's obligation with respect to the Indemnitees shall apply to Indemnification Events which may occur during the term of this Agreement, provided that the claim or action is initiated within the applicable statute of limitations, notwithstanding that the claim may be made or action filed subsequent to the termination or expiration of this Agreement. The Village shall give the Grantee timely written notice of its obligation to indemnify and defend the Village within ten (10) business days ofafter the Village's receipt of a claim or action pursuant to this Section. For purposes of this Section, the word "timely" shall mean within a time period that does not cause prejudice to the respective positions of the Grantee and/or the Village. If the Village determines that it is necessary for itelects in its own discretion to employ ~~separate~~additional counsel, the costs for ~~the separate~~such additional counsel for the Village shall be the responsibility of the Village. ~~This duty shall survive for one all claims made or actions filed within one (1) year following the expiration or earlier termination of this agreement.~~

7.2.1. The Grantee shall not indemnify the Village for any liabilities, damages, costs or expense resulting from ~~the willful misconduct or negligence of any conduct for which~~ the Village, its officers, employees and agents may be liable under the laws of the State of Illinois.

7.2.2 . Nothing herein shall be construed to limit the Grantee's duty to indemnify the Village by reference to the limits of insurance coverage described in this Agreement.

## **SECTION 8: Public, Educational, and Governmental (PEG) Government Access**

8.1. PEG Capacity. Throughout the term of this Franchise Agreement, the Grantee shall provide capacity ~~at no charge to the Village~~ for the Village's non-commercial PEG access programming through the Grantee's Cable ~~Service~~System consistent with the requirements set forth herein. As of the Effective Date of this Agreement, the Village utilizes two ~~(2)~~ PEG ~~Channels (the "Initial Channels")~~channels. Unless otherwise agreed to by the Village and the Grantee to the extent required by applicable law, ~~the Initial Channels, and if applicable the Additional Channel,~~said PEG channels shall be carried on the most basic service tier offered by the Grantee. The Village's PEG programming shall be provided consistent with Section 611 of the Cable Act, as amended from time to time.

### ~~8.2. Threshold Use Requirement.~~

~~A. Additional Channel. The Village may request the Additional Channel, provided the Village demonstrates that the Threshold Use Requirement is satisfied. For the purposes of this Agreement, the term "Threshold Use Requirement" means that the Initial Channels shall be programmed by the Village at least eight (8) hours per day with non-repetitive, locally-produced video programming, Monday through Saturday, for a minimum of six (6) consecutive weeks. The Village shall provide the Grantee with written documentation evidencing that the Threshold Use Requirement is being satisfied. The Grantee shall have one hundred twenty (120) days from receipt of the Village's request to provide the Additional Channel. The Additional Channel may be provided on Grantee's basic digital tier of service.~~

~~B. Removal. Once provided pursuant to Subsection A of this Section, the Additional Channel may not be removed or withdrawn by the Grantee for the first twelve (12) months following the provision of the Additional Channel. After the twelve (12) month period expires, the Grantee may remove or withdraw the Additional Channel if the Threshold Use Requirement is not being met. Any removal or withdrawal shall not occur until after the Grantee has given the Village written notice that the Threshold Use Requirement for the Initial Channels provided as of the Effective Date of this Agreement is not being satisfied. The Village shall have thirty (30) days to respond to the Grantee's written notice indicating it has cured the condition, or state a plan showing it is taking diligent steps towards curing the condition, in order to establish that the Threshold Use Requirement on the Initial Channels is satisfied.~~

### ~~8.3.~~

## 8.2. Allocation, Use, and Control Use of the PEG ChannelsChannel.

~~A. By Village.~~ The PEG channels are, and shall be, operated by the Village, and the Village may at any time allocate or reallocate the usage of the PEG channels among and between different ~~uses and~~ Users. The Village shall be responsible for establishing and enforcing rules for the non-commercial use of ~~public~~public, educational and ~~governmental~~Governmental access channels and to promote the use and viewership of the channels.

~~B. By Grantee.~~ The Grantee does not relinquish its ownership of or ultimate right of control over a channel by designating it for PEG use. The Village shall adopt rules and procedures under which the Grantee may use the PEG channels for the provision of Video Programming if the PEG channels are not being used for their respective purposes pursuant to Section 611(d) of the Cable Act, 47 U.S.C. §531.

The Grantee shall not exercise any editorial control over any use of ~~PEG channels, nor shall the Grantee or its Affiliates incur any criminal or civil liability pursuant to the federal, state or local laws of libel, slander, obscenity, incitement, invasions of privacy, false or misleading advertising, or other similar laws for any programs carried on any~~ the PEG channel, except as permitted by 47 U.S.C. 531 (e).

~~8.4~~ 8.3. PEG Signal Quality.

~~A. Quality.~~ Provided the PEG signal ~~feeds are~~ feed is delivered by the Village to the designated signal input/~~origination~~ point without material degradation, the PEG channel delivery system from the designated signal input point shall meet the same FCC technical standards as the remainder of the Cable System set forth in this Agreement.

~~B8.4. Future Changes. Should~~ Origination Point. At such time that the Village ~~determine~~ determines that it wants to establish capacity to allow its residents who subscribe to Grantee's Cable Service to receive PEG access programming originated from Schools and/or Village facilities; or at such time that the Village determines that it wants to change or upgrade a location from which ~~the Village originates~~ PEG access programming ~~as of the Effective Date, or establish another location from which public, educational and/or governmental Video Programming is originated;~~ the Village will give the Grantee written notice detailing the ~~change in~~ point of origination and the capability sought by the Village. The Grantee agrees to submit a cost estimate to implement the Village's plan within a reasonable period of time, but in no event longer than sixty (60) days from when Grantee receives all necessary information regarding the work sought. After an agreement to reimburse the Grantee for its expenditure, the Grantee will implement any necessary ~~System~~ system changes within a reasonable period of time.

~~8.5~~ PEG Capital Payments for Equipment and Facilities

~~A.~~ At its sole discretion, the

8.5. PEG Access Funding. The Village may designate a PEG access capital ~~projects~~ project to be funded by the Village as provided for herein. The Village shall send written notice of the Village's desire for ~~the~~ Grantee to collect ~~as an external charge~~ a PEG Capital Fee of up to thirty-five cents (\$0.35) per customer per month ~~charge~~ to be passed on to each Subscriber pursuant to Section 622(g)(2)(C) of the Cable Act (47 U.S.C. §542(g)(2)(C)). The Grantee shall make the PEG Capital Fee payments to the Village at the same time and in the same manner as Franchise Fee payments. The Village's notice shall include a detailed and itemized description of the intended utilization of the PEG Capital Fee for PEG Access Channel facilities and/or equipment (PEG Access capital costs) and the Grantee shall have ~~a~~ reasonable the opportunity to review and make recommendations ~~regarding~~ upon the Village's

plan prior to ~~collecting~~agreeing to collect and ~~paying~~pay to the Village the requested amount. ~~The Grantee shall collect the external charge over a period of twelve (12) months, unless some other period is mutually agreed upon in writing, and shall make the PEG capital payments from such sums at the same time and in the same manner as Franchise Fee payments. The capital payments shall be expended for capital costs associated with PEG access.~~ Consistent with the description of the intended utilization of the PEG Capital Fee, the Village shall be permitted to hold all or a portion of the PEG Capital Fee from year to year as a designated fund to permit the Village to make large capital expenditures, if necessary, provided that ~~inif~~ the event all such funds are entire amount is not expended during the term of this ~~Agreement, such agreement, any remaining~~ funds shall be applied to credited against PEG Access ~~Capital obligations~~ requests from the Village in subsequent ~~Franchise Agreement~~ franchise renewals. Moreover, if the Village chooses to borrow from itself or a financial institution ~~revenue~~ for large PEG capital purchases or capital expenditures, the Village shall be permitted to make periodic repayments using the PEG Capital Fee. Said PEG Capital Fee shall be imposed within one hundred twenty ~~days~~ (120) days of the Village's written request. On an annual basis, the Village shall provide the Grantee with a report detailing how the prior year's funding was spent or confirming it is being held in a capital reserve account for future PEG capital needs.

~~B. For any payments owed by the Grantee in accordance with this Section 8.5 which are not made on or before the due dates, the Grantee shall make the payments including interest at the prime lending rates as quoted by Chase Bank U.S.A. or its successor, computed from the time due until paid. Any undisputed overpayments made by the Grantee to the Village shall be credited upon discovery of the overpayment until the time when the full value of the credit has been applied to the Franchise Fee liability otherwise accruing under this section.~~

~~C. Grantee and Village agree that the capital obligations set forth in this Section are not "Franchise Fees" within the meaning of 47 U.S.C. § 542.~~

## **SECTION 9: Enforcement of Franchise**

9.1. Notice of Violation or Default. In the event the Village believes that the Grantee has not complied with ~~the~~ a material ~~term~~ term of the Franchise, it shall notify the Grantee in writing with specific details regarding the exact nature of the alleged noncompliance or default.

9.2. Grantee's Right to Cure or Respond. The Grantee shall have thirty (30) days from the receipt of the Village's written notice: ~~(i)~~ (A) to respond to the Village, contesting the assertion of noncompliance or default; or ~~(ii)~~ (B) to cure ~~the~~ such default; or ~~(iii)~~ (C) in the event that, by nature of the default, ~~the~~ such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy ~~the~~ such default and notify the Village of the steps being taken and the projected date that the cure will be completed ~~and request additional time from the Village to complete the cure.~~

9.3. Enforcement. Subject to applicable federal and state law ~~and consistent with, and following notice and an opportunity to cure and respond pursuant to the provisions of~~ Section 9.2 above, in the event the Village determines that the Grantee is in default of any material provision of the Franchise, the Village may:

9.3.1. seek specific performance of any provision that reasonably lends itself to ~~that~~such remedy ~~as an alternative to damages,~~ or seek other relief available at law, including declaratory or injunctive relief; ~~or~~

9.3.2. in the case of a substantial or frequent default of a material provision of the Franchise, declare the Franchise Agreement to be revoked in accordance with the following:

(i) The Village 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 two or more instances of substantial noncompliance with a material provision of the Franchise.~~ The notice shall set forth with specificity the exact nature of the noncompliance. The Grantee shall have ninety (90) days from the receipt of ~~the~~such notice to object in writing and to state its reasons for ~~the~~such objection. In the event the Village has not received a response from the Grantee or upon receipt of the response does not agree with the Grantee's proposed remedy or in the event that the Grantee has not taken action to cure the default, it may then seek termination of the Franchise at a public hearing. The Village shall cause to be served upon the Grantee, at least ten (10) days prior to ~~the~~such public hearing, a written notice specifying the time and place of ~~the~~such hearing and stating its intent to request termination of the Franchise.

(ii) At the designated hearing, the Village shall give the Grantee an opportunity to state its position on the matter, present evidence and question witnesses, after which ~~it~~the Village shall determine whether or not the Franchise shall be terminated. The public hearing shall be on the record ~~and an audio/video recording shall be made.~~ A copy of the ~~recording~~transcript shall be made available to the Grantee ~~within ten (10) business days.~~ ~~The Grantee may,~~ at its own~~sole~~ expense, ~~arrange for a written transcript of the public hearing.~~ The decision of the Village shall be in writing and shall be delivered to the Grantee in ~~the~~a manner authorized ~~in~~by Section 10.2. The Grantee may appeal ~~the~~such determination to ~~an appropriate~~any court ~~in accordance with Section 10.6 jurisdiction~~ within thirty (30) days ~~of~~after receipt of the Village's decision.

~~9.4 Insolvency. Any transfer of control resulting from or after the appointment of a receiver or receivers or trustee or trustees, however denominated, designated to take over and conduct the business of the Grantee, whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless the receivership or trusteeship shall have been vacated prior to the expiration of a one hundred twenty (120) day period, shall be treated as a transfer of control pursuant to 47 U.S.C. § 537 and require the Village's consent thereto in the manner described in Section 6 above.~~

#### ~~9.5~~

9.4. Remedies Not Exclusive. In addition to the remedies set forth in this Section 9, the Grantee acknowledges the Village's ability pursuant to Section ~~4.4~~4.8 of this Franchise Agreement to enforce the requirements and standards, and the penalties for non-compliance with ~~the requirements and~~such standards, consistent with the Illinois Cable and Video Customer Protection Law enacted by the Village as Chapter 13, Article 4 of the Lincolnwood Municipal Code; and, pursuant to Section 3.1 of this Franchise Agreement and ~~Article 1A of Chapter 126, Article 2~~ of the Village Lincolnwood Municipal Code; to enforce the Grantee's compliance with the Village's ~~generally applicable~~ requirements regarding "Construction ~~of~~Of Utility Facilities in

~~the~~Village Rights-~~Of~~of-Way.” Notwithstanding the foregoing, nothing in this Agreement shall be interpreted to permit the Village to exercise ~~the~~such rights and remedies in a manner that permits duplicative recovery from, or payments by, the Grantee. ~~The~~Such remedies may be exercised from time to time and as often and in ~~an~~such order as may be deemed expedient by the Village.

**SECTION 10: Miscellaneous Provisions:**

10.1. 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 (including termination, cancellation or revocation of the Franchise), where ~~the~~such noncompliance or alleged defaults occurred or were caused by strike, riot, war, earthquake, flood, tidal wave, unusually severe rain or snow storm, hurricane, tornado or other catastrophic act of nature, labor disputes, failure of utility service necessary to operate the Cable System, governmental, administrative or judicial order or regulation or other event that is reasonably beyond the Grantee’s ability to anticipate or control. This provision also covers work delays caused by waiting for utility providers to service or monitor their own utility poles on which the Grantee’s cable or equipment is attached, as well as unavailability of materials or qualified labor to perform the work necessary. ~~This provision does not cover work delays caused by general economic conditions~~Non-compliance or default shall be corrected within a reasonable amount of time after force majeure has ceased.

10.2. Notice. ~~All notices, consents, approvals, requests, and other communications required or permitted~~Any notification that requires a response or action from a party to this franchise within a specific time-frame, or that would trigger a timeline that would affect one or both parties’ rights under this ~~Agreement~~franchise, shall be in writing and shall be sufficiently given and served upon the other party by ~~(a)~~ hand delivery, ~~(b)~~ first class mail, registered or certified, return receipt requested, postage prepaid, or ~~(c)~~by reputable overnight courier service and addressed as follows:

To the Village:

Village of Lincolnwood  
6900 ~~N.~~North Lincoln Avenue ~~155 Industrial Drive~~  
Lincolnwood, ~~Illinois~~IL 60712  
ATTN: Village Administrator

To the Grantee:

Comcast  
~~155 Industrial Drive~~ 1500 McConnor Parkway  
~~Elmhurst~~Schaumburg, Illinois ~~60126~~, 60173  
ATTN: Director of Government Affairs

Recognizing the widespread usage and acceptance of electronic forms of communication, emails and faxes will be acceptable as formal notification related to the conduct of general business amongst the parties to this contract, including but not limited to programming and price adjustment communications. Such communication should be addressed and directed to the person of record as specified above. Either party may change its address and addressee for notice by notice to the other party under this Section. ~~Notice by hand delivery, and notice by overnight courier service shall be deemed received when delivered, and notice by mail shall be deemed delivered three days after placing in the United States Mail.~~

10.3. Entire Agreement. This Franchise Agreement embodies the entire understanding and agreement of the Village and the Grantee with respect to the subject matter ~~of this Agreement~~ hereof and supersedes all prior and contemporaneous agreements, ~~ordinances~~, understandings, negotiations and communications, whether written or oral, ~~and there are no representations or agreements among the parties except as specifically set forth in this Agreement~~. Except for ordinances adopted pursuant to Sections ~~2.22.4~~ and 2.5 of this Agreement, all ordinances or parts of ordinances related to the provision of Cable Service that are in conflict with or otherwise impose obligations different from the provisions of this Franchise Agreement are superseded by this Franchise Agreement.

10.3.1. The Village may adopt a cable television/video service provider regulatory ordinance that complies with applicable law, provided the provisions of any such ordinance adopted subsequent to the Effective Date of this Franchise Agreement shall not apply to the Grantee during the term of this Franchise Agreement.

10.4. Severability. If any section, subsection, sentence, clause, phrase, or other portion of this Franchise Agreement is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority ~~with~~ of competent jurisdiction ~~over the parties~~, that such portion shall be deemed a separate, distinct, and independent portion. ~~The~~ Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect. If any material provision of this Agreement is made or found to be unenforceable by such a binding and final decision, either party may notify the other in writing that the Franchise has been materially altered by the change and of the election to begin negotiations to amend the Franchise in a manner consistent with said proceeding or enactment; provided, however, that any such negotiated modification shall be competitively neutral, and the parties shall be given sufficient time to implement any changes necessitated by the agreed-upon modification.

10.5. Governing Law. This Franchise Agreement shall be deemed to be executed in the State of Illinois, and shall be governed ~~by~~ in all respects, including validity, interpretation and effect, and construed in accordance with, the laws of the State of Illinois, ~~without regard to conflict of laws, except where superseded by~~ and/or Federal law, as applicable.

10.6. Venue. Except as to any matter within the jurisdiction of the federal courts or the FCC, all judicial actions relating to any interpretation, enforcement, dispute resolution or any other aspect of this Agreement shall be brought in the Circuit Court of the State of Illinois, Cook County, Illinois. Any matter brought pursuant to the jurisdiction of the federal court shall be brought in the United States District Court of the Northern District of Illinois.

10.7. Modification. Except as provided in ~~Subsection 5.1.B and 5.1.C of this Franchise Agreement~~ Sections 5.1.1 and 5.1.2, no provision of this Franchise Agreement shall be amended or otherwise modified, in whole or in part, except by an instrument, in writing, duly executed by the Village and the Grantee, which amendment shall be authorized on behalf of the Village through the adoption of an appropriate ordinance or resolution by the Village ~~Council~~, as required by applicable law.

10.8. No Third-Party Beneficiaries. Nothing in this Franchise Agreement is intended to confer third-party beneficiary status on any person, individual, corporation or member of the public ~~not a signatory to this Agreement~~ to enforce the terms of this Franchise Agreement.

10.9. No Waiver of Rights. Nothing in this Franchise Agreement shall be construed as a waiver of any rights, substantive or procedural, ~~that the Village or the~~ Grantee may have under ~~federal~~Federal or state law unless ~~the~~such waiver is expressly stated herein.

10.10. ~~Village's Contract Rights; Exercise of Home Rule Authority~~ Validity of Franchise Agreement. The parties ~~hereby~~ acknowledge and agree ~~that in good faith on the Village's execution~~ validity of the provisions, terms and enforcement conditions of this Franchise Agreement, and the grant of benefits given to the in their entirety, and that the Parties have the power and authority to enter into the provisions, terms, and conditions of this Agreement.

10.11. Authority to Sign Agreement. Grantee ~~in consideration for the same, are an exercise of the Village's home rule authority to enter into contracts having a bearing~~ warrants to the Village that it is authorized to execute, deliver and perform this Franchise Agreement. The individual signing this Franchise Agreement on behalf of the local government and affairs of Grantee warrants to the Village to the extent granted or permitted by Article VII, Section 6 that s/he is authorized to execute this Franchise Agreement in the name of the ~~Illinois Constitution~~Grantee.

IN WITNESS WHEREOF, this Franchise Agreement has been executed by the duly authorized representatives of the parties as set forth below, as of the date set forth below:

For the Village of Lincolnwood:  
L, Inc. P.:

For Comcast of Illinois ~~XIII~~IV,

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

~~ATTEST:~~ \_\_\_\_\_ ~~WITNESS:~~ \_\_\_\_\_

By: \_\_\_\_\_ By: \_\_\_\_\_

Its: \_\_\_\_\_ Its: \_\_\_\_\_



<b>Legend:</b>	
<u>Insertion</u>	
<del>Deletion</del>	
<del>Moved from</del>	
<u>Moved to</u>	
Style change	
Format change	
<del>Moved deletion</del>	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

<b>Statistics:</b>	
	Count
Insertions	370
Deletions	395
Moved from	18
Moved to	18
Style change	0
Format changed	0
Total changes	801

Summary of Notable Changes to Agreement

Proposed Change	Type of Change (Modification / Deletion / Addition)	Location in Comparison Document with Changes	Notes
<p><u>Emergency Alerts.</u> At all times <del>during the term of this Franchise Agreement,</del> the Grantee shall provide and maintain an “Emergency Alert System” (“EAS”) consistent with applicable Federal law and regulation – including 47 C.F.R., Part 11 and the “State of Illinois Emergency Alert System State Plan” – as may be amended from time to time. The Village must become qualified and authorized to activate the EAS, <u>through the authorized State EAS plan.</u> The Village agrees to indemnify and hold the Grantee harmless <u>from any damages or penalties arising out of the negligence of the Village, its employees or agents in using such system.</u></p>	Addition	Section 4.7	Provided as part of the Emergency Alert System
<p><u>Indemnification.</u> The Grantee shall indemnify, defend and hold harmless the Village, its officers, employees, and agents <u>(the “Indemnitees”)</u> from and against any <del>liability or injuries, claims resulting from property damage or bodily injury (including accidental death) that arise out of the Grantee’s construction, operation, maintenance or removal of the Cable System, provided that the,</del> <u>demands, judgments, damages, losses and expenses, including reasonable attorney’s fees and costs of suit or defense (the “Indemnification Events”), arising in the course of the Grantee constructing and operating its Cable System within the Village. The Grantee’s obligation with respect to the Indemnitees shall apply to Indemnification Events which may occur during the term of this Agreement, provided that the claim or action is initiated within the applicable statute of limitations, notwithstanding that the claim may be made or action filed subsequent to the termination or expiration of this Agreement.</u> The Village shall give the Grantee <u>timely</u> written notice of its obligation to indemnify and defend the Village <del>within ten (10) business days of</del> <u>after the Village’s</u> receipt of a claim or action pursuant to this Section. <u>For purposes of this Section, the word “timely” shall mean within a time period that does not cause prejudice to the respective positions of the Grantee and/or the Village.</u> If the Village <del>determines that it is necessary for it</del> <u>elects in its own discretion</u> to employ <del>separate</del> <u>additional</u> counsel, the costs for <del>the separate</del> <u>such additional</u> counsel <u>for the Village</u> shall be the responsibility of the Village. <del>This duty shall survive for one all claims made or actions filed within one (1)-year following the expiration or earlier termination of this agreement.</del></p>	Modification	Section 7.2	Language adjusts the indemnification from the Village Code and adds language regarding the Village being financially responsible for Attorney's fees if the Attorney was hired separately at the Village's discretion.

Summary of Notable Changes to Agreement

Proposed Change	Type of Change (Modification / Deletion / Addition)	Location in Comparison Document with Changes	Notes
<p>“Gross Revenue” means the Cable Service revenue <del>derived</del><u>received</u> by the Grantee from the operation of the Cable System in the Franchise Area to provide Cable Services, calculated in accordance with generally accepted accounting principles. Cable Service revenue includes monthly <del>basic</del><u>Basic Cable Service, cable programming service regardless of Service Tier</u>, premium and pay-per-view video fees <del>on all tiers of Cable Service</del>, advertising and home shopping revenue, installation fees, and equipment rental fees. Gross <del>Revenue</del><u>revenues</u> shall also include <del>the</del><u>such</u> other revenue sources <del>directly related to the provision of from</del> Cable Service <u>delivered over the Cable System</u> as may now exist or hereafter develop <del>from the operation of the Cable System within the Village</del>, provided that <del>these</del><u>such</u> revenues, fees, receipts, or charges may <del>be</del> lawfully <del>be</del> included in the <del>Gross Revenue</del><u>gross revenue</u> base for purposes of computing the Village’s permissible <del>Franchise Fee</del><u>franchise fee</u> under the Cable Act, as amended from time to time. Gross Revenue shall not include refundable deposits, bad debt, investment income, programming launch support payments, <u>third party</u> advertising sales commissions <u>and agency fees</u>, nor any taxes, fees or assessments imposed or assessed by any governmental authority. Gross Revenues shall include amounts collected from Subscribers for Franchise Fees pursuant to <i>City of Dallas, Texas v. F.C.C.</i>, 118 F.3d 393 (5<sup>th</sup> Cir. 1997), and amounts collected from non-Subscriber revenues in accordance with the Court of Appeals decision resolving the case commonly known as the “Pasadena Decision,” <i>City of Pasadena, California et. al., Petitions for Declaratory Ruling on Franchise Fee Pass Through Issues, CSR 5282-R, Memorandum Opinion and Order, 16 FCC Rcd. 18192 (2001)</i>, and <i>In re: Texas Coalition of Cities for Utility Issues v. F.C.C.</i>, 324 F.3d 802 (5th Cir. 2003).</p>	Addition	Section 1	Modifies definition of Gross Revenue.
<p><u>“Public, Educational and Governmental (PEG) Access Channel” shall mean a video Channel designated for non-commercial use by the Village, the public, and/or educational institutions such as public or private schools, but not “home schools,” community colleges, and universities.</u></p>	Addition	Section 1	Defines PEG
<p>“Initial Franchise Service Area” means that portion of the Franchise Area served by the Grantee’s Cable System as of the Effective Date of this Franchise Agreement. <del>The Initial Franchise Area as of the Effective Date is depicted in the Franchise Area Map attached to this Agreement as Exhibit A. —</del></p>	Deletion	Section 1	Language deleted from Agreement and in contrast to Village Code
<p><u>“Public, Educational and Government (PEG) Access Programming” shall mean non-commercial programming produced by any Village residents or organizations, schools and government entities and the use of designated facilities, equipment and/or Channels of the Cable System in accordance with 47 U.S.C. 531 and this Agreement.</u></p>	Addition	Section 1	Defines PEG Access Programming
<p><u>“Standard Installation” means those installations to Subscribers that are located up to one hundred twenty-five (125) feet from the existing distribution system (Cable System).</u></p>	Addition	Section 1	Defines Standard Installation
<p><u>“Video Programming” or “Programming” means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.</u></p>	Addition	Section 1	Defines Video Programming

Summary of Notable Changes to Agreement

Proposed Change	Type of Change (Modification / Deletion / Addition)	Location in Comparison Document with Changes	Notes
<p><del>Grant of Franchise. The Village, by Village</del> Pursuant to Section 621(a) of the Cable Act, 47 U.S.C. § 541 (a), and 65 ILCS 5/11-42-11(a) of the Illinois Municipal Code, and Ordinance No. 2010-_____, <u>approving and authorizing the execution of this Agreement, the Village hereby grants to the Grantee a nonexclusive Franchise authorizing the Grantee to construct and operate a Cable System in the Public Ways within the Franchise Area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain a Cable System in any Public Ways in the Franchise Area which includes theWay such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the Cable System, and to provide Cable Services and the othersuch services over the Cable System as may be lawfully allowed, over the Cable System.</u></p>	Modification	Section 2.1	Restructures provision regarding authority for granting of the franchise
<p><u>Police Powers. Nothing in this Franchise Agreement shall be construed as an abrogation by the Village of any of its police powers to adopt and enforce generally applicable ordinances deemed necessary for the health, safety, and welfare of the public, and the Grantee shall comply with all generally applicable laws and ordinances enacted by the Village pursuant to such police power.</u></p>	Deletion	Section 2.4	Language removed and consolidated in Section 2.4
<p><u>“Public Way” shall mean, pursuant and in addition to Chapter 6, Article 2 of the Village of Lincolnwood, I</u></p>	Modification	Section 1	Language modified
<p><u>Term of Franchise. The term of the Franchise granted hereunder shall be ten (10) years from the Effective Date, unless the Franchise is renewed or is lawfully terminated in accordance with the terms of this Franchise Agreement and/or applicable law, From and after the Effective Date of this Franchise Agreement, the Parties acknowledge that this Franchise Agreement is intended to be the sole and exclusive Franchise Agreement between the Parties pertaining to the Grantee’s Franchise for the provision of Cable Service.</u></p>	Modification	Section 2.3	Additional language regarding terms of Franchise.
<p><u>Reservation of Authority. Nothing in this Franchise Agreement shall (A) abrogate the right of the Village to <del>authorize the use of Public Ways for public purposes or to</del> perform any public works or public improvements of any description, (B) be construed as a waiver of any <del>laws, codes or ordinances</del> of general applicability promulgated <del>or enforceable</del> by the Village, or (C) be construed as a waiver or release of the rights of the Village in and to the Public Ways.</u></p>	Deletion	Section 2.5	Language deleted. Village proposes language is kept in final agreement

Summary of Notable Changes to Agreement

Proposed Change	Type of Change (Modification / Deletion / Addition)	Location in Comparison Document with Changes	Notes
<p><u>Aerial and Underground Construction. At the time of Cable System construction, if all of the transmission and distribution facilities of all of the respective public or municipal utilities in any area of the Franchise Area are underground, the Grantee shall place its Cable Systems' transmission and distribution facilities underground, provided that such underground locations are actually capable of accommodating the Grantee's cable and other equipment without technical degradation of the Cable System's signal quality. In any region(s) of the Franchise Area where the transmission or distribution facilities of the respective public or municipal utilities are both aerial and underground, the Grantee shall have the discretion to construct, operate, and maintain all of its transmission and distribution facilities or any part thereof, aerially or underground. Nothing in this Section shall be construed to require the Grantee to construct, operate, or maintain underground any ground-mounted appurtenances such as customer taps, line extenders, system passive devices, amplifiers, power supplies, pedestals, or other related equipment.</u></p>	Addition	Section 3.2	Language proposed by Comcast does not comport to Village Code. Village proposing revised language in alignment with Code.
<p>In the event <del>all</del><u>the Village requires</u> users of the Public Way <u>who operate aerial facilities to</u> relocate <u>such aerial facilities underground as part of an undergrounding or neighborhood beautification project, the facilities underground.</u> Grantee shall participate in the planning for relocation of <del>the its</del> aerial <del>portion of its Cable System</del><u>facilities, if any,</u> contemporaneously with <del>other utilities</del><u>such users.</u> <del>The Grantee's relocation costs shall be included in any computation of necessary project funding. The Grantee shall be entitled to reimbursement of</del><u>reimbursed</u> its relocation costs <del>under this Section</del> from public or private funds, <del>or payment in advance from private funds,</del> allocated for the project to the same extent as <del>the</del><u>such</u> funds are made available to other users of the Public Way; <u>if any,</u> provided that any utility's exercise of authority granted under its tariff to charge consumers for the <u>said utility's</u> cost of the project <del>shall</del><u>that are</u> not <u>reimbursed by the Village shall not</u> be considered to be public or private funds.</p>	Modification	Section 3.3.1	Language proposed by Comcast does not comport to Village Code. Village proposing revised language in alignment with Code.
<p><u>The Grantee shall not be required to relocate its facilities unless it has been afforded at least sixty (60) days notice of the necessity to relocate its facilities. Upon adequate notice the Grantee shall provide a written estimate of the cost associated with the work necessary to relocate its facilities. In instances where a third party is seeking the relocation of the Grantee's facilities or where the Grantee is entitled to reimbursement pursuant to the preceding Section, the Grantee shall not be required to perform the relocation work until it has received payment for the relocation work.</u></p>	Modification	Section 3.3.2	Language proposed by Comcast does not comport to Village Code. Village proposing revised language in alignment with Code.
<p><del>Customer Service Obligations. The Village and the Grantee acknowledge that the customer service requirements and standards and customer privacy protections are set forth in the Cable and Video Customer Protection Law, 220 ILCS 5/22-501 et seq., Part 76, Subpart K, as amended from time to time ("Customer Protection Law"). Enforcement of</del> <u>The Grantee shall cooperate with the Village in conducting inspections related to</u> these <del>requirements, standards, and protections, and the penalties for non-compliance, shall be consistent with the Customer Protection Law upon reasonable prior written request from the Village based on a significant number of Subscriber complaints.</del></p>	Modification	Section 4.3	Combines Sections 4.3 and 4.4 and revises definitions for Technical Standards

Summary of Notable Changes to Agreement

Proposed Change	Type of Change (Modification / Deletion / Addition)	Location in Comparison Document with Changes	Notes
<p><del>Underground Utilities. In cases of new construction or property development where utilities are to be placed underground, the Village agrees to require the developer or property owner to provide the Grantee written notice concurrent with notice to the other utilities of the construction or development, and of the particular date on which open trenching will be available for the Grantee's installation of conduit, pedestals, and/or vaults and laterals for the Cable System. The Grantee shall also provide specifications to the developer or property owner as needed for trenching. Costs of trenching and easements required to bring service to the development shall be borne by the developer or property owner; except that if the Grantee fails to install its conduit, pedestals and/or vaults and laterals for the Cable System during the period (not less than 10 days) when the trenches are available, as designated in the notice given by the property owner or developer to the Grantee, then any additional cost shall be borne by the Grantee.</del></p>	Deletion	Section 4.5.A.	Language removed from document
<p><u>Annexations and New/Planned Developments. In cases of annexation the Village shall provide the Grantee</u></p>	Modification	Section 4.5.B	Provides guidance on new developments and annexation
<p><u>The Village may request that Grantee provide Cable Service and the corresponding equipment to the location(s) specified in Attachment A, and shall specify the requested level of services and number of outlets for each location. The Village shall notify Grantee in writing whether it wishes to be invoiced at standard rates as disclosed by Grantee for these services and equipment or to have the charges deducted from the franchise fee payment due pursuant to this franchise. In the event the FCC Third 621 Order is reversed on appeal on the issue of complimentary services (pending at the 6<sup>th</sup> Circuit at the time of this Agreement) and that reversal becomes final, the Village and the Grantee acknowledge will revert to the provisions of 220 ILCS 5/22-501(f), whereby the Grantee shall provide complimentary Basic Cable Service, one Digital Transport Adapter (or its current equivalent if equipment is necessary to receive the service) and a free Standard Installation at one outlet to all eligible buildings as defined in said the state statute. Eligible buildings shall not include buildings leased to non-governmental third parties or buildings such as storage facilities at which government employees are not regularly stationed.</u></p>	Modification	Section 4.6.1	Modifies language to not provide complimentary service to the Village any further. Village already pays for basic service as needed in buildings.
<p><del>Customer Reports. The Grantee shall provide to the Village annually during the term of this Agreement a report as required pursuant to 220 ILCS 5/22-501(g).</del></p>	Deletion	Section 4.7	consolidated in new Section 4.8 regarding Customer Service Obligations
<p><u>Emergency Alerts. At all times during the term of this Franchise Agreement, the Grantee shall provide and maintain an "Emergency Alert System" ("EAS") consistent with applicable Federal law and regulation – including 47 C.F.R., Part 11 and the "State of Illinois Emergency Alert System State Plan" – as may be amended from time to time. The Village must become qualified and authorized to activate the EAS, through the authorized State EAS plan. The Village agrees to indemnify and hold the Grantee harmless from any damages or penalties arising out of the negligence of the Village, its employees or agents in using such system.</u></p>	Addition	Section 4.8	Adds guidance on use of Emergency Alert System

Summary of Notable Changes to Agreement

Proposed Change	Type of Change (Modification / Deletion / Addition)	Location in Comparison Document with Changes	Notes
<p><del>Amount.</del> The Grantee shall pay to the Village a Franchise <del>fee</del><u>Fee</u> in an amount equal to five percent (5%) of annual Gross Revenues received from the operation of the Cable System to provide Cable Service in the Franchise Area; provided, however, that Grantee shall not be compelled to pay any higher percentage <del>rate-</del><u>for Franchise</u> fees than any other <del>Person paying a</del> video service provider <del>fee or similar fee,</del> under state authorization or otherwise, providing <del>similar</del> service in the Franchise Area. <u>The payment of Franchise Fees shall be made on a quarterly basis and shall be due forty-five (45) days after the close of each calendar quarter. If mailed, the Franchise Fee shall be considered paid on the date it is postmarked. Each Franchise Fee payment shall be accompanied by a report prepared by a representative of the Grantee showing the basis for the computation of the franchise fees paid during that period. Any undisputed Franchise Fee payment which remains unpaid in whole or in part, after the date specified herein shall be delinquent.</u> For any <u>delinquent</u> Franchise Fee payments <del>owed by the Grantee in accordance with this Section 5.1 which are not made on or before the due dates, the</del> Grantee shall make <u>the such</u> payments including interest at the prime lending rate as quoted by <u>JP Morgan Chase Bank U.S.A. &amp; Company</u> or its successor, computed from time due until paid. Any undisputed overpayments made by the Grantee to the Village shall be credited upon discovery of <u>the such</u> overpayment until <u>the such</u> time when the full value of <u>the such</u> credit has been applied to the Franchise Fee liability otherwise accruing under this <del>section</del><u>Section</u>.</p>	Modification	Section 5.1	Modifies language in this section. Revised language is acceptable for Village Attorney and staff.

Summary of Notable Changes to Agreement

Proposed Change	Type of Change (Modification / Deletion / Addition)	Location in Comparison Document with Changes	Notes
<p>The Parties acknowledge that, at present, the Cable Act limits the Village to collection of a maximum permissible Franchise Fee of five percent (5%) of Gross Revenues. <del>If, during</del><u>In</u> the <del>term of this Agreement, event that a change in</del> the Cable Act <del>is modified to authorize</del><u>would allow</u> the Village to <del>collect</del><u>increase the</u> Franchise <del>fee at a rate greater than</del><u>Fee above</u> five percent (5%) <del>of Gross Revenues, and the Village actually proposes to increase the Franchise Fee in exercise of such authority,</del> the Village may <del>unilaterally amend this Agreement</del><u>the Franchise Fee percentage. Following the determination</u> to increase the <del>required percentage to be paid by the Grantee to the Village up to the amount permitted by the Cable Act, provided that: (i) the amendment is competitively neutral; (ii) the Village conducts a public hearing on the proposed amendment; (iii) the Village approves the amendment by ordinance; and (iv) the Village notifies the Grantee at least ninety (90) days prior to the effective date of the amendment. If, during the term of this Agreement, the Cable Act is modified to reduce the Village's authority under this Agreement to collect a Franchise fee to a rate less than five percent (5%) of Gross Revenues</del><u>Franchise Fee and enactment of an ordinance enabling the same,</u> the Village shall <del>unilaterally amend this Agreement to decrease the required percentage to be paid by the Grantee to the Village to an amount permitted by the Cable Act, provided that: (i) the amendment is competitively neutral; (ii) the Village conducts a public hearing on the proposed amendment; (iii) the Village approves the amendment by ordinance; and (iv) the Village notifies the</del><u>notify the Grantee of its intent to collect the increased Franchise Fee, and</u> Grantee <del>at least</del><u>shall have a reasonable time (not to be less than</u> ninety (90) days <del>prior to the effective date of the amendment</del><u>from receipt of notice from the City) to effectuate any changes necessary to begin the collection of such increased Franchise Fee.</u> In the event that the Village increases said Franchise Fee, the Grantee shall notify its Subscribers of the Village's decision to increase said fee prior to the implementation of the collection of said fee from Subscribers as required by law.</p>	Modification	Section 5.1	Modifies language in this section. Revised language is acceptable for Village Attorney and staff.
<p><u>In accordance with 65 ILCS 5/11-42-11.05 (k), the Village shall provide on an annual basis, a complete list of addresses within the corporate limits of the Village. If an address is not included in the list or if no list is provided, the Grantee shall be held harmless for any franchise fee underpayments (including penalty and interest) from situsing errors.</u></p>	Addition	Section 5.2.1	Is a new standard but would not be difficult to implement for the Village.
<p><del>Access to Books and Records .- Upon fourteen (14) days' notice to the Grantee, the Village or its designated independent representative shall have the right to examine books and records reasonably related to the Grantee's compliance with its obligations under this Agreement, including the fees described in Sections 5.1 and 8.5 of this Agreement. The Village shall have no right to examine any aspect of the books and records that does not reasonably relate to the Grantee's obligations under this Agreement.-</del></p>	Deletion	Section 5.3.a	Does not comport to the Village Code.

Summary of Notable Changes to Agreement

Proposed Change	Type of Change (Modification / Deletion / Addition)	Location in Comparison Document with Changes	Notes
<p><u>Proprietary Information.</u> Notwithstanding anything to the contrary set forth <del>herein</del> <u>in this Agreement</u>, the Grantee <del>is shall</del> <u>not be</u> required to disclose information which it reasonably deems to be proprietary or confidential in nature, <u>with the exception of the information directly related to an audit of Franchise Fees as set forth in Section 5.2.</u> The Village agrees to treat any information disclosed by the Grantee <del>and designated as proprietary and</del> <u>as</u> confidential and only to disclose it to those <del>officials</del>, employees, representatives, and agents of the Village that have a need to know in order to <del>administer and</del> enforce this Franchise Agreement and who agree to maintain the confidentiality of all <del>the</del> <u>such</u> information. For purposes of this Section, the terms “proprietary or confidential” include, but are not limited to, information relating to the Cable System design, customer lists, marketing plans, financial information unrelated to the calculation of Franchise <del>fees or other amounts due under this Agreement</del> <u>Fees</u> or rates pursuant to FCC rules, or other information that is reasonably determined by the Grantee to be competitively sensitive. <del>The</del> Grantee may make proprietary or confidential information available for inspection but not copying or removal by the <del>Village</del> <u>Franchise Authority</u>’s representative. In the event that the Village has in its possession and receives a request under <del>a state “sunshine,” public records</del> <u>the Illinois Freedom of Information Act (5 ILCS 140/1 et seq.)</u>, or similar law for the disclosure of information the Grantee has designated as confidential, trade secret or proprietary, the Village shall notify <del>the</del> Grantee of <del>the</del> <u>such</u> request and cooperate with <del>the</del> Grantee in opposing <del>the</del> <u>such</u> request <del>to the extent permitted by law and at the Grantee’s expense</del> . <del>The</del> Grantee shall indemnify and defend the Village from and against any claims arising from the Village’s opposition to disclosure of any information <del>the</del> Grantee designates as proprietary or confidential. Compliance by the Village with an opinion or directive from the Illinois Public Access Counselor or the Illinois Attorney General under the Illinois Freedom of Information Act, 5 ILCS 140/1 et seq. , or with a decision or order of a court with jurisdiction over the Village, shall not be a violation of this Section.</p>	<p><u>Modification</u></p>	<p>Section 5.3.b</p>	<p>Modifies language related to FOIA response and providing of information to requestors.</p>
<p><del>Transfers of Interest.</del> Neither the Grantee nor any other Person may <del>assign or transfer this Franchise Agreement or the Franchise or sell, assign or</del> transfer the Cable System <u>or the Franchise</u> without the prior written consent of the Village, <u>which consent shall not be unreasonably withheld or delayed.</u></p>	<p>Modification</p>	<p>Section 6.1</p>	<p>Modifies Transfers of Interest language.</p>
<p><del>Transfers of Control.</del> No transfer of control of the Grantee, defined as an acquisition of fifty-one percent (51%) or greater ownership interest in <del>the</del> Grantee, <del>the Cable System, or the Cable System assets</del> shall take place without the prior written consent of the Village, <u>which consent shall not be unreasonably withheld or delayed</u> .</p>	<p>Modification</p>	<p>Section 6.2</p>	<p>Modifies Transfers of Control language.</p>
<p><u>Any transfer of control resulting from or after the appointment of a receiver or receivers or trustee or trustees, however denominated, designated to take over and conduct the business of the grantee, whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of a one hundred twenty (120) day period, shall be treated as a transfer of control pursuant to 47 U.S.C. §537 and require the Village’s consent thereto in the manner described in Section 6 above.</u></p>	<p>Addition</p>	<p>Section 6.5</p>	<p>Adds language regarding transfer of control.</p>

Summary of Notable Changes to Agreement

Proposed Change	Type of Change (Modification / Deletion / Addition)	Location in Comparison Document with Changes	Notes
<p><u>Insurance.</u> Throughout the term of this Franchise Agreement, the Grantee shall, at its own cost and expense, maintain <del>coverages as set forth in Section 12-1A-8 of the Village Code including but not limited to Commercial General Liability, Auto and Employee Liability Insurance</del> <u>such insurance</u> and provide the Village certificates of insurance <del>designating the Village and its officers, boards, commissions, councils, elected officials, agents and employees as additional insureds and demonstrating that the Grantee has obtained the insurance required in this Section. The policy or policies shall be in the minimum amount of five million dollars (\$5,000,000.00) for bodily injury or death to any one person, and five million dollars (\$5,000,000.00) for bodily injury or death of any two or more persons resulting from one occurrence, and five million dollars (\$5,000,000.00) for property damage resulting from any one accident. The policy or policies shall be non-cancelable except upon thirty (30) days prior written notice to the Village. The Grantee shall provide workers' compensation coverage in accordance with applicable law. The Grantee shall indemnify and hold harmless the Village from any workers compensation claims to which the Grantee may become subject during the term of this Franchise Agreement</del> <u>in accordance with Chapter 6, Article 2 of the Lincolnwood Municipal Code.</u></p>	Modification	Section 7.1	Modifies Insurance language. Village Attorney and staff are reviewing language and will present this topic for further discussion on best course going forward.
<p><u>Indemnification.</u> The Grantee shall indemnify, defend and hold harmless the Village, its officers, employees, and agents <u>(the "Indemnitees")</u> from and against any <del>liability or injuries, claims resulting from property damage or bodily injury (including accidental death) that arise out of the Grantee's construction, operation, maintenance or removal of the Cable System, provided that the</del> <u>demands, judgments, damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense (the "Indemnification Events"), arising in the course of the Grantee constructing and operating its Cable System within the Village. The Grantee's obligation with respect to the Indemnitees shall apply to Indemnification Events, which may occur during the term of this Agreement, provided that the claim or action is initiated within the applicable statute of limitations, notwithstanding that the claim may be made or action filed subsequent to the termination or expiration of this Agreement. The</u> Village shall give the Grantee <u>timely</u> written notice of its obligation to indemnify and defend the Village <del>within ten (10) business days of</del> <u>after the Village's</u> receipt of a claim or action pursuant to this Section. <u>For purposes of this Section, the word "timely" shall mean within a time period that does not cause prejudice to the respective positions of the Grantee and/or the Village.</u> If the Village <del>determines that it is necessary for it</del> <u>elects in its own discretion</u> to employ <del>separate</del> <u>additional</u> counsel, the costs for <del>the separate</del> <u>such additional</u> counsel <u>for the Village</u> shall be the responsibility of the Village. <del>This duty shall survive for one all claims made or actions filed within one (1)-year following the expiration or earlier termination of this agreement.</del></p>	Modification	Section 7.2	Modifies indemnification language.
<p>The Grantee shall not indemnify the Village for any liabilities, damages, costs or expense resulting from <del>the willful misconduct or negligence of a ny conduct for which</del> <u>the Village, its officers, employees and agents may be liable under the laws of the State of Illinois.</u></p>	Modification	Section 7.2.1	Addresses indemnification and State laws.

Summary of Notable Changes to Agreement

Proposed Change	Type of Change (Modification / Deletion / Addition)	Location in Comparison Document with Changes	Notes
<p><del>PEG Capacity.</del> Throughout the term of this Franchise Agreement, the Grantee shall provide capacity <del>at no charge to the Village</del> for the Village’s non-commercial PEG access programming through the Grantee’s Cable <del>Service</del>System consistent with the requirements set forth herein. As of the Effective Date of this Agreement, the Village utilizes two <del>(2)</del>PEG Channels <del>(the “Initial Channels”)</del>channels. Unless otherwise agreed to by the Village and the Grantee to the extent required by applicable law, <del>the Initial Channels, and if applicable the Additional Channel,</del>said PEG channels shall be carried on the most basic service tier offered by the Grantee. <u>The Village’s PEG programming shall be provided consistent with Section 611 of the Cable Act, as amended from time to time.</u></p>	Modification	Section 8.1	Addresses PEG programming and capacity of system.
<p><del>Threshold Use Requirement. A. Additional Channel. The Village may request the Additional Channel, provided the Village demonstrates that the Threshold Use Requirement is satisfied. For the purposes of this Agreement, the term “Threshold Use Requirement” means that the Initial Channels shall be programmed by the Village at least eight (8) hours per day with non-repetitive, locally produced video programming, Monday through Saturday, for a minimum of six (6) consecutive weeks. The Village shall provide the Grantee with written documentation evidencing that the Threshold Use Requirement is being satisfied. The Grantee shall have one hundred twenty (120) days from receipt of the Village’s request to provide the Additional Channel. The Additional Channel may be provided on Grantee’s basic digital tier of service. B. Removal. Once provided pursuant to Subsection A of this Section, the Additional Channel may not be removed or withdrawn by the Grantee for the first twelve (12) months following the provision of the Additional Channel. After the twelve (12) month period expires, the Grantee may remove or withdraw the Additional Channel if the Threshold Use Requirement is not being met. Any removal or withdrawal shall not occur until after the Grantee has given the Village written notice that the Threshold Use Requirement for the Initial Channels provided as of the Effective Date of this Agreement is not being satisfied. The Village shall have thirty (30) days to respond to the Grantee’s written notice indicating it has cured the condition, or state a plan showing it is taking diligent steps towards curing the condition, in order to establish that the Threshold Use Requirement on the Initial Channels is satisfied.</del></p>	Deletion	Section 8.2	Removes language regarding channels. Attorney and Village comfortable with change.

Summary of Notable Changes to Agreement

Proposed Change	Type of Change (Modification / Deletion / Addition)	Location in Comparison Document with Changes	Notes
<p><u>Origination Point.</u> At such time that the Village <del>determine</del>determines that it wants to establish capacity to allow its residents who subscribe to Grantee’s Cable Service to receive PEG access programming originated from Schools and/or Village facilities ; or at such time that the Village determines that it wants to change or upgrade a location from which <del>the Village originates</del> PEG <u>access</u> programming <del>as of the Effective Date, or establish another location from which public, educational and/or governmental Video-Programming</del> is originated; the Village will give the Grantee written notice detailing the <del>change in</del> point of origination <u>and the capability sought by the Village</u>. The Grantee agrees to submit a cost estimate to implement the Village’s plan within a reasonable period of time, <u>but in no event longer than sixty (60) days from when Grantee receives all necessary information regarding the work sought</u>. After an agreement to reimburse the Grantee for its expenditure, the Grantee will implement any necessary <del>Systems</del><u>system</u> changes within a reasonable period of time.</p>	<p><u>Modification</u></p>	<p>Section 8.4</p>	<p>Modifies language related to Origination Point. Staff and Attorney are comfortable with language.</p>
<p><u>PEG Access Funding.</u> The Village may designate a PEG access capital <del>projects</del><u>project</u> to be funded by the Village <u>as provided for herein</u>. The Village shall send written notice of the Village’s desire for <del>the</del>Grantee to collect <del>as an external charge</del>a PEG Capital Fee of up to thirty-five cents (\$0.35) per customer per month <del>charge</del>to be passed on to each Subscriber pursuant <u>to</u> Section 622(g)(2)(C) of the Cable Act (47 U.S.C. §542(g)(2)(C)). The <u>Grantee shall make the PEG Capital Fee payments to the Village at the same time and in the same manner as Franchise Fee payments. The Village’s</u> notice shall include a detailed and itemized description of the intended utilization of the PEG Capital Fee for PEG Access Channel facilities and/or equipment <u>(PEG Access capital costs)</u> and the Grantee shall have <del>a reasonable</del><u>the</u> opportunity to review and make recommendations <u>regarding upon</u> the Village’s plan prior to <del>collecting</del><u>agreeing to collect</u> and <u>paying pay</u> to the Village the requested amount. <del>The Grantee shall collect the external charge over a period of twelve (12) months, unless some other period is mutually agreed upon in writing, and shall make the PEG capital payments from such sums at the same time and in the same manner as Franchise Fee payments. The capital payments shall be expended for capital costs associated with PEG access.</del> Consistent with the description of the intended utilization of the PEG Capital Fee, the Village shall be permitted to hold all or a portion of the PEG Capital Fee from year to year as a designated fund to permit the Village to make large capital expenditures, if necessary, provided that <del>in if</del> <u>the event all such funds are</u> <del>entire amount is</del> not expended during the term of this <del>Agreement, such</del><u>agreement, any remaining</u> funds shall be <u>applied to credited against</u> PEG <del>Access</del>Capital <del>obligations</del><u>requests from the Village</u> in subsequent <del>Franchise Agreement</del><u>franchise renewals</u>. Moreover, if the Village chooses to borrow from itself or a financial institution <del>revenue</del>for large PEG capital purchases or capital expenditures, the Village shall be permitted to make periodic repayments using the PEG Capital Fee. Said PEG Capital Fee shall be imposed within one hundred twenty <del>days</del> <u>(120) days</u> of the Village’s written request. <u>On an annual basis, the Village shall provide the Grantee with a report detailing how the prior year’s funding was spent or confirming it is being held in a capital reserve account for future PEG capital needs.</u></p>	<p>Modification</p>	<p>Section 8.5</p>	<p>Modifies language related to PEG Access Funding. Staff and Attorney are comfortable with language.</p>

Summary of Notable Changes to Agreement

Proposed Change	Type of Change (Modification / Deletion / Addition)	Location in Comparison Document with Changes	Notes
<p><del>For any payments owed by the Grantee in accordance with this Section 8.5 which are not made on or before</del></p>	Deletion	Section 8.5.a	Removes interest charge for late PEG Capital Fees
<p><u>Remedies Not Exclusive.</u> In addition to the remedies set forth in this Section 9, the Grantee acknowledges the Village’s ability pursuant to Section <del>4.4.8</del> of this Franchise Agreement to enforce the requirements and standards, and the penalties for non-compliance with <del>the requirements and</del> <u>such</u> standards, consistent with the <u>Illinois</u> Cable and Video Customer Protection Law <u>enacted by the Village as Chapter 13, Article 4 of the Lincolnwood Municipal Code</u>; and, pursuant to Section 3.1 of this <u>Franchise</u> Agreement and <del>Article 1A of Chapter 126, Article 2 of the Village Lincolnwood Municipal Code</del>, to enforce the Grantee’s compliance with the Village’s <del>generally applicable</del> requirements regarding “Construction <del>of</del> <u>Of</u> Utility Facilities in <del>the Village</del> Rights-<del>Of</del> <u>Of</u>-Way.” Notwithstanding the foregoing, nothing in this Agreement shall be interpreted to permit the Village to exercise <del>the</del> <u>such</u> rights and remedies in a manner that permits duplicative recovery from, or payments by, the Grantee. <del>The</del> <u>Such</u> remedies may be exercised from time to time and as often and in <del>an</del> <u>such</u> order as may be deemed expedient by the Village.</p>	Modification	Section 9.4	Clarifies Village's abilities for enforce requirements and standards
<p><u>Force Majeure.</u> 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 (including termination, cancellation or revocation of the Franchise), where <del>the</del> <u>such</u> noncompliance or alleged defaults occurred or were caused by strike, riot, war, earthquake, flood, tidal wave, unusually severe rain or snow storm, hurricane, tornado or other catastrophic act of nature, labor disputes, failure of utility service necessary to operate the Cable System, governmental, administrative or judicial order or regulation or other event that is reasonably beyond the Grantee’s ability to anticipate or control. This provision also covers work delays caused by waiting for utility providers to service or monitor their own utility poles on which the Grantee’s cable or equipment is attached, as well as unavailability of materials or qualified labor to perform the work necessary. <del>This provision does not cover work delays caused by general economic conditions</del> <u>Non-compliance or default shall be corrected within a reasonable amount of time after force majeure has ceased.</u></p>	Modification	Section 10.1	New language related to Force Majeure

**CABLE TELEVISION FRANCHISE AGREEMENT  
BY AND BETWEEN  
The  
VILLAGE OF LINCOLNWOOD, ILLINOIS  
And  
COMCAST OF ILLINOIS IV, INC.**

This Draft Renewal Franchise Agreement is the result of discussions between the Metropolitan Mayors Caucus and Comcast, and is being submitted for discussion purposes under the informal process pursuant to 47 USC 546 (h).

This Franchise Agreement (hereinafter, the "Agreement" or "Franchise Agreement") is made between the Village of Lincolnwood, Illinois (hereinafter, the "Village") and Comcast of Illinois IV, Inc., (hereinafter, "Grantee") (collectively, the Village and Grantee are hereinafter the "Parties") this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ (the "Effective Date").

The Village, having determined that the financial, legal, and technical abilities of the Grantee are reasonably sufficient to provide the services, facilities, and equipment necessary to meet the future cable-related needs of the community, desires to enter into this Franchise Agreement with the Grantee for the construction, operation and maintenance of a Cable System on the terms and conditions set forth herein.

This Agreement is entered into by and between the parties under the authority of the Cable Act, the Illinois Constitution of 1970, including the Village's home rule powers, and the Illinois Municipal Code, as amended from time to time, and shall be governed by the Cable Act and the Illinois Municipal Code, as amended from time to time; provided that any provisions of the Illinois Municipal Code that are inconsistent with the Cable Act shall be deemed to be preempted and superseded.

**SECTION 1: Definition of Terms**

For the purpose of this Franchise Agreement, capitalized terms, phrases, words, and abbreviations shall have the meanings ascribed to them in the Cable Act, unless otherwise defined herein.

"Cable Act" or "Act" means the Cable Communications Policy Act of 1984, as amended by the Cable Consumer Protection and Competition Act of 1992 and the Telecommunications Act of 1996, 47 U.S.C. §§ 521 et seq., as the same may be amended from time to time.

"Cable Operator" means any Person or group of Persons who provides Cable Service over a Cable System and directly or through one or more affiliates owns a significant interest in such Cable System; or who otherwise controls or is responsible for, through any arrangement, the management and operation of such a Cable System.

"Cable Service" or "Service" means the one-way transmission to Subscribers of Video Programming or Other Programming Service and Subscriber interaction, if any, which is required for the selection or use of such Video Programming or Other Programming Service.

"Cable System" or "System," has the meaning set forth in 47 U.S.C. § 522 of the Cable Act, and means Grantee's facilities, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment, that is designed to provide Cable Service which includes Video Programming and which is provided to multiple Subscribers within the Franchise Area, but such term does not include (i) a facility that serves only to re-transmit the television signals of one or more television broadcast stations; (ii) a facility that serves Subscribers without using any public right-of-way, (iii) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, as amended, except that such a facility shall be considered a Cable System (other than for purposes of section 621(c) of the Cable Act) to the extent such facility is used in the transmission of Video Programming directly to Subscribers, unless the extent of such use is solely to provide Interactive On-Demand Services; (iv) an open video system that complies with section 653 of the Cable Act; or (v) any facilities of any electric utility used solely for operating its electric utility systems.

"Channel" or "Cable Channel" means a portion of the electromagnetic frequency spectrum which is used in a Cable System and which is capable of delivering a television channel as a television channel is defined by the Federal Communications Commission by regulation.

"Customer" or "Subscriber" means a Person who lawfully receives and pays for Cable Service with the Grantee's express permission.

"FCC" means the Federal Communications Commission or successor governmental entity thereto.

"Franchise" means the initial authorization, or renewal thereof, issued by the Village, whether such authorization is designated as a franchise, agreement, permit, license, resolution, contract, certificate, ordinance or otherwise, which authorizes the construction or operation of the Cable System.

"Franchise Agreement" or "Agreement" shall mean this Agreement and any amendments or modifications hereto.

"Franchise Area" means the present legal boundaries of the Village as of the Effective Date, and shall also include any additions thereto, by annexation or other legal means as provided in this Agreement.

"Franchise Fee" means the fee the Grantee is required to pay subject to the terms of this Agreement, as further defined in the Cable Act, 47 U.S.C. §542.

"Grantee" shall mean Comcast of California/Colorado/Illinois/Indiana/Michigan, LLC

“Gross Revenue” means the Cable Service revenue received by the Grantee from the operation of the Cable System in the Franchise Area to provide Cable Services, calculated in accordance with generally accepted accounting principles. Cable Service revenue includes monthly Basic Cable Service, cable programming service regardless of Service Tier, premium and pay-per-view video fees, advertising and home shopping revenue, installation fees and equipment rental fees. Gross revenues shall also include such other revenue sources from Cable Service delivered over the Cable System as may now exist or hereafter develop, provided that such revenues, fees, receipts, or charges may be lawfully included in the Gross Revenue base for purposes of computing the Village’s permissible franchise fee under the Cable Act, as amended from time to time. Gross Revenue shall not include refundable deposits, bad debt, investment income, programming launch support payments, third party advertising sales commissions and agency fees, nor any taxes, fees or assessments imposed or assessed by any governmental authority. Gross Revenues shall include amounts collected from Subscribers for Franchise Fees pursuant to *City of Dallas, Texas v. F.C.C.*, 118 F.3d 393 (5<sup>th</sup> Cir. 1997), and amounts collected from non-Subscriber revenues in accordance with the Court of Appeals decision resolving the case commonly known as the “Pasadena Decision,” *City of Pasadena, California et. al., Petitions for Declaratory Ruling on Franchise Fee Pass Through Issues, CSR 5282-R, Memorandum Opinion and Order, 16 FCC Rcd. 18192 (2001)*, and *In re: Texas Coalition of Cities for Utility Issues v. F.C.C.*, 324 F.3d 802 (5<sup>th</sup> Cir. 2003).

“Initial Franchise Service Area” means that portion of the Franchise Area served by the Grantee’s Cable System as of the Effective Date of this Franchise Agreement.

“Person” means any natural person or any association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for-profit or not-for profit, but shall not mean the Village.

“Public, Educational and Governmental (PEG) Access Channel” shall mean a video Channel designated for non-commercial use by the Village, the public, and/or educational institutions such as public or private schools, but not “home schools,” community colleges, and universities.

“Public, Educational and Government (PEG) Access Programming” shall mean non-commercial programming produced by any Village residents or organizations, schools and government entities and the use of designated facilities, equipment and/or Channels of the Cable System in accordance with 47 U.S.C. 531 and this Agreement.

“Public Way” shall mean, pursuant and in addition to what is defined as “Right-of-Way” in Chapter 6, Article 2 of the Village of Lincolnwood, Illinois, Municipal Code, the surface of, and the space above and below, any street, alley, other land or waterway, dedicated or commonly used for pedestrian or vehicular traffic or other similar purposes, including, but not limited to, public utility easements and other easements dedicated for compatible uses, now or hereafter held by the Village in the Franchise Area, to the extent that the Village has the right and authority to authorize, regulate, or permit the location of facilities other than those of the Village. Public Way shall not include any real or personal Village property that is not specifically described in this definition and shall not include Village buildings, fixtures, and other structures and improvements, regardless of whether they are situated in the Public Way.

Deleted:

“Standard Installation” means those installations to Subscribers that are located up to one hundred twenty-five (125) feet from the existing distribution system (Cable System).

“Village” means the Village of Lincolnwood, Illinois or the lawful successor, transferee, designee, or assignee thereof.

“Video Programming” or “Programming” means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

**SECTION 2: Grant of Authority**

2.1. Pursuant to Section 621(a) of the Cable Act, 47 U.S.C. § 541 (a), and 65 ILCS 5/11-42-11(a) of the Illinois Municipal Code, the Illinois Constitution, and Ordinance No. \_\_\_\_\_ approving and authorizing the execution of this Agreement, the Village hereby grants to the Grantee a nonexclusive Franchise authorizing the Grantee to construct and operate a Cable System in the Public Ways within the Franchise Area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in any Public Way such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the Cable System, and to provide such services over the Cable System as may be lawfully allowed.

2.2. Term of Franchise. The term of the Franchise granted hereunder shall be ten (10) years from the Effective Date, unless the Franchise is renewed or is lawfully terminated in accordance with the terms of this Franchise Agreement and/or applicable law. From and after the Effective Date of this Franchise Agreement, the Parties acknowledge that this Franchise Agreement is intended to be the sole and exclusive Franchise Agreement between the Parties pertaining to the Grantee’s Franchise for the provision of Cable Service.

2.3. Renewal. Any renewal of this Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, as amended, and any applicable State law which may exist at the time of renewal and which is not superseded by the Cable Act.

2.4. Police Powers. Nothing in this Franchise Agreement shall be construed as an abrogation by the Village of any of its police powers to adopt and enforce generally applicable ordinances deemed necessary for the health, safety, and welfare of the public, and the Grantee shall comply with all generally applicable laws and ordinances enacted by the Village pursuant to such police power.

2.5. Reservation of Authority. Nothing in this Franchise Agreement shall (A) abrogate the right of the Village to authorize the use of Public Ways for public purposes or to perform any public works or public improvements of any description, (B) be construed as a waiver of any laws, codes or ordinances of general applicability promulgated or enforceable by the Village, or (C) be construed as a waiver or release of the rights of the Village in and to the Public Ways.

2.6. Competitive Equity.

2.6.1. In the event the Village grants an additional Franchise to use and occupy any Public Way for the purposes of operating a Cable System, the additional Franchise shall only be granted in accordance with the Illinois Level Playing Field Statute, 65 ILCS 5/11-42-11.

2.6.2. In the event an application for a new cable television franchise or other similar authorization is filed with the Village proposing to serve the Franchise Area, in whole or in part, the Village shall to the extent permitted by law promptly notify the Grantee, or require the Grantee to be notified, and include a copy of such application.

### **SECTION 3: Construction and Maintenance of the Cable System**

3.1. Except as may be otherwise provided in this Franchise Agreement, Grantee shall comply with all generally applicable provisions of Chapter 6, Article 2 of the Village of Lincolnwood, Illinois, Municipal Code, entitled "Construction Of Utility Facilities in Village Rights-of-Way", as may be amended from time to time.

3.2. Aerial and Underground Construction. The Grantee shall place its Cable Systems' transmission and distribution facilities underground, provided that such underground locations are actually capable of accommodating the Grantee's cable and other equipment without technical degradation of the Cable System's signal quality. Nothing in this Section shall be construed to require the Grantee to construct, operate, or maintain underground any ground-mounted appurtenances such as customer taps, line extenders, system passive devices, amplifiers, power supplies, pedestals, or other related equipment.

#### 3.3. Undergrounding and Beautification Projects.

3.3.1. In the event the Village requires users of the Public Way who operate aerial facilities to relocate such aerial facilities underground for a reason not covered by Section 3.3.2 of this Agreement, Grantee shall participate in the planning for relocation of its aerial facilities, if any, contemporaneously with such users. Grantee shall be reimbursed its relocation costs from public or private funds allocated for the project to the same extent as such funds are made available to other users of the Public Way, if any, provided that any utility's exercise of authority granted under its tariff to charge consumers for the said utility's cost of the project that are not reimbursed by the Village shall not be considered to be public or private funds.

3.3.2. The Grantee shall not be required to relocate its facilities unless it has been afforded at least sixty (60) days' notice of the necessity to relocate its facilities. Whenever the Village determines that it is reasonably necessary to remove, relocate, change, or alter the position of Grantee's facilities within the public way for the construction, repair, maintenance or installation of any Village or other public improvement in or upon the public ways or the operations of the Village or other governmental entity in or upon public ways, and upon adequate notice, the Grantee shall, at its own expense, temporarily or permanently remove, relocate, change, or alter the position of its facilities within public ways of the Village.

### **SECTION 4: Service Obligations**

4.1. Initial Service Obligations. As of the Effective Date of this Agreement, Grantee's Cable System has been designed to provide, and is capable of providing, Cable Service to

residential Customers throughout the Initial Franchise Service Area. The Grantee shall continue to make Cable Service available in the Initial Service Area throughout the term of this Agreement and Grantee shall extend its Cable System and provide service consistent with the provisions of this Franchise Agreement.

4.2. General Service Obligation. The Grantee shall make Cable Service available beyond the Initial Franchise Service Area to every residential dwelling unit within the Franchise Area where the minimum density is at least thirty (30) dwelling units per linear Cable System network mile as measured from the existing Cable System's technically feasible connection point. Subject to the density requirement, Grantee shall offer Cable Service to all new homes or previously unserved homes located within one hundred twenty-five (125) feet of the Grantee's distribution cable (e.g., a Standard Installation).

4.2.1. The Grantee may elect to provide Cable Service to areas not meeting the above density and distance standards. The Grantee may impose an additional charge in excess of its regular installation charge for any service installation requiring a drop or line extension in excess of a Standard Installation. Any such additional charge shall be computed on a time plus materials basis plus a reasonable rate of return.

4.3. Programming. The Grantee agrees to provide cable programming services in the following broad categories:

Children	General Entertainment	Family Oriented
Ethnic/Minority	Sports	Weather
Educational	Arts, Culture and Performing Arts	News & Information

Pursuant and subject to federal law, all Video Programming decisions, excluding PEG Access Programming, are at the sole discretion of the Grantee.

4.4. Technical Standards. The Grantee shall comply with all applicable technical standards of the FCC as published in 47 C.F.R., Part 76, Subpart K, as amended from time to time. The Grantee shall cooperate with the Village in conducting inspections related to these standards upon reasonable prior written request from the Village based on a significant number of Subscriber complaints.

4.5. Annexations and New/Planned Developments. In cases of annexation the Village shall provide the Grantee written notice of such annexation. In cases of new construction, planned developments or property development where undergrounding or extension of the Cable System is required, the Village shall provide or cause the developer or property owner to provide notice of the same. Such notices shall be provided at the time of notice to all utilities or other like occupants of the Village's Public Way. If advance notice of such annexation, new construction, planned development or property development is not provided, the Grantee shall be allowed an adequate time to prepare, plan and provide a detailed report as to the timeframe for it to construct its facilities and provide the services required under this Franchise Agreement.

4.6. Service to School Buildings and Governmental Facilities.

4.6.1. The Village may request that Grantee provide Cable Service and the corresponding equipment to the location(s) specified in Attachment A, and shall specify the requested level of services and number of outlets for each location. The Village shall notify Grantee in writing whether it wishes to be invoiced at standard rates as disclosed by Grantee for these services and equipment or to have the charges deducted from the franchise fee payment due pursuant to this franchise. In the event the FCC Third 621 Order is reversed on appeal on the issue of complimentary services (pending at the 6<sup>th</sup> Circuit at the time of this Agreement) and that reversal becomes final, the Village and the Grantee will revert to the provisions of 220 ILCS 5/22-501(f), whereby the Grantee shall provide complimentary Basic Cable Service, one Digital Transport Adapter (or its current equivalent if equipment is necessary to receive the service) and a free Standard Installation at one outlet to all eligible buildings as defined in the state statute. Eligible buildings shall not include buildings leased to non-governmental third parties or buildings such as storage facilities at which government employees are not regularly stationed.

4.6.2. Long Drops. The Grantee may impose an additional charge in excess of its regular installation charge for any service installation requiring a drop or line extension in excess of a Standard Installation. Any such additional charge shall be computed on a time plus materials basis to be calculated on that portion of the installation that exceeds a Standard Installation.

4.7. Emergency Alerts. At all times during the term of this Franchise Agreement, the Grantee shall provide and maintain an “Emergency Alert System” (“EAS”) consistent with applicable Federal law and regulation – including 47 C.F.R., Part 11 and the “State of Illinois Emergency Alert System State Plan” – as may be amended from time to time. The Village will only activate the EAS upon becoming qualified and authorized to activate the EAS, through the authorized State EAS plan. The Village agrees to indemnify and hold the Grantee harmless from any damages or penalties arising out of the negligence of the Village, its employees or agents in using such system.

4.8. Customer Service Obligations. The Village and Grantee acknowledge that the customer service standards and customer privacy protections are set forth in the Cable and Video Customer Protection Law, 220 ILCS 5/22-501 *et seq.* and enforcement provisions are included in Chapter 13, Article 4 of the Lincolnwood, Illinois, Municipal Code. Enforcement of such requirements and standards and the penalties for non-compliance with such standards shall be consistent with the Cable and Video Customer Protection Law, 220 ILCS 5/22-501 *et seq.*

## **SECTION 5: Oversight and Regulation by Village**

5.1. Franchise Fees. The Grantee shall pay to the Village a Franchise Fee in an amount equal to five percent (5%) of annual Gross Revenues received from the operation of the Cable System to provide Cable Service in the Franchise Area; provided, however, that Grantee shall not be compelled to pay any higher percentage of fees than any other video service provider, under state authorization or otherwise, providing service in the Franchise Area. The payment of Franchise Fees shall be made on a quarterly basis and shall be due forty-five (45) days after the close of each calendar quarter. If mailed, the Franchise Fee shall be considered paid on the date it is postmarked. Each Franchise Fee payment shall be accompanied by a report prepared by a representative of the Grantee showing the basis for the computation of the

franchise fees paid during that period. Any undisputed Franchise Fee payment which remains unpaid in whole or in part, after the date specified herein shall be delinquent. For any delinquent Franchise Fee payments, Grantee shall make such payments including interest at the prime lending rate as quoted by JP Morgan Chase & Company or its successor, computed from time due until paid. Any undisputed overpayments made by the Grantee to the Village shall be credited upon discovery of such overpayment until such time when the full value of such credit has been applied to the Franchise Fee liability otherwise accruing under this Section.

5.1.1. The Parties acknowledge that, at present, the Cable Act limits the Village to collection of a maximum permissible Franchise Fee of five percent (5%) of Gross Revenues. In the event that a change in the Cable Act would allow the Village to increase the Franchise Fee above five percent (5%), and the Village actually proposes to increase the Franchise Fee in exercise of such authority, the Village may amend the Franchise Fee percentage. Following the determination to increase the Franchise Fee and enactment of an ordinance enabling the same, the Village shall notify the Grantee of its intent to collect the increased Franchise Fee, and Grantee shall have a reasonable time (not to be less than ninety (90) days from receipt of notice from the Village) to effectuate any changes necessary to begin the collection of such increased Franchise Fee. In the event that the Village increases said Franchise Fee, the Grantee shall notify its Subscribers of the Village's decision to increase said fee prior to the implementation of the collection of said fee from Subscribers as required by law.

5.1.2. In the event a change in state or federal law requires the Village to reduce the franchise fee percentage that may be collected, the parties agree the Grantee shall reduce the percentage of franchise fees collected to the lower of: i) the maximum permissible franchise fee percentage; or ii) the lowest franchise fee percentage paid by any other Cable Operator granted a Cable Franchise by the Village pursuant to the Cable Act, and Section 11-42-11 of the Illinois Municipal Code; provided that: (a) such amendment is in compliance with the change in state or federal law; (b) the Village approves the amendment by ordinance; and (c) the Village notifies Grantee at least ninety (90) days prior to the effective date of such an amendment.

5.1.3. Taxes Not Included. The Grantee acknowledges and agrees that the term "Franchise Fee" does not include any tax, fee, or assessment of general applicability (including any such tax, fee, or assessment imposed on both utilities and Cable Operators on their services but not including a tax, fee, or assessment which is unduly discriminatory against Cable Operators or Cable Subscribers).

5.2. Franchise Fees Subject to Audit. The Village and Grantee acknowledge that the audit standards are set forth in the Illinois Municipal Code at 65 ILCS 5/11-42-11.05 (Municipal Franchise Fee Review; Requests For Information). Any audit shall be conducted in accordance with generally applicable auditing standards.

5.2.1 In accordance with 65 ILCS 5/11-42-11.05 (k), the Village shall provide on an annual basis, a complete list of addresses within the corporate limits of the Village. If an address is not included in the list or if no list is provided, the Grantee shall be held harmless for any franchise fee underpayments (including penalty and interest) from situsing errors if Grantee used a reasonable methodology to assign the address or addresses to a municipality.

5.3. Access to Books and Records. In accordance with Section 13-1-6-15 of the Village Code, within 10 days after receipt of a written request therefor from the Village Manager, Comcast shall furnish the Village with information sufficient to demonstrate:

(A) That the grantee has complied with all requirements of this Chapter 13.

(B) That all municipal sales, message and/or telecommunications taxes due the Village in connection with the telecommunications services and facilities provided by the grantee have been properly collected and paid by the grantee.

(C) All books, records, maps and other documents maintained by the grantee directly related to the installation or maintenance of its facilities within the Village public ways shall be made available for inspection by the Village at the Village's request.

5.4 Proprietary Information. Notwithstanding anything to the contrary set forth in this Agreement, the Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature, with the exception of the information directly related to an audit of Franchise Fees as set forth in Section 5.2. The Village agrees to treat any information disclosed by the Grantee as confidential and only to disclose it to those employees, representatives, and agents of the Village that have a need to know in order to enforce this Franchise Agreement and who agree to maintain the confidentiality of all such information. For purposes of this Section, the terms "proprietary or confidential" include, but are not limited to, information relating to the Cable System design, customer lists, marketing plans, financial information unrelated to the calculation of Franchise Fees or rates pursuant to FCC rules, or other information that is reasonably determined by the Grantee to be competitively sensitive. Grantee may make proprietary or confidential information available for inspection but not copying or removal by the Franchise Authority's representative. In the event that the Village has in its possession and receives a request under the Illinois Freedom of Information Act (5 ILCS 140/1 *et seq.*), or similar law for the disclosure of information the Grantee has designated as confidential, trade secret or proprietary, the Village shall notify Grantee of such request and, if Grantee determines it will oppose such request, the Village agrees to cooperate to the extent reasonably necessary in opposing such request. Grantee shall indemnify and defend the Village from and against any claims arising from the Village's opposition to disclosure of any information Grantee designates as proprietary or confidential. Compliance by the Village with an opinion or directive from the Illinois Public Access Counselor or the Illinois Attorney General under the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.*, or with a decision or order of a court with jurisdiction over the Village, shall not be a violation of this Section.

#### **SECTION 6: Transfer of Cable System or Franchise or Control of Grantee**

6.1. Neither the Grantee nor any other Person may transfer the Cable System or the Franchise without the prior written consent of the Village, which consent shall not be unreasonably withheld or delayed.

6.2. No transfer of control of the Grantee, defined as an acquisition of fifty-one percent (51%) or greater ownership interest in Grantee, shall take place without the prior written consent of the Village, which consent shall not be unreasonably withheld or delayed.

6.3. No consent shall be required, however, for (i) a transfer in trust, by mortgage, hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or in the Cable System in order to secure indebtedness, or (ii) a transfer to an entity directly or indirectly owned or controlled by Comcast Corporation.

6.4. The Grantee, and any proposed transferee under this Section 6, shall submit a written application to the Village containing or accompanied by such information as is required in accordance with applicable law and FCC regulations, specifically including a completed Form 394 or its successor, and in compliance with the processes established for transfers under FCC rules and regulations, including Section 617 of the Cable Act, 47 U.S.C. §537. Within thirty (30) days after receiving a request for consent, the Village shall, in accordance with FCC rules and regulations, notify the Grantee in writing of the additional information, if any, it requires to determine the legal, financial and technical qualifications of the transferee or new controlling party. If the Village has not taken final action on the Grantee's request for consent within one hundred twenty (120) days after receiving such request, consent shall be deemed granted. As a condition to granting of any consent, the Village may require the transferee to agree in writing to assume the obligations of the Grantee under this Franchise Agreement.

6.5. Any transfer of control resulting from or after the appointment of a receiver or receivers or trustee or trustees, however denominated, designated to take over and conduct the business of the grantee, whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of a one hundred twenty (120) day period, shall be treated as a transfer of control pursuant to 47 U.S.C. §537 and require the Village's consent thereto in the manner described in Section 6 above.

#### **SECTION 7: Insurance and Indemnity**

7.1. Insurance. Throughout the term of this Franchise Agreement, the Grantee shall, at its own cost and expense, maintain such insurance and provide the Village certificates of insurance in accordance with Chapter 6, Article 2 of the Lincolnwood Municipal Code.

7.2. Indemnification. The Grantee shall indemnify, defend and hold harmless the Village, its officers, employees, and agents (the "Indemnitees") from and against any injuries, claims, demands, judgments, damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense (the "Indemnification Events"), arising out of, resulting from or alleged to arise out of or result from the acts, omissions, failures to act, or misconduct of the Grantee and its affiliates constructing, maintaining, repairing, removing, or operating its Cable System within the Village and in providing or offering telecommunications services over the facilities or network, whether such acts or omissions are authorized, allowed, or prohibited by the Village Code or this Agreement. The Grantee's obligation with respect to the Indemnitees shall apply to Indemnification Events which may occur during the term of this Agreement, provided that the claim or action is initiated within the applicable statute of limitations, notwithstanding that the claim may be made or action filed subsequent to the termination or expiration of this Agreement. The Village shall give the Grantee timely written notice of its obligation to indemnify and defend the Village after the Village's receipt of a claim or action pursuant to this Section. For purposes of this Section, the word "timely" shall mean within a

time period that does not cause prejudice to the respective positions of the Grantee and/or the Village. If the Village elects in its own discretion to employ additional counsel, the costs for such additional counsel for the Village shall be the responsibility of the Village.

7.2.1. The Grantee shall not indemnify the Village for any liabilities, damages, costs or expense resulting from any conduct for which the Village, its officers, employees and agents may be liable under the laws of the State of Illinois.

7.2.2. Nothing herein shall be construed to limit the Grantee's duty to indemnify the Village by reference to the limits of insurance coverage described in this Agreement.

### **SECTION 8: Public Educational and Government Access**

8.1. PEG Capacity. Throughout the term of this Franchise Agreement, the Grantee shall provide capacity for the Village's noncommercial PEG access programming through the Grantee's Cable System consistent with the requirements set forth herein. As of the Effective Date of this Agreement, the Village utilizes two PEG channels. Unless otherwise agreed to by the Village and the Grantee to the extent required by applicable law, said PEG channels shall be carried on the most basic service tier offered by the Grantee. The Village's PEG programming shall be provided consistent with Section 611 of the Cable Act, as amended from time to time.

8.2. Allocation and Use of the PEG Channels. The PEG channels are, and shall be, operated by the Village, and the Village may at any time allocate or reallocate the usage of the PEG channels among and between different Users. The Village shall be responsible for establishing and enforcing rules for the non-commercial use of public, educational and Governmental access channels and to promote the use and viewership of the channels

The Grantee does not relinquish its ownership of or ultimate right of control over a channel by designating it for PEG use. The Village shall adopt rules and procedures under which the Grantee may use the PEG channels for the provision of Video Programming if the PEG channels are not being used for their respective purposes pursuant to Section 611(d) of the Cable Act, 47 U.S.C. 531.

The Grantee shall not exercise any editorial control over any use of the PEG channel, except as permitted by 47 U.S.C. 531 (e).

8.3. PEG Signal Quality. Provided the PEG signal feed is delivered by the Village to the designated signal input point without material degradation, the PEG channel delivery system from the designated signal input point shall meet the same FCC technical standards as the remainder of the Cable System set forth in this Agreement.

8.4. Origination Point. The Village currently allows its residents who subscribe to Grantee's Cable Service to receive PEG access programming originating from Village facilities. At such time that the Village determines that it wants to establish additional capacity to allow its residents who subscribe to Grantee's Cable Service to receive PEG access programming originated from Schools and/or Village facilities; or at such time that the Village determines that it wants to change or upgrade a location from which PEG access programming is originated; the

Village will give the Grantee written notice detailing the point of origination and the capability sought by the Village. The Grantee agrees to submit a cost estimate to implement the Village's plan within a reasonable period of time, but in no event longer than sixty (60) days from when Grantee receives all necessary information regarding the work sought. After an agreement to reimburse the Grantee for its expenditure, the Grantee will implement any necessary system changes within a reasonable period of time.

8.5. PEG Access Funding. The Village may designate a PEG access capital project to be funded by the Village as provided for herein. The Village shall send written notice of the Village's desire for Grantee to collect a fee of up to thirty-five cents (\$0.35) per customer per month to be passed on to each Subscriber pursuant to Section 622(g)(2)(C) of the Cable Act (47 U.S.C. §542(g)(2)(C)) to fund the PEG access capital project ("PEG Capital Fee"). The Grantee shall make the PEG Capital Fee payments to the Village at the same time and in the same manner as Franchise Fee payments. The Village's notice shall include a detailed and itemized description of the intended utilization of the PEG Capital Fee for PEG Access Channel facilities and/or equipment (PEG Access capital costs) and the Grantee shall have the opportunity to review and make recommendations upon the Village's plan prior to agreeing to collect and pay to the Village the requested amount. Consistent with the description of the intended utilization of the PEG Capital Fee, the Village shall be permitted to hold all or a portion of the PEG Capital Fee from year to year as a designated fund to permit the Village to make large capital expenditures, if necessary, provided that if the entire amount is not expended during the term of this agreement, any remaining funds shall be credited against PEG Capital requests from the Village in subsequent franchise renewals. Moreover, if the Village chooses to borrow from itself or a financial institution for large PEG capital purchases or capital expenditures, the Village shall be permitted to make periodic repayments using the PEG Capital Fee. Said PEG Capital Fee shall be imposed within one hundred twenty (120) days of the Village's written request. On an annual basis, the Village shall provide the Grantee with a report detailing how the prior year's funding was spent or confirming it is being held in a capital reserve account for future PEG capital needs.

## **SECTION 9: Enforcement of Franchise**

9.1. Notice of Violation or Default. In the event the Village believes that the Grantee has not complied with a material term of the Franchise, it shall notify the Grantee in writing with specific details regarding the exact nature of the alleged noncompliance or default.

9.2. Grantee's Right to Cure or Respond. The Grantee shall have thirty (30) days from the receipt of the Village's written notice: (A) to respond to the Village, contesting the assertion of noncompliance or default; or (B) to cure such default; or (C) in the event that, by nature of the default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the Village of the steps being taken and the projected date that the cure will be completed.

9.3. Enforcement. Subject to applicable federal and state law, and following notice and an opportunity to cure and respond pursuant to the provisions of Section 9.2 above, in the event the Village determines that the Grantee is in default of any material provision of the Franchise, the Village may:

9.3.1. seek specific performance of any provision that reasonably lends itself to such remedy or seek other relief available at law, including declaratory or injunctive relief; or

9.3.2. in the case of a substantial or frequent default of a material provision of the Franchise, declare the Franchise Agreement to be revoked in accordance with the following:

(i) The Village 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. The notice shall set forth with specificity the exact nature of the noncompliance. The Grantee shall have ninety (90) days from the receipt of such notice to object in writing and to state its reasons for such objection. In the event the Village has not received a response from the Grantee or upon receipt of the response does not agree with the Grantee's proposed remedy or in the event that the Grantee has not taken action to cure the default, it may then seek termination of the Franchise at a public hearing. The Village shall cause to be served upon the Grantee, at least ten (10) days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to request termination of the Franchise.

(ii) At the designated hearing, the Village shall give the Grantee an opportunity to state its position on the matter, present evidence and question witnesses, after which the Village shall determine whether or not the Franchise shall be terminated. The public hearing shall be on the record. A copy of the transcript shall be made available to the Grantee at its sole expense. The decision of the Village shall be in writing and shall be delivered to the Grantee in a manner authorized by Section 10.2. The Grantee may appeal such determination to any court with jurisdiction within thirty (30) days after receipt of the Village's decision.

9.4. Remedies Not Exclusive. In addition to the remedies set forth in this Section 9, the Grantee acknowledges the Village's ability pursuant to Section 4.8 of this Franchise Agreement to enforce the requirements and standards, and the penalties for non-compliance with such standards, consistent with the Illinois Cable and Video Customer Protection Law enacted by the Village as Chapter 13, Article 4 of the Lincolnwood Municipal Code; and, pursuant to Section 3.1 of this Franchise Agreement and Chapter 6, Article 2 of the Lincolnwood Municipal Code to enforce the Grantee's compliance with the Village's requirements regarding "Construction Of Utility Facilities in Village Rights-of-Way." Notwithstanding the foregoing, nothing in this Agreement shall be interpreted to permit the Village to exercise such rights and remedies in a manner that permits duplicative recovery from, or payments by, the Grantee. Such remedies may be exercised from time to time and as often and in such order as may be deemed expedient by the Village.

9.5 Failure to Enforce Franchise Agreement. The Grantee shall not be excused from complying with any of the terms and conditions of this Franchise Agreement by any failure of the Village upon any one or more occasions, to insist upon the Grantee's performance or to seek Grantee's compliance with any one or more of such terms or conditions.

## **SECTION 10: Miscellaneous Provisions**

10.1. 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 (including termination, cancellation or revocation of the Franchise), where such noncompliance or alleged defaults occurred or were caused by strike, riot, war, earthquake, flood, tidal wave, unusually severe rain or snow storm, hurricane, tornado or other catastrophic act of nature, labor disputes, failure of utility service necessary to operate the Cable System, governmental, administrative or judicial order or regulation or other event that is reasonably beyond the Grantee's ability to anticipate or control. This provision also covers work delays caused by waiting for utility providers to service or monitor their own utility poles on which the Grantee's cable or equipment is attached, as well as unavailability of materials or qualified labor to perform the work necessary. Non-compliance or default shall be corrected within a reasonable amount of time after force majeure has ceased.

10.2. Notice. Any notification that requires a response or action from a party to this franchise within a specific time-frame, or that would trigger a timeline that would affect one or both parties' rights under this franchise, shall be in writing and shall be sufficiently given and served upon the other party by hand delivery, first class mail, registered or certified, return receipt requested, postage prepaid, or by reputable overnight courier service and addressed as follows:

To the Village:

Village of Lincolnwood  
6900 North Lincoln Avenue  
Lincolnwood, IL 60712  
ATTN: Village Manager

To the Grantee:

Comcast  
1500 McConnor Parkway  
Schaumburg, Illinois, 60173  
ATTN: Director of Government Affairs

Recognizing the widespread usage and acceptance of electronic forms of communication, emails and faxes will be acceptable as formal notification related to the conduct of general business amongst the parties to this contract, including but not limited to programming and price adjustment communications. Such communication should be addressed and directed to the person of record as specified above. Either party may change its address and addressee for notice by notice to the other party under this Section. Notice by hand delivery and notice by overnight courier shall be deemed received when delivered, and notice by mail shall be deemed delivered three days after placing in the United States Mail.

10.3. Entire Agreement. This Franchise Agreement embodies the entire understanding and agreement of the Village and the Grantee with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and communications, whether written or oral. Except for ordinances adopted pursuant to Sections 2.4 and 2.5 of this Agreement, all ordinances or parts of ordinances related to the provision of Cable Service that are in conflict with or otherwise impose obligations different from the provisions of this Franchise Agreement are superseded by this Franchise Agreement.

10.3.1. The Village may adopt a cable television/video service provider regulatory ordinance that complies with applicable law, provided the provisions of any such ordinance adopted subsequent to the Effective Date of this Franchise Agreement shall not apply to the Grantee during the term of this Franchise Agreement.

10.4. Severability. If any section, subsection, sentence, clause, phrase, or other portion of this Franchise Agreement is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect. If any material provision of this Agreement is made or found to be unenforceable by such a binding and final decision, either party may notify the other in writing that the Franchise has been materially altered by the change and of the election to begin negotiations to amend the Franchise in a manner consistent with said proceeding or enactment; provided, however, that any such negotiated modification shall be competitively neutral, shall maintain to the maximum extent possible the original intent of the Agreement, and the parties shall be given sufficient time to implement any changes necessitated by the agreed-upon modification.

10.5. Governing Law. This Franchise Agreement shall be deemed to be executed in the State of Illinois, and shall be governed in all respects, including validity, interpretation and effect, and construed in accordance with, the laws of the State of Illinois and/or Federal law, as applicable.

10.6. Venue. Except as to any matter within the jurisdiction of the federal courts or the FCC, all judicial actions relating to any interpretation, enforcement, dispute resolution or any other aspect of this Agreement shall be brought in the Circuit Court of the State of Illinois, Cook County, Illinois. Any matter brought pursuant to the jurisdiction of the federal court shall be brought in the United States District Court of the Northern District of Illinois.

10.7. Modification. Except as provided in Sections 5.1.1 and 5.1.2, no provision of this Franchise Agreement shall be amended or otherwise modified, in whole or in part, except by an instrument, in writing, duly executed by the Village and the Grantee, which amendment shall be authorized on behalf of the Village through the adoption of an appropriate ordinance or resolution by the Village, as required by applicable law.

10.8. No Third-Party Beneficiaries. Nothing in this Franchise Agreement is intended to confer third-party beneficiary status on any person, individual, corporation or member of the public to enforce the terms of this Franchise Agreement.

10.9. No Waiver of Rights. Nothing in this Franchise Agreement shall be construed as a waiver of any rights, substantive or procedural, Grantee may have under Federal or state law unless such waiver is expressly stated herein.

10.10. Validity of Franchise Agreement. The parties acknowledge and agree in good faith on the validity of the provisions, terms and conditions of this Franchise Agreement, in their entirety, and that the Parties have the power and authority to enter into the provisions, terms, and conditions of this Agreement.

10.11. Authority to Sign Agreement. Grantee warrants to the Village that it is authorized to execute, deliver and perform this Franchise Agreement. The individual signing this Franchise Agreement on behalf of the Grantee warrants to the Village that s/he is authorized to execute this

Franchise Agreement in the name of the Grantee.

IN WITNESS WHEREOF, this Franchise Agreement has been executed by the duly authorized representatives of the Parties as set forth below, as of the date set forth below:

**For the Village of Lincolnwood:**

**For Comcast of Illinois IV, Inc.**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

# Telecommunications Advisory Commission

---

JANUARY 12, 2021

# Agenda

---

Call to Order

Roll Call

Review of Minutes

Proposed Changes to Village Code – Small Wireless Facilities

Comcast Franchise Agreement

# Proposed Changes to Code

---

Village has adopted regulations in line with State Law regarding Small Wireless Facilities (SWF)

SWF is defined by the Village Code as:

- A wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet; and (ii) all other wireless equipment attached directly to a utility pole associated with the facility is cumulatively no more than 25 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

To date, 4 SWF applications have been approved with several SWF inquiries currently in the review stage by the Village

# Proposed Changes to Code

---

In reviewing processes and in consultation with the Village Attorney, the Village may want to consider additional provisions related to the Village Code including:

- Modification to Section 6-2-15 (Construction of Utility Facilities in Village Rights-of-Way) to add the following subsections 6-1-15(A)(7):
  - *Diagram / Map. Each user of public right-of-way must provide a detailed diagram or map showing all places within the Village where the applicant has existing facilities within right-of-way and where the applicant plans or intends to install any other facility in right-of-way at any time within three years following issue of a permit for use of right-of-way.*

# Proposed Changes to Code

---

- Modification to Section 6-2-21 (Small Wireless Facilities) amended to add the following Subsections 6-2-21(D)(13) and 6-2-21(D14)
  - *Environmental Assessment.* A copy of an environmental assessment review or report pursuant to the National Environmental Policy Act (NEPA) or any related rule or guidance, that establishes compliance of the proposed SWF to applicable federal standards or that the SWF is by rule exempt from an environmental impact statements under NEPA.
  - *Diagram / Map.* A diagram or map as required under Subsection 6-2-15(A)(7)

# Direction Requested

---

It is requested that TAC review the proposed changes to the Code and provide guidance on these changes to be considered by the Village Board

If TAC is in support of the modifications proposed, it is requested that a motion be made for the Village Board consider modifications for the Village Code in line with the proposed changes

# Comcast Franchise Agreement

---

The Village is currently in the tenth year of its franchise agreement with Comcast for the provision of telecommunications services for Lincolnwood

Following the approval of the previous franchise agreement with Comcast a template for such agreements was drafted by the Metropolitan Mayors Caucus (MMC) that was reviewed in conjunction with the proposed agreement from Comcast

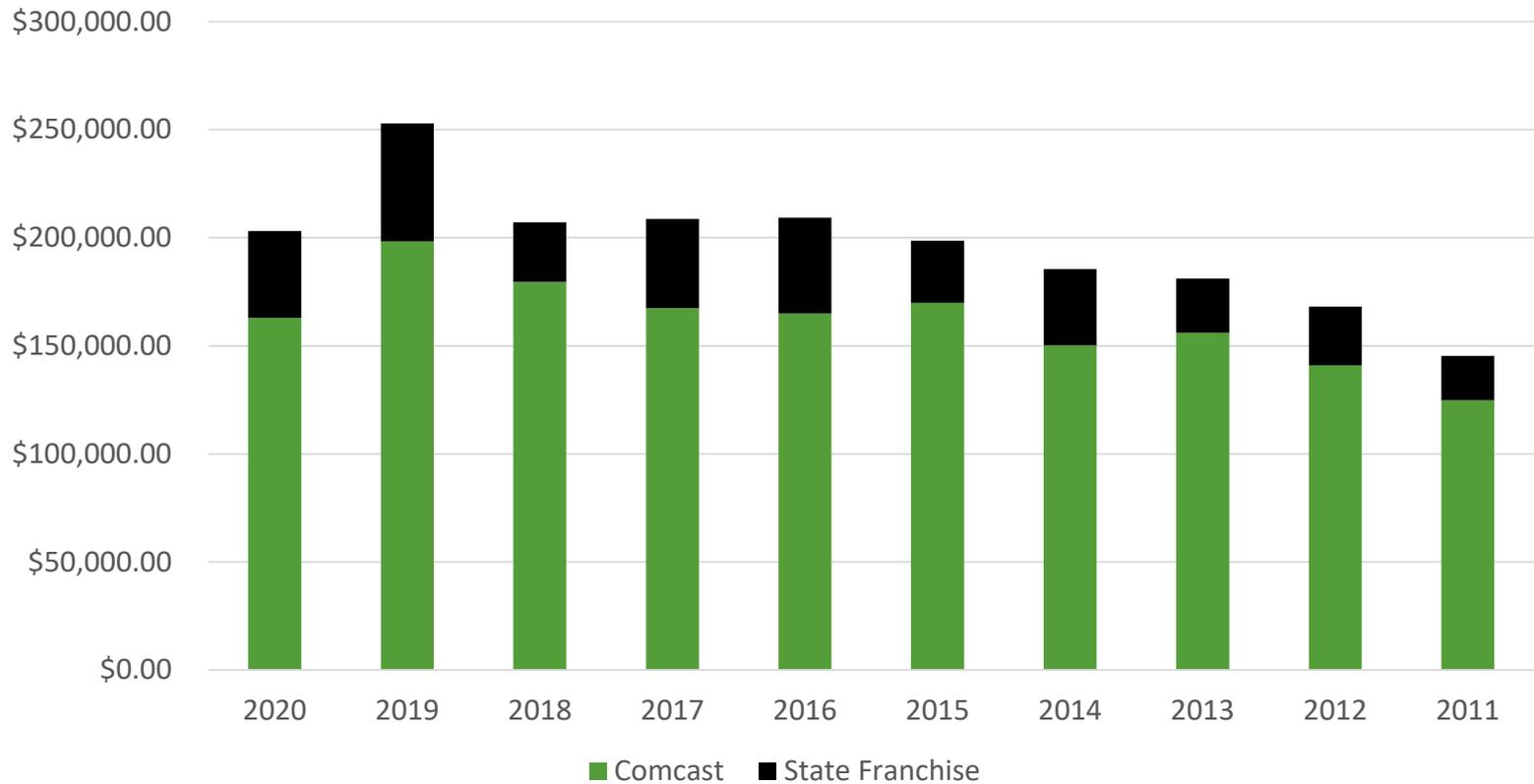
The Village Attorney and staff compared the agreement proposed by Comcast to the current agreement and the Village Code

# Franchise Revenue History

---

<b>Year</b>	<b>Comcast</b>	<b>State Franchise</b>	<b>Total</b>
<b>2020</b>	\$162,875.59	\$40,278.51	\$203,154.10
<b>2019</b>	\$198,328.63	\$54,652.27	\$252,980.90
<b>2018</b>	\$179,591.17	\$27,573.42	\$207,164.59
<b>2017</b>	\$167,451.52	\$41,207.80	\$208,659.32
<b>2016</b>	\$165,001.17	\$44,303.45	\$209,304.62
<b>2015</b>	\$169,831.82	\$28,715.22	\$198,547.04
<b>2014</b>	\$150,283.76	\$35,253.13	\$185,536.89
<b>2013</b>	\$156,064.30	\$25,056.34	\$181,120.64
<b>2012</b>	\$141,059.29	\$27,017.59	\$168,076.88
<b>2011</b>	\$124,785.20	\$20,547.84	\$145,333.04
<b>Total</b>	\$1,615,272.45	\$344,605.57	\$1,959,878.02

# Franchise Revenue History



# Items of Note

---

Definition of “Public Way” as presented in the Agreement is different from the definition in the Village Code

Section 2.5 in regards to “Reservation of Authority” as presented in the Agreement is different from the Village Code in regards to the rights of the Village to utilize the Public Ways

# Items of Note

---

Sections 3.2 and 3.3 in regards to language proposed by Comcast, which is aligned with the MMC, that would allow for Comcast to be compensated for the moving of their equipment as part of projects along with the option for Comcast to use above ground facilities if they already exist. Staff and the Village Attorney have reviewed this provision and support maintaining the language in the Code that would require for undergrounding of new utilities and for the Village not compensating for potential projects in the right of way that would require the moving of Comcast equipment. Staff will be seeking direction on this item

Section 7.2 in Indemnification includes language not in the Code that states, “If the Village elects in its own discretion to employ additional counsel, the costs for such additional counsel for the Village shall be the responsibility of the Village.” Operationally, the Village does adhere to this provision and will hire its own Counsel in its defense as determined by the Mayor and Village Board

# Requested Direction

---

It is requested that the Telecommunications Advisory Commission discussion the provisions of the Comcast Agreement

This feedback will be incorporated into finalizing negotiations with Comcast and to bring an Agreement back to the Telecommunications Advisory Commission for approval and to then forward it to the Village Board for consideration