



Recommendation

Board of Supervisors

RE: Adoption of updated Comcast Cable Franchise Agreement

Date Presented: December 16, 2020
Prepared By: Amy Heinrich

Recommendations:

- **Motion to approve the Franchise Agreement with Comcast of Pennsylvania, LLC and authorize Eden Ratliff to sign the agreement**

Background Information

A cable television franchise fee is a fee charged by a local municipality to a private cable television company as compensation for using the public right-of-way for cable lines. Franchise fees are governed under Section 622 of the Cable Communications Act of 1984. Section 622 states that municipalities are entitled to a maximum of 5% of gross revenues derived from the operation of the cable system. The detailed terms are documented in a franchise agreement between the municipality and the cable company.

Our current agreement with Comcast is expired. This new agreement will be in effect for 10 years. The new agreement is not materially different than the prior agreement. Kennett Township will continue to receive 5% of gross revenues derived from the operation of the cable system. The minor changes primarily clarify language and outdated references and update terminology due to industry changes. There are also updates that reflect changes in the law and FCC orders as well as provisions to ensure the agreement can be changed if the law changes in the future.

Dave Sander and John Walko from Kilkenny Law were directly involved in negotiating this agreement.

FRANCHISE AGREEMENT

This Franchise Agreement (hereinafter, the "Agreement" or "Franchise Agreement") is made between the Township of Kennett (hereinafter, "Township" or "Franchising Authority") and Comcast of Pennsylvania, LLC (hereinafter, "Grantee"). The Township having determined that the financial, legal, and technical ability of the Grantee is 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.

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 Communications Policy Act of 1984, as amended from time to time, 47 U.S.C. §§ 521 - 631 ("Cable Act"), unless otherwise defined herein. When not inconsistent with the context, words used in the present tense include the future, words used to refer to the masculine include the feminine, and words in the plural number include the singular number. The word "shall" is mandatory and "may" is permissive. Words not defined in the Cable Act or herein shall be given their common and ordinary meaning.

1.1. "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, as defined under Section 602 (6) of the Cable Act.

1.2. "Cable System" means a facility, 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, as further defined under Section 602 (7) of the Cable Act.

1.3. "Customer" or "Subscriber" means a Person or user of the Cable System who lawfully receives Cable Service therefrom with the Grantee's express permission.

1.4. "Effective Date" means the date on which all authorized persons necessary to sign this Agreement in order for it to be binding on both parties have executed this Agreement as indicated on the signature page(s), unless a specific

date is otherwise provided in the "Term" section herein.

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

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

1.7. "Franchise Agreement" or "Agreement" shall mean this Agreement and any mutually agreed to amendments or modifications hereto.

1.8. "Franchise Area" means the present legal boundaries of the Township of Kennett, County of Chester, Pennsylvania, as of the Effective Date, and shall also include any additions thereto, by annexation or other legal means.

1.9. "Franchising Authority" means the Township of Kennett or the lawful successor, transferee, designee, or assignee thereof.

1.10. "Grantee" shall mean Comcast of Pennsylvania, LLC.

1.11. "Gross Revenue" means all revenue received directly or indirectly by the Grantee or its Affiliated Entities arising from, attributable to, or in any way derived from the operation of the Cable System in the Franchise Area to provide Cable Services as calculated in accordance with generally accepted accounting principles ("GAAP"). Gross Revenues shall include, but are not limited to, the following:

- a) Basic service fees
- b) Fees charged to Subscribers for any service tier other than basic service
- c) Fees charged for premium services
- d) Fees for all digital video tiers
- e) Fees for video-on-demand
- f) Fees charged to Subscribers for any optional, per-channel or per-program services
- g) Revenue from the provision of any other cable services
- h) Charges for installation, additional outlets, relocation, disconnection, reconnection and change-in-service fees for video or audio programming
- i) Fees for changing any level of cable service programming
- j) Fees for service calls
- k) Inside wire maintenance fees
- l) Service plan protection fees
- m) Convenience fees
- n) Early termination fees
- o) Fees for leased access channels
- p) Charges based on the sale or lease of any portion of the cable

- system for cable service
- q) Rental or sales of any and all equipment, including converters and remote-control devices
- r) Advertising revenues attributed to the local Cable System and Cable Services
- s) Revenues or commissions from locally derived home shopping channels
- t) Broadcast retransmission fees
- u) Regional sports programming fees
- v) Late payment fees
- w) Billing and collection fees
- x) NSF check charges
- y) Franchise fees

Gross Revenue shall not include refundable deposits, investment income, programming launch support payments, nor any taxes, or other fees or assessments imposed or assessed by any governmental authority. Gross Annual Revenues shall not include actual bad debt that is written off, consistent with generally accepted accounting principles, provided however, that all or any part of any such actual bad debt that is written off, but subsequently collected, shall be included in the Gross Annual Revenues in the period so collected. In the event of any dispute over the classification of revenue, the Franchise Authority and the Grantee agree that reference should be made to generally accepted accounting principles ("GAAP") as promulgated and defined by the Financial Accounting Standards Board ("FASB").

1.12. "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 Franchising Authority.

1.13. "Public Buildings" shall mean those buildings owned or leased by the Franchising Authority for municipal government administrative purposes and shall not include buildings owned by the Franchising Authority but leased to third parties, or buildings such as storage facilities at which government employees are not regularly stationed.

1.14. "Public Way" shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, way, lane, public way, drive, circle or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or easements dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the Franchising Authority in the Franchise Area, which shall entitle the Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System. Public Way shall also mean any easement now or hereafter held by the Franchising Authority within the Franchise Area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements

or rights-of-way as shall within their proper use and meaning entitle the Grantee to the use thereof for the purposes of installing, operating, and maintaining the Grantee's Cable System over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the Cable System.

1.15. "Standard Installation" shall mean the standard one hundred twenty-five (125) foot aerial drop connection to the existing distribution system.

1.16. "Video Programming" or "Programming" shall mean the programming provided by, or generally considered comparable to programming provided by, a television broadcast station, as defined under Section 602 (20) of the Cable Act.

SECTION 2 - Grant of Authority

2.1. The Franchising Authority hereby grants to the Grantee a non-exclusive 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 this Agreement shall be for a period of ten (10) years commencing on the date when fully executed by both parties ("Effective Date") and expiring on _____, unless the Franchise is terminated prior to the expiration date in accordance with the terms and conditions of this Agreement.

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.

SECTION 3 - Construction and Maintenance of the Cable System

3.1. Permits and General Obligations. Construction, installation, and maintenance of the Cable System shall be performed in a safe, thorough and reliable manner using materials of good and durable quality. The Grantee shall not be required to obtain a permit for individual drop connections to Subscribers, servicing or installing pedestals or other similar facilities, or other instances of routine maintenance or repair to its Cable System. All transmission and distribution structures, poles, other lines, and equipment installed by the Grantee for use in the

Cable System in accordance with the terms and conditions of this Franchise Agreement shall be located so as to minimize the interference with the proper use of the Public Ways and the rights and reasonable convenience of property owners who own property that adjoins any such Public Way.

3.2. Conditions of Street Occupancy.

3.2.1. New Grades or Lines. If the grades or lines of any Public Way within the Franchise Area are lawfully changed at any time during the term of this Franchise Agreement, then the Grantee shall, upon reasonable advance written notice from the Franchising Authority (which shall not be less than thirty (30) business days and at its own cost and expense, protect or promptly alter or relocate the Cable System, or any part thereof, so as to conform with any such new grades or lines. If public funds are available to any other user of the Public Way for the purpose of defraying the cost of any of the foregoing, the Franchising Authority shall notify the Grantee of such funding and make available such funds to the Grantee. In the event that funds are not made available as described herein, the Grantee reserves the right to pass its costs through to its Subscribers in accordance with applicable law.

3.2.2. Relocation at Request of Third Party. The Grantee shall, upon reasonable prior written request of any Person holding a permit issued by the Franchising Authority to move any structure, temporarily move its wires to permit the moving of such structure; provided (i.) the Grantee may impose a reasonable charge on any Person for the movement of its wires, and such charge may be required to be paid in advance of the movement of its wires; and (ii.) the Grantee is given not less than thirty (30) business days advance written notice to arrange for such temporary relocation.

3.2.3. Restoration of Public Ways. If in connection with the construction, operation, maintenance, or repair of the Cable System, the Grantee disturbs, alters, or damages any Public Way, the Grantee agrees that it shall at its own cost and expense replace and restore any such Public Way to a condition reasonably comparable to the condition of the Public Way existing immediately prior to the disturbance.

3.2.4. Safety Requirements. The Grantee shall undertake all necessary and appropriate efforts to maintain its work sites in a safe manner in order to prevent failures and accidents that may cause damage, injuries or nuisances. All work undertaken on the Cable System shall be performed in substantial accordance with applicable FCC or other federal and state regulations. The Cable System shall not unreasonably endanger or interfere with the safety of Persons or property in the Franchise Area.

3.2.5. Trimming of Trees and Shrubbery. The Grantee shall have the authority to trim trees or other natural vegetative growth encroaching or overhanging any of its Cable System in the Franchise Area so as to prevent contact with the Grantee's wires, cables, or other equipment. All such trimming

shall be done at the Grantee's sole cost and expense. The Grantee shall be responsible for any collateral, real property damage caused by such trimming.

3.2.6. 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 System 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 Agreement 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.

3.2.7. Undergrounding and Beautification Projects. In the event all users of the Public Way relocate aerial facilities underground as part of an undergrounding or neighborhood beautification project, the Grantee shall participate in the planning for relocation of its aerial facilities contemporaneously with other utilities. The Grantee's reasonable relocation costs, as agreed upon by the Franchising Authority, shall be included in any computation of necessary project funding by the municipality or private parties. The Grantee shall be entitled to reimbursement of such agreed upon relocation costs from public or private funds raised for the project and made available to other users of the Public Way. In the event that public and/or private funds are not made available as described herein, the Grantee reserves the right to pass its costs through to its Subscribers in accordance with applicable law.

SECTION 4 - Service Obligations

4.1. General Service Obligation. The Grantee shall make Cable Service available to every residential dwelling unit within the Franchise Area where the minimum density is at least thirty (30) dwelling units per aerial mile or sixty (60) homes per underground mile and is within one (1) mile of the existing Cable System as measured in strand footage from the nearest active signal trunk or feeder line from which a usable cable signal is technically available. For purposes of this section, a home shall only be counted as a "dwelling unit" if such home is within two hundred seventy-five (275) feet of the public right of way. The Grantee shall complete said extensions within six (6) months of a written request from the Franchising Authority and verification that an area has met the minimum density standard set forth herein. Subject to the density requirement, the Grantee shall offer Cable Service to all new dwellings or previously unserved dwellings located within one hundred twenty-five (125) feet of the Grantee's nearest segment of Cable System from which a usable signal is technically available ("Standard Installation"). 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 an underground installation, or a drop in or line extension in excess of the above standards. Any such additional charge shall include materials, labor, the total cost of any easement(s) necessary to accomplish the proposed line extension and a reasonable rate of return and shall be computed on a time plus materials basis to be calculated on that portion of the installation that exceeds the standards set forth above. One half of the costs of construction shall be paid to the Grantee prior to engineering and the balance shall be paid prior to commencement of construction.

4.2. Programming. The Grantee shall offer to all Customers a diversity of video programming services in accordance with federal law.

4.3. No Discrimination. Neither the Grantee nor any of its employees, agents, representatives, contractors, subcontractors, or consultants, nor any other Person, shall discriminate or permit discrimination between or among any Persons in the availability of Cable Services provided in connection with the Cable System in the Franchise Area; provided, however, the Grantee reserves the right to deny service for good cause, including but not limited to non-payment or theft of service, vandalism of equipment, or documented or founded harassment or abuse of the Grantee's employees or agents. It shall be the right of all Persons to receive all available services provided on the Cable System so long as such Person's financial or other obligations to the Grantee are satisfied. Nothing contained herein shall prohibit the Grantee from offering bulk discounts, promotional discounts, package discounts, or other such pricing strategies as part of its business practice.

4.4. New Developments. The Franchising Authority shall use its best efforts to provide the Grantee with written notice of the issuance of building or development permits for planned developments within the Franchise Area requiring undergrounding of cable facilities. The Franchising Authority agrees to require the developer, as a condition of issuing the permit, to give the Grantee access to open trenches for deployment of cable facilities and at least ten (10) business days written notice of the date of availability of open trenches.

4.5. Prohibition Against Reselling Service. No Person shall resell, without the express prior written consent of the Grantee, any Cable Service, program or signal transmitted over the Cable System by the Grantee.

SECTION 5 - Fees and Charges to Customers

5.1. All rates, fees, charges, deposits and associated terms and conditions to be imposed by the Grantee for any Cable Service as of the Effective Date shall be in accordance with applicable FCC rate regulations. Before any new or modified rate, fee, or charge is imposed, the Grantee shall follow the applicable FCC notice requirements and rules and notify affected Customers, which notice may be by any means permitted under applicable law.

SECTION 6 - Customer Service Standards: Customer Bills: and Privacy Protection

6.1. Customer Service Standards. The Franchising Authority hereby adopts the customer service standards set forth in Part 76, §76.309 of the FCC's rules and regulations, as amended.

6.2. Customer Bills. Customer bills shall be designed in such a way as to present the information contained therein clearly and comprehensibly to Customers, and in a way that (A) is not misleading and (B) does not omit material information. Notwithstanding anything to the contrary in Section 6.1, above, the Grantee may, in its sole discretion, consolidate costs on Customer bills as may otherwise be permitted by Section 622 (c) of the Cable Act [47 U.S.C. §542 (c)].

6.3. Privacy Protection. The Grantee shall comply with all applicable federal and state privacy laws, including Section 631 of the Cable Act and regulations adopted pursuant thereto [47 U.S.C. §551].

SECTION 7 - Oversight and Regulation by The Franchising Authority

7.1. Franchise Fees.

7.1.1. The Grantee shall pay to the Franchising Authority 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 the Grantee shall not be compelled to pay any higher percentage of franchise fees than any other cable operator 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 first, second, and third calendar quarter (i.e., May 15, August 15, and November 15) and sixty (60) days after the close of the calendar year (last day of February). The Grantee shall provide a report prepared by a representative of the Grantee showing the basis for the computation of the franchise fees paid during that period.

7.2. Franchise Fees Subject to Audit.

7.2.1 Upon reasonable prior written notice, during Normal Business Hours at the Grantee's principal business office, the Franchising Authority shall have the right to inspect the Grantee's financial records directly related to the calculation of the Franchising Authority's franchise fees; provided, however, that any such inspection shall take place within two (2) years from the date the Franchising Authority receives such payment, after which period any such payment shall be considered final.

7.2.2. Upon the completion of any such audit by the Franchising Authority, the Franchising Authority shall provide to the Grantee a final report setting forth the Franchising Authority's findings in detail, including any and all substantiating documentation. In the event of an alleged underpayment, the Grantee shall have thirty (30) days from the receipt of the report to provide the Franchising Authority with a written

response agreeing to or refuting the results of the audit, including any substantiating documentation. Based on these reports and responses, the parties shall agree upon a "Final Settlement Amount". For purposes of this Section, the term "Final Settlement Amount(s)" shall mean the agreed upon underpayment, if any, to the Franchising Authority by the Grantee as a result of any such audit. If the parties cannot agree on a "Final Settlement Amount," the parties shall submit the dispute to a mutually agreed upon mediator within sixty (60) days of reaching an impasse. In the event an agreement is not reached at mediation, either party may bring an action to have the disputed amount determined by a court of law.

7.2.3. Any "Final Settled Amount(s)" due to the Franchising Authority as a result of such audit shall be paid to the Franchising Authority by the Grantee within thirty (30) days from the date the parties agree upon the "Final Settlement Amount." Once the parties agree upon a Finally Settled Amount and such amount is paid by the Grantee, the Franchising Authority shall have no further rights to audit or challenge the payment for that period. The Franchising Authority shall bear the expense of its audit of the Grantee's books and records.

7.3. Oversight of Franchise. In accordance with applicable law, the Franchising Authority shall have the right to, upon reasonable prior written notice and in the presence of the Grantee's employee, periodically inspect the construction and maintenance of the Cable System in the Franchise Area as necessary to monitor the Grantee's compliance with the provisions of this Franchise Agreement.

7.4. Technical Standards. The Grantee shall comply with all applicable technical standards of the FCC. To the extent those standards are altered, modified, or amended during the term of this Franchise Agreement, the Grantee shall comply with such altered, modified or amended standards within a reasonable period after such standards become effective.

7.5. Maintenance of Books, Records, and Files.

7.5.1. Books and Records. Throughout the term of this Franchise Agreement, the Grantee agrees that the Franchising Authority may review the Grantee's books and records regarding customer service performance levels in the Franchise Area to monitor the Grantee's compliance with the provisions of this Franchise Agreement, upon reasonable prior written notice to the Grantee, at the Grantee's business office, during Normal Business Hours, and without unreasonably interfering with the Grantee's business operations. All such documents that may be the subject of an inspection by the Franchising Authority shall be retained by the Grantee for a minimum period of twenty-four (24) months.

7.5.2. File for Public Inspection. Throughout the term of this Franchise Agreement, the Grantee shall maintain, in a file available for public inspection during normal business hours, those documents required pursuant to the FCC's rules and regulations.

7.5.4. Proprietary Information. The Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in

nature. The Franchising Authority agrees to treat any information disclosed by the Grantee as confidential and only to disclose it to those employees, representatives, and agents of the Franchising Authority that have a need to know in order to enforce this Franchise Agreement and who agree, through the execution of a non-disclosure agreement, to maintain the confidentiality of all such information. The Grantee shall not be required to provide Customer information in violation of Section 631 of the Cable Act or any other applicable federal or state privacy law. 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. The Grantee may make proprietary or confidential information available for inspection, but not copying or removal of information by the Franchise Authority's representative. In the event that the Franchising Authority has in its possession and receives a request under a state "sunshine," public records, or similar law for the disclosure of information the Grantee has designated as confidential, trade secret or proprietary, the Franchising Authority shall notify the Grantee of such request and cooperate with the Grantee in opposing such request.

SECTION 8 - Transfer of Cable System or Franchise of the Grantee

8.1. No transfer of control of the Grantee, defined as an acquisition of 51% or greater direct ownership interest in the Grantee, shall take place without prior written notice to the Franchising Authority. No prior notice 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, (ii.) a transfer to an entity directly or indirectly owned or controlled by Comcast Corporation, or (iii) the sale, conveyance, transfer, exchange or release of fifty percent (50%) or less of its equitable ownership. Within thirty (30) days of receiving a notice of transfer, the Franchising Authority may, in accordance with FCC rules and regulations, notify the Grantee in writing of the additional information, if any, it requires regarding the legal, financial, and technical qualifications of the transferee or new controlling party.

SECTION 9 - Insurance and Indemnity

9.1. Insurance. Throughout the term of this Franchise Agreement, the Grantee shall, at its own cost and expense, maintain Commercial General Liability Insurance and provide the Franchising Authority certificates of insurance designating the Franchising Authority and its officers, boards, commissions, councils, elected officials and employees as additional insureds and demonstrating that the Grantee has obtained the insurance required in this Section. Such policy or policies shall be in the minimum amount of one million dollars (\$1,000,000.00) per occurrence for bodily injury or property damage. The Grantee shall provide workers' compensation coverage in accordance with applicable law.

9.2. Indemnification. The Grantee shall indemnify, defend and hold harmless the Franchising Authority, its officers, employees, and agents acting in their official capacities from and against any liability or 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 or alteration of the Public Ways, including, but not limited to, reasonable attorneys' fees and costs, provided that the Franchising Authority shall give the Grantee written notice of its obligation to indemnify and defend the Franchising Authority within ten (10) business days of receipt of a claim or action pursuant to this Section. The Franchising Authority agrees that it will take all necessary action to avoid a default judgment and not prejudice the Grantee's ability to defend the claim or action. If the Franchising Authority determines that it is necessary for it to employ separate counsel, the costs for such separate counsel shall be the responsibility of the Franchising Authority.

SECTION 10 - System Description and Service

10.1. System Capacity. During the term of this Agreement, the Grantee's Cable System shall be capable of providing video programming with reception available to its customers in the Franchise Area in accordance with the Cable Act.

10.2. Services to the Community.

10.2.1. The Grantee shall provide a cable service drop and Basic Service with any necessary cable box to one outlet at each Public Building listed in Exhibit A. In accordance with applicable law, the Grantee will charge the fair market value for each such account, which fair market value shall match the then-current rate card for the level of service provided. The Grantee shall notify the Franchising Authority in writing regarding the amount of the monthly service fee for each account based on fair market value. The Franchising Authority shall then notify the Grantee, within thirty (30) days of receiving the notice from the Grantee, whether it wishes the amount due each month to be invoiced for payment or deducted from the next franchise fee payment. The Franchising Authority may upgrade the level of cable service received at then current rate card prices for the higher level of service. The Franchising Authority may also elect in writing not to receive the service, in which case the service will be disconnected, it will not be invoiced, and no deduction will be taken from the franchise fee.

10.2.2. In the event the FCC's 2019 Third Report and Order In the Matter of Implementation of Section 621 of the Cable Act is reversed on appeal as to the issue of complimentary cable services as in-kind contributions in a cable franchise and such result becomes final, the Grantee shall discontinue the charge for Basic Service for the Public Building locations listed in Exhibit A and provide such service on a complimentary basis within thirty (30) days of the result becoming final. Any additional levels of cable service, outlets, or service locations ordered by the Franchising Authority shall continue to be subject to standard rates.

10.2.3. During the term of the Franchise, the Franchising Authority may change a Public Building location listed in Exhibit A upon 90 (90) day written notice

to the Grantee, provided that the new location is a standard installation within one hundred twenty-five (125) feet of the Grantee's nearest segment of Cable System from which a usable signal is technically available.

SECTION 11 - Enforcement and Revocation Proceedings

11.1. Notice of Violation or Default and Opportunity to Cure. In the event the Franchising Authority believes that the Grantee has not complied with the material terms of the Franchise, it shall notify the Grantee in writing with specific details regarding the exact nature of the alleged non-compliance or default.

11.1.1. Grantee's Right to Cure or Respond. The Grantee shall have forty-five (45) days from the receipt of the Franchising Authority's written notice: (A.) to respond to the Franchising Authority, contesting the assertion of non-compliance 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 forty-five (45) day period, initiate reasonable steps to remedy such default and notify the Franchising Authority of the steps being taken and the projected date that the cure will be completed.

11.1.2. Public Hearings. In the event the Grantee fails to respond to the Franchising Authority's notice or in the event that the alleged default is not remedied within forty-five (45) days or the date projected by the Grantee, the Franchising Authority shall schedule a public hearing to investigate the default. Such public hearing shall be held at the next regularly scheduled meeting of the Franchising Authority that is scheduled at a time that is no less than ten (10) business days therefrom. The Franchising Authority shall notify the Grantee in writing of the time and place of such meeting and provide the Grantee with a reasonable opportunity to be heard.

11.1.3. Enforcement. Subject to applicable federal and state law, in the event the Franchising Authority, after such public hearing, determines that the Grantee is in default of any material provision of the Franchise, the Franchising Authority may:

(i) seek specific performance of any provision that reasonably lends itself to such remedy as an alternative to damages, or seek other equitable relief; or

(ii) in the case of a substantial default of a material provision of the Franchise, initiate revocation proceedings in accordance with the following:

a) The Franchising Authority shall give written notice to the Grantee of its intent to revoke the Franchise on the basis of a pattern of non-compliance by the Grantee, including two or more instances of substantial non-compliance with a material provision of the Franchise. The notice shall set forth with specificity the exact nature of the non-compliance. 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 Franchising Authority has not received a response from

the Grantee or upon receipt of the response does not agree that the allegations of non-compliance have been or will be resolved, it may then seek revocation of the Franchise at a public hearing. The Franchising Authority shall cause to be served upon the Grantee, at least thirty (30) days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to request revocation of the Franchise.

b) At the designated hearing, the Franchising Authority shall give the Grantee an opportunity to state its position on the matter, present evidence and question witnesses, in accordance with the standards of a fair hearing applicable to administrative hearings in the Commonwealth of Pennsylvania, after which it shall determine whether or not the Franchise shall be terminated. The public hearing shall be on the record and a written transcript shall be made available to the Grantee within ten (10) business days. The decision of the Franchising Authority shall be in writing and shall be delivered to the Grantee by certified mail. The Grantee may appeal such determination to an appropriate court, which shall have the power to review the decision of the Franchising Authority "de novo" and to modify or reverse such decision as justice may require.

11.2. Technical Violation. The Franchising Authority agrees that it is not its intention to subject the Grantee to penalties, fines, forfeitures or revocation of the Franchise for so-called "technical" breach(es) or violation(s) of the Franchise, which shall include, but not be limited, to the following:

11.2.1. in instances or for matters where a violation or a breach of the Franchise by the Grantee was good faith error that resulted in no or minimal negative impact on the Customers within the Franchise Area; or where there existed circumstances reasonably beyond the control of the Grantee and which precipitated a violation by the Grantee of the Franchise, or which were deemed to have prevented the Grantee from complying with a term or condition of the Franchise.

11.3. No Removal of System. The Grantee shall not be required to remove its Cable System or to sell the Cable System, or any portion thereof as a result of revocation, denial of renewal, or any other lawful action to forbid or disallow the Grantee from providing Cable Service, if the Cable System is actively being used to facilitate any other services not governed by the Cable Act, or any portion thereof [47 U.S.C. §621 (b)].

SECTION 12 - Competitive Equity

12.1. Purposes. Comcast acknowledges and agrees that the Township reserves the right to grant one or more additional franchises to construct, operate, and maintain a Cable System within the Township.

12.1.1.1. The Franchise granted to Comcast is non-exclusive; however, if the Township grants a subsequent franchise or other authorization to provide similar wired video services, that, when taken as a whole upon consideration of all its material obligations, is more favorable or less

burdensome to the subsequent provider than this Agreement is to Comcast, then Comcast may request an amendment to this agreement to provide Comcast with competitive equity. If, when taken as a whole upon consideration of all its material obligations, the subsequent Franchise is more favorable or less burdensome, then the Township and Comcast shall enter into good faith negotiations in order to modify this Agreement to the mutual satisfaction of both parties to provide Comcast with such competitive equity.

12.1.1.2. In the event an application for a new Franchise for Cable Service is submitted to the Township proposing to serve Subscribers within the Township, then the Township shall notify Comcast in writing of the submission of the application.

SECTION 13 - Miscellaneous Provisions

13.1. Force Majeure. The Grantee shall not be held in default under, or in non-compliance 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 non-compliance or alleged defaults occurred or were caused by lightning strike, earthquake, flood, tidal wave, unusually severe rain, ice or snow storm, hurricane, tornado, or other catastrophic act of nature; riot, war, labor disputes, terrorism or threats of terrorism, environmental restrictions, failure of utility service or the failure of equipment or facilities not belonging to the Grantee, denial of access to facilities of rights-of-way essential to service the Franchise area 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.

13.2. Notice. All notices 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 or electronically as allowed by applicable law and addressed as follows:

To the Franchising Authority:

Township of Kennett Municipal Building
801 Burrows Run Road
Chadds Ford, PA 19317
Attention: Township Manager

To the Grantee:

Comcast of Pennsylvania, LLC.
110 Springbrook Boulevard
Aston, PA 19014

Attn: Government Affairs Department

With a copy to:

Comcast Cable - Northeast Division
676 Island Pond Road
Manchester, NH 03109
Attention: Government Affairs Department

Comcast Cable
One Comcast Center
1701 John F. Kennedy Boulevard
Philadelphia, PA 19103
Attention: Government Affairs Department

13.3. Entire Agreement. This Franchise Agreement and any exhibits or addendums hereto constitute the entire agreement between the Franchising Authority and the Grantee and supersedes all prior or contemporaneous agreements, ordinances, representations, or understandings -- whether written or oral -- of the parties regarding the subject matter hereof. Any agreements, future ordinances, representations, or understandings or parts of such measures that are in conflict with or otherwise impose obligations different from the provisions of this Franchise Agreement are superseded by this Franchise Agreement.

13.4. 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.

13.5. Governing Law. This Franchise Agreement shall be deemed to be executed in the Commonwealth of Pennsylvania, and shall be governed in all respects, including validity, interpretation and effect, and construed in accordance with, the laws of the Commonwealth of Pennsylvania, as applicable to contracts entered into and performed entirely within the State, and the generally applicable local ordinances of the Franchising Authority currently enacted.

13.6. Modification. 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 Franchising Authority and the Grantee, which amendment shall be authorized on behalf of the Franchising Authority through the adoption of an appropriate resolution or order by the Franchising Authority, as required by applicable law.

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

13.8 Captions. Captions to sections throughout this Franchise Agreement are solely to facilitate the reading and reference to the sections and provisions of this Franchise Agreement. Such captions shall not affect the meaning or interpretation of this Franchise Agreement.

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

13.10. Incorporation by Reference

a) All presently and hereafter applicable conditions and requirements of federal, State and generally applicable local laws, including but not limited to the applicable rules and regulations of the FCC and the Commonwealth of Pennsylvania, as they may be amended from time to time, including the Grantee's rights with regard to its external franchise costs, are incorporated herein by reference to the extent not enumerated herein. However, no such generally applicable local laws, rules, regulations and codes, as amended, may alter the obligations, interpretation and performance of this Renewal Franchise to the extent that any provision of this Renewal Franchise conflicts with or is inconsistent with such laws, rules or regulations.

13.11. Calculation of Time. Where the performance or doing of any act, duty, matter, payment, or operation is required hereunder and the period of time or duration for the performance or during thereof is prescribed and fixed herein, the time shall be computed so as to exclude the first day and include the last day of the prescribed or fixed period or duration of time. When the last day of the period falls on Saturday, Sunday, or a legal holiday, that day shall be omitted from the computation.

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

Attest: Kennett Township

_____ By: _____

Print Name: _____

Title: _____

Date: _____

Attest: Comcast of _____, LLC:

_____ By: _____

Print Name: _____

Title: _____

Date: _____

Exhibit A

Kennett Township Building
801 Burrows Run Road
Chadds Ford, PA 19317-9219

Greenwood Elementary School
430 Greenwood Road
Kennett Square, PA 19348-2529