



Legislation Details (With Text)

File #: 20-1234 **Version:** 1

Type: Ordinance **Status:** Passed

File created: 10/12/2020 **In control:** City Council

On agenda: 10/20/2020 **Final action:** 10/20/2020

Title: Pass the ordinance authorizing the execution of a cable television franchise agreement between the City of Naperville and Comcast of Illinois/West Virginia, LLC.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Ordinance Comcast 2020 Agreement

Date	Ver.	Action By	Action	Result
10/20/2020	1	City Council	passed	Pass

CITY COUNCIL AGENDA ITEM

ACTION REQUESTED:

Pass the ordinance authorizing the execution of a cable television franchise agreement between the City of Naperville and Comcast of Illinois/West Virginia, LLC.

DEPARTMENT: Legal Department

SUBMITTED BY: Michael DiSanto, City Attorney

BOARD/COMMISSION REVIEW:

N/A

BACKGROUND:

Cable television companies operate pursuant to both state and federal law. In Illinois cable companies have the option of either entering into franchise agreements with jurisdictions they seek to serve or obtaining state-issued authorizations pursuant to the Illinois Cable and Video Competition Law of 2007 [220 ILCS 5/21-100 *et seq.*]

The City has had a cable television franchise agreement with Comcast of Illinois/West Virginia, LLC (“Comcast”) and its predecessor since May of 1999. The original franchise agreement was extended for a period of five years in 2015 by agreement of Comcast and the City pursuant to Resolution No. 15-034. The proposed franchise agreement (Franchise Agreement or Agreement) between the City and Comcast now pending for consideration is based in part on the model franchise agreement created several years ago by the Metropolitan Mayors Caucus and Comcast. Negotiations for the proposed Franchise Agreement have been conducted pursuant to the alternative renewal procedures provided for in 47 U.S.C. §546(h) of the federal telecommunications law.

DISCUSSION:

Under the terms of the Franchise Agreement, Comcast will have the nonexclusive right to install, construct, repair, replace, and maintain necessary equipment and to provide services for its cable system in the City's public way, as defined in the Agreement. In return, Comcast will comply with the provisions of the Franchise Agreement, including but not limited to, continuing the availability of its cable services to City residents and extending said services as provided in the Agreement. Further, Comcast will continue to make payment to the City of 5% of the annual gross revenues it collects for its services in the City (the Franchise Fee), plus 1% of annual gross revenues for public, education, and government programming (PEG) support. Under the terms of the Agreement, the PEG fee will also be passed through to Comcast subscribers and noted on subscriber billing in addition to the Franchise Fee.

The customer service standards, privacy protections and enforcement provisions in the cable and video customer protection law set forth in state statute [220 ILCS 5/22-501] have been incorporated in Section 9-1D-4 of Article D of the City Code and will be applicable to Comcast. The term of the Franchise Agreement is five years with an automatic renewal for an additional five years unless either party gives notice of termination not less than 60 days prior to expiration of the initial five-year term.

FISCAL IMPACT:

The City receives a 5% franchise fee and a 1% PEG Fee.