

VILLAGE OF LOMBARD  
REQUEST FOR BOARD OF TRUSTEES ACTION  
For Inclusion on Board Agenda

  X   Resolution or Ordinance (Blue) \_\_\_\_\_ *Waiver of First Requested*  
\_\_\_\_\_ Recommendations of Boards, Commissions & Committees (Green)  
\_\_\_\_\_ Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: David A. Hulseberg, Village Manager

DATE: March 4, 2013 (B of T) Date: March 7, 2013

TITLE: Cable Television Franchise Agreement

SUBMITTED BY: Village Manager's Office

BACKGROUND/POLICY IMPLICATIONS:

Attached for your consideration is a resolution extending the term of a Nonexclusive Cable Television Franchise Agreement with MediaOne, Inc. from March 5, 2013 until April 4, 2013 in order to enter into a Renewal Franchise Agreement.

Please place this item on the March 7, 2013 Board of Trustees agenda.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X _____	Date _____
Finance Director X _____	Date _____
Village Manager X _____	Date _____

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda Distribution.



## MEMORANDUM

**TO:** David A. Hulseberg, AICP, ICMA-CM, Village Manager

**FROM:** Kate Burke, Communications Specialist 

**DATE:** March 4, 2013

**SUBJECT: CABLE TELEVISION FRANCHISE AGREEMENT**

### **BACKGROUND**

The current Nonexclusive Cable Television Franchise Agreement with the Grantee, MediaOne, Inc., and its successor-in-interest, Comcast of Illinois, VI, LLC dated March 5, 1998 provides cable television to Village residents and paying a 5% franchise fee to the Village (the "Franchise Agreement"). The Franchise Agreement established by Resolution 87-98 is subject to terminate on March 5, 2013.

### **ACTION REQUESTED**

The resolution before the Village Board on March 7, 2013 is requesting approval of a thirty (30) day extension past the March 5, 2013 expiration date to April 4, 2013, in order to provide adequate additional time to complete negotiations on the terms and provision of the Franchise Renewal Agreement in the best interests of the residents property owners, business owners and the general public of the Village of Lombard.

### **RECOMMENDATION**

That the Village Board approve the Resolution Extending the Term of a Nonexclusive Cable Television Franchise Agreement with MediaOne, Inc. from March 5, 2013 until April 4, 2013

Please let me know if you have any questions on the aforementioned materials.

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION EXTENDING THE TERM OF A NONEXCLUSIVE CABLE TELEVISION FRANCHISE AGREEMENT WITH MEDIAONE, INC.**

**WHEREAS**, the Village of Lombard (hereinafter the "Village") is a municipal corporation organized pursuant to Illinois law; and

**WHEREAS**, the Village President and Board of Trustees approved Resolution 87-98 ("Resolution Authorizing Approval Of President And Clerk On Agreement") dated March 5, 1998, which created the existing non-exclusive cable television franchise agreement between the Village and MediaOne, Inc. (the "Grantee") for purposes of the Grantee providing cable television to Village residents and paying a 5% franchise fee to the Village (the "Franchise Agreement"). The Franchise Agreement established by Resolution 87-98 terminated on March 5, 2013; and

**WHEREAS**, Comcast of Illinois VI, LLC is the successor-in-interest to Grantee ("Comcast") and has requested that the Village enter into a "Renewal Franchise Agreement;" and

**WHEREAS**, the Village and Comcast agree to extend the March 5, 2013 expiration date for the current Franchise Agreement thirty (30) days by resolution of the Village, to April 4, 2013, in order to provide adequate additional time to negotiate the terms and provisions of the Renewal Franchise Agreement; and

**WHEREAS**, the President and Board of Trustees, having discussed the negotiation of a Renewal Franchise Agreement with Comcast and find that the amendment of Village Resolution 87-98 as set forth below is in the best interests of the Village, its residents, property owners, business owners and the general public.

**NOW, THEREFORE, BE IT RESOLVED** by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois, as follows:

**SECTION 1:** Each whereas paragraph set forth above is incorporated by reference into this Section 1.

**SECTION 2:** Section 1(A) of the Franchise Agreement attached to Resolution 87-98 is amended to read in its entirety as follows, with deletions struck through and additions underlined:

“The Village hereby grants to the Grantee a non-exclusive Franchise to construct, operate and maintain a Cable Television System within the public ways of the Village in accordance with the terms and conditions of this Agreement and the Ordinance. The Franchise shall become effective on the date of acceptance by the Grantee in compliance with this Agreement and with the Cable Ordinance, for a period of fifteen (15) years and thirty (30) days expiring on April 4, 2013~~March 5, 2013.~~”

**SECTION 3:** All resolutions, or parts of resolutions, in conflict with the provisions of this Resolution, to the extent of such conflict, are repealed.

**SECTION 4:** In the event that any section, clause, provision or part of this Resolution shall be found and determined to be invalid by a court of competent jurisdiction, all valid parts that are severable from the invalid parts shall remain in full force and effect.

**SECTION 5:** Except as to the amendments set forth above in this Resolution, all provisions and sections of Resolution 87-98 and the Franchise Agreement, as amended, shall remain in full force and effect.

**SECTION 6:** This Resolution shall be in full force and effect after its adoption and approval as provided by law.

**ADOPTED** this 7<sup>th</sup> day of March, 2013, pursuant to a roll call vote as follows:

**AYES:** \_\_\_\_\_

**NAYS:** \_\_\_\_\_

**ABSENT:** \_\_\_\_\_

**APPROVED** by me this 7<sup>th</sup> day of March, 2013.

\_\_\_\_\_  
Bill Ware, Acting Village President

**ATTEST:**

\_\_\_\_\_  
Brigitte O'Brien, Village Clerk

**Downer, Janet**

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**From:** Burke, Kate  
**Sent:** Monday, March 04, 2013 12:31 PM  
**To:** Downer, Janet  
**Cc:** Kott, Joelyn  
**Subject:** Resolution for the extension of the Comcast Franchise Agreement  
**Attachments:** Lombard - Res re Extension of Comcast Franchise Agreement(3\_13).DOCX

Janet,

Here is the copy of the resolution from Gregory Smith of Klein, Thorpe and Jenkins, Ltd., to be submitted as a Board item for the agenda on the March 7, 2013 Board of Trustees meeting.

Thank you!

Kate Burke  
Communications Specialist  
Village of Lombard  
(630) 620-3083