

**BLOOMSBURG SPECIAL TOWN COUNCIL MEETING  
COUNCIL CHAMBERS OR TELECONFERENCE (ZOOM)**

**Thursday, November 21, 2024, 10:00 A.M.**

PUBLIC CAN JOIN:

DIAL: +1 646 558 8656 US & INCLUDE THE MEETING ID: 456-920-3798 & PRESS #.

JOIN ONLINE AT: <https://us02web.zoom.us/j/4569203798>.

**Call to order.**

**Pledge of Allegiance.**

**Citizens to be heard.**

**1. DEPARTMENT REPORTS.**

- A. Public Works- October.
- B. Ambulance- October.

**2. ADMINISTRATIVE FINANCE COMMITTEE- Justin Hummel.**

- A. Approval to advertise an ordinance authorizing the execution of a cable franchise agreement between the Town and Comcast Cable Communications Management, LLC.
- B. Approval of entering into a cable franchise agreement between the Town of Bloomsburg and Comcast Cable Communications Management, LLC.

**3. PUBLIC WORKS & ENVIRONMENTAL COMMITTEE – James Garman.**

- A. Approval of accepting the resignation of Matthew Mumaw in the Public Works Department with the last day of work at the Town being November 27, 2024.
- B. Approval to advertise for a Public Works Driver/ Laborer.
  - i. Note: does the Council wish to entertain a motion on how many positions they will be hiring, if any?

**4. COMMUNITY & ECONOMIC DEVELOPMENT/PUBLIC SAFETY COMMITTEE- Justin Hummel.**

- A. Approval of entering into a software license agreement with True North Software, LLC in the amount of \$35,000 for a new records management system for the Bloomsburg Police Department.
- B. Approval of entering into a software support and maintenance agreement with True North Software, LLC in the amount of \$5,000 for three years for a new records management system for the Bloomsburg Police Department.
- C. Approval of new civil service regulations. Note: the final version from the Civil Service Commission will be sent out after they meet on 11/20/2024 at 2 p.m.

- D. Approval of advertising a new civil service.
  - i. Note: does Council wish to entertain a motion on how many police officers in 2025 they will be hiring, if any?
- E. Approval to advertise a full-time part-time parking enforcement officer.
- F. Approval to sell up to four Hoppes Lot (Zone J permits) for January- June 2024. Note: no one applied for the part-time parking permit as of 11/20/2024.

**Next meeting: December 16, 2024**

**TOWN OF BLOOMSBURG  
PUBLIC WORKS DEPARTMENT  
MONTHLY REPORT  
OCTOBER 2024**

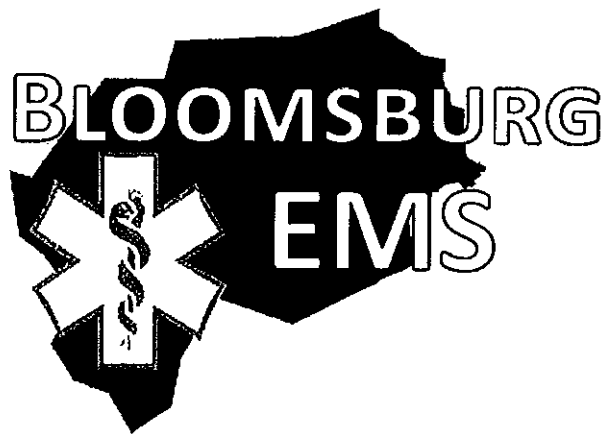
	SEPTEMBER			YEAR TO DATE		
	TOTAL	TOTAL	TOTAL	TOTAL	TOTAL	TOTAL
	REGULAR	OT	CEMENT	REGULAR	OT	CEMENT
BEREAVEMENT TIME	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
HOLIDAY TIME	\$ -	\$ -	\$ -	\$ 2,362.64	\$ -	\$ -
PERSONAL TIME	\$ 213.40	\$ -	\$ -	\$ 2,614.67	\$ -	\$ -
SICK TIME	\$ 1,342.55	\$ -	\$ -	\$ 25,818.67	\$ -	\$ -
VACATION TIME	\$ 4,197.01	\$ -	\$ -	\$ 18,645.36	\$ -	\$ -
WEEKEND CALL		\$ -	\$ -	\$ -	\$ -	\$ -
COMP TIME		\$ -	\$ -	\$ 194.17	\$ -	\$ -
AIRPORT	\$ 218.45	\$ -	\$ -	\$ 5,491.32	\$ -	\$ -
DAYCARE		\$ -	\$ -	\$ 412.62	\$ -	\$ -
PARK (MOWING, ETC)	\$ 4,485.88	\$ -	\$ -	\$ 52,962.74	\$ -	\$ -
POLICE STATION		\$ -	\$ -	\$ 1,164.96	\$ -	\$ -
POOL	\$ 4,792.77	\$ -	\$ -	\$ 24,592.34	\$ -	\$ -
RECYCLING		\$ -	\$ -	\$ 1,791.67	\$ -	\$ -
TOWN HALL	\$ 106.70	\$ -	\$ -	\$ 737.45	\$ -	\$ -
TOWN SHED	\$ 1,617.60	\$ -	\$ -	\$ 18,134.51	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -	\$ -
BANNERS	\$ 407.58	\$ -	\$ -	\$ 1,465.68	\$ -	\$ -
BARRICADES		\$ -	\$ -	\$ -	\$ -	\$ -
CHRISTMAS DECORATIONS		\$ -	\$ -	\$ 1,127.57	\$ -	\$ -
CINDERTIP-MOVE FILL		\$ -	\$ -	\$ -	\$ -	\$ -
CLEAN RUNS- FLOOD PROJECT		\$ -	\$ -	\$ 2,061.21	\$ -	\$ -
COMPOST	\$ 364.08		\$ -	\$ 16,694.71	\$ -	\$ -
CUT SHOULDER ON RIVER ROAD		\$ -	\$ -	\$ -	\$ -	\$ -
FAIR/ FAIR SIGNS	\$ 744.75	\$ -	\$ -	\$ 744.75	\$ -	\$ -
FIRES		\$ -	\$ -	\$ -	\$ -	\$ -
FLOODS		\$ -	\$ -	\$ 563.79	\$ -	\$ -
FLOWERS - MAIN STREET	\$ 291.26	\$ -	\$ -	\$ 3,950.78	\$ -	\$ -
FOUNTAIN		\$ -	\$ -	\$ 1,067.49	\$ -	\$ -
GARBAGE/ GARBAGE CANS	\$ 1,221.23	\$ -	\$ -	\$ 10,367.69	\$ -	\$ -
LEAF PICKUP	\$ 6,310.64	\$ -	\$ -	\$ 6,698.99	\$ -	\$ -
LINE PAINTING		\$ -	\$ -	\$ 8,877.47	\$ -	\$ -
MOW (OTHER THAN PARK)	\$ 388.35	\$ -	\$ -	\$ 17,926.71	\$ -	\$ -
ONE CALLS	\$ 80.03	\$ -	\$ -	\$ 640.21	\$ -	\$ -
PARADES		\$ -	\$ -	\$ 145.63	\$ -	\$ -
PARKING LOTS (HOPPES)	\$ 528.94	\$ -	\$ -	\$ 10,090.59	\$ -	\$ -
PARKING METERS	\$ 97.09	\$ -	\$ -	\$ 1,688.94	\$ -	\$ -

PARTY (RAID)		\$ -	\$ -	\$ -	\$ -	\$ -
PATCH/ POTHOLES/ SEAL	\$ 4,251.66	\$ -	\$ -	\$ 21,540.45	\$ -	\$ -
PAVING		\$ -	\$ -	\$ 4,453.58	\$ -	\$ -
PLANT TREES	\$ 426.81	\$ -	\$ -	\$ 426.81	\$ -	\$ -
RENAISSANCE		\$ -	\$ -	\$ 426.81	\$ -	\$ -
SEWER/ SEWER LATERAL		\$ -	\$ -	\$ -	\$ -	\$ -
SIDEWALKS		\$ -	\$ -	\$ 546.27	\$ -	\$ -
SIGNS		\$ -	\$ -	\$ 2,930.17	\$ -	\$ -
STORM CLEAN UP		\$ -	\$ -	\$ 14,675.16	\$ 1,853.39	\$ -
STORM SEWER/ STORM WATER		\$ -	\$ -	\$ 7,222.30	\$ 77.39	\$ -
STREET LIGHT	\$ 407.58	\$ -	\$ -	\$ 6,793.01	\$ -	\$ -
SUPERVISON	\$ 6,792.39	\$ -	\$ -	\$ 65,491.46	\$ -	\$ -
SWEEPING	\$ 3,300.95	\$ -	\$ -	\$ 20,493.98	\$ -	\$ -
TRAFFIC LIGHTS/ LINES		\$ -	\$ -	\$ 1,177.50	\$ -	\$ -
TREE/ BRUSH/ LIMBS- CUT, CLEAN, TRIM & PICKUP	\$ 2,783.68	\$ -	\$ -	\$ 25,301.36	\$ -	\$ -
VEHICLES	\$ 4,503.44	\$ -	\$ -	\$ 35,881.03	\$ -	\$ -
WEED SPRAYING		\$ -	\$ -	\$ 2,718.43	\$ -	\$ -
WINTER MAINTENANCE		\$ -	\$ -	\$ -	\$ -	\$ -
<b>TOTAL AMOUNT</b>	<b>\$ 49,874.82</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 449,113.66</b>	<b>\$ 1,930.78</b>	<b>\$ -</b>

# Emergency Medical Services Monthly Report

For the Month of

**October  
2024**



A community partnership of Bloomsburg Volunteer Ambulance Association, Inc.  
and Greater Columbia Medical Transport Service, LLP

The purpose of this report is to provide statistics on the EMS Activities of the  
Bloomsburg Volunteer Ambulance Association and  
Greater Columbia Medical Transport Service, LLP  
for the municipal government of the Town of Bloomsburg

*This report only reflects what was documented by our EMS providers  
and verified by patient care reports submitted to the state.*

Prepared By

Lee V. Rosato, NR-P, CC-P

Executive Director of GCMTS, LLP

lrosato.gcmts@gmail.com

## Monthly Analytics

The overall number of EMS calls dispatched by the East Central Emergency Network 911 Center for this reporting period.

	<u><i>n</i></u>	<u><i>Bloomsburg</i></u>	
Bloomsburg Vol Amb Association (BLS)	336	125	37.2%
Greater Columbia Med Transport (ALS)	<u>241</u>	<u>78</u>	<u>32.4%</u>
	577	203	35.2%

The number one monthly complaint reported to the East Central Emergency Network 911 Center by the public who requesting our agencies to respond emergent throughout Columbia and the surrounding counties to provide emergency medical care during this reporting month.

	<u><i>n</i></u>
Bloomsburg Vol Amb Association (BLS)	57
Greater Columbia Med Transport (ALS)	29

### BVAA - Top 10 Complaints

Fall Victim	57
Sick Person / Fever	23
Breathing Problems	22
Fire - Alarm	19
Traffic Accident	17
Altered Mental Status	14
Syncope / Fainting	13
Lift Assist	13
Medical Alarm	13
Chest Pain	11

### GCMTS - Top 10 Complaints

Fall Victim	29
Breathing Problems	23
Sick Person / Fever	18
Traffic Accident	12
Unresponsive	11
Syncope / Fainting	11
Chest Pain	10
Abdominal Pain	10
Lift Assist	10
Fire - Alarm	9

The number of EMS calls dispatched within our primary response area and mutual aid responses dispatched by the East Central Emergency Network 911 Center for this reporting period.

	<u><i>Primary</i></u>	<u><i>Mutual Aid</i></u>	
Bloomsburg Vol Amb Association (BLS)	288	48	17%
Greater Columbia Med Transport (ALS)	<u>198</u>	<u>43</u>	<u>22%</u>
	486	91	

The overall hours spent handling EMS calls dispatched by the East Central Emergency Network 911 Center for this reporting period.

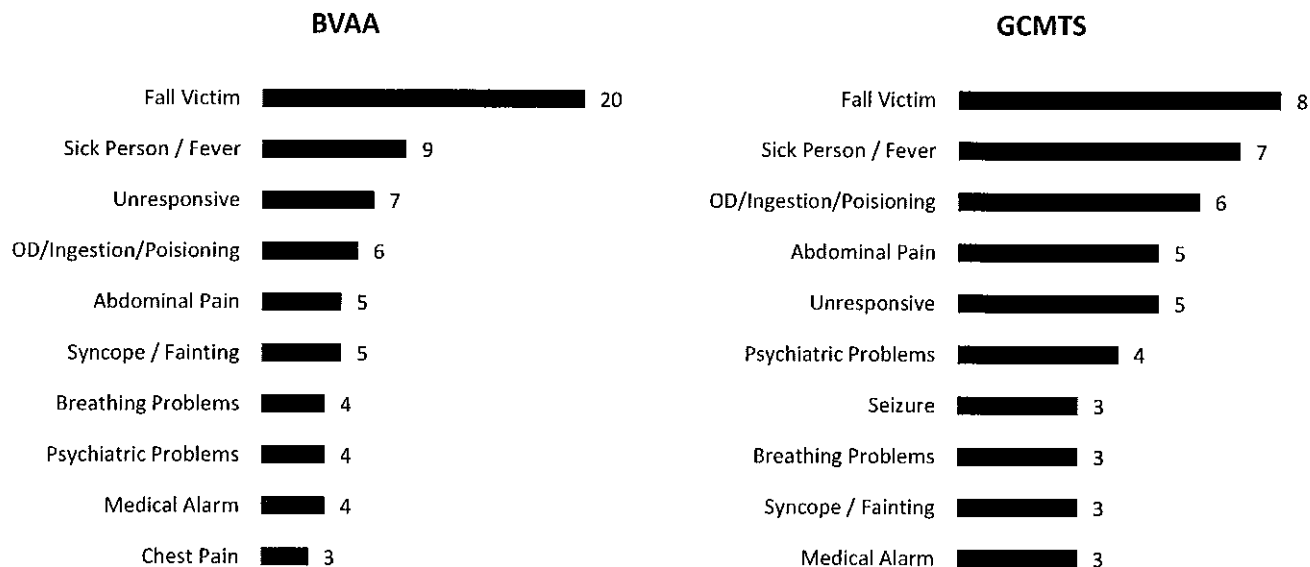
	<u><i>n</i></u>	<u><i>Bloomsburg</i></u>	<u><i>Other MCD</i></u>
Bloomsburg Vol Amb Association (BLS)	284.6	82.8	201.8
Greater Columbia Med Transport (ALS)	<u>232.1</u>	<u>60.4</u>	<u>171.7</u>
	516.6	143.1	373.5

## Analytics for the Town of Bloomsburg

The number one monthly medical emergency complaint reported in the Town of Bloomsburg.

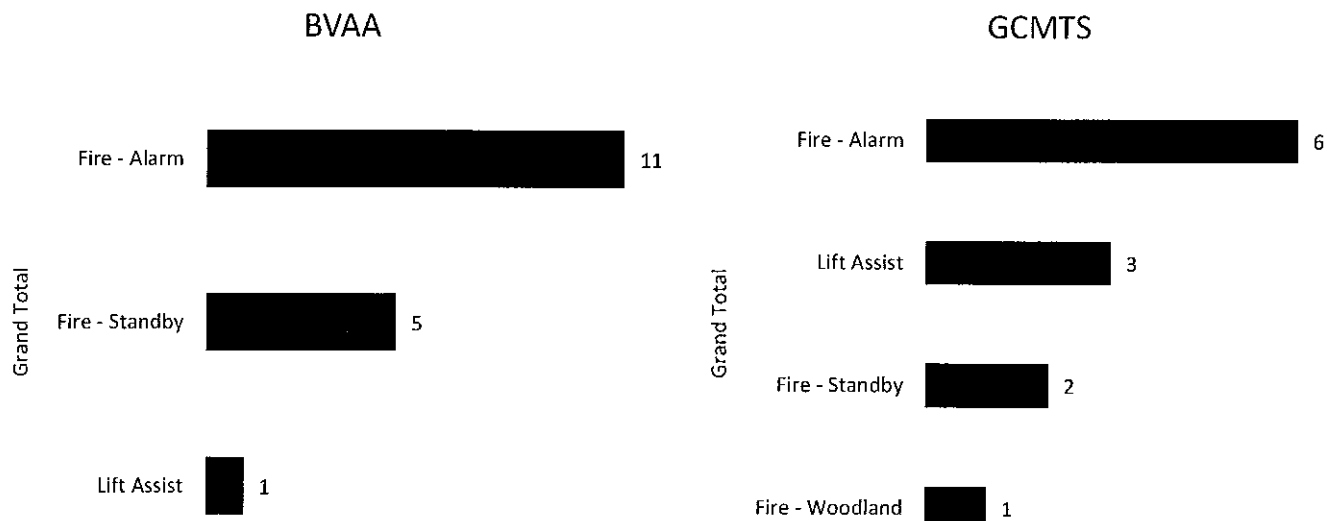
<b>Bloomsburg Vol Amb Association (BLS)</b>	<i>Fall Victim</i>	<u><b>n</b></u> 20
<b>Greater Columbia Med Transport (ALS)</b>	<i>Fall Victim</i>	8

### Top 10 Complaints in the Town of Bloomsburg



The number of community service calls dispatched in the Town of Bloomsburg.

<b>Bloomsburg Vol Amb Association (BLS)</b>	<u><b>Bloomsburg</b></u> 17
<b>Greater Columbia Med Transport (ALS)</b>	<u>12</u> 29

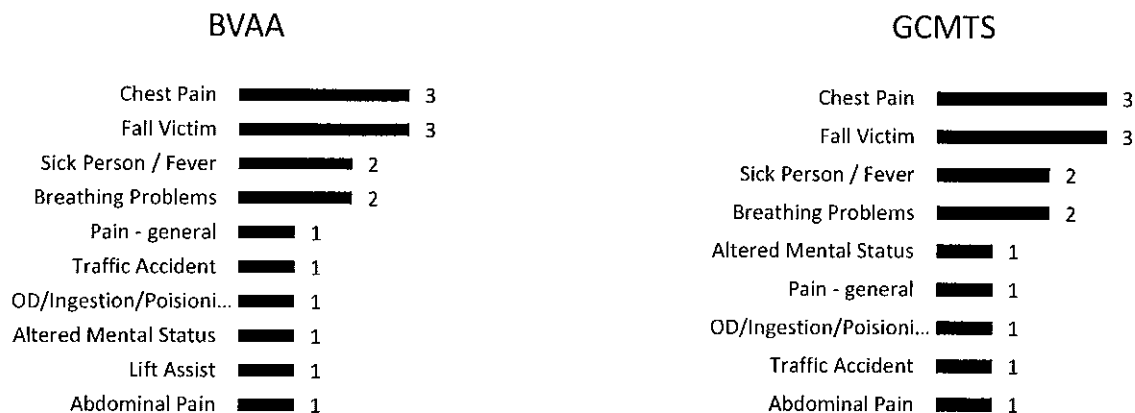




The number of EMS calls missed in the Town of Bloomsburg due to commitment on prior incidents dispatched by the East Central Emergency Network 911 Center for this reporting period.

**Bloomsburg Vol Amb Association (BLS)**  
**Greater Columbia Med Transport (ALS)**

n  
 9  
9  
 18



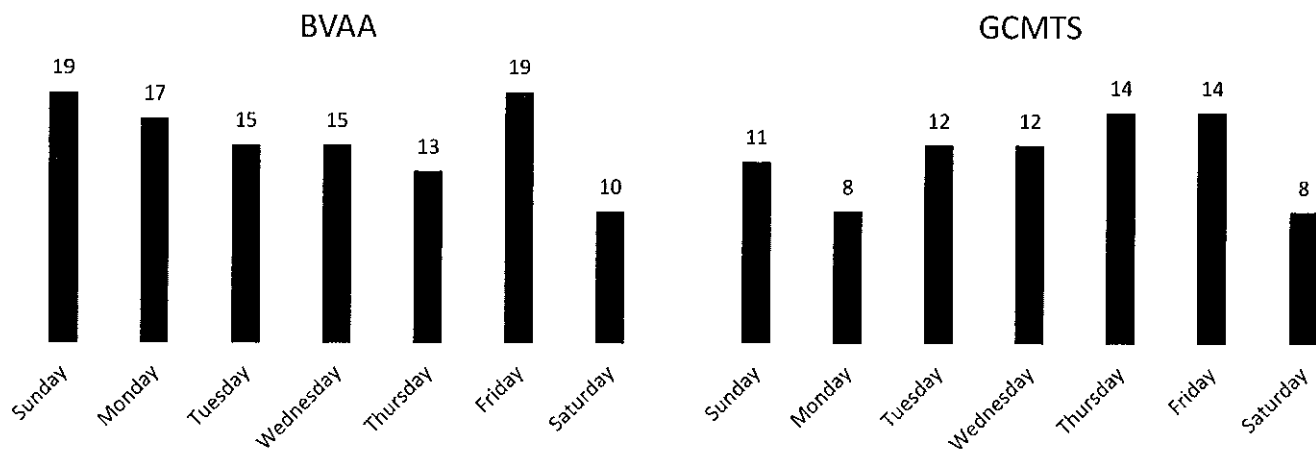
The number of patients transported from the Town of Bloomsburg requiring further care and management.

**Bloomsburg Vol Amb Association (BLS)**  
**Greater Columbia Med Transport (ALS)**

n  
 68  
19  
 87



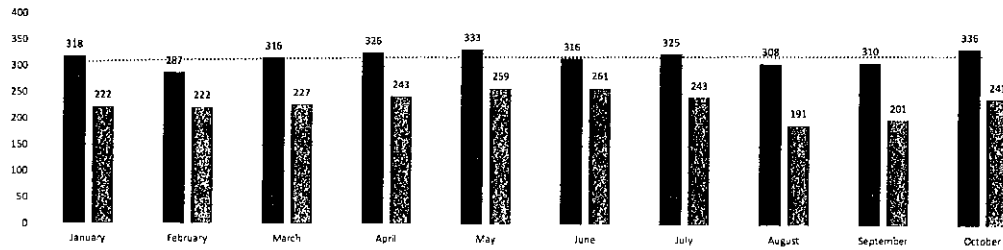
The busiest weekdays for EMS calls in the Town of Bloomsburg.





	JAN		FEB		MAR		APR		MAY		JUN		JUL		AUG		SEP		OCT		NOV		DEC		TOTALS	
Overall	BVAA	GCMTS	BVAA	GCMTS	BVAA	GCMTS	BVAA	GCMTS	BVAA	GCMTS	BVAA	GCMTS	BVAA	GCMTS	BVAA	GCMTS	BVAA	GCMTS	BVAA	GCMTS	BVAA	GCMTS	BVAA	GCMTS	BVAA	GCMTS
EMS Calls	318	222	287	222	316	227	326	243	333	259	316	261	325	243	308	191	310	201	336	241					3,175	2,310
Primary Area	279	193	261	204	278	197	301	224	291	226	280	236	295	218	277	189	282	179	288	198					2,832	2,044
Secondary Area (MA)	39	29	26	18	38	30	25	19	42	35	36	25	30	25	31	22	28	22	48	43					343	268
Destination																										
GBH	100	37	86	40	114	31	129	37	115	51	139	41	136	31	112	33	116	37	116	41					1,163	379
GMC	80	47	73	47	77	44	80	53	89	63	72	57	66	51	87	42	91	50	72	47					787	501
GSACH																									0	0
LVH-N																									0	0
LZ																									0	0
UPMC																									0	0
Other	1	1	0	1	1	0	3	4	0	1	1	1	2	2	1	0	0	1	2	2					11	13
Total	181	85	159	88	192	75	212	94	204	115	212	99	204	84	200	75	207	88	190	90					1,961	893
Hours on the Job	269.1	221.9	250.7	193.5	241.4	200.7	293.8	226.1	293.7	238.0	272.8	212.2	287.2	300.3	225.5	177.9	485.4	217.5	284.6	232.1					2,904.2	2,220.2
Busiest Weekday	TUE	SUN	THR	SUN	SAT	SUN	SAT	SUN	FRI	SUN	MON	SUN	MON	SUN	FRI	SUN	FRI	SUN	THU	SUN						
Town of Bloomsburg																										
EMS Calls	105	74	120	98	135	140	126	96	120	95	111	96	127	93	115	73	125	78	125	78					1,209	921
Medical	80	57	90	77	101	79	99	73	93	74	87	73	94	67	91	53	95	58	99	57						
Community Service	19	11	16	9	20	12	15	11	15	9	11	10	13	6	11	8	14	4	17	12						
Missed	6	6	14	12	14	13	12	12	12	12	13	13	20	20	13	12	16	16	9	9						
Destination																										
GBH	38	13	44	19	48	16	57	19	41	16	37	19	54	18	43	16	53	17	46	11						
GMC	16	10	19	17	23	11	17	14	33	26	30	17	18	7	21	9	17	8	22	8						
Coroner																										
Other	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0						
Total	54	23	63	37	71	27	74	34	74	42	67	36	72	25	64	25	70	25	68	19					677	293
Hours on the Job	67.5	47.6	73.0	61.2	84.1	66.2	80.3	65.5	88.4	73.2	76.1	66.6	76.2	75.0	76.4	46.8	249.5	73.9	82.8	60.4					954	636
Busiest Weekday	SUN	SUN	SUN	SUN	SAT	SUN	SAT	SUN	FRI	SUN	WED	SUN	THR	SUN	FRI	SUN	FRI	SUN	THU	SUN						

OVERALL EMS CALLS of BVAA & GCMTS



**ORDINANCE NO. \_\_\_\_\_**

**ORDINANCE OF THE TOWN OF BLOOMSBURG AUTHORIZING  
EXECUTION OF A CABLE FRANCHISE AGREEMENT BETWEEN THE  
TOWN AND  
COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC**

**WHEREAS**, pursuant to the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996, the regulations of the Federal Communications Commission and Pennsylvania law, the Town of Bloomsburg (hereinafter the "Town") is authorized to grant franchises to construct, operate and maintain a cable system utilizing public rights-of-way and properties within the Town's jurisdiction; and

**WHEREAS**, pursuant to Title VI of the Communications Act, the regulations of the Federal Communications Commission (hereinafter the "FCC") and Pennsylvania law, the Town is authorized to grant and renew franchises to construct, operate and maintain a Cable System utilizing Public Rights-of-Way and properties within the Town's jurisdiction; and

**WHEREAS**, Comcast Cable Communications Management, LLC (hereinafter the "Grantee") has requested that the Town grant the Grantee a franchise to maintain, construct, operate, and maintain its Cable System over, under and along the aforesaid rights-of-ways for use by the Town's residents; and

**WHEREAS**, the aforesaid Public Rights-of-Way used by the Grantee are public properties acquired and maintained by the Town on behalf of the citizens of the Town, and the right to use said rights-of-way is a valuable property right; and

**WHEREAS**, the Town desires to protect and manage the aforesaid rights-of-way, establish standards of Subscriber service, maintain a technologically advanced Cable System, receive Franchise Fees for the Grantee's use of the Town's public rights-of-ways as provided by federal law, obtain the use of an educational and governmental channel, establish certain reporting requirements, obtain certain complimentary services, provide legal protections for the Town, and meet the current and future cable-related needs of its residents; and

**WHEREAS**, the Town has determined that this Agreement and the process for consideration of this Agreement complies with all applicable federal, state and local laws and regulations; and

**WHEREAS**, the Town has determined that the public interest would be served by granting the Grantee a franchise according to the terms and conditions contained herein;

**NOW THEREFORE, BE IT ORDAINED** that the Town Council does hereby approve the cable franchise agreement negotiated with the Grantee, including all of the terms and conditions contained therein, and does hereby authorize the execution of such agreement.

**ENACTED AND ORDAINED** this \_\_\_\_ day of \_\_\_\_\_, 2024.

ATTEST:

TOWN OF BLOOMSBURG

\_\_\_\_\_

\_\_\_\_\_  
President - Town Council

**CABLE FRANCHISE AGREEMENT**

**BETWEEN**

**TOWN OF BLOOMSBURG**

**AND**

**COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC**

With assistance from:

Cohen Law Group  
413 South Main Street - Third Floor  
Pittsburgh, PA 15215  
Phone: (412) 447-0130  
[www.cohenlawgroup.org](http://www.cohenlawgroup.org)

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## **CABLE FRANCHISE AGREEMENT**

This Cable Franchise Agreement (hereinafter referred to as the "Agreement") is executed as of the \_\_\_\_ day of \_\_\_\_\_, 2024 (hereinafter referred to as the "Effective Date") by and between Town of Bloomsburg, a municipality located in Columbia County, Pennsylvania (hereinafter referred to as the "Town") and Comcast Cable Communications Management, LLC (hereinafter referred to as "Comcast").

**WHEREAS**, pursuant to Title VI of the Communications Act, the regulations of the Federal Communications Commission (hereinafter referred to as the "FCC") and Pennsylvania law, the Town is authorized to grant and renew franchises to construct, operate and maintain a Cable System utilizing Public Rights-of-Way and properties within the Town's jurisdiction; and

**WHEREAS**, Comcast has requested that the Town grant Comcast a franchise to maintain, construct, operate, and maintain its Cable System over, under and along the aforesaid rights-of-ways for use by the Town's residents; and

**WHEREAS**, the aforesaid Public Rights-of-Way used by Comcast are public properties acquired and maintained by the Town on behalf of the citizens of the Town, and the right to use said rights-of-way is a valuable property right; and

**WHEREAS**, the Town desires to protect and manage the aforesaid rights-of-way, establish standards of Subscriber service, authorize a technologically advanced Cable System, receive Franchise Fees for Comcast's use of the Town's public rights-of-ways as provided by federal law, obtain the use of an educational and governmental channel, establish certain reporting requirements, provide legal protections for the Town, and meet the current and future cable-related needs of its residents; and

**WHEREAS**, the Town has determined that Comcast has the financial, legal and technical ability to provide Cable Services to Subscribers located in the Town;

**WHEREAS**, the Town has determined that this Agreement and the process for consideration of this Agreement complies with all applicable federal, state and local laws and regulations; and

**WHEREAS**, the Town has determined that the public interest would be served by granting Comcast a franchise according to the terms and conditions contained herein;

**NOW THEREFORE**, in consideration of the mutual promises contained herein and intending to be legally bound hereby, the Town and Comcast agree as follows:

## **SECTION 1**

### **DEFINITIONS**

The following terms used in this franchise shall have the following meanings:

(a) Affiliated Entity - Any corporation, partnership or other business entity that owns, controls, is owned or controlled by or are under common ownership or control with Comcast, but does not include Affiliated Entities that are not involved with the use, management, operation, construction, repair and/or maintenance of Comcast Corporation's cable systems.

(b) Basic Service - The service tier that includes at least the retransmission of local broadcast television signals.

(c) Cable Act - Title VI of the Communications Act of 1934, as amended by the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competitive Act of 1992 and the Telecommunications Act of 1996, as it may, from time to time, be further amended.

(d) Cable Service or Service - 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.

(e) Cable System or System - 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 Town but such term does not include (1) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (2) a facility that serves Subscribers without using any public right-of-way; (3) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act, except that such facility shall be considered a Cable System (other than for purposes of Section 621 of the Cable Act) to the extent that facility is used in the transmission of video programming directly to Subscribers unless the extent of that use is solely to provide interactive on-demand services; (4) an open video system that complies with Section 653 of the Cable Act; (5) any facilities of any electric utility used solely for operating its electric utility systems;

(f) Channel - 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 FCC regulation.

(g) Complaint - Any written (including electronic) or oral communication by a Subscriber expressing dissatisfaction with Comcast's operation of its Cable System that is within Comcast's control and requires a corrective measure on the part of Comcast or its contractors or subcontractors.

(h) Communications Act - The federal Communications Act of 1934, as amended, and as it may, from time to time, be further amended.

(i) Drop - The coaxial or fiber optic or other cable that connects a home or building to the Cable System.

(j) Educational and Governmental (EG) Channel - An access channel that consists of local, educational and/or governmental programming.

(k) Emergency - A condition that either (1) constitutes a clear and immediate danger to the health, welfare, or safety of the public; or (2) has caused or is likely to cause the Cable system in the Public Rights-of-Way to be unusable and result in loss of the services provided.

(l) FCC - Federal Communications Commission.

(m) Force Majeure - Acts of God; acts of public enemies, including terrorist attacks; orders of any kind of the government of the United States of America or the Commonwealth of Pennsylvania or any of their departments, agencies, political subdivisions, or officials, or any civil or military authority; insurrections; riots; labor strikes; epidemics; landslides; lightning; earthquakes; fires; hurricanes; volcanic activity; storms; floods; washouts; droughts; explosions; unavailability of materials or equipment; extraordinary make ready costs; partial or entire failure of utilities; economic or business conditions that materially impact access to or allocation of capital resources, or other event that is reasonably beyond Comcast's ability to anticipate or control.

(n) Franchise - The authorization granted by the Town to construct, operate and maintain a Cable System within the corporate limits of the Town as embodied in the terms and conditions of this Agreement.

(o) Franchise Fee - The fee that Comcast remits to the Town pursuant to Section 622 of the Cable Act, 47 U.S.C. §542, and Section 6.1 of this Agreement.

(p) Gross Revenues - All revenue received by Comcast or its Affiliated Entities arising from, attributable to, or in any way derived from the operation of Comcast's Cable System in the Town 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:

- (1) Basic Service fees;
- (2) fees charged to Subscribers for any Cable Service tier other than Basic Service;
- (3) fees charged for premium Cable Services;
- (4) fees for all digital video tiers;
- (5) fees for video-on-demand;
- (6) fees charged to Subscribers for any optional, per-channel or per-program Cable Services;
- (7) revenue from the provision of any other Cable Services;
- (8) charges for installation, additional outlets, relocation, disconnection, reconnection and change-in-service fees for Cable Service.
- (9) fees for changing any level of Cable Service programming;
- (10) fees for service calls pertaining to Cable Services;

- (11) inside wire maintenance fees for Cable Services;
- (12) service plan protection fees for Cable Services;
- (13) convenience fees;
- (14) early termination fees on Cable Services;
- (15) fees for Leased Access Channels;
- (16) charges based on the sale or lease of any portion of the Cable System for Cable Service;
- (17) rental or sales of any and all equipment, including converters and remote control devices;
- (18) advertising revenues attributable to the local Cable System and Cable Services;
- (19) revenues or commissions from locally-derived home shopping channels;
- (20) broadcast retransmission fees;
- (21) regional sports fee;
- (22) late payment fees on Cable Services;
- (23) billing and collection fees on Cable Services;
- (24) NSF check charges; and
- (25) 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 Town and Comcast agree that reference should be made to generally accepted accounting principles ("GAAP") as promulgated and defined by the Financial Accounting Standards Board ("FASB").

(q) HD - High definition format.

(r) Leased Access or Commercial Access Channel - Any channel on Comcast's Cable System designated for use by any entity that is unaffiliated with Comcast pursuant to Section 612 of the Cable Act, 47 U.S.C. §532.

(s) Multiple Dwelling Units or MDU's - Any building, buildings or area occupied by dwelling units, appurtenances thereto, grounds and facilities, which dwelling units are intended or designed to be owned, occupied or leased for occupation, or actually occupied, as individual homes or residences for three (3) or more households.

(t) Normal Business Hours - Those hours during which most similar businesses in the community are open to serve Subscribers. In all cases, "Normal Business Hours" must include some evening hours at least one night per week and/or some weekend hours.

(u) Normal Operating Conditions - Business conditions within Comcast's service department which are within the control of Comcast. Those conditions that are not within the

control of Comcast include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages and severe or unusual weather conditions or other conditions of Force Majeure.

(v) Outlet - An interior receptacle that connects a television set to the Cable System.

(w) Public Buildings – shall mean the Town Building, police stations, fire companies, public works buildings, and water and sewer authorities. Public Buildings shall not include buildings owned by the Town but leased to third parties, or buildings, such as storage facilities, at which government employees are not regularly stationed, or to facilities used by a private service provider, such as a private ambulance company.

(x) Public Rights-of-Way - The surface and the area across, in, over, along, under and upon the public streets, roads, lanes, avenues, alleys, sidewalks, bridges, highways and other rights-of-way, as the same now or may thereafter exist, which are under the jurisdiction or control of the Town.

(y) Programming - Any video or audio signal carried over the Cable System that is generally considered comparable to programming provided by a television broadcast station.

(z) Service Interruption - The loss of picture or sound on all Cable Service channels.

(aa) Subscriber - A person or entity who contracts with Comcast for, and lawfully receives Cable Services distributed by the Cable System.

## **SECTION 2**

### **GRANT OF FRANCHISE**

#### **2.1 GRANT OF AUTHORITY**

Pursuant to the Cable Act, the regulations of the FCC and Pennsylvania law, the Town hereby grants a non-exclusive and revocable franchise to Comcast. Subject to the terms and conditions contained herein, the Town hereby grants to Comcast the authority to construct, extend, install, operate, maintain, upgrade and rebuild a Cable System, including such wires, cables, fiber, conductors, ducts, conduits, amplifiers, pedestals, attachments and other equipment as is necessary and appropriate to the operation of the Cable System in the Public Rights-of-Way, including property over which the Town has a sufficient easement or right-of-way to provide Cable Services. Nothing herein shall preclude Comcast from offering any other service 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 (the "Effective Date"), unless the Franchise is terminated prior to the expiration date in accordance with the terms and conditions of this Agreement.

### **2.3 REPRESENTATIONS AND WARRANTIES**

Comcast represents, warrants and acknowledges that, as of the Effective Date:

(1) Comcast is duly organized, validly existing and in good standing under the laws of the Commonwealth of Pennsylvania;

(2) Comcast has the requisite approval from the applicable federal and state agencies;

(3) There is no action or proceeding pending or threatened against Comcast which would interfere with its performance or its ability to perform the requirements of this Agreement;

(4) Pursuant to Section 625(f) of the Cable Act, as of the Effective Date, the performance of all terms and conditions in this Agreement is commercially practicable.

### **2.4 NON-EXCLUSIVITY**

This Franchise granted to Comcast shall be non-exclusive. Nothing in this Agreement shall affect the right of the Town to grant other Franchises to construct, operate or maintain a Cable System.

### **2.5 FRANCHISE SUBJECT TO FEDERAL, STATE AND LOCAL LAWS**

This Franchise is subject to and shall be governed by all lawful and applicable provisions of federal, state and generally applicable local laws and regulations. This Franchise is further subject to all generally applicable ordinances and resolution of the Town. Without waiving any of its rights, the Town agrees that, to the extent any term of this Agreement is inconsistent with the terms of any Town cable franchise ordinance existing as of the Effective Date, this Agreement shall control.

### **2.6 COMPETITIVE EQUITY**

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

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

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

### **SECTION 3**

#### **SYSTEM CONSTRUCTION, OPERATION AND MAINTENANCE**

##### **3.1 TECHNICAL REQUIREMENT**

(a) Comcast shall operate, maintain, construct and extend the Cable System so as to offer Cable Services throughout all parts of the Town where the density requirements of Section 3.2 are met. The Cable Service provided by the Cable System shall be delivered in accordance with applicable FCC standards and the Cable Act. The Cable System shall meet or exceed any and all applicable technical performance standards of the FCC, the National Electrical Safety Code, the National Electric Code and any other applicable federal laws and regulations and the laws, ordinances and construction standards of the Commonwealth of Pennsylvania and the generally applicable laws, ordinances and construction standards of the Town.

(b) Stand-by power at the headend(s) shall be provided in the event of a service interruption. Stand-by power must activate automatically upon the failure of commercial utility power.

##### **3.2 AREA TO BE SERVED**

(a) Within three years of the Effective Date, Comcast shall construct the Cable System and make Cable Service available to residential dwelling units within two hundred feet (200) feet of Comcast's Cable plant that are located within the Public Rights of Way in the geographic area designated in Exhibit A ("Planned Build Out Area"). In the event that construction is delayed by factors outside of Comcast's control, including weather, make-ready delays by other companies, or other factors identified as Force Majeure, Comcast shall provide a written request for an extension of time to complete the Planned Build Out Area, which request shall not be unreasonably denied.

(b) Upon completion of the Planned Build Out Area, Comcast shall upon request extend the Cable System into any areas within the Town that are unserved by another wireline video provider where there is a minimum of twenty-five (25) dwelling units per linear plant mile of aerial cable and fifty (50) dwelling units per underground mile of cable, both as calculated from the end of the nearest active trunk or feeder line from which a usable cable service signal can be obtained. 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 nearest distribution pole line within the public right of way. Upon written request from the Town, Comcast shall conduct a survey to determine the number of dwelling units in the requested area and shall inform the Town of the survey results and applicable costs to extend Service to the area. In those areas meeting the



minimum density standard, Comcast shall commence construction within ninety (90) days after all necessary permits and pole attachment licenses are obtained. Subject to Force Majeure, Comcast will make best efforts to complete the construction of said extension within six (6) months from the issuance of all necessary permits and pole attachment licenses. Comcast's obligation hereunder shall be subject to the timely performance of walk-out, make ready and location of all underground utilities, weather permitting. The Town, or its designee, shall exercise reasonable efforts to give timely written notice of residential subdivision trenching and underground construction in areas of new construction to Comcast.

(c) Any dwelling unit within two hundred (200) feet aerial distance from the main distribution line shall be entitled to a standard installation rate. For any dwelling unit in excess of two hundred (200) feet or that requires an underground installation, Comcast shall extend the Cable Service if the Subscriber pays Comcast the actual cost of installation from its main distribution system with such cost being only the incremental portion beyond two hundred (200) feet for aerial installations.

(d) The Town has the right to require Comcast to place wires and/or equipment underground, provided that the Town imposes such requirement on all similarly situated entities. All installations of wires and/or equipment by Comcast shall be underground in those areas of the Town where the wires and/or equipment of similarly situated entities (i.e. telephone and electric utilities) are underground; provided, however, that such underground locations are capable of accommodating Comcast's facilities without technical degradation of the Cable System's signal quality. Comcast shall not be required to construct, operate, or maintain underground any ground-mounted appurtenances such as Subscriber taps, line extenders, system passive devices, amplifiers, power supplies, or pedestals.

(e) In the event that public or private funds are made available to pay for such underground projects, Comcast shall be included by the Town for such funds, if permitted to do so under applicable law. In the event that Comcast is required to place existing aerial plant underground, Comcast reserves its right to pass any remaining costs in excess of any such available public or private funds through to Subscribers if and to the extent allowed by applicable law.

### **3.3 CABLE SYSTEM SPECIFICATIONS**

(a) Comcast has designed, constructed, and shall maintain a Cable System that has been built for digital television standards.

(b) Comcast reserves the right to alter, adjust, modify, rebuild, upgrade, redesign, or otherwise reconfigure the Cable System at any time during the term of the Agreement, provided that no alteration, adjustment, modification, rebuild, upgrade, redesign or other reconfiguration of the Cable System shall have the effect of reducing the technical capabilities of the Cable System as set forth in Section 3.1.

### **3.4 SYSTEM TESTS**

(a) Comcast shall be responsible for ensuring that its Cable System is designed, installed and operated in a manner that fully complies with applicable FCC technical standards. Upon a showing of a pattern of Subscriber Complaints regarding signal quality or a determination of non-compliance related to signal quality through a compliance review under Section 5.2 herein, Comcast, upon written request by the Town, shall perform applicable tests to determine compliance with FCC technical standards. Comcast shall provide a report to the Town within thirty (30) days of completion of a Town-requested test that describes the results of the test. If any test under this Section indicates that the Cable System fails to meet applicable FCC requirements, Comcast shall take such corrective measures as are necessary to correct any failure and to prevent their recurrence as far as is possible.

(b) Upon sixty (60) days' written request to Comcast, the Town may inspect the Cable System at any time to ensure compliance with this Agreement and applicable law, including to ensure that the Cable System is constructed and maintained in a safe condition. The Town reserves the right, upon at least sixty (60) days' written notice to Comcast, to conduct a technical audit of the Cable System.

### **3.5 EMERGENCY ALERT SYSTEM**

Comcast shall comply with the Emergency Alert System requirements of the FCC.

### **3.6 SERVICES FOR SUBSCRIBERS WITH DISABILITIES**

Comcast shall comply with all applicable federal regulations, including the Communications Act of 1934, as amended, that ensure the provision of Cable Services and related equipment are accessible to and usable by persons with disabilities.

### **3.7 SERVICE TO MULTIPLE DWELLING UNITS ("MDU's")**

Comcast and the Town hereto acknowledge and agree that installation and provision of Cable Service to MDU's are subject to a separate negotiation between the landlord, owner or governing body of any such MDU and Comcast, which negotiations shall be conducted in accordance with the procedures set forth in the Cable Act, as amended, applicable FCC regulations and applicable Pennsylvania law.

### **3.8 REPAIRS AND RESTORATION**

(a) Whenever Comcast or any of its agents, including any contractor or subcontractor, takes up or disturbs any pavement, sidewalk or other improvement of any public or private property, the same shall be replaced and the surface restored in as reasonably good condition as before the disturbance within twenty (20) business days of the completion of the disturbance, weather permitting. Upon failure of Comcast to comply within the time specified and the Town having notified Comcast in writing of the restoration and repairs required, the Town may cause

proper restoration and repairs to be made and the expense of such work shall be paid by Comcast upon demand by the Town.

(b) Whenever Comcast or any agent, including any contractor or subcontractor, shall install, operate or maintain equipment, cable, or wires, it shall avoid damage and injury to property, including structures, improvements and trees in and along the routes authorized by the Town if required for the proper installation, operation and maintenance of such equipment, cable, or wires. Comcast shall promptly repair and restore any public or private property that is damaged as a result of construction, installation, repair or maintenance of the Cable System within twenty (20) business days, weather permitting.

(c) Comcast's operation, construction, repair and maintenance personnel, including all contractors and subcontractors, shall be trained in the use of all equipment and the safe operation of vehicles. Such personnel shall follow all safety procedures required by all applicable federal, state and local laws and regulations. All areas of the Cable System shall be inspected in accordance with such applicable federal, state and local laws and regulations so as to prevent hazardous conditions or risks to safety for the public and/or operating and maintenance personnel. Comcast shall install and maintain its wires, cables, fixtures, and other equipment in such a manner as shall not interfere with any installations of the Town or any public utility serving the Town.

(d) Should a public safety emergency occur as a result of, incident to, or connected with operation, construction, repair, or maintenance activities by Comcast personnel, including all contractors and subcontractors, then such personnel shall immediately contact the applicable public safety emergency dispatcher (e.g. 9-1-1).

(e) Whenever Comcast or any agent, including any contractor or subcontractor, shall disturb any pavement, sidewalk or other public property in order to perform any underground activity, it shall utilize the Pennsylvania One Call System prior to any such disturbance. Comcast shall adhere to any additional undergrounding requirements which the Commonwealth may establish in the future. Comcast shall adhere to all requirements of the Pennsylvania Underground Utility Line Protection Act.

(f) All structures and all lines, equipment and connections in, over, under, and upon streets, sidewalks, alleys, and public and private ways and places of the Town, wherever situated or located, shall at all times be kept and maintained in a safe and suitable condition and in good order and repair in accordance with customary industry standards and practices.

### **3.9 SERVICE AREA MAPS**

Upon thirty (30) days' written request, Comcast shall permit the Town to view a complete set of Comcast service area strand maps of the Town on which shall be shown those areas in which facilities exist and the location of all streets. The strand maps shall also designate where the cable wires and other equipment are aerial and where they are underground. Such viewing by Town officials shall be at a mutually agreed time and location. Should the Town wish to obtain such strand maps of the Town for its exclusive use, Comcast shall provide such maps within thirty (30) days of a written request, but no more than once annually and only after the Town and Comcast

have executed a non-disclosure agreement as such maps are confidential and proprietary pursuant to Section 5.1 of this Agreement.

### **3.10 DISCONNECTION AND RELOCATION**

(a) Comcast shall, at no cost to the Town, protect, support, temporarily disconnect, relocate in the same street, or other public way and place, or remove from any street or any other public way or place, any of its property as required by the Town or its designee by reason of traffic conditions, street construction, change or establishment of street grade, site distance visibility, the construction of any public improvement or structure, or any other reason related to public health, safety and welfare.

(b) In requiring Comcast to protect, support, temporarily disconnect, relocate or remove any portion of its property, the Town shall treat Comcast the same as, and require no more of Comcast than, any other similarly situated entity utilizing the Public Rights of Way, including with respect to potential reimbursement of costs.

### **3.11 EMERGENCY REMOVAL OF EQUIPMENT**

(a) If, at any time, in case of fire or other disaster in the Town, it shall be necessary, in the reasonable judgment of the Town or its agent, to cut or move any of the wires, cable or equipment of the Cable System, the Town shall have the right to do so without cost or liability, provided that, wherever possible, the Town shall give Comcast notice and the ability to relocate wires, cable or other equipment.

(b) In cutting or moving any of the wires, cable or equipment of the Cable System in the event of fire or other disaster, the Town shall treat Comcast the same as, and require no more of Comcast than, any other similarly situated entity.

### **3.12 TREE TRIMMING**

(a) Comcast, or its agents, including contractors and subcontractors, shall have the authority to trim trees upon and overhanging the Public Rights-of-Way so as to prevent the branches of such trees from coming in contact with the wires, cables, or other equipment of Comcast. Any such tree trimming shall only be performed in accordance with applicable laws and regulations.

(b) If Comcast or its agents, including contractors and subcontractors, wish to cut down and remove any tree or trees as may be necessary for the installation and/or maintenance of its equipment, it shall apply to the Town for permission, with the exception of Emergency situations as defined in Section 1(k), and if permission is granted, shall perform such cutting and removal in accordance with the regulations of the Town.

### **3.13 CHANNEL CAPACITY**

Comcast shall meet or exceed programming and channel capacity requirements set forth in this Agreement and required by applicable federal and state law and regulations.

### **3.14 BROADCAST CHANNELS**

To the extent required by federal law, Comcast shall provide all Subscribers with Basic Service including, but not limited to: a) all broadcast television signals carried in fulfillment of the requirements of Section 614 of the Cable Act; b) the signals of qualified non-commercial educational television signals carried in fulfillment of the requirements of Section 615 of the Cable Act; and c) any Educational and Governmental Channel pursuant to Section 611 of the Cable Act. All such signals shall be delivered to Subscribers in accordance with FCC technical specifications.

### **3.15 SIGNAL SCRAMBLING**

Comcast shall at all times comply with FCC regulations regarding scrambling or other encryption of audio and video signals.

### **3.16 CONTINUITY OF SERVICE**

Subscribers shall continue to receive Cable Service from Comcast provided their financial and other obligations to Comcast are honored. Subject to Force Majeure provisions in Section 9.1, Comcast shall use its best efforts to ensure that all Subscribers receive continuous, uninterrupted service regardless of the circumstances. For the purpose of construction, routine repairing or testing of the Cable System, Comcast shall use its best efforts to interrupt service only during periods of minimum use. When necessary service interruptions of more than twenty-four (24) hours can be anticipated, Comcast shall notify Subscribers in advance of such service interruption along with providing Subscribers with a pro-rata credit for the time of such service interruption.

## **SECTION 4** **SUBSCRIBER SERVICE STANDARDS**

### **4.1 OFFICE HOURS AND TELEPHONE AVAILABILITY**

(a) In accordance with applicable law, customer service centers and bill payment locations will be open at least during normal business hours and will be conveniently located.

(b) Comcast shall provide and maintain a toll free telephone access line that will be available to Subscribers twenty-four (24) hours a day, seven (7) days a week. Trained representatives shall respond to Subscriber telephone inquiries during Normal Business Hours. After Normal Business Hours, the access line may be answered by a service or an automated response system. Inquiries received after Normal Business Hours must be responded to by a trained company representative on the next business day.

(c) Under Normal Operating Conditions and during Normal Business Hours, telephone answering time by a Subscriber representative, including wait time, shall not exceed thirty (30) seconds after the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety percent (90%) of the time, measured on a quarterly basis. Under Normal Operating Conditions, the Subscriber shall receive a busy signal less than three percent (3%) of the time.

(d) Comcast will not be required to perform surveys to measure compliance with the telephone answering standards above unless a historical record of Complaints indicates a clear failure to comply. If the Town determines, after receiving Complaints itself and/or receiving a record of Complaints made to Comcast in accordance with Sections 4.5 and/or 5.7(a), that there is a clear failure to comply with the telephone answering requirements above, the Town shall notify Comcast in writing that it must measure its compliance with these requirements for the next three months and report to the Town the results of such monthly average measurements.

#### **4.2 INSTALLATIONS AND SERVICE CALLS**

(a) Comcast shall maintain a staff of employees sufficient to provide adequate and prompt service to its Subscribers. Comcast shall require that any employee or agent, including any subcontractor, who personally visits any residential dwelling, shall display a photo identification badge. Any vehicle used for installation, operation or maintenance activities by any Comcast employee or agent, including any subcontractor, shall prominently display the Comcast or Xfinity logo.

(b) Standard installations will be performed within seven (7) business days after an order has been placed. "Standard" installations are those aerial installations that are located up to two hundred (200) feet from the existing main distribution line.

(c) Upon scheduling of appointments with the Subscriber for installations, service calls and other activities, Comcast shall provide the Subscriber with either a specific time or an "appointment window" of a maximum of four (4) hours during Normal Business Hours. Comcast may schedule service calls and installation activities outside of Normal Business Hours at a time that is convenient for the Subscriber.

(d) Comcast may not cancel an appointment with a Subscriber after the close of business on the business day prior to the scheduled appointment. If, at any time, an installer or technician is running late, an attempt to contact the Subscriber must be made prior to the time of the appointment. If the appointment must be rescheduled, it must be done so at a time that is convenient for the Subscriber.

#### **4.3 NOTICES**

(a) In accordance with applicable federal law, Comcast shall provide written information to each Subscriber upon initial subscription, and at least annually to Subscribers and at any time upon request, regarding each of the following areas:

- (1) Products and services offered;
- (2) Prices and options for programming services and conditions of subscription to programming and other services;
- (3) Channel positions of programming carried on the Cable System;
- (4) Installation and service maintenance policies;
- (5) Instructions on how to use the Cable Service and any converters;
- (6) Billing and Subscriber complaint procedures;
- (7) A notice of Subscriber privacy rights as required by federal law.

(b) In accordance with applicable law, Comcast shall notify Subscribers and the Town in writing of any changes in rates, programming services or channel positions a minimum of thirty (30) days in advance of such changes provided that such change is within the control of Comcast. Comcast shall not be required to provide prior notice to Subscribers of any rate change that is the result of a regulatory fee, Franchise Fee or any other fee, tax, assessment or charge of any kind imposed by any federal agency, the Commonwealth of Pennsylvania or the Town on the transaction between Comcast and the Subscriber. Advance notice is not required for the launch of new channels when offered on a subscription basis or added to an existing service tier at no additional cost to the customer.

(c) The written notices required by this section may be provided electronically as permitted by 47 C.F.R. § 76.1600.

#### **4.4 BILLING**

(a) Bills shall be clear, concise and understandable. Bills must be fully itemized, and shall include all applicable service tiers, equipment charges and any installation or repair charges. Bills shall state the billing period, including an effective due date, the amount of current billing and any relevant credits or past due balances.

(b) Comcast shall not assess a late fee for non-payment of a current bill until at least thirty (30) days have elapsed since the mailing of the bill by Comcast.

(c) The Town hereby requests that Comcast omit the Town's name, address, and telephone number from Subscriber bills as permitted by 47 C.F.R. § 76.952.

#### **4.5 SUBSCRIBER COMPLAINT PROCEDURES**

Comcast shall establish clear written procedures for resolving all Subscriber Complaints, which shall include at least the following:



(a) Comcast shall provide the Subscriber with a written response to a written Complaint within thirty (30) days of its receipt at the local business office. Such response shall include the results of its inquiry into the subject matter of the Complaint, its conclusions based on the inquiry, and its decision in response to the Complaint.

(b) If the Town is contacted directly about a Subscriber Complaint, it shall notify Comcast promptly and in writing. When Comcast receives such notification, Comcast shall respond in writing within the time period specified in Section 4.5(a).

(c) Any Subscriber who, in good faith, disputes all or part of any bill sent by Comcast has the option of withholding the disputed amount, without a late fee or disconnection, until Comcast has investigated the dispute in good faith and has made a determination that the amount is owed provided that:

(1) The Subscriber provides a written Complaint to Comcast in a timely fashion and includes identifying information;

(2) The Subscriber pays all undisputed charges;

(3) The Subscriber cooperates in determining the appropriateness of the charges in dispute; and

(4) It shall be within Comcast's sole discretion to determine when the dispute has been resolved.

(d) In accordance with applicable law, Comcast shall maintain Subscriber Complaint records for inspection by the affected Subscriber, which shall contain the date each Complaint is received, the name and address of the affected Subscriber, a description of the Complaint, the date of resolution of the Complaint, and a description of the resolution.

#### **4.6 DISCONNECTION**

Comcast may disconnect or terminate a Subscriber's service for cause:

(a) If at least twenty (20) days have elapsed from the due date of the bill that Subscriber has failed to pay; and

(b) If Comcast has provided at least ten (10) days' notice to the affected Subscriber prior to disconnection, specifying the effective date after which Cable Services are subject to disconnection; and

(c) If there is no pending written dispute with Comcast regarding the bill; or

(d) If at any time and without notice, Comcast determines in good faith that Subscriber has tampered with or abused Comcast's equipment or service, is engaged in theft of Cable Service or has exhibited violent or threatening behavior toward its employees.

#### **4.7 SERVICE INTERRUPTIONS**

(a) Excluding conditions beyond its control, Comcast shall begin working on a Service Interruption promptly and in no event later than twenty-four (24) hours after the Service Interruption becomes known and shall pursue to completion. Notice of a Service Interruption of a single Subscriber shall give rise to this obligation on behalf of Comcast. All other service calls not affecting public health, safety or welfare shall occur within a maximum of forty-eight (48) hours after notice to Comcast or scheduled at the convenience of the Subscriber.

(b) In the event that there is a Service Interruption to any Subscriber for six (6) or more consecutive hours and upon receipt of a written or credible oral request, Comcast shall grant such Subscriber a pro rata credit or rebate, on a daily basis, of that portion of the service charge during the next consecutive billing cycle, or, at its option, apply such credit to any outstanding balance that is currently due.

#### **4.8 PRIVACY**

Comcast shall comply with the privacy provisions of Section 631 of the Cable Act and all other applicable federal and state privacy laws and regulations. Comcast shall at all times maintain adequate physical, technical and administrative security safeguards to ensure that personally-identifiable Subscriber information is handled and protected strictly in accordance with this policy and all applicable laws and regulations.

### **SECTION 5** **REGULATION BY THE TOWN**

#### **5.1 RIGHT TO INSPECT AND PROTECTION OF PROPRIETARY INFORMATION**

(a) The Town shall have the option, upon thirty (30) business days' written notice, and during normal business hours, to inspect all documents, records and other pertinent information maintained by Comcast which relate to the terms and conditions of this Agreement for the purpose of verifying compliance with the terms and conditions of this Agreement and applicable law.

(b) In addition, Comcast shall maintain for inspection by the public and the Town all records required by the FCC and as specified in 47 C.F.R. § 76.305 in the manner specified therein.

(c) Notwithstanding anything to the contrary set forth herein, all information specifically marked by Comcast as proprietary or confidential in nature and furnished to the Town or its designated representatives shall be treated as confidential by the Town so long as it is permitted to do so under applicable law. Representatives and/or agents of the Town may be requested to execute a non-disclosure agreement prior to the provision by Comcast of certain confidential information, provided such representatives and/or agents are permitted to do so under applicable law. Information and documentation marked by Comcast as proprietary or confidential shall include a brief written explanation as to its proprietary nature or confidentiality subject to review by the Town. The Town and its officially designated representatives agree in advance to treat any such information or records which Comcast reasonably deems would provide an unfair

advantage for Comcast's competitors (e.g. system design maps, engineering plans, programming contracts, etc.) as confidential so long as permitted to do so under applicable law and only to disclose it to Town employees, agents, or representatives who have a need to know or in order to enforce the provisions of this Agreement. In the event a request is made by an individual or entity not an employee, agent or representative of the Town acting in their official capacity for information related to the franchise and marked by Comcast as confidential and/or proprietary, the Town shall timely notify Comcast of such request and shall cooperate with Comcast in protecting its proprietary and confidential information to the extent permitted by applicable law. Comcast shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act, or information which is not relevant to regulation of the franchise (e.g. employee files, tax returns, etc.).

## **5.2 RIGHT TO CONDUCT COMPLIANCE REVIEW**

Not more than twice during the term of this Agreement, the Town or its representatives may conduct a full compliance review with respect to whether Comcast has complied with the material terms and conditions of this Agreement so long as it provides Comcast with forty-five (45) days' written notice in advance of the commencement of any such review. Such notice shall specifically reference the section(s) or subsection(s) of the Agreement that is (are) under review, so that Comcast may organize the necessary records and documents for appropriate review by the Town. Within thirty (30) days of a written request, Comcast shall provide the Town with copies of records and documents related to the cable compliance review. The period for any such review shall be for not more than the sixty (60) months immediately previous to the notice. The Town shall promptly inform Comcast in accordance with Section 8.1 of any alleged non-compliance issues that result from the compliance review.

## **5.3 RESERVED AUTHORITY**

The Town reserves the regulatory authority arising from the Cable Act and any other applicable federal or state laws or regulations. Nothing in this Agreement shall remove, restrict or reduce the Town's authority, rights and privileges it now holds, or which hereafter may be conferred upon it, including any right to exercise its police powers in the regulation and control of the use of the Public Rights-of-Way.

## **5.4 POLICE POWERS**

Comcast's rights under this Agreement are subject to the police powers of the Town to adopt and enforce general laws and regulations necessary for the safety and welfare of the public. Such laws and regulations are separate and distinct from the terms and conditions contained in this Agreement. If the Town's exercise of the police power results in a material alteration of the terms and conditions of this Agreement, then the parties shall negotiate amendments in good faith to this Agreement to the mutual satisfaction of both parties to ameliorate the negative effects on Comcast of the material alteration.

## **5.5 NO LIMITATION ON TAXING OR FEE AUTHORITY**

Nothing in this section or in this Agreement shall be construed to limit the authority of the Town to impose any tax, fee or assessment of general applicability. Such taxes, fees or assessments shall be in addition to Franchise Fees.

## **5.6 PERMITS**

Comcast shall apply to the Town for all generally-applicable required permits and shall not undertake any activities in the Public Rights-of-Way subject to a permit without receipt of such permit, the issuance of which shall not be unreasonably withheld by the Town. Comcast shall not be required to obtain permits for Cable Service drops for individual Subscribers or for servicing or installation of pedestals or routine maintenance that does not disturb surface grade or impact vehicular traffic. Comcast shall pay any and all required permit fees.

## **5.7 REPORTING**

In addition to the other reporting requirements contained in this Agreement, upon written request, Comcast shall provide the following reports to the Town:

### **(a) Subscriber Complaint Reports**

Within thirty (30) days of a written request and no more than once per year, Comcast shall submit to the Town a report showing the number of Complaints, as defined in Section 1(g), that required a service call, originating from the Town and received during the previous 12-month reporting period, the dates they were received, summary descriptions of the Complaints, the dates the Complaints were resolved and summary descriptions of the resolutions.

In addition, and upon written request, Comcast shall provide a report containing at least the following statistical information for the previous 12-month period:

- (1) Number of repair service requests received;
- (2) Breakdown by type of complaint received (i.e. complete outage, snowy picture, etc.);
- (3) Breakdown by cause of problem (i.e. subscriber equipment, drop/converter, system, etc.);
- (4) Number of known service interruptions in excess of 30 minutes and the approximate length of time of each such interruption

### **(b) Government Reports**

Comcast shall provide to the Town, upon written request, copies of any and all communications, reports, documents, pleadings and notifications of any kind which Comcast has

submitted to any federal, state or local regulatory agencies if such documents relate specifically to Comcast's Cable System within the Town. Comcast shall provide copies of such documents no later than thirty (30) days after their request.

## **SECTION 6**

### **COMPENSATION TO THE TOWN**

#### **6.1 FRANCHISE FEES**

Comcast shall pay to the Town an amount equal to five percent (5%) of the Gross Revenues derived from the operation of its Cable System to provide Cable Service in the Town. Comcast shall not deduct or otherwise credit against the Franchise Fee any tax, fee or assessment of general applicability, unless required by law. The Town may amend the Franchise Fee upon written notice to Comcast provided that the Franchise Fee may not exceed the maximum percentage permitted by law. A copy of the Resolution or Ordinance authorizing the Franchise Fee rate adjustment by the Town shall accompany such written notice. Any change in Comcast's Franchise Fee obligation contained herein shall commence within ninety (90) days from such written notice.

#### **6.2 QUARTERLY PAYMENTS**

Franchise Fee payments to the Town under this provision shall be computed at the end of each calendar quarter. Such payments shall be made within forty-five (45) days following the end of each of the first three calendar quarters and sixty (60) days after the fourth calendar quarter. Specifically, payments shall be due and payable on or before May 15 (for the first quarter), August 15 (for the second quarter), November 15 (for the third quarter), and March 1 (for the fourth quarter). In the event that any Franchise Fee payment is not made on or before the date by which it is due, then interest calculated at the then-current prime rate, as published by the Wall Street Journal, shall be added to the amount of Franchise Fee revenue due to the Town. The interest rate shall be applied as described from the date such Franchise Fee payment was originally due. No acceptance of any payment shall be construed as an accord that the amount paid is in fact the correct amount, nor shall acceptance of any payment be construed as a release of any claim the Town may have for additional sums payable under this Agreement. Upon request and if mutually agreeable, Comcast shall deposit the Franchise Fee payments electronically into an account as designated by the Town.

#### **6.3 QUARTERLY REPORTS**

Within ten (10) days of each Franchise Fee payment described in Section 6.2 above, Comcast shall provide a written report containing an accurate statement of Comcast's Gross Revenues received for Cable Services for each calendar quarter in connection with the operation of Comcast's Cable System and showing the basis for the computation of fees. Specifically, the report shall contain line items for sources of revenue received and the amount of revenue received from each source. The report shall be verified by a financial representative of Comcast.

#### **6.4 FRANCHISE FEE REVIEW**

Not more than twice during the franchise term, the Town shall have the right to conduct a Franchise Fee review or audit of Comcast's records reasonably related to the sources, amounts and computation of Gross Revenues. Any such Franchise Fee review or audit shall occur within sixty (60) months from the date the Town receives such payment, after which period any such payment shall be considered final. Within thirty (30) days of a written request, Comcast shall provide the Town with copies of financial records related to the Franchise Fee review or audit.

(a) In the event of an alleged underpayment, the Town shall provide Comcast with a written statement indicating the basis for the alleged underpayment. If the Franchise Fee review reveals that there have been no underpayments, the Town shall provide written notice to Comcast indicating that no underpayments were found and that the Franchise Fee review is closed. Comcast shall have thirty (30) days from the receipt of the statement regarding an alleged underpayment to provide the Town with any written objection to the results of the Franchise Fee review, including any substantiating documentation. Based on this exchange of information, the Town shall make a final determination of the underpayment(s), if any, within thirty (30) days of Comcast's objection and shall provide Comcast with written notice of the determination. If Comcast disputes the Town's final determination, it may submit the dispute to mediation or arbitration within thirty (30) days of receiving the Town's written notice of determination. In the event that Comcast fails to submit the matter to mediation or arbitration within the required time period, the Town's final determination shall be binding on Comcast.

(b) Any Franchise Fee payment due to the Town as a result of the Franchise Fee review shall be paid to the Town by Comcast within forty-five (45) days from the date the Town notifies Comcast of its final determination, or if the matter is submitted to mediation or litigation, within forty-five (45) days from the final disposition of such action. If the Franchise Fee review shows that Franchise Fees have been underpaid, then Comcast shall pay the underpaid amount plus interest from the due date equal to the then-current prime rate of interest as published in *The Wall Street Journal* on the underpayment amount. If Franchise Fees have been underpaid by five percent (5%) or more, then Comcast shall also pay up to five thousand dollars (\$5,000) of documented out-of-pocket costs of the Franchise Fee review. Any entity employed by the Town that performs an audit or franchise fee review shall not be permitted to be compensated on a success based formula, e.g. payment based upon underpayment of fees, if any.

#### **6.5 BUNDLED SERVICES**

All revenue earned from bundled services shall be allocated to Cable Service and non-Cable Service in accordance with generally accepted accounting principles (GAAP). It is understood that in some cases equipment and other non-service charges may be allocated at full retail price due to requirements related to sales taxes or similar tax requirements. To the extent such allocations are discretionary or otherwise not addressed by GAAP, allocations of revenue from such bundles shall not be structured for the purpose of evading franchise fees applicable to Cable Services.

**SECTION 7**  
**SERVICES TO THE COMMUNITY**

**7.1 SERVICES TO COMMUNITY FACILITIES**

(a) Comcast shall provide a Cable Service Drop and Basic Service with any necessary cable box to one outlet at each Public Building listed in Exhibit B, provided that the Public Building is within two hundred (200) feet of the Comcast Cable distribution plant. If Comcast intends to charge for the services required by this section, it will give the Town one hundred twenty (120) days' notice of the commencement of charges. The charges shall be consistent with applicable law, which as of the Effective Date, is defined as the "marginal cost" of such services. Comcast will disclose in writing reasonable detail sufficient to define the marginal cost and the amount due and shall arrange with the Town for invoicing or deductions from the Franchise Fee. Charges may include those for services and equipment, if any, at each location. Charges may include all applicable fees and taxes and shall be subject to adjustment at a time consistent with Comcast's retail rate adjustments. The Town may remove locations or change the level of Cable Service indicated on Exhibit B with 30 days' written notice to Comcast. The Town may elect in writing not to receive the service, in which case it will not be invoiced and no deduction will be taken from the franchise fee.

(b) During the term of the Franchise, the Town may change a Public Building location listed in Exhibit B upon ninety (90) days' written notice to Comcast, provided that the new location is a standard installation and within two hundred (200) feet of existing Comcast cable distribution plant.

**7.2 EDUCATIONAL AND GOVERNMENTAL (EG) CHANNEL**

(a) The Town reserves the right to obtain, within one hundred eighty (180) days of a written request and as set forth herein, the use of one (1) Educational and Governmental ("EG") Access Channel in accordance with Section 611 of the Cable Act. Such EG Channel(s) shall be used for community programming related to educational and/or governmental activities. The Town shall have complete control over the content, scheduling, administration and all other programming aspects of the EG Channel, and may delegate such functions, or a portion of such functions, to a designated access provider. Comcast shall not exercise any editorial control over EG Channel programming. Comcast shall cablecast the activated EG Channel so that they may be received by all Comcast Subscribers in the Town.

(b) To enable the Town to utilize the EG Channel, Comcast shall install at the Town's expense on a time and materials basis direct fiber links, including activation equipment capable of transmitting high quality video and audio between the video origination location and the Comcast headend such that live programming can originate from this selected location and be distributed via the Cable System to Subscribers in the Town. This fiber link and equipment shall be collectively known as the "Return Line." Comcast shall determine the engineering solution necessary to allow distribution of the EG Channel programming, via the Cable System, to Subscribers in the Town.



(c) Comcast shall be responsible for maintaining the Return Line(s) to the origination site(s) of the EG Channel so long as the Town provides Comcast with access to such location and access to the EG Channel equipment within such locations. Comcast shall provide, install and maintain in good working order the equipment and the cable necessary for transmitting the signal to the channel aggregation site for further processing and distribution to Subscribers. Comcast shall maintain the EG Channel in accordance with the same FCC technical specifications that are comparable to the specifications used to maintain commercial channels transmitted to Subscribers on the Cable system, except that it shall not be responsible for the technical signal quality of programming produced by any EG channel programmer.

(d) The Town and Comcast further agree that all costs incurred by Comcast for supporting such EG Channel, including any and all equipment, and EG capital support grants may be designated as "costs of franchise requirements" or "external costs" as defined by the FCC and Comcast reserves its right to pass these costs through to the Subscribers pursuant to federal law.

(e) The Town or its designee shall be responsible for providing any necessary production or playback equipment and shall be responsible for securing and supervising any trained/qualified personnel who conduct the operation of the EG channel. The Town and Comcast agree to work cooperatively in implementing the EG channel through such means and in such manner as shall be mutually satisfactory.

(f) Within one hundred eighty (180) days of a written request by the Town, Comcast shall, at the Town's expense, relocate the EG origination site and the associated Return Line as follows: (i) Comcast's obligation shall be subject to the same terms and conditions that apply to the original EG origination site in this Section; and (ii) the Town shall provide access to such site at least ninety (90) days prior to anticipated use of the new EG origination site. The timeline for relocation of the EG origination site shall be subject to the timely granting of any and all required permits, walk-out, make ready, and the detection of all underground utilities.

(g) In the event the Town or its designee does not program any EG Channel, Comcast may request the use of this channel subject to written approval by the Town. If the Town approves Comcast's use of an EG Channel and, subsequent to such approval, the Town requests the utilization of the EG Channel being programmed by Comcast, Comcast shall relinquish such use no later than sixty (60) days after receipt of written notification from the Town that it requires such channel for educational and/or governmental use.

(h) Comcast shall use its best efforts to maintain the channel assignments for the current EG Channel(s) as of the Effective Date. Notwithstanding the foregoing, in the event that Comcast deems a change in any EG Channel assignment to be necessary and changes any channel assignment in accordance with this Section, Comcast shall provide the Town with thirty (30) days' advance written notice of any change in EG Channel assignments.

**SECTION 8**  
**ENFORCEMENT, INSURANCE AND INDEMINIFICATION**

**8.1 VIOLATIONS AND OPPORTUNITY TO CURE**

(a) If the Town has reason to believe that Comcast violated any material provision of this Agreement, it shall notify Comcast in writing of the nature of such violation and the section(s) of this Agreement that it believes has been violated and the details relating thereto

(b) Comcast shall have forty-five (45) days to cure such violation after written notice is received by taking reasonable steps to comply with the terms of this Agreement. If the nature of the violation is such that it cannot be fully cured within forty-five (45) days, the period of time in which Comcast must cure the violation shall be extended by the Town in writing for such additional time necessary to complete the cure, provided that Comcast shall have promptly commenced to cure and is taking reasonable steps to complete the cure in the reasonable judgment of the Town.

(c) If the violation has not been cured within the time period allowed under Section 8.1(b) and, in the Town's judgment, Comcast has not taken reasonable steps to cure the violation, then the Town may deem that Comcast is liable for liquidated damages and/or any other right or remedy in accordance with this Section 8.

**8.2 LIQUIDATED DAMAGES**

(a) Because Comcast's failure to comply with the material terms of this Agreement may result in harm to the Town and because it will be difficult to measure the extent of such injury, the Town may assess liquidated damages against Comcast in the amount of Two Hundred Fifty Dollars (\$250.00) per day for each day the violation continues, provided Comcast has had an opportunity to cure in accordance with Section 8.1(b). Such damages shall not be a substitute for specific performance by Comcast, but shall be in addition to such specific performance.

(b) The first day for which liquidated damages may be assessed, if there has been no cure after the end of the applicable cure period, shall be the day after the end of the applicable cure period, including any extension of the cure period granted by the Town. Liquidated damages may not be assessed for a time period exceeding one hundred and twenty (120) days per violation. The Town may commence revocation proceedings and/or initiate an action in law or equity in a court of competent jurisdiction after the assessment of liquidated damages or in lieu of liquidated damages. With respect to liquidated damages assessed, all similar violations or failures resulting from the same factual events affecting multiple Subscribers shall be assessed as a single violation.

**8.3 REVOCATION**

(a) In addition to the other rights, powers and remedies retained by the Town under this Agreement, the Town reserves the separate and distinct right to revoke this Franchise if:

(1) It is demonstrated that Comcast practiced any fraud or deceit upon the Town in the operation of its Cable System or any other activities pursuant to this Agreement;

(2) Comcast repeatedly fails, after notice and opportunity to cure, to maintain signal quality pursuant to the standards provided for by the FCC or the technical requirements set forth in Section 3.1;

(3) Comcast repeatedly violates, after notice and opportunity to cure, one or more of the material terms or conditions of this Agreement;

(b) The foregoing shall not constitute a violation of a material term or condition if the violation occurs without the fault of Comcast or occurs as a result of circumstances beyond its control or by reason of Force Majeure as defined in Section 9.1. Comcast shall not be excused from the performance of any of its obligations under this Franchise by mere economic hardship or by the misfeasance or malfeasance of its directors, officers or employees.

(c) A revocation shall be declared only by a written decision of the Town Council after an appropriate public hearing that shall afford Comcast due process and full opportunity to be heard. This shall include the ability to introduce evidence, to question witnesses and to respond to any notice of grounds to terminate in accordance with the standards of a fair hearing applicable to administrative hearings in the Commonwealth of Pennsylvania. All notice requirements shall be met by providing Comcast at least thirty (30) days' prior written notice (via certified mail-return receipt requested) of any public hearing concerning the proposed revocation of this franchise. Such notice shall state the grounds for revocation. The Town, after a public hearing and upon finding the existence of grounds for revocation, may either declare this franchise terminated or excuse such grounds upon a showing by Comcast of mitigating circumstances or good cause for the existence of such grounds. The Town shall issue such declaration and finding within thirty (30) days in a written decision which shall be sent via certified or overnight mail to Comcast. If Comcast appeals such determination to an appropriate court, the revocation shall be stayed.

#### **8.4 PERFORMANCE BOND**

(a) Comcast shall obtain and maintain, throughout the term of this Agreement, at its sole cost and expense, a performance bond with a surety company licensed to do business in the Commonwealth of Pennsylvania to ensure Comcast's faithful performance of its obligations. The performance bond shall provide that the Town may recover from the principal and surety any and all liquidated damages and/or compensatory damages incurred by the Town for Comcast's violations of this Agreement, after notice and opportunity to cure, in accordance with Sections 8.1 and 8.2.

(b) The performance bond shall be in the amount of Fifty Thousand Dollars (\$50,000). Comcast shall not reduce, cancel or materially change said bond from the requirement contained herein without the express prior written permission of the Town.

## **8.5     INSURANCE**

(a) Comcast shall obtain and maintain, in full force and effect, at its sole cost and expense, during the Franchise term, the following minimum insurance coverage with an insurance company that is authorized to conduct business in Pennsylvania and which has an A.M. Best rating (or equivalent) no less than A-minus VII, indemnifying the Town from and against any and all claims for injury or damage to persons or property, both real and personal, caused by the construction, installation, reconstruction, operation, maintenance or removal of the Cable system by Comcast or any of its contractors, subcontractors, agents or employees in the following amounts:

(1) The amount of such insurance against liability for damage to property shall be no less than One Million Dollars (\$1,000,000) as to any one (1) occurrence.

(2) The amount of such insurance against liability for injury or death to any person shall be no less than One Million Dollars (\$1,000,000).

(3) The amount of such insurance for excess liability shall be Three Million Dollars (\$3,000,000) in umbrella form.

(4) The amount of such insurance against all claims arising out of the operation of motor vehicles shall be One Million Dollars (\$1,000,000) combined single limit per occurrence.

(b) The Town, its officials and employees, shall be designated as additional insureds under each of the insurance policies required in this Section 8.5.

(c) Comcast shall not cancel any required insurance policy without obtaining alternative insurance in conformance with this Section 8.5 and without submitting insurance certificates to the Town verifying that Comcast has obtained such alternative insurance. Comcast shall provide the Town with at least thirty (30) days' prior written notice in the event there is an adverse material change in coverage or the policies are cancelled or not renewed.

(d) Comcast shall deliver to the Town Certificates of Insurance showing evidence of the required coverage within thirty (30) days of a written request by the Town.

## **8.6     INDEMNIFICATION**

Comcast shall indemnify, defend, save and hold harmless the Town, its elected and appointed officials, officers, agents and employees acting in their official capacities, from claims for injury, loss, liability, cost or expense arising in whole or in part from, caused by or connected with any act or omission of Comcast, its officers, agents, contractors, subcontractors or employees, arising out of, but not limited to, the construction, installation, upgrade, reconstruction, operation, maintenance or removal of the Cable System. The Town shall give Comcast timely written notice of its obligation to indemnify and defend the Town. The obligation to indemnify, defend, save and hold the Town harmless shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, penalties, and reasonable attorneys' fees. If the Town determines that

it is necessary for it to employ separate counsel, in addition to that provided by Comcast, the cost for such separate counsel shall be the responsibility of the Town. Comcast shall not indemnify the Town for any claims resulting solely from acts of willful misconduct or negligence on the part of the Town.

## **SECTION 9** **MISCELLANEOUS**

### **9.1     FORCE MAJEURE**

If for any reason of Force Majeure, Comcast is unable in whole or in part to carry out its obligations hereunder, Comcast shall not be deemed in violation of this Agreement during the continuance of such inability. Upon written (including electronic) request by the Town, Comcast shall inform the Town within thirty (30) days of receipt of the request whether or not Comcast has determined that a condition of Force Majeure exists.

### **9.2     REMOVAL OF SYSTEM**

(a) Upon lawful termination or revocation of this Agreement, Comcast shall remove its supporting structures, poles, transmissions and distribution systems and other appurtenances from the streets, ways, lanes, alleys, parkways, bridges, highways, and other public and private places in, over, under, or along which they are installed and shall reasonably restore the areas to their original condition. If such removal is not completed within six (6) months of such lawful termination or revocation, the Town or property owner may deem any property not removed as having been abandoned and the Town may remove it at Comcast's cost.

(b) During the term of the Agreement, if Comcast decides to abandon or no longer use all or part of its Cable System, it shall give the Town written notice of its intent at least ninety (90) days prior to the announcement of such decision, which notice shall describe the property and its location. Upon Comcast's abandonment of the Cable System, the Town shall have the right to either require Comcast to remove the property, remove the property itself and charge Comcast with the reasonable costs related thereto.

(c) Notwithstanding the above, Comcast shall not be required to remove its Cable System, or to relocate the 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 Comcast from providing Cable Services, if the Cable System is actively being used to facilitate any other services not governed by the Cable Act.

### **9.3     NOTICES**

Every notice or payment to be served upon or made to the Town shall be either by hand delivery or first class mail, registered or certified, return receipt requested, postage prepaid, or by reputable overnight courier service or electronic mail and addressed to:

Town of Bloomsburg  
301 E 2nd Street  
Bloomsburg, PA 17815  
Attention: Town Manager

The Town may specify any change of address in writing to Comcast. Every notice to be served upon or made to Comcast shall be either by hand delivery or first class mail, registered or certified, return receipt requested, postage prepaid, or by reputable overnight courier service or electronic mail and addressed to:

Comcast Cable Communications Management, LLC  
15 Summit Park Drive  
Pittsburgh, PA 15275  
Attention: Government Affairs Department

With copies to:

One Comcast Center  
1701 John F. Kennedy Boulevard  
Philadelphia, PA 19103-2838  
Attention: Legal Department/Franchise

and

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

Comcast may specify any changes of address in writing to the Town. Each delivery to Comcast or the Town shall be equivalent to direct personal notice, direction or order, and shall be deemed to have been given at the time of receipt.

#### **9.4 EQUAL EMPLOYMENT OPPORTUNITY**

Comcast is an equal opportunity employer and shall comply with all applicable federal and state laws and regulations regarding equal opportunity employment.

#### **9.5 CAPTIONS**

The captions for sections throughout this Agreement are intended solely to facilitate reading and reference to the sections and provisions of this Agreement. Such captions shall not affect the meaning or interpretation of this Agreement.

## **9.6 GOVERNING LAW; VENUE**

This Agreement shall be governed and construed by and in accordance with the laws of the Commonwealth of Pennsylvania. If suit is brought by a party to this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of Pennsylvania, County of Columbia, or in the United States District Court for the Middle District of Pennsylvania.

## **9.7 TRANSFER, ASSIGNMENT OR CHANGE IN CONTROL**

(a) Neither Comcast nor its parent nor any Affiliated Entity shall transfer, assign or otherwise encumber, through its own action or by operation of law, its right, title or interest in the Cable System or in this Agreement without the prior written consent of the Town, provided that such consent shall not be unreasonably withheld.

(b) Neither Comcast nor its parent nor any Affiliated Entity shall change, transfer or assign, through its own action or by operation of law, its control of the Cable System or of this Agreement without the prior written consent of the Town, provided that such consent shall not be unreasonably withheld.

(c) Neither Comcast nor its parent nor any Affiliated Entity shall sell, convey, transfer, exchange or release fifty-one percent (51%) or more of its direct ownership in the Cable System without the prior written consent of the Town, provided that such consent shall not be unreasonably withheld.

(d) No such consent shall be required for (i) a transfer in trust, by mortgage, hypothecation, or by assignment to a financial institution of any rights, title or interest of Comcast in the Franchise or in the Cable System in order to secure indebtedness; or (ii) a transfer to an entity owned and/or controlled by Comcast.

(e) Comcast shall make written application to the Town of any transfer, assignment or change in control as described above and shall provide all information required by FCC Form 394 and any other applicable federal, state, and local statutes and regulations regarding transfer or assignment. The Town shall have thirty (30) days from the receipt of FCC Form 394 to notify Comcast of any additional information it needs to make an informed decision on the transfer or assignment. The Town shall have one hundred twenty (120) days from the receipt of all required information to take action on the transfer or assignment.

(f) Any consent by the Town for any transfer or assignment described above shall not be effective until the proposed transferee or assignee shall have executed a legally binding document stating that it shall be bound by all the terms and conditions contained in this Agreement.

## **9.8 ENTIRE AGREEMENT**

This written instrument contains the entire agreement between the parties, supersedes all prior agreements or proposals whether written or oral except as specifically incorporated herein,

and cannot be changed without written amendment approved by both the Town and Comcast. This Agreement supersedes all prior cable franchise agreements or cable ordinances, or parts of cable franchise agreements or cable ordinances, agreements, representations or understandings, whether written or oral, of the parties regarding the subject matter hereof that are in conflict with the provisions herein.

#### **9.9 SEVERABILITY**

If any section, provision or clause of this Agreement is held by a court of competent jurisdiction to be illegal, invalid or unenforceable, or is pre-empted by federal or state laws or regulations, such section, provision or clause shall be deemed to be separable from the remaining portions of this Agreement and shall not affect the legality, validity or enforceability of the remaining portions of this Agreement.

#### **9.10 NO WAIVER OF RIGHTS**

No course of dealing between the Town and Comcast, nor any delay on the part of the Town in exercising any rights hereunder, shall operate as a waiver of any such rights of the Town or acquiescence in the actions of Comcast in contravention of such rights, except to the extent expressly waived by the Town.

No course of dealing between Comcast and the Town, nor any delay on the part of Comcast in exercising any rights hereunder, shall operate as a waiver of any such rights of Comcast or acquiescence in the actions of the Town in contravention of such rights, except to the extent expressly waived by Comcast.

#### **9.11 CHANGE OF LAW**

In the event there is a change in a federal or state statute or regulation applicable to the Cable System or to this Agreement, the Town or Comcast may notify the other party of its desire to amend this Agreement in order to comply with the change in statute or regulation. The Town and Comcast shall amend this Agreement to comply with such change in statute or regulation provided such amendment is approved by the Town and Comcast.

#### **9.12 COMPLIANCE WITH LAWS**

Comcast shall comply with all federal, state and generally applicable local laws and regulations.

#### **9.13 NO THIRD-PARTY BENEFICIARIES**

Nothing in this Agreement is or was intended to confer third-party beneficiary status on any person other than the parties to this Agreement to enforce the terms of this Agreement.



**9.14 ADMINISTRATIVE FEES**

Within thirty (30) days of the approval of this Agreement by the Town Council, Comcast shall reimburse the Town for its reasonable administrative fees required for negotiating this Agreement and preparing the Town for consideration of the franchise. Such reimbursement shall be in the amount of Four Thousand Five Hundred Dollars (\$4,500).

**9.15 APPLICABILITY OF AGREEMENT**

All of the provisions in this Agreement shall bind Comcast, the Town and their respective successors and assigns. This Agreement is authorized by Ordinance No. \_\_\_\_\_ dated \_\_\_\_\_, 2024 of the Town Council.

**WITNESS** our hands and official seals to this Cable Franchise Agreement.

**TOWN OF BLOOMSBURG**

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

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

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

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

**COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC**

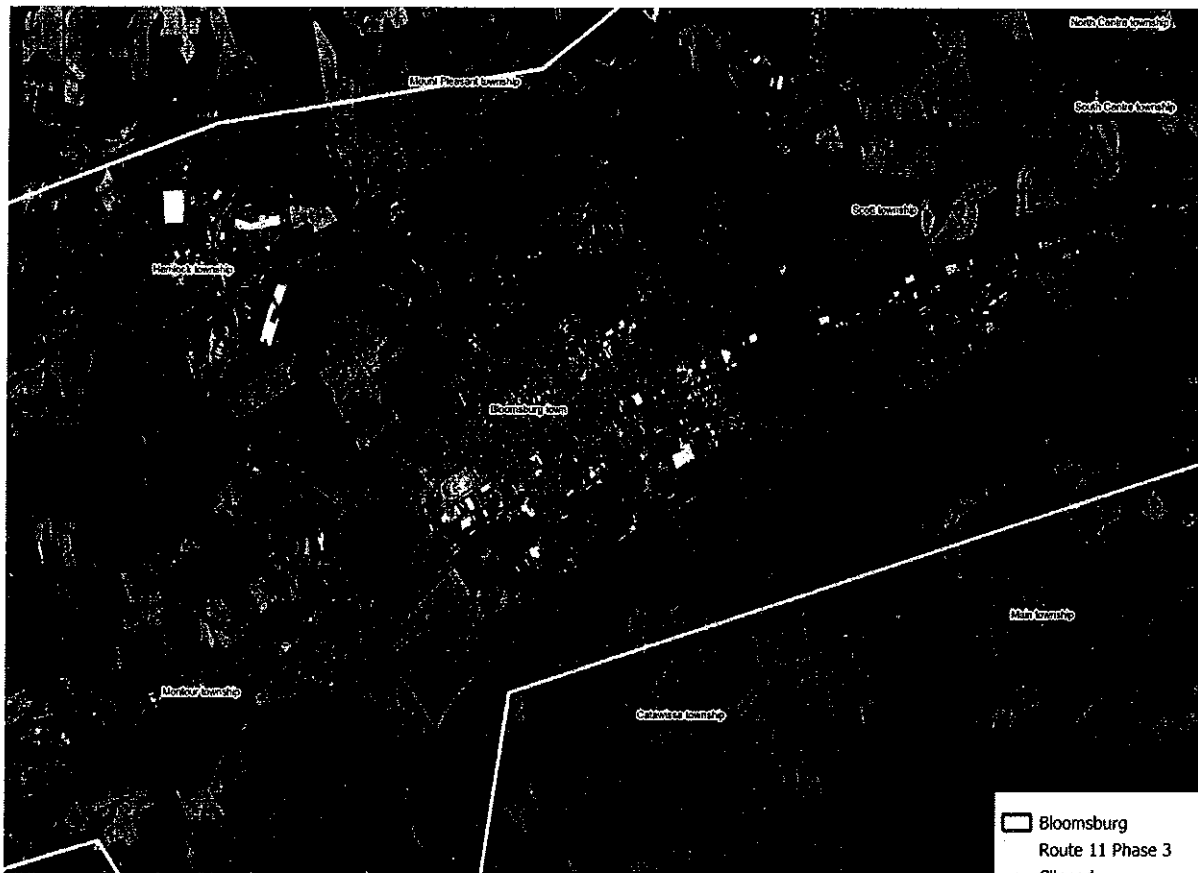
By: \_\_\_\_\_

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

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

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

## EXHIBIT A - PLANNED BUILD OUT AREA



## **EXHIBIT B - LOCATIONS FOR COURTESY CABLE TELEVISION SERVICE**

Town of Bloomsburg  
301 E. 2<sup>nd</sup> Street  
Bloomsburg, PA 17815

Bloomsburg Police Department  
119 E. 7<sup>th</sup> Street  
Bloomsburg, PA 17815

Bloomsburg Municipal Airport  
301 Airport Road  
Bloomsburg, PA 17815

Bloomsburg Recycling Center  
901 Patterson Drive  
Bloomsburg, PA 17815

Bloomsburg Public Works  
821 Catherine Street  
Bloomsburg, PA 17815

Bloomsburg Fire Department  
911 Market Street  
Bloomsburg, PA 17815

Bloomsburg Volunteer Ambulance Association  
307 E. 2<sup>nd</sup> Street  
Bloomsburg, PA 17815

Columbia County Courthouse  
35 W. Main Street  
Bloomsburg, PA 17815

Columbia County Administrative Building  
11 West Main Street  
Bloomsburg, PA 17815

## **SOFTWARE LICENSE AGREEMENT**

THIS SOFTWARE LICENSE AGREEMENT (hereinafter "Agreement"), is made as of the date below, by and between the Bloomsburg Police Department ("Agency"), and True North Software, LLC ("True North")

### **RECITALS:**

WHEREAS, AGENCY desires to purchase a license for certain Software and Services offered by True North, (hereinafter "Products and Services") as set forth in Section 7; and

WHEREAS, True North is professionally qualified to provide the Products and perform the services necessary to install, implement and maintain the System; and

WHEREAS the parties desire to enter into this Agreement as herein set forth;

NOW, THEREFORE, for good a valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, agree as follows:

### **AGREEMENTS:**

#### **1. TERM**

AGENCY'S license of the Software shall become effective upon execution of this Agreement and shall continue for perpetually thereafter unless otherwise terminated as provided herein in connection with the Software Support and Maintenance Agreement (SSMA) contemporaneously executed between the parties.

#### **2. LICENSED SOFTWARE**

The True North Software licensed to the AGENCY in this Agreement is any Product and Service herein licensed in Section 7 of this Agreement (hereinafter the "Software") including any third-party products integrated or interfaced to the Software.

#### **3. LICENSE GRANT**

Subject to the payment of fees in accordance with Paragraph 7 and the other terms and conditions of this Agreement, True North grants the AGENCY a perpetual, non-exclusive, non-transferable license ("License") to (i) use the Software and related user Documentation (the "Documentation"), and (ii) make one backup copy of the Software, provided that the Software is not modified and all copyright notices are maintained on the Software. The AGENCY shall be responsible for obtaining all hardware and all third-party licenses for Software necessary and are not supplied by True North for the correct operation of the Software.

#### 4. LICENSE EXCLUSIONS

The AGENCY may use the Software only to the extent expressly authorized or licensed under this Agreement. Specifically, but not by way of limitation, the AGENCY shall not (i) reproduce, modify, or create derivative works of the Software or Documentation, or (ii) reverse engineer, decompile, or disassemble, or otherwise attempt to derive the source code of the Software, or any portion thereof.

#### 5. OWNERSHIP OF LICENSED SOFTWARE

Subject only to the License expressly granted to the AGENCY herein, Agency agrees that at all times True North retains all right, title, ownership of all applicable patents, copyrights and trade secrets in and to the Software and Documentation. Software and all related Documentation and materials provided by True North are solely licensed, not sold, to AGENCY. Any integrated third-party Software is the property of their respective owners and may be protected by copyright or other law.

#### 6. SOFTWARE UPDATES

True North shall notify the AGENCY of any new standard or additional features released subsequent to the installation at the AGENCY or hosted via Amazon Web Services (AWS) and which are released during the term of this Agreement, and offer the same to AGENCY pursuant to and as applicable to Section 7.

#### 7. SCOPE OF WORK, COST AND PAYMENT

True North agrees to provide the AGENCY a site-license for the following products and services in accordance with the terms and conditions of the Agreement:

Products and Services:
True North Records Management System
True North Mobile RMS
Interface (Tyler Technologies CAD to RMS)
Interface (TRACS to RMS)
Data Conversion (B-Side Alert)

## **7.1 PAYMENT TERMS**

The AGENCY agrees to pay True North \$35,000 upon execution of this Agreement or any otherwise agreed upon date. The project cost shall not be increased without the express written consent of the AGENCY.

All invoices unless otherwise noted therein are payable within thirty (30) days of the date of the invoice. If AGENCY fails to pay any amounts owed when due, True North may assess interest at one-and-one-half percent (1.5%) per month on all overdue amounts, or the highest rate permitted by law, whichever is less. AGENCY shall also be liable for all costs of collection, including reasonable attorney's fees, whether or not a suit is instituted.

Software Maintenance and Support dues will be invoiced two months prior to the anniversary date of Go-Live unless AGENCY is hosted at which invoices shall be delivered at the first of each subscription month.

## **8. ACCEPTABLE ENVIRONMENT (On Premise)**

AGENCY is responsible for ensuring a proper environment and proper utilities for the environment on which the Software will operate, including housing and operating the equipment in an environment and according to the specifications of the manufacturer. AGENCY is responsible for the safe backup and storage of AGENCY data.

## **9. HOSTED SERVICES (If Applicable)**

True North utilizes Amazon Web Services (AWS) for Hosted Services.

9.1 The Software is located on servers that are controlled by True North. Agency may access the Software, but has no right to receive a copy of the object code or source code to the Software

9.2 Agency must have a high-speed Internet connection, and hardware and software that is compatible with the Hosted Services, as set out in the Documentation. None of these things are the responsibility of True North.

9.3 Conditions of Use. The Hosted Services provided to Agency are non-exclusive, non-transferable and are for Agency's internal business use only. Agency's right to use the Hosted Services is conditional upon the following. Agency may not:

- 9.3.1 transfer to any other person any of its rights to use the Hosted Services;
- 9.3.2 sell, rent or lease the Hosted Services;
- 9.3.3 make the Hosted Services available to anyone who is not an "Authorized User". An Authorized User is an employee of Agency, or of a person to whom Agency has outsourced services, who is authorized to access the Software as either a named or concurrent user;
- 9.3.4 create any derivative works based upon the Hosted Services or Documentation;
- 9.3.5 copy any feature, design or graphic in, or reverse engineer the Software;

- 9.3.6 access the Hosted Services (i) in order to build a competitive solution or to assist someone else to build a competitive solution; or (ii) if Agency is an employee of a True North competitor;
- 9.3.7 use the Hosted Services in a way that violates any criminal or civil law;
- 9.3.8 load test the Hosted Services in order to test scalability; or,
- 9.3.9 exceed the usage limits listed herein.

10. **Agency Data.** Agency must provide all data for use in the Software, and True North is not obliged to modify or add to the Agency Data. Agency is solely responsible for the content and accuracy of the Agency Data.

- 10.1 The Agency Data belongs to Agency, and True North makes no claim to any right of ownership in it.
- 10.2 True North will allow 200GB for file and photo upload. Additional storage space may be granted for an additional monthly rate of \$75.00 per month per 100GB additional space.
- 10.3 True North must keep the Agency Data confidential in accordance with Section 13 of this Agreement.
- 10.4 True North must use the Agency Data strictly as necessary to carry out its obligations under this Agreement, and for no other purpose. However, True North:
  - 10.4.1 may observe and report back to Agency on Agency's usage of the Hosted Services, and make recommendations for improved usage of the Hosted Services;
  - 10.4.2 may identify trends and publish reports on its findings provided the reports include data aggregated from more than one Agency site and do not identify Agency; and,
  - 10.4.3 must ensure that the data center containing the Agency Data meets the following physical and electronic security requirements: (i) single point of entry; (ii) main access monitored with additional access for emergency purposes only; (iii) surveillance cameras in facility; (iv) access validation with identity check; (v) access only to persons on True North approved access list; (vi) log-in validation; (vii) creation of accounts only as verified by True North or sub-contracted hosting provider; (viii) access to servers via encrypted means; and, (ix) servers running behind secure firewall.
- 10.5 True North must take reasonable technical and organizational measures to keep personal data secure and to protect it against accidental loss or unlawful destruction, alteration, disclosure or access; and, must deal with the information only in accordance with Agency's instructions, provided they are reasonable and lawful.

## **11. ASSIGNMENT**

True North shall not assign the duties and obligations involved in the performance of this Agreement, which is the subject matter of this Agreement, without the express written consent of the AGENCY.

## **12. LIMITED WARRANTY**

True North warrants for a period of 366 days commencing upon the date of Software Go-Live that the Software conforms in all material respects to the specifications for the current version provided by True North.

### **12.1 LIMITATIONS**

True North is not responsible for obsolescence of the Software that may result from changes in AGENCY'S requirements. The Warranty shall apply only to the most current version of the Software. AGENCY must notify True North of any warranty issues within the Warranty Period; after the end of the Warranty Period, Software errors and defects will be handled under Software Maintenance and Support. Issuance of updates does not result in a renewal or extension of the Warranty Period. True North assumes no responsibility for the use of superseded, outdated, or uncorrected versions of the Software. Such warranty also excludes non-performance issues that result from third party hardware or Software malfunction or defect; modification of the Software by any person other than True North, or defects or problems that are outside the reasonable control of True North.

## **13. CONFIDENTIALITY**

All information of any kind disclosed to the AGENCY by True North (in whatever form, including without limitation, written and oral information) shall be deemed proprietary and confidential information ("Confidential Information"). The AGENCY (a) shall treat and maintain the Confidential Information as confidential property, (b) shall not disclose the Confidential Information to any other person or entity except as authorized herein, (c) shall safeguard the Confidential Information at least to the same extent that it would its own proprietary and confidential information, and (d) shall not duplicate, use or disclose the Confidential Information, in whole or in part, to others except as is necessary to use the Software and Services hereunder (and then only on a confidential basis satisfactory to True North). Confidential Information shall include, without limitation, any information (including any technical information, experience or data) regarding True North products, plans, programs, processes, costs, equipment, operations or customers which may be disclosed to or come within the knowledge of, the AGENCY, its employees and agents in the performance of this Agreement. The provisions of this Section shall not apply to any information referred to in this Section which the AGENCY establishes (a) has been published and has become part of the public domain other than by acts or omissions of the AGENCY, its employees and agents, (b) has been furnished or made known to the AGENCY by third parties (other than those acting directly or indirectly for or on behalf of True North) as a matter of legal right and without restriction on disclosure or use, or (c) was in the AGENCY's possession prior to disclosure by True North to the AGENCY and was not acquired by the AGENCY, its employees and agents directly or indirectly from True North.



#### **14. LIMITATION OF LIABILITY**

True North will correct any claim relating to the non-conformance or imperfection of any licensed Software provided under this Agreement. If True North is unable to correct the non-conformity AGENCY may recover its actual damages subject to the limits herein. For any other claim arising under or in connection with this Agreement, AGENCY may recover its actual damages subject to the limits set forth herein. True North's total liability to AGENCY for all claims relating to this Licensed Software and this Agreement, including any action based upon contract, tort, strict liability, or other legal theory, shall be limited to AGENCY'S actual damages and in no event shall the liability exceed the fees paid to True North described in Section 7 of this Agreement. True North shall not be liable for any special, indirect, incidental, punitive, exemplary, or consequential damages, including loss of profits or costs of cover, arising from or related to a breach of this Agreement or any order or the operation or use of the Licensed Software including such damages, without limitation, as damages arising from loss of data or programming, loss of revenue or profits, failure to realize savings or other benefits, damage to equipment, and claims against AGENCY by any third party, even if True North has been advised of the possibility of such damages. True North's liability for any form of action shall only apply after any and all appropriate insurance coverage has been exhausted. If it is determined that a limitation of liability or a remedy contracted herein fails of its essential purpose, then the parties agree that the exclusion of incidental, consequential, special, indirect, punitive, and/or exemplary damages is still effective.

#### **15. LIMITATION OF DAMAGES**

In no event shall True North and its licensors be liable for any loss of profits; any incidental, special, punitive, or consequential damages; or any claims or demands brought against AGENCY by third parties, even if True North or its licensors have been advised of the possibility of such claims or demands. This limitation upon damages and claims is intended to apply without regard to whether other provisions of this Agreement have been breached or have proven ineffective.

#### **16. COMPLIANCE WITH LAWS**

True North shall comply with all federal, state, and local statutes, laws, ordinances, regulations, rules and codes applicable to the Software and Services, including the AGENCY'S site rules and regulations, and permits and licenses that may be required to perform the Services.

#### **17. APPLICABLE LAW**

This agreement is construed and interpreted in accordance with the laws and judicial decisions of the State of Illinois and all questions of performance hereunder shall be determined in accordance with such laws and judicial decisions; by execution of this Agreement, True North and the AGENCY agree to submit to the jurisdiction of the courts of the State of Illinois and venue in Cook County, Illinois.

## **18. MODIFICATIONS**

This Agreement may not be amended or otherwise modified other than by written agreement signed by all of the parties hereto.

## **19. SOFTWARE MAINTENANCE AND SUPPORT**

In addition to this Agreement, True North will provide ongoing Maintenance and Support services related to the Software Maintenance Agreement contemporaneously executed between the parties. Agency is required to continue using maintenance and support services from True North throughout the term of this Agreement as a condition to the software licensed per this Agreement.

## **20. TERMINATION**

### **20.1 Events of Default**

Either party may terminate this Agreement upon the occurrence of one or more of the following events of default ("Event of Default"): the other party (i) violates or fails to perform any covenant, provision, obligation, term or condition of this Agreement, or (ii) ceases conducting business in the normal course, becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, or shall avail itself of or become subject to any proceeding under the Federal Bankruptcy Act or any other federal or state statute relating to insolvency or the protection of rights of creditors.

### **20.2 Notice and Right to Cure**

Upon occurrence of an Event of Default described in 19.1, the party not in default may immediately terminate this Agreement by giving written notice to the party in default, provided that the party seeking to terminate this Agreement has not itself committed a breach as provided in 19.1 at the time of providing written notice. However, the default is not cause for termination if (i) it is reasonably susceptible to cure, and (ii) the other party cures the default within thirty (30) days of written notice of default or presents a plan to cure the default and the default is cured within sixty (60) days of written notice of default.

### **20.3 Effect of Termination**

Upon termination of this Agreement for any reason or upon discontinuance or abandonment of AGENCY'S possession or use of the Software, AGENCY must return or destroy, as requested by True North, all copies of this Software in AGENCY'S possession (whether modified or unmodified), and all related Documentation, confidential information and other materials pertaining to the Software (including all copies thereof). AGENCY agrees to certify AGENCY'S compliance with such obligation upon request of True North. AGENCY will permit

True North to repossess the Software and any products sold hereunder for which AGENCY has not fully paid the purchase price. If AGENCY has any outstanding payment obligations under this Agreement, True North may accelerate and declare all such obligations of AGENCY immediately due and payable by AGENCY as a liquidated sum and proceed against AGENCY in any lawful way for satisfaction of such sum.

#### **20.4 Retention of Electronic Data upon Termination**

AGENCY shall be entitled to retain all of the electronic data as defined herein in Paragraph 8. AGENCY shall be allowed to remove, copy, download and/or otherwise store any and all said electronic data from True North equipment stored on AGENCY's property.

### **21 FORCE MAJEURE**

The parties shall not be liable to each other for any failure or delay in fulfilling the terms of this Agreement due to fire, strike, war, civil unrest, terrorist action, government regulations, acts of nature or other causes which are unavoidable in nature and beyond the reasonable control of the party claiming force majeure. This provision shall not be construed as relieving any party from its obligation to pay any sum due to the other party. In the event that a force majeure was to prevent material compliance with this Agreement for more than 90 days, either party shall have the right to terminate this Agreement pursuant to Section 20 by giving the other party written notice of same.

Labor shortages, strikes, walkouts, lockouts, industrial disturbances and other labor related disputes do not constitute force majeure events and shall not excuse either party to the responsibilities herein.

### **22 SECTION HEADINGS**

Captions and section headings used herein are for convenience only, are not part of this Agreement, and shall not be used in construing it.

### **23 SEVERABILITY**

A judicial determination that any provision of this Agreement is invalid in whole or in part shall not affect the enforceability of those provisions found not to be invalid.

### **24 LIMITATION OF ACTIONS**

No action, whether based on contract, strict liability, or tort, including any action based on negligence, arising out of the performance of services under this Agreement may be brought by either party more than one (1) year after such cause of action occurred. However, action for nonpayment may be brought within one (1) year the date of the last payment was received by True North.

## **25 ENTIRE AGREEMENT.**

The terms and conditions of this Agreement, together with its exhibits and any and all documents expressly incorporated herein by reference constitutes the entire Agreement between the parties hereto pertaining to the subject matter herein. This Agreement shall supersede any previous agreements between the parties pertaining to the subject matter between the parties hereto.

## **26 MODIFICATIONS**

Any modifications of this Agreement must be in writing and signed by authorized representatives of both parties hereto. The express terms hereof control and supersede any course of performance and/or usage of the trade inconsistent with any of the terms hereof

## **27 SURVIVAL**

Provisions and terms meant expected to continue after any termination of this Agreement that would, by nature, be reasonably expected to continue shall survive including, and without limitation, the following Sections:

- 3.0 License Grant
- 4.0 License Exclusions
- 5.0 Ownership of Licensed Software
- 8.0 Ownership of Electronic Data
- 13.0 Confidentiality
- 14.0 Limitation of Liability
- 15.0 Limitations of Damages
- 16.0 Compliance with Laws
- 17.0 Applicable Law
- 27.0 Survival

## **28 NOTICE**

Any notice required or permitted to be given under this Agreement shall be in writing and shall be deemed served if delivered in person, or if sent by courier service or if deposited in the United States mail, first class mail, postage prepaid. All notices to Agency shall be addressed as follows:

Bloomsburg Police Department  
Attn: Chief of Police  
119 E 7<sup>th</sup> St  
Bloomsburg, PA 17815

If to True North, it shall be addressed to:

True North Software, LLC  
Attention: President  
15826 S LaGrange Rd - #163  
Orland Park, IL 60462

## 29 EXECUTION IN COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. If executed in multiple counterparts, this Agreement shall become binding when two or more counterparts hereto, individually or taken together, bear the signatures of all of the parties reflected hereon as the signatories. A facsimile or PDF signature to this Agreement is deemed to be an original for all purposes.

IN WITNESS WHEREOF, AGENCY and True North have executed this Agreement on the date hereof.

**AGENCY**

**True North Software, LLC**

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## **DEFINITIONS.**

### **1. Glossary.**

- 1.1. "Agency Data" means any electronic information stored in the Software database.
- 1.2. "Documentation" means user documentation provided electronically by COMPANY for use with the Hosted Services, as periodically updated.
- 1.3. "Professional Services" means the training, consulting, development and other professional services identified on an Statement of Work, but does not include the Hosted Services.
- 1.4. "Statement of Work" means a document provided by COMPANY and signed by Agency that describes the Professional Services to be provided by COMPANY to Agency.
- 1.5. "Software" means the software whose functionality is described in the Order Form.
- 1.6. "Subscription Services" means the hosted Agency experience solutions identified in an Order Form, and any modifications periodically made by COMPANY, but does not include the Professional Services.
- 1.7. "Hosted Term" means the period of time during which COMPANY is required to provide Agency with the Hosted Services.
- 1.8. "Work Product" means object code, source code, flow charts, documentation, information, reports, test results, findings, ideas and any works and other materials developed by COMPANY in providing the Professional Services to Agency.

## **TRUE NORTH SOFTWARE SUPPORT & MAINTENANCE AGREEMENT**

THIS SOFTWARE SUPPORT & MAINTENANCE AGREEMENT (hereinafter "SSMA"), is made as of the date below, by and between the Bloomsburg Police Department (hereinafter " AGENCY"), and True North Software, LLC (hereinafter "True North").

### **RECITALS:**

In connection with the Software License Agreement contemporaneously executed between the parties (the "Agreement"), AGENCY desires to enter into certain services and support for the Software ("SSMA"). All definitions contained in the Agreement remain the same for this SSMA.

### **AGREEMENTS:**

Therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, agree as follows:

1. **SUPPORT ELIGIBILITY.** This SSMA may be terminated pursuant to Section 7 or suspended, at the discretion of True North, if at any time during the term of this SSMA any of the following requirements are not met:
  - 1.1.1 The Agreement must remain valid and in effect at all times
  - 1.1.2 The Software must be operated on a hardware platform approved by True North;  
and
  - 1.1.3 AGENCY must be current on payment of all fees due True North.
2. **SUPPORT TERM.** The Initial Support Term will be for a 365 day period of the Limited Warranty Period as defined in Section 10 of the Agreement. Thereafter, the initial SSMA term shall remain in effect for a period of three (3) years beginning on the 366<sup>th</sup> day after software Go-Live and ending on the same calendar date three (3) years after the start date. After the initial SSMA term this SSMA shall automatically renew for successive periods of one (1) year each, unless and until terminated pursuant to Section 7 hereof.
3. **SCOPE OF SERVICES:**

During the Support Term True North will provide the following services or features to THE AGENCY:

- (a) Upgrades, including new releases;
- (b) Bug Fixes and General Maintenance;
- (c) Revisions to Documentation;
- (d) Telephone and Remote Support during regular business hours as described below;
- (e) Emergency 24/7/365 Telephone and Remote Support as described below;
- (f) Invitation and participation in user group meetings; and
- (g) Limited additional personnel training as agreed upon between both parties.

#### 4. SERVICE LEVEL AGREEMENT

- All non-emergency calls and Help Desk tickets will receive support within four (4) hours from the time the customer first notifies True North until True North initiates work towards resolution.
- Emergency calls will be answered within two (2) hours from the time the customer first notifies True North until True North initiates work towards resolution.
- All Emergency and after-hours calls will be answered personally.

#### 5. SERVICES NOT COVERED UNDER THIS AGREEMENT

- Support for any third-party products including hardware, or support for hardware failure due the use of any third-party vendor products.
- Any network failures or problems including to, but not limited to, cabling, communication lines, routers, switches and network software.
- The backing up of data
- Issues with user passwords
- Restoring or recovering data files or software operating systems

6. FEES AND CHARGES. AGENCY shall pay True North the Annual Maintenance Fees, as set forth below. True North reserves the right to change its Annual Maintenance Dues, effective upon no less than 90 days prior written notice to AGENCY. Annual Maintenance Fees are invoiced 60 days prior to the end of the Initial Support Term.

##### 6.1.

Year 1:	\$5,000
Year 2:	\$5,000
Year 3:	\$5,000

7. TERMINATION. This Support and Maintenance Agreement shall automatically terminate immediately upon termination of the Agreement.

##### 7.1 Either party may terminate this SSMA as follows:

7.1.1 If either True North or AGENCY provides a written notice to the other party, at least 90 days prior to the end of the then-current SSMA term, of its intent to terminate this SSMA; or

7.1.2 Upon 30 days prior written notice, if the other party has materially breached any provision of this SSMA and the offending party has not cured such beach within the 30-day notice period.

##### 7.2 Following termination of this Support and Maintenance Agreement, True North shall immediately invoice AGENCY for all accrued fees, charges and expenses and AGENCY shall pay the that amount immediately upon receipt of such invoice.



8. GENERAL. The terms of Section 12: Limited Warranty, Section 13: Confidentiality, Section 14: Limitation of Liability and Section 15: Limitation of Damages of the Licensed Software and Related Services Agreement are hereby incorporated into this Support and Maintenance Agreement by reference.
9. LIMITED WARRANTY. True North warrants that the SSMA services will be provided in conformance with the terms of this SSMA and True North does not make any other warranties, whether expressed or implied, whether regarding its performance or the services provided under this SSMA. AGENCY agrees that True North has not warranted recovering any data or other information contained in its system. True North shall not be liable for any loss of profits, loss of use, business interruption, loss of data, cost of cover or any indirect, special, incidental, exemplary, punitive or consequential damages of any kind in connection with or arising out of the furnishing, performance or Software or services performed hereunder, whether alleged as a breach of contract or tort conduct, including negligence even if advised of the possibility of such damages. Neither party shall be in default or otherwise liable for any delay in or failure of its performance under this License if such delay or failure arises by any reasons beyond its reasonable control, including any act of God, any acts of the common enemy, the elements, earthquakes, floods, fires, epidemics, riots, failures or delay in transportation or communications or utilities, or any act or failure to act by the other party or such other party's officers, employees, agents or contractors; provided, however, that lack of funds shall not be deemed to be a reason beyond a party's reasonable control

IN WITNESS WHEREOF, THE AGENCY and True North have executed this Software Support & Maintenance Agreement on the date hereof.

**AGENCY**

**True North Software LLC**

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date