



CITY OF WASHINGTON, ILLINOIS
City Council Agenda Communication

Meeting Date: February 3, 2020

Prepared By: Joanie Baxter, Finance Director *JCB*

Agenda Item: Comcast Franchise Fee Audit Settlement – Azavar Government Solutions

Explanation: In December 2017, the City contracted with Azavar Government Solutions to conduct a revenue audit. The findings have been pretty minimal thus far; however, it was discovered that there were some errors made by Comcast in regard to proper addressing and calculation of revenue subject to the franchise tax. Azavar has been working with Comcast to reach a settlement on the issues and has recently been successful in proposing a resolution as follows:

Address errors, including interest	\$ 8,142.65
Gross revenue calculation errors	<u>4,148.00</u>
Total proposed resolution	<u>\$12,290.65</u>

As stipulated by the contract, the fees are on a contingency basis and include a 45% commission on the settlement payment above and a 40% fee for additional revenue generated as a result of the address corrections for a 36-month period beginning January 1, 2020.

Fiscal Impact: Net additional franchise fee revenue of \$6,760 as a result of the settlement in FY19-20. Fee payments equal to 40% of additional revenue as confirmed by Azavar.

Recommendation/Committee Discussion Summary: Staff recommends approval.

Action Requested: Approval of settlement agreement with Comcast.



January 15, 2020

Mr. Raymond P. Forsythe
City Administrator
City of Washington
301 Walnut Street
Washington, IL 61571

Re: Resolution of Franchise Fee Audit Conducted by the City of Washington

Dear Mr. Forsythe,

Both the City of Washington ("City") and Comcast of Illinois/ Indiana/ Ohio, LLC ("Comcast") deem it to be to their mutual benefit to resolve their differences regarding the franchise fee audit ("Audit"). In an effort to resolve these differences both parties agree to the following:

1. The City, for and in consideration of Comcast making a payment to the City in the amount of twelve thousand two hundred ninety dollars and sixty-five cents (\$12,290.65) ("Recovery Amount") and other good and valuable consideration, the sufficiency of which is hereby acknowledged, shall release Comcast from any and all past, present or future claims, demands, actions, causes of action, suits, judgments, costs and expenses (including attorney fees) related to franchise fees incurred through September 30, 2019 (the "Release").
2. As additional consideration for the Release, Comcast shall provide to the City, on a monthly or quarterly basis, covering the service period between October 1, 2019 and March 31, 2021, a report calculating the net revenues remitted to the City as a result of changes made to Comcast customer information in conjunction with the Audit.
3. Comcast will remit the Recovery Amount to the City within twenty-one (21) calendar days of receipt from City countersigning this letter as noted below. The Recovery Amount shall be paid via check and mailed by certified or overnight mail to Joanie Baxter at the above address.
4. The parties have entered into this resolution in accordance with the Cable Act (47 USC 521 et. seq.) and Illinois Municipal Code, including without limitation 65 ILCS 5/11-42-11

and the Illinois Constitution of 1970. City and Comcast reserve and do not waive all rights each may have thereunder.

5. To the extent permitted by law, the City and Comcast agree to keep this letter confidential, although it may provide this letter to its outside attorneys, accountants, auditors, and similar individuals or entities that have a legitimate need for the information contained herein. The City shall not affirmatively publicize this resolution to any party. Comcast understands and agrees, however, that the fact that this resolution was reached is a matter of public record. If asked, a City representative or Comcast may reference the fact that an agreement has been reached, and identify the general terms. City representatives and Comcast shall not editorialize as to matters involving the allegations or negotiations leading to this resolution. Customer notice as is required by applicable law and regulation, and any communications by Comcast or City related thereto, are not a violation of this resolution.
6. Without waiving any rights under 47 USC 542, City and Comcast agree that each party shall bear its own legal costs, lawyer expenses or attorneys' fees, if any, incurred by it in connection with the subject matter hereof.
7. The consideration received by City is in final settlement of all damages and monies owed for the period prior to and ending September 30, 2019 and shall stand as a complete bar to any action or proceeding to set aside or vacate this resolution because of a mistake in fact or otherwise.

If you concur with the above, countersign the document below. Please don't hesitate to contact me if you have any questions or need additional information.

Sincerely,



Mathew Summy
Vice President of External Affairs
Comcast

Raymond P. Forsythe
City Administrator
City of Washington

Date