



# *City of Peru*



David R. Bartley  
*City Clerk*

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## **AGENDA**

### **REGULAR CITY COUNCIL MEETING**

**MONDAY, APRIL 10, 2023**

RESIDENTS ARE WELCOME TO WATCH THE MEETINGS VIA FACEBOOK LIVE AT  
(<https://www.facebook.com/peru.illinois>)  
QUESTIONS CAN BE PRESENTED USING THE COMMENT FUNCTION OR EMAILED TO  
DBARTLEY@PERU.IL.US

#### **ROLL CALL**

7:00 P.M.

#### **PLEDGE OF ALLEGIANCE**

#### **PUBLIC COMMENT**

#### **SWEARING IN**

*SWEARING IN OF FIREFIGHTER RYAN FRANK*

#### **PRESENTATION/PROCLAMATION**

*LIFE SAVING AWARD FOR OFFICER BILL SOMMER AND OFFICER HUNTER WRIGHT*

*NATIONAL PUBLIC SAFETY TELECOMMUNICATORS WEEK (APRIL 9-15, 2023)*

#### **MINUTES/FINANCIAL REPORTS/ACTIVITY REPORTS**

*REGULAR MINUTES OF MARCH 27, 2023*

*PERU VOLUNTEER AMBULANCE SERVICE INC. ACTIVITY SUMMARY FOR FEBRUARY 2023*

#### **COMMITTEE REPORTS**

##### **1. FINANCE COMMITTEE**

*DISBURSEMENTS for April 12, 2023*

*Motion to approve \$235,000 reinvestment into Parkway Bank & Trust, CD at 5.1% for 12 months*

2. **PUBLIC SERVICES COMMITTEE**

*Motion to approve the 2023 MFT Program to Universal Asphalt & Excavating in the amount of \$235,133.22*

*Motion to authorize the Mayor and City Clerk to execute the Joint Funding Agreement for the Safe Routes to School project (Section # 22-00071-00-SW) extending sidewalk along Shooting Park Road.*

3. **FIRE & POLICE COMMITTEE**

*Motion to approve purchase of body worn cameras and 2 in car camera systems from Motorola Solutions with the first-year installment price of \$23,050. The following 4 years will each have a price of \$15,830 for a total at the end of the 5-year period of \$86,370 (less an expected \$800 per body worn camera reimbursement through grant money).*

**REPORT OF CITY ATTORNEY/ORDINANCES AND RESOLUTION**

*AN ORDINANCE AUTHORIZING EXECUTION OF A CABLE FRANCHISE AGREEMENT BETWEEN THE CITY OF PERU AND COMCAST OF ILLINOIS/ INDIANA/OHIO, LLC*

*AN ORDINANCE ACCEPTING AN EASEMENT FROM MICHAEL J. ROONEY, TRUSTEE*

*AN ORDINANCE ACCEPTING AN EASEMENT FROM BERNARD T. ERNAT AND PATRICIA A. ERNAT*

*RESOLUTION 2023-04 COMMITTING FUNDS FOR THE SRTS PROJECT (SECTION # 22-00071-00-SW)*

**PROCLAMATIONS**

**UNFINISHED BUSINESS**

*Motion to approve selected candidate for the position of Administrative Assistant within the Engineering/Zoning Department.*

**NEW BUSINESS**

*Motion to authorize Human Resources to seek applicants for the position of Utility Billing Clerk within the City Clerk's Office.*

## **PETITIONS AND COMMUNICATIONS**

***ITEM NO. 1**      Communication from Tim Bott requesting Text Amendment and Special Use for property located at 2724 4th St.*

## **MAYOR'S NOTES**

## **PUBLIC COMMENT**

## **CLOSED SESSION**

## **ADJOURNMENT**

## **CITY OF PERU REGULAR COUNCIL MEETING MARCH 27, 2023**

A regular meeting of the Peru City Council was called to order by Mayor Ken Kolowski in the Peru City Council Chambers on Monday, March 27, 2023, at 7:00 p.m.

City Clerk Dave Bartley called the roll with Aldermen Ballard, Tieman, Payton, Edgcomb, Waldorf, Sapienza, Lukosus and present; Alderman Buffo absent. Mayor Kolowski present.

All joined in the Pledge of Allegiance to the Flag of the United States of America.

### **PUBLIC COMMENT**

### **PRESENTATION**

### **MINUTES/FINANCIAL REPORTS/ACTIVITY REPORTS**

Mayor Kolowski presented the Regular Minutes of March 13, 2023; Treasurer's Report for February 2023 and Peru Police Department Monthly Report for February 2023. Alderman Waldorf made a motion the minutes and reports be received and placed on file. Alderman Lukosus seconded the motion; motion carried.

### **FINANCE AND SAFETY COMMITTEE**

Alderman Sapienza presented the following disbursements for payment on March 29, 2023:

<b><u>FUND NAME</u></b>	<b><u>TOTAL EXPENSES</u></b>
General Fund	\$515,139.02
Utility Fund	1,928,662.53
Airport Fund	<u>4,387.93</u>
Total	\$2,448,189.48

Alderman Sapienza made a motion the disbursements be received, placed on file and the bills be paid in the usual manner. Alderman Tieman seconded the motion. Clerk Bartley called the roll with Aldermen Ballard, Tieman, Payton, Edgcomb, Waldorf, Sapienza and Lukosus voting aye; Alderman Buffo absent; motion carried.

Alderman Tieman made a motion to approve \$250,000 reinvestment into Charles Schwab, CD at 5.4% for 18 months (Utility Fund). Alderman Payton seconded the motion. Clerk Bartley called the roll with Aldermen Ballard, Tieman, Payton, Edgcomb, Waldorf, Sapienza and Lukosus voting aye; Alderman Buffo absent; motion carried.

Alderman Tieman made a motion to approve \$235,000 reinvestment into Comerica Bank, CD at 5.25% for 18 months (Utility Fund). Alderman Payton seconded the motion. Clerk Bartley called the roll with Aldermen Ballard, Tieman, Payton, Edgcomb, Waldorf, Sapienza and Lukosus voting aye; Alderman Buffo absent; motion carried.

## **CITY OF PERU REGULAR COUNCIL MEETING MARCH 27, 2023**

### **PUBLIC SERVICES COMMITTEE**

Alderman Lukosus made a motion to award lowest bid for truckload of 35' poles (restock) from Brown Wood Preserving Co. in the amount of \$16,618.00. Alderman Waldorf seconded the motion. Clerk Bartley called the roll with Aldermen Ballard, Tieman, Payton, Edgcomb, Waldorf, Sapienza and Lukosus voting aye; Alderman Buffo absent; motion carried.

### **POLICE AND FIRE COMMITTEE**

### **REPORT OF CITY ATTORNEY/ORDINANCES AND RESOLUTIONS**

### **PROCLAMATIONS**

Mayor Kolowski presented a proclamation proclaiming April 2023 as Fair Housing Month. Alderman Waldorf made a motion to receive the proclamation and place it on file. Alderman Lukosus seconded the motion; motion carried.

### **UNFINISHED BUSINESS**

### **NEW BUSINESS**

Alderman Payton made a motion to approve Memo of Agreement with IUOE Local 150. Alderman Ballard seconded the motion. Clerk Bartley called the roll with Aldermen Ballard, Tieman, Payton, Edgcomb, Waldorf, Sapienza and Lukosus voting aye; Alderman Buffo absent; motion carried.

### **PETITIONS AND COMMUNICATIONS**

Clerk Bartley presented a petition from Ryan & Kayla Jeppson seeking a text amendment/special use for the property located at 1824 4th Street. Alderman Payton made a motion the petition be received, placed on file and referred to the Planning/Zoning Department for review and recommendation. Alderman Tieman seconded the motion; motion carried.

Clerk Bartley presented a petition from Greg & Dawn Coble seeking variances for the property located at 2328 10<sup>th</sup> Street. Alderman Waldorf made a motion the petition be received, placed on file and referred to the Planning/Zoning Department for review and recommendation. Alderman Sapienza seconded the motion; motion carried.

Clerk Bartley presented a petition from Pita Rey Estates LLC seeking a special use for the property located at 4 Center Place. Alderman Ballard made a motion the petition be received, placed on file and referred to the Planning/Zoning Department for review and recommendation. Alderman Tieman seconded the motion; motion carried.

Clerk Bartley presented a communication from Rita Studzinski of the Compassionate Friends River Valley Chapter requesting permission to hold the annual Compassionate Friends Walk at Baker Lake on Sunday, September 17th. Alderman Edgcomb made a motion the communication be received, placed on file and permission granted. Alderman Tieman seconded the motion; motion carried.

Clerk Bartley presented a communication from Saint Bede Academy requesting permission to use the tennis courts for the Saint Bede Tennis teams. (Boys season runs March 1-end of May) (Girls season begins August 7-October). Alderman Payton made a motion to receive the communication, placed it on file and permission granted. Alderman Edgcomb seconded the motion; motion carried.

## **CITY OF PERU REGULAR COUNCIL MEETING MARCH 27, 2023**

### **MAYOR'S NOTES**

Mayor Kolowski expressed his sympathy to the families of the senseless killings Covenant School in Nashville, TN.

Adam Thorson, Director of Parks, Recreation and Special Events reminded the council of the upcoming easter egg hunt at Centennial Park on April 1<sup>st</sup> at 1:00 p.m. with a reserved sensory hour for children with special needs from 11:00 a.m. to 12:00 p.m.

Alderman Tieman reminded all regarding the need for Habitat for Humanity volunteers.

Mayor Kolowski reported city workers and volunteers are not permitted to pick up trash along Rt. 251. Mayor Kolowski suggested possible locations for volunteers to pick up "earth day" trash.

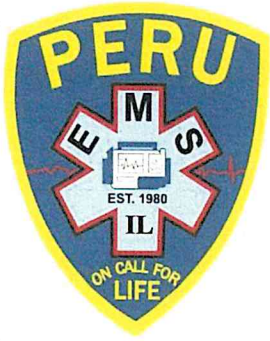
Alderman Edgcomb inquired about upgrading parks and special needs park equipment,

### **CLOSED SESSION**

### **PUBLIC COMMENT**

### **ADJOURNMENT**

Alderman Edgcomb made a motion that the meeting be adjourned. Alderman Sapienza seconded the motion and motion carried. Meeting adjourned at 7:20 p.m.



# Peru Volunteer Ambulance Service Inc.

111 Fifth Street ~ Peru, IL 61354 ~ (815) 223-9111 ~ Fax (815) 223-1590

*Proudly serving the citizens of Peru~ La Salle ~ Peru Township ~ Dimmick Township*

To: Mayor Kolowski and Aldermen, City of Peru

From: Brent C. Hanson, Executive Director

Subject: Activity Summary for Month of February 2023

Date: Monday, March 20, 2023

The Peru Volunteer Ambulance Service responded to two hundred nine (209) patient/calls during the month of February. The two hundred nine (209) patient/calls included one hundred fifty-three (153) emergencies for Peru, seven (7) emergencies for Dimmick, two (2) emergencies for Peru Township, and forty (40) transfers. Of the one hundred sixty-two (162) emergencies, one hundred ten (110) patients were transported, forty-six (46) patients refused treatment, and six (6) were disregarded.

Peru Volunteer Ambulance Service, Inc. responded to one (1) Mutual Aid request with La Salle Fire/EMS, one (1) Mutual Aid request with PC EMS, two (2) Mutual Aid requests with Mendota Ambulance, one (1) Mutual Aid request with Earlville Ambulance, and two (2) Motor Cross Standby requests.

The total mileage logged was 5427 miles for the month of February.

BCH:seb

*PROCLAMATION*

*National Public Safety Telecommunicators Week*

*April 9-15, 2023*

*WHEREAS, emergencies can occur at any time that require police, fire or emergency medical services; and,*

*WHEREAS, when an emergency occurs the prompt response of police officers, firefighters and paramedics is critical to the protection of life and preservation of property; and,*

*WHEREAS, the safety of our police officers and firefighters is dependent upon the quality and accuracy of information obtained from citizens who telephone the Peru Police Dispatch and Illinois Valley Regional Dispatch Center and,*

*WHEREAS, Public Safety Telecommunicators are the first and most critical contact our citizens have with emergency services; and,*

*WHEREAS, Public Safety Telecommunicators are the single vital link for our police officers and firefighters by monitoring their activities by radio, providing them information and ensuring their safety; and,*

*WHEREAS, Public Safety Telecommunicators of the Peru Police Dispatch and Illinois Valley Regional Dispatch Center have contributed substantially to the apprehension of criminals, suppression of fires and treatment of patients; and,*

*WHEREAS, each dispatcher has exhibited compassion, understanding and professionalism during the performance of their job in the past year;*

*NOW, THEREFORE, the City of Peru declares the week of April 9 through 15, 2023, to be National Public Safety Telecommunicators Week in Peru in honor of the men and women whose diligence and professionalism keep our city and citizens safe.*

*IN WITNESS WHEREOF, I have hereunto set my hand, and caused the Seal of the City of Peru, to be affixed.*

*Dated the 10th day of April 2023*

*(SEAL)*

\_\_\_\_\_  
*Mayor*

\_\_\_\_\_  
*City Clerk*



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

**AN ORDINANCE AUTHORIZING EXECUTION OF A  
CABLE FRANCHISE AGREEMENT BETWEEN THE  
CITY OF PERU AND COMCAST OF ILLINOIS/  
INDIANA/OHIO, LLC**

**WHEREAS**, the residents of the City of Peru, an Illinois home rule municipal corporation (hereinafter “City”), receive cable services from Comcast of Illinois/Indiana/Ohio, LLC (hereinafter “Comcast Cable”); and

**WHEREAS**, the franchise agreement previously in effect between the City and Comcast Cable was the result of discussions between the Metropolitan Mayors Caucus and Comcast Cable and is now up for renewal; and

**WHEREAS**, The City has reviewed the franchise agreement, negotiated and received certain modifications to the franchise agreement, and is now prepared to accept the new franchise agreement; and

**WHEREAS**, the new franchise agreement is attached to this ordinance, marked as Exhibit A, and incorporated by reference as if set out in full herein (hereinafter “Franchise Agreement”).

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PERU, ILLINOIS, A HOME RULE MUNICIPALITY, AS FOLLOWS:**

**SECTION 1:** The recitals contained in the preamble to this Ordinance are restated as if set forth herein.

**SECTION 2:** The Mayor and City Clerk of the City of Peru, and each of them, within their sole discretion, are hereby authorized to execute the Franchise Agreement and perform such other and further acts to effect its implementation.

**SECTION 3:** This Ordinance shall be effective immediately from and after its passage and approval.

**PRESENTED, PASSED, AND ADOPTED** at a regular meeting of the City Council of the City of Peru, Illinois, by an aye and nay roll call vote, with \_\_\_\_ voting aye, \_\_\_\_ voting nay, \_\_\_\_ absent, and Mayor Kolowski \_\_\_\_ voting \_\_\_\_, which meeting was held on the 10<sup>th</sup> day of April, 2023.

**APPROVED:** April 10, 2023

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Ken Kolowski, Mayor

(CORPORATE SEAL)

ATTEST:

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David R. Bartley, City Clerk

<u>Aldermen</u>	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>
Ballard			
Tieman			
Payton			
Edgcomb			
Waldorf			
Sapienza			
Lukosus			
Buffo			

<b>EXHIBIT A</b>
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**CABLE TELEVISION FRANCHISE AGREEMENT  
BY AND BETWEEN  
The  
CITY OF PERU  
And  
COMCAST OF ILLINOIS/INDIANA/OHIO, LLC**

This Franchise Agreement (hereinafter, the "Agreement" or "Franchise Agreement") is made between the City of Peru, Illinois (hereinafter, the "City") and Comcast of Illinois/Indiana/Ohio, LLC (hereinafter, "Grantee") this \_\_\_\_ day of April, 2023 (the "Effective Date").

The City, having determined that the financial, legal, and technical abilities of the Grantee are reasonably sufficient to provide the services, facilities, and equipment necessary to meet the future cable-related needs of the community, desires to enter into this Franchise Agreement with the Grantee for the construction, operation and maintenance of a Cable System on the terms and conditions set forth herein.

This Agreement is entered into by and between the parties under the authority of the Cable Act, the Illinois Constitution of 1970, including the City's home rule powers, and the Illinois Municipal Code, as amended from time to time, and shall be governed by the Cable Act and the Illinois Municipal Code, as amended from time to time; provided that any provisions of the Illinois Municipal Code that are inconsistent with the Cable Act shall be deemed to be preempted and superseded.

**SECTION 1: Definition of Terms**

For the purpose of this Franchise Agreement, capitalized terms, phrases, words, and abbreviations shall have the meanings ascribed to them in the Cable Act, unless otherwise defined herein.

"Cable Act" or "Act" means the Cable Communications Policy Act of 1984, as amended by the Cable Consumer Protection and Competition Act of 1992 and the Telecommunications Act of 1996, 47 U.S.C. §§ 521 et seq., as the same may be amended from time to time.

"Cable Operator" means any Person or group of Persons who provides Cable Service over a Cable System and directly or through one or more affiliates owns a significant interest in such Cable System; or who otherwise controls or is responsible for, through any arrangement, the management and operation of such a Cable System.

"Cable Service" or "Service" means the one-way transmission to Subscribers of Video Programming or Other Programming Service and Subscriber interaction, if any, which is required for the selection or use of such Video Programming or Other Programming Service.

“Cable System” or “System,” has the meaning set forth in 47 U.S.C. § 522 of the Cable Act, and means Grantee's facilities, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment, that is designed to provide Cable Service which includes Video Programming and which is provided to multiple Subscribers within the Franchise Area, but such term does not include (i) a facility that serves only to re-transmit the television signals of one or more television broadcast stations; (ii) a facility that serves Subscribers without using any public right-of-way, (iii) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, as amended, except that such a facility shall be considered a Cable System (other than for purposes of section 621(c) of the Cable Act) to the extent such facility is used in the transmission of Video Programming directly to Subscribers, unless the extent of such use is solely to provide Interactive On-Demand Services; (iv) an open video system that complies with section 653 of the Cable Act; or (v) any facilities of any electric utility used solely for operating its electric utility systems.

“City” means the City of Peru, Illinois or the lawful successor, transferee, designee, or assignee thereof.

“City Code” means the City of Peru Code of Ordinances.

“City Council” means the governing body of the City of Peru, Illinois.

“Channel” or “Cable Channel” means 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 the Federal Communications Commission by regulation.

“Customer” or “Subscriber” means a Person who lawfully receives and pays for Cable Service with the Grantee’s express permission.

“FCC” means the Federal Communications Commission or successor governmental entity thereto.

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

“Franchise Agreement” or “Agreement” shall mean this Agreement and any amendments or modifications hereto.

“Franchise Area” means the present legal boundaries of the City as of the Effective Date, and shall also include any additions thereto, by annexation or other legal means as provided in this Agreement.

“Grantee” shall mean Comcast of Illinois/Indiana/Ohio, LLC.

“Gross Revenue” means the Cable Service revenue received by the Grantee from the operation of the Cable System in the Franchise Area to provide Cable Services, calculated in accordance with generally accepted accounting principles. Cable Service revenue includes monthly Basic Cable Service, cable programming service regardless of Service Tier, premium and pay-per-view video fees, advertising and home shopping revenue, installation fees and equipment rental fees. Gross revenues shall also include such other revenue sources from Cable Service delivered over the Cable System as may now exist or hereafter develop, provided that such revenues, fees, receipts, or charges may be lawfully included in the gross revenue base for purposes of computing the City’s permissible franchise fee under the Cable Act, as amended from time to time. Gross Revenue shall not include refundable deposits, bad debt, investment income, programming launch support payments, third party advertising sales commissions and agency fees, nor any taxes, fees or assessments imposed or assessed by any governmental authority. Gross Revenues shall include amounts collected from Subscribers for Franchise Fees pursuant to *City of Dallas, Texas v. F.C.C.*, 118 F.3d 393 (5<sup>th</sup> Cir. 1997), and amounts collected from non-Subscriber revenues in accordance with the Court of Appeals decision resolving the case commonly known as the “Pasadena Decision,” *City of Pasadena, California et. al., Petitions for Declaratory Ruling on Franchise Fee Pass Through Issues*, CSR 5282-R, *Memorandum Opinion and Order*, 16 FCC Rcd. 18192 (2001), and *In re: Texas Coalition of Cities for Utility Issues v. F.C.C.*, 324 F.3d 802 (5<sup>th</sup> Cir. 2003).

“Initial Franchise Service Area” means that portion of the Franchise Area served by the Grantee’s Cable System as of the Effective Date of this Franchise Agreement.

“Person” means any natural person or any association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for-profit or not-for profit, but shall not mean the City.

“Public Building” means, pursuant to 220 ILCS 5/22-501(f), all local government buildings, public libraries, and public primary and secondary schools, whether owned or leased by that local unit of government.

“Public, Educational and Government Access Channel” or “PEG Channel” shall mean a video Channel designated for non-commercial use by the City, the public, and/or educational institutions, such as public or private schools, but not “home schools,” community colleges, and universities.

“Public, Educational and Government (PEG) Access Programming” shall mean non-commercial programming produced by any City residents or organizations, schools and government entities and the use of designated facilities, equipment and/or Channels of the Cable System in accordance with 47 U.S.C. 531 and this Agreement.

“Public Way” shall mean, pursuant and in addition to the City’s Right of Way Ordinance (insert citation here), the surface of, and the space above and below, any street, alley, other land or waterway, dedicated or commonly used for pedestrian or vehicular traffic or other similar purposes, including, but not limited to, public utility easements and other easements dedicated for compatible uses, now or hereafter held by the City in the Franchise Area, to the extent that the City has the right and authority to authorize, regulate, or permit the location of facilities other

than those of the City. Public Way shall not include any real or personal City property that is not specifically described in this definition and shall not include City buildings, fixtures, and other structures and improvements, regardless of whether they are situated in the Public Way.

“Standard Installation” means those installations to Subscribers that are located up to one hundred twenty-five (125) feet from the existing distribution system (Cable System).

“Video Programming” or “Programming” means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

## **SECTION 2: Grant of Authority**

2.1. Pursuant to Section 621(a) of the Cable Act, 47 U.S.C. § 541 (a), and 65 ILCS 5/11-42-11(a) of the Illinois Municipal Code, the Illinois Constitution and Ordinance No. \_\_\_\_\_ approving and authorizing the execution of this Agreement, the City hereby grants to the Grantee a nonexclusive Franchise authorizing the Grantee to construct and operate a Cable System in the Public Ways within the Franchise Area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in any Public Way such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the Cable System, and to provide such services over the Cable System as may be lawfully allowed.

2.2. Term of Franchise. The term of the Franchise granted hereunder shall be five (5) years from the Effective Date, unless the Franchise is renewed or is lawfully terminated in accordance with the terms of this Franchise Agreement and/or applicable law. From and after the Effective Date of this Franchise Agreement, the Parties acknowledge that this Franchise Agreement is intended to be the sole and exclusive Franchise Agreement between the Parties pertaining to the Grantee’s Franchise for the provision of Cable Service.

2.3. Renewal. Any renewal of this Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, as amended, and any applicable State law which may exist at the time of renewal and which is not superseded by the Cable Act.

2.4. Police Powers. Nothing in this Franchise Agreement shall be construed as an abrogation by the City of any of its police powers to adopt and enforce generally applicable ordinances deemed necessary for the health, safety, and welfare of the public, and the Grantee shall comply with all generally applicable laws and ordinances enacted by the City pursuant to such police power.

2.5. Reservation of Authority. Nothing in this Franchise Agreement shall (A) abrogate the right of the City to perform any public works or public improvements of any description, (B) be construed as a waiver of any codes or ordinances of general applicability promulgated by the City, or (C) be construed as a waiver or release of the rights of the City in and to the Public Ways.

## 2.6. Competitive Equity.

2.6.1. In the event the City grants an additional Franchise to use and occupy any Public Way for the purposes of operating a Cable System, the additional Franchise shall only be granted in accordance with the Illinois Level Playing Field Statute, 65 ILCS 5/11-42-11.

2.6.2. In the event an application for a new cable television franchise or other similar authorization is filed with the City proposing to serve the Franchise Area, in whole or in part, the City shall to the extent permitted by law promptly notify the Grantee, or require the Grantee to be notified, and include a copy of such application.

2.6.3. Provided that appropriate vehicle safety markings have been deployed, Grantee's vehicles shall be exempt from parking restrictions of the City while used in the course of installation, repair and maintenance work on the Cable System.

## **SECTION 3: Construction and Maintenance of the Cable System**

3.1. Except as may be otherwise provided in this Franchise Agreement, Grantee shall comply with all generally applicable provisions of the City of Peru Code of Ordinances as may be amended from time to time.

3.2. Aerial and Underground Construction. At the time of Cable System construction, if all of the transmission and distribution facilities of all of the respective public or municipal utilities in any area of the Franchise Area are underground, the Grantee shall place its Cable Systems' transmission and distribution facilities underground, provided that such underground locations are actually capable of accommodating the Grantee's cable and other equipment without technical degradation of the Cable System's signal quality. In any region(s) of the Franchise Area where the transmission or distribution facilities of the respective public or municipal utilities are both aerial and underground, the Grantee shall have the discretion to construct, operate, and maintain all of its transmission and distribution facilities or any part thereof, aerially or underground. Nothing in this Section shall be construed to require the Grantee to construct, operate, or maintain underground any ground-mounted appurtenances such as customer taps, line extenders, system passive devices, amplifiers, power supplies, pedestals, or other related equipment.

## 3.3. Undergrounding and Beautification Projects.

3.3.1. In the event the City requires users of the Public Way who operate aerial facilities to relocate such aerial facilities underground, Grantee shall participate in the planning for relocation of its aerial facilities, if any, contemporaneously with such users. Grantee shall be reimbursed its relocation costs from public or private funds allocated for the project to the same extent as such funds are made available to other users of the Public Way, if any, provided that any utility's exercise of authority granted under its tariff to charge consumers for the said utility's cost of the project that are not reimbursed by the City shall not be considered to be public or private funds.

3.3.2. The Grantee shall not be required to relocate its facilities unless it has been afforded at least sixty (60) days notice of the necessity to relocate its facilities. Upon adequate notice the Grantee shall provide a written estimate of the cost associated with the work necessary to relocate its facilities. In instances where a third party is seeking the relocation of the Grantee's facilities or where the Grantee is entitled to reimbursement pursuant to the preceding Section, the Grantee shall not be required to perform the relocation work until it has received payment for the relocation work.

3.4. Clean-up and restoration. Upon completion of all construction or maintenance of facilities, the Grantee shall remove excess material and restore turf and terrain and other property to the reasonable satisfaction of the City within ten (10) days after any portion of the rights-of-way are disturbed, damaged or destroyed due to the construction or maintenance by the Grantee. Restoration of roadway surfaces shall be made using materials and generally applicable methods as established by the City Director of Engineering and Zoning. Such cleanup and repair may be required to consist of backfilling, re-grading, reseeding, re-sodding, or other requirement to restore the right-of-way to a condition substantially equivalent to that which existed prior to the commencement of the construction or maintenance. The time period provided for in this section may be extended by the City Director of Engineering and Zoning upon reasonable request by the Grantee, which request shall not be unreasonably denied.

3.5 Emergency. Whenever, in case of fire or other emergency, it becomes necessary, in the judgment of the Police Chief, Fire Chief, or Director of Engineering and Zoning, or their designees, to remove or damage any of Grantee's facilities in the interests of public health or safety, no charge shall be made by Grantee against City for restoration, repair, or damages. Notwithstanding the above, Grantee reserves the right to assert a right of reimbursement or compensation from any responsible party.

#### **SECTION 4: Service Obligations**

4.1. Initial Service Obligations. As of the Effective Date of this Agreement, Grantee's Cable System has been designed to provide, and is capable of providing, Cable Service to residential Customers throughout the Initial Franchise Service Area. The Grantee shall continue to make Cable Service available in the Initial Service Area throughout the term of this Agreement and Grantee shall extend its Cable System and provide service consistent with the provisions of this Franchise Agreement.

4.2. General Service Obligation. The Grantee shall make Cable Service available beyond the Initial Franchise Service Area to every residential dwelling unit within the Franchise Area where the minimum density is at least thirty (30) dwelling units per linear Cable System network mile as measured from the existing Cable System's technically feasible connection point. Subject to the density requirement, Grantee shall offer Cable Service to all new homes or previously unserved homes located within one hundred twenty-five (125) feet of the Grantee's distribution cable (e.g., a Standard Installation).



4.2.1. The Grantee may elect to provide Cable Service to areas not meeting the above density and distance standards. The Grantee may impose an additional charge in excess of its regular installation charge for any service installation requiring a drop or line extension in excess of a Standard Installation. Any such additional charge shall be computed on a time plus materials basis plus a reasonable rate of return.

4.3. Programming. The Grantee agrees to provide cable programming services in the following broad categories:

Children	General Entertainment	Family Oriented
Ethnic/Minority	Sports	Weather
Educational	Arts, Culture and Performing Arts	News & Information

Pursuant and subject to federal law, all Video Programming decisions, excluding PEG Access Programming, are at the sole discretion of the Grantee.

4.4. Technical Standards. The Grantee shall comply with all applicable technical standards of the FCC as published in 47 C.F.R., Part 76, Subpart K, as amended from time to time. The Grantee shall cooperate with the City in conducting inspections related to these standards upon reasonable prior written request from the City based on a significant number of Subscriber complaints.

4.5. Annexations and New/Planned Developments. In cases of annexation the City shall provide the Grantee written notice of such annexation. In cases of new construction, planned developments or property development where undergrounding or extension of the Cable System is required, the City shall provide or cause the developer or property owner to provide notice of the same. Such notices shall be provided at the time of notice to all utilities or other like occupants of the City's Public Way. If advance notice of such annexation, new construction, planned development or property development is not provided, the Grantee shall be allowed an adequate time to prepare, plan and provide a detailed report as to the timeframe for it to construct its facilities and provide the services required under this Franchise Agreement.

4.6. Service to School Buildings and Governmental Facilities:

4.6.1. The City may request that Grantee provide Cable Service and the corresponding equipment to the location(s) specified in Attachment A and shall specify the requested level of services and number of outlets for each location. Upon written notice to Grantee, the City may unilaterally amend Attachment A to add or remove locations provided any additional locations are "eligible" under 220 ILCS 5/22-501(f). The City shall notify Grantee in writing whether it wishes to be invoiced at standard rates as disclosed by Grantee for these services and equipment or to have the charges deducted from the franchise fee payment due pursuant to this franchise. Eligible buildings shall not include buildings leased to non-governmental third parties or buildings such as storage facilities at which government employees are not regularly stationed.

4.6.2. Long Drops. The Grantee may impose an additional charge in excess of its regular installation charge for any service installation requiring a drop or line extension in excess of a Standard Installation. Any such additional charge shall be computed on a time plus materials basis to be calculated on that portion of the installation that exceeds a Standard Installation.

4.7. Emergency Alerts. At all times during the term of this Franchise Agreement, the Grantee shall provide and maintain an "Emergency Alert System" ("EAS") consistent with applicable Federal law and regulation – including 47 C.F.R., Part 11 and the "State of Illinois Emergency Alert System State Plan" – as may be amended from time to time. The City must become qualified and authorized to activate the EAS, through the authorized State EAS plan. The City agrees to indemnify and hold the Grantee harmless from any damages or penalties arising out of the negligence of the City, its employees or agents in using such system.

4.8. Customer Service Obligations. The City and Grantee acknowledge that the customer service standards and customer privacy protections are set forth in the Cable and Video Customer Protection Law, 220 ILCS 5/22-501 *et seq.* Enforcement of such requirements and standards and the penalties for non-compliance with such standards shall be consistent with the Cable and Video Customer Protection Law, 220 ILCS 5/22-501 *et seq.*

## **SECTION 5: Oversight and Regulation by City**

5.1. Franchise Fees. The Grantee shall pay to the City a Franchise Fee in an amount equal to five percent (5%) of annual Gross Revenues received from the operation of the Cable System to provide Cable Service in the Franchise Area; provided, however, that Grantee shall not be compelled to pay any higher percentage of fees than any other video service provider, under state authorization or otherwise, providing service in the Franchise Area. The payment of Franchise Fees shall be made on a quarterly basis and shall be due forty-five (45) days after the close of each calendar quarter. If mailed, the Franchise Fee shall be considered paid on the date it is postmarked. Each Franchise Fee payment shall be accompanied by a report prepared by a representative of the Grantee showing the basis for the computation of the franchise fees paid during that period. Any undisputed Franchise Fee payment which remains unpaid in whole or in part, after the date specified herein shall be delinquent. For any delinquent Franchise Fee payments, Grantee shall make such payments including interest at the prime lending rate as quoted by JP Morgan Chase & Company or its successor, computed from time due until paid. Any undisputed overpayments made by the Grantee to the City shall be credited upon discovery of such overpayment until such time when the full value of such credit has been applied to the Franchise Fee liability otherwise accruing under this Section.

5.1.1. The Parties acknowledge that, at present, the Cable Act limits the City to collection of a maximum permissible Franchise Fee of five percent (5%) of Gross Revenues. In the event that a change in the Cable Act would allow the City to increase the Franchise Fee above five percent (5%), and the City actually proposes to increase the Franchise Fee in exercise of such authority, the City may amend the Franchise Fee percentage. Following the determination to increase the Franchise Fee and enactment of an ordinance enabling the same, the City shall notify the Grantee of its intent to collect the increased Franchise Fee, and Grantee shall have a reasonable time (not to be less than ninety (90) days from receipt of notice from the

City) to effectuate any changes necessary to begin the collection of such increased Franchise Fee. In the event that the City increases said Franchise Fee, the Grantee shall notify its Subscribers of the City's decision to increase said fee prior to the implementation of the collection of said fee from Subscribers as required by law.

5.1.2. In the event a change in state or federal law requires the City to reduce the franchise fee percentage that may be collected, the parties agree the Grantee shall reduce the percentage of franchise fees collected to the lower of: i) the maximum permissible franchise fee percentage; or ii) the lowest franchise fee percentage paid by any other Cable Operator granted a Cable Franchise by the City pursuant to the Cable Act, and Section 11-42-11 of the Illinois Municipal Code; provided that: (a) such amendment is in compliance with the change in state or federal law; (b) the City approves the amendment by ordinance; and (c) the City notifies Grantee at least ninety (90) days prior to the effective date of such an amendment.

5.1.3. Taxes Not Included. The Grantee acknowledges and agrees that the term "Franchise Fee" does not include any tax, fee, or assessment of general applicability (including any such tax, fee, or assessment imposed on both utilities and Cable Operators on their services but not including a tax, fee, or assessment which is unduly discriminatory against Cable Operators or Cable Subscribers).

5.2. Franchise Fees Subject to Audit. The City and Grantee acknowledge that the audit standards are set forth in the Illinois Municipal Code at 65 ILCS 5/11-42-11.05 (Municipal Franchise Fee Review; Requests For Information). Any audit shall be conducted in accordance with generally applicable auditing standards.

5.2.1 In accordance with 65 ILCS 5/11-42-11.05 (k), the City shall provide on an annual basis, a complete list of addresses within the corporate limits of the City. If an address is not included in the list or if no list is provided, the Grantee shall be held harmless for any franchise fee underpayments (including penalty and interest) from situsing errors provided Grantee used a reasonable methodology to assign the address or addresses to the municipality.

5.3. Proprietary Information. Notwithstanding anything to the contrary set forth in this Agreement, the Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature, with the exception of the information directly related to an audit of Franchise Fees as set forth in Section 5.2. The City agrees to treat any information disclosed by the Grantee as confidential and only to disclose it to those employees, representatives, and agents of the City that have a need to know in order to enforce this Franchise Agreement and who agree to maintain the confidentiality of all such information. For purposes of this Section, the terms "proprietary or confidential" include, but are not limited to, information relating to the Cable System design, customer lists, marketing plans, financial information unrelated to the calculation of Franchise Fees or rates pursuant to FCC rules, or other information that is reasonably determined by the Grantee to be competitively sensitive. Grantee may make proprietary or confidential information available for inspection but not copying or removal by the Franchise Authority's representative. In the event that the City has in its possession and receives a request under the Illinois Freedom of Information Act (5 ILCS 140/1 *et seq.*), or similar law for the disclosure of information the Grantee has designated as confidential, trade secret or proprietary, the City shall notify Grantee of such request and

cooperate with Grantee in opposing such request. Grantee shall indemnify and defend the City from and against any claims arising from the City's opposition to disclosure of any information Grantee designates as proprietary or confidential. Compliance by the City with an opinion or directive from the Illinois Public Access Counselor or the Illinois Attorney General under the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.*, or with a decision or order of a court with jurisdiction over the City, shall not be a violation of this Section.

#### **SECTION 6: Transfer of Cable System or Franchise or Control of Grantee**

6.1. Neither the Grantee nor any other Person may transfer the Cable System or the Franchise without the prior written consent of the City, which consent shall not be unreasonably withheld or delayed.

6.2. No transfer of control of the Grantee, defined as an acquisition of fifty-one percent (51%) or greater ownership interest in Grantee, shall take place without the prior written consent of the City, which consent shall not be unreasonably withheld or delayed.

6.3. No consent shall be required, however, for (i) a transfer in trust, by mortgage, hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or in the Cable System in order to secure indebtedness, or (ii) a transfer to an entity directly or indirectly owned or controlled by Comcast Corporation.

6.4. The Grantee, and any proposed transferee under this Section 6, shall submit a written application to the City containing or accompanied by such information as is required in accordance with applicable law and FCC regulations, specifically including a completed Form 394 or its successor, and in compliance with the processes established for transfers under FCC rules and regulations, including Section 617 of the Cable Act, 47 U.S.C. §537. Within thirty (30) days after receiving a request for consent, the City shall, in accordance with FCC rules and regulations, notify the Grantee in writing of the additional information, if any, it requires to determine the legal, financial and technical qualifications of the transferee or new controlling party. If the City has not taken final action on the Grantee's request for consent within one hundred twenty (120) days after receiving such request, consent shall be deemed granted. As a condition to granting of any consent, the City may require the transferee to agree in writing to assume the obligations of the Grantee under this Franchise Agreement.

6.5. Any transfer of control resulting from or after the appointment of a receiver or receivers or trustee or trustees, however denominated, designated to take over and conduct the business of the grantee, whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of a one hundred twenty (120) day period, shall be treated as a transfer of control pursuant to 47 U.S.C. §537 and require the City's consent thereto in the manner described in Section 6 above.

#### **SECTION 7: Insurance and Indemnity**

7.1. Insurance. Throughout the term of this Franchise Agreement, the Grantee shall, at its own cost and expense, maintain Comprehensive General Liability Insurance and provide

the City certificates of insurance designating the City and its officers, boards, commissions, councils, elected officials, agents and employees as additional insureds and demonstrating that the Grantee has obtained the insurance required in this Section. Such policy or policies shall be in the minimum amount of three million dollars (\$3,000,000.00) for bodily injury or death to any one person, ten million dollars (\$10,000,000.00) for bodily injury or death of any two or more persons resulting from one occurrence, and three million dollars (\$3,000,000.00) for property damage resulting from any one accident. Such policy or policies shall be non-cancelable except upon thirty (30) days prior written notice to the City. The Grantee shall provide workers' compensation coverage in accordance with applicable law. The Grantee shall indemnify and hold harmless the City from any workers compensation claims to which the Grantee may become subject during the term of this Franchise Agreement.

7.2. Indemnification. The Grantee shall indemnify, defend and hold harmless the City, its officers, employees, and agents (the "Indemnitees") from and against any liability, claims, demands, judgments, damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense (the "Indemnification Events"), arising out of the Grantee's construction, operation, maintenance, or removal of its Cable System within the City. The Grantee's obligation with respect to the Indemnitees shall apply to Indemnification Events which may occur during the term of this Agreement, provided that the claim or action is initiated within the applicable statute of limitations, notwithstanding that the claim may be made or action filed subsequent to the termination or expiration of this Agreement. The City shall give the Grantee timely written notice of its obligation to indemnify and defend the City after the City's receipt of a claim or action pursuant to this Section. For purposes of this Section, the word "timely" shall mean within a time period that does not cause prejudice to the respective positions of the Grantee and/or the City. If the City elects in its own discretion to employ additional counsel, the costs for such additional counsel for the City shall be the responsibility of the City.

7.2.1. The Grantee shall not indemnify the City for any liabilities, damages, costs or expense resulting from the willful misconduct or negligence of the City, its officers, employees and agents.

7.2.2. Nothing herein shall be construed to limit the Grantee's duty to indemnify the City by reference to the limits of insurance coverage described in this Agreement.

## **SECTION 8: Enforcement of Franchise**

8.1. Notice of Violation or Default. In the event the City believes that the Grantee has not complied with a material term of the Franchise, it shall notify the Grantee in writing with specific details regarding the exact nature of the alleged noncompliance or default.

8.2. Grantee's Right to Cure or Respond. The Grantee shall have thirty (30) days from the receipt of the City's written notice: (A) to respond to the City, contesting the assertion of noncompliance or default; or (B) to cure such default; or (C) in the event that, by nature of the default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the City of the steps being taken and the projected date that the cure will be completed.

8.3. Enforcement. Subject to applicable federal and state law, and following notice and an opportunity to cure and respond pursuant to the provisions of Section 8.2 above, in the event the City determines that the Grantee is in default of any material provision of the Franchise, the City may:

8.3.1. seek specific performance of any provision that reasonably lends itself to such remedy or seek other relief available at law, including declaratory or injunctive relief; or

8.3.2. in the case of a substantial or frequent default of a material provision of the Franchise, declare the Franchise Agreement to be revoked in accordance with the following:

(i) The City shall give written notice to the Grantee of its intent to revoke the Franchise on the basis of a pattern of noncompliance by the Grantee. The notice shall set forth with specificity the exact nature of the noncompliance. The Grantee shall have ninety (90) days from the receipt of such notice to object in writing and to state its reasons for such objection. In the event the City has not received a response from the Grantee or upon receipt of the response does not agree with the Grantee's proposed remedy or in the event that the Grantee has not taken action to cure the default, it may then seek termination of the Franchise at a public hearing. The City shall cause to be served upon the Grantee, at least ten (10) days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to request termination of the Franchise.

(ii) At the designated hearing, the City shall give the Grantee an opportunity to state its position on the matter, present evidence and question witnesses, after which the City shall determine whether or not the Franchise shall be terminated. The public hearing shall be on the record. A copy of the transcript shall be made available to the Grantee at its sole expense. The decision of the City shall be in writing and shall be delivered to the Grantee in a manner authorized by Section 10.2. The Grantee may appeal such determination to any court with jurisdiction within thirty (30) days after receipt of the City's decision.

8.4. Remedies Not Exclusive. In addition to the remedies set forth in this Section 9, the Grantee acknowledges the City's ability pursuant to Section 4.8 of this Franchise Agreement to enforce the requirements and standards, and the penalties for non-compliance with such standards, consistent with the Illinois Cable and Video Customer Protection Law and, pursuant to Section 3.1 of this Franchise Agreement and the City's Code, to enforce the Grantee's compliance with the City's generally applicable right-of-way requirements. Notwithstanding the foregoing, nothing in this Agreement shall be interpreted to permit the City to exercise such rights and remedies in a manner that permits duplicative recovery from, or payments by, the Grantee. Such remedies may be exercised from time to time and as often and in such order as may be deemed expedient by the City.

## **SECTION 9: Miscellaneous Provisions**

9.1. Force Majeure. The Grantee shall not be held in default under, or in noncompliance with, the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default (including termination, cancellation or revocation of the Franchise), where such noncompliance or alleged defaults occurred or were caused by strike,

riot, war, earthquake, flood, tidal wave, unusually severe rain or snow storm, hurricane, tornado or other catastrophic act of nature, labor disputes, failure of utility service necessary to operate the Cable System, governmental, administrative or judicial order or regulation or other event that is reasonably beyond the Grantee's ability to anticipate or control. This provision also covers work delays caused by waiting for utility providers to service or monitor their own utility poles on which the Grantee's cable or equipment is attached, as well as unavailability of materials or qualified labor to perform the work necessary. Non-compliance or default shall be corrected within a reasonable amount of time after force majeure has ceased.

9.2. Notice. Any notification that requires a response or action from a party to this franchise within a specific time-frame, or that would trigger a timeline that would affect one or both parties' rights under this franchise, shall be in writing and shall be sufficiently given and served upon the other party by hand delivery, first class mail, registered or certified, return receipt requested, postage prepaid, or by reputable overnight courier service and addressed as follows:

To the City:

City of Peru  
1901 4<sup>th</sup> Street  
Peru, IL 61354  
ATTN: Mayor

To the Grantee:

Comcast  
2001 York Road  
Oak Brook, Illinois 60523  
ATTN: Senior Director of Government Affairs

With copy to:

Peru Corporation Counsel  
1901 4<sup>th</sup> Street  
Peru, IL 61354

Recognizing the widespread usage and acceptance of electronic forms of communication, emails and faxes will be acceptable as formal notification related to the conduct of general business amongst the parties to this contract, including but not limited to programming and price adjustment communications. Such communication should be addressed and directed to the person of record as specified above. Either party may change its address and addressee for notice by notice to the other party under this Section.

9.3. Entire Agreement. This Franchise Agreement embodies the entire understanding and agreement of the City and the Grantee with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and communications, whether written or oral. Except for ordinances adopted pursuant to Sections 2.4 and 2.5 of this Agreement, all ordinances or parts of ordinances related to the provision of Cable Service that are in conflict with or otherwise impose obligations different from the provisions of this Franchise Agreement are superseded by this Franchise Agreement.

9.3.1. The City may adopt a cable television/video service provider regulatory ordinance that complies with applicable law, provided the provisions of any such ordinance adopted subsequent to the Effective Date of this Franchise Agreement shall not apply to the Grantee during the term of this Franchise Agreement.

9.4. Severability. If any section, subsection, sentence, clause, phrase, or other portion of this Franchise Agreement is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect. If any material provision of this Agreement is made or found to be unenforceable by such a binding and final decision, either party may notify the other in writing that the Franchise has been materially altered by the change and of the election to begin negotiations to amend the Franchise in a manner consistent with said proceeding or enactment; provided, however, that any such negotiated modification shall be competitively neutral, and the parties shall be given sufficient time to implement any changes necessitated by the agreed-upon modification.

9.5. Governing Law. This Franchise Agreement shall be deemed to be executed in the State of Illinois, and shall be governed in all respects, including validity, interpretation and effect, and construed in accordance with, the laws of the State of Illinois and/or Federal law, as applicable.

9.6. Venue. Except as to any matter within the jurisdiction of the federal courts or the FCC, all judicial actions relating to any interpretation, enforcement, dispute resolution or any other aspect of this Agreement shall be brought in the Circuit Court of the State of Illinois, LaSalle County, Illinois. Any matter brought pursuant to the jurisdiction of the federal court shall be brought in the United States District Court of the Northern District of Illinois.

9.7. Modification. Except as provided in Sections 5.1.1 and 5.1.2, no provision of this Franchise Agreement shall be amended or otherwise modified, in whole or in part, except by an instrument, in writing, duly executed by the City and the Grantee, which amendment shall be authorized on behalf of the City through the adoption of an appropriate ordinance or resolution by the City, as required by applicable law.

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

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

9.10. Validity of Franchise Agreement. The parties acknowledge and agree in good faith on the validity of the provisions, terms and conditions of this Franchise Agreement, in their entirety, and that the Parties have the power and authority to enter into the provisions, terms, and conditions of this Agreement.

9.11. Authority to Sign Agreement. Grantee warrants to the City that it is authorized to execute, deliver and perform this Franchise Agreement. The individual signing this Franchise Agreement on behalf of the Grantee warrants to the City that s/he is authorized to execute this Franchise Agreement in the name of the Grantee.



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

**For the City of Peru:**

**For Comcast of Illinois/Indiana/Ohio, LLC:**

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

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

Name: Ken Kolowski

Name: John Crowley

Title: Mayor

Title: Regional Senior Vice President

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

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

### Attachment A

- Peru Public Works; 4003 Plank Road, Peru, IL 61354
- Peru Electric Department; 4005 Plank Road, Peru, IL 61354
- Peru Police Department; 2650 N. Peoria Street, Peru, IL 61354
- Illinois Valley Regional Dispatch Center; 1503 4<sup>th</sup> Street, Peru, IL 61354
- Peru Ambulance; 111 5<sup>th</sup> Street, Peru, IL 61354

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

**AN ORDINANCE ACCEPTING AN EASEMENT  
FROM MICHAEL J. ROONEY, TRUSTEE  
(Baker Estate Farm Trust – LaSalle County PIN 17-05-112-000)**

**WHEREAS**, the City of Peru, an Illinois home rule municipal corporation (“City”), proposes electric utility infrastructure improvements along the east side of Plank Road south of Ed Urban Drive in Peru; and

**WHEREAS**, there is a need for an easement from Michael J. Rooney, Trustee under a Trust Agreement dated November 13, 1999, and known as the Baker Estate Farm Trust, to make said infrastructure improvements, and said Trustee on behalf of said Trust has agreed to provide the requested easement (“Easement”); and

**WHEREAS**, the acquisition of the Easement is a matter pertaining to the government and affairs of the City, is for a proper public purpose, and is in the best interests of the health, safety, and welfare of the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PERU, ILLINOIS, A HOME RULE MUNICIPALITY, AS FOLLOWS:**

**SECTION 1:** The Mayor, for and on behalf of the City, is hereby authorized and directed to execute and accept, and the City Clerk, for and on behalf of the City, is hereby authorized and directed to attest, the Easement from Michael J. Rooney, Trustee under a Trust Agreement dated November 13, 1999, and known as the Baker Estate Farm Trust, a copy of which is attached hereto and incorporated herein.

**SECTION 2:** This Ordinance shall be effective immediately from and after its passage and approval.

**PRESENTED, PASSED, AND ADOPTED** at a regular meeting of the City Council of the City of Peru, Illinois, by an aye and nay roll call vote, with \_\_\_\_ voting aye, \_\_\_\_ voting nay, \_\_\_\_ absent, and Mayor Kolowski \_\_\_\_ voting \_\_\_\_, which meeting was held on the 10<sup>th</sup> day of April, 2023.

**APPROVED:** April 10, 2023

---

Ken Kolowski, Mayor

(CORPORATE SEAL)

ATTEST:

---

David R. Bartley  
City Clerk

<u>Aldermen</u>	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>
Ballard			
Tieman			
Payton			
Edgcomb			
Waldorf			
Sapienza			
Lukosus			
Buffo			

# EASEMENT

**Baker Estate Farm Trust –  
City of Peru**

**PIN: 17-05-112-000**

*This space reserved for Recorder's use only.*

**GRANTOR, MICHAEL J. ROONEY, Trustee under a Trust Agreement dated November 13, 1999, and known as the Baker Estate Farm Trust**, of the City of Peru, County of La Salle and State of Illinois (hereinafter "Grantor"), for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable considerations, receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey to the **CITY OF PERU, an Illinois home rule municipal corporation, its successors, permittees, and assigns** (hereinafter "Grantee"), the following perpetual rights and easements, to-wit:

- (a) To construct, operate, repair, maintain, patrol, inspect, relocate, reconstruct, and remove from time to time, electric transmission, distribution, communication lines and systems, and, without limitation, such other installations as may be required or may be deemed necessary by Grantee for electric service purposes,

in, over, under, across, along, and upon the real estate described and depicted on the Easement Plat attached hereto and incorporated herein (hereinafter "Easement Tract").

The aforesaid perpetual rights and easements are granted together with the right (i) to use adjacent roads, streets, and alleys for such purposes and to use reasonable working space adjacent to said Easement Tract during construction or maintenance of any said utility systems; (ii) to control the growth of any vegetation, trees, shrubs, or saplings on the Easement Tract; and (iii) to clear and remove, without any liability whatsoever to Grantee, any obstacles on the Easement Tract which interfere or threaten to interfere with the safe and proper construction, operation, and maintenance of any said utility systems on the Easement Tract, or which create hazardous conditions, and to keep the Easement Tract clear of such obstacles and obstructions. Grantee shall have the right to clear and remove any such obstacles, but not the obligation to do so.

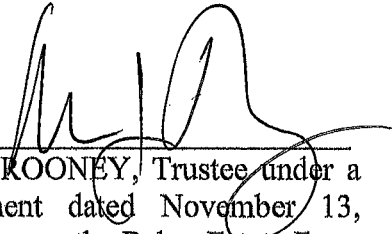
Grantor reserves the right to make any use of the Easement Tract so long as such use does not interfere with the rights herein granted or create a hazardous condition, except that Grantor shall make no excavations on the Easement Tract without the prior written consent of the Grantee, and then only in such manner as will not disturb or interfere with the Grantee's facilities located therein, nor shall Grantor place buildings or structures on the Easement Tract.

Without limiting any of the foregoing, Grantor, its successors, assigns, lessees and tenants, hereby release and save harmless Grantee from any damage done by Grantee, its employees and agents, to any growing crops upon the Easement Tract when exercising any of the perpetual rights and easements herein granted.

Grantor hereby releases and waives all rights under and by virtue of the homestead exemption laws of the State of Illinois. This Easement shall run with the land and shall be binding upon the parties hereto, their respective heirs, successors, administrators, and assigns.

WITNESS the hand and seal of the Grantor this 4<sup>th</sup> day of April, A.D., 2023.

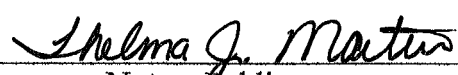
GRANTORS:

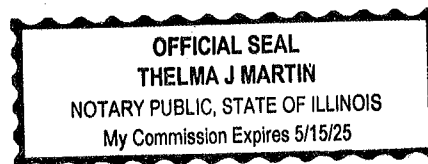
  
MICHAEL J. ROONEY, Trustee under a Trust Agreement dated November 13, 1999, and known as the Baker Estate Farm Trust.

STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF LASALLE    )

I, a Notary Public, in and for said County, in the State aforesaid, do hereby certify, that Michael J. Rooney, Trustee under a Trust Agreement dated November 13, 1999, and known as the Baker Estate Farm Trust, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his free and voluntary act, and as the free and voluntary act of said Trust, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 4<sup>th</sup> day of April, A.D. 2023.

  
Notary Public



**ACCEPTANCE**

The above and foregoing Easement is accepted by the City of Peru, Illinois, pursuant to direction of its City Council, this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**CITY OF PERU, an Illinois Home-Rule  
Municipal Corporation**

BY: \_\_\_\_\_  
Ken Kolowski, Mayor

(CORPORATE SEAL)

ATTEST:

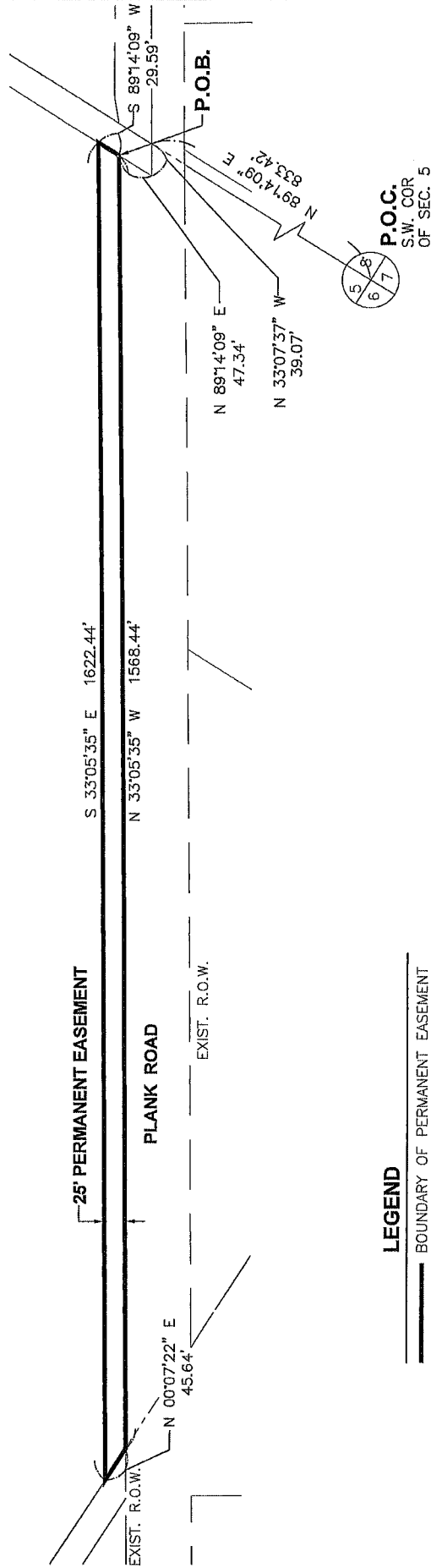
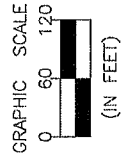
\_\_\_\_\_  
David R. Bartley, City Clerk

**This Instrument Prepared By  
and Return To:**

**City of Peru  
ATTN: Corporation Counsel  
1901 Fourth Street  
Peru, IL 61354  
TEL (815) 224-6020  
FAX (815) 223-9381**

**EASEMENT PLAT**

FOR  
**PART OF THE SOUTHWEST QUARTER OF SECTION 5**  
**T. 33 N., R. 1 E. OF THE 3rd P.M.**  
**CITY OF PERU**  
**APRIL, 2023**



**LEGEND**

- BOUNDARY OF PERMANENT EASEMENT
- - - EXISTING RIGHT-OF-WAY LINE
- - - SECTION LINE

**P.O.C.** POINT OF COMMENCEMENT

**P.O.B.** POINT OF BEGINNING

**SURVEYOR'S CERTIFICATE**

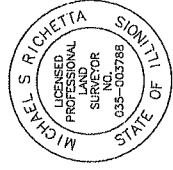
I, Michael S. Richetta, Illinois Professional Land Surveyor, do hereby certify that I have surveyed the lands herein shown and that the above plat is a true and correct representation of said survey and conforms to the Illinois Plat Act, Section 1(b)(6).

Dated at Peru, Illinois this 14th day of April, 2023

PERU OTTAWA MORRIS  
ILLINOIS



BY: Michael S. Richetta  
Illinois Professional Land Surveyor No. 035-003788  
Chamlin & Associates, Inc.  
Expiration date: Nov. 30, 2024





**PERMANENT EASEMENT  
LEGAL DESCRIPTION**

Part of the Southwest Quarter of Section 5, Township 33 North, Range 1 East of the Third Principal Meridian, LaSalle County, Illinois, described as follows:

Commencing at the Southwest Corner of the Southwest Quarter of said Section 5; thence on an assumed bearing of North 89° 14' 09 " East 833.42 feet; thence North 33° 07' 37" West 39.07 feet; thence North 89° 14' 09" East 47.34 feet to the Point of Beginning, on the Northeasterly Right-of-Way of Plank Road; thence North 33° 05' 35" West 1568.44 feet along said Northeasterly Right-of-Way Line to the West Line of said Section 5; thence North 00° 07' 22" East 45.64 feet along the West Line of said Section 5; thence South 33° 05' 35" East 1622.44 feet; thence South 89° 14' 09" West 29.59 feet to the Point of Beginning, containing 0.916 acres, more or less.

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

**AN ORDINANCE ACCEPTING AN EASEMENT  
FROM BERNARD T. ERNAT AND PATRICIA A. ERNAT  
(LaSalle County PIN 17-08-100-000)**

**WHEREAS**, the City of Peru, an Illinois home rule municipal corporation (“City”), proposes electric utility infrastructure improvements along the east side of Plank Road south of Ed Urban Drive in Peru; and

**WHEREAS**, there is a need for an easement from Bernard T. Ernat and Patricia A. Ernat (“Ernats”) to make said infrastructure improvements, and the Ernats have agreed to provide the requested easement (“Easement”); and

**WHEREAS**, the acquisition of the Easement is a matter pertaining to the government and affairs of the City, is for a proper public purpose, and is in the best interests of the health, safety, and welfare of the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PERU, ILLINOIS, A HOME RULE MUNICIPALITY, AS FOLLOWS:**

**SECTION 1:** The Mayor, for and on behalf of the City, is hereby authorized and directed to execute and accept, and the City Clerk, for and on behalf of the City, is hereby authorized and directed to attest, the Easement from the Ernats, a copy of which is attached hereto and incorporated herein.

**SECTION 2:** This Ordinance shall be effective immediately from and after its passage and approval.

**PRESENTED, PASSED, AND ADOPTED** at a regular meeting of the City Council of the City of Peru, Illinois, by an aye and nay roll call vote, with \_\_\_\_ voting aye, \_\_\_\_ voting nay, \_\_\_\_ absent, and Mayor Kolowski \_\_\_\_ voting \_\_\_\_, which meeting was held on the 10<sup>th</sup> day of April, 2023.

**APPROVED:** April 10, 2023

---

Ken Kolowski, Mayor

(CORPORATE SEAL)

ATTEST:

---

David R. Bartley  
City Clerk

<u>Aldermen</u>	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>
Ballard			
Tieman			
Payton			
Edgcomb			
Waldorf			
Sapienza			
Lukosus			
Buffo			

# EASEMENT

Ernats – City of Peru

PIN: 17-08-100-000

*This space reserved for Recorder's use only.*

**GRANTORS, BERNARD T. ERNAT and PATRICIA A. ERNAT**, husband and wife, of the Village of Tonica, County of La Salle and State of Illinois (hereinafter "Grantors"), for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable considerations, receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey to the **CITY OF PERU, an Illinois home rule municipal corporation, its successors, permittees, and assigns** (hereinafter "Grantee"), the following perpetual rights and easements, to-wit:

- (a) To construct, operate, repair, maintain, patrol, inspect, relocate, reconstruct, and remove from time to time, electric transmission, distribution, communication lines and systems, and, without limitation, such other installations as may be required or may be deemed necessary by Grantee for electric service purposes,

in, over, under, across, along, and upon the real estate described and depicted Easement Plat attached hereto and incorporated herein (hereinafter "Easement Tract").

The aforesaid perpetual rights and easements are granted together with the right (i) to use adjacent roads, streets, and alleys for such purposes and to use reasonable working space adjacent to said Easement Tract during construction or maintenance of any said utility systems; (ii) to control the growth of any vegetation, trees, shrubs, or saplings on the Easement Tract; and (iii) to clear and remove, without any liability whatsoever to Grantee, any obstacles on the Easement Tract which interfere or threaten to interfere with the safe and proper construction, operation, and maintenance of any said utility systems on the Easement Tract, or which create hazardous conditions, and to keep the Easement Tract clear of such obstacles and obstructions. Grantee shall have the right to clear and remove any such obstacles, but not the obligation to do so.

Grantors reserve the right to make any use of the Easement Tract so long as such use does not interfere with the rights herein granted or create a hazardous condition, except that Grantors shall make no excavations on the Easement Tract without the prior written consent of the Grantee, and then only in such manner as will not disturb or interfere with the Grantee's facilities located therein, nor shall Grantors place buildings or structures on the Easement Tract.

Without limiting any of the foregoing, Grantors, their successors, assigns, lessees and tenants, hereby release and save harmless Grantee from any damage done by Grantee, its employees and agents, to any growing crops upon the Easement Tract when exercising any of the perpetual rights and easements herein granted.

Grantors hereby release and waive all rights under and by virtue of the homestead exemption laws of the State of Illinois. This Easement shall run with the land and shall be binding upon the parties hereto, their respective heirs, successors, administrators, and assigns.

WITNESS the hand and seal of the Grantors this 6<sup>th</sup> day of April, A.D., 2023.

**GRANTORS:**

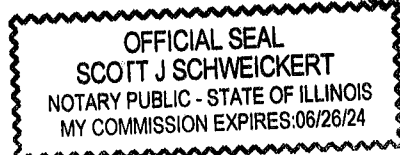
Bernard T. Ernat  
Bernard T. Ernat  
Patricia A. Ernat  
Patricia A. Ernat

STATE OF ILLINOIS     )  
                                      ) SS  
COUNTY OF LASALLE    )

I, a Notary Public, in and for said County, in the State aforesaid, do hereby certify, that Bernard T. Ernat and Patricia A. Ernat, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed, and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of rights of homestead

Given under my hand and notarial seal this 6<sup>th</sup> day of April, A.D. 2023.

Scott J. Schweickert  
Notary Public



**ACCEPTANCE**

The above and foregoing Easement is accepted by the City of Peru, Illinois, pursuant to direction of its City Council, this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**CITY OF PERU, an Illinois Home-Rule  
Municipal Corporation**

BY: \_\_\_\_\_  
Ken Kolowski, Mayor

(CORPORATE SEAL)

ATTEST:

\_\_\_\_\_  
David R. Bartley, City Clerk

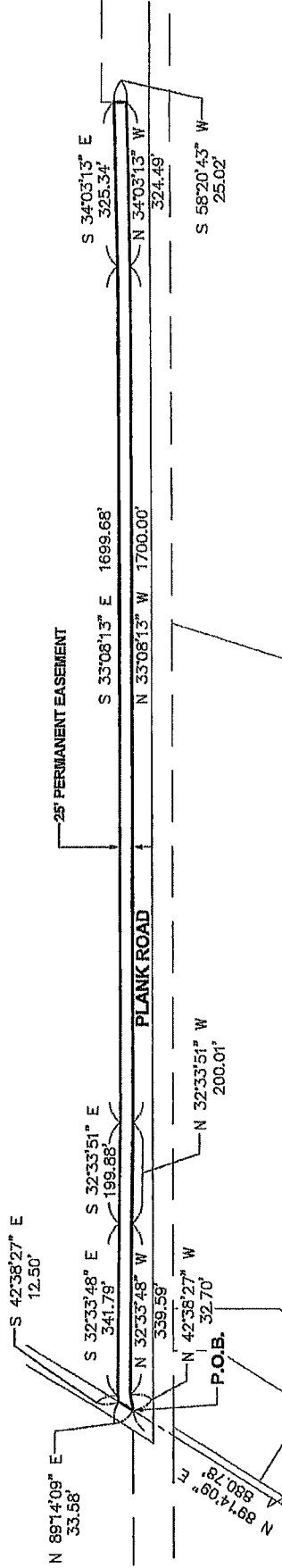
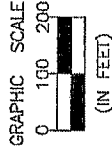
**This Instrument Prepared By  
and Return To:**

**City of Peru  
ATTN: Corporation Counsel  
1901 Fourth Street  
Peru, IL 61354  
TEL (815) 224-6020  
FAX (815) 223-9381**

# EASEMENT PLAT

FOR

PART OF THE NORTHWEST QUARTER OF SECTION 8  
T. 33 N., R. 1 E. OF THE 3rd P.M.  
CITY OF PERU  
APRIL, 2023



## LEGEND

- BOUNDARY OF PERMANENT EASEMENT
- EXISTING RIGHT-OF-WAY LINE
- SECTION LINE
- P.O.C. POINT OF COMMENCEMENT
- P.O.B. POINT OF BEGINNING

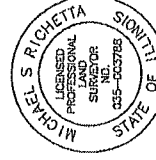
## SURVEYOR'S CERTIFICATE

I, Michael S. Richetta, Illinois Professional Land Surveyor, do hereby certify that I have surveyed the lands herein shown and that the above plat is a true and correct representation of said survey and conforms to the Illinois Plat Act, Section 10(b).

Dated at Peru, Illinois this 4th day of April, 2023.

BY:

Michael S. Richetta  
Illinois Professional Land Surveyor No. 035-003788  
Charnith & Associates, Inc.  
Expiration date: Nov. 30, 2024



Expire 11-30-2024  
PROFESSIONAL SURVEYOR  
LICENSE NO. 184-001717  
miller@charnith.com

PERU OTTAWA MORRIS  
ILLINOIS



Charnith & Associates

**PERMANENT EASEMENT  
LEGAL DESCRIPTION**

Part of the Northwest Quarter of Section 8, Township 33 North, Range 1 East of the Third Principal Meridian, LaSalle County, Illinois, described as follows:

Commencing at the Northwest Corner of the Northwest Quarter of said Section 8; thence on an assumed bearing of North 89° 14' 09" East 880.78 feet along the North Line of said Northwest Quarter to the Point of Beginning; thence continuing North 89° 14' 09" East along said Line 33.58 feet; thence South 42° 38' 27" East 12.50 feet; thence South 32° 33' 48" East 341.79 feet; thence South 32° 33' 51" East 199.88 feet; thence South 33° 08' 13" East 1699.68 feet; thence South 34° 03' 13" East 325.34 feet; thence South 58° 20' 43" West 25.02 feet to the Northeasterly Right-of-Way Line of Plank Road; thence 34° 03' 13" West 324.49 feet along said Right-of-Way Line; thence North 33° 08' 13" West 1700.00 feet along said Right-of-Way Line; thence North 32° 33' 51" West 200.01 feet along said Right-of-Way Line; thence North 32° 33' 48" West 339.59 feet along said Right-of-Way Line; thence North 42° 38' 27" West 32.70 feet along said Right-of-Way Line to the Point of Beginning, containing 1.485 acres, more or less.