

ORDINANCE NO. 961-2023

AN ORDINANCE OF THE BOROUGH OF OXFORD, CHESTER COUNTY,  
PENNSYLVANIA AUTHORIZING THE EXECUTION OF A CABLE  
FRANCHISE AGREEMENT BETWEEN THE BOROUGH OF OXFORD AND  
COMCAST OF PENNSYLVANIA, LLC.

WHEREAS, pursuant to the Communications Act of 1934, the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, the Telecommunications Act of 1996 and any future amendments thereto, the regulations of the Federal Communications Commission and Pennsylvania law, the Borough is authorized to grant and renew franchises to construct, operate and maintain a Cable System utilizing the Public Ways within the Borough's jurisdiction; and

WHEREAS, the Borough having determined that the financial, legal, and technical ability of Comcast of Pennsylvania, LLC ("Comcast"), is reasonably sufficient to provide the services, facilities, and equipment necessary to meet the future cable-related needs of the community, agrees and desires to enter into the Franchise Agreement with Comcast for the construction, operation, and maintenance of a Cable System on the terms and conditions set forth herein.

**NOW, THEREFORE, BE IT ENACTED AND ORDAINED** by the Borough Council of the Borough of Oxford, Chester County, Pennsylvania, as follows:

**SECTION 1.** The Borough Council of the Borough of Oxford does hereby approve the Franchise Agreement negotiated with Comcast, including all of the terms and conditions contained therein, and does hereby authorize the execution of the Franchise Agreement. A true and accurate copy of the Franchise Agreement is attached hereto as Exhibit A.

**SECTION 2.** If any sentence, clause, section or part of this ordinance is, for any reason, found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts hereof. It is hereby declared as the intent of Borough Council that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

**SECTION 3.** All ordinances or parts of ordinances conflicting with any provisions of this ordinance are hereby repealed insofar as the same affects this ordinance.

**SECTION 4.** This ordinance shall be effective five days following adoption, as by law provided.

ENACTED AND ORDAINED this 11 day of September, 2023.

OXFORD BOROUGH COUNCIL

By: Kathryn Cloyd  
KATHRYN CLOYD, President

ATTEST:

Pauline Garcia-AlLEN  
PAULINE GARCIA-ALLEN, Secretary

APPROVED THIS 11 DAY OF September, 2023.

Philip Harris  
PHILIP HARRIS, Mayor

## **FRANCHISE AGREEMENT**

This Franchise Agreement (hereinafter, the "Agreement" or "Franchise Agreement") is made between the Borough of Oxford (hereinafter, "Borough" or "Franchising Authority") and Comcast of Pennsylvania, LLC (hereinafter, "Grantee").

The Borough having determined that the financial, legal, and technical ability of the Grantee is 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.

### **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 Communications Policy Act of 1984, as amended from time to time, 47 U.S.C. §§ 521 - 631 (the "Cable Act"), unless otherwise defined herein. When not inconsistent with the context, words used in the present tense include the future, words used to refer to the masculine include the feminine and words in the plural number include the singular number. The word "shall" is mandatory and "may" is permissive. Words not defined in the Cable Act or herein shall be given their common and ordinary meaning.

1.1. "Affiliated Entity" means any persons(s) or entity(ies) who own or control, are owned or controlled by or are under common ownership or control with Grantee 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.

1.2. "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.

1.3. "Cable System" means 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 Franchise Area, and as further defined under Section 602 (7) of the Cable Act.

1.4. "Customer" or "Subscriber" means a Person or user of the Cable System who lawfully receives Cable Service therefrom with the Grantee's express permission.

1.5. "Effective Date" means the date on which the Borough signs this Agreement, subject to all necessary parties executing this Agreement as indicated on the signature page(s).

1.6. "FCC" means the Federal Communications Commission, or successor governmental entity thereto.

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

1.8. "Franchise Agreement" or "Agreement" shall mean this Agreement and any mutually agreed to amendments or modifications hereto.

1.9. "Franchise Area" means the present legal boundaries of the Borough of Oxford, County of Chester, Pennsylvania, as of the Effective Date, and shall also include any additions thereto, by annexation or other legal means.

1.10. "Franchising Authority" means the Borough of Oxford or the lawful successor, transferee, designee, or assignee thereof.

1.11. "Grantee" shall mean Comcast of Pennsylvania, LLC.

1.12. "Gross Revenue" means revenue received directly or indirectly by the Grantee or its Affiliated Entities arising from, attributable to, or in any way derived from the operation of the Cable System in the Franchise Area to provide Cable Service, calculated in accordance with generally accepted accounting principles ("GAAP"). Gross Revenue shall include, but not be limited to, the following:

- (a) Basic service fees;
- (b) Fees charged to Subscribers for any service tier other than basic service;
- (c) Fees charged for premium Cable Services and pay-per-view video;
- (d) Fees for video-on-demand;
- (e) Fees charged to Subscribers for any optional, per-channel or per-program Cable Services;
- (f) Revenue from the provision of any other Cable Services;
- (g) Charges for installation, additional outlets, relocation, disconnection, reconnection and change-in-service fees for Cable Services;
- (h) Fees for changing any level of Cable Service programming;

- (i) Fees for service calls for Cable Services;
- (j) Inside wire maintenance fees for Cable Services;
- (k) Service plan protection fees for Cable Services;
- (l) Convenience fees;
- (m) Early termination fees for Cable Services;
- (n) Fees for Leased Access Channels;
- (o) Charges based on the sale or lease of any portion of the cable system for Cable Service;
- (p) Rental or sales of any and all Cable Service equipment, including converters and remote-control devices;
- (q) Advertising revenues attributable to the local Cable System and Cable Services,
- (r) Revenues or commissions from locally derived home shopping channels;
- (s) Broadcast retransmission fees;
- (t) Regional sports programming fees;
- (u) Late payment fees on Cable Services;
- (v) Billing and collection fees on Cable Services;
- (w) NSF check charges; and
- (x) 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.

1.13. "Leased Access Channel" means a channel on Grantee's Cable System designated for use by an entity that is unaffiliated with Grantee pursuant to the Cable Act.

1.14 "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 Franchising Authority.

1.15 "Public Buildings" shall mean those buildings owned or leased by the Franchising Authority for municipal government administrative purposes, and shall not include buildings owned by the Franchising Authority but leased to third parties or buildings such as storage facilities at which government employees are not regularly stationed.

1.16. "Public Way" shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, way, lane, public way, drive, circle or other public right-of-

way, including, but not limited to, public utility easements, dedicated utility strips, or easements dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the Franchising Authority in the Franchise Area, which shall entitle the Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System. Public Way shall also mean any easement now or hereafter held by the Franchising Authority within the Franchise Area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the Grantee to the use thereof for the purposes of installing, operating, and maintaining the Grantee's Cable System over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the Cable System.

1.17 "Standard Installation" shall mean the standard one hundred twenty-five foot (125') aerial Drop connection to the existing distribution system.

1.18 "Video Programming" or "Programming" shall mean the programming provided by, or generally considered comparable to programming provided by, a television broadcast station, as defined under the Cable Act.

## **SECTION 2 - Grant of Authority**

2.1. Franchise Grant. The Franchising Authority hereby grants to the Grantee a non-exclusive 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 ten (10) years, commencing upon the Effective Date of the Franchise, unless the Franchise is renewed or is lawfully terminated in accordance with the terms of this Franchise Agreement and the Cable Act.

2.3. Renewal. Any renewal of this Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act [47 J.S.C. §546], as amended.

2.4. Non-Exclusivity. This Franchise granted to Grantee shall be non-exclusive. Nothing in this Agreement shall affect the right of the Franchising Authority to grant other Franchises to construct, operate or maintain a Cable System.

2.5 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 Borough. Without waiving any of its rights, the Borough agrees that, to the extent any term of this Agreement is inconsistent with the terms of any Borough cable franchise ordinance existing as of the Effective Date, this Agreement shall control.

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

3.1. Permits and General Obligations. The Grantee shall be responsible for obtaining all generally applicable permits, licenses, or other forms of approval or authorization prior to the commencement of any activity that disturbs the surface of any street, curb, sidewalk or other public improvement in the Public Way, or impedes vehicular traffic. The issuance of such permits shall not be unreasonably withheld or delayed. Construction, installation, and maintenance of the Cable System shall be performed in a safe, thorough and reliable manner using materials of good and durable quality. Notwithstanding the requirements herein, Grantee shall not be required to obtain a permit for individual drop connections to Subscribers, servicing or installing pedestals or other similar facilities, or other instances of routine maintenance or repair to its Cable System. All transmission and distribution structures, poles, other lines, and equipment installed by the Grantee for use in the Cable System in accordance with the terms and conditions of this Franchise Agreement shall be located so as to minimize the interference with the proper use of the Public Ways and the rights and reasonable convenience of property owners who own property that adjoins any such Public Way.

#### 3.2. Conditions of Street Occupancy.

3.2.1. New Grades or Lines. If the grades or lines of any Public Way within the Franchise Area are lawfully changed at any time during the term of this Franchise Agreement, then the Grantee shall, upon reasonable advance written notice from the Franchising Authority (which shall not be less than thirty (30) business days) and at its own cost and expense, protect or promptly alter or relocate the Cable System, or any part thereof, so as to conform with any such new grades or lines. If public funds are available to any other users of the Public Way for the purposes of defraying the cost of any of the foregoing, the Franchising Authority shall notify the Grantee of such funding and make available such funds to the Grantee. In the event that funds are not made available as described herein, Grantee reserves the right to pass its costs through to its Subscribers in accordance with applicable law.

3.2.2. Relocation at Request of Third Party. The Grantee shall, upon reasonable prior written request of any Person holding a permit issued by the Franchising Authority to move any structure, temporarily move its wires to permit

the moving of such structure; provided (i.) the Grantee may impose a reasonable charge on any Person for the movement of its wires, and such charge may be required to be paid in advance of the movement of its wires; and (ii.) the Grantee is given not less than thirty (30) business days advance written notice to arrange for such temporary relocation.

3.2.3. Restoration of Public Ways. If in connection with the construction, operation, maintenance, or repair of the Cable System, the Grantee disturbs, alters, or damages any Public Way, the Grantee agrees that it shall at its own cost and expense replace and restore any such Public Way to a condition reasonably comparable to the condition of the Public Way existing immediately prior to the disturbance.

3.2.4. Safety Requirements. The Grantee shall undertake all necessary and appropriate efforts to maintain its work sites in a safe manner in order to prevent failures and accidents that may cause damage, injuries or nuisances. All work undertaken on the Cable System shall be performed in substantial accordance with applicable FCC or other federal and state regulations. The Cable System shall not unreasonably endanger or interfere with the safety of Persons or property in the Franchise Area.

3.2.5. Trimming of Trees and Shrubbery. The Grantee shall have the authority to trim trees or other natural vegetative growth encroaching or overhanging any of its Cable System in the Franchise Area so as to prevent contact with the Grantee's wires, cables, or other equipment. All such trimming shall be done at the Grantee's sole cost and expense and in accordance with applicable laws and regulations. The Grantee shall be responsible for any collateral, real property damage or personal injury caused by such trimming.

3.2.6. 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 System 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, aurally or underground. Nothing in this Agreement 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.

3.2.7. Undergrounding and Beautification Projects. In the event all users of the Public Way relocate aerial facilities underground as part of an undergrounding or neighborhood beautification project, Grantee shall participate in the planning for relocation of its aerial facilities contemporaneously with other utilities. Grantee's relocation costs shall be included in any computation of necessary project funding by the municipality or private parties. Grantee shall be entitled to reimbursement of its construction and relocation costs from public or private funds raised for the project and made available to other users of the Public Way. In the event that public and/or private funds are not made available as described herein, Grantee reserves the right to pass its costs through to its Subscribers in accordance with applicable law.

#### **SECTION 4 - Service Obligations**

##### **4.1 AREA TO BE SERVED**

(a) Planned Build-Out. Comcast shall construct the Cable System and make Cable Service available to residential dwelling units within one hundred and twenty-five (125) 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").

(b) Nothing herein shall preclude Comcast from constructing additional Cable System facilities or making Cable Service available to additional residential dwellings at its discretion provided such construction meets the conditions set forth in Section 4.1(c). Comcast shall, however, not be obligated to construct additional Cable System facilities and/or make Cable Service available beyond the Planned Build-Out Area.

(c) Upon written notice by the Borough and verification by Comcast, Comcast shall consider extending the Cable System beyond that which exists in Exhibit A into areas within the Borough where there is a minimum of twenty (20) dwelling units per linear plant mile of aerial cable and forty (40) dwelling units per underground mile of cable, and such dwelling units are located within one (1) mile of the existing Cable System calculated from the end of the main distribution 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. Should Comcast choose to extend the Cable System outside the Planned Build-Out Area, 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. In the event that construction is delayed by factors outside of Comcast's control, including weather, make-ready delays by other companies, and/or other factors, Comcast shall



provide a written request to the Borough for an extension of time to complete the Cable System extension, which request shall not be unreasonably denied.

(d) Any dwelling unit within one hundred twenty-five (125) feet aerial distance from the main distribution line shall be entitled to a Standard Installation rate. For any dwelling unit located more than one hundred twenty-five (125) feet main distribution line or that requires an underground installation, Grantee shall extend the Cable System if the Subscriber pays Grantee the actual cost of installation from its main distribution system with such cost being only the incremental portion beyond twenty-five (125) feet for aerial installations.

4.2. Programming. The Grantee shall offer to all Customers a diversity of Video Programming services in accordance with federal law.

4.3. No Discrimination. Neither the Grantee nor any of its employees, agents, representatives, contractors, subcontractors, or consultants, nor any other Person, shall discriminate or permit discrimination between or among any Persons in the availability of Cable Services provided in connection with the Cable System in the Franchise Area; provided, however, Grantee reserves the right to deny service for good cause, including but not limited to non-payment or theft of service, vandalism of equipment, or documented or founded harassment or abuse of Grantee's employees or agents. It shall be the right of all Persons to receive all available services provided on the Cable System so long as such Person's financial or other obligations to the Grantee are satisfied. Nothing contained herein shall prohibit the Grantee from offering bulk discounts, promotional discounts, package discounts, or other such pricing strategies as part of its business practice.

4.4. New Developments. The Franchising Authority shall provide the Grantee with written notice of the issuance of building or development permits for planned developments within the Franchise Area requiring undergrounding of cable facilities. The Franchising Authority agrees to require the developer, as a condition of issuing the permit, to give the Grantee access to open trenches for deployment of cable facilities and at least ten (10) business days written notice of the date of availability of open trenches.

4.5. Prohibition Against Reselling Service. No Person shall resell, without the express prior written consent of the Grantee, any Cable Service, program or signal transmitted over the Cable System by the Grantee.

## **SECTION 5 - Fees and Charges to Customers**

5.1. All rates, fees, charges, deposits and associated terms and conditions to be imposed by the Grantee for any Cable Service as of the Effective

Date shall be in accordance with applicable FCC rate regulations. Before any new or modified rate, fee, or charge is imposed, the Grantee shall follow the applicable FCC notice requirements and rules and notify affected Customers, which notice may be by any means permitted under applicable law.

### **SECTION 6 - Customer Service Standards; Customer Bills; and Privacy Protection**

6.1. Customer Service Standards. The Franchising Authority hereby adopts the customer service standards set forth in Part 76, §76.309 of the FCC's rules and regulations, as amended.

6.2. Customer Bills. Customer bills shall be designed in such a way as to present the information contained therein clearly and comprehensibly to Customers, and in a way that (A) is not misleading and (B) does not omit material information. Notwithstanding anything to the contrary in Section 6.1, above, the Grantee may, in its sole discretion, consolidate costs on Customer bills as may otherwise be permitted by Section 622 (c) of the Cable Act [47 U.S.C. §542 (c)].

6.3. Privacy Protection. The Grantee shall comply with all applicable federal and state privacy laws, including Section 631 of the Cable Act and regulations adopted pursuant thereto.

### **SECTION 7 - Oversight and Regulation by Franchising Authority**

#### **7.1. Franchise Fees.**

7.1.1. The Grantee shall pay to the Franchising Authority 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 (the "Franchise Fees"); provided, however, that Grantee shall not be compelled to pay any higher percentage of franchise fees than any other cable operator 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 first, second and third calendar quarter (i.e., May 15, August 15, November 15) and sixty (60) days after the close of the calendar year (last day of February). Grantee shall provide a report prepared by a representative of the Grantee showing the basis for the computation of the Franchise Fees paid during that period. In the event that any Franchise Fee payment is not made on or before the applicable dates, then interest shall be added at the annual rate of six percent (6%) of the amount of Franchise Fee revenue due to the Franchising Authority. The interest 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 the correct amount.

7.2. Franchise Fees Subject to Audit.

7.2.1 Upon reasonable prior written notice, the Franchising Authority shall have the right to inspect the Grantee's financial records used to calculate the Franchising Authority's franchise fees; provided, however, that any such inspection shall take place within two (2) years from the date the Franchising Authority receives such payment, after which period any such payment shall be considered final.

7.2.2. Upon the completion of any such audit by the Franchising Authority, the Franchising Authority shall provide to the Grantee a final report setting forth the Franchising Authority's findings in detail, including any and all substantiating documentation. In the event of an alleged underpayment, the Grantee shall have thirty (30) days from the receipt of the report to provide the Franchising Authority with a written response agreeing to or refusing the results of the audit, including any substantiating documentation. Based on these reports and responses, the parties shall enter into discussions related to agreement upon a Final Settlement Amount. For purposes of this Section, the term "Final Settlement Amount(s)" shall mean the agreed upon underpayment, if any, to the Franchising Authority by the Grantee as a result of any such audit. If the parties cannot agree on a Final Settlement Amount, the parties shall submit the dispute to a mutually agreed upon mediator within sixty (60) days of reaching an impasse. If an agreement is not reached at mediation, either party may bring an action to have the disputed amount determined by a court of law.

7.2.3. Any Final Settlement Amount(s) due to the Franchising Authority as a result of such audit shall be paid to the Franchising Authority by the Grantee within thirty (30) days from the date the parties agree upon the Final Settlement Amount. If the Franchise Fee audit shows that Franchise Fees have been underpaid, then Grantee shall pay the underpaid amount plus six percent (6%) interest on the amount correctly due from the date such underpayment would have been due. Once the parties agree upon a Final Settlement Amount and such amount is paid by the Grantee, the Franchising Authority shall have no further rights to audit or challenge the payment for that period. Each party shall bear its own costs of an audit; provided, however, that if the results of any audit indicate that Grantee underpaid the Franchise Fees by five percent (5%) or more of the amount owed, then Grantee shall pay the Franchising Authority's reasonable, documented, out-of-pocket costs of the audit up to Two Thousand – Five Hundred Dollars (\$2,500).

7.3. Technical Standards. The Grantee shall comply with all applicable technical standards of the FCC.

7.4. File for Public Inspection. Throughout the term of this Franchise Agreement, the Grantee shall maintain a file for public inspection during normal business hours, those documents required pursuant to the FCC's rules and regulations.

7.5. Proprietary Information. Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature. The Franchising Authority agrees to treat any information disclosed by the Grantee as confidential and only to disclose it to those employees, representatives, and agents of the Franchising Authority that have a need to know in order to enforce this Franchise Agreement and who agree, through the execution of a non-disclosure agreement, to maintain the confidentiality of all such information. The Grantee shall not be required to provide Customer information in violation of Section 631 of the Cable Act or any other applicable federal or state privacy law. 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 of information by the Franchising Authority's representative. In the event that the Franchising Authority has in its possession and receives a request under a state "sunshine," public records, or similar law for the disclosure of information the Grantee has designated as confidential, trade secret or proprietary, the Franchising Authority shall notify Grantee of such request and cooperate with Grantee in opposing such request.

7.6. Oversight of Franchise. In accordance with applicable law, the Franchising Authority shall have the right to, upon reasonable prior written notice and in the presence of the Grantee's employee, periodically inspect the construction and maintenance of the Cable System in the Franchise Area as necessary to monitor the Grantee's compliance with the provisions of this Franchise Agreement.

7.7. 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 or applicable law, allocations of revenue from such bundles shall not be structured for the purpose of evading franchise fees applicable to Cable Service.

7.8. Reserved Authority. The Franchising Authority 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 Franchising Authority's authority, rights or 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.

7.9. Police Powers. Grantee's rights under this Agreement are subject to the police powers of the Franchising Authority 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 Franchising Authority'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 Grantee of the material alteration.

#### **SECTION 8 – Transfer of Cable System or Franchise of Grantee**

8.1. No transfer of control of the Grantee, defined as an acquisition of 51% or greater direct ownership interest in Grantee, shall take place without prior written notice to the Franchising Authority. No notice 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. Within thirty (30) days' of receiving a notice of transfer, the Franchising Authority may, in accordance with FCC rules and regulations, notify the Grantee in writing of the additional information, if any, it requires regarding the legal, financial, and technical qualifications of the transferee or new controlling party. Any consent by the Franchising Authority 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.

#### **SECTION 9 - Insurance and Indemnity**

9.1. Insurance. Throughout the term of this Franchise Agreement, the Grantee shall, at its own cost and expense, maintain the insurance required in this Section and provide the Franchising Authority certificates of insurance designating the Franchising Authority and its officers, boards, commissions, councils, elected officials, and employees as additional insureds on each of the insurance policies (except the workers' compensation policy) and demonstrating that the Grantee has obtained the insurance required in this Section. The Grantee shall provide workers' compensation coverage in accordance with applicable law.

9.1.1 Grantee shall maintain in full force and effect, at its own cost and expense, during the term of this Agreement, the following insurance coverage:

(a) Commercial General Liability Insurance in the amount of Three Million Dollars (\$3,000,000) combined single limit for property damage and bodily injury. Such insurance shall cover the construction, operation, and maintenance of the Cable System, and the conduct of Grantee's Cable Service business in the Franchise Area;

(b) Automobile Liability Insurance in the amount of One Million Dollars (\$1,000,000) combined single limit for bodily injury and property damage coverage; and

(c) Employers' Liability Insurance in the following amounts: (i) Bodily Injury by Accident in the amount of One Hundred Thousand Dollars (\$100,000); and (ii) Bodily Injury by Disease in the amount of One Hundred Thousand Dollars (\$100,000) employee limit; Five Hundred Thousand Dollar (\$500,000) policy limit.

9.1.2 Grantee shall not cancel any required insurance policy without submitting documentation to the Franchising Authority verifying that Grantee has obtained alternative insurance in conformance with this Agreement.

9.1.3 Each of the required insurance policies shall be with insurance companies qualified to do business in the Commonwealth of Pennsylvania, with an A-minus VII or better rating for financial condition and financial performance by Best's Key Rating Guide, Property/Casualty Edition.

9.1.4 Upon written request, Grantee shall deliver to the Franchising Authority certificates of insurance showing evidence of the required coverage within thirty (30) days of the request.

9.2. Indemnification. The Grantee shall indemnify, defend and hold harmless the Franchising Authority, its officers, agents and employees acting in their official capacities from and against any and all liability or claims for injury, damage, loss, liability, cost or expense, including but not limited to property damage or bodily injury (including accidental death), arising in whole or in part from, incident to, or connected with any acts or omission of Grantee, its officers, agents or employees, including the acts or omissions of any contractor or subcontractor of Grantee, in relation to Grantee's construction, operation, maintenance, upgrade or removal of the Cable System, including, but not limited to, reasonable attorneys' fees and costs, provided that the Franchising Authority shall give the Grantee written notice of its obligation to indemnify and defend the Franchising Authority within ten (10) business days of receipt of a claim or action pursuant to this Section. The Franchising Authority agrees that it will take all necessary action to avoid a default judgment and not prejudice the Grantee's ability to defend the claim or action. If the Franchising Authority determines that it is necessary for it to employ separate counsel, the costs for such separate counsel shall be the responsibility of the Franchising Authority. Grantee shall not indemnify

the Franchising Authority for any claims resulting from acts of willful misconduct or negligence on the part of the Franchising Authority.

9.3 Performance Bond. Grantee 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 Grantee's faithful performance of its obligations. The performance bond shall provide that the Borough may recover from the principal and surety any and all liquidated damages and/or compensatory damages incurred by the Borough for Grantee's violations of this Agreement, after notice and opportunity to cure, in accordance with Section 11. The performance bond shall be in the amount of Twenty-Five Thousand Dollars (\$25,000). Grantee shall not reduce, cancel or materially change said bond from the requirement contained herein without the express prior written permission of the Borough.

#### **SECTION 10 - System Description and Service**

10.1. System Capacity. During the term of this Agreement, the Grantee's Cable System shall be capable of providing Video Programming to its customers in the Franchise Area in accordance with the Cable Act.

10.2. Technical Requirements. The Cable System shall meet or exceed any and all technical performance standards of the FCC, the National Electrical Safety Code, the National Electric Code, and any other applicable federal laws and the laws of the Commonwealth of Pennsylvania, to the extent not in conflict with federal law and regulations, as determined by a Court of competent jurisdiction.

10.3. System Characteristics. The Cable System shall be designed, constructed, and maintained to deliver reliable digital television standards. Grantee may 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 10.2.

10.4 Services to the Community.

10.4.1. The Grantee shall provide a cable service drop and Basic Service with any necessary cable box or equivalent to one outlet at each Public Building listed in Exhibit B. If Grantee intends to charge for the services required by this section, it will give the Franchising Authority 120 days' written notice of the commencement of charges. The charges shall be consistent with applicable law – as of the Effective Date, defined as the "marginal cost" of

providing such Cable Services. Grantee will disclose in writing the amount due and shall arrange with the Franchising Authority for invoicing or deductions from the Franchise Fee. Charges may include those for services and equipment, if any, at each location. Charges may include applicable fees and taxes and may be subject to adjustment if consistent with applicable law. The Franchising Authority may remove locations or change the level of Cable Service indicated on Exhibit A with 30 days' written notice to Grantee. The Franchising Authority may elect in writing not to receive the Cable Service, in which case the service will be disconnected, it will not be invoiced, and no deduction will be taken from the Franchise Fee.

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

10.4.3 Notwithstanding anything to the contrary in this Agreement, In the event the FCC's 2019 Third Report and Order In the Matter of Implementation of Section 621 of the Cable Act is reversed on appeal as to the issue of complimentary Cable Services as in-kind contributions in a cable franchise and such result becomes final, or is otherwise superseded by a new law, within thirty (30) days of the result becoming final or new law becoming effective (as applicable), Grantee will discontinue the charge for service for the Public Building locations listed in Exhibit B and provide such service on a complimentary basis. Any additional levels of cable service, outlets, or service locations ordered by the Franchising Authority shall continue to be subject to standard rates.

## **SECTION 11 - Enforcement and Revocation Proceedings**

11.1. Notice of Violation or Default and Opportunity to Cure. In the event the Franchising Authority believes that the Grantee has not complied with the material terms of the Franchise, it shall notify the Grantee in writing with specific details regarding the exact nature of the alleged non-compliance or default.

11.1.1. Grantee's Right to Cure or Respond. The Grantee shall have forty-five (45) days from the receipt of the Franchising Authority's written notice: (A.) to respond to the Franchising Authority, contesting the assertion of non-compliance 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 forty-five (45) day period, initiate reasonable steps to remedy such default and notify the Franchising Authority of the steps being taken and the projected date that the cure will be completed.

11.1.2. Public Hearings. In the event the Grantee fails to respond to the Franchising Authority's notice or in the event that the alleged default



is not remedied within forty-five (45) days or the date projected by the Grantee, the Franchising Authority shall schedule a public hearing to investigate the default. Such public hearing shall be held at the next regularly scheduled meeting of the Franchising Authority that is scheduled at a time that is no less than ten (10) business days therefrom. The Franchising Authority shall notify the Grantee in writing of the time and place of such meeting and provide the Grantee with a reasonable opportunity to be heard.

11.1.3. Enforcement. Subject to applicable federal and state law, in the event the Franchising Authority, after such public hearing, determines that the Grantee is in default of any material provision of the Franchise, the Franchising Authority may:

- (i). seek specific performance of any provision that reasonably lends itself to such remedy as an alternative to damages, or seek other equitable relief;
- (ii) commence an action at law for monetary damages;
- (iii) impose liquidated damages as set forth in Section 11.4 below; or

(iv). in the case of a substantial default of a material provision of the Franchise, initiate revocation proceedings in accordance with the following:

(a) The Franchising Authority shall give written notice to the Grantee of its intent to revoke the Franchise. The notice shall set forth with specificity the exact nature of the non-compliance. 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 Franchising Authority has not received a response from the Grantee or upon receipt of the response does not agree that the allegations of non-compliance have been or will be resolved, it may then seek revocation of the Franchise at a public hearing. The Franchising Authority shall cause to be served upon the Grantee, at least thirty (30) days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to request revocation of the Franchise.

(b) At the designated public hearing, the Franchising Authority shall give the Grantee an opportunity to state its position on the matter, present evidence and question witnesses, in accordance with the standards of a fair hearing applicable to administrative hearings in the Commonwealth of Pennsylvania, after which it shall determine whether or not the Franchise shall be terminated. The public hearing shall be on the record and a written transcript shall be made available to the Grantee within ten (10) business days. The decision of the Franchising Authority shall be in writing and shall be delivered to the Grantee by certified mail. The Grantee may appeal such determination to an appropriate court, which shall have the power to review the

decision of the Franchising Authority "de novo" and to modify or reverse such decision as justice may require.

11.2. Technical Violation. The Franchising Authority agrees that it is not its intention to subject the Grantee to penalties, fines, forfeitures or revocation of the Franchise for so-called "technical" breach(es) or violation(s) of the Franchise, which shall include, but not be limited, to the following:

11.2.1. in instances or for matters where a violation or a breach of the Franchise by the Grantee was good faith error that resulted in no or minimal negative impact on the Customers within the Franchise Area; or

11.2.2. where there existed circumstances reasonably beyond the control of the Grantee and which precipitated a violation by the Grantee of the Franchise, or which were deemed to have prevented the Grantee from complying with a term or condition of the Franchise.

11.3 No Removal of System. Grantee shall not be required to remove its 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 Grantee from providing Cable Service, if the Cable System is actively being used to facilitate any other services not governed by the Cable Act, or any portion thereof. In the event the Cable System is no longer being used to facilitate any of Grantee's services, upon the request of Franchising Authority, Grantee shall remove its Cable System at its own expense.

11.4 Liquidated Damages.

11.4.1 Subject to the Notice of Violation and Opportunity to Cure procedure identified in Section 11.1, in the event that Grantee does not comply with a material term of this Agreement, Franchising Authority may elect to assess liquidated damages against Grantee as follows:

(a) For failure to provide Cable Service as set forth in this Agreement, One Hundred Dollars (\$100) per day for each day the violation continues;

(b) For failure to provide Franchising Authority with any reports or records required by the Agreement within the time period required, One Hundred Dollars (\$100) per day for each day the violation continues;

(c) For failure to meet customer service requirements, Three Hundred Dollars (\$300) for each quarter in which such standards were not met;

(d) For failure to carry the insurance specified in this Agreement, One Hundred Dollars (\$100) per day for each day the violation continues; and

(e) For a transfer specified in Section 8 without required approval, One Hundred Dollars (\$100) per day for each day the violation continues.

Each day that a violation continues shall be a separate violation for which a separate fine may be imposed. Grantee shall pay all such fines within one hundred and eighty (180) days of imposition. 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 Franchising Authority.

11.4.2 If the Franchising Authority elects to recover liquidated damages for any item set forth in Section 11.4.1 (including customer service violations), the Franchising Authority agrees that such recovery shall be its exclusive remedy; provided, however, once the Franchising Authority has exhausted its liquidated damages remedy as set forth in Section 11.4.3, it may pursue other available remedies.

11.4.3 The amount of all liquidated damages per annum shall not exceed Twelve Thousand Dollars (\$12,000) in the aggregate. All similar violations or failures from the same factual events affecting multiple Subscribers shall be assessed as a single violation, and a violation or a failure may only be assessed under any one of the above-referenced categories. Violations or failures shall not be deemed to have occurred or commenced until they are not cured as provided in this Sections 11.1.

## **SECTION 12 – Competitive Equity**

### **12.1. Competitive Video Service Provider.**

12.1.1. Notwithstanding any other provision of this Agreement or any other provision of law, if, after the Effective Date, any Video Service Provider (“VSP”) (i.) enters into any agreement with the Franchising Authority to provide video services to subscribers in the Borough 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 Grantee, or (ii.) otherwise begins to provide video services to subscribers in the Borough (with or without entering into an agreement with the Franchising Authority) 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 Grantee, then Grantee may request an amendment to this Agreement to provide Grantee

with competitive equity. If, when taken as a whole upon consideration of all of its material obligations, the subsequent VSP agreement is more favorable or less burdensome to the subsequent VSP provider, then the Franchising Authority and Grantee shall enter into good faith negotiations in order to modify this Agreement to the mutual satisfaction of both parties to provide Grantee with such competitive equity. If the parties cannot reach agreement on the above-referenced modification to the Franchise, then either party may submit the matter to binding arbitration in accordance with the commercial arbitration rules of the American Arbitration Association.

12.2. Subsequent Change in Law. If there is a change in federal, state or local law that provides for a new or alternative form of authorization for a VSP to provide video services to Subscribers in the Borough, or that otherwise changes the nature or extent of the obligations that the Franchising Authority may request from or impose on a VSP providing video services to subscribers in the Borough, the Franchising Authority agrees that, notwithstanding any other provision of law, upon Grantee's written request the Franchising Authority may, at the Franchising Authority's discretion: (i) permit the Grantee to provide video services to subscribers in the Borough on the same terms and conditions as are applicable to a VSP under the changed law; (ii) modify this Agreement to comply with the changed law; or (iii) modify this Agreement to ensure competitive equity between the Grantee and other VSPs, taking into account the conditions under which other VSPs are permitted to provide video services to Subscribers in the Borough. For any changes to this Agreement required by a change in law, the Franchising Authority and the Grantee shall implement the provisions of this Section within sixty (60) days after the Grantee submits a written request to the Franchising Authority; provided that, notwithstanding any provision of law that imposes a time or other limitation on the Grantee's ability to take advantage of the changed law's provisions, the Grantee may exercise its rights under this Section at any time, but not sooner than thirty (30) days after the changed law goes into effect.

12.3. Effect on This Agreement. [Reserved].

12.4. Video Service Provider. The term "Video Service Provider" or "VSP" shall mean any entity using the public rights-of-way to provide multiple Video Programming services to subscribers, for purchase or at no cost, regardless of the transmission method, facilities, or technology used. A VSP shall include but is not limited to any entity that provides cable services, multi-channel multipoint distribution services, broadcast satellite services, satellite-delivered services, wireless services, and Internet-Protocol based services.

### **SECTION 13 - Miscellaneous Provisions**

13.1. Force Majeure. The Grantee shall not be held in default under, or in non-compliance 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 non-compliance or alleged defaults occurred or were caused by lightning strike, earthquake, flood, tidal wave, unusually severe rain, ice or snow storm, hurricane, tornado, public health emergency or other catastrophic act of nature; riot, war, labor disputes, environmental restrictions, failure of utility service or the failure of equipment or facilities not belonging to Grantee, denial of access to facilities or rights-of-way essential to serving the Franchise Area 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. Notwithstanding the foregoing, nothing herein shall excuse Grantee's obligation to make any payment pursuant to this Agreement.

13.2. Notice. All notices required by this agreement or law 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 Franchising Authority:

Borough of Oxford  
1 Octorara Alley  
PO Box, 380  
Oxford, PA 19363  
Attention: Borough Manager  
with a copy to:

Stacey L. Fuller, Esquire  
Oxford Borough Solicitor  
P.O. Box 562  
Oxford, PA 19381-0562

To the Grantee:

Comcast of Pennsylvania, LLC  
110 Springbrooke Blvd  
Aston, PA 19014  
Attention: Government Affairs Department

with a copy to:

Comcast Cable Northeast Division

676 Island Pond Rd.  
Manchester, NH 03109  
Attention: Government Affairs Department

Comcast Cable  
One Comcast Center  
1701 John F. Kennedy Boulevard  
Philadelphia, PA 19103-2838  
Attention: Government Affairs Department

13.3. Entire Agreement. This Franchise Agreement and any exhibits or addendums hereto constitute the entire agreement between the Franchising Authority and the Grantee and supersedes all prior or contemporaneous agreements, ordinances, representations, or understandings – whether written or oral – of the parties regarding the subject matter hereof. Any agreements, ordinances, representations, or understandings or parts of such measures that are in conflict with or otherwise impose obligations different from the provisions of this Franchise Agreement are superseded by this Franchise Agreement.

13.4. Separability. 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.

13.5. Governing Law: This Franchise Agreement shall be deemed to be executed in the Commonwealth of Pennsylvania, and shall be governed in all respects, including validity, interpretation and effect, and construed in accordance with, the laws of the Commonwealth of Pennsylvania, as applicable to contracts entered into and performed entirely within the State. Without waiving any right to bring or remove an action in either State or Federal Court, venue for any dispute between Franchising Authority and Grantee under this Agreement shall rest in the Court of Common Pleas of Chester County, Pennsylvania or the United States District Court for the Eastern District of Pennsylvania.

13.6. Modification. 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 Franchising Authority and the Grantee, which amendment shall be authorized on behalf of the Franchising Authority through the adoption of an appropriate resolution or order by the Franchising Authority, as required by applicable law.

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

13.8 Captions. Captions to sections throughout this Franchise Agreement are solely to facilitate the reading and reference to the sections and provisions of this Franchise Agreement. Such captions shall not affect the meaning or interpretation of this Franchise Agreement.

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

13.10 Incorporation by Reference. All presently and hereafter applicable conditions and requirements of federal and state laws, including but not limited to the rules and regulations of the FCC and the Commonwealth of Pennsylvania, as they may be amended from time to time, are incorporated herein by reference to the extent not enumerated herein. Should the Commonwealth of Pennsylvania, the federal government or the FCC require Grantee to perform or refrain from performing any act the performance or non-performance of which is inconsistent with any provisions herein, the Franchising Authority and Grantee will thereupon, if they determine that a material provision herein is affected, modify any of the provisions herein to reflect such government action.

13.11. Calculation of Time. Where the performance or doing of any act, duty, matter, payment, or operation is required hereunder and the period of time or duration for the performance or during thereof is prescribed and fixed herein, the time shall be computed so as to exclude the first day and include the last day of the prescribed or fixed period or duration of time. When the last day of the period falls on Saturday, Sunday, or a legal holiday, that day shall be omitted from the computation.

*REMAINDER OF PAGE LEFT BLANK UNTIL SIGNATURE PAGE.*

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

Attest:

  
\_\_\_\_\_

Franchising Authority:

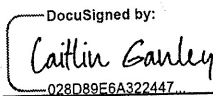
By: Kathryn Cloude

Print Name: Kathryn Cloude

Title: President, Oxford Borough Council

Date: 9/13/2023

Attest:

DocuSigned by:  
  
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Grantee:

DocuSigned by:  
By: Daniel Bonelli  
EA0D8A13A788472...

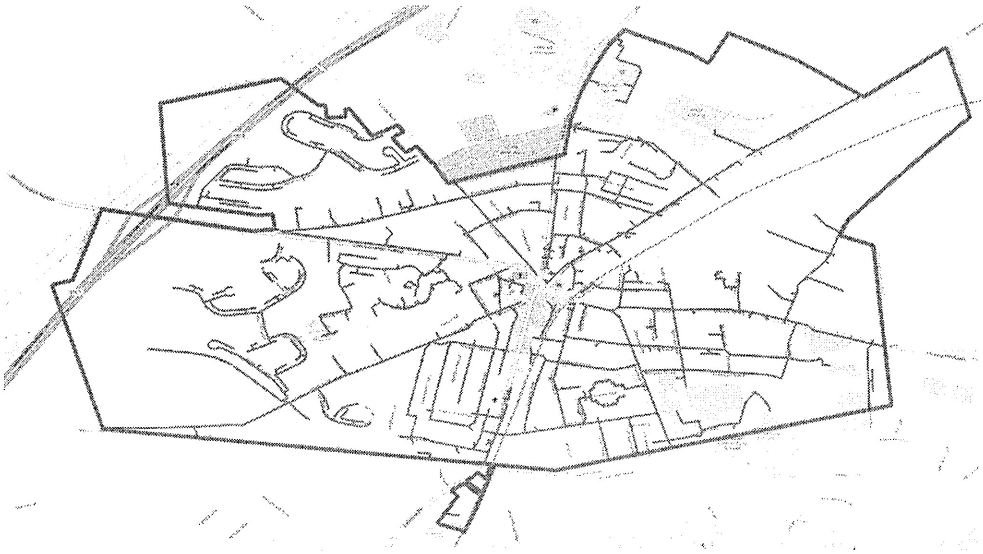
Title: Senior Vice President – Freedom Region

9/28/2023

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



**Exhibit A**  
**Planned Build Out**



**Exhibit B**  
**Public Buildings**

- Oxford Borough Hall, 1 Octoraro Alley, Oxford, PA 19363
- Oxford Police Department, 57 N. 4<sup>th</sup> Street, Oxford, PA 19363
- Oxford Water Plant, 603 N. 3<sup>rd</sup> Street, Oxford, PA 19363
- Oxford Public Works Plant, 450 W. Locust Street, Oxford, PA 19363
- Oxford Youth Cabin, 549 Wheeler Boulevard, Oxford, PA 19363