

**MARION TOWNSHIP
BERKS COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2023-3

**AN ORDINANCE OF THE TOWNSHIP OF MARION, BERKS
COUNTY, PENNSYLVANIA AUTHORIZING THE EXECUTION OF A
CABLE FRANCHISE AGREEMENT BETWEEN MARION TOWNSHIP
AND COMCAST OF NEW MEXICO/PENNSYLVANIA, LLC.**

WHEREAS, the Township of Marion, Berks County, Pennsylvania ("Township") as a municipal corporation and township of the second class in the Commonwealth of Pennsylvania is authorized to grant and renew franchises to construct, operate and maintain a cable system utilizing public rights-of-way and properties within the jurisdiction under Title VI of 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 (collectively, the "Cable Act"), as well as the regulations of the Federal Communications Commission ("FCC") and Pennsylvania law;

WHEREAS, Comcast of New Mexico/Pennsylvania, LLC ("Comcast") currently holds a cable franchise from the Township by virtue of a Cable Franchise Agreement dated April 1, 2023 ("Cable Franchise Agreement");

WHEREAS, Comcast has requested that the Township renew said franchise to maintain, construct, operate, and upgrade its cable system over, under and along the aforesaid rights-of-ways for use by the Township's residents;

WHEREAS, the aforesaid rights-of-way used by Comcast are public properties acquired and maintained by the Township on behalf of the residents at their expense, and thus the right to use them is a valuable property right;

WHEREAS, the Township desires to protect and manage the aforesaid rights-of-way, establish standards of customer service, maintain a technologically advanced cable system, receive franchise fees for Comcast's use of the Township's rights-of-way as provided by federal law, obtain the use of educational and governmental channels, establish certain reporting requirements, obtain certain complimentary services and provide for the current and future cable-related needs of its residents;

WHEREAS, the Township held a public hearing concerning renewal of the Cable Franchise Agreement, which included reviewing Comcast's past performance and identifying the Township's future cable-related community needs;

WHEREAS, the Township has determined that Comcast has the financial, legal and technical ability to provide cable services to subscribers located in the Township and meet the obligations of the Cable Franchise Agreement that it desires to be renewed;

WHEREAS, the Township, after affording the public notice, has determined that the public interest would be served by renewing a franchise with Comcast according to the terms and conditions contained in the Cable Franchise Agreement, and that the process for consideration of the Cable Franchise Agreement complies with all applicable federal, state and local laws and regulations.

NOW, THEREFORE BE IT ENACTED AND ORDAINED by the Township of Marion, Berks County Pennsylvania, and it is hereby **ENACTED AND ORDAINED** by the authority of the same as follows:

SECTION 1. Grant of Franchise. The Township hereby grants to Comcast a non-exclusive and revocable franchise authorizing and permitting Comcast to construct, operate and maintain a cable system in the Township's public rights-of-way for the provision of cable services, upon the terms and conditions of the Agreement between the Township and Comcast, which is attached hereto and incorporated by reference herein as Exhibit "A."

SECTION 2. Authorization to Enter into Agreement. The Township hereby approves the Agreement including all of the terms and conditions contained therein, and hereby authorizes the execution and delivery of the same.

SECTION 3. Severability. If any section, subsection, paragraph, sentence, clause or phrase 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 sections, subsections, paragraphs, sentences, clauses or phrases herein. It is hereby declared as the intent of the Township that this Ordinance would have been enacted had such unconstitutional, illegal or invalid section, subsection, paragraph, sentence, clause, or phrase thereof not been included therein.

SECTION 4. Repealer. All ordinances or parts of ordinances conflicting with the provisions of this Ordinance are hereby repealed insofar as they are inconsistent with this Ordinance. All other ordinances of the Township shall be and remain unchanged and in full force and effect except as amended, supplemented and modified by this Ordinance.

Section 5. Effective Date. This Ordinance shall become effective five (5) days from the date of enactment.

EXHIBIT "A"

DULY ENACTED AND ORDAINED into law this 28th day of December, 2023 by the Board of Supervisors of the Township of Marion, Berks County, Pennsylvania.

**BOARD OF SUPERVISORS
TOWNSHIP OF MARION
BERKS COUNTY, PENNSYLVANIA**

By: *Peter McCarthy*
Peter McCarthy, Chairman

[SEAL]

Attest: *Susan Staaby*
Susan Staaby, Secretary

MUNICIPAL CERTIFICATION

I, Susan Staaby, Secretary of the Township of Marion, Berks County, Pennsylvania, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 2023-3 enacted at a regular meeting of the Board of Supervisors of the Township of Marion, Berks County, Pennsylvania held on the 28th day of December, 2023.

Susan Staaby
Susan Staaby, Secretary

[SEAL]