

HATFIELD BOROUGH COUNCIL

REGULAR MEETING

May 17, 2023



JASON FERGUSON, PRESIDENT

RICHARD GIRARD, VICE PRESIDENT

JAMES FAGAN, COUNCILMEMBER

MICHELLE KROESSER, COUNCILMEMBER

LAWRENCE G. STEVENS, COUNCILMEMBER

MARY ANNE GIRARD, MAYOR

JAIME E. SNYDER, BOROUGH MANAGER

CATHERINE M. HARPER, BOROUGH SOLICITOR



Borough of Hatfield

Montgomery County, Pennsylvania

BOROUGH COUNCIL REGULAR MEETING

May 17, 2023

7:00PM

AGENDA

CALL TO ORDER
ROLL CALL
PLEDGE OF ALLEGIANCE
INVOCATION

1. APPROVAL OF MEETING AGENDA:

Motion to Approve the Agenda of the May 17, 2023 Regular Meeting

2. APPROVAL OF THE MINUTES:

Motion to Approve the Minutes of the April 19, 2023 Regular Meeting

3. PUBLIC INPUT:

Please rise, state your name and address and the reason for addressing Council

4. ANNOUNCEMENTS:

- Next Council Meeting June 14, 2023 Workshop / Regular Meeting @ 7:00PM in Council Chambers
- HEROC is Scheduled to Meet Wednesday, May 24, 2023 @ 8:00AM in Council Chambers
- ZHB is Scheduled to Meet Wednesday, May 31, 2023 @ 7:00PM in Council Chambers
- HMHS is Scheduled to Meet Tuesday, May 23, 2023 @ 7:00PM at the HVFC
- Next Planning Commission Meeting is Scheduled for June 12, 2023 @ 7:00PM in Council Chambers
- The Borough Offices will be closed Monday, May 29th in Observance of the Memorial Day Holiday

401 S. Main Street
P.O. Box 190
Hatfield, PA 19440

Phone:
215-855-0781

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215-855-2075

Email:
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Website:
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5. Public Hearing for Ordinance No. 550 Chickens: Amending Chapter 2 & Chapter 27
6. REPORTS AND CORRESPONDENCE:
 - A. Monthly YTD Report
7. NEW BUSINESS / DISCUSSION ITEMS:
 - A. Comcast Franchise Agreement
8. OLD BUSINESS:
 - A. SEPTA Lease Agreement
 - B. Ordinance No. 551 Regulating the Use of Consumer and Display Fireworks
9. ACTION ITEMS:
 - A. Motion to Consider Ordinance No. 550 Amending Chapter 2 (Animals) and Chapter 27 (Zoning) of the Code of Ordinances of the Borough of Hatfield Providing Conditions for the Keeping of Chickens
 - B. Motion to Consider Advertising Ordinance No. 551 Regulating the Use of Consumer and Display Fireworks for a Public Hearing to be Held June 14th at 7:00PM
10. Motion to Approve Payment of the Bills
11. MOTION to ADJOURN: EXECUTIVE SESSION

**2. APPROVAL OF THE MINUTES:
MOTION TO APPROVE THE MINUTES OF THE
APRIL 19, 2023 REGULAR MEETING**

HATFIELD BOROUGH COUNCIL
REGULAR MEETING
April 19, 2023

MINUTES

THIS MEETING WAS HELD IN-PERSON & LIVE STREAMED
BOROUGH HALL 401 S. MAIN STREET, HATFIELD
THIS MEETING WAS RECORDED

CALL TO ORDER AND ROLL CALL:

- (X) Jason Ferguson, President
- (X) Richard Girard, Vice President
- (X) James Fagan
- (X) Michelle Kroesser
- (X) Lawrence G. Stevens

- (X) Mayor Mary Anne Girard

The record shows that five members of the Council were present at roll call, as well as, Mayor; Mary Anne Girard, Solicitor; Catherine M. "Kate" Harper; Timoney Knox LLP, Borough Manager; Jaime E. Snyder, Public Works Director; Stephen S. Fickert and Assistant to the Manager; Kathryn Vlahos

1. APPROVAL OF MEETING AGENDA:

Motion: A motion was made by Councilmember Stevens to Approve the Regular Meeting Agenda of April 19, 2023. The motion was seconded by Councilmember Kroesser.

The motion was approved unanimously with a vote of 5-0.

2. APPROVAL OF THE MINUTES:

Motion to Approve the Minutes of the March 1, 2023 Workshop Meeting and the Minutes of the March 15, 2023 Regular Meeting.

Motion: A motion was made by Councilmember Girard to Approve the Minutes of the March 1, 2023 Workshop and the Minutes of the March 15, 2023 Regular Meeting. The motion was seconded by Councilmember Fagan and unanimously approved with a vote of 5-0.

3. PUBLIC INPUT: President Ferguson asked if there was any Public Input. No Media Present. No Public Input.

4. ANNOUNCEMENTS:

- Next Council Meetings May 3rd Workshop and May 17th Regular Meeting 7:00PM in Council Chambers
- HEROC is Scheduled to Meet Wednesday, April 26, 2023 @ 8:00AM in Council Chambers
- Next Planning Commission Meeting is Scheduled for May 1, 2023 @ 7:00PM in Council Chambers
- ZHB is Scheduled to Meet Thursday, April 27, 2023 @ 7:00PM in Council Chambers

5. REPORTS AND CORRESPONDENCE:

- Budget, Finance, and Labor Committee Report
President Ferguson stated that the committee met and discussed the Septa property and is looking to schedule a meeting with Bath Consulting. The Committee also discussed investments, the employee handbook a communication committee and the audit.
- Planning, Building, and Zoning Committee Report
Councilmember Stevens reported that the Committee met and fine-tuned the chicken ordinance. They also reviewed the draft fireworks ordinance and they are looking into a rental program for the Borough.
- Public Safety Committee Report
Councilmember Kroesser stated that the committee is scheduled to meet on May 3rd.
- Public Works & Property and Equipment Committee Report
Councilmember Fagan reported that the committee did not meet and there was nothing to report at this time.
- Utilities Committee Report
Councilmember Girard met prior to the meeting and discussed the Behind the Meter Generator Policy and the March bill delinquency.
- Hatfield Economic Revitalization Outreach Committee Report
Councilmember Girard explained that his report was provided in the packet and highlighted some items of his report including the vacancy on the HEROC Committee and a new member they would like Council to consider is the owner of Razor Sharp barber shop.
- Mayor Mary Anne Girard's Report
Mayor Girard stated that her report was in the packet and highlighted the second quarter meeting of the Northern Montgomery County Recycling Commission on April 20th. Mayor Girard also stated that

Councilmember Fagan and herself have reached out to different schools regarding the Junior Council Person Program.

6. REPORTS AND CORRESPONDENCE:

- Monthly Investment Report
- Monthly EIT / LST Report
- Monthly Zoning Hearing Board Applications
- Police Department Report
- Fire Department Report
- EMS Report
- Public Works Department Report
- Engineering Report
- Zoning Officer, Building Code, Property Maintenance Report
- Fire Marshal / Fire Safety Inspection Report
- Pool Advisory Report

7. MANAGERS REPORT:

8. NEW BUSINESS / DISCUSSION ITEMS:

A. 2023 ADA Curb Ramp Bid Results

Manager Snyder explained that the 2023 bid results came in and have been reviewed and the consideration to award the project to Albert G Cipolloni Jr. & Sons in the amount of \$150,220.00.

B. Resolution 2023-04 Recognizing Safe Digging Month

Manager Snyder explained that this is a resolution that the Borough passes each year to recognize safe digging month and is on for consideration tonight,

C. Salzmann Hughes, P.C. Special Utility Counsel

Manager Snyder stated that the Salzmann Hughes, P.C. engagement and representation agreement is included in the packet to represent the borough as special utility council. This is on for consideration tonight.

D. Edinburgh Square Escrow Release No. 4

Manager Snyder stated that the escrow release is in the packet for tonight for Edinburgh Square Development in the amount of \$1,787.50 and is on for consideration tonight.

E. 2023 PSAB Voting Delegate and Alternate

Manager Snyder explained that Councilmember Stevens and herself are signed up for the PSAB Conference and this will allow for Lawrence Stevens to be the voting delegate and herself as the alternate. This is on for consideration tonight.

F. 2023 Roadway Resurfacing Project Advertisement

Manager Snyder stated the advertising for 2023 Roadway Resurfacing Project is on for consideration tonight.

G. Ordinance No.550 Chickens: Amending Chapter 2 & Chapter 27
Solicitor Harper explained that the advertisement for Ordinance No. 550 Amending Chapter 2 & 27 of the code of ordinances of the Borough of Hatfield providing conditions for the keeping of chickens for public hearing to be held on May 17th at 7:00 PM which is on for consideration tonight.

9. OLD BUSINESS:

10. Action Items

A. Motion to Consider Awarding the 2023 ADA Curb Ramp Project to Albert G. Cipolloni Jr. & Sons, Inc. in the amount of \$150,220.00 (one hundred fifty thousand two hundred twenty dollars)

Motion: A motion was made by Councilmember Stevens to Approve Awarding the 2023 ADA Curb Ramp Project to Albert G. Cipolloni Jr. & Sons, Inc. in the amount of \$150,220.00 (one hundred fifty thousand two hundred twenty dollars). The motion was seconded by Councilmember Girard.

President Ferguson asked if there were any comments or questions. There were no comments or questions.

The motion was approved unanimously with a vote of 5-0.

B. Motion to Consider Resolution 2023-04 Recognizing Safe Digging Month

Motion: A motion was made by Councilmember Stevens to Approve Motion to Consider Resolution 2023-04 Recognizing Safe Digging Month The motion was seconded by Councilmember Fagan.

President Ferguson asked if there were any comments or questions. There were no comments or questions.

The motion was approved unanimously with a vote of 5-0.

C. Motion to Consider Appointing Salzman Hughes, P.C. as Special Legal Counsel for the Hatfield Borough Electric Utility

Motion: A motion was made by Councilmember Kroesser to Approve Appointing Salzman Hughes, P.C. as Special Legal Counsel for the Hatfield Borough Electric Utility. The motion was seconded by Councilmember Girard.

President Ferguson asked if there were any comments or questions. There were no comments or questions.

The motion was approved unanimously with a vote of 5-0.

D. Motion to Consider Approving Escrow Release No. 4,
Final Demolition Escrow, for the Edinburgh Square
Development in the Amount of \$1,787.50 (one thousand seven
hundred eighty-seven dollars and fifty cents)

Motion: A motion was made by Councilmember Fagan to Approve Motion to Consider Approving Escrow Release No. 4, Final Demolition Escrow, for the Edinburgh Square Development in the Amount of \$1,787.50 (one thousand seven hundred eighty-seven dollars and fifty cents). The motion was seconded by Councilmember Stevens.

President Ferguson asked if there were any comments or questions. There were no comments or questions.

The motion was approved unanimously with a vote of 5-0.

E. Motion to Consider Naming Lawrence G. Stevens as the 2023 PSAB Voting Delegate and naming Jaime E. Snyder as the Alternate

Motion: A motion was made by Councilmember Fagan to Approve Naming Lawrence G. Stevens as the 2023 PSAB Voting Delegate and naming Jaime E. Snyder as the Alternate The motion was seconded by Councilmember Stevens.

President Ferguson asked if there were any comments or questions. There were no comments or questions.

The motion was approved unanimously with a vote of 5-0.

F. Motion to Consider Advertising the 2023 Roadway Resurfacing Project
Bid Specifications

Motion: A motion was made by Councilmember Girard to Approve Motion to Consider Advertising the 2023 Roadway Resurfacing Project Bid Specifications. The motion was seconded by Councilmember Stevens.

President Ferguson asked if there were any comments or questions. There were no comments or questions.

The motion was approved unanimously with a vote of 5-0.

G. Motion to Consider Advertising Ordinance No. 550 Amending Chapter 2 (Animals) and Chapter 27 (Zoning) of the Code of Ordinances of the Borough of Hatfield Providing Conditions for the Keeping of Chickens for a Public Hearing to be Held on May 17th at 7:00PM

Motion: A motion was made by Councilmember Kroesser to Approve Advertising Ordinance No. 550 Amending Chapter 2 (Animals) and Chapter 27 (Zoning) of the Code of Ordinances of the Borough of Hatfield Providing Conditions for the Keeping of Chickens for a Public Hearing to be Held on May 17th at 7:00PM. The motion was seconded by Councilmember Stevens.

President Ferguson asked if there were any comments or questions. There were no comments or questions.

The motion was approved unanimously with a vote of 5-0.

9. Motion to Approve Payment of the Bills

President Ferguson and Manager Snyder reviewed and answered questions regarding the bill list.

Motion: A motion was made by Councilmember Stevens to Approve the payment of the bills. The motion was seconded by Councilmember Fagan.

President Ferguson asked if there were any comments or questions. There were no comments or questions.

The motion was approved unanimously with a vote of 5-0.

10. MOTION to ADJOURN: EXECUTIVE SESSION

Motion: A motion was made by Councilmember Kroesser to adjourn the Regular Meeting of April 19, 2023. The motion was seconded by Councilmember Fagan and unanimously approved with a vote of 5-0. The meeting was adjourned at 8:11 PM.

Executive Session Personnel, Litigation and Real Estate

Respectfully Submitted,
Kathryn Vlahos
Assistant to the Manager

**3. PUBLIC INPUT:
PLEASE RISE, STATE YOUR NAME AND
ADDRESS AND THE REASON FOR
ADDRESSING COUNCIL**

4. ANNOUNCEMENTS:

- **NEXT COUNCIL MEETING JUNE 14, 2023
WORKSHOP / REGULAR MEETING @ 7:00PM IN
COUNCIL CHAMBERS**
- **HEROC IS SCHEDULED TO MEET WEDNESDAY,
MAY 24, 2023 @ 8:00AM IN COUNCIL CHAMBERS**
- **ZHB IS SCHEDULED TO MEET WEDNESDAY, MAY
31, 2023 @ 7:00PM IN COUNCIL CHAMBERS**
- **HMHS IS SCHEDULED TO MEET TUESDAY, MAY
23, 2023 @ 7:00PM AT THE HVFC**
- **NEXT PLANNING COMMISSION MEETING IS
SCHEDULED FOR JUNE 12, 2023 @ 7:00PM IN
COUNCIL CHAMBERS**
- **THE BOROUGH OFFICES WILL BE CLOSED
MONDAY, MAY 29TH IN OBSERVANCE OF THE
MEMORIAL DAY HOLIDAY**

**5. PUBLIC HEARING FOR
ORDINANCE NO. 550 CHICKENS:
AMENDING CHAPTER 2 & CHAPTER 27**

LEGAL NOTICES

NOTICE IS HEREBY GIVEN THAT HATFIELD BOROUGH COUNCIL WILL HOLD A HEARING AND THEREAFTER CONSIDER THE ADOPTION OF AN ORDINANCE OF HATFIELD BOROUGH, MONTGOMERY COUNTY, PENNSYLVANIA, REVISING ITS CODE OF ORDINANCES TO ADD A SECTION PERMITTING THE RAISING OF CHICKENS UNDER CERTAIN CIRCUMSTANCES IN SECTION 2-101, LIVESTOCK AND FARM ANIMALS PROHIBITED WITHIN BOROUGH LIMITS, AS A RESIDENTIAL ACCESSORY USE IN CERTAIN RESIDENTIAL ZONING DISTRICTS BEING R1, R2, AND R3 AND AT A PUBLIC MEETING TO BE HELD ON WEDNESDAY, MAY 17, 2023 AT 7:00 PM AT THE HATFIELD MUNICIPAL BUILDING AT 401 SOUTH MAIN STREET IN HATFIELD, PA. A SUMMARY OF THE ORDINANCE FOLLOWS. THE FULL TEXT MAY BE EXAMINED DURING BUSINESS HOURS AT THE BOROUGH OFFICES, LOCATED AT 401 SOUTH MAIN STREET IN THE BOROUGH OR AT THE OFFICE OF THE REPORTER NEWSPAPER AT 307 DERSTINE AVE., LANSDALE, PA 19446, AS WELL AS AT THE MONTGOMERY COUNTY LAW LIBRARY AT THE MONTGOMERY COUNTY COURTHOUSE, LOWER LEVEL, NORRISTOWN, PA 19404-0311. INTERESTED PARTIES ARE WELCOME TO ATTEND AND BE HEARD. THOSE REQUIRING SPECIAL ACCOMMODATIONS SHOULD CONTACT THE BOROUGH MANAGER JAIME SNYDER IN ADVANCE OF THE HEARING.

The purpose of the Ordinance is to update and revise the Borough's prohibition against keeping any livestock or farm animals within Borough limits to allow for the keeping of hens, but not roosters, under certain circumstances by amending Section 2-101 to add standards for the keeping of a small number of hens, but not roosters, in certain residential zoning districts, and by amending section 27-903 "Uses Accessory to a Dwelling," to add the keeping of domesticated chickens in the R1, R2 and R3 zoning districts under certain conditions and circumstances. The ordinance limits the number of chickens allowed per 10,000 square feet of lot area, requires permits, and evidence of educational training in the care and keeping of chickens. The Ordinance regulates how the chickens may be kept and provides that hen houses must be kept clean, dry and odor free and prohibits the public slaughter of chickens.
CATHERINE M."KATE" HARPER, ESQ. HATFIELD BOROUGH SOLICITOR

NOTICE IS HEREBY GIVEN THAT HATFIELD BOROUGH COUNCIL WILL HOLD A HEARING AND THEREAFTER CONSIDER THE ADOPTION OF AN ORDINANCE OF HATFIELD BOROUGH, MONTGOMERY COUNTY, PENNSYLVANIA, REVISING ITS CODE OF ORDINANCES TO ADD A SECTION PERMITTING THE RAISING OF CHICKENS UNDER CERTAIN CIRCUMSTANCES IN SECTION 2-101, LIVESTOCK AND FARM ANIMALS PROHIBITED WITHIN BOROUGH LIMITS, AS A RESIDENTIAL ACCESSORY USE IN CERTAIN RESIDENTIAL ZONING DISTRICTS BEING R1,

LEGAL NOTICES

R2, AND R3 AND AT A PUBLIC MEETING TO BE HELD ON WEDNESDAY, MAY 17, 2023 AT 7:00 PM AT THE HATFIELD MUNICIPAL BUILDING AT 401 SOUTH MAIN STREET IN HATFIELD, PA. A SUMMARY OF THE ORDINANCE FOLLOWS. THE FULL TEXT MAY BE EXAMINED DURING BUSINESS HOURS AT THE BOROUGH OFFICES, LOCATED AT 401 SOUTH MAIN STREET IN THE BOROUGH OR AT THE OFFICE OF THE REPORTER NEWSPAPER AT 307 DERSTINE AVE., LANSDALE, PA 19446, AS WELL AS AT THE MONTGOMERY COUNTY LAW LIBRARY AT THE MONTGOMERY COUNTY COURTHOUSE, LOWER LEVEL, NORRISTOWN, PA 19404-0311. INTERESTED PARTIES ARE WELCOME TO ATTEND AND BE HEARD. THOSE REQUIRING SPECIAL ACCOMMODATIONS SHOULD CONTACT THE BOROUGH MANAGER JAIME SNYDER IN ADVANCE OF THE HEARING.

The purpose of the Ordinance is to update and revise the Borough's prohibition against keeping any livestock or farm animals within Borough limits to allow for the keeping of hens, but not roosters, under certain circumstances by amending Section 2-101 to add standards for the keeping of a small number of hens, but not roosters, in certain residential zoning districts, and by amending section 27-903 "Uses Accessory to a Dwelling," to add the keeping of domesticated chickens in the R1, R2 and R3 zoning districts under certain conditions and circumstances. The ordinance limits the number of chickens allowed per 10,000 square feet of lot area, requires permits, and evidence of educational training in the care and keeping of chickens. The Ordinance regulates how the chickens may be kept and provides that hen houses must be kept clean, dry and odor free and prohibits the public slaughter of chickens.

CATHERINE M. "KATE" HARPER, ESQ. HATFIELD BOROUGH SOLICITOR

Lan - May 2, 9 -1a

NOTICE IS HEREBY GIVEN THAT HATFIELD BOROUGH COUNCIL WILL HOLD A HEARING AND THEREAFTER CONSIDER THE ADOPTION OF AN ORDINANCE OF HATFIELD BOROUGH, MONTGOMERY COUNTY, PENNSYLVANIA, REVISING ITS CODE OF ORDINANCES TO ADD A SECTION PERMITTING THE RAISING OF CHICKENS UNDER CERTAIN CIRCUMSTANCES IN SECTION 2-101, LIVESTOCK AND FARM ANIMALS PROHIBITED WITHIN BOROUGH LIMITS, AS A RESIDENTIAL ACCESSORY USE IN CERTAIN RESIDENTIAL ZONING DISTRICTS BEING R1, R2, AND R3 AND AT A PUBLIC MEETING TO BE HELD ON WEDNESDAY, MAY 17, 2023 AT 7:00 PM AT THE HATFIELD MUNICIPAL BUILDING AT 401 SOUTH MAIN STREET IN HATFIELD, PA. A SUMMARY OF THE ORDINANCE FOLLOWS. THE FULL TEXT MAY BE EXAMINED DURING BUSINESS HOURS AT THE BOROUGH OFFICES, LOCATED AT 401 SOUTH MAIN STREET IN THE BOROUGH OR AT THE OFFICE OF THE REPORTER NEWSPAPER AT 307 DERSTINE AVE., LANSDALE, PA 19446, AS WELL AS AT THE MONTGOMERY COUNTY LAW LIBRARY AT THE MONTGOMERY COUNTY COURTHOUSE, LOWER LEVEL, NORRISTOWN, PA 19404-0311. INTERESTED PARTIES ARE WELCOME TO ATTEND AND BE HEARD. THOSE REQUIRING SPECIAL ACCOMMODATIONS SHOULD CONTACT THE BOROUGH MANAGER JAIME SNYDER IN ADVANCE OF THE HEARING.

The purpose of the Ordinance is to update and revise the Borough's prohibition against keeping any livestock or farm animals within Borough limits to allow for the keeping of hens, but not roosters, under certain circumstances by amending Section 2-101 to add standards for the keeping of a small number of hens, but not roosters, in certain residential zoning districts, and by amending section 27-903 "Uses Accessory to a Dwelling," to add the keeping of domesticated chickens in the R1, R2 and R3 zoning districts under certain conditions and circumstances. The ordinance limits the number of chickens allowed per 10,000 square feet of lot area, requires permits, and evidence of educational training in the care and keeping of chickens. The Ordinance regulates how the chickens may be kept and provides that hen houses must be kept clean, dry and odor free and prohibits the public slaughter of chickens.

CATHERINE M."KATE" HARPER, ESQ. HATFIELD BOROUGH SOLICITOR

DRAFT

**HATFIELD BOROUGH
MONTGOMERY COUNTY, PENNSYLVANIA
ORDINANCE NO. 550**

**AN ORDINANCE OF THE BOROUGH OF HATFIELD, MONTGOMERY COUNTY,
PENNSYLVANIA, AMENDING CHAPTER 2 (ANIMALS) AND CHAPTER 27
(ZONING) OF THE CODE OF ORDINANCES OF THE BOROUGH OF HATFIELD,
MONTGOMERY COUNTY, PENNSYLVANIA PROVIDING CONDITIONS FOR THE
KEEPING OF CHICKENS IN THE BOROUGH**

WHEREAS, the Borough of Hatfield, Montgomery County, Pennsylvania (hereinafter “Borough”) is a municipality organized and existing under the laws of the Commonwealth of Pennsylvania; and

WHEREAS, the Borough has enacted a Code of Ordinances pursuant to its statutory authority in the Pennsylvania Borough Code; and

WHEREAS, Chapter 2, “Animals,” section 2-101 specifically provides that it is unlawful to keep livestock and farm animals, including chickens within the Borough, and

WHEREAS, it is the intent of this ordinance to provide regulations for keeping chickens in the Borough while simultaneously advancing the substantial government interest of public safety, health and protection; and

WHEREAS, the Borough has recognized the need to amend the Code of Ordinances to add a section in Chapter 2, dealing with the keeping of chickens within the Borough to address a recent interest in keeping chickens in the Borough as reflected herein.

NOW, THEREFORE, IT IS HEREBY ORDAINED by the Borough Council of Hatfield Borough, Montgomery County, Pennsylvania, to amend section 2-101 to modify “chickens” from the list of unlawful livestock and farm animals in §2-101, “Livestock and Farm Animals prohibited” by adding the words, “except as stated below,” after the word, “chickens” and to add a new §2-101 (3) so that the ordinance reads as follows:

**Part 1
LIVESTOCK AND FARM ANIMALS PROHIBITED
§ 2-101**

**Unlawful to Keep Livestock and Farm Animals Within Borough Limits;
Violations and Penalties.**

1.

No person, firm or corporation shall keep any livestock, farm animals including, but not limited to, pigs, hogs, horses, cows, chickens, **except as permitted below in section 3, ducks and sheep, within the Borough, nor shall**

any person, firm, or corporation maintain any buildings or pens for the keeping or maintenance of any such animals at any place within the Borough.

2.

Penalty. Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a Magisterial District Judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each section of this Part which shall be found to have been violated shall constitute a separate offense.

3.

Chickens

- A. The purpose of this article is to provide standards for the keeping of domesticated chickens. It is intended to enable residents of the Borough to keep a small number of female chickens on a noncommercial basis while limiting the potential adverse impacts on the surrounding neighborhood. The Borough recognizes that adverse neighborhood impacts may result from the keeping of domesticated chickens as a result of noise, odor, unsanitary animal living conditions, unsanitary waste storage and removal, the attraction of predators, rodents, insects, or parasites, and chickens leaving the owner's property. This article is intended to create standards and requirements that ensure that domesticated chickens do not adversely impact the neighborhood surrounding the property on which the chickens are kept.
- B. Permit required. An annual permit is required for the keeping of any domesticated chickens in the Borough. Every applicant for a permit to keep domesticated chickens shall complete and file an application on a form prescribed by the Code Enforcement Officer. Deposit the prescribed permit fee with the Code Enforcement office at the time the application is filed. Provide a copy of a master chicken keeper certificate or other educational credential evidencing that the applicant has successfully completed a training course in raising and caring for chickens or other proof that the applicant is competent to care for the chickens.
- C. Fees. The fee for an annual permit to keep chickens shall initially be \$25, but such fee may be adjusted from time to time by resolution adopted by the Borough Council.
- D. Number and type of chickens allowed. The maximum number of chickens allowed is six per 10,000 square feet of lot area, with the

addition of 3 more chickens for every additional 5,000 square feet of lot area. Only female chickens are allowed. There is no restriction on chicken species. Male chickens, or roosters, are not permitted and shall be removed within ten days upon request by the Borough Code Enforcement Officer.

- E. General requirements. Chickens must be kept in an enclosure or chicken run secure fenced area at all times. Each secure chicken run area shall provide no less than ten square feet per chicken. During daylight hours, chickens may be allowed outside of their chicken pens or securely fenced yard only when supervised.
- F. Chickens shall be secured within the henhouse during non-daylight hours. Residents keeping chickens shall also provide a henhouse. Henhouses shall comply with the following standards and regulations:
 - (1) A henhouse footprint shall not exceed 32 square feet per 10,000 square feet of lot area (unless an existing shed or garage which complies with all setbacks required by the Borough's Zoning Ordinance is used for this purpose) and shall be located in the rear of the property no closer than ten (10) feet to the property line and otherwise subject to the bulk and area requirements of the Borough Zoning Ordinance relating to accessory structures. Henhouses shall not exceed six feet in height. To the extent that there is any conflict between the requirements set forth in this chapter and the bulk and area requirements of the Borough's Zoning Ordinance relating to accessory structures, the more restrictive provisions shall govern.
 - (2) Henhouses must provide a minimum floor area of five square feet per chicken in the henhouse. Henhouses shall be enclosed on all sides and shall have a roof and doors. Access doors must be able to be shut and locked at night. Opening windows and vents must be covered with predator- and bird-proof wire of less than one-inch openings.
 - (3) Henhouses must be kept clean, dry, and odor-free, kept in a neat and sanitary condition at all times, in a manner that will not disturb the use or enjoyment of neighboring lots due to noise, odors or other adverse impact.
 - (4) Chicken feed must be stored in a metal container with a metal lid that cannot be penetrated or removed by vermin.
 - (5) There shall be no public slaughter of any chicken.
- G. The sale of eggs or chickens must comply with state and federal laws and regulations and with the existing Borough Code of

Ordinances. The sale of eggs must also comply with the Borough's zoning ordinance regulations for home occupations in §27-904 located in a residential zone.

Part 2
RAISING CHICKENS PERMITTED AS RESIDENTIAL ACCESSORY
USES IN CERTAIN DISTRICTS
§27-903 1 A
Uses Accessory to Dwelling

Adding a new section §27-903 1 A (5) which provides:

(5) Keeping of domesticated chickens in accordance with §2-101.3 of the Code in the R1, R2 and R3 zoning districts.

NOW THEREFORE, be it ORDAINED and ENACTED by the Borough Council of the Borough of Hatfield this day of , 2023, with Council members _____ voting “aye,” and Council members _____ voting “nay.”

ATTEST:

BOROUGH OF HATFIELD

JAIME SNYDER, SECRETARY

JASON FERGUSON, PRESIDENT
BOROUGH COUNCIL

APPROVED this ____ day of _____, 2023.

Mayor Mary Anne Girard

6. REPORTS AND CORRESPONDENCE:

A. MONTHLY YTD REPORT

Combination of Funds 2023
YTD as of April 30, 2023

	Revenues	Expenses	Budgeted			
			Revenues	% Revenues Received	Expenses	% Expenses Used
January	\$648,616.30	\$575,529.70	\$9,668,073.62	6.71%	\$9,426,367.13	6.11%
February	527,900.02	665,186.71	\$9,668,073.62	5.46%	\$9,426,367.13	7.06%
March	665,672.40	593,164.10	\$9,668,073.62	6.89%	\$9,426,367.13	6.29%
April	412,026.11	510,785.63	\$9,668,073.62	4.26%	\$9,426,367.13	5.42%
May			\$9,668,073.62	0.00%	\$9,426,367.13	0.00%
June			\$9,668,073.62	0.00%	\$9,426,367.13	0.00%
July			\$9,668,073.62	0.00%	\$9,426,367.13	0.00%
August			\$9,668,073.62	0.00%	\$9,426,367.13	0.00%
September			\$9,668,073.62	0.00%	\$9,426,367.13	0.00%
October			\$9,668,073.62	0.00%	\$9,426,367.13	0.00%
November			\$9,668,073.62	0.00%	\$9,426,367.13	0.00%
December			\$9,668,073.62	0.00%	\$9,426,367.13	0.00%
Total	\$2,254,214.83	\$2,344,666.14		23.32%		24.87%

7. NEW BUSINESS / DISCUSSION ITEMS:

A. COMCAST FRANCHISE AGREEMENT

DRAFT

RESOLUTION NO. _____

**RESOLUTION OF THE BOROUGH OF HATFIELD AUTHORIZING
EXECUTION OF A CABLE FRANCHISE AGREEMENT BETWEEN THE
BOROUGH AND
COMCAST OF SOUTHEAST PENNSYLVANIA, LLC**

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

WHEREAS, Comcast currently holds a cable franchise from the Borough by virtue of a cable franchise agreement which expired on January 18, 2023; and

WHEREAS, Comcast has requested that the Borough renew Comcast’s franchise to maintain, construct, operate, and maintain its Cable System over, under and along the aforesaid rights-of-ways for use by the Borough’s residents; and

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

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

WHEREAS, the Borough held a public hearing on the subject of cable franchise renewal, including reviewing the cable operator’s past performance and identifying the Borough’s future cable-related community needs; and

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

WHEREAS, the Borough, after affording the public notice and opportunity for comment, has determined that the public interest would be served by renewing Comcast’s franchise according to the terms and conditions contained herein; and

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

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

RESOLVED this ____ day of _____, 2023.

ATTEST:

BOROUGH OF HATFIELD

President, Borough Council

DRAFT

CABLE FRANCHISE AGREEMENT

BETWEEN

BOROUGH OF HATFIELD

AND

COMCAST OF SOUTHEAST PENNSYLVANIA, LLC

With assistance from:

Cohen Law Group
413 South Main Street - Third Floor
Pittsburgh, PA 15215
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CABLE FRANCHISE AGREEMENT

This Cable Franchise Agreement (hereinafter referred to as the “Agreement”) is by and between the Borough of Hatfield, a municipality located in Montgomery County, Pennsylvania (hereinafter referred to as the “Borough”) and Comcast of Southeast Pennsylvania, LLC (hereinafter referred to as “Comcast”).

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

WHEREAS, Comcast currently holds a cable franchise from the Borough by virtue of a cable franchise agreement which expired on January 18, 2023; and

WHEREAS, Comcast has requested that the Borough renew Comcast’s franchise to maintain, construct, operate, and maintain its Cable System over, under and along the aforesaid rights-of-ways for use by the Borough’s residents; and

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

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

WHEREAS, the Borough has held a public hearing on the subject of cable franchise renewal, including reviewing the cable operator’s past performance and identifying the Borough’s future cable-related community needs; and

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

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

WHEREAS, the Borough, after affording the public notice and opportunity for comment, has determined that the public interest would be served by renewing Comcast’s franchise according to the terms and conditions contained herein;

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

SECTION 1
DEFINITIONS

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

(a) Affiliated Entity - Any persons(s) or entity(ies) who own or control, are owned or controlled by or are under common ownership or control with Comcast of Southeast Pennsylvania, LLC but does not include Affiliated Entities that are not involved with the use, management, operation, construction, repair and/or maintenance of Comcast Corporation's cable systems.

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

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

(d) Cable Service or Service - The one-way transmission to Subscribers of video programming or other programming service and Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

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

(f) Channel - A portion of the electromagnetic frequency spectrum which is used in a Cable System and which is capable of delivering a television channel as a television channel is defined by FCC regulation.

(g) Complaint - Any written (including electronic) or oral communication by a Subscriber expressing dissatisfaction with Comcast's operation of its Cable System that is within

Comcast's control and requires a corrective measure on the part of Comcast or its contractors or subcontractors.

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

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

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

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

(l) FCC - Federal Communications Commission.

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

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

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

(p) Gross Revenues - All revenue received by Comcast or its Affiliated Entities arising from, attributable to, or in any way derived from the operation of Comcast's Cable System in the Borough to provide Cable Services, as calculated in accordance with generally accepted accounting principles ("GAAP"). Gross Revenues shall include, but are not limited to, the following:

- (1) Basic Service fees;
- (2) fees charged to Subscribers for any Cable Service tier other than Basic Service;
- (3) fees charged for premium Cable Services;
- (4) fees for all digital video tiers;
- (5) fees for video-on-demand;

- (6) fees charged to Subscribers for any optional, per-channel or per-program Cable Services;
- (7) revenue from the provision of any other Cable Services;
- (8) charges for installation, additional outlets, relocation, disconnection, reconnection and change-in-service fees for Cable Service.
- (9) fees for changing any level of Cable Service programming;
- (10) fees for service calls pertaining to Cable Services;
- (11) inside wire maintenance fees for Cable Services;
- (12) service plan protection fees for Cable Services;
- (13) convenience fees;
- (14) early termination fees on Cable Services;
- (15) fees for Leased Access Channels;
- (16) charges based on the sale or lease of any portion of the Cable System for Cable Service;
- (17) rental or sales of any and all equipment, including converters and remote control devices;
- (18) advertising revenues attributable to the local Cable System and Cable Services;
- (19) revenues or commissions from locally-derived home shopping channels;
- (20) broadcast retransmission fees;
- (21) regional sports fee;
- (22) late payment fees on Cable Services;
- (23) billing and collection fees on Cable Services;
- (24) NSF check charges; and
- (25) Franchise Fees.

Gross Revenue shall not include refundable deposits, investment income, programming launch support payments, nor any taxes, or other fees or assessments imposed or assessed by any governmental authority. Gross Annual Revenues shall not include actual bad debt that is written off, consistent with generally accepted accounting principles, provided however, that all or any part of any such actual bad debt that is written off, but subsequently collected, shall be included in the Gross Annual Revenues in the period so collected. In the event of any dispute over the classification of revenue, the Borough and Comcast agree that reference should be made to generally accepted accounting principles (“GAAP”) as promulgated and defined by the Financial Accounting Standards Board (“FASB”).

(q) HD - High definition format.

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

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

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

(u) Normal Operating Conditions - Business conditions within Comcast's service department which are within the control of Comcast. Those conditions that are not within the control of Comcast include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages and severe or unusual weather conditions or other conditions of Force Majeure.

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

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

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

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

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

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

SECTION 2 **GRANT OF FRANCHISE**

2.1 GRANT OF AUTHORITY

Pursuant to the Cable Act, the regulations of the FCC and Pennsylvania law, the Borough hereby grants a non-exclusive and revocable franchise to Comcast. Subject to the terms and conditions contained herein, the Borough hereby grants to Comcast the authority to construct, extend, install, operate, maintain, upgrade and rebuild a Cable System, including such wires, cables, fiber, conductors, ducts, conduits, amplifiers, pedestals, attachments and other equipment as is necessary and appropriate to the operation of the Cable System in the Public Rights-of-Way, including property over which the Borough has a sufficient easement or right-of-way to provide

Cable Services. Nothing herein shall preclude Comcast from offering any other service over the Cable System as may be lawfully allowed.

2.2 TERM OF FRANCHISE

The term of this Agreement shall be for a period of ten (10) years commencing on the date when fully executed by both parties (the "Effective Date"), unless the Franchise is terminated prior to the expiration date in accordance with the terms and conditions of this Agreement.

2.3 REPRESENTATIONS AND WARRANTIES

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

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

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

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

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

2.4 NON-EXCLUSIVITY

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

2.5 FRANCHISE SUBJECT TO FEDERAL, STATE AND LOCAL LAWS

This Franchise is subject to and shall be governed by all lawful and applicable provisions of federal, state and generally applicable local laws and regulations. This Franchise is further subject to all generally applicable ordinances and resolution of the 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.

2.6 COMPETITIVE EQUITY

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

(b) The Franchise granted to Comcast is non-exclusive; however, if the Borough grants a subsequent franchise or other authorization to provide similar wired video services, that, when taken as a whole upon consideration of all of its material obligations, is more favorable or less burdensome to the subsequent provider than this Agreement is to Comcast, then Comcast may request an amendment to this Agreement to provide Comcast with competitive equity. If, when taken as a whole upon consideration of all of its material obligations, the subsequent Franchise is more favorable or less burdensome, then the Borough and Comcast shall enter into good faith negotiations in order to modify this Agreement to the mutual satisfaction of both parties to provide Comcast with such competitive equity.

(c) In the event an application for a new Franchise for Cable Service or other authorization to provide similar wired video services is submitted to the Borough proposing to serve Subscribers within the Borough, then the Borough shall notify Comcast in writing of the submission of the application.

SECTION 3

SYSTEM CONSTRUCTION, OPERATION AND MAINTENANCE

3.1 TECHNICAL REQUIREMENT

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

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

3.2 AREA TO BE SERVED

(a) Comcast shall make Cable Service available to every dwelling occupied by a person requesting Cable Service provided that Comcast is able to obtain from the property owners any necessary easements and/or permits in accordance with Section 621(a)(2) of the Cable Act. Comcast shall extend the Cable System beyond that which exists on the Effective Date into all areas within the Borough, unserved by another wireline video provider, where there is a minimum of twenty-five (25) dwelling units per linear plant mile of aerial cable and fifty (50) dwelling units per underground mile of cable, 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. Upon written request from the Borough, Comcast shall conduct a survey to determine the number of dwelling units in the requested area and shall inform the Borough of the survey results and applicable costs to extend Service to the area. In those areas meeting the minimum density standard, Comcast shall commence construction within ninety (90) days after all necessary permits and pole attachment licenses are obtained. Subject to Force Majeure, Comcast will make best efforts to complete the construction of said extension within six (6) months from the issuance of all necessary permits and pole attachment licenses. Comcast's obligation hereunder shall be subject to the timely performance of walk-out, make ready and location of all underground utilities, weather permitting.

(b) 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 in excess of one hundred twenty-five (125) feet or that requires an underground installation, Comcast shall extend the Cable Service if the Subscriber pays Comcast the actual cost of installation from its main distribution system with such cost being only the incremental portion beyond one hundred twenty-five (125) feet for aerial installations.

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

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

3.3 CABLE SYSTEM SPECIFICATIONS

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

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

3.4 SYSTEM TESTS

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

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

3.5 EMERGENCY ALERT SYSTEM

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

3.6 SERVICES FOR SUBSCRIBERS WITH DISABILITIES

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

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

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

3.8 REPAIRS AND RESTORATION

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

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

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

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

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

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

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

3.9 SERVICE AREA MAPS

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

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

3.10 DISCONNECTION AND RELOCATION

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

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

3.11 EMERGENCY REMOVAL OF EQUIPMENT

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

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

3.12 TREE TRIMMING

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

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

3.13 CHANNEL CAPACITY

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

3.14 BROADCAST CHANNELS

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

3.15 SIGNAL SCRAMBLING

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

3.16 CONTINUITY OF SERVICE

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

SECTION 4 SUBSCRIBER SERVICE STANDARDS

4.1 OFFICE HOURS AND TELEPHONE AVAILABILITY

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

(b) Under Normal Operating Conditions and during Normal Business Hours, telephone answering time by a Subscriber representative, including wait time, shall not exceed thirty (30)

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

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

4.2 INSTALLATIONS AND SERVICE CALLS

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

(b) Standard installations will be performed within seven (7) business days after an order has been placed. "Standard" installations are those aerial installations that are located up to one hundred twenty-five (125) feet from the existing main distribution line.

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

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

4.3 NOTICES

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

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

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

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

4.4 BILLING

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

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

4.5 SUBSCRIBER COMPLAINT PROCEDURES

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

(a) Comcast shall provide the Subscriber with a written response to a written Complaint within thirty (30) days of its receipt at the local business office. Such response shall

include the results of its inquiry into the subject matter of the Complaint, its conclusions based on the inquiry, and its decision in response to the Complaint.

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

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

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

(2) The Subscriber pays all undisputed charges;

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

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

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

4.6 DISCONNECTION

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

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

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

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

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

4.7 SERVICE INTERRUPTIONS

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

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

4.8 PRIVACY

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

SECTION 5 **REGULATION BY THE BOROUGH**

5.1 RIGHT TO INSPECT AND PROTECTION OF PROPRIETARY INFORMATION

(a) The Borough shall have the option, upon thirty (30) business days' written notice and during Normal Business Hours, to inspect at the notice location for Comcast specified in Section 9.3, all documents, records and other pertinent information maintained by Comcast which relate to the terms and conditions of this Agreement for the purpose of verifying compliance with the terms and conditions of this Agreement and applicable law.

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

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

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

5.2 RIGHT TO CONDUCT COMPLIANCE REVIEW

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

5.3 RESERVED AUTHORITY

The Borough 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 Borough's authority, rights and privileges it now holds, or which hereafter may be conferred upon it, including any right to exercise its police powers in the regulation and control of the use of the Public Rights-of-Way.

5.4 POLICE POWERS

Comcast's rights under this Agreement are subject to the police powers of the Borough 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 Borough's exercise of the police power results in a material alteration of the terms and conditions of this Agreement, then the parties shall negotiate amendments in good faith to this Agreement to the mutual satisfaction of both parties to ameliorate the negative effects on Comcast of the material alteration.

5.5 NO LIMITATION ON TAXING OR FEE AUTHORITY

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

5.6 PERMITS

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

5.7 REPORTING

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

(a) Subscriber Complaint Reports

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

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

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

(b) Government Reports

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

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

SECTION 6

COMPENSATION TO THE BOROUGH

6.1 FRANCHISE FEES

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

6.2 QUARTERLY PAYMENTS

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

6.3 QUARTERLY REPORTS

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

6.4 FRANCHISE FEE REVIEW

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

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

(a) Any Franchise Fee payment due to the Borough as a result of the Franchise Fee review shall be paid to the Borough by Comcast within forty-five (45) days from the date the Borough notifies Comcast of its final determination, or if the matter is submitted to mediation or litigation, within forty-five (45) days from the final disposition of such action. If the Franchise Fee review shows that Franchise Fees have been underpaid, then Comcast shall pay the underpaid amount plus interest from the due date equal to the then-current prime rate of interest as published in *The Wall Street Journal* on the underpayment amount. If Franchise Fees have been underpaid by five percent (5%) or more, then Comcast shall also pay up to three thousand dollars (\$3,000) of documented out-of-pocket costs of the Franchise Fee review. Any entity employed by the Borough that performs an audit or franchise fee review shall not be permitted to be compensated on a success based formula, e.g. payment based upon underpayment of fees, if any.

6.5 BUNDLED SERVICES

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

SECTION 7
SERVICES TO THE COMMUNITY

7.1 SERVICES TO COMMUNITY FACILITIES

(a) Comcast shall provide a Cable Service drop and Basic Service with any necessary cable box to one outlet at each Public Building listed in Exhibit A. If Comcast intends to charge for the services required by this section, it will give the Borough one hundred twenty (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. Comcast shall provide to the Borough in writing reasonable detail sufficient to substantiate the marginal cost and the amount due. Comcast shall arrange with the Borough 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 Borough may remove locations or change the level of Cable Service indicated on Exhibit A with thirty (30) days' written notice to Comcast. The Borough may elect in writing not to receive the Cable Service, in which case it will not be invoiced and no deduction will be taken from the franchise fee.

(b) During the term of the Franchise, the Borough may change a Public Building location listed in Exhibit A upon ninety (90) days' written notice to Comcast, provided that the new location is a standard installation and within one hundred twenty-five (125) feet of existing Comcast cable distribution plant.

7.2 EDUCATIONAL AND GOVERNMENTAL (EG) CHANNEL

(a) Comcast shall continue to make available to the Borough the use of one (1) Educational and one (1) Governmental (collectively “EG”) Access Channel in accordance with Section 611 of the Cable Act. Such EG Channels shall be used for community programming related to educational and/or governmental activities. The Borough shall have complete control over the content, scheduling, administration and all other programming aspects of the EG Channels, and may delegate such functions, or a portion of such functions, to a designated access provider. Comcast shall not exercise any editorial control over EG Channel programming. Comcast shall cablecast the activated EG Channels so that they may be received by all Comcast Subscribers in the Borough.

(b) To enable the Borough to utilize the EG Channels, Comcast shall continue to maintain direct links, including activation equipment capable of transmitting high quality video and audio between the video origination locations and the Comcast headend such that live programming can originate from these selected locations and be distributed via the Cable System to Subscribers in the Borough. These links and equipment shall be collectively known as the “Return Lines.” Comcast shall determine the engineering solution necessary to allow distribution of the EG Channel programming, via the Cable System, to Subscribers in the Borough.

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

(d) Any expenditure made in connection with the construction of the Return Lines shall be at the expense of the Borough. The Borough and Comcast further agree that all costs incurred by Comcast for supporting such EG Channels, including any and all equipment, and EG capital support grants may be designated as “costs of franchise requirements” or “external costs” as defined by the FCC and Comcast reserves its right to pass these costs through to the Subscribers pursuant to federal law.

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

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

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

(h) Comcast shall use its best efforts to maintain the channel assignments for the current EG Channels as of the Effective Date. Notwithstanding the foregoing, in the event

that Comcast deems a change in any EG Channel assignment to be necessary and changes any channel assignment in accordance with this Section, Comcast shall provide the Borough thirty (30) days' advance written notice of any change in EG Channel assignments.

(i) Upon the written request of the Borough and no sooner than twelve (12) months after the Effective Date, the parties agree to meet and discuss the possibility of distributing one (1) EG Channel in High Definition (HD) format. The parties further agree to discuss the number of hours of locally produced, non-automated, non-character generated, non-satellite EG Access content produced in HD by the Borough, the future plans of the Borough to produce such local content in HD format, reclamation of the existing Standard Definition (SD) EG Channel and any necessary upgrade and equipment costs.

(j) Upon agreement of the parties, if the Borough is producing a majority of its locally produced, non-automated, non-character generated, non-satellite EG Access content in HD, upon two hundred seventy (270) days' written request and payment of any necessary upgrade and equipment costs by the Borough, Comcast shall provide all necessary equipment at the designated channel origination location(s) and at its Headend and hubs or similar distribution facilities necessary to deliver and activate one (1) activated EG Channel in HD format to Subscribers.

(k) No sooner than one (1) year from activation of the HD Channel, Comcast shall have the right to reclaim the corresponding SD EG Channel.

(l) The Borough or its EG Access Designee shall be responsible for providing the HD EG Channel signal in a HD format compatible with Comcast's equipment in the Cable System at the applicable demarcation point.

(m) The Borough acknowledges that HD programming may require special viewer equipment and subscription to advance services and that by agreeing to make one (1) EG Channel available in HD format, Comcast shall not be required to provide free HD equipment to Subscribers, or for the Borough or the public schools, nor modify its equipment or pricing policies in any manner, except as otherwise expressly provided for in this Agreement. The Borough acknowledges that not every Subscriber may be able to view HD EG Access Programming on every TV, and additional costs may be required for the reception of HD programming.

(n) Comcast may implement HD carriage of the EG Channel in any manner (including selection of compression, utilization of IP (Internet Protocol), or other processing characteristics) that produce a signal from the perspective of the viewer that is substantially equivalent to similar commercial HD channels on the Cable System.

SECTION 8
ENFORCEMENT, INSURANCE AND INDEMINIFICATION

8.1 VIOLATIONS AND OPPORTUNITY TO CURE

(a) If the Borough has reason to believe that Comcast violated any material provision of this Agreement, it shall notify Comcast in writing of the nature of such violation and the section(s) of this Agreement that it believes has been violated and the details relating thereto. The person providing such notice shall do so pursuant to the requisite authority of the Borough.

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

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

8.2 LIQUIDATED DAMAGES

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

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

8.3 REVOCAION

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

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

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

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

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

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

8.4 PERFORMANCE BOND

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

(b) The performance bond shall be in the amount of Twenty-Five Thousand Dollars (\$25,000). Comcast shall not reduce, cancel or materially change said bond from the requirement contained herein without the express prior written permission of the Borough.

8.5 INSURANCE

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

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

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

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

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

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

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

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

8.6 INDEMNIFICATION

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

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

SECTION 9 **MISCELLANEOUS**

9.1 FORCE MAJEURE

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

9.2 REMOVAL OF SYSTEM

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

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

(c) Notwithstanding the above, Comcast shall not be required to remove its Cable System, or to relocate the Cable System, or to sell the Cable System, or any portion thereof as a result of revocation, denial of renewal, or any other lawful action to forbid or disallow Comcast from providing Cable Services, if the Cable System is actively being used to facilitate any other services not governed by the Cable Act.

9.3 NOTICES

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

Hatfield Borough
401 South Main Street
Hatfield, PA 19440
Attention: Borough Manager

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

Comcast of Southeast Pennsylvania, LLC
55 Industrial Drive
Ivyland, PA 18974
Attention: VP, Government Affairs Department

With copies to:

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

AND

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

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

9.4 EQUAL EMPLOYMENT OPPORTUNITY

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

9.5 CAPTIONS

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

9.6 GOVERNING LAW; VENUE

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

9.7 TRANSFER, ASSIGNMENT OR CHANGE IN CONTROL

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

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

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

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

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

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

9.8 ENTIRE AGREEMENT

This written instrument contains the entire agreement between the parties, supersedes all prior agreements or proposals whether written or oral except as specifically incorporated herein, and cannot be changed without written amendment approved by both the Borough and Comcast.

This Agreement supersedes all prior cable franchise agreements or cable ordinances, or parts of cable franchise agreements or cable ordinances, agreements, representations or understandings, whether written or oral, of the parties regarding the subject matter hereof that are in conflict with the provisions herein.

9.9 SEPARABILITY

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

9.10 NO WAIVER OF RIGHTS

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

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

9.11 CHANGE OF LAW

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

9.12 COMPLIANCE WITH LAWS

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

9.13 NO THIRD-PARTY BENEFICIARIES

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

9.14 APPLICABILITY OF AGREEMENT

All the provisions in this Agreement shall bind Comcast, the Borough and their respective successors and assigns. This Agreement is authorized by Resolution No. _____ dated _____, 2023 of the Borough Council.

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

Borough of Hatfield

By: _____

Name: _____

Title: _____

Date: _____

Comcast of Southeast Pennsylvania, LLC

By: _____

Name: Daniel Bonelli

Title: Senior Vice President – Freedom Region

Date: _____

EXHIBIT A
LOCATIONS FOR CABLE TELEVISION SERVICE

EXHIBIT A
LOCATIONS FOR CABLE TELEVISION SERVICE

1. Municipal Buildings

Hatfield Borough Administration Building- 401 S. Main Street Hatfield PA 19440

Public Works Garage- 615 Dain Ave Hatfield PA 19440

Electric Building- 16 Cherry Street Hatfield PA 19440

Fire Hall- 75 N Market Street Hatfield PA 19440

2. Public and Private Schools

(None at this time)

3. Libraries

(None at this time)

8. OLD BUSINESS:

A. SEPTA LEASE AGREEMENT

DRAFT

LEASE AGREEMENT
BY AND BETWEEN
SOUTHEASTERN PENNSYLVANIA TRANSPORTATION AUTHORITY
AND THE BOROUGH OF HATFIELD
REGARDING THE HATFIELD TRAIN STATION

Corporate Department # 4610
Real Estate Dept. Registry # 6180

THIS LEASE AGREEMENT (“**Lease Agreement**” or “**Agreement**”) made and entered into this ___ day of **February, 2023** (the “**Execution Date**”) by and between SOUTHEASTERN PENNSYLVANIA TRANSPORTATION AUTHORITY (as Lessor; herein also “**SEPTA**”), a body corporate and politic which exercises the public powers of the Commonwealth of Pennsylvania as an agency and instrumentality thereof with its principal office located at 1234 Market Street, 10th Floor, Philadelphia, Pennsylvania 19107-3780, and the BOROUGH OF HATFIELD (as Lessee; herein also the “**Borough**”), a Pennsylvania municipal corporation with its principal office located at 401 South Main Street, P.O. Box 190, Hatfield, Pennsylvania 19440. Herein each is individually a “**Party**” and are collectively the “**Parties.**”

RECITALS

WHEREAS, SEPTA owns the railroad line known as the Bethlehem Branch (Line Code 301), of which the portion that passes through the Borough of Hatfield is an active rail line used for freight rail service operated by the Pennsylvania NE Railroad;

WHEREAS, SEPTA also owns the passenger stations along the Bethlehem Branch, including the Hatfield Station (which is located near milepost 27.11; herein “**Hatfield Station**” or simply the “**Station**”), which is not currently used for passenger rail service;

WHEREAS, Since January 2000, SEPTA has granted the Borough of Hatfield the right to use the Hatfield Station, at times in part or in whole, under and subject to various leasing and licensing agreements (herein collectively, the “**Prior Agreements**”);

WHEREAS, the most recent of the Prior Agreements, between SEPTA and the Borough, regarding the use of the Station is a license agreement dated October 1, 2018, which, by amendment thereto, expired on March 31, 2020 (the “**License Agreement**”);

WHEREAS, the Borough desires to enter into a long-term lease for the Station and to be granted the right to sublease the Station to another entity;

WHEREAS, SEPTA is willing to lease (herein the “**Lease**”) to the Borough those aspects of the Station as specified herein (the “**Premises**”) and to allow the Borough to sublease those Premises, with both the leasing and the right of subleasing thereof to be subject to the terms and conditions set forth in this Lease Agreement;

WHEREAS, the SEPTA Board approved this Lease Agreement on April 25, 2019, and the Borough Council of Hatfield authorized the execution, delivery and performance of this Lease

Agreement on xxx xx, xxxx; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration as described herein, the Parties, intending to be legally bound, hereby agree and commit as follows:

AGREEMENT

SECTION 1. Recitals and Attachments. The above Recitals and the attachments listed below are hereby incorporated into and made a part of the Lease Agreement. The Lease Agreement includes the following attachments:

Attachment A Photograph(s)/Diagram of Premises

SECTION 2. Granting/Accepting of Lease; Demised Premises.

A. FTA Interest in Property. SEPTA acquired the Bethlehem Branch, as well as the stations on that rail line, from Conrail, which was a predecessor railroad to SEPTA and was created by the federal government. Accordingly, the Federal Transit Administration (“FTA”) holds an ongoing interest in the properties of the Bethlehem Branch and the use of and conveyance of rights regarding the rail line and the rail stations are subject to approval and oversight by the FTA. The Premises are subject to the “Continuing Control” of the FTA and the policies established in FTA Circular 5010.1E. It is pursuant to the FTA’s policies regarding Continuing Control that this Lease was submitted to the FTA and SEPTA received FTA approval on June 03, 2019;

The Parties understand and acknowledge that numerous aspects of SEPTA’s leasing of the Hatfield Station are governed by approval/concurrence requirements, regulations, rules, and protocols of and by the FTA. The Parties have attempted to identify and address the implications of the FTA’s governance related to this leasing transaction; however, the Parties understand and acknowledge that even if a requirement or other issue has not be identified herein, the applicability thereof is still enforceable.

B. Prior Agreements. All Prior Agreements for or related to the leasing or licensing of the Station, or any portion thereof, to the Borough, are hereby terminated, or affirmed as terminated, as of commencement date.

C. Demise. SEPTA hereby leases to Borough, and Borough hereby leases from SEPTA the Premises at the Station, as identified in Section 2.D, subject to the terms and conditions set forth in this Lease Agreement.

D. Premises. The Station (located at approximately milepost 27.11) has the address 11 N. Market Street, Borough of Hatfield, County of Montgomery, Pennsylvania, and has the Montgomery County Tax Parcel Number 09-00-01345-005. A diagram depicting the Station is attached as Exhibit A, which is hereby incorporated into and made a part of this Lease Agreement.

The portion of the Station, which is intended to be the Premises for the purpose of this Agreement, that is being leased hereunder consists of approximately 74,923 square feet (1.72 acre) and is comprised of the station building, a storage building, the area and grounds around the

station building, the adjacent walkways and sidewalks, portions of the platforms (only the portion that is not part of the operational right-of-way, as defined and described in 2.E below), the parking lots and driveways, the area allowing for access and egress between the street and the parking lot/driveways, and the grounds surrounding the parking lots; but excluding the ROW and all rail-related infrastructure and facilities in and on the ROW. When used herein, the term “**SEPTA Property**” shall mean the Premises as defined above, including all parts and portions thereof (within and external to the building), that are owned by SEPTA, in place at the Commencement of the Lease hereunder, and being conveyed by this Lease.

E. Railroad Right-of Way. The railroad right-of way (“**ROW**”) is comprised of the trackbed, all materials within the in the trackbed (the rail, ballast, ties, etc.), the ground areas and/or platform areas that are within 12-feet from the centerline of the tracks, the vertical area above the trackbed/ground/platform extending 12-feet from the track centerline, and the ground beneath all rail-related infrastructure and facilities. The ROW, as defined above, is not part of the Premises, is not being leased to the Borough, is not to be subleased or sublicensed, and is not to be accessed or used by the Borough or by any sublessee or sublicensee.

Because it is not possible to itemize and list every aspect of the Premises, the above descriptions are provided to help understand what is intended to be, and not to be, a part of what is leased hereunder.

F. Delivery of Premises. On the Commencement Date (see Section 3. A below), SEPTA shall deliver physical possession of the SEPTA Property and the Premises to the Borough, and Borough shall accept the SEPTA Property and the Premises in an “as is” condition.

G. Entry onto Premises by SEPTA. SEPTA reserves the right, at reasonable times and upon reasonable prior notice to Borough, to enter the Premises to inspect the Premises and/or SEPTA Property or to protect the interests of SEPTA; except that in a case of emergency SEPTA shall not need to give prior notice. An emergency shall be deemed when exigent circumstances exist, or when there is reasonable perception of a health, safety, security, terroristic or other risk of bodily harm or significant property damage that warrant immediate investigation. In an event of an emergency, SEPTA shall notify Borough as soon as is practicable.

SECTION 3. Lease Term, Termination, Recapture.

A. Lease Term. This Lease Agreement shall be effective upon the Execution Date, which is identified on page 1. The “**Lease Term**” shall commence on the Execution Date (the “**Commencement Date**,” which is used interchangeably with Execution Date); and includes the **Initial Term** (as described and defined in Section 3.B) and all **Optional Terms**, if any (as defined and described in 3.C below), whether in part or in whole; and shall end at midnight of the termination date (herein the “**Termination Date**”) as established based on the applicable termination scenario set forth herein. Each of the Initial Term and any one of the Optional Terms is generically referred to herein as a “**Term**.”

B. Initial Term. The Lease under this Lease Agreement shall have an “**Initial Term**”, which is planned to be ten (10) years, that shall begin on the Commencement Date and, provided there is no early termination pursuant to the provisions herein (“**Early Termination**”), shall terminate on xxxxxx.

C. Optional Terms. The Lease shall include the potential for two “**Optional Terms**” (singular, “**Optional Term**”) that are planned to be five (5) years each. Either Party shall have the right to choose not to exercise either Optional Term; and to invoke that right, a Party must provide Notice of Termination (pursuant to the process identified in Section 3.D) to the other Party six (6) months prior to the end of the then-current Term.

Each Optional Term can be exercised only when both (1) the Borough has properly notified SEPTA of Borough’s desire to exercise the next Optional Term; and (2) SEPTA has not elected and properly acted to terminate the Lease during or at the end of the then-current Term, in accordance with Section 3.E below. Notice by the Borough to exercise the next Optional Term is to be made in writing to SEPTA no less than six (6) months prior to the end of the then-current Term. If both Optional Terms are exercised, there are no further Optional Terms permitted by this Lease Agreement; and, provided there is no Early Termination, the Lease hereunder would have a Termination Date of **xxxxxx**.

D. Notice of Termination. If either Party intends to terminate the Lease pursuant to one of the provisions herein, that Party must provide written, timely notice (herein “**Notice of Termination**”) to the other Party in accordance with the time requirement specified below for the applicable termination scenario. The Notice of Termination shall expressly state the intended Termination Date. During the period of time between the date of the Notice of Termination and the actual Termination Date, both Parties must continue to fully abide by and comply with the terms and conditions of this Lease Agreement.

E. Termination at End of Term. If either Party intends to terminate the Lease at the end of the then-current Term, that Party must provide a written, timely Notice of Termination to the other Party no less than six (6) months prior to the end date of that Term. The Notice of Termination shall expressly affirm that the end date of that Term will be the Termination Date of the Lease.

F. Early Termination. If either Party intends to terminate the Lease earlier than the end date of the then-current Term (“**Early Termination**”), pursuant to an applicable Early Termination provision set forth herein, that Party must provide a written, timely Notice of Termination to the other Party in accordance with the time requirement specified below for the applicable termination scenario. The Notice of Termination shall expressly state the intended Termination Date.

1. Early Termination by Lessee.

a. During the Initial Term. During the Initial Term, the Borough shall have the right of Early Termination of the Lease after **xxxx** (five years from the Commencement Date of the Lease), provided that the Borough is not in a status of Default (as defined in Section 17 below). To effectuate Early Termination during the Initial Term, the Borough must provide a written, timely Notice of Termination to SEPTA no less than six (6) months prior to the therein specified Termination Date.

b. During an Optional Term. During an Optional Term, the Borough shall have the right of Early Termination of the Lease at any time, provided that the Borough is not in a status of Default (as defined in Section 17 below). To effectuate

Early Termination during an Optional Term, the Borough must provide a written, timely Notice of Termination to SEPTA no less than six (6) months prior to the therein specified Termination Date.

2. Early Termination by SEPTA.

a. Recapture. Because the FTA holds an interest in the property of the Station, when SEPTA contractually conveys to third party rights to any or all of the Station property (such as through a lease, license, easement, etc.), SEPTA must retain the right to recapture all or part of the conveyed property (“**Recapture**”), subject to the Recapture requirements established by the FTA.

Accordingly, SEPTA and Borough acknowledge that, notwithstanding any other provision herein, SEPTA shall have the right to Recapture the Premises, or any part thereof, for transportation purposes or to comply with the requirements of the FTA. The right to Recapture for transportation purposes may be exercised by SEPTA at any time during the Lease Term, provided that SEPTA gives the Borough twelve (12) months prior, written Notice of Termination, which expressly specifies that the Early Termination is an act of Recapture and identifies the intended Termination Date. To execute the act of Recapture, SEPTA may revoke in whole or in part, terminate, or modify, as applicable, this Lease Agreement and the Lease established hereunder.

b. Termination for other than Recapture. SEPTA shall have the right to decline an upcoming Optional Term by providing Notice of Termination in accordance with Section 3.E.

During the Initial Term, SEPTA shall not have the right of Early Termination of the Lease for any reason except Recapture and Default (see Section 17).

During an Optional Term, SEPTA shall have the right of Early Termination, without having to state a reason, by providing a timely, written Notice of Termination to Borough no less than six (6) months prior to the therein specified Termination Date.

c. Termination for Default. SEPTA has the right to terminate this Lease and Lease Agreement due to an event of Default by Borough or Sublessee, and in such instance, Section 17 shall apply and shall govern the actions of SETPA, the Borough and the Sublessee.

G. **Holding Over.** If the Borough or Sublessee in possession of the Premises after the Termination Date, without any agreement extending the Lease Term, the Lease shall be in “**Hold Over**” status and the tenancy shall be on a month-to-month basis. SEPTA may demand that Borough and Sublessee surrender and vacate the Premises with 30 days written notice. For each month or partial month that the tenancy is in Hold Over status and the Premises have not been fully vacated in accordance with the requirements hereunder, SEPTA may charge the Borough twice the Basic Rent amount in effect at the time of the Termination Date. If SEPTA has to force the full and complete surrender and vacation of the Premises, SEPTA shall be entitled to be

reimbursed by the Borough for all costs SEPTA incurs for effectuating that surrender and vacation. The foregoing does not limit the liability of the Borough to comply with this Lease Agreement, nor does it limit SEPTA's rights regarding Default (see Section 17) hereunder.

SECTION 4. Condition and Permitted Use of Premises.

A. Acknowledgement of Subleasing. The Parties agree and acknowledge that the underlying intent of this Lease Agreement, and the granting of a Lease hereunder, is that the Borough will sublet the some or all of the Premises to another entity ("**Sublessee**") for its use. The Borough is hereby granted permission to sublet the Premises, provided that Borough does so, and continues to act, in accordance with this Lease Agreement. For the purpose of this Lease Agreement and the Lease hereunder, the term "**Permitted Use**" shall refer to both (1) the Borough's role as, and ability to act as, the grantor of a Sublease subject to this Lease; and (2) the acceptable and lawful use for which the Sublessee will use the Premises.

The Borough is permitted to have Sublessee assume responsibilities for any applicable rights and obligations established hereunder; however, the Borough shall be ultimately responsible for the satisfaction of and compliance with the obligations, requirements, terms, and conditions set forth by this Lease Agreement.

The Borough will enter into a separate lease agreement, which will constitute and be called a sublease (herein "**Sublease**"), with the entity of Borough's choice, provided that the Sublease must be submitted to SEPTA for its approval prior to execution. The Borough agrees that it will identify within the Sublease the nature of, as well as the requirements and limitations regarding, the specific use to which the Sublessee is permitted to put the Premises, as well as all rights, obligations, limitations, requirements, terms, and conditions set forth hereunder that are to be applicable to the Sublessee.

B. Condition of Premises. The Borough accepts the Premises "as is" and acknowledges that SEPTA has made no agreement, representation or warranty as to the condition, safety, suitability, or unsuitability, of the Premises for the Permitted Use, for any particular use, or for any purpose at all. Although SEPTA has set forth herein certain restrictions and limitations that may impact the type of use of the Premises, it is Borough's obligation to determine whether a Sublessee's use of the Premises can comply with this Lease.

In the event that the Premises are not put to active use and/or open for business for any period of time, the Borough shall keep the Premises in a safe, neat, clean, attractive, and orderly condition. The Borough shall be required to pay all Rentals under this Lease even if the Premises are not open for business or actively operated for a Permitted Use.

C. General Conditions of Use. The borough shall not use or permit the use of the Premises in any way that causes or creates any public or private nuisance. Within the Sublease, Borough shall ensure that the following, at a minimum and as applicable, are included and addressed: responsibility for all necessary local permits and approvals; operating hours/days for Permitted Use; responsibility for the environmental condition of the Premises; legality of usage of the Premises; compliance with all laws, statutes, regulations, ordinances, etc. Borough has the right to specify to its Sublessee additional requirements, limitations, prohibitions, or restrictions,

beyond those cited herein, provided they are lawful and identified in the Sublease, the enforcement of which shall be the responsibility of the Borough.

D. Initial Improvements. The Borough has proposed, and SEPTA has agreed that the Borough will make certain improvements (“**Initial Improvements**”) to the Premises upon the onset of the Lease, after the Commencement Date. The Initial Improvements, which include, but are not limited to, general improvements to the parking lot and access area between the road and the parking lot, have been estimated to cost approximately \$55,477.00, which will be incurred and paid by the Borough. SEPTA has reviewed, considered, and approved the scope of work for these improvements. After the Commencement Date, the Borough may proceed with undertaking the Initial Improvements in accordance with the approved scope of work and will execute and be responsible for the work of the Initial Improvements in accordance and compliance with Section 10 below.

During the Initial Term of the Lease, the Borough shall be granted reductions in rent owed (“**Rent Credit**”), in accordance with Sections 4.D.1 and 4.D.2, for having borne the costs of the Initial Improvements. During the entire Lease Term, the Borough shall also be granted Rent Credit for the upkeep and maintenance (“**Maintenance**”) of the Premises in accordance with Section 4.D.3 below. The Rent Credit amounts shall be as follows and shall have the effect as described in Section 5.C below.

1. For the first three years of the Lease, the Borough will be granted \$103,741.52 in Rent abatement.
2. For each of the last seven years (years 4 through 10) of the Lease, the Borough will be granted a Rent Credit of approximately \$14,245.29 annually for Initial Improvements; and
3. For each year of the Lease Term, the Borough will be granted a Rent Credit of \$6,500.00 annually for the Maintenance of the Premises.

SECTION 5. Rental.

A. Security Deposit. The Borough is not required to provide a security deposit with SEPTA for the Borough’s Lease of the Premises. Whether Borough requires a security deposit of the Sublessee is at the discretion of Borough and should be addressed within the Sublease.

B. Payment of Rental. The Borough shall pay rent (“**Rental**”) to SEPTA for the Lease of the Premises, which Rental shall include (1) annual “**Basic Rent**” as described in Section 5.C; and (2) any additional charges, fees, costs, taxes, etc. that come due under the Lease Agreement (herein “**Additional Rent**”).

C. Basic Rent. Effective on the Commencement Date, the Borough shall owe and pay annual Basic Rent, which shall be paid in equal monthly installments (“**Monthly Rent**”) in advance on the first (1st) day of each month and shall be calculated as described below.

1. For Years 1 through 3 of the Initial Term. The annual Basic Rent and Monthly Rent shall be calculated as follows:
 - a. Annual “**Gross Rent**” is abated for the first three years.
 - b. Gross Rent is escalated by 3% per year after year one;
2. For Years 4 through 10 of the Initial Term. The annual Basic Rent and Monthly Rent shall be calculated as follows:
 - a. Annual Gross Rent is \$36,322.25 for the fourth year;
 - b. Annual Gross Rent is escalated by 3% per year;
 - c. Less \$6,500.00 Rent Credit for Maintenance;
 - d. Less the Rent Credit of \$14,425.29 for Initial Improvements, Equals the annual Basic Rent amount;
 - e. The annual Basic Rent amount is then divided by twelve to establish the Monthly Rent for each of the seven years.
3. For each of the years of the Option Terms. The annual Basic Rent and the Monthly Rent shall be calculated as follows:
 - a. Annual Gross Rent is \$44,671.78 for eleventh year;
 - b. Annual Gross Rent is escalated by 3% per year;
 - c. Less \$6,500.00 Rent Credit for Maintenance equals Annual Basic Rent;
 - d. The annual Basic Rent amount is then divided by twelve to establish the Monthly Rent for each year of the Optional Terms.

4. Table of Rental Amounts.

Proposed Hatfielde Rent/Credit Schedule			
Term	10 Years		
Option	2 5 Year Options		
Appraised Fair Market Annual Rent (AFR)	\$33,240.00		
Initial Capital Reconstruction Cost (ICR)	\$55,477.00		
Annual Maintenance Credit (AMC)	\$6,500.00		
Annual Escalation Rate (AER)	0.03		
Year	Annual Rental Rate (ARR) Escalated starting year 2 = (AFR)+(AER)	Rent Credit (Year 1-3 Abatement)(Year 4-10 ICR Credits)(AMC Year 1- 20)	Basic Rent Due:
(Base lease term start) 1	\$33,240.00	\$33,240.00	\$0.00
2	\$34,237.20	\$34,237.20	\$0.00
3	\$35,264.32	\$35,264.32	\$0.00
4	\$36,322.25	\$14,425.29	\$21,896.96
5	\$37,411.91	\$14,425.29	\$22,986.62
6	\$38,534.27	\$14,245.29	\$24,288.98
7	\$39,690.30	\$14,245.29	\$25,445.01
8	\$40,881.01	\$14,425.29	\$26,455.72
9	\$42,107.44	\$14,425.29	\$27,682.15
Last year of base lease term) 10	\$43,370.66	\$14,425.29	\$28,945.37
(Beginning of 5-year option) 11	\$44,671.78	\$6,500.00	\$38,171.78
12	\$46,011.93	\$6,500.00	\$39,511.93
13	\$47,392.29	\$6,500.00	\$40,892.29
14	\$48,814.06	\$6,500.00	\$42,314.06
(Last year of of 5 year option) 15	\$50,278.48	\$6,500.00	\$43,778.48
(Beginning of second 5-year option) 16	\$51,786.84	\$6,500.00	\$45,286.84
17	\$53,340.44	\$6,500.00	\$46,840.44
18	\$54,940.66	\$6,500.00	\$48,440.66
19	\$56,588.87	\$6,500.00	\$50,088.87
(Lease terminates) 20	\$58,286.54	\$6,500.00	\$51,786.54
Base Lease Term Rent Total	\$381,059.35		\$177,700.80
Option Period Rent Total	\$512,111.90		\$447,111.90
Total Rent Base Lease Term + Option Period	\$893,171.25		\$624,812.70

D. Additional Rent. The Borough shall pay all other sums of money, fees, fines, penalties, taxes, and charges of kind that become due or are required under this Lease Agreement to be paid by the Borough to SEPTA. All such amounts due shall constitute Additional Rent hereunder.

E. Payment of Rental. The Borough shall make Rental payments to the address below. The Monthly Rent payment for each month is due on or before the first day of that month. SEPTA expects to send monthly invoices to the Borough specifying the then-current Monthly Rent amount due. However, if an invoice or invoices are not sent by SEPTA, not received by Borough, or not accurate, Borough is still responsible for the timely payment of the accurate Monthly Rent amount that is due.

SEPTA will invoice the Borough for any and all amounts of Additional Rent as they arise. Borough will pay Additional Rent invoices within 30 days of receiving the invoice.

SEPTA shall have the right to charge Borough a late fee of 5% of the invoice amount if an invoice is not paid by ten days after the date due as specified above. The Parties agree that this late fee charge represents a fair and reasonable estimate of the costs that SEPTA will incur for such late payment. Borough's payment of a late fee charge shall not constitute SEPTA's waiver of default by Borough or of any right or remedy hereunder, including a determination of default by Borough.

F. Payments In the Event of Recapture. In the event of Recapture, the requirement that Borough pay Basic Rental shall end as of the specified Termination Date; except that any Basic Rental that was previously due but not paid, shall still be due and owed to SEPTA and must be paid by Borough. Additional Rental may still become due from during the Lease Term and must still be paid by Borough even after the specified Termination Date resulting from Recapture.

If SEPTA Recaptures the Premises during the Initial Term, SEPTA shall reimburse Borough for the remaining portion of the amount of the Rent Credits for Initial Improvements, to which Borough would have otherwise been entitled, for the period from the Recapture Termination Date through **XXXXX**

If SEPTA Recaptures the Premises during an Optional Term, Borough shall not be entitled to or receive any reimbursement, remuneration, compensation, restitution or other type of payment, for Early Termination of the Lease due to Recapture

SECTION 6. Fixtures.

For the Purpose of this Lease Agreement, the term "**Fixtures**" shall mean all of the tangible personal property of Borough and/or Sublessee that are put in place on the Premises by Borough or Sublessee, that are not permanently affixed to the Premises and that are not SEPTA Property. Examples of Fixtures include, but are not limited to, signs, furniture, business equipment and appliances, furnishings and décor, lighting, window treatments, etc. All Fixtures placed or installed on the Premises shall always be the property and responsibility of their owner. The maintenance, repair, enhancement, upgrade, and replacement of any and all Fixtures, the costs therefor, and liability associated therewith, shall be the responsibility primarily of the owner and ultimately of the Borough.

The Parties agree that SEPTA shall have no obligations, responsibility or liability with regard to Fixtures or any damage or injury associated therewith. If any Fixtures cause any damage or destruction to the Premises or any SEPTA Property, the Borough, at its own expense, shall be responsible and liable for taking all actions necessary for the repair, replacement, resolution, correction, restoration etc. of SEPTA Property to bring it back to its condition prior to this Lease, or better (generically "Restoration"). If Borough fails to make such Restoration in a reasonable period of time, SEPTA may, but is not obligated to, make such Restoration, and SEPTA may bill Borough, to be treated as Additional Rent, for the Restoration work performed by SEPTA.

All Fixtures shall be removed from the Premises by the Termination Date of the Lease and the Borough shall be responsible for the repair of any and all damage to the Premises caused by the placement, installation and/or removal of Fixtures.

SECTION 7. Utilities.

SEPTA does not warranty that the Premises have any or all utility service facilities, such as for water, electricity, telephone, internet, sanitary sewer service, fire protection sprinkler system, property protections/detection systems (collectively and generically, “**Utilities**”), that may be necessary or useful for the Permitted Use. Any Utilities or Utilities’ Facilities that are in place at the Commencement of the Lease are deemed to be SEPTA Property and are conveyed to Borough under and as part of the Lease. The Borough acknowledges that, for the Lease Term, it shall be responsible for the expense, actions, and liability associated with the installation, operation, maintenance, repair, enhancement, upgrade, replacement, and continued existence of the Utilities on the Premises, including any that may be SEPTA Property. The Parties agree that SEPTA shall have no obligation, responsibility or liability with regard to the Utilities on the Premises, whether existing prior to this Lease Agreement or added or modified after the Commencement of the Lease, or for any cost, expense, injury, damage or destruction associated with the Utilities or any need for Utilities.

If any Utilities cause any damage or destruction to the Premises or any SEPTA Property, the Borough, at its own expense, shall be responsible and liable for taking all actions necessary for the Restoration of SEPTA Property. If Borough fails to make such Restoration in a reasonable period of time, SEPTA may, but is not obligated to, make such Restoration, and SEPTA may bill Borough, to be treated as Additional Rent, for such Restoration work performed by SEPTA.

SECTION 8. Signage.

Borough has the right to install, or to allow Sublessee to install, signage on the Premises as it deems appropriate, helpful, useful, or related to the Permitted Use and/or the operation of the Premises (“**Signs**”), and all such Signs are to be professional prepared, securely and safely located and installed, and maintained and repaired, at its own cost and expense. Borough shall install or require that Sublessee install Signs that provide prominent warning that that no persons, materials, or vehicles are permitted to enter the railroad ROW (as defined in Section 2.E above). Borough may install or allow installation of Signs that identify the entity operating the Premises for the Permitted Use, direct vehicular or pedestrian traffic, specify parking restrictions or requirements, e Premises. However, signage that constitutes advertising for another entity for the purpose of generating revenue for the Borough or its Sublessee shall not be permitted. The Borough shall be responsible and liable for Signs on the Premises and shall ensure that all Signs comply will all applicable laws, statutes, regulations, ordinance and good business practices, and are maintained in good condition and repair at all times. SEPTA reserves the right to deny the use of or require the removal of any Signs that violate or are disallowed by SEPTA’s policies regarding signage, advertising, and artwork. The Parties agree that SEPTA shall have no obligation, responsibility or liability with regard to the Signs placed on the Premises or for any cost, expense, injury, damage or destruction associated with any Signs or the existence of Signs on the Premises.

If any Signs cause any damage or destruction to the Premises or any SEPTA Property, the Borough, at its own expense, shall be responsible and liable for taking all actions necessary for the Restoration of SEPTA Property. If Borough fails to make such Restoration in a reasonable period of time, SEPTA may, but is not obligated to, make such Restoration, and SEPTA may bill Borough, to be treated as Additional Rent, for such Restoration work performed by SEPTA.

The Borough shall remove, or ensure the removal of, at its own cost and expense, all Signs from the Premises by the Termination Date of the Lease. If Borough fails to remove all signs within a reasonable period of time after the Termination of the Lease, SEPTA may, but is not obligated to, perform such removal and may bill Borough, to be treated as Additional Rent, for the removal work performed by SEPTA.

SECTION 9. Upkeep and Maintenance.

A. Throughout the Lease Term, the Borough shall be responsible for ensuring the upkeep and maintenance (collectively and generically “**Maintenance**”) of the Premises and all parts thereof in good, safe, merchantable, clean, and orderly condition. Maintenance of the Premises shall include, but not be limited to, cleaning, routine and regular maintenance, inspections, correction, repairs, replacement, upgrade, etc. regarding:

1. the inside and outside of all glass in doors and windows; all interior and exterior surfaces; promptly replacing cracked or broken glass (with glass of like color, grade and quality); keeping clean and sanitary conditions that are also free of insects, rodents, vermin and other pests; all garbage, trash, rubbish or other refuse kept within and/or outside of the building are kept in rodent-proof containers; arranging for regularly scheduled sanitation and trash removal services; smoke detectors, fire extinguishers, and other safety protections are kept in good working order;
2. the sidewalks, walkways, parking lots, platforms, driveways and access ways, are promptly cleared of snow, ice, trash, debris, etc.;
3. facilities, equipment and structural aspects of the Premises; such as external lighting, paved/concrete surfaces, external facilities and structures, the building(s) and the components and facilities that comprise or are constructed into the buildings -- e.g. the roof, the floors, doors, the interior ceilings, interior walls, exterior walls, windows, glass, lighting, the plumbing system, the electrical system, the heating/ventilation/air-conditioning system, bathrooms, and all such systems, facilities and appurtenances -- that are part of the operation, functioning and usefulness of the building and the Premises, etc.
4. compliance with all applicable laws, statutes, regulations and ordinance, as well as industry and community standards and insurer requirements;
5. any and all damage or destruction of the Premises or any part thereof, that occurs for any reason, or no apparent reason, including an act of God.

B. Borough shall notify SEPTA of any damage or destruction to the Premises and/or any SEPTA Property. The Borough, at its own expense, shall be responsible and liable for taking all actions necessary for the Restoration of SEPTA Property. If Borough fails to make such Restoration in a reasonable period of time, SEPTA may, but is not obligated to, make such Restoration, and SEPTA may bill Borough, to be treated as Additional Rent, for such Restoration work performed by SEPTA.

SECTION 10. Improvements.

A. The Borough has the right, but not the obligation, to make, or to allow Sublessee to make, “Improvements” to the Premises as it deems appropriate, helpful, useful, or related to the Permitted Use and/or the operation of the Premises; provided that advanced written approval is

obtained from SEPTA. "Improvements" shall be defined as those changes, modifications, additions, expansions, enhancements, renovations, reconstructions, etc. that have a material impact on the Premises or some portion of the SEPTA, when such work, results or impact is not easily reversible. Alterations, modifications, upgrades, expansion, replacements, enhancements, etc., to systems and facilities such as plumbing, heating, air-conditioning, lighting, electrical, etc., whether in a building or on another part of the Premises, shall constitute Improvements hereunder. SEPTA reserves the right, at its own discretion, to deny requests to make proposed Improvements.

The Parties agree that SEPTA shall have no obligation, responsibility or liability with regard to, or for any cost, expense, injury, damage or destruction associated with, the planning, design, construction, execution, operation, execution, maintenance, or existence of any Improvements made on the Premises or on SEPTA Property.

The Borough shall be responsible and liable for Improvements, and all work performed regarding Improvements, on and to the Premises. Borough and shall ensure that all work and results related to Improvements comply with all applicable laws, statutes, regulations, ordinances, and good business practices – including environmental laws and protections. Borough shall be responsible and liable for ensuring that all Improvements, as well as the Premises, are properly maintained and kept in good functioning and safe condition and repair at all times.

If any Improvements, or any work related in any way to any Improvements, cause any damage or destruction to the Premises, any SEPTA Property, or any third party property, the Borough, at its own expense, shall be responsible and liable for taking all actions necessary for the Restoration of that property. If Borough fails to make such Restoration in a reasonable period of time, SEPTA may, but is not obligated to, make such Restoration, and SEPTA may bill Borough, to be treated as Additional Rent, for such Restoration work performed by SEPTA.

The Parties understand and acknowledge that due to the nature of Improvements, as defined hereunder, Improvements can generally not be removed from the Premises at the Termination Date of the Lease.

B. Borough shall not commence any Improvements unless and until: (1) SEPTA has approved the plans and specifications for the Improvements; (2) all necessary permits and approvals have been obtained; and (3) appropriate insurance for the planned work has been acquired and is in effect.

C. In the event that work on Improvements requires entering into or accessing any portion of the ROW, SEPTA shall be given 30 days advance written notice so that it may determine if any track protections or work oversight is needed.

D. If at any time it is determined that the station building or any other portion of the Premises is designated as a historic property (such as listed on the National Historic Register of Places, or other state or local equivalent register), any and all work on the Premises must be performed in compliance with applicable law. All resulting liability, costs, fees, actions/omissions, or work performed shall be the responsibility of Borough.

SECTION 11. Taxes.

The Borough shall be ultimately responsible for the payment of all real estate tax, assessments, fees, levies, and other charges of any kind, for example, local and governmental services (such as Fire protection, street, sidewalk, road maintenance, refuse removal, stormwater

management, etc.), whether foreseen or unforeseen, that may be imposed on the Property, on Improvements to the Premises or any part thereof, or for the use of the Premises pursuant to this Lease and/or associated Sublease (collectively and generically herein, "Taxes"). When circumstances permit, the Borough and/or Sublessee shall pay Taxes directly. Otherwise, when SEPTA must pay any Taxes associated with the Premises, SEPTA shall seek reimbursement from the Borough, which request will take the form of and be treated by the Borough as Additional Rent.

SECTION 12. Security.

The Borough assumes all responsibility for the protection of the Premises, its agents, employees, contractors and invitees while on the Premises, and their property. Borough shall be ultimately responsible for determining the level, types and methods of security that is to be provided for the Premises, and for providing all such security. Security obligations shall also include warning of any dangers on the Premises. All costs associated with providing all types of security measures, such as but not limited to guard service, camera surveillance, signage, etc., are the obligation of the Borough. SEPTA has no obligation whatsoever to provide any security measures. The Borough will be assumes all responsibility for the actions of agents, employees, and contractors who are involved in providing security for the Premises.

SECTION 13. Mechanic's Liens.

The Borough shall not allow any mechanic's or other lien to be asserted against the Premises or SEPTA. No work performed by or on behalf of Borough, or Sublessee, shall be deemed to be for the immediate use and benefit of SEPTA, and no lien can be asserted against SEPTA. In the event a person or entity attempts to file a lien against SEPTA or the Premises, for any reason related to any work, labor, services or materials performed or furnished, or alleged to have been performed or furnished by Borough or Sublessee. Borough shall defend SEPTA and cause the lien to be immediately discharged.

SECTION 14. Environmental Matters.

A. Release of Hazardous Material. Borough shall not, and shall ensure that Sublessee does not, cause, or permit to occur, the generation, manufacture, release, discharge, storage, disposal, or transportation (herein collectively and generically "**Release**") of any "Hazardous Material" on, under, in, above, to, or from the Premises. "**Hazardous Material**" shall mean any substances, materials and wastes that are regulated as hazardous or toxic substances under any applicable local, state or federal law, regulation, or order. In the event of a Release of Hazardous Material on the Premises, Borough shall be responsible and liable for the performance of all activities needed for the reporting, investigation, clean-up, reclamation, monitoring, containment, removal, storage, and restoration work on the Premises and SEPTA Property, as well as for all claims, injuries, illnesses, liabilities, costs, damages and expenses associated therewith. Borough shall indemnify, defend, and hold SEPTA harmless from and against all claims, damage, fines, fees, expenses and all costs incurred by SEPTA arising out of a Release of Hazardous Material on the Premises.

B. Potential Pre-existing Environmental Dangers. Borough shall be responsible for determining, and the cost of determining, whether mold, lead paint and/or asbestos are present on

the Premises. If remediation, abatement and/or removal (generically herein “Remediation”) of mold, lead paint and/or asbestos becomes necessary, Borough shall bear all responsibility, costs and expenses associated therewith. SEPTA must approve, in advance and in writing, any and all plans, methods, and schedules related to intended or needed Remediation activities. Borough shall promptly provide to SEPTA a copy of all Remediation–related surveys, reports and other documentation pertaining to Remediation activities on the Premises undertaken by or on behalf of Borough and/or Sublessee, including but not limited to, notifications, final reports and air monitoring reports.

SECTION 15. Insurance.

A. Insurance Coverages. Borough shall ensure that adequate and applicable insurance coverages are purchased and kept in place for the duration of the Lease Term. The following are the minimum insurance coverages and limits of liability that must be provided.

1. Workers' Compensation Insurance. Workers' Compensation, including Employer's Liability, as required by applicable laws and statutory requirements of the Commonwealth of Pennsylvania.

2. Commercial General Liability Insurance. Commercial general liability coverage for the Use to which the Premises are put, with \$2,000,000 combined single limit, bodily injury and property damage, per occurrence with not less than a \$6,000,000 annual aggregate.

3. Vehicle Liability Insurance. Vehicle liability coverage for \$2,000,000 combined single limit, bodily injury and property damage, per occurrence with not less than a \$2,000,000 annual aggregate.

B. Additional Insured. SEPTA shall be named as an additional insured on all applicable insurance policies required under this Lease Agreement. All policies shall require a minimum of 30 days' prior written notice to SEPTA before cancellation by the insurance company. An insurance company that issues insurance required under this Section must have a financial rating not less than B+, as rated in the most recent edition of Best Insurance Reports, and must have been in business for at least the past five years.

C. Evidence of Insurance. Prior to the Commencement Date, Borough shall provide copies of the insurance declaration sheets that confirm that the insurance requirements set forth above are in effect. Borough is responsible for providing to SEPTA evidence of insurance from its Sublessee.

SECTION 16. Indemnification.

Borough shall indemnify, release, hold harmless and defend SEPTA and its board, officers, directors, employees, agents, successors, assigns (collectively for this Section “SEPTA”) from and

against any and all claims, actions, lawsuits, demands, damages, liabilities, fines, penalties, costs and expenses (including reasonable attorneys' fees and litigation expenses), in connection with personal injury or illness, loss of life, damage to property, violation of law, assessment of tax or lien, and breach of obligation, responsibility or liability; arising from, resulting from, or in connection with, the Premises, the use of the Premises under this Lease Agreement and/or a Sublease, and the rights, responsibilities and obligations conveyed by the Lease and or any associated Sublease.

SECTION 17. Default.

A. Events of Default. Each of the following shall be deemed an event of “**Default**” hereunder:

1. The failure of Borough to make two (2) consecutive monthly Basic Rent payments within ten (10) days any the second missed payment having been due;
2. Abandonment, vacation or surrender of the Premises by Borough, that is not in compliance with the terms of this Lease Agreement;
3. Giving a false or inaccurate representation, information, document, accounting or financial statement to SEPTA by Borough;
4. Failure by Borough to observe or perform promptly and fully a provision, covenant or condition of this Lease Agreement, and such failure continues and is not cured or corrected within ten (10) business days after written notice thereof from SEPTA; if the cure or correction of such failure requires more than ten (10) business days, Borough shall not be in Default if it commences the cure within the ten (10) day period and diligently and continuously executes the cure to completion within a reasonable time, and keeps SEPTA informed of the progress.
5. Failure to fully and properly surrender and vacate the Premises, in accordance with the requirements herein, by the Termination Date, or the Early Termination if applicable;
6. The leasehold interest of the Borough is levied upon or is attached by process of law; or Borough fails to diligently contest and adequately have discharged any lien or claimed lien, or to give sufficient security to SEPTA to insure payment thereof; or Borough fails to satisfy any judgment rendered that results in a lien or claim on the Premises or SEPTA;
7. Borough becomes insolvent or unable to pay its debts; files a petition in bankruptcy or a petition to take advantage of any insolvency statute, making an assignment for the benefit of creditors, making a fraudulent transfer, applying for or consenting to the appointment of a receiver for itself, or of the whole or any substantial part of its property, or filing or answering a petition seeking reorganization under the federal bankruptcy laws, as now in effect or hereafter amended, or any other applicable law or statute of the United States or any state thereof; or
8. A court of competent jurisdiction enters an order, judgment or decree adjudicating Borough bankrupt, or appointing a receiver for Borough, or approves a petition filed against Borough seeking reorganization or arrangement of Borough under any applicable federal or state bankruptcy laws, as now in effect or hereafter amended, if

such order, judgment or decree is not vacated, set aside or stayed within thirty (30) days from the date of entry thereof.

B. SEPTA's Remedies for Default.

1. SEPTA may treat the occurrence of an event of Default as a material breach of this Lease and, in addition to any or all other rights or remedies at law or under this Lease Agreement, SEPTA shall have the right, at its options and discretion, to terminate this Lease for Default, in which event SEPTA shall provide Notice of Termination to Borough that it must within ten (10) business days surrender and vacate the Premises in accordance with Section 18 below; and if Borough fails to do so, SEPTA may, without prejudice to any other remedy which it may have for possession or arrearages in Rental, enter upon and take possession of the Premises and expel or remove Borough and Sublessee from the Premises, without being liable for prosecution or any claim or damages therefor;

2. If SEPTA elects to terminate this Lease due to Default, SEPTA has the right to demand that Borough terminate the Sublease and that Borough ensure that the Sublessee surrenders and properly vacates the Premises, in accordance with Section 18 below, and removes all personal property and Fixtures, by the specified Termination Date due to Default.

3. In the event of termination due to Default, if the Premises are vacated by the end of ten (10) day stated period, SEPTA shall have the right, but not the obligation, to remove from the Premises all or any part of the personal property and Fixtures located therein and may place same in storage at a public warehouse. Borough hereby waives all claims or demands for damages that may be caused by SEPTA in taking possession of the Premises, the personal property and Fixtures, and all claims or demands which may result from the destruction of or damage to the personal property and Fixtures belonging to Borough or Sublessee, or any other person or entity that may be in or about the Premises at the time of such vacation.

4. Should SEPTA elect to terminate this Lease due to Default, SEPTA may still recover from Borough as "**Default Damages**", the following: (1) all past amounts of Basic Rent that were owed and not paid; (2) the total amount of Basic Rent that would have become due for the remainder of the then-current Term; (3) all Additional Rent was due but not paid, or arises, up to and through the Termination Date resulting from Default; (4) any and all costs, expenses, fees, fines, etc. that are paid by SEPTA to rectify the matter that led to or was the event of Default; and (5) any other amounts necessary to compensate SEPTA for all detriment proximately caused by Borough's Default and/or SEPTA actions is executing its remedies for Default. Borough must pay all Default Damages within 30 days of receipt by Borough of an invoice for same from SEPTA.

SECTION 18. Obligations Regarding Surrender of Premises.

By the Termination Date of the Lease, the Borough shall: (i) comply with the applicable terms and conditions of the Lease; (ii) remove all Borough's or ensure the removal of Sublessee's personal property and all Fixtures from the Premises; (iii) leave the Premises in a clean and sanitary

condition; (iv) remove all debris, trash, and graffiti therefrom; (v) upon SEPTA's prior written consent, leave in place and transfer Borough's rights, title or interests to all or specific Improvements to SEPTA; and (vi) Execute and finalize the Restoration of any and all aspects of the Premises and SEPTA Property. Borough shall deliver, as may be required establish a safe, "broom clean", state of good repair, reasonable wear and tear excepted. Upon the Termination Date, and after notice from SEPTA, if Borough has not properly removed all personal property and Fixtures, and satisfied all other above listed requirements, the Parties hereby affirm and agree that SEPTA may proceed to complete those requirements; and that the Borough will reimburse SEPTA for its costs in doing so, within 30 days of receipt by Borough of an invoice for such costs and expenses. This obligation of Borough shall extend beyond and be valid after the Termination Date of the Lease and the termination of the Lease Agreement.

SECTION 19. Subordination.

This Lease shall be subject, and subordinated at all times, to: (i) all recorded matters affecting the Premises, including, without limitation, the Title Restrictions; and (ii) the oversight authority of FTA or other governing authority regarding he Premises. Such subordination shall be effective without the execution of any further instrument.

SECTION 20. Notices, Communications and Payments.

A. Notices and Communications. All notices and communications regarding this Lease Agreement that are to be provided in writing shall be mailed to the following addressees; however the Parties may exchange email contact information as another mechanism for providing communications.

If to SEPTA: Southeastern Pennsylvania Transportation Authority
Real Estate Department
1234 Market Street, 10th Floor
Philadelphia, PA 19107-3780
Attn: Director of Real Estate

With copy to: Southeastern Pennsylvania Transportation Authority
Office of General Counsel
1234 Market Street, 5th Floor
Philadelphia, PA 19107-3780
Attn: Deputy General Counsel Corporate

If to Tenant: [Name]
[Address]
[Address]
[Address]

B. Rental Payments. Borough shall send all Rental payments as follows:

SEPTA
Accounts Payable
P.O. Box 7780-4044
Philadelphia, PA 19182-4044

SECTION 21. Governing Law and Jurisdiction.

This Lease Agreement is governed by and is to be interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania. All matters, disputes, claims, litigation, or any other proceedings, in connection with this Agreement, shall be brought and resolved, except for enforcement, in the state or federal courts located in the City of Philadelphia, Pennsylvania, irrespective of any procedural rules or laws related to venue and forum non conveniens. The Parties expressly consent to such jurisdiction and venue, and waive any objection to such jurisdiction or venue and all claims of inconvenience or lack of personal jurisdiction. The Parties represent and acknowledge that their position on jurisdiction and venue described above is reasonable and has been freely and voluntarily made.

SECTION 22. Disputes.

All disputes arising under this Agreement shall be resolved through either a mediation process or arbitration process. Disposition of a dispute through an arbitration process shall be done in accordance with the rules of the American Arbitration Association.

SECTION 23. Miscellaneous Provisions.

A. Sovereign Immunity. Nothing contained in the Lease Agreement shall be deemed to be a waiver of the immunities, defenses and limitations on damages that SEPTA enjoys under the provisions of 42 Pa.C.S. § 8501 *et seq.* and other law.

B. No Joint Venture. Any intention to create a joint venture or partnership relation between the Parties is hereby expressly disclaimed.

C. No Modification. The Parties acknowledge that this Lease Agreement represents the final expression of the agreement between them regarding the leasing of the Premises and the complete and exclusive statement of the terms thereof, and that all negotiations, considerations and representations between the Parties are incorporated herein. No course of prior dealings between the Parties or their officers, employees, agents or affiliates shall be relevant or admissible to supplement, explain or vary any of the terms of the Lease Agreement. No course of performance previously rendered and no prior agreement between the Parties or their affiliates shall be relevant or admissible to interpreting this Lease Agreement. The Lease Agreement can be modified only by a writing signed by both Parties.

D. Severability. If any portion of this Lease Agreement shall be deemed to be invalid or unenforceable, the remainder of the Lease Agreement shall be valid and enforceable.

E. Third Party Beneficiary. Nothing contained in the Lease Agreement shall be construed so as to confer upon any other party the rights of a third party beneficiary.

F. Counterparts. This Lease Agreement may be signed in one or more counterparts, with each executed counterpart constituting a valid original execution, and collectively the counterparts shall constitute a fully executed contract.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have caused this Lease Agreement to be executed by the undersigned duly authorized officers or representatives, and made effective on the date written above.

**SOUTHEASTERN PENNSYLVANIA
TRANSPORTATION AUTHORITY
(SEPTA) - Lessor**

ATTEST:

By: _____
Name: _____
Title: _____

Name: _____
Title: _____

BOROUGH OF HATFIELD - Lessee

ATTEST:

By: _____
Name: _____
Title: _____

Name: _____
Title: _____

Approval as to Form:

SEPTA

Office of General Counsel

EXHIBIT A
PREMISES



Real Estate Dept.
D. Doler 09.19.2018

Hatfield Station License & Lease Premises

8. OLD BUSINESS:

**B. ORDINANCE NO. 551 REGULATING THE
USE OF CONSUMER AND DISPLAY
FIREWORKS**

HATFIELD BOROUGH
ORDINANCE NO. _____

**AN ORDINANCE OF THE BOROUGH COUNCIL OF THE
BOROUGH OF HATFIELD REGULATING THE USE OF
CONSUMER FIREWORKS AND DISPLAY FIREWORKS
WITHIN THE BOROUGH**

WHEREAS, Act 74 of 2022, House Bill 2157, P.N. 3332 was adopted by the General Assembly on July 6, 2022, was signed by the Governor on July 11, 2022, amends Title 3 Pa. C.S. Chapter 11 (hereafter, "Fireworks Law" or "Law"), and became effective on September 9, 2022; and

WHEREAS, the Fireworks Law governs the sale, purchase and use of Consumer Fireworks and Display Fireworks in the Commonwealth; and

WHEREAS, the Fireworks Law authorizes Pennsylvania municipalities to prohibit or restrict certain uses of Consumer Fireworks as defined in the Law if the municipality determines that certain conditions are met; and

WHEREAS, the Fireworks Law authorizes the adoption of local rules and regulations by the Borough that govern the use and display of fireworks; and

WHEREAS, the Fireworks Law prohibits the use of Consumer Fireworks, as defined in Section 1101 of the Law, within 150 feet of a building or vehicle; and

WHEREAS, the Fireworks Law prohibits the use of Consumer Fireworks, as defined in Section 1101 of the Law, within 150 feet of an animal housing facility or fenced area designed to confine livestock owned or managed by another person; and

WHEREAS, based upon legislative findings, Hatfield Borough Council has determined that there is no location within Hatfield Borough that meets statutory requirements providing for the permitted use of Consumer Fireworks, in accordance with Section 1104(b)(5) and 1106(a)(1.2) of the Law; and

WHEREAS, Hatfield Borough Council has determined that the authority provided by the Fireworks Law should be exercised in the interests of public safety; and

WHEREAS, Borough Council, concerned about fire and injury risks in the densely populated Borough, desires to regulate the use of Display Fireworks and Consumer Fireworks within its limits, to restrict the use of fireworks for public safety purposes.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED and enacted by the Borough Council of Hatfield Borough, Pennsylvania, as follows:

SECTION 1.

Definitions

The following definitions shall have their meaning as defined in Section 1101 of Title 3 Pa. C.S. Chapter 11, hereafter, ("Fireworks Law"):

“APA 87-1.” The American Pyrotechnics Association Standard 87-1: Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics, 2001 edition.

“Consumer Fireworks.”

(1) The term includes any combustible or explosive composition or any substance or combination of substances which is intended to produce visible or audible effects by combustion, is suitable for use by the public, complies with the construction, performance, composition and labeling requirements promulgated by the Consumer Products Safety Commission in 16 CFR (relating to commercial practices) or any successor regulation and complies with the provisions for "consumer fireworks" as defined in APA 87-1.

(2) The term does not include devices such as "ground and hand-held sparkling devices," "novelties" or "toy caps" in APA 87-1.

"Display fireworks." As defined in 27 CFR 555.11 (relating to meaning of terms).

“Ground and hand-held sparkling devices.” As defined in APA 87-1.

“Novelties.” As defined in APA 87-1.

“Toy Caps.” As defined in APA 87-1.

SECTION 2.

Display Fireworks

A. In accordance with the Fireworks Law, fireworks and display fireworks may not be used on any lot within the Borough.

SECTION 3.

Consumer Fireworks

A. In accordance with the Fireworks Law, and based upon legislative findings that there is no location within the Borough that meets statutory requirements, including but not limited to, the prohibition of use within 150 feet of a building or vehicle, or animal housing facility or fenced area designed to confine livestock owned or managed by another person, the use of Consumer Fireworks within the Borough in accordance with Section 1104(b)(5) of the Fireworks Law is prohibited.

B. Devices such as “ground and hand-held sparkling devices,” “novelties,” or “toy caps” are permitted in accordance with the Fireworks Law.

SECTION 4.

A. In accordance with the provisions of Section 1114(1) of the Fireworks Law, any person using Consumer Fireworks in violation of the provisions of this Ordinance, for the first offense commits a summary offense, and upon conviction shall, in addition or any other penalty authorized by law, be punishable by a fine of not more than Five Hundred (\$500.00) Dollars. A subsequent offense under this Ordinance committed within three years of a prior conviction shall constitute a summary offense, and upon conviction shall, in addition to any other penalty authorized by law, be punishable of a fine of not more than One Thousand (\$1,000.00) Dollars.

B. Any person selling Consumer Fireworks in violation of the Fireworks Law is punishable in accordance with Section 1114(2) by a fine of not less than \$10,000.

C. Any person selling Display Fireworks in violation of the Fireworks Law is punishable in accordance with Section 1114(3) by a fine of not less than \$10,000.

SECTION 5.

All ordinances or resolutions or parts of ordinances or resolutions insofar as they are inconsistent herewith are hereby repealed and rescinded.

SECTION 6.

In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any of the remaining provisions, sections, clauses or parts of this Ordinance; it being the intent of the Borough that the remainder of the Ordinance be and shall remain in full force and effect.

SECTION 7.

This Ordinance shall take effect in accordance with the Laws of the Commonwealth of Pennsylvania.

ADOPTED BY COUNCIL on this _____ day of _____, 2023, with Council members _____ voting “yes,” and Council members _____ voting “no.”

ATTEST:

BOROUGH OF HATFIELD

JAIME SNYDER, SECRETARY

JASON FERGUSON, PRESIDENT
BOROUGH COUNCIL

APPROVED this ____ day of _____, 2023.

Mayor Mary Anne Girard

9. ACTION ITEMS:

A. MOTION TO CONSIDER ORDINANCE NO. 550 AMENDING CHAPTER 2 (ANIMALS) AND CHAPTER 27 (ZONING) OF THE CODE OF ORDINANCES OF THE BOROUGH OF HATFIELD PROVIDING CONDITIONS FOR THE KEEPING OF CHICKENS

9. ACTION ITEMS:

**B. MOTION TO CONSIDER ADVERTISING
ORDINANCE NO. 551 REGULATING THE
USE OF CONSUMER AND DISPLAY
FIREWORKS FOR A PUBLIC HEARING TO BE
HELD JUNE 14TH AT 7:00PM**

**10. MOTION TO APPROVE PAYMENT
OF THE BILLS**

ADDITIONS TO THE MAY 2023 BILL LIST:

21 st CENTURY MEDIA - LEGAL ADVERTISING	\$1,643.52
21 st CENTURY MEDIA - LEGAL ADVERTISING	\$507.52
ALWAYS INTEGRITY - CLEANING SERVICES	\$375.00
CLARKE'S LANDSCAPING - CURBSIDE CHIPPING.....	\$2,100.00
CLEMENS UNIFORMS - MATS FOR HALLWAYS.....	\$75.20
CURTIS POWER SOLUTIONS - REPAIR 2017 TRUCK.....	\$596.50
FRY COMMUNICATIONS, INC. - SUBSCRIPTION	\$87.00
LOWE'S - SHOP SUPPLIES	\$246.56
SCANTEK - DOCUMENT SCANNING.....	\$7,403.16
TD BANK - ITEMS FOR EARTH DAY.....	\$101.40
TEAMSTERS - EMPLOYEE BENEFITS	\$416.00
UTILITY ASSET MGMT - POLE INSPECTIONS.....	\$990.00

TOTAL ADDED TO BILL LIST \$14,541.86

REVISED BILL LIST TOTAL \$298,974.46

Column1	Column2	Column3	Column4	Column5	Column6
MAY 2023 ACCOUNTS PAYABLE BILL LIST					
VENDOR BILL LIST					
	ITEM DESCRIPTION	AMOUNT PAID	DATE PROCESSED	TOTAL PAID	CHECK NO.
TD BANK					
THE HARTFORD	AD&D LIFE STD & LTD INSURANCE	\$772.97	5/11/2023	\$772.97	27516
WELLS FARGO	SERIES 2003 B NOTE, 2020/2021 A/B NOTES	\$8,510.25	4/25/2023	\$8,510.25	ACH
21ST CENTURY MEDIA	LEGAL ADVERTISING	\$1,643.52			
21ST CENTURY MEDIA	LEGAL ADVERTISING	\$507.52			
ALPHA GRAPHICS	#10 WINDOW ENVELOPES	\$232.53			
ALPHA GRAPHICS	125TH ANNIVERSARY POSTERS	\$175.53			
ALPHA GRAPHICS	REGULAR ENVELOPES	\$264.94			
ALPHA GRAPHICS	125TH STREET BANNER	\$1,056.18			
ALLEGHENY ELECTRIC COOP	APRIL MONTHLY ELECTRIC SALES	\$2,922.68			
ALWAYS INTEGRITY	JANITORIAL SERVICES	\$375.00			
AMP, INC.	APRIL PMPM/VERIZON CHARGES	\$1,443.70			
ARMOUR & SONS	RELOCATE LINES AT 75 MARKET ST	\$2,140.00			
ARMOUR & SONS	TRAFFIC SIGNAL REPAIR	\$296.00			
AT&T	PW & MGR CELL PHONES	\$563.13			
BOROUGH OF HATFIELD ELECTRIC	REPAYMENT OF BORROWING	\$8,287.43			
CARGO TRAILER SALES	TRAILER PINS	\$13.60			
CARR & DUFF	EMERGENCY POWER OUTAGE	\$2,380.00			
CATAPULTWEB	MUNICIPAL WEBSITE	\$2,400.00			
CLARKE'S LANDSCAPING	CURBSIDE CHIPPING	\$2,100.00			
CLEMENS UNIFORMS	MATS FOR HALLWAYS	\$75.20			
CLEMENS UNIFORMS	MATS FOR HALLWAYS	\$75.20			
CODE INSPECTIONS	BLDG CODE FIRE & ZONING SERVICES	\$5,343.00			
COMCAST	16 CHERRY ST	\$113.05			
COMCAST	401 S MAIN ST INTERNET SERVICE	\$116.85			
COURIER NEWS	COURIER NEWS LETTER	\$525.00			
CURTIS POWER SOLUTIONS	PW GENERATOR REPAIR	\$596.50			
DELAWARE VALLEY HEALTH INS	HEALTH INSURANCE FOR EMPLOYEES	\$16,939.19			
EDDIES ELECTRIC	STREET LIGHT REPAIRS	\$476.00			
EDDIES ELECTRIC	INSTALL RUBBERS AT 70 W LINCOLN	\$279.06			
EDDIES ELECTRIC	CALL OUT FOR PARADISE MANOR	\$238.00			
EDDIES ELECTRIC	CALL OUT FOR 63 CHERRY ST	\$238.00			
ESTABLISHED TRAFFIC CONTROL	STREET SIGNS	\$187.60			
FRY COMMUNICATIONS	PA BULLETIN SUBSCRIPTION	\$87.00			
GUARDIAN	COUNCIL LIFE INSURANCE	\$33.95			
H&K MATERIALS	BLACKTOP	\$179.98			
H&K MATERIALS	BLACKTOP	\$113.85			
HATFIELD BOROUGH ELECTRIC	615 DAIN AVE ELECTRIC	\$281.80			
HATFIELD TOWNSHIP	MAY POLICE SERVICES	\$78,750.00			
HATFIELD TWP MUN AUTH	1ST QTR 2023 WASTEWATER TREATMENT	\$136,804.93			
HOME DEPOT	OFFICE SUPPLIES	\$73.98			
KAREN KOERWER	ACCOUNTING SERVICES	\$1,312.50			
LOWES	FERMCO FITTINGS	\$23.11			
LOWES	SHOP SUPPLIES	\$11.36			
LOWES	SONO TUBES FOR RECYCLING	\$92.56			
LOWES	SHOP SUPPLIES	\$26.52			
LOWES	SHOP SUPPLIES	\$122.88			
LOWES	SHOP SUPPLIES	\$14.75			
LOWES	SHOP SUPPLIES	\$246.56			
MAGIC BY STUART	MAGICIAN FOR 125TH ANNIVERSARY	\$750.00			
NETWORK CONCEPTS	MANAGED IT SERVICES	\$485.00			
NETWORK CONCEPTS	MANAGED IT SERVICES	\$23.75			
NORTH PENN WATER AUTHORITY	615 DAIN AVE WATER SERVICES	\$30.55			
PA ONE CALL	MONTHLY TELEPHONE CHARGES	\$24.57			
PITNEY BOWES	POSTAGE MACHINE LEASE	\$387.00			
PORT A BOWL	RESTROOM FOR 125TH EVENT	\$624.70			
R&R VOICE & DATA	WIRELESS PANIC ALARMS	\$979.00			
RICHTER DRAFTING	OFFICE SUPPLIES	\$136.89			
RICHTER DRAFTING	OFFICE SUPPLIES	\$206.24			
RICHTER DRAFTING	OFFICE SUPPLIES	\$127.73			
RICHTER DRAFTING	OFFICE SUPPLIES	\$46.48			
SALZMANN HUGHES	HATFIELD POLICE ELECTRIC	\$672.00			

Column1	Column2	Column3	Column4	Column5	Column6
MAY 2023 ACCOUNTS PAYABLE BILL LIST					
VENDOR BILL LIST					
	ITEM DESCRIPTION	AMOUNT PAID	DATE PROCESSED	TOTAL PAID	CHECK NO.
SCANTEK	DOCUMENT SCANNING	\$7,403.16			
SUPPRESSION SYSTEMS, INC.	FIRE SUPPRESSION SYSTEM	\$620.00			
SWIF	WORKERS COMP	\$1,809.00			
TD BANK CARD	EDIBLE ARRANGEMENT - ADMIN DAY	\$262.75			
TD BANK CARD	AMAZON - DYMO LABLER	\$64.69			
TD BANK CARD	AMAZON - CAMERA FOR CONFERENCE	\$240.00			
TD BANK CARD	PARTY CITY - CANDY FOR MEMORIAL DAY	\$266.26			
TD BANK CARD	MICROSOFT - ONLINE SERVICES	\$8.48			
TD BANK CARD	MICROSOFT - ONLINE SERVICES	\$88.89			
TD BANK CARD	EARTH DAY ITEMS	\$101.40			
TEAMSTERS	EMPLOYEE BENEFITS	\$416.00			
UTILITY ASSET MGMT	POLE INSPECTIONS	\$990.00			
VENUS SUPPLIES	CLEANING SUPPLIES	\$309.61			
VERIZON	TELEPHONE SERVICES	\$227.06			
WHITETAIL DISPOSAL	WASTE DISPOSAL	\$166.60			
ZULTYS	TELEPHONE SERVICES	\$446.57			
SECURITY DEPOSITS:					
	KAMLESH & DEVALBEN PATEL	\$245.31			
	BHUPENDRA & LEENA PATEL	\$580.30			
	NICK ROSE	\$219.24			
	JOHN VALKAVITCH	\$243.30			
	AUTUMN WALSH	\$132.16			
	SHERIDAN WESTBROOK	\$176.41			
\$298,974.46					

**11. MOTION TO ADJOURN:
EXECUTIVE SESSION**