

Wilmington, Delaware
February 3, 2022

#0132

Sponsor:

**Council
Member
Oliver**

WHEREAS, pursuant to Wilmington Charter Section 8-205, the City may sell or exchange any real estate belonging to the City or grant any license, easement, right-of-way, or other interest over or in such real estate with authority by general ordinance and later resolution from Council to do so; and

WHEREAS, City Code Section 2-626 provides that the Department of Public Works shall have the authority to grant licenses, easements, and/or rights-of-way as shall be necessary for the construction, installation, maintenance, repair, operation, and inspection of utilities, subject to the approval of City Council by resolution; and

WHEREAS, on September 6, 2001, City Council passed an ordinance approving a lease (the “Lease”) between the City and Comcast Cable Communications, Inc. (“Comcast”), which permitted Comcast to continue to operate a building used for cable television equipment and build a new utility shed to house utilities used in connection with local services at 1400 Concord Pike (also known as the Porter Reservoir); and

WHEREAS, on June 21, 2012, City Council passed a resolution approving the first amendment to the Lease, which amended the Lease and extended its term until February 14, 2022; and

WHEREAS, the parties desire to enter into a second amendment to the Lease (the “Second Amendment”), a copy of which, in substantial form, is attached hereto as Exhibit “A”, which will (i) extend the term of the Lease for five (5) years through February 14, 2027, with the option of one (1) additional term of five (5) years thereafter commencing on February 15, 2027 and (ii) increase the rent payable by Comcast to the City under the Lease to \$48,381.00

for the first year of the Second Amendment, with an increase of three percent (3%) annually for each year thereafter; and

WHEREAS, the Department of Public Works recommends that the City enter into the Second Amendment with Comcast.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON that the Council hereby authorizes and approves the “Second Amendment to Lease” between the City of Wilmington and Comcast Cable Communications, LLC f/k/a Comcast Cable Communications, Inc., a copy of which, in substantial form, is attached hereto as Exhibit “A”, and the Commissioner of Public Works, or her designee, is hereby authorized to execute as many copies of the “Second Amendment to Lease” as may be necessary.

Passed by City Council,

ATTEST: _____
City Clerk

SYNOPSIS: This Resolution approves the second amendment to a lease between the City and Comcast Cable Communications, LLC f/k/a Comcast Cable Communications, Inc. (“Comcast”) that allows Comcast to operate a building used for cable television equipment and a utility shed to house utilities used in connection with local services at 1400 Concord Pike (also known as the Porter Reservoir). The second amendment will (1) extend the term of the lease for five (5) additional years commencing on February 15, 2022, with the option to extend the lease for one (1) additional five-year term thereafter and (2) increase the rent payable by Comcast to the City under the lease to \$48,381.00 for the first year of the second amendment, with an increase of three percent (3%) annually for each year thereafter.

W0116218

EXHIBIT A

SECOND AMENDMENT TO LEASE

THIS SECOND AMENDMENT TO LEASE is entered into this ___ day of _____, 2022, by and between the CITY OF WILMINGTON (“Landlord”) and COMCAST CABLE COMMUNICATIONS, LLC, f/k/a Comcast Cable Communications, Inc. (“Tenant”).

WHEREAS, Tenant is tenant and Landlord is landlord under a certain lease agreement dated February 15, 2002, as amended by Reinstatement of and Amendment To Lease dated August 31, 2012 (as amended, the “Lease”), respecting certain real property located at 1400 Concord Pike/ Rt. 202, Wilmington, DE; and

WHEREAS, the Term of the Lease expires on February 14, 2022 (the “Term”) and both parties wish to extend the Term to February 14, 2027.

NOW, THEREFORE, for good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. The Term of the Lease is hereby extended from February 15, 2022 through and including February 14, 2027.
2. Rent shall be as follows:

<u>Term</u>	<u>Annual Rent</u>	<u>Monthly Rent</u>
February 15, 2022 to February 14, 2023	\$48,381.00	\$4,031.75
February 15, 2023 to February 14, 2024	\$49,832.43	\$4,152.70
February 15, 2024 to February 14, 2025	\$51,327.40	\$4,277.28
February 15, 2025 to February 14, 2026	\$52,867.22	\$4,405.60
February 15, 2026 to February 14, 2027	\$54,453.24	\$4,537.77

3. Provided that Tenant is not in default of the Lease beyond the applicable notice and cure period as of the date Tenant exercises its option to further extend the Term of the Lease, the Tenant is hereby given the option to further extend the Term of the Lease for one (1) additional period of five (5) years (February 15, 2027 to February 14, 2032) to be exercised by the Tenant giving the Landlord written notice thereof no later than November 15, 2026. The rights and obligations of the Landlord and Tenant shall be under the same terms and conditions of the Lease with the rental rates for the extended term as follows:

<u>Term</u>	<u>Annual Rent</u>	<u>Monthly Rent</u>
February 15, 2027 to February 14, 2028	\$56,086.83	\$4,673.90
February 15, 2028 to February 14, 2029	\$57,769.44	\$4,814.12
February 15, 2029 to February 14, 2030	\$59,502.52	\$4,958.54
February 15, 2030 to February 14, 2031	\$61,287.60	\$5,107.30
February 15, 2031 to February 14, 2032	\$63,126.23	\$5,260.52

4. Notices. The section of the Lease regarding notices is hereby deleted in its entirety and replaced with the following:

“All notices or demands required or permitted to be given or served pursuant to the Lease shall be deemed to have been given or served only if in writing forwarded by (a) hand delivery, (b) certified mail, postage prepaid, or (c) overnight courier, and addressed as follows:

To Landlord at: City of Wilmington
800 N. French Street, 9th Floor
Wilmington, DE 19801-3537
Attn: Mayor

With a Copy to: City of Wilmington
800 N. French Street, 6th Floor
Wilmington, DE 19801-3537
Attn: Commissioner of Public Works

With a Copy to: City of Wilmington
800 N. French Street, 9th Floor
Wilmington, DE 19801-3537
Attn: City Solicitor

To Tenant: Comcast Cable Communications, LLC
3800 Horizon Blvd., Suite 300
Trevose, PA 19053
Attn: Director of Facilities

With a Copy to: Comcast Cable Communications, LLC
One Comcast Center
1701 John F. Kennedy Boulevard
Philadelphia, Pa 19103-2838
Attn: Real Estate Counsel

And with copies sent
By e-mail to: legal_notices@comcast.com
real_estate@cable.comcast.com”

5. All other terms and conditions of the Lease shall remain in full force and effect.

IN WITNESS WHEREOF, the Landlord and Tenant have caused this Second Amendment to Lease to be duly executed as of the date first written.

CITY OF WILMINGTON

By: _____
Name:
Title:

COMCAST CABLE COMMUNICATIONS, LLC

By: _____
Name:
Title: