

**First Reading: September 19, 2023**  
**Second Reading: September 26, 2023**

ORDINANCE NO. 14041

AN ORDINANCE GRANTING A FRANCHISE TO UNITI FIBER LLC, FOR THE PURPOSE OF ALLOWING IT TO CONSTRUCT, INSTALL AND OPERATE CERTAIN TELECOMMUNICATIONS WIRES AND CABLING WITHIN THE PUBLIC RIGHTS-OF-WAY IN ORDER TO PROVIDE TELECOMMUNICATIONS SERVICES WITHIN THE CITY; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE; PROVIDING FOR REGULATION AND USE OF THE SYSTEM AND THE PUBLIC RIGHTS-OF-WAY IN CONJUNCTION WITH THE CITY'S RIGHT-OF-WAY ORDINANCE; AND PRESCRIBING PENALTIES FOR THE VIOLATIONS OF THE PROVISIONS HEREIN.

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This Franchise Ordinance and Agreement (this "Agreement") is made this 4th day of October, 2023 (the "Effective Date") by and between the City of Chattanooga, Tennessee, (the "City"), and UNITI FIBER LLC, a Delaware limited liability company authorized to do business within the State of Tennessee, having its principal office at 2101 Riverfront Drive, Little Rock, AR 72202 ("Uniti Fiber").

**RECITALS**

**WHEREAS**, Uniti Fiber is a limited liability company authorized by the State of Tennessee and the Federal Communications Commission to provide Telecommunications Services; and

**WHEREAS**, Uniti Fiber proposes to construct, maintain, operate, and use a telecommunications network within specified portion of the City's rights-of-way for exclusively telecommunications service; and

**WHEREAS**; the City desires to permit, under the terms and conditions set forth herein, the placement and use of said facilities within certain of its rights-of-way, subject to the compliance of Uniti Fiber, its agents, employees, contractors, successors and assigns with all current and future lawful ordinances, resolutions, and other current and future lawful regulations of the City, and with the terms of this Agreement; and

**WHEREAS**, based on Uniti Fiber's representations and information, and in response to its request for a franchise, the City Council has determined that the grant of a new, nonexclusive Franchise to Uniti Fiber on the terms and conditions herein and subject to applicable law, is consistent with the public interest; and

**WHEREAS**, the City and Uniti Fiber have reached agreement on the terms and conditions set forth herein;

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE:

**SECTION 1.** In consideration of the recitals and the promises contained herein, and in exchange for the City's grant of a new, non-exclusive Franchise to Uniti Fiber as its Franchisee;

THE DULY AUTHORIZED SIGNATORIES TO THIS FRANCHISE AGREEMENT DO HEREBY AGREE AS FOLLOWS:

Article 1: Definitions.

For the purpose of this Franchise, and the interpretation and enforcement thereof, the following words and phrases shall have the following meanings:

"Affiliate" means a person that directly, or indirectly, through one or more intermediaries, owns, controls, is owned or controlled by, or is under common ownership or control with another person.

"City" means the City of Chattanooga, Tennessee, and where appropriate, its officers, agents, employees, and volunteers; City does not include the Electric Power Board of Chattanooga (EPB), an independent board of the City of Chattanooga which has separate property rights, including its easements, poles, conduits, etc. Rights to use EPB facilities will be addressed in a separate agreement.

"City Property" means and includes all City- owned Public Rights-of-Way set out in the areas included in the permits for Network Routes issued pursuant to this Franchise.

"Communications Act" means the Communications Act of 1934, as amended by the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, and as may be amended from time to time.

"Conduit" means a duct, pipe, tube, channel, or similar item for carrying wires, lines, cables, fiber optic cable, under existing City rights-of-ways within the area included in the permits for Network Routes issued pursuant to this Franchise or other technology used in the provision of Telecommunications Service approved in writing by the Mayor.

"Franchise" means the right of Uniti Fiber to construct, install, operate, and maintain telecommunications services in the City for a limited term and in a manner in agreement with this chapter.

“Franchisee” means Uniti Fiber LLC, and its successors, assigns and transferees.

"Law" means any local, state or federal legislative, judicial or administrative order, certificate, decision, statute, constitution, ordinance, resolution, regulation, rule, tariff, guideline or other requirement, as amended, now in effect or subsequently enacted or issued during the term of this Franchise, including, but not limited to, the Communications Act of 1934, as amended by the Telecommunications Act of 1996, Pub.L.No. 104-104 101(a), 110 Stat. 70 codified at 47 U.S.C., and all orders, rules, tariffs, guidelines and regulations issued by the Federal Communications Commission or the governing state authority pursuant thereto.

"Mayor" means the Mayor of the City of Chattanooga or a designee in the Department of Transportation for the City having knowledge of City rights-of-ways set out in the area included in the permits for Network Routes issued pursuant to this Franchise.

"Network Route" means the portion of Uniti Fiber's Telecommunications Facilities authorized to be installed in the Public Rights-of Way, as depicted in any permit issued pursuant to this Franchise Agreement.

"Other Ways" means the highways, streets, alleys, utility easements or other rights-of-way within the City, but under the jurisdiction and control of a governmental entity other than the City.

"Overhead Facilities" means utility poles, utility facilities and telecommunications facilities located above the surface of the ground, including the underground supports and foundations for such facilities.

"Person" means any natural person, corporation, company, association, joint stock company or association, firm, partnership, Limited Liability Company, joint venture, trust, individual and any other legally recognized entity, private or public, whether for profit or not-for-profit and includes the officers, agents, employees, or representatives of such entity where appropriate.

"Public Way" or "Rights-of-Way" means and includes all public streets and utility easements, as those terms are defined herein, now, or hereafter held or controlled by the City, but only to the extent of the City's right, title, interest, or authority to grant a license or franchise to occupy and use such streets and easements for the construction, installation, operation, and maintenance of Telecommunications Facilities.

"State" means the State of Tennessee.

"Telecommunications Carrier" means and includes any person that directly or indirectly owns, controls, operates, or manages plant, circuits, equipment, or property (Telecommunications Facilities) within the City, used or to be used for the purpose of offering telecommunications service.

"Telecommunications Facilities" means the plant, equipment, and property, including but not limited to, fiber optic cables, copper cables, lines, wires, optical converters, antennas, remote radio units, cabinets, conduits, inner ducts, pedestals, poles, electronics and other appurtenances

or technology used or to be used to provide or offer Telecommunications Services set out in the area included in the permits for Network Routes issued pursuant to this Franchise.

"Telecommunications Provider" means and includes every person who provides Telecommunications Service over Telecommunications Facilities without any ownership or management control of the Telecommunications Facilities.

"Telecommunications Service or Services" means the providing or offering to a user for rent, sale, or lease, or in exchange for other value received, the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received. Telecommunications Service does not include cable service.

"Underground Facilities" means Telecommunications Facilities or other utility facilities located under the surface of the ground, excluding the underground foundations or supports for Overhead Facilities.

"Utility" or "Public Utility" shall be defined in accordance with applicable state laws regarding public utilities.

"Utility Easement" or "Public Utility Easement" means any easement held by the City and acquired, established, dedicated, or devoted for public utility purposes not inconsistent with Telecommunications Facilities.

Article 2: Grant of Authority. Uniti Fiber is hereby granted a nonexclusive revocable Franchise to construct, install, maintain, and operate its Telecommunications Facilities in, over, under, and across certain Public Rights-of-Way within the City, as shown on the permits issued for Uniti Fiber's Network Routes (the City Right-of-Way"), subject to and conditioned upon the compliance of Uniti Fiber, its agents, employees, contractors, successors and assigns with the provisions of this Agreement, the Land Development office regulations, and all current and future ordinances, resolutions, and regulations of the City, provided that any such future ordinances, resolutions, or regulations shall not impair any lawful contractual rights of Uniti Fiber contained herein, and shall be applied on a nondiscriminatory basis among telecommunications providers. Uniti Fiber's initial proposed Network Routes are depicted on Exhibit 1, attached hereto, and incorporated herein by reference. The City specifically reserves the right to grant other licenses, or franchises or other rights, as it deems appropriate for other Persons to install Telecommunications Facilities on a competitively neutral and nondiscriminatory basis. Uniti Fiber agrees that it will not install anything within any City right-of-way which will adversely affect any City property, including any traffic signals, sidewalks or street light poles within City rights-of-ways or adversely affect any existing utilities as set forth in Section 32-237 of the Chattanooga City Code. Nothing in this Franchise shall be deemed to grant any provider any use of City property, such as traffic signals, sidewalks or street light poles within City rights-of-ways or authorize any use of other utilities' property in violation of Section 32-252 of the Chattanooga City Code.

Article 3: Compliance with Applicable Law. City and Uniti Fiber shall at all times comply with all applicable Laws.

Section 4: Permits. As required by Law, Uniti Fiber, its agents, employees, contractors, successors and assigns shall obtain from the City Engineering Department permits for the excavation, construction, installation of facilities, repair of facilities or any work to be performed within the City Right-of-Way prior to commencement of said work; provided, however, that in emergency situations, where work on existing Telecommunications Facilities must be done immediately and a permit cannot be reasonably and practically obtained prior to the work, a permit shall not be required prior to commencement of work. In such emergency circumstances, however, Uniti Fiber shall obtain a permit the next regular City business day following said emergency. For purposes of this section, an “emergency” shall be defined as a reasonably unforeseen occurrence with an imminent potential to endanger public safety or health, or cause substantial damage to property, that calls for immediate action. The City has the right to require use of existing facilities, where facilities are available on reasonable terms and conditions before a permit for any work to be performed is issued.

4.1 Uniti Fiber shall construct and maintain its Telecommunications Facilities at Uniti Fiber’s expense in accordance with the requirements and specifications of APPENDIX 2-P attached hereto and incorporated herein by reference. The provisions of the version of the National Electrical Code and National Electrical Safety Code in effect at the time the Telecommunications Facilities are installed, and any amendments thereto or replacements thereof, shall apply to all Telecommunications Facilities unless the parties specify different standards or any governmental or regulatory authority make different standards applicable. Changes or amendments to standards and specifications shall not be applied retroactively unless required by law.

4.2 Changes or amendments to APPENDIX 2-P may only be made in a writing signed by both parties. APPENDIX 2-P is a part of this Franchise. The terms and conditions of this Franchise shall govern all modifications or amendments to APPENDIX 2-P.

4.3 Failure to comply with this Article or APPENDIX 2-P to this Franchise shall constitute a default of this Franchise unless the failure is cured as hereinafter provided.

4.4 Where existing poles, underground conduits, ducts, or other wire holding structures are available for use by Uniti Fiber under reasonably negotiated terms and conditions, Uniti Fiber shall use such existing poles, underground conduits, ducts, or other wire holding structures. Uniti Fiber may not erect or install its own poles, underground conduits, ducts, or other wire holding structures without demonstrating to the City that it cannot reasonably get access to existing facilities and without obtaining the permits and prior approval of the City Engineer required by Section 4.6.

4.5 System cable and Telecommunications Facilities may be constructed overhead where poles now exist and electric or telephone lines or both are now overhead. However, where no overhead poles exist, and where all other electric and telephone utilities are underground (except those facilities owned by the Tennessee Valley Authority to the extent City has no jurisdiction over such facilities), all cables and facilities, excluding system passive or active electronics that may be housed in low-profile, above-ground pedestals, shall be constructed underground. Whenever and wherever electric lines and telephone lines are moved from overhead

to underground placement, all Uniti Fiber's cables shall be similarly moved at no cost to the City, provided however, if any Person is reimbursed by the City or any other entity in conjunction with such electric line, telephone line, or cable relocation, Franchisee shall be likewise reimbursed by the City or other entity. The City shall not take any action which would restrict or limit the Franchisee's ability to obtain reimbursement from a third party or other governmental agency.

4.6 *Erection, Removal and Common Use of Poles.* No poles or other wire holding structures shall be erected and used solely for service purposes by the Franchisee without prior approval of the City Engineer with regard to location, height, type and any other pertinent aspect, which approval shall not be unreasonably withheld, conditioned, or delayed. However, no location of any pole or wire-holding structure of the Franchisee shall be a vested interest and such poles or structures shall be removed or modified by the Franchisee at its own expense whenever the City reasonably determines that the public convenience would be enhanced thereby.

Article 5: Issuance of Permits and Permit Fee. Upon execution of this Franchise and performance of the obligations set forth herein to be performed prior to permit issuance, the City will issue all permits necessary to the installation of Uniti Fiber's Telecommunications Facilities, in accordance with the City's standard permitting procedures. Uniti Fiber shall pay to the City for each permit granted by the Land Development Office a fee directly related to the actual costs incurred by the City for the review of plans and inspection of the work in accordance with the ordinances, resolutions, rules, regulations, and policies of the City.

Article 6: Term and Revocation of Franchise.

6.1 The initial term of this Franchise (the "Term") shall be for a period of five (5) years beginning on the date of its execution by all of the appropriate officials shown on the signature page of this Franchise. The initial term shall be automatically renewed for three (3) consecutive renewal terms of five (5) years each, unless either party provides ninety (90) days written notice to the other party of its intent not to renew or unless terminated in accordance with the provisions of this Franchise.

6.2 If the City has reason to believe that Uniti Fiber is materially in violation of this Agreement or other applicable City ordinances, resolutions, rules, regulations or policies, the City shall notify Uniti Fiber in writing of the violation setting forth the nature of such violation. Within ten (10) days of receipt of such notice, Uniti Fiber shall respond in writing providing an explanation or documentation to support that the violation did not occur. Except where the violation involves a circumstance posing imminent danger to public safety or health or imminent damage to property, Uniti Fiber shall be allowed thirty (30) days after written notice is received from the City to cure violations; provided if the violation is such that it cannot reasonably be cured in thirty (30) days, and Uniti Fiber shall commence the necessary work or action to cure such violation within such thirty (30) days and diligently proceed to cure it, Uniti Fiber may be allowed such additional time to cure it as may be necessary, so long as the work or action to cure the violation is being diligently pursued as determined by the City.

- 6.3 In addition to all other rights and powers retained by the City under this Agreement or otherwise, the City reserves the right to revoke this Agreement, and all rights and privileges of Uniti Fiber hereunder shall cease, in the event of material breach, subject to reasonable notice and opportunity to cure, of its terms and conditions. A material breach by Uniti Fiber shall include, but shall not be limited to, the following:
- 6.4 Uniti Fiber's violation of any material provision of this Agreement or any material rule, order, regulation, or determination of the City made pursuant to this Agreement;
- 6.5 Uniti Fiber's failure to compensate the City properly as required in this Agreement;
- 6.6 Uniti Fiber's attempt to evade any material provision of this Agreement or to practice any fraud or deceit upon the City or City residents, businesses, or property owners;
- 6.7 Uniti Fiber's failure to complete its construction and provide services as described herein;
- 6.8 Uniti Fiber's attempt to sell, transfer, convey or assign any of the rights and privileges granted pursuant to this Agreement without complying with the provisions of Article 8 of this Agreement;
- 6.9 Uniti Fiber's failure to comply with any lawful City ordinance, resolution, rule, regulation, or policy.

Article 7: Severability. If any section, subsection, sentence, clause, phrase, or other portion of this Franchise, or its application to any Person, is, for any reason, declared invalid, in whole or in part by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof.

Article 8: Assignment. Uniti Fiber shall not assign this Franchise, in whole or in part, without the prior consent of the City Council, which consent, shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, without such consent Uniti Fiber may a) assign to an Affiliate, b) assign collaterally to a lender as security for a debt or c) assign as part of a merger, corporate reorganization, or sale of all or substantially all of its assets or stock.

Article 9: No Property Interest. This Franchise is not a grant by the City of any fee simple property interest and is made subject and subordinate to the prior and continuing right of the City to use the Public Rights-of-Way as streets, and for the purpose of laying, installing, maintaining, repairing, protecting, replacing and removing sanitary sewers, water mains, storm drains, gas mains, poles and for other municipal uses and with right of ingress and egress, along, over, across and in said Public Rights-of-Way.

Article 10: Public Works. Should the location of Telecommunications Facilities of Uniti Fiber interfere with any proposed construction, maintenance or repair of public works or

improvements by the City, Uniti Fiber, after reasonable advance written notice from the City, at Uniti Fiber's sole expense, shall protect or relocate its Telecommunications Facilities or any applicable part thereof, as directed by the City or other governmental authorities having jurisdiction. Notwithstanding the foregoing, the City shall not require Uniti Fiber to relocate Telecommunications Facilities more than one (1) time in any five (5) year period.

#### Article 11: Use of Public Ways.

11.1: Uniti Fiber, in any opening it shall make in the Public Ways of the City, shall be subject to the provisions of this Franchise and to all applicable ordinances, codes and regulations of the City. The Telecommunications Facilities of Uniti Fiber shall be located so as not to interfere with the public safety or with the convenience of persons using the Public Ways.

11.2: The City reserves the right, by ordinance or resolution of the City Council, or otherwise through proper representatives of the City, to designate specifically the location of the Telecommunications Facilities of Uniti Fiber with reference to municipal facilities, such as sewer and water mains, drainage facilities, fiber optic cable, signal poles and lines and similar services, other facilities, such as public telephone utilities, public electric utilities, public cable television utilities, and railway communication and power lines, in such a manner as to protect the public safety and public and private property and to facilitate the creation of a convenient, attractive and harmonious community. Failure by the City to so designate does not relieve Uniti Fiber of its responsibilities in matters of public safety as provided in this Franchise. Uniti Fiber shall construct, maintain, and locate its Telecommunications Facilities so as not to interfere with the construction, location and maintenance of sewer, water, drainage, electrical, signal and fiber optic facilities of the City.

11.3: The City does require that written permits, in any and all cases, be obtained by Uniti Fiber whenever it becomes necessary for Uniti Fiber to excavate in the Public Ways in order to install, construct, maintain or extend the Telecommunications Facilities. Such permits are applicable to any and all types of excavations in the Public Ways, and the City Council may, by resolution, establish a fee for each excavation made in a Public Way. Such permits may require the particular part or point of the Public Ways where construction or excavation is to be conducted, the length of time in which such permit shall authorize such work to be done and the hours of each day during which such work shall be undertaken. A single permit may be issued for multiple excavations; provided, however, any Public Way opening fee established by the City Council shall apply to each excavation made in Public Ways of the City. Exceptions to the requirement for a written permit may be allowed in cases of emergencies (conditions involving a service outage or danger of personal injury or property damage). In the case of emergency excavations made in the Public Ways without permit, Uniti Fiber shall make a report of each such excavation to the City within two (2) working days and pay such fee as may be established by the City Council for excavations in Public Ways. Any permit applications and inspections related to repair of excavations shall be promptly acted upon by the City so as not to unreasonably delay Uniti Fiber in discharging its public service obligation. Any fees for permits or inspections charged by the City shall be based on the City's costs of administering the program of issuing permits and conducting inspections.



11.4: After installation, repair or extension of the Telecommunications Facilities or any portion thereof or any pavement cut by Uniti Fiber in any Public Way of the City, the incidental trenches or excavations shall be refilled by Uniti Fiber in a manner reasonably acceptable to the Mayor or his designee in the Department of Transportation. Pavement, sidewalks, curbs, gutters or any other portions of Public Ways damaged, disturbed or destroyed by such work shall be promptly restored and replaced with like materials to their former condition, by Uniti Fiber at its own expense; however, where it is necessary, and if authorized by the City, in order to achieve the former conditions, Uniti Fiber shall use materials whose type, specification and quantities exceed those used in the installation, and Uniti Fiber at its own expense shall provide such materials. Where a cut or disturbance is made in a section of sidewalk or paving, rather than replacing only the area actually cut, Uniti Fiber shall replace the full width of the existing sidewalk or appropriate sections of paving as determined by the City Engineer and the full length of the section or sections cut as a direct result of Uniti Fiber's activities, a section being defined as that area marked by expansion joints or scoring or as determined by the City Engineer. Uniti Fiber shall maintain, repair, and keep in good condition for a period of one (1) year following such disturbance all portions of Public Ways disturbed by Uniti Fiber, if such maintenance and repair is necessary because of defective workmanship or materials by Uniti Fiber, or its agents or contractors.

11.5: Uniti Fiber shall promptly remove or correct any obstruction, damage, or defect in any Public Way that was caused by Uniti Fiber in the installation, operation, maintenance, or extension of Uniti Fiber's Telecommunications Facilities. Any such obstruction, damage, or defect which is not promptly removed, repaired, or corrected by Uniti Fiber after proper notice to do so, given by the City to Uniti Fiber, may be removed or corrected by the City, and Uniti Fiber shall reimburse the City for the reasonable, actual cost thereof. If Uniti Fiber fails to so reimburse the City, the City shall have the right, in addition to any other rights existing at law or equity, to place a lien upon any of Uniti Fiber's properties or assets within the Public Ways, subject to any prior existing liens. Any expense, cost, or damages incurred for repair, relocation, or replacement to City water, sanitary sewer, storm sewer, storm drainage, communication facilities or other property resulting from construction, operation, maintenance, or extension of Uniti Fiber's Telecommunications Facilities shall be borne by Uniti Fiber, and all expense and cost incurred in connection therewith by the City shall be fully reimbursed by Uniti Fiber to the City.

(a) If weather or other conditions do not permit the complete restoration required by this Article, Uniti Fiber shall temporarily restore the affected Public Ways or property. Such temporary restoration shall be at the Uniti Fiber's sole expense and Uniti Fiber shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration.

(b) Uniti Fiber, or other person acting in its behalf shall use suitable barricades, flags, flagmen, lights, flares, and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle, or property by reason of such work in or affecting such ways or property. Uniti Fiber shall comply with all federal, state, and local laws and regulations, including the Manual on Uniform Traffic Control Devices flagging requirements.

11.6: Uniti Fiber shall not open, disturb or obstruct, at any one time, any more of the Public Ways than reasonably necessary to enable it to proceed in constructing, installing, maintaining, or

repairing its Telecommunications Facilities. Uniti Fiber shall not permit any Public Ways so opened, disturbed, or obstructed by it in the installation, construction, repair, or extension of its Telecommunications Facilities to remain open or the Public Way disturbed or obstructed for a longer period of time than is reasonably necessary. In all cases where any Public Ways are excavated, disturbed, or obstructed by Uniti Fiber, Uniti Fiber shall take all reasonable precautions necessary or proper for the protection of the public and shall maintain adequate warning signs, barricades, signals, and other devices necessary or proper to adequately give notice, protection, and warning to the public of the existence of all actual conditions present.

11.7: Whenever the City widens, reconstructs, realigns, paves or repaves, or otherwise works on any Public Ways, or change the grade or line of any Public Ways, or constructs or reconstructs any water, sanitary sewer, storm sewer, drainage or communications facility of the City, it shall be the duty of Uniti Fiber at Uniti Fiber's cost and expense to move, alter or relocate its Telecommunications Facilities or any part thereof as reasonably requested by the City. Upon written notice by the City Manager of the City's intention to perform work as specified above, Uniti Fiber shall within a reasonable period of time accomplish its obligation in accordance with and to conform to the plans of the City for such construction, reconstruction, or improvements. Should Uniti Fiber fail, refuse or neglect to comply with such notice, the Telecommunications Facilities or any part thereof may be removed, altered, or relocated by the City, the cost of which shall be paid by Uniti Fiber, and the City shall not be liable to Uniti Fiber for any damages resulting from such removal, alteration, or relocation.

11.8 Uniti Fiber or other person acting in its behalf shall use suitable barricades, flags, flagmen, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting such ways or property and shall comply with all federal, state, and local laws and regulations, including the Tennessee Department of Transportation flagging requirements.

11.9 All trees, landscaping and grounds removed, damaged, or disturbed as a result of the construction, installation maintenance, repair or replacement of Telecommunications Facilities must be replaced or restored as nearly as may be practicable, to the condition existing prior to performance of work. Uniti Fiber shall abide by all ordinances and regulations governing trees and landscaping and shall abide by all directions of the City Forester issued pursuant to such ordinances and regulations.

## Article 12: Fees and Charges

12.1 Uniti Fiber shall pay to the City the fees and charges as specified in and in accordance with the terms and conditions of APPENDIX 1-P, attached hereto and incorporated herein by reference.

12.2 Nonpayment of any amount due under this Franchise shall constitute a default of this Franchise unless the non-payment is cured as hereinafter provided.

12.3 At City's request Uniti Fiber shall furnish a bond or other satisfactory evidence of security in such amount as the City may from time to time require, in an initial amount of the annual franchise fee as calculated in APPENDIX 1-P, to guarantee payment of any sums which

may become due to City for fees due hereunder or charges for work performed for Uniti Fiber's benefit pursuant to this Franchise, upon termination of any Franchise issued hereunder.

12.4 The parties shall effect changes or amendments to APPENDIX 1-P by separate execution of APPENDIX 1-P as so modified. The separately executed APPENDIX 1-P shall become part of this Franchise. The terms and conditions of this Franchise shall govern all modifications or amendments to APPENDIX 1-P and all other Appendices. To the extent there is an inconsistency between this Franchise and any appendix, this Franchise shall govern.

12.5 Uniti Fiber shall continue to be responsible for franchise fees for use of the Rights-of-way until the City receives written notice of removal.

12.6 In the event of a change in the Telecommunications Facilities, or the use or operation of the Telecommunications Facilities, or a change in any statute, decision or rule that causes the City to incur additional cost or perform additional work after the Effective Date of this Franchise, Uniti Fiber shall reimburse the City for any such costs actually and reasonably incurred by City after the City provides satisfactory written evidence of such reasonable costs to Uniti Fiber.

Article 13: Maintenance, Repair and Emergency Work: Uniti Fiber shall maintain its Telecommunications Facilities in a good and safe condition and in a manner that complies with all applicable Laws, codes, and regulations.

13.1 The construction, expansion, reconstruction, excavation, use, maintenance and operation of Uniti Fiber's Network Routes, Telecommunications Facilities and property shall be subject to all lawful police regulations of the City and performed in accordance with the City's standards, policies and code requirements for utility location and coordination. In addition to any other City regulations or requirements, thirty (30) days prior to the commencement of construction of Uniti Fiber's Network Routes, Uniti Fiber shall provide the City Engineer, Director of Transportation, Director of Land Development, and the Director of Information Systems with a copy of the construction work plans and drawings. Modification or expansion of Uniti Fiber's authorized routes must be approved by the Director of Land Development. Uniti Fiber shall be responsible for any additional fees due to expanded authorized routes as required in APPENDIX 1-P "Compensation". Uniti Fiber shall not proceed with construction until the plans and drawings have been approved in writing by the Director of Engineering, which approval shall not be unreasonably withheld, conditioned, or delayed.

13.2 At any time after thirty (30) days after completion of each of Uniti Fiber's Network Routes, the City may request that Uniti Fiber provide to the Director of Land Development and the Director of Information Systems a complete set of "as built" drawings for approval. Further, after each replacement, relocation, reconstruction, expansion, or removal of its facilities, Uniti Fiber shall promptly notify the City of the exact changes made and thereafter the City may request that Uniti Fiber provide a new set of "as built" drawings of each modification to the Director of Land Development and the Director of Information Systems.

13.3 Prior to the commencement of any work on its Network Routes, Uniti Fiber shall provide its fiber optics location data, which shall conform to the City's standards, to the Director of Information Systems. Such data shall adhere to the City's computer mapping system.

13.4 Upon written request of the City, Uniti Fiber shall remove and abate any portion of a Network Route, or any portion of its Telecommunications Facility that is reasonably deemed to be dangerous to life or property, and if Uniti Fiber, after receipt of said written notice, fails or refuses to act, the City may remove or abate the same, at the sole cost and expense of Uniti Fiber, all without compensation or liability for damages to Uniti Fiber. Uniti Fiber shall promptly restore the City Rights-of-Way to its condition prior to Uniti Fiber's construction, maintenance, or excavation, to the reasonable satisfaction of the Director of Engineering. Uniti Fiber shall excavate only for the construction, installation, expansion, repair, removal, and maintenance of all or a portion of its Network Routes.

13.5 Each of Uniti Fiber's Network Routes shall be completed within twelve (12) months from the commencement of its construction, unless Uniti Fiber is prevented from doing so by events beyond Uniti Fiber's reasonable control, or otherwise authorized by the Director of Land Development. If Uniti Fiber does not timely complete its Network Route(s) as required by this Section, Uniti Fiber will be required to obtain an additional building permit for the applicable Network Route.

Article 14: Safety Standards. Uniti Fiber shall at all times employ a reasonable standard of care and shall install and maintain using commercially reasonable methods and devices for preventing failure or accidents which are likely to cause damages, injuries, or nuisances to the public.

Article 15: Police Power. All rights and privileges granted hereby are subject to the lawful exercise of the police power of the City to adopt and enforce local laws, rules, and regulations necessary to the health, safety, and general welfare of the public.

Article 16: Removal of Unauthorized Facilities: Within thirty (30) days following written notice from the City, Uniti Fiber shall, at its own expense, remove any unauthorized Telecommunications Facility from the Public Ways or other areas of the City. A Telecommunications Facility is unauthorized and subject to removal in the following circumstances:

16.1: Upon expiration or termination of this Franchise, unless replaced by a subsequent Franchise between the City and Uniti Fiber that becomes effective prior to the expiration or termination of this Franchise.

16.2: Upon abandonment of a Telecommunications Facility within the Public Ways of the City.

16.3: If a Telecommunications Facility was constructed or installed without the prior issuance of a required construction permit.

16.4: If a Telecommunications Facility was constructed or installed at a location not permitted by this Franchise.

Article 17: Emergency Removal or Relocation of Facilities. The City retains the right to move any Telecommunications Facilities located within the Public Ways or other areas of the City as the City may reasonably determine to be necessary in response to an imminent public health or

safety emergency; provided that prior to taking such action, the City will notify Uniti Fiber in writing of any such emergencies that may impact its Telecommunications Facilities by either notifying Uniti Fiber or the appropriate notification center.

Article 18: Damage to Franchisee's Facilities. The City, its officers, agents, employees shall not be liable for any damage to or loss of any Telecommunications Services or any Telecommunications Facility within the Public Ways or any other areas of the City as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling, or work or activity or lack of any activity of any kind by or on behalf of the City; except to the extent caused by the City's negligence or willful misconduct. Nothing herein shall be construed to relieve either Uniti Fiber or the City of the provisions of T.C.A. §65-31-101 et seq., as the same may be amended (Underground Utility Damage Prevention Act).

Article 19: Facilities Maps. After completion of construction of the Telecommunications Facilities, and upon receipt of written request from the City, Uniti Fiber shall provide the City with "as built" drawings and an accurate map or maps in an electronic form agreed to by City and Uniti Fiber certifying the location of all of its underground Telecommunications Facilities within the City. To the extent City and Uniti Fiber cannot agree on an appropriate electronic form for the above referenced map or maps, Uniti Fiber agrees to provide City with the requested information in hard copy, electronic and paper format. Upon receipt of the City's written request, Uniti Fiber shall also provide the City with a list of the Public Ways along which its above-ground Telecommunications Facilities are located.

Article 20: Insurance Requirements. Uniti Fiber shall at its sole expense obtain and maintain in full force and effect for the duration of the Agreement and any extension hereof at least the following types and amounts of insurance for claims which may arise from or in connection with this Agreement, including risks associated with the use and occupancy of the City Right-of-Way. All insurance must be underwritten by insurers with an A.M. Best rating of A-VIII or better.

1. *Commercial General and Umbrella Liability Insurance*; occurrence version commercial general liability insurance, and if necessary, umbrella liability insurance, with a limit of not less than \$2,000,000 each occurrence for bodily injury, personal injury, property damage, and products and completed operations. If such insurance contains a general aggregate limit, it shall apply separately to the work/location in this Agreement or be no less than \$3,000,000.

Such insurance shall:

a. Contain or be endorsed to contain a provision that includes the City, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of work or operations performed by or on behalf of Uniti Fiber including materials, parts, or equipment furnished in connection with such work or operations. The coverage shall contain no special limitations on the scope of protection afforded to the additional insureds. Proof of additional insured status up to and including copies of endorsements and/or policy wording will be required.

b. For any claims related to this project, Uniti Fiber's insurance coverage shall be primary with respect to the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance programs covering the City, its officials, officers, employees, and volunteers shall be excess of Uniti Fiber's insurance and shall not contribute with it.

2. *Automobile Liability Insurance*; including vehicles owned, hired, and non-owned, with a combined single limit of not less than \$1,000,000 each accident. Such insurance shall include coverage for loading and unloading hazards. Insurance shall contain or be endorsed to contain a provision that includes the City, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of Uniti Fiber.

3. *Workers' Compensation Insurance*. Uniti Fiber shall maintain workers' compensation insurance with statutory limits as required by the State of Tennessee or other applicable laws and employers' liability insurance with limits of not less than \$500,000. Uniti Fiber shall require each of its subcontractors to provide Workers' Compensation for all of the latter's employees to be engaged in such work unless such employees are covered by Uniti Fiber's workers' compensation insurance coverage.

4. *Environmental Impairment Liability*. Uniti Fiber shall maintain environmental impairment liability insurance with limits of not less than \$1,000,000 per occurrence.

5. *Pollution Liability Insurance*. Uniti Fiber shall procure pollution liability coverage, ISO CG 0039, or equivalent. If the coverage is written on a claims-made form:

a. The "Retro Date" must be shown and must be before the date of the contract or the beginning of contract work.

b. Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of the contract work and acceptance by the City.

c. If coverage is cancelled or non-renewed and not replaced with another claims-made policy form with a "Retro Date" prior to the contract effective date, Uniti Fiber must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

d. A copy of the claims reporting requirements must be submitted to the City for review.

6. *Excess Liability Insurance*. Uniti Fiber shall maintain excess liability insurance in addition to the insurance specified above, excluding environmental and pollution liability, with a limit of not less than \$10,000,000 each occurrence. This coverage shall be on a follow form basis, or be at least as comprehensive as the underlying insurance.

7. *Other Insurance Requirements*. Uniti Fiber shall:

a. Prior to commencement of services, furnish the City with original certificates and amendatory endorsements effecting coverage required by this section and provide at least 30 days' prior written notice of cancellation by the insurer for any reason other than non-payment of

premium to the Chattanooga City Attorney, 100 East 11<sup>th</sup> Street, Suite 200, Chattanooga, TN 37402. Proof of policy provisions regarding notice of cancellation will be required.

b. Upon the City's written request, provide copies of endorsements in lieu of or in addition to certificates of insurance. Franchisee will make copies of the policies available at its most proximate place of business upon the City's written request. Copies of policies will only be requested when contracts are deemed to be extremely or uniquely hazardous, include a dollar amount that is significant to the overall budget of the City or a City Department, or the coverage(s) may not follow standard insurance forms. A policy will only be requested after the City's Risk Manager has reviewed the contract and proof of coverage has been provided. Should the certificate of insurance refer to specific coverage wording or endorsement(s), proof of such policy wording or endorsement(s) will be required.

c. Replace certificates, and endorsements for any such insurance expiring prior to completion of services.

d. Maintain such insurance from the time services commence until services are completed. Failure to maintain or renew coverage or to provide evidence of renewal may be treated by the City as a material breach of contract.

e. If Uniti Fiber cannot procure insurance through an insurer having an A.M. Best rating of A-VIII, Uniti Fiber may, in the alternative, place such insurance with insurer licensed to do business in Tennessee and having A.M. Best Company ratings of no less than A. Modification of this standard may be considered only upon appeal to the City Attorney.

Any deductibles and/or self-insured retentions greater than \$50,000 must be disclosed to and approved by the City prior to the commencement of services. Use of large deductibles and/or self-insured retentions will require proof of financial ability as determined by the City.

The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, and employees for losses arising from work performed by Uniti Fiber for or with regard to the City. Proof of waiver of subrogation up to and including copies of endorsements and/or policy wording will be required.

All general liability policies must be written on an occurrence basis unless the City Attorney determines that a claims made basis is reasonable in the specific circumstance. Use of policies written on a claims made basis must be approved by the City Attorney and retroactive dates and/or continuation dates must be provided to the City prior to commencement of any work performed. Professional Liability and Environmental Liability (Pollution Coverage) are most commonly written on a claims made basis and are generally acceptable in that form.

Article 21: Indemnification of City. Uniti Fiber shall defend, indemnify and hold harmless the City, its officers, employees and agents from any and all liabilities which may accrue against the City, its officers, employees and agents for any and all lawsuits, claims, demands, losses or damages alleged to have arisen from an act or omission of Uniti Fiber in performance of this Agreement or from Uniti Fiber's failure to perform this Agreement using ordinary care and skill, except where such injury, damage, or loss was caused by the negligence or willful misconduct of the City, its agents or employees.

Uniti Fiber shall save, indemnify and hold the City harmless from the cost of the defense of any claim, demand, suit or cause of action made or brought against the City alleging liability referenced above, including, but not limited to, costs, fees, attorney fees, and other expenses of any kind whatsoever arising in connection with the defense of the City; and Uniti Fiber shall assume and take over the defense of the City in any such claim, demand, suit, or cause of action upon written notice and demand for same by the City. Uniti Fiber will have the right to defend the City with counsel of its choice that is satisfactory to the City, such consent not to be unreasonably withheld or delayed, and the City will provide reasonable cooperation in the defense as Uniti Fiber may request. Uniti Fiber will not consent to the entry of any judgment or enter into any settlement with respect to an indemnified claim without the prior written consent of the City, such consent not to be unreasonably withheld or delayed. The City shall have the right to participate in the defense against the indemnified claims with counsel of its choice at its own expense.

Uniti Fiber shall save, indemnify, and hold City harmless and pay judgments that shall be rendered in any such actions, suits, claims or demands against City alleging liability referenced above. The indemnification and hold harmless provisions of this Agreement shall survive termination of the Agreement.

Both parties hereby waive the right to recover punitive or consequential damages from the other party.

Article 22: Bonds. Uniti Fiber shall obtain and maintain, at its sole cost and expenses, for the benefit of and filed with the City Attorney's Office, two (2) corporate surety bonds, each written with a surety company authorized to do business in the State of Tennessee and found acceptable by the City Attorney, in an amount to be determined by the Land Development Department depending upon the nature of the work to be performed and the permit fee. The first bond will guarantee the timely and safe construction of Uniti Fiber's network (the "Construction Bond"). The second bond will secure Uniti Fiber's performance of its obligations and faithful adherence to all requirements of this Agreement (the "License Agreement Bond").

22.1 The City reserves the right to reevaluate the bond amount after the first year of the initial term and to adjust the bond requirement or bond amount if deemed necessary or prudent by the City Attorney, it being agreed and understood that the Construction Bond will remain in full force and effect until project completion and acceptance. Provided, however, the Construction Bond shall not exceed the amount of the contract for the construction of the Telecommunications Facilities that are subject to this Agreement, and the Construction Bond shall terminate when the construction of Uniti Fiber's Network Routes is complete and such completion is certified in writing by Uniti Fiber and accepted in writing by the City. Provided further, the License Agreement Bond shall not exceed the amount of \$75,000 and shall be maintained throughout the term of this Agreement. The initial License Agreement Bond will be written to run concurrently with the License Agreement's initial term. Additional extensions to the term of the Agreement will be bonded with a continuation certificate to the original License Agreement Bond (or on a subsequent original License Agreement Bond written by a different surety company, acceptable to the City Attorney, if necessary), executed by the surety company and by Uniti Fiber, it being agreed and understood that the Surety's continuation certificate shall be limited to annual renewal extensions, and reissued annually. Uniti Fiber shall provide both of these corporate surety bonds at the time of execution of this Agreement.



22.2 The Construction Bond shall provide, but shall not be limited to, the following condition: there shall be recoverable by the City, jointly and severally, from the principal and surety, any and all damages, losses or costs, including attorneys' fees, suffered by the City resulting from Uniti Fiber's construction and installation of its applicable Network Route, and from the failure of Uniti Fiber to construct and install the applicable Network Route safely and satisfactorily, and to complete its applicable Network Route within 18 months after the commencement of construction, unless the failure is due to conditions outside the reasonable control of Uniti Fiber.

22.3 The License Agreement Bond shall provide, but shall not be limited to, the following conditions: there shall be recoverable by the City, jointly and severally, from the principal and surety, any and all damages, losses, or costs, including attorneys' fees, suffered by the City resulting from Uniti Fiber's installation, operation, or maintenance of its Telecommunications Facilities, or from its breach of the terms of this Agreement.

22.4 Any extension to the prescribed time limit in subsection 22.2 for completion of the applicable Network Route within 18 months due to causes beyond the reasonable control of Uniti Fiber shall be authorized by the City Attorney, and the City Attorney's authorization may not be unreasonably withheld, conditioned, or delayed.

22.5 The rights reserved to the City with respect to the Construction Bond and the License Agreement Bond are in addition to all other rights and remedies of the City, whether reserved by this Agreement or authorized by law or equity; and no action, proceeding or exercise of a right or remedy with respect to such bond shall affect any other rights or remedies the City may have.

22.6 The Construction Bond and the License Agreement Bond shall contain the following endorsement: "It is hereby understood and agreed that this bond will not be cancelled or non-renewed by the surety until sixty (60) days after receipt by the City Attorney, by registered mail, of written notice of intent to cancel or not to renew the bond."

Article 23: Coordination of Construction Activities. Uniti Fiber agrees to cooperate with the City and with other telecommunications providers and all construction locations, activities and schedules shall be coordinated, as ordered by the City Engineer, to minimize public inconvenience, disruption, or damages.

Article 24: Non-enforcement. Neither party shall be excused from complying with any of the terms and conditions of this Franchise by any failure of the other party, upon any one or more occasions, to insist upon such party's performance or to seek such party's compliance with any one or more of such terms or conditions of this Franchise.

Article 25: Controlling Law. Notwithstanding any conflicts of laws doctrines to the contrary, this Franchise shall be construed and enforced in accordance with the substantive law of the State of Tennessee and any applicable federal laws.

Article 26: Removal of Franchisee's Facilities. Upon termination of this Franchise, Uniti Fiber shall promptly remove all Telecommunications Facilities from the Public Ways.

Article 27: Notices. All notices required or permitted to be given under this Franchise shall be in writing, addressed as set forth below, and shall be hand-delivered to the addressee, sent by Federal Express or similar overnight delivery service, or sent by U.S. Mail, certified and return receipt requested.

If to the City:  
Mayor's Office  
City of Chattanooga  
101 East 11th Street  
Chattanooga, TN 37402

with a copy to the City Attorney at:

Chattanooga City Attorney  
100 East 11<sup>th</sup> Street, Suite 200  
Chattanooga, TN 37402

If to Uniti Fiber:

Attn: Kelly McGriff  
Vice President & Deputy General Counsel  
Uniti Fiber LLC  
107 St. Francis Street, Suite 1800  
Mobile, AL 36602  
With a copy (which shall not constitute legal notice) to:

Uniti Fiber LLC  
Attn: Legal Department  
2101 Riverfront Drive  
Little Rock, AR 72202

Article 28: Nondiscriminatory Access. Notwithstanding anything included in this Franchise to the contrary, in no event shall Uniti Fiber be required to pay any fee, charge, cost, expense or compensation, or perform any service, that is (a) in excess of that amount permitted or directed by Law; or (b) not imposed by the City upon and performed by any other telecommunication providers or telecommunication carriers using the Public Rights-of-Way.

Article 29: Default and Termination. In the event either Party shall fail to observe or perform any of the terms and provisions of this Franchise and such failure shall continue for a period of thirty (30) days after receipt of written notice from the non-defaulting party ("Default"), then the non-defaulting party may terminate this Franchise, provided however, that where such Default cannot reasonably be cured within such period, and the defaulting party has proceeded promptly to cure the same and is prosecuting such cure with diligence, the time for curing such Default shall be extended for an amount of time, not to exceed sixty (60) days, as may be necessary under the circumstances to complete such cure. Notwithstanding the foregoing, the cure period for

failure to pay money or failure to maintain required insurance coverage shall be 30 days after written notice. Upon the occurrence of a Default, as defined above, by either Party, the non-defaulting Party may exercise any and all remedies available at law or equity, including but not limited to termination of this Franchise.

SECTION 2. BE IT FURTHER ORDAINED that this Ordinance shall take effect immediately after its passage.

Passed on second and final reading: September 26, 2023

  
\_\_\_\_\_  
CHAIRPERSON

APPROVED:  DISAPPROVED:

  
\_\_\_\_\_  
MAYOR

PAN/mem

ACCEPTANCE

The foregoing Franchise and its terms and conditions are hereby accepted.

This the 2nd day of October, 2023.

UNITI FIBER LLC

By: 

WITNESS:



CITY OF CHATTANOOGA, TENNESSEE

 10/3/23  
TIM KELLY, Mayor Date

ATTEST: 

APPROVED AS TO FORM:

  
CITY ATTORNEY

## **APPENDIX 1-P SCHEDULE OF COMPENSATION AND CHARGES**

This APPENDIX 1-P is an integral part of the Franchise Agreement and contains the fees and charges governing the Telecommunications Facilities of Uniti Fiber in the corporate boundaries of the City of Chattanooga.

### **1. ANNUAL COMPENSATION TO CITY FOR FRANCHISE RIGHTS**

Uniti Fiber acknowledges that the City is permitted to collect a fee that is reasonably related to the City's costs associated with owning, managing, and maintaining public rights-of-way ("City's Costs") and that the amounts listed below are fair, reasonable, and reasonably related to the pro-rata share Uniti Fiber's facilities to be located underground in the public rights-of-way contribute to the City's Costs. Uniti Fiber and the City agree that the compensation for this Franchise shall be \$0.75 per linear foot per year, based on as-built drawings submitted at the conclusion of each network construction.

The first payment will be due as a lump sum upon the issuance of a permit by the City for the installation of Telecommunications Facilities, and the remaining yearly payments will be made annually on the anniversary of the date of the first payment. The parties agree that the amounts listed above are a reasonable estimate of these costs given that the actual costs are indeterminable or difficult to measure at the time of the parties' entry into this Franchise Agreement, and that it is the parties' mutual intent that these amounts serve as a reasonable measurements of these costs until this Franchise Agreement expires by its terms.

The City agrees that it will make a reasonable and good faith effort to conduct a cost study for the use of the City's Rights of Way, and further use its best efforts to negotiate in good faith for permitting and reasonable usage fees based upon the results of such cost study by December 31, 2024.

If any local, state, or federal law enacted in the future limits or otherwise defines the maximum amount of the compensation that the City may receive for this Franchise to an amount that is lower than the compensation provided in this Agreement, the parties agree that the compensation shall be reduced to comply with such law(s). Furthermore, if the City grants any other person or entity a franchise for the installation of telecommunications equipment in the City's Rights-of-Way for an annual fee less than the compensation provided in this Agreement, the parties agree that the compensation provided in this Agreement shall be reduced to be equal to that lesser amount charged the other person or entity.

The application fee provided under the City Code at Section 32-233 shall be provided before the City will issue a permit to install the Telecommunications Facilities which are the subject of this Franchise.

## **2. CHARGES FOR WORK PERFORMED BY CITY**

### **(a) Computation**

(1) If Uniti Fiber requests that the City perform any work on Uniti Fiber's Telecommunications Facilities, including without limitation, engineering, rearrangements, or removals of the Telecommunications Facilities from the City's rights-of-way, Uniti Fiber shall compensate the City based upon the full actual cost and expense to the City for performing work. The City shall determine the cost in accordance with the regular and customary methods CITY uses in determining such costs.

(2) Franchisee shall make an advance payment to CITY to cover the estimated cost of all work. After CITY completes the work, CITY shall determine the actual cost of the work and will make a debit or credit adjustment so that the actual cost rather than estimated cost will apply. Franchisee shall make additional advance payments as the work progresses.

(3) Only upon written consent of CITY, Franchisee may provide a Surety Bond in Lieu of the advance payment requirement of (2) above.

### **(b) Payment Date**

All bills for such other charges shall be payable upon presentment to Franchisee, and failure to pay within thirty (30) days after receipt of the invoice by Franchisee shall constitute a default of this Franchise.

## **APPENDIX 2-P**

This APPENDIX 2-P is an integral part of the Franchise Agreement and contains certain minimum requirements and specifications governing the attachment of cables, equipment, and facilities of Uniti Fiber (sometimes called Attachments in this Appendix) within City rights-of-way and on City property.

### **GENERAL**

1. Franchisee shall comply with all federal, state, and local laws, ordinances, regulations, and licensing requirements, including, without limitation, the provisions of the National Electrical Safety Code.
2. Franchisee is solely responsible for the proper design, construction, and maintenance of its Attachments.
3. CITY or an authorized Contractor shall perform any rearrangements of CITY's facilities or replacement of poles required to accommodate Franchisee's Attachments.
4. The fees and charges specified in APPENDIX 1-P shall be applicable to all licenses granted to Franchisee hereunder, without regard to the methods of attachment used.
5. Franchisee shall plainly identify plans to utilize City rights-of-ways by appropriate marking satisfactory to CITY.
6. All requirements of the National Electrical Safety Code referred to herein shall mean the 2007 Edition of such code and all requirements of the National Electrical Code shall refer to the 2011 Edition of such code, or any later amendment or replacement thereof, and shall include any additional requirements of any applicable Federal, State, County or Municipal code, rule, or order. References to simply the Safety Code, or to NESC, have the same meaning.
7. While many of the standards and technical requirements for Franchisee's cable, equipment and facilities are set forth herein, CITY reserves the right to specify the type of construction required in situations not otherwise covered in this Appendix. In such cases, CITY will in its discretion furnish to Franchisee written materials that will specify and explain the required construction. Any amendment or revision to any standards or specifications referred to in Appendix 2-P or in the Franchise shall not apply retroactively and CITY shall provide sixty (60) days advance notice of any proposed changes, revisions, or amendments.

### **VOLTAGE, POWER, ELECTRICAL, INTERFERENCE**

8. Franchisee shall not use or carry voltages or currents in excess of the limits prescribed for communications conductors by the NESC. However, all parts of Franchisee's cabling or wiring carrying voltages in excess of 50 volts AC (rms) to ground or 135 volts DC to ground, except for momentary signaling or control voltages, shall be enclosed in an effectively grounded sheath or shield. All energized parts of Franchisee's cabling or wiring shall be appropriately covered to prevent accidental contact by the general public, CITY's employees, or employees of another entity having facilities on the same pole. CITY reserves the right to require that adequate safety



procedures and equipment, in its judgment, be followed and made a party of each of Franchisee's uses on City rights-of-ways.

9. CITY shall determine whether Franchisee's Attachments cause electrical interference with CITY's communications and/or control facilities. Franchisee shall, on CITY's demand, promptly correct at Franchisee's expense any such interference, including, if necessary, removal of the Attachments causing the interference.

10. None of Franchisee's cabling or wiring within rights-of-way shall use the earth as the sole conductor for any part of the circuit.

11. Franchisee shall not circumvent CITY's corrosion mitigation measures (e.g., short circuit insulating joints).

### **GROUNDING AND BONDING**

12. All power supplies shall be grounded. The neutral side of the power drop shall be continuous and not fused. The neutral line shall also be bonded to the power supply cabinet. The cabinet shall be connected to an earth ground at the pole.

### **CLEARANCES**

13. Franchisee's cabling and wiring within rights-of-ways shall be subject to the same clearances as communications facilities and shall meet all of the pertinent clearance requirements of the NESC.

**EXHIBIT 1**

Uniti Fiber's Initial Proposed Network Routes

[to be provided by Uniti Fiber]



EXHIBIT 1

