

HyperFiber of Washington, LLC

**RIGHT-OF-WAY FRANCHISE
FOR
WIRELINE COMMUNICATIONS**

Franchise No. FRAN25-0002

King County, Washington

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I. ESTABLISHMENT

RECITALS

WHEREAS, pursuant to Article 11, Sec. 4 of the Washington Constitution, RCW 36.55.010 and Chapter 6.27 of the King County Code, King County, a home rule charter county and political subdivision of the State of Washington, is authorized to grant franchises for use of County ROW (as defined below); and

WHEREAS, King County grants franchises to persons or public and private Utility corporations to authorize the Utility companies to use County ROW to provide Utility service in unincorporated areas of King County. Franchises grant a valuable property right to Utility companies to use County ROW, and thereby allow the Utilities to profit and benefit from the use of County ROW in a manner not generally available to the public; and

WHEREAS, on February 24, 2025, HyperFiber of Washington, LLC applied for a King County Utility franchise for the right to use County ROW for the Construction, Operation, and Maintenance of Wireline Telecommunications transmission and service lines, within the Franchise Area delineated in Exhibits A and B; and

WHEREAS, the King County Department of Executive Services and Department of Local Services have reviewed HyperFiber of Washington, LLC's application for a Utility franchise; and

WHEREAS, legal notice of the franchise application and of the hearing has been given as required by Law (as defined below); and

WHEREAS, the County Council (as defined below) held a public hearing on (date), to solicit comments from the public and to consider whether to grant the requested franchise to HyperFiber of Washington, LLC.

APPLICATION AND HEARING

The application of HyperFiber of Washington, LLC, a limited liability company, (“Franchisee”) for a franchise to set, erect, lay, place, locate, relocate, construct, reconstruct, install, reinstall, extend, support, adjust, affix, attach, connect, align, realign, alter, modify, improve, operate, maintain, repair, remove, replace, and use transmission, distribution, and service lines, protective relay systems, fiber optic communications, and appurtenances in, upon, over, along, across, through, and under the County ROW located within the Franchise Area described in the attached Exhibit "A" (“Franchise Area Legal Description”) and mapped in the attached Exhibit “B” (“Franchise Area Maps”) was heard on the _____ day of _____, 20____.

GRANT OF FRANCHISE

Pursuant to Article 11, Sec. 4 of the Washington Constitution, RCW 36.55.010, and Chapter 6.27 of the King County Code (hereafter “KCC”), King County, a home rule charter county and political subdivision of the State of Washington, has considered the application, the interests proposed and advanced, and the public comment. The County Council (as defined below) has found that it is in the public interest to grant this franchise and has ordered that a non-exclusive Wireline Telecommunications franchise be granted to HyperFiber of Washington, LLC, and its successors and assigns (“Franchisee”), subject to the terms and conditions contained in this franchise agreement (the “Franchise”).

This Franchise grants Franchisee the right, privilege, and authority to use the Franchise Area (as defined below) to set, erect, lay, construct, extend, support, attach, connect, operate, maintain, repair, relocate, remove, replace, and use Facilities (as defined below) for Wireline Telecommunications, including transmission, distribution, and service lines, protective relay systems, fiber optic communications, and appurtenances in, upon, over, along, across, through, and under the Franchise Area.

This Franchise does not transfer, convey, or vest an easement or title in or to any County ROW or portions thereof in or to Franchisee. This Franchise is granted subject to all of the terms and conditions contained herein.

II. TERMS AND CONDITIONS

GOVERNANCE; RULES AND REGULATIONS

Section 1. Definitions

References to any County official or office also refer to any official or office that succeeds any or all of the responsibilities of the named official or office. The following definitions shall apply for the purposes of this Franchise and all exhibits attached hereto. Defined words shall have their meaning as defined in this section or elsewhere in this Franchise when capitalized in the text. Defined words in the singular will be held to include the plural and vice versa, as applicable and

depending on the context. Words not defined, and defined words when not capitalized in the text shall be given their common and ordinary meaning.

Authorized Hazardous Materials. Hazardous Materials that are reasonably necessary for Franchisee's activities authorized by the Franchise and that are customarily used in Franchisee's industry. The use of Authorized Hazardous Materials does not constitute a Release.

Colocation or Colocator. The term "Colocation" means the placement and arrangement of other users' lines, facilities, and equipment on Facilities. The term "Colocator" shall mean a third-party Utility or other authorized user to attach or occupy Facilities pursuant to Section 28 of this Franchise.

Construct or Construction. Activities performed by Franchisee, its agents, representatives, employees, and Contractors to construct, reconstruct, install, reinstall, align, realign, locate, relocate, adjust, affix, attach, modify, improve, or remove Facilities, and related activities such as digging or excavating for the above purposes.

Contractor. All agents carrying out any activities on behalf of Franchisee, including subcontractors.

County. King County, a home rule charter county and political subdivision of the State of Washington. Where discretionary acts by the County are authorized or required herein, unless otherwise stated such acts shall be performed by a Director.

County Council. The metropolitan county council of King County, a home rule charter county, in accordance with the Constitution of the State of Washington.

County Parties. The County, its elected and appointed officials, officers, employees, agents, and contractors.

County Risk Manager. The director of the County's Office of Risk Management Services.

County Road Engineer. The county road engineer as defined in KCC 14.01.100 and specified in RCW 36.75.010 and RCW 36.80.010.

County ROW. All public land, property, or property interest, (e.g., an easement), usually in a strip, as well as bridges, trestles, or other structures, acquired by or dedicated to the County or otherwise devoted to transportation purposes, including but not limited to all maintained or unmaintained County roads, streets, avenues, or alleys. For purposes of this Franchise, "County ROW" does not include recreational or nature trails except where such trails intersect with or are located within County ROW. Any reference to use of or in the County ROW includes use in, upon, over, along, across, through, or under the County ROW, as applicable.

Default. A failure, whether intentional or unintentional, to perform, satisfy, or discharge, or to breach, any term or condition of this Franchise.

Director. (1) the Director of the King County Department of Local Services or their designee, or

(2) the Director of the Department of Executive Services or their designee, or (3) the Director and Chief Information Officer of the Department of Information Technology or their designee, depending on the context. Where discretionary acts by the County are authorized or required herein, unless otherwise stated such acts shall be performed by a Director.

Effective Date. The date this Franchise is fully executed by the Parties.

Emergency. Any situation that creates or presents an immediate risk of danger to life, property, safety, public health, or the environment.

Environmental Laws. Any Laws or other federal, state, or local statutes, regulations, codes, rules, ordinances, orders, judgments, decrees, injunctions, proceedings, or instructions pertaining in any way to the protection of human health, safety, and the environment, including those relating to the generation, use, handling, transportation, storage, release, discharge, or disposal of Hazardous Materials. Environmental Laws may include, as applicable, the Resource Conservation and Recovery Act (42 U.S.C. §6901, et seq.), the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601, et seq.), the Hazardous Materials Transportation Act (49 U.S.C. §5101, et seq.), the Pipeline Safety Act (49 U.S.C. §60101, et seq.), the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 (Title 49 Code of Federal Regulations), Transportation of Hazardous Liquids by Pipeline (49 C.F.R. Part 195), the Toxic Substances Control Act (15 U.S.C. §2601, et seq.), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. §136, et seq.), the Clean Air Act (42 U.S.C. §7401, et seq.), the Clean Water Act (33 U.S.C. §1251, et seq.), the Federal Water Pollution Control Act (33 U.S.C. § 1251, et. seq.), the Washington Hazardous Waste Management Act (RCW Chapter 70A.300), the Washington State Model Toxics Control Act (RCW Chapter 70A.305) (“MTCA”), the Washington Water Pollution Control Act (RCW Chapter 90.48), the Washington State Pipeline Safety Act (RCW Chapter 81.88), Washington Administrative Code (“WAC”) Chapters 480-90 and 480-93, the King County Critical Areas Ordinance (KCC Chapter 21A.24), and any other similar federal, state, or local environmental statute, rule, or regulation, each as enacted or amended from time to time, including any laws concerning above ground or underground storage tanks. The term shall also be interpreted to include any substance that, after released into the environment, will or may reasonably be anticipated to cause death, disease, behavior abnormalities, cancer, or genetic abnormalities.

Facilities. Collectively and as applicable, the facilities owned, co-owned, or operated by Franchisee, including all plant, equipment, fixtures, appurtenances, antennas, and other facilities in the Franchise Area necessary to furnish and deliver Wireline Telecommunications services, including but not limited to poles with cross arms, poles without cross arms, wires, lines, conduits, ducts, cables, communication and signal lines, and equipment, braces, guys, anchors, vaults, and all attachments and appurtenances necessary or incidental to the transmission, distribution, and use of Wireline Telecommunications services. For the avoidance of doubt, Facilities shall not include cable television lines or cables or wireless transmission facilities.

Found Hazardous Material(s). Hazardous Material that exists within the Franchise Area or other property, whether public or private, the presence of which was not, in whole or part, caused by the

act or omission of Franchisee Parties during or prior to the term of this Franchise.

Franchise. This franchise agreement and any mutually agreed amendments or exhibits to this franchise agreement.

Franchise Area. That portion of the County ROW wherein the County has authorized Franchisee to place Facilities, as identified and described in the attached Exhibits A and B.

Franchisee. HyperFiber of Washington, LLC, and its successors and those assignees approved pursuant to Section 17 (Transfer and Assignment).

Franchisee Parties. Franchisee, its officials, employees, and agents and all contractors and sub-contractors acting on behalf of Franchisee.

Gross Revenues. All revenue derived by Franchisee from a Colocator's use of Facilities or any component thereof. Gross Revenues shall include the value of any consideration received by Franchisee in exchange for the use of Facilities. Gross Revenues shall also include late fees, administrative fees, or any other monetary amount collected from a Colocator arising out of use of Facilities.

Hazardous Material(s). Any waste, pollutant, contaminant, deleterious substance, or other material that now or in the future becomes regulated, controlled, or defined under any Environmental Laws.

Laws. Federal, state, and local laws, regulations, and utility standards including, but not limited to, the County's Comprehensive Plan, Road Standards, King County regulations for accommodation of utilities on county road rights-of-way, zoning code, and other regulations that are applicable to any and all work or other activities performed by Franchisee pursuant to or under authority of this Franchise, Franchisee's approved comprehensive plan under KCC 13.24.010, and state and local health and sanitation regulations. Unless otherwise stated herein, references to laws include laws now in effect as of the Effective Date of this Franchise.

Maintain or Maintenance. Examining, testing, inspecting, repairing, maintaining, and replacing Facilities or any part thereof as required and necessary or as prudent for effective, efficient, and safe Operations and related activities, as performed by or on behalf of Franchisee, unless otherwise provided herein.

Operate or Operations. The operation and use of Facilities for transmission or delivery of Wireline Telecommunications services to Franchisee's customers or the use by Colocators of Facilities pursuant to Section 28.

Party or Parties. The County and Franchisee individually or collectively as the context in this Franchise provides.

Release. The release, leak, deposit, seepage, spill, or escape of any Hazardous Material caused or contributed to by Franchisee or a Contractor.

Road Standards. The King County Road Design and Construction Standards adopted pursuant to

KCC 14.42 and as now or hereafter amended.

Roadside Management Program or RMP. A program developed by Franchisee and accepted by the County to identify Facilities not in compliance with County Road Standards and to remediate same to bring such Facilities into compliance therewith.

Roadside Management Work Plan or RMP Work Plan. An annual remediation plan, including a schedule of work for the coming year to accomplish the RMP.

Roadside Management Work Report or RMP Work Report. An annual report of progress on the remediation work carried out during the previous year under the RMP and the annual RMP Work Plan.

Utility. All persons or public or private organizations of any kind that are subject to the provisions of KCC 6.27, KCC 6.27A, and KCC 14.45 with regard to use of County ROW.

Wireline Telecommunications. The transmission of writing, signs, signals, pictures, and sounds of all kinds by aid of wire, cable, including fiber-optic cable or other like connection between the points of origin and reception of such transmission, including all instrumentalities, facilities, apparatus, and services (among other things, the receipt, forwarding, and delivery of communications) incidental to such transmission, without change in the form or content of the information or content of the information sent and received. The term shall not include stand-alone minor communications facilities as described in KCC Chapter 21A.27, stand alone "wireless telecommunications facilities" and "wireless minor communications facilities" as described in KCC Chapter 14.45, cable service (as such term is defined in 47 U.S.C. § 522), or open video system (as such term is defined in 47 U.S.C. § 573).

Section 2: Non-Exclusive Franchise

2.1 The Franchise is granted to Franchisee as a non-exclusive franchise which shall not in any manner prevent or hinder the County from granting to other parties, at other times and under such terms and conditions as the County, in its sole discretion, may deem appropriate, other franchises or similar use rights in any County ROW. Additionally, this Franchise shall in no way prevent, inhibit, or prohibit the County from using any of the County ROW for any County purpose, nor shall this Franchise affect the County's jurisdiction, authority, or power over any County ROW, in whole or in part. The County expressly retains its power to make or perform any and all modifications or relocations reasonably necessary for the County to carry out any County purpose, including but not limited to, the construction, alteration, improvement, repair, operation, maintenance, or removal of County facilities in the County ROW, as well as the power to vacate the County ROW.

2.2 Any work related to any Facilities occurring in the Franchise Area covered by this Franchise shall be performed by Franchisee Parties in a safe and workmanlike manner, in such a way as to minimize interference with the free flow of traffic and the access to adjacent property.

2.3 Franchisee accepts the Franchise Area in an "as is with all faults" basis with any and all patent and latent defects and is not relying on any representation or warranties, express or implied,

of any kind whatsoever from the County as to any matters concerning the Franchise Area, including, but not limited to, the physical condition of the Franchise Area; zoning status; presence and location of existing facilities; operating history; compliance of the Franchise Area with Environmental Laws or other Laws and other requirements applicable to the Franchise Area; the presence of any Hazardous Materials or wetlands, asbestos, or other environmental conditions in, on, under, over, or in proximity to the Franchise Area; the condition or existence of any of the above ground or underground structures or improvements in, on, over, or under the Franchise Area; the condition of title to the County ROW, and the leases, easements, franchises, orders, licenses, or other agreements, affecting the Franchise Area (collectively, the "Condition of the Franchise Area").

The County hereby disclaims any representation or warranty, whether expressed or implied, as to the design or Condition of the Franchise Area, its merchantability or fitness for any particular purpose, the quality of the material or the workmanship of the Franchise Area, or the conformity of any part of the Franchise Area to its intended uses. King County shall not be responsible to any Franchisee Party for any damages to any of them relating to the design, condition, quality, safety, merchantability, or fitness for any particular purpose of any part of the Franchise Area, or the conformity of any such property to its intended uses, as of the Effective Date of this Franchise. Franchisee shall notify its Contractors of King County's disclaimer. Franchisee represents and warrants to King County that neither Franchisee nor any Contractor has relied and will not rely on, and King County is not liable for or bound by, any warranties, guaranties, statements, representations, or information pertaining to the Condition of the Franchise Area or relating thereto made or furnished by King County, or any agent representing or purporting to represent King County, to whomever made or given, directly or indirectly, orally or in writing.

Section 3. Term

3.1 The initial term of this Franchise is for a period of ten (10) years (the "Initial Term") from the Effective Date, unless earlier terminated or revoked.

3.2 Franchisee may request an extension of the Initial Term, and the Director and Chief Information Officer of the Department of Information Technology, on behalf of the County, may extend the Initial Term of this Franchise for an additional period of up to fifteen (15) years, under the following circumstances:

- (A) Franchisee's request to extend the Initial Term must be in writing and submitted to the County not more than two (2) years nor less than two hundred forty(240) days prior to the expiration of the Initial Term, and
- (B) Franchisee has maintained substantial compliance with the terms and conditions of this Franchise throughout the Initial Term. The Director and Chief Information Officer of the Department of Information Technology shall have final authority to determine Franchisee's substantial compliance with the terms and conditions of this Franchise, provided that any such determination be made on an objective, non-discriminatory basis and based on record evidence fully disclosed to Franchisee.

3.3. The Initial Term will not be extended under this Section 3. unless Franchisee receives approval of an extension and the length of the extension in writing from the County within ninety (90) days of the County's receipt of Franchisee's request to extend.

3.4 If the Initial Term is not extended, and Franchisee wishes to continue to operate in the Franchise Area, Franchisee shall promptly file an application with the County for renewal of this Franchise in accordance with KCC 6.27.054. Upon receipt of such application, the County and Franchisee shall commence good faith negotiations on the terms and conditions of a franchise renewal.

If the Parties are unable to reach agreement to renew this Franchise prior to expiration of the Initial Term, then this Franchise will expire at the end of the Initial Term and Franchisee will be considered an unfranchised Utility under KCC Chapter 14.44. If Franchisee continues to use the Franchise Area for Facilities after the expiration of the Franchise, Franchisee's continued use shall be subject to the terms and conditions of the expired Franchise, including Consideration, and at the will of the County ("Holdover Period"). Said use will not constitute a renewal or extension of the Franchise and will be subject to termination by the County in its sole and absolute discretion upon sixty (60) days' written notice to Franchisee.

Section 4. County Ordinances and Regulations - Reservation of Police Power

Nothing in this Franchise shall be deemed a waiver of the County's right to exercise its police power to protect the health, safety and welfare of the public, and the County reserves all such powers.

Section 5. Eminent Domain

The Facilities are subject to the power of eminent domain in accordance with and subject to Laws. In any proceeding under eminent domain, the Franchise itself shall have no value.

Section 6. Survival

6.1 Until such time as all Facilities have been removed from the County ROW, all of the provisions, conditions, and requirements contained in the following Sections of this Franchise shall survive the expiration, revocation, forfeiture, or termination of the Franchise and any Holdover Period: (A) Section 7 (Governing Law, Stipulation of Venue, and Non-Discrimination); (B) Section 14 (Default, Revocation, and Termination); (C) Section 15 (Disputes; Remedies to Enforce Compliance; No Waiver); (D) Section 16 (Consideration and Reservation of Rights); (E) Section 18 (Hold Harmless and Indemnification); (F) Section 19 (Franchise Administration); (G) Section 20 (Insurance Requirements); (H) Section 21 (Performance Bond); (I) Section 22 (Right-of-Way Construction Permit Required); (J) Section 23 (Emergency Work); (K) Section 24 (Compliance with Laws; Performance Standards); (L) Section 25 (Restoration of County ROW); (M) Section 26 (Maps and Records); (N) Section 27 (Relocation of Facilities); (O) Section 28 (Use of Facilities by Colocators); (P) Section 30 (Hazardous Materials); (Q) Section 31 (Dangerous Conditions; Authority for County to Abate); and (R) Section 32 (Decommissioning of Facilities).

6.2 After such time as all Facilities have been removed or decommissioned in place to the County's satisfaction, only the following provisions shall survive the expiration, revocation, or

termination of the Franchise, including any Holdover Period: (A) Section 18 (Hold Harmless and Indemnification); (B) Section 19 (Franchise Administration); (C) Section 26 (Maps and Records); and (D) Section 30 (Hazardous Materials).

6.3 The following provisions shall survive and apply to any area removed from the coverage of the Franchise as the result of events including, but not limited to, full or partial termination of the Franchise, annexation or incorporation under Section 12, and reduction of the Franchise Area under Section 13: (A) Section 18 (Hold Harmless and Indemnification); (B) Section 19 (Franchise Administration); (C) Section 26 (Maps and Records); and (D) Section 30 (Hazardous Materials).

Section 7. Governing Law, Stipulation of Venue, and Non-Discrimination

7.1 This Franchise and all use of the Franchise Area granted herein shall be governed by the laws of the State of Washington without giving effect to its choice of law rules or conflicts of law provisions, unless preempted by federal law. Any action relating to the Franchise shall be brought in King County Superior Court, King County, Washington, or in the case of a federal action, in the United States District Court for the Western District of Washington at Seattle, unless an administrative agency has primary jurisdiction.

7.2 Nondiscrimination: Franchisee, its successors, and assigns, shall not discriminate on the basis of sex, race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expression, status as a family caregiver, military status or status as a veteran who was honorably discharged or who was discharged solely as a result of the person's sexual orientation or gender identity or expression, or age except by minimum age and retirement provisions, unless based upon a bona fide occupational qualification, in the employment or application for employment or in the administration or delivery of services or any other benefits under King County Code Chapter 12.16, as now codified and as hereafter amended. Franchisee shall comply fully with all applicable federal, state, and local Laws, ordinances, executive orders, and regulations that prohibit such discrimination. These Laws include, but are not limited to, King County Charter Section 840, RCW chapter 49.60, and Titles VI and VII of the Civil Rights Act of 1964. Any violation of this provision shall be considered a Default by Franchisee of this Franchise and shall be grounds for revocation, termination, or suspension, in whole or in part, of the Franchise and may result in ineligibility for further agreements with the County.

Section 8. Severability

If any Section, sentence, clause, phrase, or provision of this Franchise or the application of such provision to any person or entity should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other Section, sentence, clause, phrase, or provision of this Franchise, nor the application of the provision at issue to any other person or entity.

Section 9. Notice and Emergency Contact

9.1 Wherever in this Franchise written notices are to be given or made, they shall be sent by electronic mail ("email") with delivery receipt requested, unless otherwise required by Laws or for service of legal process. The Parties agree to receive notices at the addresses listed below unless different addresses shall be designated in writing and delivered to the other Party. Notices shall be deemed to have been delivered according to Section 9.2.

KING COUNTY:

King County Office of Information Technology
Attn: King County Office of Cable Communications
King County Chinook Building
401 Fifth Avenue Suite 600
Seattle, Washington 98104
Email: cableoffice@kingcounty.gov
Phone: (206) 263-7880

With a mandatory electronic copy to:

King County Facilities Management Division
Email: Franchise.FMD@KingCounty.gov

HyperFiber of Washington, LLC

6000 Fairview Rd., Suite 300, Charlotte, NC 28210
Attn: Lance van der Spuy, President

And a copy sent to:

HyperFiber of Washington, LLC

822 Montgomery Ave., Suite 210
Narberth, PA 19072
Attn: Joshua Runyan, Esq.
Ph: (704) 989-3217
Email: Josh@ripplefiber.com

9.2 If a notice or communication is given by email, the notice or communication shall be deemed to have been given and received when sent. If a notice or communication is given by certified mail, the notice or communication shall be deemed to have been given and received when deposited in the United States Mail, properly addressed, with postage prepaid and return receipt requested. If a notice or communication is given by courier or personal service, it shall be deemed to have been given when delivered to and received by the Party to whom it is addressed, with the sending Party responsible to confirm delivery of such notice and to provide proof of such service if requested by the receiving Party. If a Party disputes the delivery or receipt of a notice or communication, then that Party shall bear the evidentiary burden to prove, by a preponderance of the evidence, that such notice or communication was not delivered or received or both.

9.3 Franchisee shall also provide the County a current emergency contact name (or title) and phone number available twenty-four (24) hours a day, seven (7) days a week. Franchisee shall promptly notify the County of any change in the notice address or emergency contact (or title) and phone number.

Section 10. Tariffs, Notice of Changes [Intentionally Deleted - Not Applicable]

Section 11. Amendment

This Franchise may be amended only by written agreement of the Parties, provided that, except as otherwise provided in this Franchise, such amendment shall be subject to approval by the County Council. The Director and Chief Information Officer of the Department of Information Technology is authorized to execute the following amendments on behalf of the County without prior County Council approval: changes to the Franchise Area, extension of this Franchise under Section 3.2 (Term), agreements under Section 16 (Consideration and Reservation of Rights), adjustments under Section 20 (Insurance Requirements), and minor technical corrections or updates. All other amendments to this Franchise shall be subject to County Council approval.

Section 12. Incorporation and Annexation

If the Franchise Area covered by this Franchise is incorporated into the limits of any city or town by operation of municipal incorporation or annexation, the Franchise granted herein shall terminate as to that portion of the Franchise Area that is incorporated or annexed into the corporate limits of such city or town; but this Franchise shall continue as to those portions of the Franchise Area that are not incorporated into a city or town. The County shall not be liable to Franchisee for any damages, loss, costs, or other impacts that may arise out of or relate to such annexation or incorporation.

Section 13. Vacation

13.1 Subject to Section 13.2, if all or any portion of a County ROW which is subject to this Franchise is vacated by the County, then this Franchise shall terminate with respect to the vacated portion of such County ROW. The County shall not be liable for any damages or loss to Franchisee by reason of such vacation and termination.

13.2 Whenever a County ROW or any portion thereof is vacated, the County may retain an easement in the vacated portion for the construction, repair and maintenance of public utilities and services which at the time of the vacation are specifically authorized or are physically located upon, over, under, across, or through a portion of the County ROW being vacated, but only in accordance with the provisions of RCW 36.87.140 as now existing or hereafter amended. In the event of any such vacation, the County shall notify Franchisee at least sixty (60) days prior to taking final action. Should Franchisee desire the County to retain a utility easement in the vacated County ROW, Franchisee may request that the County retain such an easement over the property at issue as a part of any proposed action taken by the County Council on the particular vacation. Should Franchisee make such a request, the County may retain said easement in the manner and to the extent allowed by law.

Section 14. Default, Revocation, and Termination

14.1 If Franchisee Defaults on any term or condition of this Franchise, the County may revoke or terminate the Franchise as provided in this Section 14 or pursue any remedy in equity or under Laws. Upon revocation or termination, all rights of the Franchisee granted by this Franchise shall cease, and the County may suspend or withdraw approval of any active ROW construction permits.

14.2 A Party asserting a Default shall give the other Party written notice of such Default, stating with specificity the events or circumstances and nature of the alleged Default. The Party receiving such notice shall have forty-five (45) days following receipt to: (1) cure the Default; or (2) demonstrate to the other Party's satisfaction that a Default does not or no longer exists; or (3) submit a plan satisfactory to the other Party to correct the Default within a reasonable time. If, at the end of the forty-five (45) day cure period, the non-defaulting Party reasonably believes that the Default is continuing and the Party allegedly in Default is not taking satisfactory corrective action to cure or correct the Default, then the non-defaulting Party may invoke any of the remedies available under this Franchise, in equity, or under Laws.

14.3 The County may, in its discretion, provide additional opportunity for Franchisee to remedy the Default and come into compliance with this Franchise so to avoid revocation or termination.

14.4 During any period in which Franchisee is in Default the County may suspend, withdraw, or decline to issue any ROW construction permits to Franchisee.

14.5 If the County, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate an Emergency or any substantial and imminent risk to public health, welfare, or safety or imminent and substantial damage to the County ROW or adjacent properties, then the County may pursue any remedies under this Franchise, in equity, or under Laws without prior notice of Default to Franchisee and without waiting for the Default cure period to expire.

14.6 If this Franchise is revoked or terminated for any reason, the County may satisfy any remaining financial obligations of Franchisee by utilizing any funds available under the performance bond required in Section 21 (Performance Bond).

Section 15. Disputes: Remedies to Enforce Compliance; No Waiver

15.1 If a dispute under this Franchise other than a Default arising under Section 14 (Default, Revocation, and Termination) arises between the County and Franchisee, it shall first be referred to the representatives that have been designated by the County and Franchisee to have oversight over the administration of this Franchise. The officers or representatives shall meet within a reasonable time not longer than thirty (30) calendar days of either Party's request for a meeting, whichever request is first, and the Parties shall make a good-faith effort to achieve resolution of the dispute. If the Parties' representatives are unable to resolve the dispute during their initial meeting, and unless further negotiations are agreed upon by the Parties, the dispute shall be referred to mediation. The Parties shall mutually select a mediator to assist them in resolving their differences. If the Parties cannot mutually select a mediator, then the County shall provide Franchisee a list of three mediators and Franchisee shall select one from the list. Any reasonable expenses incidental to mediation shall be borne equally by the Parties, provided that each Party shall bear its own legal expenses unless the mediation results in a different allocation.

If mediation fails to resolve the dispute within thirty (30) days after the matter is eligible for submission to mediation, then either Party may then pursue any remedy under this Franchise, in equity, or under Laws, provided that if the Party seeking judicial redress does not substantially

prevail in the judicial action, then it shall pay the other Party's reasonable legal fees and costs incurred in the judicial action.

15.2 Failure of the County or Franchisee to exercise any rights or remedies under this Franchise shall not constitute a waiver of any such right or remedy and shall not prevent the County or Franchisee from pursuing such right or remedy at any future time.

15.3 If the County reasonably determines that circumstances require immediate action to prevent or mitigate imminent and substantial damage or injury, then it may immediately pursue any remedy available at law or in equity without having to follow the dispute resolution procedures in this Section 15.

15.4 In addition to judicial enforcement and any remedies under this Franchise, in equity, and Laws, the Manager of the Real Estate Services Section and the Director of the Road Services Division are authorized to enforce this Franchise in accordance with the enforcement and penalty provisions of KCC Title 23.

CONSIDERATION AND RESERVATION RIGHTS

Section 16. Consideration and Reservation of Rights

16.1 Unless otherwise precluded by federal or state law, and in no case exceeding limits prescribed by applicable federal and/or state law, Franchisee agrees that the County has reserved its right to receive compensation or other consideration ("Consideration"), and which Consideration will be in exchange for the Franchisee's right to use and occupy the County ROW and Franchise Area. The Parties agree that the County shall exercise this right by providing Franchisee with written notice to commence negotiations to amend this Franchise, which notice will describe the proposed Consideration. Within thirty (30) days from the receipt of notice from the County, the Parties shall engage in good faith negotiations for a period of sixty (60) days thereafter, in an effort to reach agreement on the amount, type, and terms of the Consideration. The sixty (60) day period for negotiations may be extended by mutual written agreement of the Parties.

16.2 If the Parties agree on the amount, type, and terms of the Consideration, then they shall amend this Franchise in accordance with Section 11; provided, however that the Director and Chief Information Officer of the Department of Information Technology is authorized on behalf of the County to execute any such amendment. If the Parties are unable to agree on the amount, type, and terms of the Consideration during the sixty (60) day negotiation period (as may be extended by mutual agreement), the County may declare such failure to agree to be an event of Default to be resolved in accordance with Section 14.2.

16.3 No Consideration payment or acceptance of any payment made shall be construed as an accord by either Party that the amount paid is in fact the correct amount, nor shall any payment or acceptance of payment be construed as a release of any claim either Party may have for further reimbursement or additional sums payable or for the performance of any other obligation under the Franchise.

16.4 Separate from the Consideration that is the subject of Section 16.1, the County reserves for itself the right to impose a Utility tax on Franchisee, if such taxing authority is granted by the State of Washington.

16.5 Separate from the Consideration that is the subject of Section 16.1, Franchisee shall pay all applicable fees as specified in King County Code to cover the County's costs in drafting, processing, and administering this Franchise and all work related thereto.

16.6 If Franchisee allows Colocators to use Facilities in the Franchise Area, then Franchisee shall make an annual revenue-sharing payment to the County in the amount of ten percent (10%) of the total amount of Franchisee's Gross Revenues derived from Colocator's use of Facilities ("Revenue-Sharing Payment"). Payment shall be made to the County on a quarterly basis, which shall be due and payable no later than thirty (30) days after the end of each calendar quarter, and shall include a summary of the financial information used to calculate the payment.

16.7 If this Franchise terminates for any reason, or if Franchisee fails to satisfy such financial obligations within forty-five (45) days following receipt of written notice describing such financial obligations together with reasonable documentation evidencing such obligations, the County reserves the right to satisfy any remaining financial obligations of Franchisee by utilizing any funds available under any performance bond required in Section 21.

16.8 In exchange for the valuable property right herein granted to Franchisee to occupy and use the County ROW, the Parties may contract for Franchisee to provide the County with reasonable in-kind services and facilities, including duct, conduit, fiber optic cable, appurtenances, or other related structures necessary for the County to access and use the County facilities for public use and benefit. Additionally, when the Franchisee is constructing, relocating, or placing Wireline Telecommunications Facilities in the County ROW, the Franchisee may, upon request of the County and as agreed by the Parties, voluntarily provide additional ducts, conduits, fiber optic cable, appurtenances, or other in-kind facilities or services, as necessary for the County to provide services for the benefit of the public.

FACILITY OWNERSHIP AND USE

Section 17. Transfer and Assignment

17.1 This Franchise may not be transferred, assigned, leased, sold, partitioned, disposed of, or otherwise subject to a change in the identity of Franchisee (each such activity, a "Transfer") in whole or in part, in any manner, without the prior written legislative approval of the County Council. If a Transfer of the Franchise is approved by the County Council, the transferee must agree to be bound by each and every provision, condition, regulation, and requirement contained in this Franchise and Franchisee shall not be relieved of any duty or obligation under this Franchise until a complete and sufficient Transfer instrument is approved and executed by the County.

17.2 In the case of an assignment of this Franchise to secure indebtedness, whether by mortgage or other security instrument, the County's consent shall not be required unless and until the secured

party elects to realize upon the collateral. Franchisee shall provide prompt, written notice to the County of any assignment to secure indebtedness.

17.3 In the event Franchisee desires to transfer ownership of Facilities, such transfer shall be arranged and accomplished consistent with a written agreement between the County and the transferee, binding the transferee to compliance with all terms and conditions applicable to the transferee's use and occupancy of the County ROW. Facilities that are out of compliance with the Road Standards may not be transferred unless and until they are brought into compliance.

17.4 Transfer of the Franchise or Facilities in violation of this Section 17 shall constitute a Default.

INDEMNIFICATION, LIABILITY, AND INSURANCE

Section 18. Hold Harmless and Indemnification

18.1 Franchisee agrees to release, indemnify, defend (at the County's option and using counsel reasonably acceptable to the County), and hold harmless all County Parties from and against any and all claims, demands, liability, suits, and judgments, including costs of defense thereof, awards, penalties, fines, costs, government orders, or other requirements, (collectively, "Claims") to the extent caused by, arising out of, incidental to, or related to the acts or omissions of Franchisee Parties or Contractors in connection with Franchisee's exercise of rights and obligations under this Franchise. This covenant of release and indemnification shall include, but not be limited to: any and all Claims arising out of the placement of Facilities; any failure by Franchisee Parties or a Contractor to complete all related Construction, Maintenance, Operations, or any work or other activities in accordance with this Franchise; and fire suppression activities during fire events. In the event it is determined that RCW 4.24.115 applies to this Franchise, Franchisee agrees to defend, hold harmless, and indemnify all County Parties to the maximum extent permitted thereunder. Provided, however, that if a Claim arises out of or relates to the concurrent negligence of the Parties, then Franchisee's duties under this Section 18.1 shall apply only to the extent of the negligence of Franchisee Parties and Contractors. This Section 18.1 shall not apply to any Claim or other matters arising out of or related to any Release of Hazardous Materials, which Releases are addressed under Section 30 of this Franchise.

18.2 In the event any County Party incurs reasonable attorneys' fees, legal expenses, or other costs to enforce the provisions of this Section 18 against Franchisee, all such fees, expenses, and costs shall be recoverable from Franchisee. The hourly rates for any award of attorneys' fees will be calculated based on the rate that would be charged for the services provided by an attorney who is in private practice, of the same expertise and experience as the prevailing party's attorney(s).

18.3 Franchisee's obligations described in 18.1 above include the duty to defend and indemnify all County Parties from any claims, demands, or suits brought by, or on behalf of, any employee, former employee, or agent of Franchisee, or any Contractor. To the extent necessary to carry out this obligation, Franchisee, by mutual negotiation, expressly waives all immunity and limitation on liability, as respects County Parties only, under any industrial insurance act or workers' compensation law, including without limitation RCW Title 51, other workers' compensation act,

disability act, or other employee benefit act of any jurisdiction which would otherwise be applicable in the case of such claim. The Parties acknowledge that this provision was mutually negotiated.

18.4 Franchisee's covenants and indemnifications provided in this Section 18 shall extend to the period of time during which Franchisee occupied the Franchise Area in a Holdover Period after expiration of the term of any preceding franchise.

18.5 The County shall give Franchisee timely written notice of any Claim covered by Franchisee's obligations under this Section 18. In the event any such Claim arises, the County or any other indemnified party shall tender the defense thereof to Franchisee and Franchisee shall have the right and duty to defend, settle, or compromise any Claim, and the County shall cooperate fully with Franchisee, provided: (A) any settlement or compromise is consistent with the terms of this Franchise; and (B) any terms or conditions of a settlement, other than the payment of money damages, that in any way obligate or affect the County shall require the County's prior approval.

18.6 The County's permitting, approval, inspection, lack of inspection, or acceptance or rejection of any Construction, Maintenance, Operations, or any work or other activities associated with this Franchise, whether pursuant to this Franchise or pursuant to any other permit or approval issued by the County in connection with Franchisee's exercise of its rights under this Franchise, shall not relieve Franchisee of any of the indemnification, defense, and hold harmless obligations contained in this Section 18.

Section 19. Franchise Administration

The County's administration of this Franchise shall not be construed to create a basis for any liability on the part of County Parties.

Section 20. Insurance Requirements

20.1 Franchisee shall procure and maintain for the duration of this Franchise (the Initial Term and any extensions of the Initial Term) and any Holdover Period thereafter, insurance against claims for injuries to persons or damage to property which may arise from, or in connection with any Construction, Maintenance, Operations, and any work or other activities contemplated by Franchisee or Contractor. Upon request of the County, Franchisee shall furnish separate certificates of insurance and policy endorsements from each Contractor as evidence of compliance with the insurance requirements of this Franchise.

20.2 Franchisee is responsible for ensuring compliance with all the insurance requirements stated herein. Failure by Franchisee or a Contractor to comply with the insurance requirements stated herein shall constitute a Default of this Franchise.

20.3 Each insurance policy shall be written on an "occurrence" basis/form; excepting insurance for professional liability (errors and omissions) and/or pollution liability. Professional liability (errors and omissions) or pollution liability required by this Franchise is acceptable on a "claims made" basis/form. If any insurance required under this Franchise is purchased on a "claims made" basis/form, the coverage provided under that insurance shall be maintained through:

(i) consecutive policy renewals for not less than three (3) years from the date of completion of the Construction, Maintenance, Operations, and any work or other activities associated with this Franchise or, if such renewals are unavailable, (ii) the purchase of a tail/extended reporting period for not less than three (3) years from the date of completion of the Construction, Maintenance, Operations, and any work or other activities associated with this Franchise. All insurance written on a “claims made” basis/form must have its policy inception or retroactive date be no later than the Effective Date of the Franchise, unless otherwise approved in writing by the County’s Risk Management Office.

20.4 Nothing contained within these insurance requirements shall be deemed to limit the scope, application, and/or limits of the coverage afforded, which coverage will apply to each insured to the full extent provided by the terms and conditions of the policy(ies). Nothing contained in this provision shall affect and/or alter the application of any other provision contained within this Franchise.

20.5 **Risk Assessment by Franchisee:** By requiring such minimum insurance, the County does not and shall not be deemed or construed to have assessed the risks that may be applicable to Franchisee or a Contractor under this Franchise, or in any way limit County’s potential recovery to insurance limits required hereunder. To the contrary, this Franchise’s insurance requirements may not in any way be construed as limiting any potential liability to the County or the County’s potential recovery from Franchisee or a Contractor. Franchisee and its Contractor(s) shall assess their own risks and if they deem appropriate and/or prudent, maintain greater limits and/or broader coverage.

20.6 **Minimum Scope and Limits of Insurance**

Coverage shall be at least as broad as and with limits not less than the following:

(A) General Liability:

\$5,000,000 per occurrence and \$5,000,000 in the aggregate for bodily injury, personal and advertising injury, and property damage. Coverage shall be at least as broad as that afforded under ISO form number CG 00 01. Such insurance shall include coverage for, but not limited to, premises liability, products- completed operations, ongoing operations, and contractual liability. Limits may be satisfied by a single primary limit or by a combination of separate primary and umbrella or excess liability policies, provided that coverage under the latter shall be at least as broad as that afforded under the primary policy and satisfy all other requirements applicable to liability insurance including but not limited to additional insured status for the County. Explosion & Collapse, Underground Damage (XCU) shall apply for the same limits as the General Liability coverage.

(B) Automobile Liability:

\$1,000,000 combined single limit per accident for bodily injury and property damage. Coverage shall be at least as broad as that afforded under ISO form number CA 00 01 covering business auto coverage, symbol 1 “any auto”; or the appropriate coverage provided by symbols 2, 7, 8, or 9. Limits may be satisfied by a single primary limit or by a combination of separate primary and umbrella or excess liability policies, provided that coverage under the latter shall be at least as broad as that afforded under the primary policy.

(C) Pollution Liability:

Coverage in an amount no less than \$1,000,000 per occurrence/claim and in the aggregate to cover sudden and non-sudden bodily injury and/or property damage, to include the destruction of tangible property, loss of use, clean-up costs, and the loss of use of tangible property that has not been physically injured or destroyed. If asbestos, lead or PCBs are a potential exposure, such insurance shall not exclude pollution arising out of asbestos, lead and/or PCB operations.

(D) Workers Compensation:

Workers Compensation coverage, as required by the Industrial Insurance Act of the State of Washington, as well as any similar coverage required for this work by applicable federal or "Other States" state law, or the statutory requirements of the state of residency.

(E) Employers Liability or "Stop Gap":

Coverage with minimum limits of \$1,000,000 each occurrence and shall be at least as broad as the indemnification protection provided by the Workers' Compensation policy Part 2 (Employers Liability) or, in states with monopolistic state funds, the protection provided by the "Stop Gap" endorsement to the general liability policy.

20.7 Minimum Limits of Insurance - Construction Period: Prior to commencement of Construction and until Construction is complete and approved by the Parties, Franchisee shall cause its Contractor(s) to procure and maintain insurance against claims for injuries to persons or damages to property which may arise from, or in connection with the activities related to this Franchise. Franchisee, the County, and the County's elected and appointed officials, employees, and agents shall be named as additional insured, for full coverage and policy limits, on liability policies except Workers' Compensation and Professional Liability.

The County is not responsible for payment of the cost of such insurance. Franchisee's Contractor(s) shall maintain coverage and limits no less than the following:

(A) Commercial General Liability: \$1,000,000 per occurrence and \$2,000,000 in the aggregate for bodily injury, personal and advertising injury, and property damage. Coverage shall be at least as broad as that afforded under ISO form number CG 00 01. Such insurance shall include coverage for, but not limited to, premises liability, Products-Completed Operations, ongoing operations, and contractual liability. Limits may be satisfied by a single primary limit or by a combination of separate primary and umbrella or excess liability policies, provided that coverage under the latter shall be at least as broad as that afforded under the primary policy and satisfy all other requirements applicable to liability insurance including but not limited to additional insured status for County. Explosion & Collapse, Underground Damage (XCU) shall apply for the same limits as the General Liability coverage.

(B) Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage. Coverage shall be at least as broad as that afforded under ISO form number CA 00 01 covering business auto coverage, symbol 1 "any auto"; or the appropriate coverage provided by symbols 2, 7, 8, or 9. Limits may be satisfied by a single primary limit or by a combination of separate primary and umbrella or excess liability policies, provided that coverage under the latter shall be at least as broad as that afforded under the primary policy.

(C) Professional Liability (Errors & Omissions): In the event that services delivered pursuant to this Franchise either directly or indirectly involve or require professional services, Professional Liability (Errors & Omissions) coverage shall be provided with minimum limits of \$1,000,000, per claim and in the aggregate.

(D) Contractor's Pollution Liability Coverage: Coverage in an amount no less than \$1,000,000 per occurrence/claim and in the aggregate to cover sudden and non-sudden bodily injury and/or property damage, to include the destruction of tangible property, loss of use, clean-up costs, and the loss of use of tangible property that has not been physically injured or destroyed. If asbestos, lead, or PCBs are a potential exposure, such insurance shall not exclude pollution arising out of asbestos, lead and/or PCB operations.

(E) Workers' Compensation: Workers Compensation coverage, as required by the Industrial Insurance Act of the State of Washington, as well as any similar coverage required for this work by applicable federal or "Other States" state law, or the statutory requirements of the state of residency.

(F) Employers Liability or "Stop Gap": Coverage with minimum limits of \$1,000,000 each occurrence and shall be at least as broad as the indemnification provided by the Workers Compensation policy Part 2 (Employers Liability) or, in states with monopolistic state funds, the protection provided by the "Stop Gap" endorsement to the general liability policy.

20.8 Deductibles and Self-Insured Retentions: Any deductible and/or self-insured retention of the policy(s) shall not in any way limit County's right to coverage under the required insurance, or to Franchisee's or any Contractor's liability to the County, and shall in all instances be the sole responsibility of Franchisee and its Contractor(s), even if no claim has actually been made or asserted against Franchisee or Contractor(s).

20.9 Other Insurance Provisions: The insurance policies required in this Franchise shall contain, or be endorsed to contain, the following provisions:

(A) All Liability Policies except Professional Liability (Errors and Omissions) and Workers Compensation.

1. The County and its elected and appointed officials, agents, and employees shall be covered as additional insured, for full coverage and policy limits, as respects liability arising out of ongoing and completed work, or other activities performed by or on behalf of Franchisee or its agents, representatives, employees, or Contractor(s) in connection with this Franchise. Additional insured status shall include Products-Completed Operations.

(B) With respect to all liability policies (except Workers Compensation):

1. Coverage shall be primary insurance as respects the County, its officials, employees, and agents. Any insurance and/or self-insurance maintained by the County, its officials, employees, or agents shall not contribute with the Franchisee's or any Contractor's insurance or benefit the Franchisee or Contractor, or their respective insurers in any way.

2. Insurance shall expressly state that it applies separately to each insured and additional insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.

(C) **All Policies:** Coverage shall not be suspended, voided, canceled, or materially changed until after thirty (30) days' prior written notice has been given to the County. In the event of said cancellation or intent not to renew, Franchisee shall obtain and furnish to the County evidence of replacement insurance policies meeting the requirements of this Section 20 by the cancellation date. Failure to provide proof of insurance could result in revocation or termination of the Franchise.

20.10 Acceptability of Insurers: Unless otherwise approved by the County, insurance is to be placed with insurers with an A.M. Best rating of no less than A:VII, or, if not rated with A.M. Best, with minimum surpluses the equivalent of A.M. Best surplus size VIII. Professional Liability, Errors, and Omissions insurance may be placed with insurers with an A.M. Best rating of B:VII. Any exception must be approved by the County's Office of Risk Management Services. If, at any time, the foregoing policies shall fail to meet the above requirements, Franchisee shall promptly obtain a new policy, and shall submit the same, with appropriate certificates and endorsements, to the County.

20.11 Verification of Coverage: Prior to the execution of this Franchise, Franchisee shall furnish the County with certificates of insurance and endorsements certifying the issuance of all insurance required by this Franchise. All evidence of insurance shall be signed by a properly authorized officer, agent, general agent or qualified representative of the insurer(s), shall set forth the name of the insured(s), the type and amount of insurance, the location and operations to which the insurance applies, the inception and expiration dates, and shall specify the form number of any endorsements issued to satisfy this Franchise's insurance requirements.

Upon request of the County, and within five (5) business days, Franchisee must provide copies of any renewal certificates of insurance and endorsements. In the event of a claim, Franchisee must provide complete copies of all required insurance policies, which may be redacted of confidential or proprietary information.

The County's receipt or acceptance of Franchisee's or its Contractor's evidence of insurance at any time without comment or objection, or the County's failure to request certified copies of such insurance, does not waive, alter, modify, or invalidate any of the insurance requirements set forth in this Section 20 or, consequently, constitute County's acceptance of the adequacy of Franchisee's or any Contractor's insurance or preclude or prevent any action by County against Franchisee for breach of the requirements of this Section 20.

20.12 Contractors: Franchisee shall include all Contractors as insured under its policies or, alternatively, Franchisee must require each of its Contractors to procure and maintain appropriate and reasonable insurance coverage and insurance limits to cover each of the Contractor's liabilities given the scope of work and the services being provided herein. All liability insurance policies (except Professional Liability and Workers Compensation) provided by the Contractor(s) must name the County and its elected and appointed officials, employees, and agents as additional insured, for full coverage and policy limits. Franchisee is obligated to require and verify that all Contractors maintain insurance and ensure that the County is covered as additional insured. Upon

request by the County, and within five (5) business days, Franchisee must provide evidence of Contractor(s) Insurance coverage (including endorsements).

20.13 Insurance Review: In consideration of the duration of this Franchise, the Parties agree that the Insurance Section herein, at the discretion of the County Risk Manager, may be reviewed and reasonably adjusted with each amendment and within ninety (90) days of the end of the first five (5) year period of the term of this Franchise and the end of each successive five (5) year period thereafter. Any adjustments made as determined by the County Risk Manager, shall be in accordance with reasonably prudent risk management practices and insurance industry standards and shall be effective on the first day of each successive five (5) year period.

Adjustment, if any, in insurance premium(s) shall be the responsibility of Franchisee. Any failure by the County to exercise the right to review and adjust at any of the aforementioned timings shall not constitute a waiver of future review and adjustment timings.

20.14 Franchisee shall furnish the County with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsements, evidencing the insurance requirements of Franchisee or its Contractor(s) before commencement of any Construction, Maintenance, Operations, or any work or any other activities associated with this Franchise.

20.15 In satisfaction of the insurance requirements set forth in this Section 20, Franchisee may maintain a fully-funded self-insurance program for its liability exposures in this Franchise, which is consistent with good utility practice. Franchisee agrees to provide the County with at least thirty (30) days' prior written notice of any material change in Franchisee's self-funded insurance program and will provide a letter of self-insurance as adequate proof of coverage. If Franchisee decides to no longer maintain a self-insurance program for its liabilities, Franchisee must promptly notify the County and provide certificates of insurance and corresponding endorsements evidencing the insurance requirements in this Franchise have been satisfied.

Section 21. Performance Bond

If the County deems as necessary, the Franchisee shall, on or before the Effective Date of this Franchise, or during the term of this Franchise [if a performance bond was not previously required], furnish a bond executed by Franchisee with a corporate surety authorized to do surety business in the State of Washington, with an AM Best's rating of an A: XII in the amount determined suitable by the County to ensure the faithful performance of Franchisee's obligations under this Franchise. The bond shall stipulate that Franchisee shall comply with all of Franchisee's obligations under this Franchise. Franchisee shall pay all premiums or costs associated with maintaining the performance bond and shall keep the same in full force and effect at all times during the term of this Franchise and any extension thereof. If Franchisee fails to provide or maintain the bond, then the County may require Franchisee to substitute an equivalent cash deposit in lieu of the bond. With written notice the County, in its sole discretion, may allow Franchisee to cancel this performance bond. Nothing in this agreement shall compel the County to cancel this bond.

WORKING IN THE RIGHT OF WAY

Section 22. Right-of-Way Construction Permit Required

22.1 Franchisee Parties shall not commence any Construction or Maintenance work within the Franchise Area until an applicable construction permit authorizing such work has been issued pursuant to KCC 14.44, except as provided in Section 23 of this Franchise. Applications for construction permits shall be presented to the King County Real Estate Services Section (“RES”) along with such detailed design and Construction plans and documents, studies, and reports as are required by RES. Franchisee shall provide a bond if required by the County (in a form approved by the County) prior to permit issuance. Any bond(s) required under this Section 22 shall be separate from any performance bond required under Section 21.

22.2 Any and all work performed by Franchisee Parties or on behalf of Franchisee pursuant to this Franchise shall be performed in accordance with all County standards applicable at the time of such work, including but not limited to the King County Comprehensive Plan, the King County Regulations for Accommodation of Public Utilities on County ROW, the Road Standards, the County approved plans and specifications for the work, and the terms and conditions of any ROW construction permit and other permits or approvals required under the King County Code. All Facilities and all Construction or Maintenance shall be the responsibility of Franchisee and the County hereby disclaims any duty or obligation regarding the same. All permits for Construction or Maintenance shall be applied for and issued in the name of Franchisee, and Franchisee shall be responsible for all work done under the permit, regardless of who performs the work.

22.3 Franchisee Parties and Contractors shall comply with any and all conditions contained in applicable permits or approvals.

Section 23. Emergency Work

23.1. If Facilities become damaged or nonoperational such that an Emergency is presented, or if Franchisee or any Contractor carries out Construction or Maintenance in a manner that creates an Emergency, then Franchisee shall immediately take such measures as are reasonably necessary to repair the Facilities at issue or to remedy the Emergency. In the event of an Emergency as described above, Franchisee may take corrective action immediately, without first applying for or obtaining an ROW construction permit. However, the need to take immediate corrective action shall not relieve Franchisee from its obligation to notify the County and to obtain an ROW construction permit or any other permits necessary for the corrective actions. In the event of any Emergency, whether described in this Section 23 or otherwise, Franchisee shall, upon discovery of the Emergency, immediately notify the County of the Emergency via email to both the Road Services Division (KCUIU@kingcounty.gov) and the Real Estate Services Section (Res.permits@kingcounty.gov), with a copy to the KCIT Cable Office (CableOffice@kingcounty.gov). ROW construction permit applications must be submitted as soon as reasonably feasible, yet no later than one (1) full working day after Franchisee discovers the Emergency. In the event of a dispute, Franchisee shall bear the burden to prove (i) that the County received such notice and (ii) when the County received such notice.

23.2 If the County discovers or is alerted by a third party of an Emergency involving the Facilities, the County will first make a good faith effort, considering the urgency of the circumstances, to contact Franchisee to allow Franchisee to remedy the Emergency. If the County

is unable to contact Franchisee or Franchisee is unable to remedy the Emergency in a timely manner, the County may take corrective action, and Franchisee shall reimburse the County for any and all documented direct costs and expenses incurred by the County. Such costs and expenses shall include, but not be limited to Franchisee's proportionate share of the costs of County personnel assigned to review emergency corrective action plans or to oversee or engage in any corrective action as a result of the Emergency.

Section 24. Compliance with Laws; Performance Standards

24.1 Franchisee Parties shall at all times comply with all Laws including Environmental Laws, any applicable Washington Utilities and Transportation Committee (“WUTC”) settlement agreements, and Utility standards including, but not limited to, the County’s Comprehensive Plan, zoning code, and any development regulations that are applicable to any and all work or other activities performed by Franchisee Parties pursuant to or under authority of this Franchise.

24.2 Construction or Maintenance shall not unreasonably impede: (A) public use of the County ROW or associated road(s) for vehicular and pedestrian transportation; (B) construction or maintenance activities by other authorized users of the Franchise Area or County ROW, or access to or use of their facilities; (C) the operation, maintenance, or improvement by the County of any County ROW, or other public property impacted by the Construction or Maintenance; or (D) the use of the Franchise Area or County ROW for other governmental purposes. Construction or Maintenance shall comply with all permit conditions or other requirements.

24.3 During any periods of Construction or Maintenance, Franchisee Parties shall at all times post and maintain proper barricades and comply with all applicable safety regulations as required by Laws, including, but not limited to RCW 39.04.180 for the construction of trench safety systems.

24.4 Before a Franchisee Party commences any work under this Franchise which may disturb any existing monuments or markers relating to subdivisions, plats, roads, or surveys, the Franchisee Party shall have a Washington State Professional Land Surveyor locate and reference all such monuments and markers consistent with RCW 58.09.130 and a permit shall be obtained (if required) from the Washington State Department of Natural Resources prior to the commencement of work pursuant to WAC 332-120. The replacement of all such monuments or markers disturbed by a Franchisee Party shall be the responsibility of Franchisee, at no cost to the County.

24.5 If a Franchisee Party plans to make excavations in the Franchise Area, Franchisee shall, upon receipt of a written request to do so, provide an opportunity for the County and/or other authorized users of the applicable County ROW to participate in such excavation, and shall coordinate such participation with the County or any such other authorized users; provided that, Franchisee need not permit the County or any other party to participate in an excavation if any of the following are true, in the reasonable judgment of the County Road Engineer, in consultation with Franchisee:

- (A) such joint excavation would unreasonably delay the performance of Franchisee’s work; or

- (B) despite good-faith efforts, the parties involved are unable to agree upon reasonable terms and conditions for accomplishing such joint excavation; or
- (C) valid safety reasons exist for denying a request for such joint excavation or installation of proposed facilities of another party would be in conflict with the best practices employed by Franchisee; or
- (D) the excavation is for the purpose of an Emergency consistent with Section 23 of this Franchise.

24.6 Franchisee shall maintain all Facilities in a good state of repair. Franchisee shall, at no expense to the County, promptly repair Facilities, including all appurtenant facilities and service lines connecting Franchisee's system to users, if the repair is required by the County for any reasonable purpose.

24.7 Franchisee shall maintain a reasonably clear area, not less than five (5) feet, around all Facilities permitted and installed above ground so they will be clearly visible for purposes of County operations and maintenance. If Franchisee intends to use chemical sprays to control or kill weeds and brush, then Franchisee must first obtain an ROW construction permit. The County may limit or restrict the types, amounts, and timing of application if a significant negative impact on the aesthetics or environment of the area is anticipated, provided such limitations or restrictions are not in conflict with State law governing utility ROW maintenance and the King County Code related to sensitive areas.

Section 25. Restoration of the County ROW

Promptly after completing any work within the County ROW, including, but not limited to, any Construction, Franchisee shall, at no cost to the County, restore the surface of the County ROW and any adjacent areas directly affected by a Franchisee Party's work to as good or better condition as such areas were in immediately prior to the commencement of such work, consistent with the County's regulations for accommodation of utilities on county road rights-of-way, adopted in KCC 14.44.060, and any restoration conditions contained in applicable permits or approvals. The County Road Engineer shall have final authority to determine the adequacy of the restoration performed in accordance with the requirements set forth herein.

Section 26. Maps and Records

26.1 Franchisee shall maintain accurate records to document activities performed pursuant to this Franchise for six (6) years following the expiration, revocation, or termination of this Franchise, or any Holdover Period, whichever is later. Required records include the following:

- (A) records of Construction, Maintenance, Operation, inspections, and regulatory compliance for all Facilities subject to this Franchise; and,

(B) as-built plans or, when as-built plans are not available, 100% design drawings as modified following construction, maps, GPS charts, and any other records depicting the final locations and conditions of Facilities (“As-Built Plans”).

26.2 The County shall have the right to review such records or to request copies of such records, which Franchisee shall provide at no cost to the County. If a discrepancy is discovered in its As-Built Plans, Franchisee shall update its records to correct the discrepancy. With respect to any excavations within the Franchise Area undertaken by or on behalf of Franchisee or the County, nothing herein is intended (nor shall be construed) to relieve either Party of its obligations under RCW 19.122 with respect to determining the location of utility facilities.

26.3 If Franchisee considers any portion of its records provided to the County to be protected from disclosure under law, Franchisee shall clearly identify any specific information that it claims to be confidential or proprietary and the basis for such claim. If the County receives a request under the Public Records Act, RCW 42.56 (“PRA”), to inspect or copy the information so identified by Franchisee and the County determines that release of the information is required by the PRA or is otherwise appropriate, the County's sole obligations shall be to notify Franchisee in writing (A) of the request and (B) of the date that such information will be released to the requestor unless Franchisee obtains a court order to enjoin disclosure under RCW 42.56.540. The County shall provide Franchisee with such notice at least ten (10) days prior to the date that such information will be released. If Franchisee fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified. The County has, and by this Section 26.3 assumes, no obligation on behalf of Franchisee to claim or make any exemption from disclosure under the PRA. The County shall not be liable to Franchisee for releasing records not clearly identified by Franchisee as confidential or proprietary. The County shall not be liable to Franchisee for any records that the County releases in compliance with this Section 26.3 or in compliance with an order of a court of competent jurisdiction.

Section 27. Relocation of Facilities

27.1 Franchisee shall be responsible, at no expense to the County, to repair, remove, relocate, or adjust all Facilities if such, repair, removal, relocation, or adjustment is required by the County for any purpose.

27.2 If an Emergency requires the relocation of Facilities, the County shall give Franchisee notice of the Emergency as soon as reasonably practicable. Upon receipt of such notice from the County, Franchisee shall respond as soon as reasonably practicable to relocate the affected Facilities.

27.3 Upon request by the County and in order to facilitate the design and construction of any County improvements in the Franchise Area or County ROW, Franchisee shall locate and, if the County deems it reasonably necessary, excavate and expose, at Franchisee's sole cost and expense, Facilities for inspection by the County; provided that Franchisee shall not be required to excavate and expose Facilities for inspection unless the County Road Engineer reasonably determines that Franchisee's record plans and record drawings are inadequate for the County's planning purposes. The decision to require relocation of any Facilities in order to accommodate County improvements shall be made by the County Road Engineer in their sole and absolute discretion upon review of the location and construction of Facilities.

27.4 In the event a condition or requirement imposed by the County upon any person or entity other than County Parties (including, without limitation, any condition or requirement imposed pursuant to any contract or in conjunction with approvals for permits for zoning, land use, construction, or development) reasonably necessitates adjustment, modification, relocation, or removal of any Facilities, then Franchisee shall adjust, modify, relocate, or remove such Facilities to accommodate such condition or requirement imposed by the County, at no cost to the County; provided that nothing in this Franchise is intended or shall be construed to prohibit Franchisee from assessing on such other person or entity the costs of adjustment, modification, relocation or removal as a condition of such action pursuant to this Section 27.

27.5 If the County determines that a County capital improvement project necessitates adjustment, modification, relocation, or removal of Facilities, then:

(A) The County shall provide Franchisee reasonable written notice consistent with Section 27.5(B) of this Franchise prior to the commencement of the construction phase of the County project at issue; PROVIDED, that under the following circumstances the County need only provide the Franchisee with written notice as soon as may be reasonably practicable: (a) in the event of an Emergency; (b) in the event of an Emergency beyond the control of the County and which will result in adverse financial consequences to the County; or (c) where the need to relocate the Facilities could not reasonably have been anticipated by the County.

(B) The County shall provide Franchisee with copies of pertinent portions of the plans and specifications for the County project as well as any proposed new location for the Facilities at least ninety (90) days prior to the commencement of the construction phase of the County project to enable Franchisee to promptly relocate such Facilities.

(C) After receipt of such notice and such plans and specifications, unless the Parties agree otherwise, Franchisee shall complete relocation of Facilities within the County ROW at least ten (10) days prior to commencement of the construction phase of the County project at no charge, cost, or expense to the County. In the event of an Emergency, Franchisee shall relocate the Facilities at issue within a time period reasonably specified by the County Road Engineer.

(D) If Franchisee determines that relocation cannot reasonably be completed within the time period provided by the County, Franchisee shall propose a revised schedule to the County for completion of such relocation work. If the County and Franchisee agree upon a schedule to relocate Facilities, Franchisee shall complete the relocation of Facilities in accordance with the agreed upon schedule. If the County and Franchisee are unable to agree upon a relocation schedule, Franchisee shall relocate Facilities according to a schedule reasonably established by the County.

(E) Unless the Parties agree otherwise, if Franchisee fails to complete adjustment, modification, relocation, or removal of Facilities within the time prescribed and to the County's satisfaction, the County may cause such work to be done and bill the cost of the work to Franchisee. Franchisee shall remit payment to the County within thirty (30) days of receipt of an itemized list of associated costs.

(F) Franchisee shall also be responsible for ensuring that all Colocator facilities are relocated contemporaneously with Facilities. If relocation of Facilities, including Colocator facilities is not completed in a timely fashion pursuant to this Section 27.5, Franchisee shall bear any and all relocation and delay costs incurred by the County, except for the duration of a Force Majeure event. Force Majeure shall mean landslides, earthquakes, lightning, fires, hurricanes, volcanic activity, storms, floods, civil disturbances, acts of terrorism, or other similar events which are not reasonably within the control of the Parties.

27.6 When the County or its contractor provides notice to Franchisee, in accordance with RCW Chapter 19.122, of its intent to excavate in the Franchise Area or County ROW, Franchisee shall, at no expense to the County, provide the County or its contractor the best information available from Franchisee's records or, where reasonable, from the use of locating equipment as to the location of Facilities, as well as to the location of facilities connected to its system that are in the Franchise Area and that Franchisee does not own, including appurtenant facilities and service lines connecting its system to users. Franchisee shall mark the surface where surface marking would reasonably be of use in the excavation. If Franchisee fails to make good faith efforts to provide the information required in this Section 27.6 within the deadlines provided by RCW Chapter 19.122, Franchisee shall defend, indemnify, and hold the County harmless for all claims and reasonable costs that result from damage to Facilities or other connected facilities if the damage occurs as a result of Franchisee's failure to provide the information. Nothing in this Section 27.6 is intended or shall be construed to create any rights in any third party or to form the basis for any obligation or liability on the part of the County or Franchisee toward any third party, nor is anything in this Section 27.6 intended or to be construed to alter the rights and responsibilities of the Parties under RCW Chapter 19.122, as amended.

27.7 Nothing in this Franchise shall prevent Franchisee from imposing reasonable terms when responding to a request for relocation of any Facilities by any person or entity other than the County, where the facilities to be constructed by said person or entity are not or will not become County-owned, operated or maintained facilities and the relocation is not subject to the provisions of Section 27.4.

Section 28. Use of Facilities by Colocators; Third-Party Facilities

28.1 Franchisee may contract for use of Facilities in the Franchise Area by a Colocator with prior written consent of the County, which consent will not be unreasonably withheld. Use of Facilities by a Colocator shall be conditioned on the following: 1) the Facilities must be in compliance with the Road Standards; and 2) the Colocator must have a valid franchise, ROW Use Agreement, or other County authorization for use of the County ROW. Franchisee shall require any Colocator requesting use of Facilities to provide documentation of County authorization to occupy the County ROW. In the event a Colocator does not provide such documentation, Franchisee shall notify the County of the Colocator's request and shall suspend processing such request until documentation of County authorization is provided. In addition, Franchisee shall be responsible for requiring all Colocators to comply with all applicable provisions of this Franchise. Franchisee shall not allow a third party other than a Colocator to use Facilities.

28.2 Transfer of ownership of any Facilities to a Colocator shall be subject to the County's prior written consent, such consent not to be unreasonably withheld, and a written agreement between the County and the Colocator, binding the Colocator to compliance with all applicable terms and conditions of this Franchise.

28.3 In the event Franchisee allows Colocators to utilize Facilities in the future, then Franchisee shall provide the County with a list of all Colocators using Facilities in the County ROW. Such list shall be submitted to the County annually, by January 31st throughout the term of this Franchise and any extension thereof.

28.4 Transfer of this Franchise or use of Facilities in violation of this Section 28 shall constitute a Default of the Franchise.

28.5 If Franchisee performs work or repairs on Colocator-owned or other third-party-owned facilities located in the County ROW and connected to Franchisee's own Facilities, then Franchisee shall comply with the terms and conditions of this Franchise.

Section 29. Roadside Management Program

29.1 Within **ninety (90) days** following the Effective Date, Franchisee shall submit a Roadside Management Assessment ("RMA") to the County which includes an assessment of whether its Facilities are all located underground, or, if some or all of its facilities are located above-ground, and whether the Facilities comply with the Road Standards, including but not limited to Section 5.10, Roadside Obstacles. If, after preparing the RMA, Franchisee concludes that all Facilities are located underground (or, if it has Facilities located above-ground, Franchisee concludes that those Facilities comply with the Road Standards), then Franchisee shall certify this finding in an RMA to the County Road Engineer.

29.2 If after completing an RMA Franchisee concludes that it has above-ground Facilities that are not in compliance with the Road Standards, then Franchisee shall carry out a program acceptable to the County for Franchisee, at its sole cost and expense, to remove or relocate its non-compliant Facilities to bring them into compliance with the Road Standards. Franchisee shall submit a Roadside Management Program to the County within one hundred twenty (120) days following the Effective Date. Once Franchisee's RMP is approved by the County, then Franchisee shall schedule and carry out the RMP in cooperation with the County. Franchisee shall submit an annual Roadside Management Program Work Plan identifying specific remediation project to be accomplished during that year and an annual Roadside Management Program Work Report, showing the progress of remediation projects accomplished during the preceding year. The RMP Work Plan and the RMP Work Report shall both be due to the County by January 31st of every year of this Franchise, until such time that all Facilities identified in the plan have been remediated and brought into compliance with the Road Standards.

29.3 If Franchisee installs or acquires above-ground Facilities at any time after Franchisee has previously certified that all its Facilities were located underground, then Franchisee must immediately update its RMA described in Section 29.1 as to whether the above-ground Facilities comply with the Road Standards and submit the updated RMA to the County Road Engineer. If Franchisee concludes that the above-ground Facilities comply with the Road Standards, then Franchisee shall so certify to the County as required under Section 29.1. If Franchisee determines

that the above-ground Facilities do not comply with the Road Standards, then Franchisee shall carry out a remediation program consistent with Section 29.2.

Section 30. Hazardous Materials

30.1 Franchisee may use Authorized Hazardous Materials in the Franchise Area; provided that Franchisee's use of Authorized Hazardous Materials in the Franchise Area shall at all times be undertaken in strict compliance with all Environmental Laws. Franchisee and Contractors shall not cause or contribute to a Release, in any manner, through act or omission.

30.2 If a Release occurs or if Franchisee or a Contractor discovers any Hazardous Material(s), then Franchisee shall immediately or as soon thereafter as reasonably possible (but in no event later than the next business day) provide written notice of the Release or Hazardous Material(s) to the County by email to the Real Estate Services Section (RES.permits@kingcounty.gov), and the Road Services Division (KCUIU@kingcounty.gov), with a copy to the KCIT Cable Office (CableOffice@kingcounty.gov), and provide notice to any affected property owner, and if required by Environmental Laws, to the Washington State Department of Ecology and other government entities.

30.3 The County shall not be liable to Franchisee or a Contractor for any damages, costs, losses, expenses, penalties, or liabilities arising out of or connected with a Release under Franchisee's exercise of this Franchise and Franchisee hereby releases the County from any such claims. Franchisee shall be responsible, at no cost to the County, for promptly remediating any and all Releases within the Franchise Area, during any time period in which Franchisee had Facilities within the Franchise Area. Franchisee is also responsible for remediating any Releases that migrated from the Franchise Area to property outside the Franchise Area. At a minimum, Releases shall be remediated to the applicable cleanup standards under Environmental Laws that will allow for unrestricted use of the Franchise Area, or adjacent property with no environmental covenant or other deed restriction required to be recorded. The County shall review and approve of any remediation plan prior to implementation; however, Franchisee shall be entitled to respond immediately to an Emergency without prior approval from County, including but not limited to taking actions necessary to prevent the Release from migrating, leaching, or otherwise spreading, and taking actions necessary to respond to any immediate obligations imposed on Franchisee by Environmental Laws. Franchisee shall cooperate in any environmental investigations conducted by or at the direction of the County or any state, federal, or local agency with jurisdiction where there is evidence of contamination in the Franchise Area, or where otherwise incidental to Franchisee's exercise of this Franchise, or where the County is directed to conduct such investigation by an agency or agencies having jurisdiction. Franchisee shall, at its sole cost and expense, timely prepare and submit any reports or communications relating to any remediation actions as required by Environmental Laws. Franchisee shall provide the County with copies of all reports, sampling data, and communications to and from government entities concerning Franchisee's remediation actions taken under this Section 30.3.

Notwithstanding Franchisee's obligation to completely remediate the Franchise Area and any property outside the Franchise Area to which a Release migrated, in the event of any Release, the

County may, in the interest of protecting the health, safety, welfare, and property of the public, immediately take whatever actions it deems necessary or advisable, in its sole discretion, to investigate, contain, or otherwise remediate the Release at issue. The County shall be entitled to reimbursement from Franchisee of any and all costs and expenses incurred by the County under this Section 30.3. Franchisee's reimbursement shall be due upon receipt of the County's invoice for such costs and expenses.

30.4 Franchisee shall address all Hazardous Materials encountered in conducting actions authorized under this Franchise in full compliance with Environmental Laws, including but not limited to the excavation, stockpiling, transportation, and disposal of those materials, at no cost to the County. The County shall not be liable for any damages, costs, losses, expenses, penalties, or liabilities arising out of or connected with the presence of Hazardous Materials and Franchisee hereby releases the County from any such claims. Franchisee shall conduct actions in the Franchisee Area in a manner that does not cause migration or other exacerbation of the Hazardous Materials. Before carrying out activities that might disturb Hazardous Materials, Franchisee shall contact the County regarding the proposed activity. The County reserves the right to propose alternatives to Franchisee that would not require Franchisee to disturb the Hazardous Materials. Franchisee is not required to remove or otherwise remediate any Hazardous Materials except to the extent necessary to conduct actions authorized under this Franchise or to the extent necessary to remediate any migration or other exacerbation of Hazardous Materials caused by Franchisee. Franchisee shall at no cost to the County, timely prepare and submit any reports or communications required by Environmental Laws concerning any actions under this Section 30.4, and Franchisee shall provide the County with copies of such reports or communications. Franchisee shall also provide the County documentation or other information concerning Franchisee's actions concerning Hazardous Materials that is not submitted to government entities. Nothing in this Franchise shall be construed as limiting Franchisee's ability to pursue the recovery of remedial action costs incurred for excavation, stockpiling, transportation, and disposal of Hazardous Materials from parties other than County Parties.

30.5 Franchisee hereby releases each County Party from, and shall indemnify, defend (at the County's option and using counsel acceptable to the County), and hold each County Party harmless from and against, any and all claims, liabilities, lawsuits, actions, judgments, awards, penalties, administrative proceedings, government orders, fines, expenses, costs (including but not limited to removal, remedial action, or other costs recoverable under CERCLA or MTCA), any and all other requirements, charges, interest, fees, or oversight costs, and all other damages (including, but not limited to, reasonable attorneys' fees and costs) (collectively, "Environmental Claims") incurred or suffered by the County or any County Party and arising out of or related to: (A) any Release within the Franchise Area, including Releases that may migrate from the Franchise Area to property outside the Franchise Area; (B) the acts or omissions of Franchisee or Contractors under this Franchise; and (C) costs of compliance incurred in connection with any Environmental Claim, investigation or other action under Environmental Laws pursuant to Franchisee's exercise of this Franchise.

30.6 If any County Party incurs attorneys' fees, legal expenses, or other costs to enforce the provisions of this Section 30 against Franchisee or a Contractor, then all such fees, expenses, and costs shall be recoverable from Franchisee to the extent County Parties prevail in such action. The hourly rates for any award of attorneys' fees will be calculated based on the rate that would be

charged for the services provided by an attorney who is in private practice, of the same expertise and experience as the prevailing party's attorney(s).

30.7 The Parties specifically and expressly agree that, solely to the extent required to enforce the release, indemnification, defense, and hold harmless obligations contained in this Section 30, Franchisee waives its immunity under RCW Title 51 as to County Parties; provided, however, the foregoing waiver shall not in any way preclude Franchisee from raising such immunity as a defense against any claim brought against Franchisee by any of its employees. This waiver has been mutually negotiated by the Parties.

30.8 All Claims involving Hazardous Material shall be subject to this Section 30 and not the indemnity and liability provisions of Section 18 (Hold Harmless and Indemnification). This Section 30 provides the Parties' exclusive contractual remedies as to Hazardous Materials but does not limit and shall not be deemed to affect the County's statutory rights of recovery or its common law causes of action.

Section 31. Dangerous Conditions; Authority for County to Abate

31.1 Whenever Franchisee's Construction, Operation, Maintenance, or abandonment of Facilities has caused or contributed to a condition that, in the reasonable opinion of the County Road Engineer, substantially impairs the lateral support of the adjoining road or public or private property, or endangers the public, an adjoining public place, road facilities, County property or private property, the County Road Engineer may direct Franchisee to remedy the condition or danger to the satisfaction of the County Road Engineer, within a specified period of time and at no expense to the County.

31.2 In the event that Franchisee fails or refuses to promptly take the actions directed by the County Road Engineer or fails to fully comply with such directions, the County may take actions that are reasonably necessary to protect the public, the adjacent roads, road facilities, or to maintain the lateral support thereof, or actions necessary to ensure the public safety, and Franchisee shall be liable to the County for the costs thereof.

31.3 This Section 31 does not affect the Parties' rights and obligations regarding Emergencies under Section 23.

Section 32. Decommissioning of Facilities

32.1 If Franchisee wishes to cease Operation and decommission in place any portion of Facilities, Franchisee shall provide a written decommissioning request ("Request") to the County a minimum of **ninety (90) days** prior to the date Franchisee intends to decommission Facilities. Unless such Request is part of an application for a Franchise Area, construction permit, the Franchisee shall deliver the Request in accordance with Section 9, to the attention of the County Road Engineer and the County contact listed in Section 9.1. Franchisee's Request shall specify which Facilities it wishes to decommission in place along with an acknowledgment that Franchisee will maintain ownership and responsibility of decommissioned Facilities in perpetuity.

32.2 The County will review the Request and assess whether decommissioning in place will pose a hazard to the public use of the Franchise Area. If the County determines that the Request

will pose a hazard to the public use of Franchise Area, the County may deny the Request or alternatively may approve the Request with terms and conditions that Franchisee must meet to ensure that the decommissioned Facilities will not pose a hazard to the public use of Franchise Area.

32.3 If the County approves Franchisee's Request, Franchisee shall continue to own and be responsible for all decommissioned Facilities.

32.4 If the County denies Franchisee's Request in whole or in part, or if Franchisee refuses to accept terms and conditions imposed to ensure that the decommissioned Facilities will not pose a hazard to the public use of Franchise Area, then Franchisee may not decommission in place the subject Facilities.

32.5 If Franchisee decommissions Facilities after the County has denied its Request, or if Franchisee fails to satisfy any terms and conditions imposed to ensure that the decommissioned Facilities will not pose a hazard to the public use of the Franchise Area, then Franchisee shall be deemed to have decommissioned Facilities without authorization. In the event of any unauthorized decommissioning of any portion of Facilities by Franchisee, the County may, at its election, and in addition to any other remedies or enforcement options available to the County under this Franchise, at law or in equity, remove all or any portion of the decommissioned Facilities on behalf of Franchisee and restore the Franchise Area following such removal. If the County chooses to remove Facilities and restore the Franchise Area on Franchisee's behalf, then the County may dispose of the removed Facilities in any manner it deems fit, and Franchisee shall reimburse the County for all costs and expenses incurred by the County in performing such removal and restoration activities.

32.6 Within **ninety (90) days** of the end of the term of this Franchise, including any extension, renewal, or termination thereof, Franchisee shall provide a Request to the County pursuant to Section 32.1 if Franchisee wishes to decommission in place any of its Facilities. The Request and the Parties' associated obligations and rights shall be subject to the provisions of Sections 32.1 through 32.5. If Franchisee fails to provide such Request within **ninety (90) days**, Franchisee shall be deemed to have decommissioned in place its Facilities without authorization, and the County shall have the remedies available to it under Section 32.5 in addition to any other remedies or enforcement options available under the Franchise, at law or in equity.

32.7 For purposes of this Franchise, decommissioning includes failure by Franchisee to use any portion of Facilities for twelve (12) consecutive months. Use by Colocators or other third parties shall not constitute "use" for purposes of determining whether decommissioning has occurred under this Section 32.

32.8 If Franchisee does not intend to continue use of any Facilities which are occupied by a Colocator, and Franchisee desires to transfer ownership of Facilities to said Colocator rather than decommissioning them in place, Franchisee shall notify the County of its intentions as prescribed in Section 17, and any transfer shall be subject to the terms of Section 17. No Facilities located in the clear zone shall be decommissioned in place or transferred to another party.

EXECUTION

Section 33. Acceptance

Franchisee shall have **ninety (90) days** to accept this Franchise, beginning from the date that the County Council adopts an ordinance authorizing this Franchise. If Franchisee wishes to accept this Franchise, then Franchisee shall execute it and the fully executed Franchise shall be filed with the Clerk of the County Council (“Clerk”). Filing the executed Franchise with the Clerk shall be deemed Franchisee’s unconditional written acceptance of this Franchise. Full and timely acceptance of this Franchise is a condition precedent to it taking effect. If this Franchise is not executed and filed with the Clerk within the time specified in this Section 33, then this Franchise will be voidable in the County’s sole and absolute discretion and if the County voids it then this Franchise will have no force or effect.

Section 34. Exhibits

The following attached Exhibits are made a part of this Franchise. The terms of any amendments to this Franchise and the Exhibits shall control over any inconsistent provision in the Sections of this Franchise.

EXHIBIT A: Franchise Area Legal Description

EXHIBIT B: Franchise Area Maps

EXHIBIT C: Additional Language

EXHIBIT D: Non-Standard Additions to Franchise Document

IN WITNESS WHEREOF, the Parties hereto have executed this Franchise as of the date and year set forth below.

HYPERFIBER OF WASHINGTON, LLC

KING COUNTY,

a home rule charter county and political subdivision
of the State of Washington

Signature

Date _____

Printed Name and Title

Signature

Date _____

_____, Director and Chief Information
Officer, Department of Information Technology

Approved as to form:

Senior Deputy Prosecuting Attorney Date

(NOTARY PAGE FOLLOWS)

[FRANCHISEE NAME]

STATE OF WASHINGTON)
) : ss.
COUNTY OF King County)

On this _____ day of _____, 20____, before me personally
appeared _____, and under oath stated that as
_____ of _____, s/he was authorized to
execute the foregoing instrument, which s/he signed as a free and voluntary act on behalf of and
with the knowledge and authority of _____.

Given under my hand and official seal hereto affixed the day and year last above written.

Notary Seal

(Signature)

(Print or type name)

Notary Public in and for the State of Washington
residing at _____

My commission expires _____

KING COUNTY

STATE OF WASHINGTON)
) : ss.
COUNTY OF KING)

On this _____ day of _____, 20____, before me personally
appeared _____, known to me as the Director and Chief Information Officer,
Department of Information Technology, for King County, and under oath stated that s/he was
authorized to execute the foregoing instrument, which s/he signed as a free and voluntary act on
behalf of and with the knowledge and authority of King County.

Given under my hand and official seal hereto affixed the day and year last above written.

Notary Seal

(Signature)

(Print or type name)

Notary Public in and for the State of Washington
residing at _____

My commission expires _____

EXHIBIT A

FRANCHISE AREA DESCRIPTION



HyperFiber of Washington, LLC Franchise Application Supplemental Documentation for the following application items:

1. Proposed service area map for unincorporated King County.

Attached is a copy of HyperFiber's mapping exhibit for the City's review. The areas that are highlighted in a lighter blue color on sheet 1 are an entire overlay of the locations that we are considering.

Sheets 2 and 3 depict the areas that we would consider proceeding with providing service. Sheet 3 of the exhibit provides a more detailed view of the proposed first service area.

The Section, Township and Range for this location is:

Section 7, Township 13S, Range 6E.

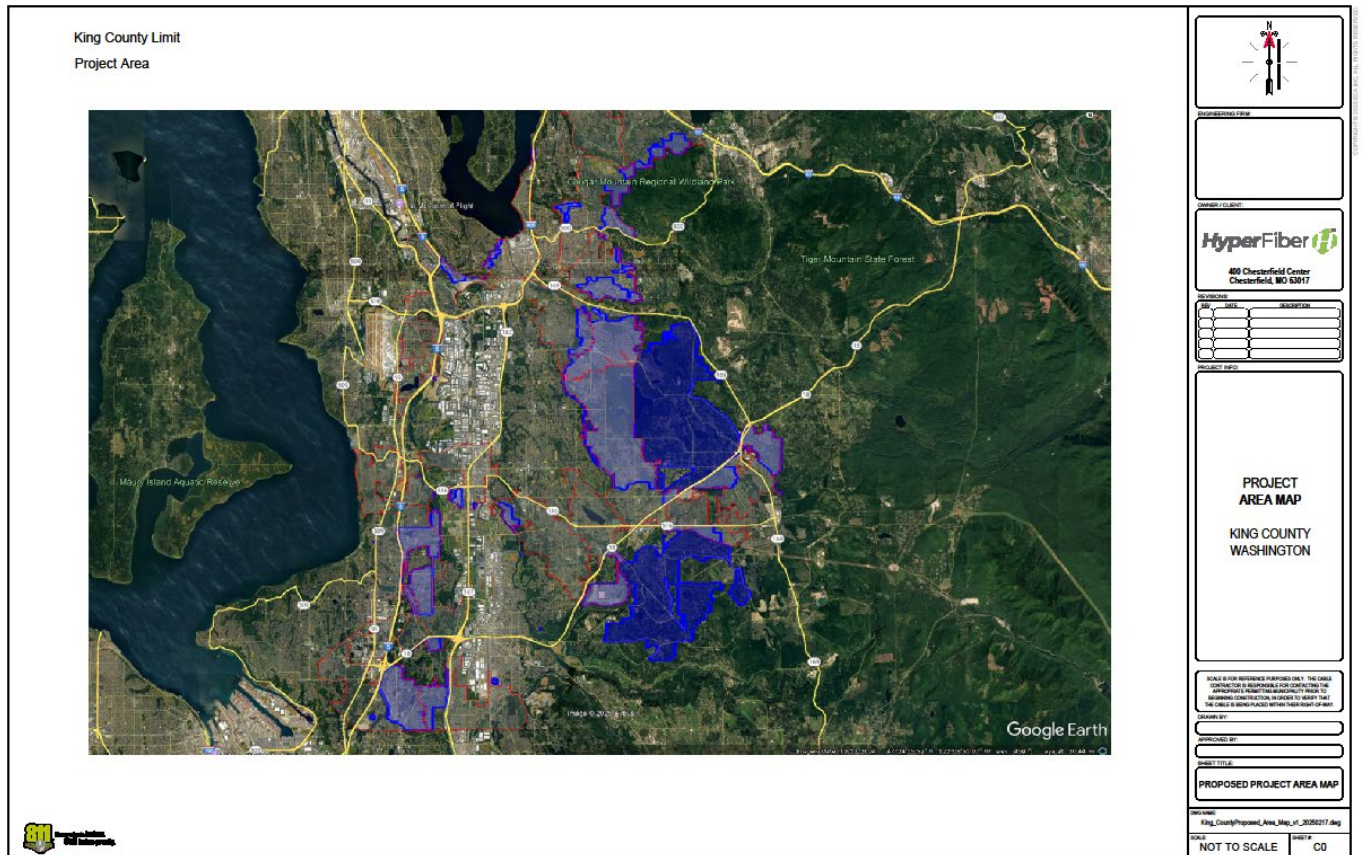
HyperFiber proposes to place a fiber optic infrastructure that will provide high speed internet service to residential areas once we have determined all of the actual service locations.

Fiber optic facilities would be placed within the city right of way which could include the use of public utility easements, or easements dedicated for compatible uses. Fiber will be placed in locations that are capable of accommodating the installation of fiber and other associated appurtenances, and all construction guidelines of the city will be followed. Power delivery for active cabinets will be provided by the local area service provider and electrical service will be brought to the cabinet by underground installation methods.

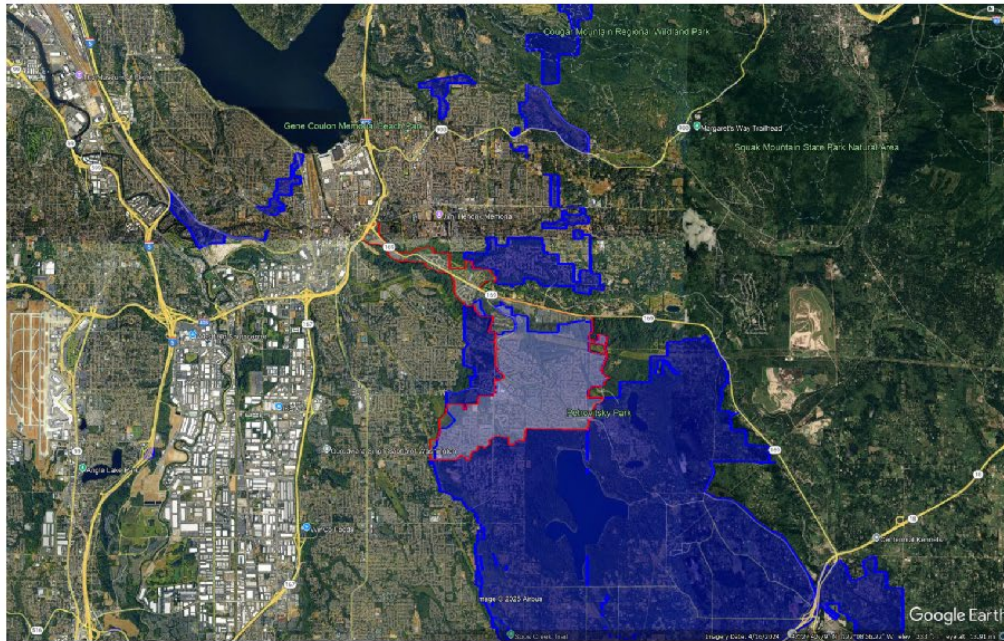
HyperFiber does not know the exact build-out locations of the proposed fiber service area. This will be determined when we identify the fiber needs of the community. In general, HyperFiber will be proposing to work entirely within the boundary of the City. Location specific plans will be permitted through the city as required. HyperFiber's build-out schedule is anticipated to be over a period of 1 to 2 years.

EXHIBIT B

FRANCHISE AREA MAPS

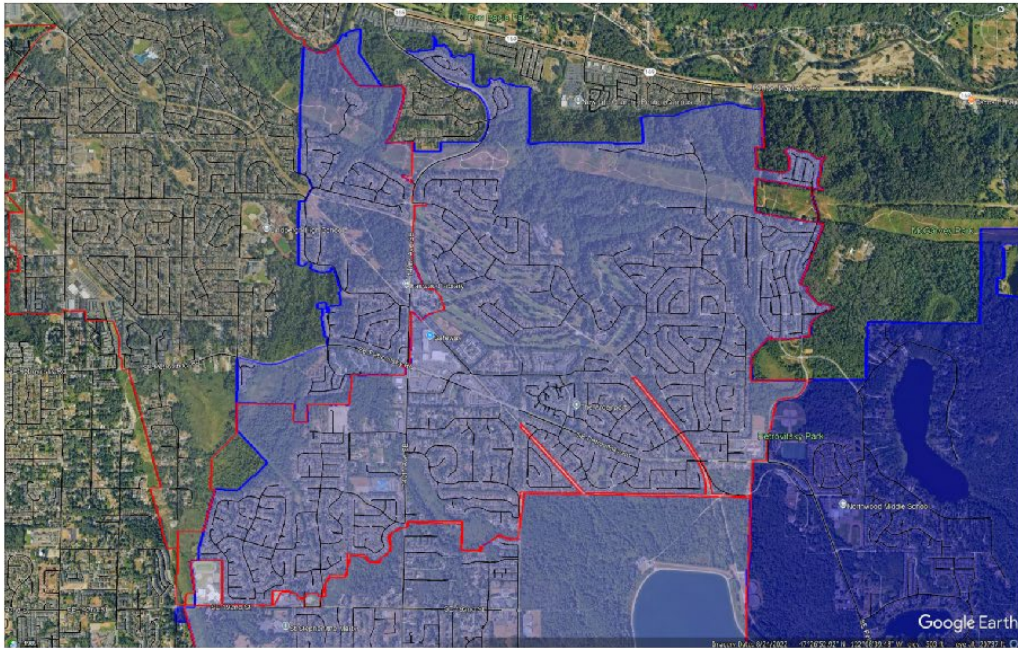


King County Limit
Project Area



PREPARED BY: _____	
CHECKED BY: _____	
DATE: _____	
400 Chesterfield Center Chesterfield, MO 63017	
PROJECT NO.: _____	SHEET NO.: _____
PROJECT AREA: _____	PROJECT TITLE: _____
SCALE: 1" = 1 MILE (FOR REFERENCE PURPOSES ONLY - THE USER OF THIS MAP IS RESPONSIBLE FOR VERIFYING THE ACCURACY OF THE INFORMATION PROVIDED HEREON)	
DRAWN BY: _____	
APPROVED BY: _____	
PROJECT TITLE: _____	
PROPOSED FIRST BUILD AREA	
FILE NAME: KingCounty_ProposedArea_Map_v1_20180217.dwg	
SCALE: NOT TO SCALE	SHEET: C1

King County Limit
Project Area
Proposed Routes



DRAWING TITLE PROJECT AREA MAP KING COUNTY WASHINGTON		
SCALE: AS SHOWN FOR REFERENCE PURPOSES ONLY. THE USER CONTRACTOR IS RESPONSIBLE FOR VERIFYING THE APPROPRIATE SCALE FOR THE PROJECT. TO MAINTAIN ACCURACY, THE USER SHOULD VERIFY THE SCALE OF THE DATA PROVIDED.		
DESIGNED BY: _____ APPROVED BY: _____ PROJECT TITLE: _____ PROPOSED ROUTES		
DATE: _____ SCALE: NOT TO SCALE SHEET: C2		

EXHIBIT C
ADDITIONAL LANGUAGE

EXHIBIT D

NON-STANDARD ADDITIONS TO FRANCHISE DOCUMENT