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ORDINANCE NO. 781

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, GRANTING A NON-EXCLUSIVE FRANCHISE, SUBJECT TO CONDITIONS, TO MCIMETRO ACCESS TRANSMISSION SERVICES CORP., D/B/A VERIZON ACCESS TRANSMISSION SERVICES, LEGALLY AUTHORIZED TO CONDUCT BUSINESS IN THE STATE OF WASHINGTON, FOR THE PURPOSE OF CONSTRUCTING, OPERATING, AND MAINTAINING A TELECOMMUNICATIONS SYSTEM IN THE PUBLIC RIGHTS-OF-WAY IN THE CITY; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, MCIMETRO ACCESS TRANSMISSION SERVICES CORP., D/B/A VERIZON ACCESS TRANSMISSION SERVICES, herein after referred as "VERIZON," is a telecommunications company that, among other things, provides voice, and data services to customers, including those in the Puget Sound Region; and

WHEREAS, VERIZON's desired route through the City of Shoreline, hereinafter referred to as "City," requires the use of the City rights-of-way for the installation, operation, and maintenance of a telecommunications system; and

WHEREAS, the City Council has determined that the use of portions of the City's rights-of-way for installation of a telecommunications system benefits local businesses and the region as a result of such services; and

WHEREAS, the franchise for use of public rights-of-way allows for the construction of amenities necessary to serve the future needs of the citizens of Shoreline and the coordination, planning, and management of the City's rights-of-way is necessary to ensure that the burden of costs relating to use of the public rights-of-way are fairly allocated; and

WHEREAS, RCW 35A.11.020 grants the City broad authority to regulate the use of the public right-of-way and RCW 35A.47.040 grants the City broad authority to grant nonexclusive franchise agreements; now therefore;

THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Non-exclusive Franchise Granted Subject to Conditions.

A. The City hereby grants to VERIZON, subject to the conditions prescribed in this ordinance ("Franchise Agreement"), the franchise rights and authority to construct, install, replace, repair, monitor, maintain, use and operate the equipment and facilities necessary for a telecommunications system in, under, on, across over, and through, all City-owned rights-of-way, hereinafter referred to as the "Franchise Area." Facilities includes all wires, lines, cables, conduit, equipment, switches, and supporting

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structures located in the City's right-of-way, utilized by VERIZON in the operation of activities authorized by this Franchise Agreement.

B. The foregoing franchise rights and authority ("Franchise") shall not be deemed to be exclusive to VERIZON and shall in no way prohibit or limit the City's ability to grant other franchises, permits, or rights along, over, or under the areas to which this Franchise has been granted to VERIZON; provided, that such other franchises do not unreasonably interfere with VERIZON's exercise of franchise rights granted herein as determined by the City. This Franchise shall in no way interfere with existing utilities or in any way limit, prohibit, or prevent, the City from using the Franchise Area or affect the City's jurisdiction over such area in any way consistent with applicable law.

C. This Franchise Agreement authorizes VERIZON to occupy and use the Franchise Area. Nothing contained herein shall be construed to grant or convey any right, title, or interest in the Franchise Area to VERIZON.

Section 2. Authority. The Public Works Director or his or her designee is hereby granted the authority to administer and enforce the terms and provisions of this Franchise Agreement and may develop such lawful and reasonable rules, policies, and procedures as he or she deems necessary to carry out the provisions contained herein.

Section 3. Franchise Term. The franchise rights granted herein shall remain in full force and effect for a period of fifteen (15) years from the effective date of this ordinance. However, this Franchise Agreement shall not take effect and VERIZON shall have no rights under this Franchise Agreement unless a conduit lease agreement is executed pursuant to Section 4 and a written acceptance with the City is received pursuant to Section 5 of this agreement.

Section 4. Conditional Approval of Franchise – Conduit Lease Agreement.

A. This Franchise is conditioned upon the successful negotiation of a conduit lease agreement between the City and Verizon. The City owns underground conduit, along with necessary access vaults, within the public right-of-way commonly referred to as Aurora Avenue North, with the conduit extending northward from North 145th Street to north 205th Street (Aurora Conduit). The Aurora Conduit contains currently available capacity for which it would be in the public interest to lease this available capacity so as to preclude the unnecessary impact and interference within this public right-of-way that would result through the installation of new conduit.

B. The parties shall exercise good faith in negotiating a lease for VERIZON's use of a portion of the Aurora Conduit. A conduit lease agreement, mutually acceptable to both parties, shall be written for presentation to the authorizing bodies of each party for their authorization within sixty (60) calendar days of the passage of this Ordinance.

C. The authorizing bodies of each party shall have sixty (60) calendar days from presentation to authorize and fully execute the conduit lease agreement.

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Section 5. Acceptance of Terms and Conditions. The full acceptance of this Franchise Agreement and all the terms and conditions shall be filed with the City Clerk within thirty (30) calendar days of the effective date of this ordinance in the form attached hereto as Exhibit B. Failure on the part of VERIZON to file said consent within thirty (30) calendar days of the effective date of this ordinance shall result in this ordinance having no further force or effect and all rights granted under this Franchise Agreement shall terminate.

Section 6. Construction Provisions and Standards. The following provisions shall be considered mandatory and failure to abide by any conditions described herein shall be deemed as noncompliance with the terms of this Franchise Agreement and may result in some or all of the penalties specified in Section 7.

A. Permit Required. No construction, maintenance, or repairs (except for emergency repairs) shall be undertaken in the Franchise Area without first obtaining appropriate right of way use permits required under SMC 12.15 from the City of Shoreline and compliance with the permit. In case of an emergency, VERIZON shall, within 24 hours of the emergency work performed, obtain a permit from the City of Shoreline Public Works Department.

B. Construction Standards. Any construction, installation, maintenance, and restoration activities performed by or for VERIZON within the Franchise Area shall be constructed and located so as to produce the least amount of interference with the free passage of pedestrian and vehicular traffic. All construction, installation, maintenance, and restoration activities shall be conducted such that they conform to City's Engineering Development Manual and with Title 12 of the Shoreline Municipal Code.

C. Underground Installation Required. All telecommunications cables and junction boxes or other vaulted system components shall be installed underground, unless otherwise exempted from this requirement, in writing, by the Public Works Director; provided that VERIZON may utilize existing aerial telecommunication facilities under lease or license from another franchisee. Should VERIZON utilize existing aerial telecommunication facilities, VERIZON agrees to cooperate in relocating to underground facilities when required by SMC 13.20 *Electric and Communication* for a City capital improvement project or joint trench opportunity.

D. Relocation.

1. Whenever the City causes a public improvement to be constructed within the Franchise Area, and such public improvement requires the relocation of VERIZON's facilities, the City shall provide VERIZON with written notice requesting such relocation along with plans for the public improvement that are sufficiently complete to allow for the initial evaluation, coordination and the development of a relocation plan. The City and VERIZON shall meet at a time and location determined by the City to discuss the project requirements including

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critical timelines, schedules, construction standards, utility conflicts, as-built requirements, and other pertinent relocation plan details.

2. To ensure timely execution of relocation requirements, VERIZON shall, upon written request from the City, provide at VERIZON's expense, base maps, current as-built information, detailed relocation plan (including detailed schedule of relocation activities, identification of critical path, identification of facilities, and relocation procedures), and other design, technical or operational requirements within the timeframe specified by the City.

3. VERIZON may, after receipt of written notice requesting a relocation of its facilities, submit to the City written alternatives to such relocation within a reasonable time specified by the City. Such alternatives shall include the use and operation of temporary facilities in adjacent rights of way. The City shall evaluate such alternatives and advise VERIZON in writing if one or more of the alternatives are suitable to accommodate the work, which would otherwise necessitate relocation of the facilities. If requested by the City, VERIZON shall submit additional information to assist the City in making such evaluation. The City shall give each alternative proposed by VERIZON full and fair consideration. In the event the City ultimately determines that there is no other reasonable alternative, VERIZON shall relocate its facilities as otherwise specified in Section 6.E.

4. Upon final approval of the relocation plan by the City, VERIZON shall at its own expense, except as provided in RCW 35.99.060, and at the timeframe specified by the City, temporarily or permanently remove, relocate, place underground, change or alter the position of any facilities or structures within the right-of-way whenever the City has determined that such removal, relocation, undergrounding, change or alteration is reasonably necessary for the construction, repair, maintenance, installation, or operation of any public improvement in or upon the rights-of-way, or for public safety.

5. If during the construction, repair, or maintenance of the City's public improvement project an unexpected conflict occurs with VERIZON's facilities, VERIZON shall upon notification from the City, respond within 36 hours to resolve the conflict.

6. VERIZON shall reimburse the City for the direct costs incurred by the City in planning, designing, constructing, installing, repairing or altering any City infrastructure, structure, or facility as the result of the actual or proposed presence in the Public Right-of-Way of VERIZON's Facilities. Such costs and expenses shall include, but not be limited to, the direct costs of City personnel and contractors utilized to oversee or engage in any work in the Public Right-of-Way as the result of the presence of VERIZON's Facilities in the Public Right-of-Way, and any time spent reviewing construction plans in order to either accomplish the relocation of VERIZON's Facilities or the routing or rerouting of any public utilities or Public

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Rights-of-Way so as not to interfere with VERIZON's Facilities. Upon request as a condition of payment by VERIZON, all billing will be itemized so as to specifically identify the direct costs for each project for which the City claims reimbursement.

E. **Removal or Abandonment.** Upon the removal from service of any VERIZON structures, facilities and amenities within the Franchise Area, VERIZON shall comply with all applicable standards and requirements prescribed by the City of Shoreline Public Works Department for the removal or abandonment of said structures and facilities. No facility constructed or owned by VERIZON may be abandoned in place without the express written consent of the City.

F. **Bond.** Before undertaking any of the work, installation, improvements, construction, repair, relocation, or maintenance authorized by this Franchise Agreement, VERIZON shall upon the request of the City, furnish a bond executed by VERIZON and a corporate surety authorized to operate a surety business in the State of Washington, in such sum as may be set and approved by the City as sufficient to ensure performance of VERIZON's obligations under this Franchise Agreement, provided, however, that such sum shall not exceed 100% of the project construction cost of the proposed telecommunications system work by VERIZON in the City rights-of-way. At VERIZON's sole option, VERIZON may provide alternate security in the form of an assignment of funds or a letter of credit, in the same amount as the bond. All forms of security shall be in the form reasonably acceptable to the City. The bond shall be conditioned so that VERIZON shall observe all the covenants, terms, and conditions and shall faithfully perform all of the obligations of this Franchise Agreement, and to repair or replace any defective VERIZON work or materials discovered in the City's roads, streets, or property.

G. **"One-Call" Location & Liability.** VERIZON shall subscribe to and maintain membership in the regional "One-Call" utility location service and shall promptly locate all of its lines upon request. The City shall not be liable for any damages to VERIZON's system components or for interruptions in service to VERIZON customers which are a direct result of work performed for any City project for which VERIZON has failed to properly locate its lines and facilities within the prescribed time limits and guidelines established by One-Call. The City shall also not be liable for any damages to the VERIZON system components or for interruptions in service to VERIZON customers resulting from work performed under a permit issued by the City.

H. **As-Built Plans Required.** VERIZON shall maintain accurate engineering plans and details of all installed system facilities, within the City limits, and upon request by the City, shall provide such information in both paper form and electronic form using the most current Autocad version (or other mutually-agreeable format) prior to close-out of any permit issued by the City and any work undertaken by VERIZON pursuant to this Franchise Agreement. The City shall reasonably determine the acceptability of any as-built submittals provided under this Section.

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I. **Recovery of Costs.** VERIZON shall be subject to all applicable permit fees associated with activities undertaken through the authority granted in this Franchise Agreement or under ordinances of the City.

J. **Vacation.** The City shall have the right to vacate any City road, right-of-way, or other City property which is subject to rights granted by this Franchise Agreement. The City may, if practicable, reserve an easement for VERIZON in its vacation ordinance. If VERIZON's facilities must be relocated due to the vacation, the City may, at is option and by giving sixty (60) calendar days written notice to VERIZON, terminate this Franchise Agreement with respect to such City road, right-of-way, or other City property so vacated. The City shall not be liable for any damages or loss to VERIZON by reason of such termination other than those provided for in RCW 35.99.

Section 7. Franchise Compliance.

A. **Franchise Violations.** The failure by VERIZON to fully comply with any of the provisions of this Franchise Agreement or conditions of breach listed in SMC 12.25.100 may result in a written notice from the City which describes the violations of the Franchise Agreement and requests remedial action pursuant to SMC 12.25.100.

B. **Emergency Actions.**

1. If any of VERIZON's actions, or any failure by VERIZON to act to correct a situation caused by VERIZON, is deemed by the City to create a threat to life or property, financial harm, or cause a delay of the construction, repair or maintenance of the public improvement, the City may order VERIZON to immediately correct said threat, financial harm, or delay or, at the City's discretion, the City may undertake measures to correct said threat, financial harm or delay itself; provided that, except in emergency situations, as determined solely by the City, the City shall notify VERIZON and give VERIZON an opportunity to correct the situation within a reasonable time as specified by the City, said threat, financial harm or delay before undertaking such corrective measures. VERIZON shall be liable for all reasonable costs, expenses, and damages attributed to the correction of such an emergency situation as undertaken by the City to the extent that such situation was caused by VERIZON and shall further be liable for all reasonable costs, expenses, and damages resulting to the City from such situation and any reimbursement of such costs to the City shall be made within thirty (30) calendar days of written notice of the completion of such action or determination of damages by the City. The failure by VERIZON to take appropriate action to correct a situation caused by VERIZON and identified by the City as a threat to public or private safety or property, financial harm, or delay of the construction, repair or maintenance of the public improvement shall be considered a violation of the terms of this Franchise Agreement.

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2. If during construction or maintenance of VERIZON's facilities any damage occurs to an underground facility and the damage results in the release of natural gas or other hazardous substance or potentially endangers life, health, or property, VERIZON or its contractor shall immediately call 911 or other local emergency response number.

C. **Other Remedies.** Nothing contained in this Franchise Agreement shall limit the City's available remedies in the event of VERIZON's failure to comply with the provisions of this Franchise Agreement, to include but not limited to, the City's right to a lawsuit for damages.

D. **Removal of System.** In the event that this Franchise Agreement is terminated as a result of violations of the terms of this Franchise Agreement, VERIZON shall at its sole expense, promptly remove all system components and facilities, provided that the City, at its sole option, may allow VERIZON to abandon its facilities in place.

Section 8. Insurance.

A. VERIZON shall maintain liability insurance written on a per occurrence basis during the full term of this Franchise Agreement for injuries and property damages. The policy or policies shall afford insurance covering all operations, vehicles, and employees with the following limits and provisions:

1. Commercial general liability insurance with limits of not less than $2,000,000 each occurrence combined single limit for bodily injury and property damage, including contractual liability; personal and advertising injury; explosion hazard, collapse hazard, and underground property damage hazard; products; and completed operations.

2. Commercial automobile liability insurance with limits not less than $1,000,000 each occurrence combined single limit for bodily injury and property damage, covering all owned, non-owned, leased, and hired auto coverage, as applicable.

3. Pollution Liability insurance, on an occurrence form, with limits not less than $1,000,000 each occurrence combined single limit for bodily injury, property damage, cleanup costs and defense including costs and expenses incurred in the investigation, defense, or settlement of claims..

B. Such insurance shall include as additional insured the City, its officers, and employees, shall apply as primary insurance, shall stipulate that no insurance affected by the City will be called on to contribute to a loss covered thereunder. Upon receipt of notice from its insurer(s), VERIZON shall use all commercially reasonable efforts to provide at least thirty (30) calendar days prior written notice of cancellation by US mail to the City. VERIZON may utilize primary and umbrella liability insurance policies to satisfy insurance policy limits required herein.

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C. If the City determines that circumstances warrant an increase in insurance coverage and liability limits to adequately cover the risks of the City, the City may require a commercially reasonable amount of additional insurance to be acquired. The City shall provide written notice should the City exercise its right to require additional insurance.

Section 9. Other Permits & Approvals. Nothing in this Agreement shall relieve VERIZON from any obligation to obtain approvals or necessary permits from applicable federal, state, and City authorities for all activities in the Franchise Area.

Section 10. Transfer of Ownership.

A. The rights, privileges, benefits, title, or interest provided by this Franchise Agreement shall not be sold, transferred, assigned, or otherwise encumbered, without the prior written consent of the City, with such consent not being unreasonably withheld, unreasonably conditioned or unreasonably delayed. No such consent shall be required, however, for a transfer in trust, by other hypothecation, or by assignment of any rights, title, or interest in VERIZON's telecommunications system in order to secure indebtedness. Approval shall not be required for mortgaging purposes provided that the collateral pledged for any mortgage shall not include the assets of this franchise. Approval shall not be required for any transfer from VERIZON to another person or entity controlling, controlled by, or under common control with VERIZON or if VERIZON adopts a new company name without a change in control. VERIZON may license fibers to other users operating a telephone business or service providers without the consent of the City provided that VERIZON remains solely responsible for the terms and conditions outlined in this Franchise Agreement and provides the City with written notice of licenses or leases for such purposes. The licensing or lease of fibers for other uses shall require a separate assignment, franchise or right of way agreement approved by the City.

B. In any transfer of this Franchise which requires the approval of the City, VERIZON shall show that the recipient of such transfer has the technical ability, financial capability, and any other legal or general qualifications as reasonably determined by the City to be necessary to ensure that the obligations and terms required under this Franchise Agreement can be met to the satisfaction of the City. The qualifications of any transferee shall be determined by hearing before the City Council and the approval to such transfer shall be granted by resolution of the City Council. Any actual and reasonable administrative costs associated with a transfer of this Franchise which requires the approval of the City, shall be reimbursed to the City within thirty (30) calendar days of such transfer.

Section 11. Administrative Fees and Utility Tax.

A. Pursuant to RCW 35.21.860, the City is precluded from imposing franchise fees for any "telephone business" as defined in RCW 82.16.010 or "service provider" as defined in RCW 35.99.010, except that fees may be collected for administrative

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expenses related to such franchise and a utility tax may be assessed. VERIZON does hereby warrant that its operations as authorized under this Franchise Agreement are those of a telephone business as defined in RCW 82.16.010 or of a service provider as defined in 35.99.010. Nothing in this Franchise Agreement is intended to alter, amend, modify or expand the taxes and fees that may lawfully be assessed on VERIZON's business activities under this Franchise under applicable law.

B. VERIZON shall be subject to an administrative fee for reimbursement of the actual costs associated with the preparation, processing, and approval of this Franchise Agreement, not to exceed $5,000. These costs shall include but not be limited to wages, benefits, overhead expenses, equipment, and supplies associated with such tasks as plan review, site visits, meetings, negotiations, and other functions critical to proper management and oversight of City's right-of-way. Administrative fees exclude normal permit fees for permits issued under Chapter 12.15 of the Shoreline Municipal Code. The franchise application deposit shall be applied to final payment of the one-time administrative fee within thirty (30) calendar days after franchise approval.

C. In the event VERIZON submits a request for work beyond the scope of this Franchise Agreement, or submits a complex project that requires significant comprehensive plan review, or inspection, VERIZON shall reimburse City for amendments and reasonable expenses associated with the project. VERIZON shall pay such costs within thirty (30) calendar days of receipt of bill from the City.

D. Failure by VERIZON to make full payment of bills within the time specified shall be considered sufficient grounds for the termination of all rights and privileges existing under this ordinance utilizing the procedures specified in Section 7 of this ordinance.

E. If VERIZON provides services which are not regulated by the Washington Utilities and Transportation Commission, then such VERIZON services shall become subject to the City's utility tax as set forth in Chapter 3.32 of the Shoreline Municipal Code, as amended, as may be lawfully be assessed.

Section 12. Notices. Any notice to be served upon the City or VERIZON shall be delivered to the following addresses respectively:

City of Shoreline
City Clerk's Office
17500 Midvale Avenue N
Shoreline, WA 98133-4905
Phone: (206) 801 – 2700

Verizon Access Transmission Services
600 Hidden Ridge
Irving, TX 75038
Attn: Franchise Manager

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With Copy to (except for invoices):

Verizon Business Services
1320 N. Courthouse Road, Suite 900
Arlington, VA, USA 22201
Attn: Vice President and Deputy General Counsel

Section 13. Indemnification.

A. VERIZON shall use reasonable and appropriate precautions to avoid damage to persons or property in the construction, installation, repair, operation, and maintenance of its structures and facilities within the Franchise Area. VERIZON shall indemnify, defend and hold the City, its agents, officers or employees harmless from all third-party claims, actions or damages or expense of any nature, including reasonable attorney's and expert witness fees, which may accrue to or be suffered by any person or persons, corporation or property to the extent caused in part or in whole by any negligent or intentional act or omission of VERIZON, its officers, agents, servants or employees, contractors, or subcontractors in the performance of the rights, benefits, and privileges granted to VERIZON by this Franchise. In the event any claim or demand is presented to or filed with the City which gives rise to VERIZON's obligation pursuant to this Section, the City shall within a reasonable time notify VERIZON thereof and VERIZON shall have a right, at its election, to settle or compromise such claim or demand. In the event any claim or action is commenced in which the City is named a party, and which suit or action is based on a third-party claim or demand which gives rise to VERIZON's obligation pursuant to this Section, the City shall promptly notify VERIZON thereof, and VERIZON shall, at its sole cost and expense, defend such suit or action by attorneys of its own election. In defense of such suit or action, VERIZON may, at its election and at its sole cost and expense, settle or compromise such suit or action. This Section shall not be construed to require VERIZON to:

1. protect and save the City harmless from any claims, actions, or damages;
2. settle or compromise any claim, demand, suit, or action;
3. appear in or defend any suit or action; or,
4. pay any judgment or reimburse the City's costs and expenses (including reasonable attorney's fees), to the extent such claim arises out of the sole negligence or intentional acts of the City, its employees, agents or independent contractors.

B. The City shall have the right at all times to participate through its own attorney in any suit or action which arises out of any right, privilege, and authority granted by or exercised pursuant to this Franchise when the City determines that such participation is required to protect the interests of the City or the public. Such participation by the City shall be at the City's sole cost and expense.

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C. Should a court of competent jurisdiction determine that this franchise is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of VERIZON and the City, its officers, employees and agents, VERIZON's liability hereunder shall be only to the extent of VERIZON's negligence.

D. With respect to the performance of this Franchise and as to claims against the City, its officers, agents and employees, VERIZON expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its officers, agents and employees and agrees that the obligation to indemnify, defend and hold harmless provided for in this paragraph extends to any claim brought by or on behalf of VERIZON's officers, agents or employees. This waiver has been mutually negotiated by the parties.

Section 14. Severability. If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, either party may deem the entire ordinance to be affected and thereby nullified. However, in the event that a determination is made that a section, sentence, clause, or phrase in this ordinance is invalid or unconstitutional, the parties may agree to treat the portion declared invalid or unconstitutional as severable and maintain in force the remaining provisions of this ordinance; provided that, if the City elects, without agreement by VERIZON, to enforce the remaining provisions of the ordinance, VERIZON shall have the option to terminate the Franchise Agreement.

Section 15. Reservation of Rights. The parties agree that this agreement is intended to satisfy the requirements of all applicable laws, administrative guidelines, rules, orders, and ordinances. Accordingly, any provision of this agreement or any local ordinance which may conflict with or violate the law shall be invalid and unenforceable, whether occurring before or after the execution of this agreement, it being the intention of the parties to preserve their respective rights and remedies under the law, and that the execution of this agreement does not constitute a waiver of any rights or obligations by either party under the law.

Section 16. Police Powers. Nothing contained herein shall be deemed to affect the City's authority to exercise its police powers. VERIZON shall not by this Franchise Agreement obtain any vested rights to use any portion of the City right-of-way except for the locations approved by the City and then only subject to the terms and conditions of this Franchise Agreement. This Franchise Agreement and the permits issued thereunder shall be governed by applicable City ordinances in effect at the time of application for such permits.

Section 17. Future Rules, Regulations, and Specifications. VERIZON acknowledges that the City may develop rules, regulations, and specifications, including a general ordinance or other regulations governing telecommunications operations in the City. Such regulations, upon written notice to VERIZON, shall thereafter govern VERIZON's activities hereunder; provided, however, that in no event shall regulations:

A. materially interfere with or adversely affect VERIZON's rights pursuant to and in accordance with this Franchise Agreement; or

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B. be applied in a discriminatory manner as it pertains to VERIZON and other similar user of such facilities.

Section 18. Publication and Cost of Publication. This Ordinance or a summary thereof shall be published in the official newspaper of the City. The cost of the publication of this Ordinance shall be borne by VERIZON.

Section 19. Effective Date – Subject to Conditions. As provided in Section 4, this Franchise is conditioned upon the successful negotiation of a conduit lease agreement between the City and VERIZON. Therefore, the effective date of this Ordinance shall be the date on which the conduit lease agreement is fully executed by the parties. If a conduit lease agreement is not fully executed by the parties within one hundred twenty (120) calendar days of the date of passage of this Ordinance, than this Ordinance shall be considered NULL and VOID.

PASSED BY THE CITY COUNCIL ON AUGUST 14, 2017

Mayor Christopher Roberts

ATTEST:

Jessica Simulcik Smith
City Clerk

APPROVED AS TO FORM:

Margaret King
City Attorney

Publication Date: August 17, 2017
Effective Date: