

LICENSE AGREEMENT

This License Agreement is made this 13th day of January, 2014 ("the Effective Date"), by and between the City of Lawrence, Kansas, a municipal corporation, and Dawn Fiber, LLC, a Kansas limited liability company, d/b/a as Free State Broadband.

RECITALS

- A.** Pursuant to the laws of the State of Kansas and the ordinances of the City of Lawrence, Kansas, the authority to use the public rights of way within the City of Lawrence, Kansas, is vested in the City's reasonable police powers;
- B.** Dawn Fiber, LLC, a Kansas limited liability company, d/b/a as Free State Broadband, wishes to place and to install fiber optic lines in certain portions of the City's rights of way, commencing on the southwest corner of 5th Street and Tennessee Street, traversing south on Tennessee Street, then east on 11th Street, then south on Haskell Avenue, then east on 19th Street, then south on Harper Street to 23rd Street, then east on 23rd Street to O'Connell Road, and then south on O'Connell Road to the City limits, for the purposes of operating as an internet service provider;
- C.** Dawn Fiber, LLC, d/b/a as Free State Broadband, has submitted to the City a map and plans detailing its proposed use of the City's rights of way (Copies of the map and those plans are affixed hereto as Exhibits A and B); and
- D.** The City has approved the route and the plans contingent upon the execution of this License Agreement and compliance with the terms of this License Agreement.

AGREEMENT

NOW, THEREFORE, in light of the mutual promises and obligations contained herein, and in exchange for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

SECTION 1. Adoption of Recitals. The above recitals are incorporated herein by reference as if set forth in full.

SECTION 2. Definitions. For the purposes of this License Agreement, the following words and phrases shall have the meanings given herein:

- (a)** "City" shall mean the City of Lawrence, Kansas. References to the City shall also include, as appropriate, any and all successors and assigns.

- (b)** "Facilities" shall mean fiber optic lines and all appurtenances and improvements thereto, whether existing above or below ground.
- (c)** "Free State Broadband" shall mean Dawn Fiber, LLC, a Kansas limited liability company, d/b/a as Free State Broadband. References to Free State Broadband shall also include, as appropriate, any and all successors and assigns.
- (d)** "Local Exchange Service" shall mean local switched telecommunications service within any local exchange service area approved by the Kansas Corporation Commission. The term local exchange service shall not include wireless communication services or voice over internet protocol (VoIP).
- (e)** "Public Improvement" shall mean any existing or contemplated public facility, building, or capital improvement project, including but not limited to streets, alleys, sidewalks, sewers, water mains, drainage conduits, rights of way improvements, and other Public Projects.
- (f)** "Public Project" shall mean any project planned or undertaken by the City or any other governmental entity for the construction, reconstruction, maintenance, or repair of public facilities or Public Improvements, or for any public purpose.
- (g)** "Public Rights of Way" shall mean only those areas of real property in which the City has dedicated or acquired rights of way interests in the real property. It shall include the area on, below, or above the present and future streets, alleys, avenues, roads, highways, parkways, boulevards, or bridges dedicated or acquired as rights of way. The term does not include the airwaves above rights of way with regard to wireless telecommunications, other non-wire telecommunications, or broadcast service, easements obtained by utilities, or private easements in platted subdivisions or tracts.
- (h)** "Telecommunications Local Exchange Service Provider" shall mean a local exchange carrier as defined at K.S.A. 66-1,187(h), and amendments thereto, and a telecommunications carrier as defined at K.S.A. 66-1,187(m), and amendments thereto, which does or in good faith intends to provide local exchange service. The term Telecommunications Local Exchange Service Provider does not include an interexchange carrier that does not provide local exchange service, a competitive access provider that does not provide local exchange service, any wireless telecommunications local exchange service provider, or any provider of VoIP.
- (i)** "Telecommunications Services" shall mean providing the means of transmission between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information sent and received, but does not include data exchanged over the internet.

SECTION 3. Grant of Limited License.

- (a)** For and in recognition of the mutual consideration set forth in this License Agreement, the satisfaction of which is hereby acknowledged by both parties, subject to the limitations set forth herein, Free State Broadband is hereby granted a nonexclusive license to construct, place, replace, repair, maintain, extend, and operate its facilities along, across, upon, under, or in the City's Public Rights of Way, for the purpose of creating a fiber optic network to provide digital data transport, provided that the license granted by this agreement shall be limited to the locations and to the routes set forth in Exhibits A and B. The City may, in writing, approve amendments to the locations and to the routes of Free State Broadband's fiber optic Facilities.
- (b)** This License Agreement does not grant Free State Broadband the authority or right to provide "Cable Service" or "Local Exchange Service." For the purposes of this agreement, "Cable Service" is defined as the one-way transmission to subscribers of video programming or other programming services, and subscriber interaction, if any, which is required for the selection of such video programming or other programming service. "Cable Service" does not include video provided over the internet, also known as "Over-the-Top (OTT) Content."
- (c)** This Agreement is not a contract franchise agreement under K.S.A. 12-2001 *et seq.* Free State Broadband hereby acknowledges, however, its obligation to enter into a contract franchise with the City before using the Public Rights of Way for the provision of "Cable Services," "Local Exchange Service," or other "Telecommunications Services" to the City or its residents.
- (d)** The grant of this License Agreement shall not convey title, equitable or legal, to Free State Broadband in the Public Rights of Way of the City and shall only give to Free State Broadband the right to occupy the Public Rights of Way of the City for the purposes and for the time stated in this License Agreement. The License Agreement does not:

 - (1)** Grant Free State Broadband the right to use facilities or any other property owned or controlled by the City or a third party, without the valid written consent of the City or the third party.
 - (2)** Grant Free State Broadband the authority to construct, to operate, or to maintain any Facilities and any related appurtenances and improvements thereto on any property owned by the City outside a Public Right of Way. The parties agree that the City and Free State Broadband shall -- if it becomes necessary -- enter into separate lease agreements for the placement of Facilities and any related appurtenances and improvements thereto on any City-owned property not located in a Public Right of Way.

- (3) Excuse Free State Broadband from obtaining appropriate access or attachment agreements before locating its Facilities and any related appurtenances and improvements thereto on any property or facilities owned or controlled by the City or by any third party.
- (e) As noted in subsection (3)(c), *supra*, Free State Broadband shall not provide any additional services for which a contract franchise is required by the City without first obtaining a separate contract franchise or amending this License Agreement. In particular, this License Agreement does not grant Free State Broadband the right to provide cable service as a cable operator (as defined by 47 U.S.C. § 522(5)) within the City. Free State Broadband also agrees that this License Agreement does not permit it to operate an open video system without the payment of fees contemplated by 47 U.S.C. § 573(c)(2)(B) and without complying with all FCC regulations promulgated pursuant to 47 U.S.C. § 573. Free State Broadband shall not knowingly allow the use of its Facilities by any third party in violation of this subsection or of any federal, state, or local laws.
- (f) Nothing in this License Agreement shall be construed as giving Free State Broadband any exclusive rights or privileges.
- (g) Free State Broadband or Free State Broadband's contractor shall, prior to commencing any construction of Free State Broadband's Facilities in a Public Right of Way, post a payment bond as required by Section 14(d) of this License Agreement, assuring that the construction of Free State Broadband's Facilities in the Public Right of Way will be constructed without the attachment of any construction liens.

SECTION 4. Use of Public Rights of Way. In using Public Rights of Way under this License Agreement, Free State Broadband shall be subject to all ordinances, resolutions, rules, regulations, and policies now or hereafter adopted or promulgated by the City in the reasonable exercise of its police powers and shall be subject to all applicable laws, statutes, ordinances, regulations, orders, and rules adopted or promulgated by any governing body now or hereafter having jurisdiction. As a condition of this License Agreement, Free State Broadband shall obtain and shall be responsible for obtaining and maintaining any necessary permits, licenses, certifications, grants, registrations, or other authorizations required by any appropriate governmental entity, including but not limited to the FCC, the KCC, or the City, subject to Free State Broadband's right to challenge in good faith such requirement. In addition, Free State Broadband shall be subject to all ordinances, resolutions, rules, regulations, and policies now or hereafter adopted or promulgated by the City relating to the use of Public Rights of Way, including but not limited to permits, sidewalk and pavement cuts, utility location, construction coordination, "Complete Streets" policies, beautification, tree care, and other requirements affecting the use of Public Rights of Way. Free State Broadband shall also comply with the following:

- (a)** Free State Broadband's use of the Public Rights of Way shall in all matters be subject and subordinate to the City's use of the Public Rights of Way for any public purpose or for any purpose relating to the health, safety, and welfare of the City. Free State Broadband shall coordinate the placement of its Facilities in a manner that minimizes adverse impact on Public Improvements as reasonably determined by the City. Where placement is not otherwise regulated, the Facilities shall be placed with adequate clearance from such Public Improvements so as not to impact or be impacted by such Public Improvements.
- (b)** To the extent that Free State Broadband uses above-ground markers, antennas, or support structures related to its use of the Public Rights of Way for the placement of its Facilities, Free State Broadband agrees that it will seek City approval before placing any such markers, antennas, or support structures and that said markers, antennas, and support structures shall be unobtrusive.
- (c)** All earth, materials, sidewalks, paving, crossings, utilities, Public Improvements, or improvements of any kind that are injured, damaged, or removed by Free State Broadband, while engaging in any activity under this License Agreement, shall be fully repaired or replaced to its original condition within a reasonable time by Free State Broadband at its sole cost and expense and to the reasonable satisfaction of the City.
- (d)** Free State Broadband shall keep and maintain accurate records and as-built drawings depicting the accurate location of all Facilities constructed, reconstructed, located, or relocated in the Public Rights of Way of the City after the date hereof and shall provide that information to the City upon its written request. Where such information is available electronically, upon written request of the City, Free State Broadband agrees to provide such information in an electronic format. Such location and identification shall be at the sole cost and expense of Free State Broadband, without any such cost or expense to the City or its authorized agents and contractors.

The City agrees to use any information obtained under this subsection only to locate utility facilities in connection with Public Projects and further agrees not to disclose such information to anyone other than City employees requiring such information to locate utility facilities in connection with Public Projects, except as may otherwise be required by law. The City and Free State Broadband agree that such information is confidential and proprietary. The City and Free State Broadband also agree that such information shall remain the sole property of Free State Broadband. The City and Free State Broadband further agree that such information shall not constitute an open public record as that term is defined by the Kansas Open Records Act of 1984, codified as amended at K.S.A. 45-215 *et seq.* In the event that the City shall be required to disclose such

information, the City shall provide Free State Broadband advance notice of its intended disclosure of such information and shall take such action as may be reasonably required to cooperate with Free State Broadband in safeguarding such information.

Free State Broadband agrees to indemnify and to hold the City harmless from any and all penalties or costs, including attorneys' fees, arising out of the actions of Free State Broadband or of the City at the written request of Free State Broadband, in seeking to safeguard the confidentiality of information provided to the City by Free State Broadband under this section.

In the event that such information is required by law to be publicly disclosed, then Free State Broadband shall have no further obligation under this section to provide the City with such information.

- (e)** Except in cases of emergency, a minimum of fourteen (14) days prior to construction, reconstruction, location, or relocation of any Facilities in a Public Right of Way, Free State Broadband shall submit to the City Engineer, or his or her designee, for approval, plans and specifications related to the proposed construction, reconstruction, location, or relocation. The City shall not unreasonably withhold, delay, or condition approval of said plans and specification. The City's review of the plans and specifications shall be confined to matters impacting the interests of the City.
- (f)** As reasonably necessary, Free State Broadband shall relocate or adjust any of its Facilities located in a Public Right of Way for a Public Project with no less than ninety (90) days prior written notice from the City. Such relocation or adjustment shall be performed by Free State Broadband at its sole cost and expense, without any cost or expense to the City or its authorized agents and contractors and shall be subject specifically to the rules and regulations of the City.
- (g)** It shall be the sole responsibility of Free State Broadband to take adequate measures to protect and defend its Facilities in the Public Rights of Way from harm and damage. If Free State Broadband fails to accurately or timely locate its Facilities when requested, in accordance with the Kansas Underground Utility Damage Prevention Act, K.S.A. 66-1801 *et seq.*, then Free State Broadband has no claim for costs or damages against the City or its authorized agents and contractors or any other party authorized to be in the Public Rights of Way, except to the extent that such harm or damage is caused by such party's intentional conduct. The City and its authorized agents and contractors agree to take reasonable precautionary measures, including but not limited to calling for utility locations and observing marker posts, when working near Free State Broadband's Facilities.

- (h) Except in cases of emergency, Free State Broadband shall notify the City not less than ten (10) days in advance of any construction, reconstruction, repair, location, or relocation of Facilities that would require any street closure or that would reduce the traffic flow to less than two lanes of moving traffic. The City shall follow its policies in the approval or denial of such authority, neither of which shall be unreasonably denied nor delayed. Except in cases of emergency, no such closure shall take place without the prior authorization of the City.

In addition, all work performed in the traveled Public Rights of Way that, in any way, impacts vehicular or pedestrian traffic shall be properly signed, barricaded, and otherwise protected. For all work performed within the Public Rights of Way, Free State Broadband shall comply with the Manual for Uniform Traffic Control Devices (MUTC) and the City's regulations regarding the placement of signs, barricades, and other safeguards, copies of which shall be made available to Free State Broadband, its employees, agents, or contractors, upon written request.

- (i) All technical standards governing construction, reconstruction, installation, operation, testing use, maintenance, and dismantling of the facilities in the Public Rights of Way shall be in accordance with applicable federal, state, and local laws and regulations at the time any such work is performed.
- (j) The City shall have the authority to prohibit Free State Broadband's use or occupation of a specific portion of any Public Right of Way that is environmentally sensitive or that lies within a previously designated historic district, as defined by federal, state, or local law.

SECTION 5. Street Tree Ordinance. To the extent required in connection with the construction, placement, replacement, repair, maintenance, extension or operation of its Facilities, Free State Broadband shall comply with the provisions of the Street Tree Ordinance (Chapter 18, Article 1, of the Code of the City of Lawrence, Kansas, and amendments thereto) regarding the care, pruning, trimming, and removing of trees located in or on Public Rights of Way.

SECTION 6. Location of Underground Facilities and Equipment. Free State Broadband's Facilities and equipment shall be placed underground as required by City ordinances, including Chapter 5, Article 19 of the Code of the City of Lawrence, Kansas, and amendments thereto. Consistent with Section 5-1904(B)(iii) of the Code of the City of Lawrence, Kansas, as may be amended, however, any markers, antennas, and support structures necessary for Free State Broadband's purposes hereunder and that are specifically approved by the City in writing shall be exempt from that requirement. Where underground construction is made, the Facilities, appurtenances and improvements thereto, and any necessary trenching shall be installed, maintained, or provided by Free State Broadband in accordance with City ordinances and at Free State Broadband's sole cost and expense.

Nothing in this License Agreement prevents Free State Broadband from co-locating its Facilities on existing above-ground facilities with the owner's prior written consent.

SECTION 7. Compensation.

- (a) **To the City.** As consideration for the grant of this License Agreement, in lieu of the payment of rent for the use of the Public Rights of Way, Free State Broadband agrees to install for the City one 1.25" innerduct, as provided by the City, with a pull rope commencing at the southwest corner of 5th Street and Tennessee Street, then south on Tennessee Street, then east on 11th Street, then south on Haskell Avenue, then east on 19th Street, then south on Harper Street to 23rd Street, as shown on Exhibit C. Free State Broadband also agrees to connect the City innerduct to the City's existing hand hole on the southeast corner of the intersection of 6th Street and Tennessee Street and to the existing hand hole located at the northeast corner of the intersection of 23rd Street and Harper Street. Free State Broadband agrees further to install eleven (11) handholes on top of the innerduct at locations selected by the City Engineer and as shown on Exhibit D. The handholes shall be for the City's exclusive use. Finally, Free State Broadband shall dedicate to the City four (4) dark fibers for the City's exclusive use; two (2) fibers linking the City's facilities to the Baldwin City Fire & Medical Station, 212 Kibbee Street, Baldwin City, Kansas, and two (2) fibers reserved for future determination and use.
- (b) **To Free State Broadband.** In addition to receiving the right to use, consistent with the terms of this License Agreement, the Public Rights of Way as shown in Exhibits A and B, Free State Broadband shall receive from the City access and utilization of one sub-duct within the newly placed 3" innerduct from the pull box at 23rd Street and O'Connell Road (East 1660 Road) south approximately 13,000 feet to a pull box located northwest of the intersection of East 1600 Road and North 1175 Road. The Free State Broadband fiber cable shall not exceed .67" in diameter. Free State Broadband may not have access to those fibers, except outside the demarcation points described in Exhibit E or any writing amending Exhibit E. Free State Broadband is also prohibited from having access to or any physical contact with the City innerduct or optical fibers located in the City innerduct.
- (c) **Additional Agreements.** The City and Free State Broadband also recognize that, flowing out of this License Agreement, the parties may agree to enter into additional agreements regarding the installation of fiber optic cable, connectivity between City facilities, and the like. The parties agree that any such additional agreements will be executed as separate agreements, but shall incorporate this License Agreement therein by reference, shall be governed by the terms of this License Agreement, except any terms mutually agreed upon to be excepted, and shall be attached as addenda to this License Agreement.

SECTION 8. Indemnification.

- (a) It shall be the responsibility of Free State Broadband to take adequate measures to protect and to defend its Facilities in the Public Rights of Way from harm or damage. If Free State Broadband fails to accurately or timely locate its Facilities, when requested, in accordance with the Kansas Underground Utility Damage Prevention Act, K.S.A. 66-1801 *et seq.*, then it has no claim for costs or damages against the City or its authorized contractors, except to the extent such harm or damage is caused by such party's intentional conduct.
- (b) To the extent permitted by law, the City and Free State Broadband, and their successors and assigns, agree to indemnify, defend, save, and hold harmless the other, their officers, commissioners, agents, employees, grantees, and assigns, from and against all claims, actions, liabilities, damages, costs, expenses, and judgment, including attorneys' fees, which relate to, arise out of, or are in any way associated with their respective activities in the Public Rights of Way on account of any injury to persons (including death) or damage to property. The indemnification obligation of the indemnifying party shall not apply to the extent that any injury or damage is caused by the indemnified party's own negligence or intentional conduct.
- (c) The City and Free State Broadband shall promptly advise the other in writing of any known claim or demand against Free State Broadband or the City related to or arising out of their respective activities in the Public Rights of Way.

SECTION 9. Transfer and Assignment.

- (a) Pursuant to the written permission of the City, which shall not unreasonably be withheld, conditioned, or delayed, Free State Broadband shall have the right to assign this License Agreement and the rights and privileges hereby granted to any person, firm, or corporation, and any such assignee, who, by accepting such assignment, shall be bound by the terms and provisions of this License Agreement. If Free State Broadband should seek approval to assign this License Agreement, Free State Broadband shall notify the City in writing. All such assignments shall be in writing and authenticated copies thereof shall be filed with the City Clerk and the City Attorney. This License Agreement shall be assignable only in accordance with the laws of the State of Kansas.
- (b) Notwithstanding Section 9(a), *supra*, the City's written permission shall not be required in the case of the sale, assignment, transfer or lease by Free State Broadband to Free State Broadband's principal, affiliates, subsidiaries of its principal, or any other entity that acquires all or substantially all of Free State Broadband's assets in the market defined by the Federal Communications Commission in which the public Rights of Way are located by reason of a merger,

acquisition, or other business reorganization (each of the foregoing, an "affiliated interest"), and no change of stock ownership, partnership interest or control of Free State Broadband or transfer upon partnership or corporate dissolution of Free State Broadband shall constitute an assignment hereunder; nor shall the City's prior written permission be required in connection with any assignments made or security interests granted in order to secure financing. Free State Broadband shall, however, provide the City at least thirty (30) days' notice of such sale, assignment, transfer, or lease to an affiliated interest. The City shall have the discretion to review the qualifications of any entity acquiring this License Agreement.

SECTION 10. Notice. All notices, requests, demands, or other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, or by a recognized overnight delivery service, to the following addresses:

If to City, to:

City of Lawrence, Kansas
Attn: City Clerk
6 East 6th Street
P.O. Box 708
Lawrence, Kansas 66044

With a copy to:

City of Lawrence, Kansas
Attn: City Attorney
6 East 6th Street
P.O. Box 708
Lawrence, Kansas 66044

If to Free State Broadband, to:

Dawn Fiber, LLC, d/b/a Free State Broadband
P. O. Box 4665
Lawrence, Kansas 66046
Attn: Legal

Any such Notice shall be deemed effective upon actual receipt or refusal of receipt as shown on any return receipt obtained under this Section.

SECTION 11. Term and Termination Date.

- (a)** This License Agreement shall be effective from the Effective Date of this License Agreement until midnight on December 31, 2024. Thereafter, this License Agreement will renew for one additional ten-year term and be effective until midnight on December 31, 2034, unless either party notifies the other party in writing of its intent to terminate or renegotiate this License Agreement, not less than one hundred eighty (180) days before the termination of the initial ten-year term. The additional term shall be deemed a continuation of the License Agreement and not a new License Agreement or an amendment hereto.
- (b)** Upon written request of the City or Free State Broadband, this License Agreement shall be renegotiated at any time in accordance with the requirements of state law, upon any of the following events: **(i)** any change in federal, state, or local laws, ordinances, regulations, orders, or rules that materially affect any rights or obligations of either the City or Free State Broadband under this License Agreement; or **(ii)** notice is given not less than one hundred eighty (180) days before the termination of the then-current term.
- (c)** If any clause, sentence, section, or provision of K.S.A. 17-1901 *et seq.*, and any amendments thereto, shall be held to be invalid by any court or administrative agency of competent jurisdiction, provided such order is not stayed, either the City or Free State Broadband may elect to terminate the entire License Agreement. In the event of such invalidity, if Free State Broadband is required by law to enter into a new agreement or a Contract Franchise with the City, then the parties agree to act in good faith to promptly negotiate a new agreement or a Contract Franchise.
- (d)** If it is determined, during any term of this License Agreement, that Free State Broadband qualifies as a "Competitive Infrastructure Provider," as defined at K.S.A. 17-1902, and amendments thereto, or that the location of the fiber optic cable is on City property that is not a Public Right of Way, and Free State Broadband is unable to relocate such fiber optic cable to a Public Right of Way within ninety (90) days of the City's written notice of such determination, then the City shall terminate this License Agreement upon ninety (90) days' written notice. In the event of such termination, if Free State Broadband is required by law to enter into a new agreement or a Contract Franchise with the City, then the parties hereby agree to act in good faith in promptly negotiating a new agreement or Contract Franchise.

SECTION 12. Termination or Forfeiture of Agreement.

- (a)** In case of failure on the part of Free State Broadband, its successors or assigns, to comply with any of the provisions of this License Agreement, or if Free State Broadband, its successor or assigns, should do or cause to be done any act or thing prohibited by or in violation of the terms of this License Agreement, then Free State Broadband, its successors or assigns, shall forfeit all rights and privileges granted by the License Agreement and all rights hereunder shall cease, terminate, and become null and void, provided that said forfeiture shall not take effect until the City shall complete the following:
- (i)** Before the City may proceed to terminate this License Agreement, it shall first serve a written notice as provided by the Notice provisions of this License Agreement, setting forth in detail the conditions of neglect, default, or failure complained of, and Free State Broadband shall have ninety (90) days after the receipt of such notice in which to comply with the conditions of this License Agreement. If, at the end of such ninety-day period, the City deems that the conditions of the License Agreement have not been met and that such License Agreement is subject to cancellation thereunder, then the City, in order to terminate the License Agreement, shall by resolution, setting forth the grounds for termination, terminate this License Agreement. If within thirty (30) days after the effective date of said resolution, Free State Broadband shall not have instituted an action in the District Court of Douglas County, Kansas, to determine whether or not Free State Broadband has violated the terms of this License Agreement and that the agreement is subject to forfeiture therefor, this License Agreement shall be canceled and terminated at the end of such thirty-day period.
 - (ii)** If, within such thirty-day period, Free State Broadband does institute an action, as above described, to determine whether or not it has violated the terms of this License Agreement and prosecutes such action to final judgment with due diligence, then, in the event that the court finds that this License Agreement is subject to cancellation by reason of the violation of its terms, then this License Agreement shall terminate thirty (30) days after such final judgment is rendered and available appeals have been exhausted.
 - (iii)** Nothing in this Section shall prevent the City from invoking any other remedy that may exist at law.

- (b) Free State Broadband, its successors or assigns, may terminate this License Agreement at any time, with or without cause, effective December 31 of the then-current year by giving notice to the City of its intent to terminate no later than midnight on November 30 of the then-current year.

SECTION 13. Rights and Duties upon Termination of Agreement. Upon termination of this License Agreement, whether by lapse of time, agreement by the parties, forfeiture, or voluntary termination, Free State Broadband shall have the right to abandon in place or, at its option, to remove its Facilities from the Public Rights of Way within a reasonable time after such termination. In the case of the latter event, it shall be the duty of Free State Broadband, upon removal, to restore the Public Rights of Way from which said Facilities are removed to the same condition the Public Rights of Way were before said removal was effected and without any cost to the City.

SECTION 14. Insurance.

- (a) During the initial term, the renewal term, or any other extension of this License Agreement, Free State Broadband shall obtain and maintain insurance coverage, at its sole cost and expense, with financially reputable insurers that are licensed to do business in the State of Kansas. Should Free State Broadband elect to obtain and maintain the insurance coverage required under this Agreement directly with an affiliated captive insurance company, the affiliate captive insurance company shall obtain and possess a certificate of authority from the Kansas Insurance Commissioner, and Free State Broadband shall provide a copy thereof to the City. Free State Broadband shall provide not less than the following insurance:
 - (i) Worker's compensation as provided for under any workers' compensation or similar law in the jurisdiction where any work is performed with an employers' liability limit equal to the amount required by law.
 - (ii) Commercial general liability, including coverage for contractual liability and products completed operations liability on an occurrence basis and not a claims made basis, with a limit of not less than Two Million Dollars (\$2,000,000.00) combined single limit per occurrence for bodily injury, personal injury, and property damage liability. The City shall be included as an additional insured with respect to liability arising from Free State Broadband's operations under this License Agreement.
- (b) Free State Broadband shall, as a material condition of this License Agreement, prior to the commencement of any work, deliver to the City a certificate of insurance evidencing that the above insurance is in force and providing a blanket additional insured endorsement. Free State Broadband's carrier will provide the City thirty (30) days prior written notice in the event of policy cancellation.

(c) Free State Broadband shall, as a material condition of this License Agreement, prior to the commencement of any work hereunder, deliver to the City satisfactory evidence of a performance bond in the amount of Twenty Thousand Dollars (\$20,000.00) payable to the City. The bond shall be used to ensure the appropriate and timely performance in the construction and maintenance of Facilities located in the Public Rights of Way and must be issued by a surety company authorized to transact business in the State of Kansas and satisfactory to the City Attorney or to the City's Legal Department in form and substance. The performance bond shall remain in effect the entire term of the contract to ensure the ongoing performance of the terms and obligations of the franchise as well as any future phases of construction and/or repair work. Notwithstanding the foregoing sentence, the City reserves the right to require Free State Broadband to provide additional financial assurance for future phases of construction and/or repair work, as reasonably determined by the City.

SECTION 15. Reservation of Rights. In entering into this License Agreement, neither the City's nor Free State Broadband's present or future legal rights, positions, claims, assertions, or arguments, before any administrative body or court of law are in any way prejudiced or waived. By entering into this License Agreement, neither the City nor Free State Broadband waive any rights, but instead expressly reserve any and all rights, remedies, and arguments the City or Free State Broadband may have at law or equity, without limitation, to argue, assert and/or take any position as to the legality or appropriateness of this License Agreement or any present or future laws, ordinances, or rulings that may be the basis for the City or Free State Broadband entering into this License Agreement.

SECTION 16. Failure to Enforce. The failure of either the City or Free State Broadband to insist in any one or more instances upon the strict performance of one or more of the terms or provisions of this License Agreement shall not be construed as a waiver or relinquishment of any right in the future to enforce such term or provision, and the same shall continue in full force and effect. No waiver or relinquishment of any term or provision of this License Agreement shall be deemed to have been made by the City or Free State Broadband unless said waiver or relinquishment is in writing and signed by both the City and Free State Broadband.

SECTION 17. Force Majeure. No party shall be liable for any failure to perform its obligations where such failure is a result of acts of God, fire, strikes, riots, floods, war, and other disasters or events beyond the City's or Free State Broadband's reasonable control.

SECTION 18. Effectiveness. This License Agreement shall become effective and shall be in force and shall be binding on the City and Free State Broadband, their successors and assigns, from and after the execution of this License Agreement, as dated on page 1, *supra*.

SECTION 19. Severability. If any provision, section, or subsection of this License Agreement or the application thereof to any person or circumstance is declared invalid by a competent court of law, such invalidity shall not affect other provisions, sections, subsections, or applications of this License Agreement that can be given effect without the invalid provision, section, subsection, or application, and to this end the provisions, sections, subsection, or applications of this License Agreement are hereby declared to be severable.

SECTION 20. Authority. The parties executing this Agreement in behalf of Free State Broadband and the City have actual authority to sign this Agreement in behalf of Free State Broadband and the City and to bind the parties to this Agreement

SECTION 21. Governing Law. The terms of this License Agreement shall be governed by the laws of the State of Kansas.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the undersigned have caused this License Agreement to be executed as of the date noted above.

FREE STATE BROADBAND: Dawn Fiber, LLC, a Kansas limited liability company, d/b/a as Free State Broadband

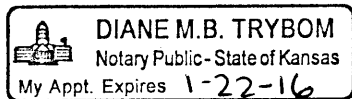


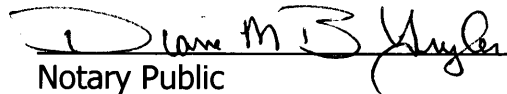
Kennis Mann
President and Chief Executive Officer

STATE OF KANSAS)
)
) SS:
COUNTY OF DOUGLAS)

On this 13th day of January, 2014, before me personally appeared, Kennis Mann, President and Chief Executive Officer, Dawn Fiber, LLC, a Kansas limited liability company, doing business as Free State Broadband, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument he, or the entity in behalf of which he acted, executed the instrument.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year last above written.

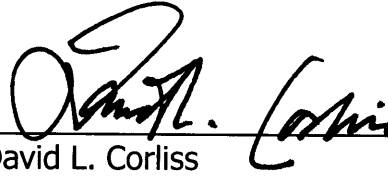




Notary Public

My commission expires:

**CITY: CITY OF LAWRENCE, KANSAS, a
municipal corporation**

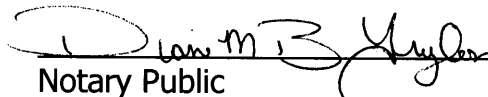
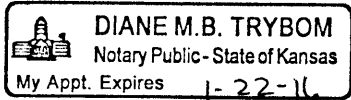


David L. Corliss
City Manager

STATE OF KANSAS)
)
) ss:
COUNTY OF DOUGLAS)

On this 13 day of January, 2014, before me personally appeared David L. Corliss, City Manager, City of Lawrence, Kansas, a municipal corporation, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument he, or entity in behalf of which he acted, executed the instrument.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year last above written.



Notary Public

My commission expires: