

ORDINANCE NO. 012, SERIES 2018

**AN ORDINANCE AWARDED A COMMUNICATIONS SERVICES FRANCHISE TO KY BACKHAUL TRANSMISSION NETWORKS, LLC PURSUANT TO THE TERMS AND CONDITIONS IN CHAPTER 116 OF THE LOUISVILLE METRO CODE OF ORDINANCES.**

**SPONSORED BY: COUNCIL MEMBERS KRAMER AND HOLLANDER**

**WHEREAS**, pursuant to Chapter 116 of the Louisville Metro Code of Ordinances the Louisville/Jefferson County Metro Government ("Louisville Metro") solicited bid proposals from parties interested in obtaining communications services franchises to erect, install or maintain communications facilities or provide communication services by use of said communication facilities within the confines of Louisville/Jefferson County, Kentucky; and

**WHEREAS**, KY Backhaul Transmission Networks, LLC submitted a bid proposal to Louisville Metro for a communications services franchise which meets all of the requirements of Chapter 116 of the Louisville Metro Code of Ordinances and all other applicable state and federal laws.

**NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:**

**SECTION I.** Louisville Metro hereby grants to KY Backhaul Transmission Networks, LLC for a period of twenty (20) years, a non-exclusive franchise to erect, install or maintain communications facilities or provide communication services by use of said communication facilities within the confines of Louisville/Jefferson County, Kentucky pursuant to Chapter 116 of the Louisville Metro Code of Ordinances.

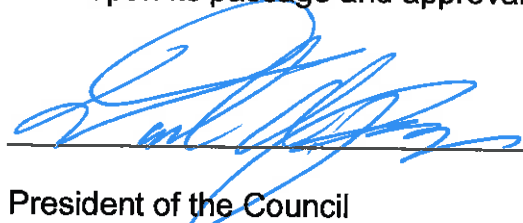
**SECTION II.** The franchise agreement by and between KY Backhaul Transmission Networks, LLC and Louisville Metro as appended to this ordinance is hereby approved and the Mayor is hereby authorized to execute and enter into that agreement for and on behalf of Louisville Metro.

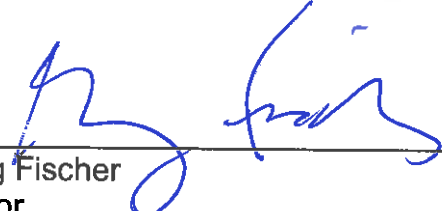
**SECTION III.** That the statements set forth in the Preamble to this Ordinance are hereby incorporated in this Ordinance by reference, the same as if set forth at length herein.

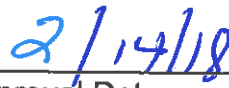
**SECTION IV.** That if any section, sentence, clause or phrase of this Ordinance is held to be unconstitutional or otherwise invalid, such infirmity shall not affect the validity of the remainder of the Ordinance.

**SECTION V.** This ordinance shall take effect upon its passage and approval.

  
\_\_\_\_\_  
H. Stephen Ott  
Metro Council Clerk PRO - TEM

  
\_\_\_\_\_  
President of the Council

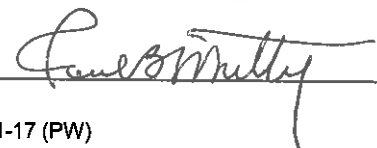
  
\_\_\_\_\_  
Greg Fischer  
Mayor

  
\_\_\_\_\_  
Approval Date

**APPROVED AS TO FORM AND LEGALITY:**

Michael J. O'Connell  
Jefferson County Attorney

LOUISVILLE METRO COUNCIL  
READ AND PASSED  
February 8, 2018

By:   
\_\_\_\_\_  
O-451-17 (PW)

## **FRANCHISE AGREEMENT**

**THIS FRANCHISE AGREEMENT** made and entered into this 14<sup>th</sup> day of February, 2018, by and between the Louisville/Jefferson County Metro Government (hereinafter "Louisville Metro") and KY Backhaul Transmission Networks, LLC.

### **WITNESSETH:**

**WHEREAS**, pursuant to Chapter 116 of the Louisville Metro Code of Ordinances and Sections 163 and 164 of the Kentucky Constitution, Louisville Metro solicited bid proposals from parties interested in obtaining franchises to erect, install and maintain communications facilities or provide communication services by use of said communication facilities within the confines of Louisville/Jefferson County, Kentucky.

**WHEREAS**, KY Backhaul Transmission Networks, LLC submitted a bid proposal to Louisville Metro for a communications services franchise pursuant to the requirements of Chapter 116 of the Louisville Metro Code of Ordinances.

**WHEREAS**, pursuant to Ordinance No. 012, Series 2017, Louisville Metro granted to KY Backhaul Transmission Networks, LLC for a period of twenty (20) years, a non-exclusive franchise to erect, install or maintain communications facilities or provide communication services by use of said communication facilities within the confines of Louisville/Jefferson County, Kentucky pursuant to Chapter 116 of the Louisville Metro Code of Ordinances.

**WHEREAS**, Louisville Metro and KY Backhaul Transmission Networks, LLC have entered into this Franchise Agreement to memorialize the award by Louisville Metro to KY Backhaul Transmission Networks, LLC of said franchise pursuant to the

terms and conditions reflected in Chapter 116 of the Louisville Metro Code of Ordinances.

**NOW THEREFORE**, for and in consideration of the mutual covenants and agreements contained herein the receipt and sufficiency of which are hereby acknowledged, Louisville Metro and KY Backhaul Transmission Networks, LLC hereby agree to incorporate the foregoing recitals as if fully set forth herein and further agree as follows:

1. Chapter 116 of the Louisville Metro Code of Ordinances is incorporated herein by reference in its entirety and shall apply as if fully set forth herein.

2. The bid of KY Backhaul Transmission Networks, LLC for said franchise, which is attached hereto as Exhibit A, is incorporated herein by reference in its entirety and shall apply as if fully set forth herein.

3. KY Backhaul Transmission Networks, LLC agrees to comply with all applicable requirements as set forth in the Louisville Metro Public Works & Assets Utility Policy.

4. Upon thirty (30) days' notice prior to installation the Franchisee agrees to allow Louisville Metro to attach to Franchisee owned poles, at no cost to Louisville Metro, equipment and associated accessories that are used solely for public health, safety, or welfare purposes of Louisville Metro (i.e. cameras and sensors, hereinafter, "equipment"). Louisville Metro will be responsible for all costs associated with the installation of this equipment, including costs for any required load bearing survey, and all costs associated with the operation of the equipment, including, but not limited to maintenance of the devices, electric service, and network connectivity. The Franchisee

shall maintain rights in reviewing its capacity for the equipment and determining placement of equipment on its poles so as to avoid damage or conflict with the Franchisee's equipment or other authorized attachments. Any proposed installation shall be conditioned on (i) availability and space, (ii) non-interference with existing users, and (iii) structural capacity. If it is determined that the Franchisee has excess capacity in their dark fiber network at a location where a camera is to be installed, Louisville Metro and the Franchisee may negotiate a fee for use of the excess fiber capacity to connect the equipment to the Louisville Metro network.

5. Louisville Metro granted unto KY Backhaul Transmission Networks, LLC a non-exclusive franchise, for a term of twenty (20) years to erect, install or maintain communications facilities or provide communication services by use of said communication facilities within the confines of Louisville/Jefferson County, Kentucky and as more specifically identified in the above-mentioned bid pursuant to Chapter 116 of the Louisville Metro Code of Ordinances.

6. The franchise memorialized in this Franchise Agreement shall commence February 14, 2018, and shall expire on February 14, 2038.

7. KY Backhaul Transmission Networks, LLC does hereby bind itself, its successors and assigns, to faithfully and fully perform each and every condition of said franchise as memorialized in this Agreement, and further to faithfully perform all acts required of it as the purchaser of said franchise.

8. This Franchise Agreement memorializes the agreement between the parties and shall be binding upon and inure to the benefit of the respective successors in interest to the parties hereto.

IN WITNESS WHEREOF, Louisville Metro and KY Backhaul Transmission Networks, LLC have executed this Franchise Agreement as their free and voluntary act and deed effective as of the day and year first above written.

**LOUISVILLE/JEFFERSON COUNTY  
METRO GOVERNMENT**

*Ellen Ra Deser, Deputy for*  
GREG FISCHER, MAYOR

**PROVIDER**

BY: *[Signature]*

TITLE: SVP GENERAL COUNSEL

**APPROVED AS TO FORM AND LEGALITY:**

Michael J. O'Connell  
Jefferson County Attorney

By: *[Signature]*