

FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT made and entered into this ____ day of ____, 2014, by and between the Louisville/Jefferson County Metro Government (hereinafter “Louisville Metro”), and BGN Networks LLC.

WITNESSETH:

WHEREAS, pursuant to Chapter 116.70 - 116.99 of the Louisville Metro Code of Ordinances and Sections 163 and 164 of the Kentucky Constitution, the Louisville Metro solicited bid proposals from parties interested in obtaining 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, BGN Networks LLC submitted a bid proposal to Louisville Metro for a communications services franchise pursuant to the requirements of Chapter 116.70 - 116.99 of the Louisville Metro Code of Ordinances.

WHEREAS, pursuant to Ordinance No. ____ Series 2014, Louisville Metro granted to BGN 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 116.70 - 116.99 of the Louisville Metro Code of Ordinances.

WHEREAS, Louisville Metro and BGN Networks LLC have entered into this Franchise Agreement to memorialize the award by Louisville Metro to BGN Networks LLC of said franchise pursuant to the terms and conditions reflected in Chapter 116.70 - 116.99 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 BGN Networks LLC hereby agree to incorporate the foregoing recitals as if fully set forth herein and further agree as follows:

1. Chapter 116.70 - 116.99 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 BGN 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. Louisville Metro has granted unto BGN Networks LLC a non-exclusive franchise, for a term of ten (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 116.70 - 116.99 of the Louisville Metro Code of Ordinances.

4. The franchise memorialized in this Franchise Agreement shall commence ____, 2014, and shall expire on _____.

5. BGN 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.

6. 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 BGN 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

Greg Fischer, Mayor

BGN NETWORKS LLC

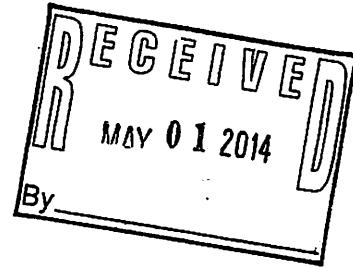
By: _____

Its: _____

APPROVED AS TO FORM AND
LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

4/30/14



To: Louisville Metro Government

From: Norman Schippert, CEO, BGN Networks, LLC (subsidiary of BluegrassNet)

RE: Application for Communications Franchise in Louisville Metro

Dear Sirs,

Enclosed you will find our application for a franchise. Below is a summary of what is included in our package.

Summary of Package

1. Louisville Metro Communications Franchise Application
2. Attachment responding to "Additional Requirements"
3. Attachments
 - a. Statement regarding Cert of Authority from KY Public Service Commission
 - b. Statement regarding compliance with FCC requirements
 - c. Statement regarding intention to obtain and comply with permits
 - d. Engineering Statement
 - e. Route Map (Network diagram)
 - f. Technical Description from Fishel
 - g. Proof of Liability Insurance
 - h. KY Certificate of Formation of BGN Networks, LLC
 - i. \$1,000 filing fee (included in envelope)



Louisville Metro
Communications Franchise Application
(This application must be filed with ten (10) additional copies)

(For more detail on application requirements and communications franchises generally, please review Louisville Metro Code of Ordinances §116.70 – 116.99 at www.louisvilleky.gov/economicdevelopment)

Applicant Information

Applicant Name: BGN Networks, LLC
(Complete Legal Name as Registered with the Kentucky Secretary of State)

Address: 321 East Breckinridge Street

City: Louisville State: Kentucky Zip Code: 40203

E-mail Address: norman@bluegrass.net

Phone Number: 502-589-4638 Fax Number: 502-589-5278

Local Representative Information

Name: Norman Schippert

Address: 321 East Breckinridge Street

City: Louisville State: Kentucky Zip Code: 40056

E-mail Address: norman@bluegrass.net

Phone Number: 502-589-4638 Fax Number: 502-589-5278

Emergency Contact Information: Thomas Galla 502-797-1484

Description of Proposed System Design (LMCO § 116.71 (D)(1)(c)):
We plan on deploying a Gigabit Passive Optical topology (GPON) to deliver Ethernet to the home (FTTH).

Description of All Types of Service Proposed (LMCO § 116.71 (D)(1)(d)):
IP / Internet connectivity

Disclosure of Ownership of Facilities (LMCO § 116.71 (D)(1)(e)):
BGN Networks, LLC is a registered CLEC with the State of KY. It is a subsidiary of Intermart, Inc. dba "BluegrassNet" who will supply facilities, as well as AT&T, LG&E, and Louisville (poles and right of ways).

Additional Requirements - Please submit the following:

1. A technical description of the type of system proposed by the applicant and the applicant's plan for the installation of the system (Please see LMCO § 116.71 (D)(1)(f) for specific requirements for description).
2. The engineering statement required by LMCO § 116.71 (D)(1)(g).
3. Copy of the applicant's certificate of authority from the Public Service Commission ("PSC") or a signed statement that applicant is not lawfully required to have such certificate from the PSC.
4. Copy of the applicant's certificate of authority from the Federal Communications Commission ("FCC") or a signed statement that the applicant is not lawfully required to have such certificate from the FCC.
5. Copy of all required insurance policies and certificates with a signed statement from Louisville Metro's Insurance and Risk Coordinator that such policies and certificates are acceptable to Louisville Metro.
6. A statement signed by the applicant that the applicant agrees to be bound by all provisions of the Franchise and agrees to obtain all application permits and authorizations prior to constructing, installing or operating a System in the right-of-way.
7. Filing Fee
8. Supplementary, additional or other information that the applicant deems reasonable for consideration.


Louisville Metro hereby puts the applicant on notice of the following:

1. Applications may be modified at any time prior to the opening of the applications, provided that any modifications must be duly executed in the manner that the applicant's application must be executed.
2. Louisville Metro reserves the right to require such supplementary, additional or other information that it deems reasonable necessary for its determinations.
3. Louisville Metro reserves the right to waive all formalities and/or technicalities where the best interest of Louisville Metro may be served.
4. Franchises shall be granted in accordance with Kentucky Constitution Sections 163 and 164. All franchisees shall be required to obtain and maintain any necessary and lawful permit, license certification, grant, registration or any other authorization required by any appropriate governmental entity.
5. Any franchise granted pursuant to this application shall take effect and be in force from and after the effective date of a resolution granting a franchise, provided that on or before said date, franchisee shall:
 - a. Enter into and execute such contracts and documents as required by Louisville Metro that are consistent with the terms and provisions of LMCO § 116.71-116.99.
 - b. File certificates of insurance as required by LMCO § 116.71-116.99.
 - c. File such bond or bonds as required by LMCO § 116.71-116.99.
 - d. Advise the Director of Finance in writing of Franchisee's address for mail and official notifications from Louisville Metro.

CERTIFICATION

Applicant hereby certifies that the information provided by the applicant is true and correct and that the person signing on behalf of the applicant is authorized to do so. Applicant further acknowledges and certifies that is shall be responsible to certify to Louisville Metro any material changes to the information provided in the completed application during the term of any Franchise.

Complete Legal Name of Applicant: BGN ~~Inc~~ Networks, LLC

By: Norman Schippert / 

Title: CEO

Date: 4/30/14

**Attachment to Application for Franchise by BGN Networks, LLC
April 30, 2014**

In response to questions under "Additional Requirements":

1. A technical description of the type of system proposed by the applicant and the applicant's plan for the installation of the system (Please see LMCO § 116.71 (D)(1)(f) for specific requirements for description).

Response:

- *This system will be a common fiber optic cable run between two points.*
- *There will be no other devices on that run other than the fiber itself.*
- *The run will traverse LG&E owned poles ONLY*
- *The run is between the Spalding Facility at the Northwest corner of 4th Street and the BluegrassNet facility at 321 E. Breckenridge Street*
- *You will find a draft of the LG&E Pole attachment agreement on "Attachment I". The LG&E Pole attachment agreement will be finalized upon grant of the franchise from Metro Louisville.*

2. The engineering statement required by LMCO § 116.71 (D)(1)(g).

Response:

The entire build will be outsourced to Fishel. There is a map of the project that was created by Fishel attached to this document. We have attached a route map and a Fishel statement (Attachment E) giving exact specs with this document. The Engineering Statement, signed by our Lead Engineer is part of Attachment D.

3. Copy of the applicant's certificate of authority from the Public Service Commission ("PSC") or a signed statement that applicant is not lawfully required to have such certificate from the PSC.

Response:

Response: Our application as a Franchisee is not based on the premise that we will be broadcasting a FCC signal, nor are we utilizing any bandwidth. The construction and use of this fiber is not subject to FCC oversight. Please see Attachment B, it is a signed statement that we are not lawfully required to have a certificate from them to do this project.

4. Copy of the applicant's certificate of authority from the Federal Communications Commission ("FCC") or a signed statement that the applicant is not lawfully required to have such certificate from the FCC.

Response: We have included a signed statement regarding FCC issues, it is Attachment B

5. Copy of all required insurance policies and certificates with a signed statement from Louisville Metro's Insurance and Risk Coordinator that such policies and certificates are acceptable to Louisville Metro.

Response: We have attached our general business and liability insurance policy with the City as a named insured. We will attain all other necessary insurances prior to beginning build-out work on this or any projects relying on the Franchise.

6. A statement signed by the applicant that the applicant agrees to be bound by all provisions of the Franchise and agrees to obtain all application permits and authorizations prior to constructing, installing or operating a System in the right-of-way.

Response: This is included, see Attachment C

7. Filing Fee

Response: This is included

8. Supplementary, additional or other information that the applicant deems reasonable for consideration.

Response: No additional comments at this time.

BGN Networks, LLC, Franchise Application: Attachment A

BGN Networks, LLC
321 East Breckinidge Street
Louisville, KY 40203

April 30, 2014

Louisville Metro Government
Franchising & Permits

To Whom It May Concern:

We have contacted the Kentucky Public Service Commission and we are not required to have a certificate of authority in the state of KY from the PSC for what we are doing.

Sincerely,



Norman Schippert
BGN Networks
502-589-4638

BGN Networks, LLC, Franchise Application: Attachment B

BGN Networks, LLC
321 East Breckinidge Street
Louisville, KY 40203

April 30, 2014

Louisville Metro Government
Franchising & Permits

To Whom It May Concern:

We have researched our status in regards to the necessity of being registered with the FCC for what we are doing. We are confident that what we are doing does not require a certificate of authority from the FCC.

Sincerely,



Norman Schippert
BGN Networks
502-589-4638

BGN Networks, LLC, Franchise Application: Attachment C

BGN Networks, LLC
321 East Breckinidge Street
Louisville, KY 40203

April 30, 2014

Louisville Metro Government
Franchising & Permits

RE: Commitment to get necessary permits

To Whom It May Concern:

It is our sincerest intention to get all necessary permits and authorizations prior to constructing the fiber as indicated in the application.

Sincerely,



Norman Schippert
BGN Networks
502-589-4638

BGN Networks, LLC, Franchise Application: Attachment D

Engineering Statement

BGN Networks, LLC
321 East Breckinidge Street
Louisville, KY 40203

April 30, 2014

Louisville Metro Government
Franchising & Permits

To Whom It May Concern:

Based on our plans as outlined on the attached map and documentation from our sub-contractor, Fishel, I can attest that we all provisions and technical requirements for completion of this project have been satisfied.

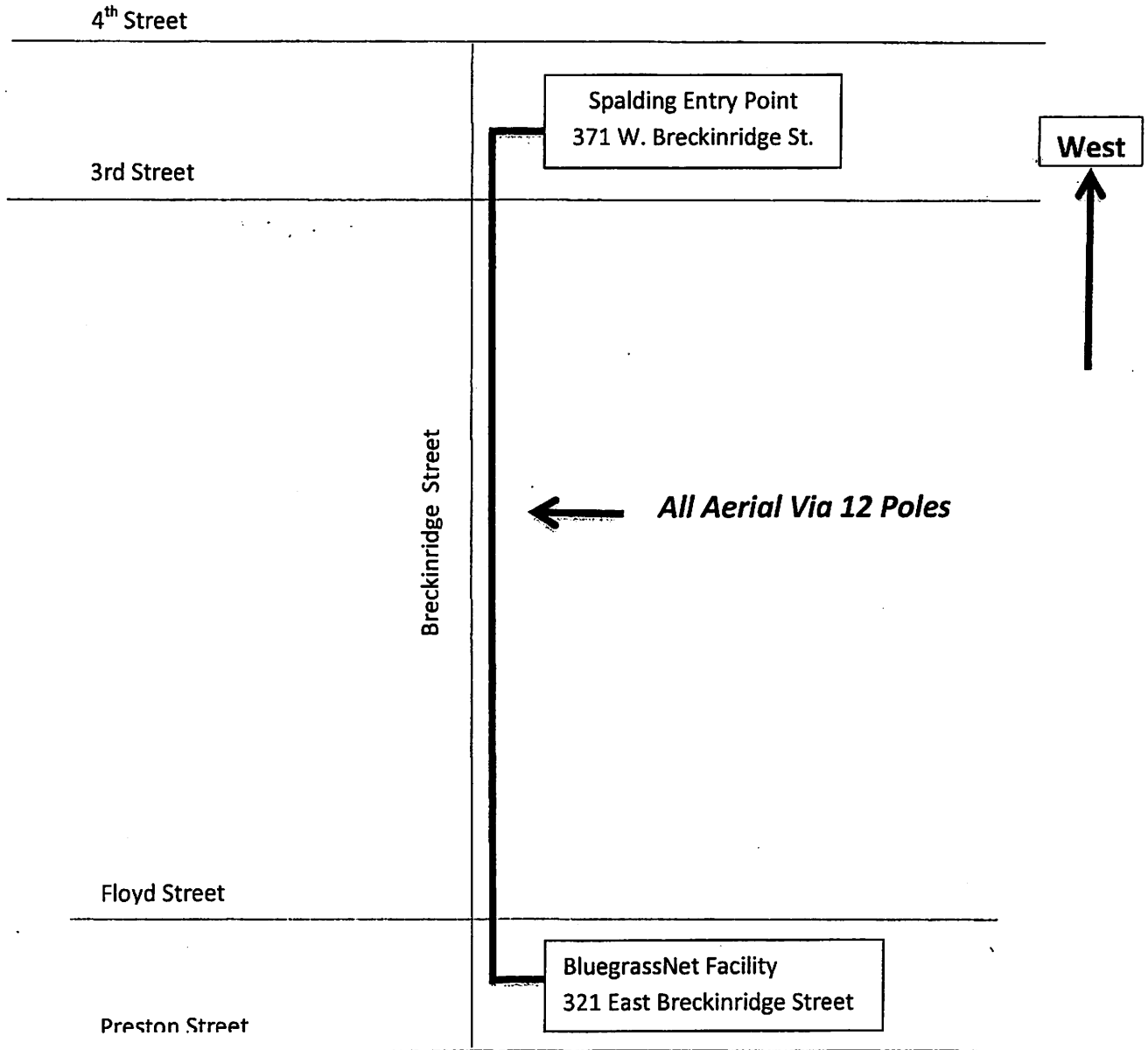
Sincerely,

A handwritten signature in black ink, appearing to read "Thomas Galla". The signature is written in a cursive, flowing style.

Thomas Galla
BGN Networks, LLC / Lead Engineer
502-589-4638

Map of the Spalding to BluegrassNet Fiber Build 4/30/14

Questions Call: Thomas Galla 502-797-1484



Blue Grass Net
Spalding University
Louisville, KY

Proposal for: Installation of fiber optic cable.

*Submitted
April 17, 2012*



*Team Fishel
4508 Bishop Lane
Louisville, Kentucky 40218*

Executive Summary

Team Fishel is pleased to present this proposal for installing the 3 the fiber optic backbone cabling at Spalding University. Team Fishel's experience in designing and building structured cabling systems for copper and fiber optic systems combined with the company's philosophy of building and maintaining long term customer relationships provides our customers with a superior technological partnership now and for the future.

Project Scope of Work

Team Fishel will comply with the specifications outlined within this Scope of Work.

Cable terminations

- Furnish and install a rack mounted fiber optic termination shelf with single mode LC panels in each building for a total of (2).
- Install 12 strand fan outs/breakouts on each cable.
- Terminate each 24 strand cable with single mode LC connectors
- Test each connector for acceptable DB loss with a power meter
- OTDR each strand for continuity
- Label all panels

Price for terminations \$2,783.03

Certification and Identification: All cabling will be labeled and certified accordingly.

Exceptions & Clarifications

This quotation is based on the following:

- Others furnish and installing the cable

We have excluded the following:

- Any patch cords
- Any electronic equipment.

We have presumed the following:

- Team Fishel personnel will be provided continuous access to areas where work is to be performed for the duration of the project.
- If required, Team Fishel will be provided with access badges, keys, and/or escorts in order to perform the work in a timely and cost effective manner.
- This is not a prevailing wage project

- Any down time caused by others will be billed at Time and Material rates

Terms & Payment

This quotation is valid for 30 days.

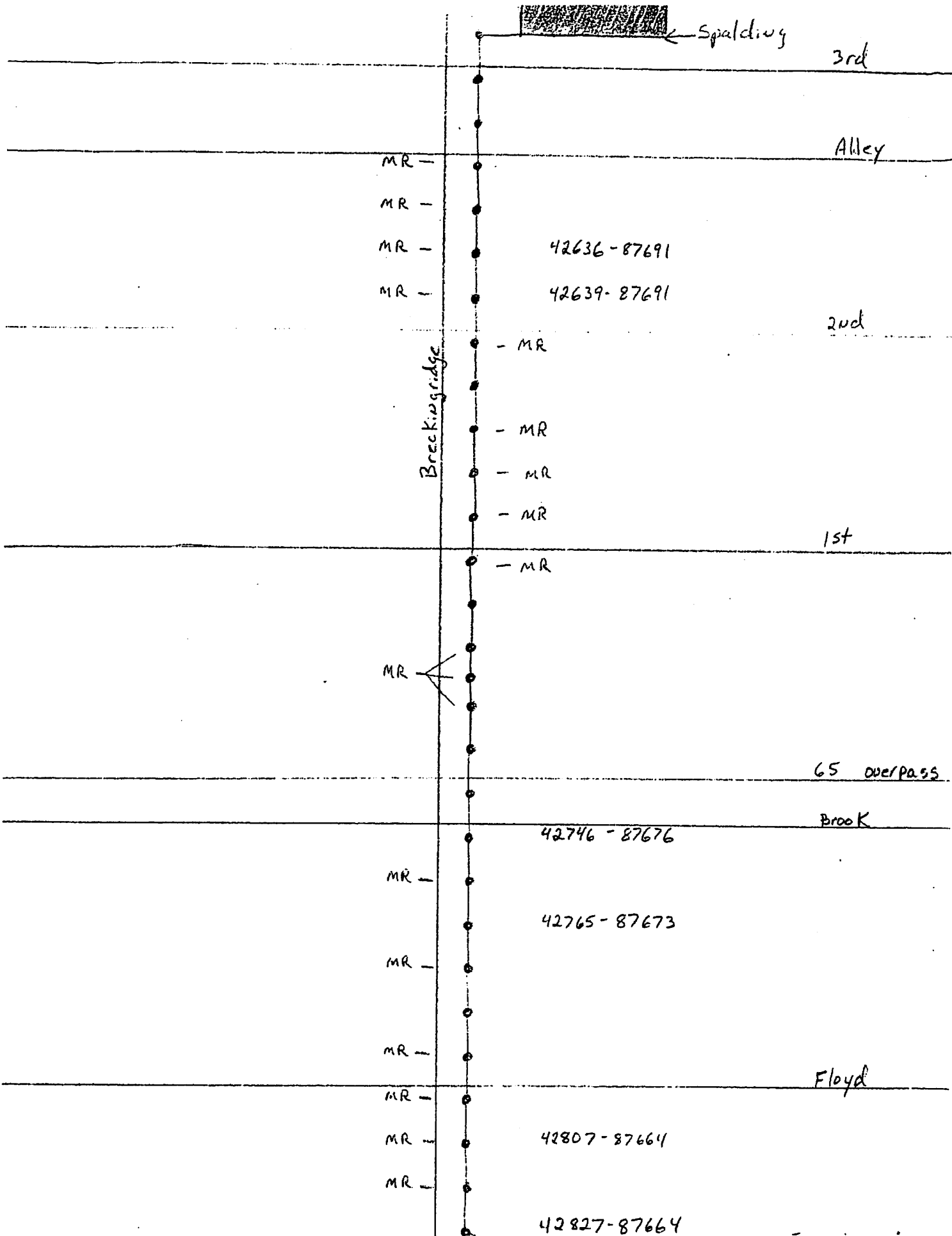
Net 30 Days

Credit Card payments will be accessed an additional 5% charge.

Confidential Information: This proposal and price information is confidential and proprietary and shall not be disclosed to others.

Thank you for the opportunity to be of service to

Customer Acceptance	Team Fishel Acceptance
<p>The above prices, specifications and conditions are satisfactory and hereby accepted. Team Fishel is authorized to perform the work. Payment shall be made according to terms.</p> <p>Date: _____ P.O.# _____</p> <p>Signature: _____</p> <p>Print: _____</p> <p>Title: _____</p>	<p>Authorized Name:</p> <p>_____</p> <p>Authorized Signature:</p> <p>_____</p>



← Spalding

3rd

Alley

MR -

MR -

MR -

42636-87691

MR -

42639-87691

2nd

Breckinridge

- MR

- MR

- MR

- MR

1st

- MR

MR

65 Overpass

Brook

42746-87676

MR -

42765-87673

MR -

MR -

Floyd

MR -

42807-87664

MR -

42827-87664



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
9/3/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Commercial Lines - (502) 425-9444 Wells Fargo Insurance Services USA, Inc. 950 Breckenridge Lane, Suite 50 Louisville, KY 40207-4675	CONTACT NAME:	
	PHONE (A/C, No., Ext):	FAX (A/C, No):
E-MAIL ADDRESS:		
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A:	Travelers Property Casualty Co of America	25674
INSURER B:	Travelers Casualty Ins Co of America	31194
INSURER C:	National Union Fire Ins. Co. of Pittsburgh, PA	19445
INSURER D:	Sentinel Insurance Company Ltd.	11000
INSURER E:	Beazley Insurance Company	37540
INSURER F:		

COVERAGES CERTIFICATE NUMBER: 6539426 REVISION NUMBER: See below


THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC			INS5095670003	9/1/2013	9/1/2014	EACH OCCURRENCE	\$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 300,000
							MED EXP (Any one person)	\$ 10,000
							PERSONAL & ADV INJURY	\$ 1,000,000
							GENERAL AGGREGATE	\$ 2,000,000
							PRODUCTS - COMP/OP AGG	\$ 2,000,000
								\$
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			INS5095670003	9/1/2013	9/1/2014	COMBINED SINGLE LIMIT (Ea accident)	\$
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			BE011462745	9/1/2012	9/1/2013	EACH OCCURRENCE	\$ 5,000,000
							AGGREGATE	\$ 5,000,000
								\$
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	33WECLV8635	9/1/2013	9/1/2014	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER	
							E.L. EACH ACCIDENT	\$ 500,000
							E.L. DISEASE - EA EMPLOYEE	\$ 500,000
							E.L. DISEASE - POLICY LIMIT	\$ 500,000
E	E&O			V10F27110201	09/01/2013	09/01/2014		1000000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

The Louisville/Jefferson County Metro Government, including its Mayor and Metro Council members as Additional Insured as respects all operations of the Insured Franchisee.

CERTIFICATE HOLDER CANCELLATION

Louisville/Jefferson County Metro Government Office of Management and Budget Risk Management Division 611 W. Jefferson Street Louisville, Ky. 40202	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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Commonwealth of Kentucky
Elaine N. Walker, Secretary of State

Elaine N. Walker
Secretary of State
P. O. Box 718
Frankfort, KY 40602-0718
(502) 564-3490
<http://www.sos.ky.gov>

Certificate of Existence

Authentication number: 113586
Visit <https://app.sos.ky.gov/ftshow/certvalidate.aspx> to authenticate this certificate.

I, Elaine N. Walker, Secretary of State of the Commonwealth of Kentucky, do hereby certify that according to the records in the Office of the Secretary of State,

BGN Networks LLC

is a limited liability company duly organized and existing under KRS Chapter 14A and KRS Chapter 275, whose date of organization is February 8, 2011 and whose period of duration is perpetual.

I further certify that all fees and penalties owed to the Secretary of State have been paid; that articles of dissolution have not been filed; and that the most recent annual report required by KRS 14A.6-010 has been delivered to the Secretary of State.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal at Frankfort, Kentucky, this 16th day of May, 2011, in the 219th year of the Commonwealth.



Elaine N. Walker

Elaine N. Walker
Secretary of State
Commonwealth of Kentucky
113586/0783960