

AGREEMENT

This Agreement is made this ___ day of _____ 2020 by and between Metro Fibernet, LLC (“MetroNet”), a Nevada limited liability company, and Lexington-Fayette Urban County Government (“LFUCG”), a political subdivision of the Commonwealth of Kentucky.

In consideration of the mutual covenants and agreements, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do mutually covenant and agree as follows:

INTRODUCTION

1. **LFUCG’s Desire.** LFUCG desires to own one (1) one and one-quarter inch (1.25”) innerduct in the four inch (4”) abandoned force sewer main owned by LFUCG running on the south side of Versailles Road along a route from New Circle to Man O War (the “Pipe”) as more particularly illustrated in Appendix A (the “Route”).
2. **MetroNet’s Desire.** MetroNet desires to own two (2) one and one-quarter inch (1.25”) innerducts in the Pipe along the Route.
3. **The Parties’ Desire.** The parties believe that by sharing resources, they can effect economies in the installation of the innerducts along the Route and in the continued operation and maintenance thereof. Each party's rights and obligations are more specifically described below.

INSTALLATION OF INNERDUCTS ALONG THE ROUTE

4. **LFUCG Responsibilities.** At no cost to MetroNet, LFUCG shall provide the Pipe along the Route.
5. **MetroNet Responsibilities.** MetroNet, at its sole cost and expense, shall:
 - (a) Perform any necessary repair along the Route to make the Pipe ready for installation of innerducts; provided however, if at any time, MetroNet determines in its sole discretion that the Pipe is not acceptable for MetroNet’s intended use, MetroNet shall not be obligated to repair the Pipe and may terminate this Agreement without obligation or liability by providing written notice of termination to LFUCG.
 - (b) Provide three (3) 1.25” corrugated innerducts (the “Innerducts”): one (1) innerduct for use by LFUCG and two (2) innerducts for use by MetroNet.
 - (c) Install the Innerducts along the Route, including obtaining the necessary permits from Kentucky Department of Transportation to install the Innerducts along the Route.

LFUCG agrees to provide reasonable cooperation to MetroNet in its performance of the above-referenced tasks.

6. **Installation of Fiber.** Neither party shall have any responsibility to the other party to install or maintain fiber in the Innerducts.

LEGAL INTERESTS/RIGHTS IN INNERDUCTS INSTALLED ALONG THE ROUTE

7. **LFUCG Innerduct.** LFUCG shall own legal title to one (1) of the Innerducts installed in the Pipe along

the Route under this Agreement ("LFUCG's Innerduct"). All right, title and interest in all of LFUCG's other facilities and associated equipment to be placed along the Route (fiber, transmission hardware/optronics, etc.) shall also at all times remain exclusively with LFUCG.

8. **MetroNet Innerducts.** MetroNet shall own legal title to the other two (2) Innerducts installed along the Route under this Agreement (collectively "MetroNet's Innerduct"). MetroNet's Innerducts are fully and freely assignable and transferable by MetroNet and by any successor in interest to such Innerduct, subject to the terms of this Agreement; and MetroNet's Innerducts may be used by MetroNet or any third party MetroNet allows to use MetroNet's Innerduct. All right, title and interest in all of MetroNet's other facilities and associated equipment to be placed along the Route (fiber, transmission hardware/optronics, etc.) shall also at all times remain exclusively with MetroNet.
9. **The Pipe.** LFUCG grants to MetroNet an indefeasible right to use the Pipe and the tangible and intangible property needed for the use of the Pipe including any associated rights of way, permits and similar rights.
10. **Liens and Encumbrances.** MetroNet shall not grant any rights or licenses in or to LFUCG's Innerduct and shall not permit such property to be encumbered or impaired in any manner attributable to MetroNet. LFUCG shall not grant any rights or licenses in or to MetroNet's Innerduct and shall not permit such Innerduct to be encumbered or impaired in any manner attributable to LFUCG.

MAINTENANCE

11. **Maintenance of Pipe and Innerduct.** Throughout the useful life of the Pipe and Innerduct, as they might be replaced from time to time, MetroNet shall maintain the Pipe in reasonably good condition and repair at MetroNet's cost and expense, except in the case of a maintenance event caused by LFUCG, in which case LFUCG shall reimburse MetroNet for the cost and expense to repair the Pipe and Innerduct. In the event MetroNet, in its discretion, desires for all or any part of the Pipe or Innerduct along the Route during the Term of this Agreement to be replaced, it shall have the right, but not the obligation, to replace such Pipe or Innerduct at its cost. MetroNet shall give at least five (5) days' notice to LFUCG before performing any non-emergency maintenance on the Pipe or Innerducts. For any emergency maintenance, MetroNet shall give LFUCG as much notice as reasonably possible. Such notice shall be given to LFUCG at _____. LFUCG will provide 24 Hour/ 7 days per week access to LFUCG's Innerduct for maintenance purposes.
12. **Maintenance of Fiber.** MetroNet, at its sole cost and expense, shall maintain its fiber along the Route, and LFUCG, at its sole cost and expense, shall maintain its fiber along the Route.

ACCESS/USE

13. **Access.** MetroNet may access the Pipe and Innerduct it owns on a 24 hour / 7 days per week basis. Except as otherwise expressly set forth herein, each party shall be responsible for, and shall pay all costs associated with, installing equipment and facilities necessary in order to use its respective Innerduct installed along the Route and each shall also be responsible for, and shall pay all costs, associated with, interconnecting its facilities to such Innerduct.
14. **Use.** Neither party shall use its respective Innerducts in a way that technologically interferes in any way with the use of the Innerducts of the other party. Except as otherwise expressly set forth herein, neither party is responsible for supplying to the other party (or maintaining for the other party) any fiber, optronics, electronics or other equipment or facilities for such other party to use such other party's Innerduct.

GENERAL TERMS & CONDITIONS

15. **Term.** This Agreement shall become effective upon its execution and shall continue in effect for an initial term of ninety-nine (99) years. Thereafter, this Agreement shall renew year to year unless terminated by either party upon one (1) year's written notice to the other. Notwithstanding the foregoing, the Agreement shall expire and terminate if the useful life of the Pipe or Innerduct expires and MetroNet opts not to exercise its right to replace such Pipe or Innerduct. Notwithstanding any other provision of this Agreement, with written notice to LFUCG, MetroNet may abandon all or any portion of the Pipe or Innerducts and may terminate this Agreement without any further obligation or liability.
16. **Relationship of Parties and Independent Contractor Status.** Neither LFUCG nor MetroNet shall be deemed to be a partner, agent or joint venturer with or of the other by reason of this Agreement or the consummation of the transaction contemplated hereby. Each party shall perform its duties under this Agreement as independent contractors, and at its own risk. Neither LFUCG nor MetroNet shall at any time hold itself out as being a partner, co-venturer or agent of the other.
17. **Assignment of Rights.** Except as otherwise provided in this Agreement, neither party shall assign any of its rights or interests hereunder to any firm, corporation, or individual, without the written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed, except that either party may, without the prior consent of the other party, assign all of its rights under this Agreement to: (i) a parent, subsidiary, or Affiliate; (ii) a purchaser of all or substantially all of such party's assets related to this Agreement; or (iii) a third party participating in a merger, acquisition, sale of assets or other reorganization in which the party is participating. This Agreement shall bind and inure to the benefit of the parties and their respective successors and permitted assigns. For the purposes of the Section, "Affiliate" means, any entity that controls or is controlled by a party, or is under common control with a party.
18. **Notices.** All written notices required under this Agreement shall be given by hand delivery, certified mail, return receipt requested, or a nationally or regionally recognized courier as follows:

If to LFUCG:

Lexington-Fayette Urban County Government
Attn: _____
200 East Main Street
Lexington, KY 40507

With a copy to:
Lexington-Fayette Urban County Government
Attn: _____
200 East Main Street
Lexington, KY 40507

If to MetroNet:

Metro Fibernet, LLC
Attn: President
3701 Communications Way
Evansville, Indiana 47715

With a copy to:
Metro Fibernet, LLC
Attn: Legal Department
8837 Bond St.
Overland Park, Kansas 66214

or to such address as the parties hereto may from time to time specify. Notices shall be effective upon receipt.

19. **Governing Law.** This Agreement shall be deemed to be executed in the State of Kentucky, and shall be governed in all respects, including validity, interpretation and effect, and construed in accordance with, the laws of the State of Kentucky and/or Federal law, as applicable. The venue for any such proceeding shall be in Fayette County, Kentucky.
20. **Severability.** If any term, covenant or condition contained herein is, to any extent, held invalid or unenforceable in any respect under the laws governing this Agreement, the remainder of this Agreement shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
21. **Entire Agreement.** This Agreement constitutes the entire and final agreement and understanding between the parties with respect to the subject matter hereof and supersedes all prior agreements relating to the subject matter hereof, which are of no further force or effect.
22. **Modification.** No provision of this Agreement shall be amended or otherwise modified, in whole or in part, except by an instrument, in writing, duly executed by LFUCG and MetroNet, which amendment shall be authorized on behalf of LFUCG, as required by applicable law.
23. **Counterparts; Electronic Delivery.** This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument. Faxed, electronically delivered and scanned executed documents will be considered originals for purposes of confirming an enforceable agreement.

INTENTIONALLY LEFT BLANK; SIGNATURE PAGE FOLLOWS

In witness whereof, the parties hereto have caused this Agreement to be duly executed and to become effective as of the date first written above.

**LAFAYETTE-FAYETTE URBAN COUNTY
GOVERNMENT**

METRO FIBERNET, LLC

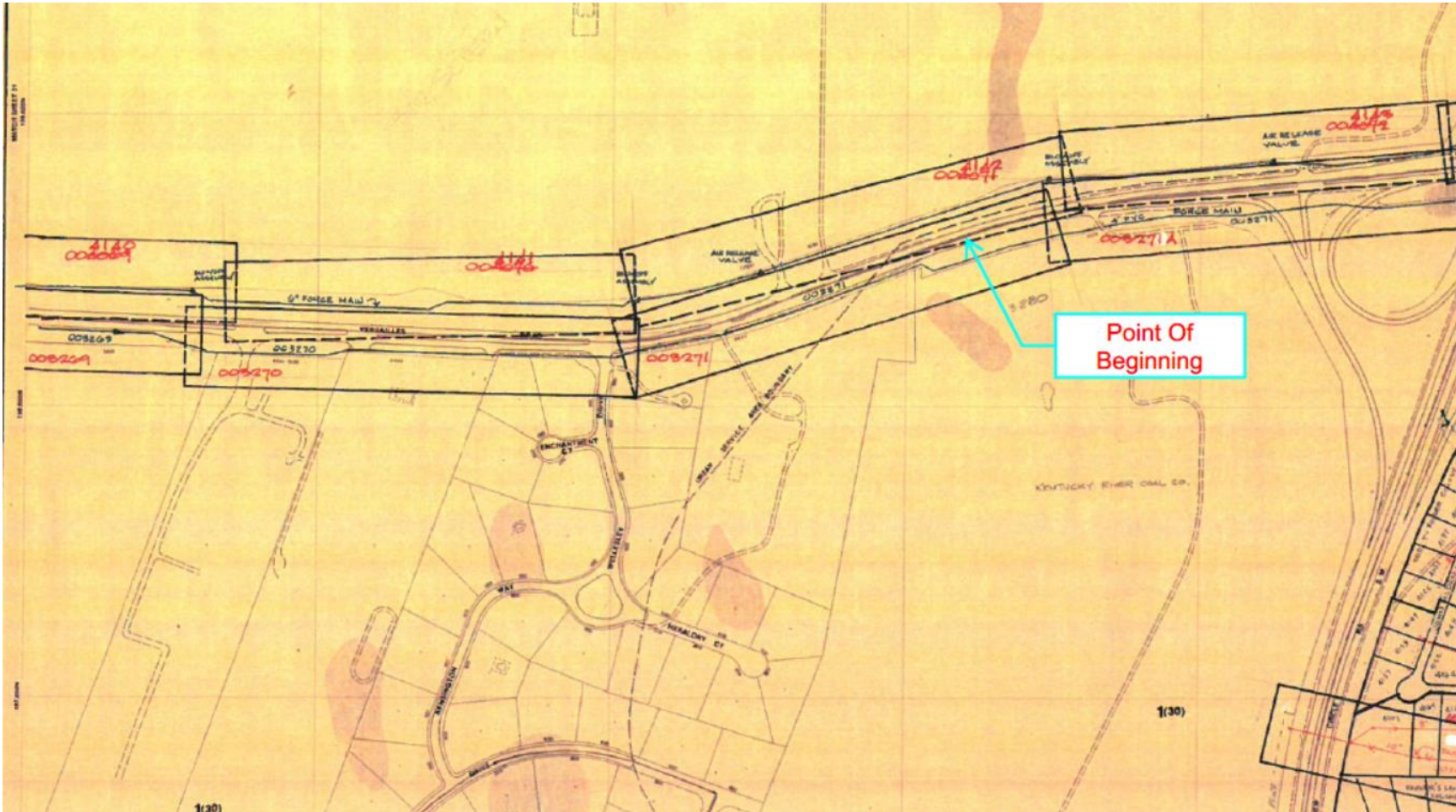
Name: _____

Name: _____

Title: _____

Title: _____

APPENDIX A



APPENDIX A – Continued

