

## **RIGHT-OF-WAY AGREEMENT BETWEEN THE CITY OF DYERSVILLE AND COMELEC INTERNET SERVICES, LLC. FOR THE INSTALLATION OF FIBER OPTIC CABLES**

Execution of this Right-of-Way agreement (“Agreement”) hereby granted Comelec Internet Services, LLC (“Grantee”) the perpetual right to install, operate, and maintain fiber optic cables within the public street right-of-way (“Right-of-Way”) within the City of Dyersville, IA (“City”). This agreement allows for the installation of fiber optic conduit within the City of Dyersville.

The conditions of this Agreement are as follows:

1. Any above ground installations shall be mounted on existing poles through private agreement(s) with existing franchise holders. Grantee will not be allowed to erect any additional poles on Right-of-Way within the City of Dyersville.
2. All underground cables must be installed using directional boring technology except where open excavations are necessary for beginning or terminating a directional bore or soil conditions do not allow for directional boring to be used.
3. The Grantee’s equipment and facilities shall be installed in accordance with good engineering practices and shall be located and constructed so as to not endanger or interfere with the lives of persons, or to unnecessarily hinder or obstruct pedestrian or vehicular traffic on public ways, places or structures. The installation, construction, maintenance and operation of the fiber optic conduit system shall be in accordance with all applicable laws, ordinances, regulations, and codes of the State of Iowa and City of Dyersville. All street lanes, sidewalks and recreation trails must remain open to traffic during the Grantee’s installation work.
4. If at any time and after reasonable notice is given that the City requires the relocation of the Grantee’s facilities along the city’s right-of-way, the Grantee shall complete the relocation at its own expense. Such relocation may include moving and relaying or lowering underground conduits or associated fixtures so that the city’s project or work is not impeded. The Grantee’s relocation work shall be completed in a timely manner and shall be coordinated with the City Administrator so that the city’s project or work is not delayed. The City shall not unreasonably require the Grantee to relocate its cables.
5. If the City, in its sole discretion, determines that there is insufficient space available in any City Right-of-Way to accommodate an installation or relocation of Grantee’s cables, Grantee shall reroute its cables via City Right-of-Way where sufficient space is available.
6. All backfilling and surface restoration following any necessary open excavations shall be accomplished by Grantee in accordance with City’s requirements in effect at the time of the excavation. Grantee shall, at its expense, replace and restore all Rights-of-Way to a condition substantially similar to the condition of the Right-of-Way existing immediately prior to the commencement of work. In the case of any disturbance of pavement, sidewalks, driveways,

lawns, or any other surface within the Right-of-Way, Grantee shall, at its expense, promptly replace, and restore to the same condition. Restoration of lawn surfaces shall be by sod or other restoration methods approved by the City.

7. Before the commencement of operations, Grantee shall procure and maintain insurance in such amounts and kinds of coverage as may be required by the City. Grantee shall maintain such insurance with insurance companies authorized to do business in the State of Iowa. Any such policy shall provide that it may not be cancelled or the amount of coverage altered without thirty (30) days written notice to the City Administrator. Similar coverage shall be provided for any contractors or subcontractors of Grantee.
8. All work shall conform to all applicable safety, construction, and technical specifications and codes and standards as well as all federal, state, county, and city construction requirements.
9. Grantee shall participate in and use Iowa One Call in advance of the commencement of work.
10. Grantee shall not be entitled to damages from City resulting from the closing, vacation, or relocation of any streets, alleys, or right-of-way.
11. City shall have the right to inspect or correct all construction and installation work in order to ensure compliance with the terms of this Agreement, City Code, or State law.
12. Grantee shall not be relieved of any of its obligations by reason of City's failure to enforce prompt compliance.
13. Grantee agrees to indemnify, protect, and hold the City of Dyersville harmless from and against any and all liability claims, losses, costs of investigation and defense, and damage to property or bodily injury or death to any person, which may arise out of or be caused by the erection, construction, replacement, removal, maintenance, or operation of Grantee's fiber optic system caused by any negligent act or negligent failure to act on the part of the Grantee, its agents, contractors, subcontractors, officers, or employees.
14. This Agreement and all rights hereunder shall not be assigned by Grantee.
15. The Grantee shall obtain a notice to proceed verifying the proposed installation route from the City Administrator prior to the beginning of any facility installation. In addition, the Grantee shall agree to allow the City a minimum of two (2) dark fiber strands for the city's private network system at no additional cost to the City. In exchange, the City shall agree to charge no additional fees for the placement of any of Grantee's handholes and any associated costs with them. Furthermore, the City shall pay for any reasonable costs outside Grantee's fiber optic junction box for the city's private network system.
16. Upon request from the City to supply fiber service for its city's private network system, the Grantee shall complete the installation in a timely manner agreed upon by both parties and it shall be coordinated with the City Administrator so that the city's project or work is not delayed.

17. Each and every provision hereof shall be reasonably subject to acts of God, fires, strikes, riots, floods, war and other disasters beyond Grantee's or the City's control.

CITY OF DYERSVILLE, IOWA

COMELEC INTERNET SERVICES, LLC

By: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_