

CONDUIT OCCUPANCY AGREEMENT

THIS CONDUIT OCCUPANCY AGREEMENT (“Agreement”), is made and entered into as of the _____ day of _____, 2022 (“Commencement Date”), by and between the City of Redmond (“City”) and MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services, a Delaware corporation (“Verizon”). City and Verizon may be referred to individual as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS City owns an underground conduit system and associated communications network facilities;

WHEREAS Verizon desires to occupy City Owned Conduit and Facilities with fiber optic cable;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City agrees to lease to Verizon a segment of conduit identified herein within the joint utility trench, subject to the promises, covenants, and warranties set forth in this Agreement.

TERMS AND CONDITIONS

1. DEFINITIONS.

“Conduit” means a pipe-like structure which may consist of polyvinyl chloride (PVC), high density polyethylene (HDPE), and other materials placed underground to contain Ducts and/or Fiber Cables as part of a communications network.

“Bridge Conduit” as defined in Section 2(a) below.

“City Facility” and “City Facilities” means the various elements or components of an underground communications network, including without limitation Conduit, Ducts, Handholes, Manholes, Slack Coils, and other ancillary materials, items, equipment, pull rope, mule tape, buried locate tape, markers, and structures (e.g., pedestals and vaults).

“Duct” means a single enclosed raceway for Fiber Cable and is sometimes installed in a Conduit. The term Duct may include micro-duct, inner duct, or other industry standard duct-like materials.

“Verizon Facility” and “Verizon Facilities” means the various elements or components of an underground communications network, including without limitation Conduit, Ducts, Handholes, Manholes, Slack Coils, and other ancillary materials, items, equipment, pull rope, mule tape, buried locate tape, markers and structures (e.g., pedestals and vaults).

“Verizon Fiber Optic Cable(s)” means fiber optic communications cable.

“Handhole” means a structure placed in the ground and accessible from the surface that is used to provide access to Conduits, Ducts and/or Fiber Cables for the purpose of installing, operating, maintaining and repairing communications Facilities, and may include vaults of various sizes.

“Manhole” means a structure large enough to admit a person’s entire body through an opening in the roof placed in the ground and accessible from the surface that is used to provide access to Conduits, Ducts and/or Fiber Cables for the purpose of installing, operating, maintaining, and repairing communications Facilities.

“Requirements and Standards” means Redmond Municipal Code, laws, rules, regulations, codes, ordinances, permit conditions, the National Electric Code, the National Electrical Safety Code, and the Blue Book, that govern, address, or apply to construction of underground Conduit systems in public rights of way in the City.

“Slack Coils” mean extra fiber optic cable that is coiled up and placed in a Manhole or Handhole for future use.

2. PROPERTY CONVEYED

a) City agrees to lease to Verizon a portion of the “Bridge Conduit” as legally described and depicted in Exhibit A and consisting of:

(i) 2 of 3 sleeves of one of the two Maxcell fabric packs installed in one of two existing City-owned 4-inch HDPE conduit installed on the north side of the NE 90th Street bridge over the Sammamish River, extending approximately 860 feet, and

(ii) use of Verizon-replaced, City-owned vaults on each end of this conduit allowing Verizon to connect through the vault to its separate 2-inch conduit attached to the vaults.

b) Verizon agrees to install at their sole cost:

(i) two (2) 4-inch conduits for the City and one 2-inch conduit for Verizon's exclusive ownership and use extending from the City owned vaults listed in Section 2(a)(ii) above, approximately 20 feet to the west and approximately 200 feet to the east, and

(ii) a vault on each end of the above two (2) conduits to be given to the City.

(iii) Install 2 packs (6 sleeves) of Maxcell in one of the two City owned 4" Bridge Conduits, and

(iv) replace the City owned handhole described in 2(a)(ii) with a TA-25 vault to be owned by City.

c) Verizon Fiber Optic Cables in any portion of Bridge Conduit shall be limited to a cross-sectional area of 4.2 square inches.

d) No use of the Bridge Conduit by Verizon shall vest in Verizon any easement or any ownership interest or other real property right in such Bridge Conduit nor any of the City's rights-of-way. Nor shall any easement or any other ownership or other form of property right in the Verizon Fiber Optic Cable or Facilities vest in the City or a third party by virtue of the activities contemplated by this Agreement.

3. TELECOMMUNICATION RIGHT-OF-WAY USE AUTHORIZATION CONTROLS.

a) Telecommunication Right-of-Way Use Authorization Controls. The parties acknowledge and agree that Verizon's rights and obligations pertaining to its access and use of the City's rights-of-way are governed under the Telecommunication Right-of-Way Use Authorization, effective as of July 11, 2013 (the "Authorization") and any subsequent authorizations issued by the City, and that this Agreement in no way modifies the Authorization. The Bridge Conduit is subject to the terms of the Authorization, including but not limited to any requests by City in the future to relocate pursuant to Section 6 of the Franchise or pertaining to any future work in the rights-of-way governed under Section 9 of the Franchise.

4. RATES AND CHARGES; BILLING; PAYMENT

a) Occupancy Fees: The annual cost shall be \$4.00 per linear foot of Bridge Conduit in which Verizon occupies such conduit with Verizon Fiber Optic Cable or Facilities ("License Fee"). There shall be no more than one License Fee owed by Verizon for any length of Bridge Conduit irrespective of the amount of Verizon Fiber Optic Cable or Facilities installed in that City Owned Conduit.

b) Rental Payment. The License Fee shall be due and payable annually, in advance, commencing on the date on which Verizon has completed installation of Verizon Fiber Optic Cable and Facilities in the Bridge Conduit. After the first year, the License Fee shall be increased by three percent (3%) annually.

c) Reimbursement for Administrative Costs. Verizon agrees to pay a one-time fee to cover the City's actual administrative and legal costs associated with the review, negotiation, drafting, and revision of this Agreement not to exceed two thousand five hundred dollars (\$2,500).

d) One Time Charges. All one-time charges for reimbursement, make-ready, or other such work shall be invoiced by and between the Parties upon completion of the work to which the charges relate. All such invoices are due and payable within thirty (30) days of receipt. Failure to invoice such charges within twelve months from completion of the work to which such charges related shall result in a full and complete waiver of such charges.

e) Disputes; Late Payment Charges. Each Party shall pay all undisputed amounts when due, and provide a detailed description of any amounts that are in dispute. The Parties shall cooperate in good faith to resolve any

billing disputes. Any and all late payments shall accrue a late payment charge of the greater of (i) one percent (1%) per month or (ii) the highest rate permitted by applicable law.

f) No Accord and Satisfaction. No acceptance of any payment hereunder by either Party shall be deemed to constitute any accord or satisfaction with respect thereto, and each Party reserves all rights with respect to any such matters.

5. MAINTENANCE AND REPAIR; DECOMMISSIONING

a) City shall maintain and repair the Bridge Conduit and Facilities at no charge to Verizon and keep them in good working order according to applicable Requirements and Standards. When conducting these activities, City shall be responsible for any damages it's actions cause to Verizon Fiber Optic Cable and Facilities. Notwithstanding the foregoing, the City shall not be responsible for any damage to Verizon Fiber Optic Cable and Facilities that is the result of any third-party actions including but not limited to vandalism, rodents, or bridge collapse.

b) Verizon shall maintain and repair its Fiber Optic Cable and Facilities at no charge to City and keep them in good working order according to applicable Requirements and Standards. When conducting these activities, Verizon shall be responsible for any damages it causes to the Bridge Conduit and Facilities.

c) Verizon shall have the right, but not the duty or obligation, to undertake emergency repair to the Bridge Conduit and Facilities if there is a significant impact potentially causing an outage from such emergency on the Verizon Fiber Optic Cable or Facilities. When conducting these activities, Verizon shall be responsible for any damages it causes to the City Owned Conduit and Facilities. The City shall reimburse Verizon for Verizon's reasonable costs of repairs to City Owned Conduit and Facilities.

d) Each Party shall use reasonable commercial efforts to provide at least 48 hours prior notice of all maintenance and repair activity by sending notice to the contacts listed in Exhibit B. Pursuant to Section 2(c), emergency repair activity may be undertaken without prior notice, if necessary, provided that continued efforts will be made to notify the other Party as soon as practicable under the circumstances. Each Party shall provide and staff a 24 x 7 x 365 telephone number, listed on Exhibit B for the other Party to use to provide such notification.

e) Subject to obtaining written approval and subject to Redmond's normal permit requirements, Verizon may conduct maintenance, repair, or improvement of the Bridge Conduit at its own expense. The City shall reasonably cooperate with Verizon in permitting access to the Bridge Conduit for installation, maintenance, repair or improvement of the Bridge Conduit. The City reserves the right to condition its approval upon the Verizon providing satisfactory payment and/or performance bonds. Verizon shall submit plans to and obtain written authorization from the City before commencing any improvements or construction.

f) Verizon may decommission and abandon Verizon Facilities in the Bridge Conduit in its sole discretion, provided that Verizon must first notify City of any such action at least thirty (30) days prior, and work with City in good faith to address any desire on the part of City to have Verizon Facilities removed from City Owned Conduit. Ownership of any Verizon Facilities abandoned in-place shall vest in the City.

6. TERM; TERMINATION

a) The rights granted under this Agreement shall have a term of five (5) years commencing on the Commencement Date.

b) Unless the City gives written notice to Verizon that it will not renew the Agreement, such notice being received at least one hundred twenty (120) days prior to the end of the Agreement's current term, Verizon shall have the right to renew this Agreement for additional five-year terms, the additional successive renewal term being deemed to have occurred automatically without action by either Party. Each successive term shall be on the same terms and conditions as set forth herein. There is no limit to the number of renewals.

c) The Agreement may be terminated by mutual written agreement of the Parties, or for uncured material breach as set forth in this Section.

d) In the event that either Party commits a material breach or default under this Agreement, then the other Party shall give the breaching Party written notice of the breach or default (including, but not limited to, a statement of the facts relating to the breach or default, the provisions of the Agreement that are in breach or default, and the action required to cure the breach or default) and indicate in the notice that the Agreement will terminate pursuant to this paragraph if the breach or default is not cured within thirty (30) days after receipt of notice (or such later date as may be specified in the notice). If the breaching Party fails to cure the specified breach or default within thirty (30) days after receipt of such notice (or such later date as may be specified in such notice), then the Agreement will terminate without any further notice or action by the terminating Party; provided that if said breach is not susceptible of being cured within said 30-day period, the Agreement shall not terminate as long as the breaching Party is exercising all commercially reasonable efforts to pursue implementation of a cure.

7. CONFIDENTIAL INFORMATION

a) "Confidential Information" means Verizon materials, Verizon trade secrets, and other Verizon proprietary or business information provided to City that is clearly labeled, marked or otherwise identified as "confidential" or "proprietary information." Confidential Information shall not include information that was in the public domain at the time of disclosure; becomes generally known or available through no act or omission on the part of Verizon; is known, or becomes known, to City from a source other than Verizon or its representatives, provided that disclosure by such source is not in breach of a confidentiality agreement with Verizon; or is independently developed by City without violating any of its obligations under this Agreement;

b) City agrees to only disclose Confidential Information to employees, elected officials, agents and contractors of the City with a need to know the Confidential Information or as otherwise required by code, statute, rule or regulation.

c) When a third party ("Requestor") not otherwise authorized to access Confidential Information under this Agreement makes a demand or request to City for access to Verizon Confidential Information ("Request"), City will promptly notify Verizon of the Request before responding to the Requestor. Verizon shall then be solely responsible for taking whatever steps Verizon deems necessary to protect Verizon Confidential in a timely manner. Verizon shall be responsible for all costs associated with its pursuit of such steps, including the pursuit of any legal remedies.

d) Upon termination or expiration of this Agreement, City shall make reasonable efforts to either return or destroy all Confidential Information; provided, however, any Confidential Information in electronic format as part of City's off-site or on-site data archival process system, will be held by City and kept subject to the terms of this provision or destroyed at City's option. The obligations of this provision will survive termination or expiration of this Agreement.

8. INDEMNITY.

a) Verizon hereby releases, covenants not to bring suit and agrees to indemnify, defend and hold harmless the City, its elected and appointed officers, officials, employees, agents, engineers, consultants, volunteers and representatives from any and all claims, costs, judgments, awards or liability to any person arising from injury, sickness, or death of any person or damage to property:

i) For of which the negligent acts or omissions of Verizon, its agents, servants, officers or employees in performing the activities authorized by this Agreement are the proximate cause;

ii) By virtue of Verizon's exercise of the rights granted herein;

iii) By virtue of the City's permitting Verizon's use of the City's rights-of-ways or other public property;

iv) Based upon the City's inspection or lack of inspection of work performed by Verizon, its agents and servants, officers or employees in connection with work authorized on the Facility or property over which the City has control, pursuant to this Agreement or pursuant to any other permit or approval issued in connection with this Agreement;

v) Arising as a result of the negligent acts or omissions of Verizon, its agents, servants, officers or employees in barricading, instituting trench safety systems or providing other adequate warnings of any excavation, construction, or work upon the Facility, in any public way, or other public place in performance of work or services permitted under this Agreement; and

vi) Based upon radio frequency emissions or radiation emitted from Verizon's equipment located upon the Facility, regardless of whether Verizon's equipment complies with applicable federal statutes and/or FCC regulations related thereto.

b) Verizon's indemnification obligations pursuant to Subsection a of this Section shall include assuming potential liability for actions brought against the City by Verizon's own employees and the employees of Verizon's agents, representatives, contractors, and subcontractors even though Verizon might be immune under Title 51 RCW from direct suit brought by such an employee. It is expressly agreed and understood that this assumption of potential liability for actions brought by the aforementioned employees is with respect to claims against the City arising by virtue of Verizon's exercise of the rights set forth in this Agreement. The obligations of Verizon under this Subsection B have been mutually negotiated by the parties hereto, and Verizon acknowledges that the City would not enter into this Agreement without Verizon's waiver thereof. To the extent required to provide this indemnification and this indemnification only, Verizon waives its immunity under Title 51 RCW as provided in RCW 4.24.115.

c) Inspection or acceptance by the City of any work performed by Verizon at the time of completion of construction shall not be grounds for avoidance of any of these covenants of indemnification. Provided that Verizon has been given prompt written notice by the City of any such claim, said indemnification obligations shall also extend to claims which are not reduced to a suit and any claims which may be compromised prior to the culmination of any litigation or the institution of any litigation. In the event any action or proceeding shall be brought against the City resulting from Verizon's operations hereunder, Verizon shall, at Verizon's sole cost and expense, resist and defend the same provided, however, that Verizon shall not admit liability in any such matter on behalf of the City without the written consent of the City. Nothing herein shall be deemed to prevent City from cooperating with Verizon and participating in the defense of any litigation with City's own counsel. Verizon shall pay all reasonable expenses incurred by City in response to any such actions, suits or proceedings. These expenses shall include all out-of-pocket expenses such as attorneys' fees and shall also include the reasonable value of any services rendered by the City Attorney's office, and the actual expenses of City's agents, employees, consultants and expert witnesses and disbursements and liabilities incurred by City in connection with such suits, actions or proceedings. The City has the right to defend or participate in the defense of any such claim, and has the right to approve any settlement or other compromise of any such claim.

d) In the event that Verizon refuses the tender of defense in any suit or any claim, said tender having been made pursuant to this Section, and said refusal is subsequently determined by a court having jurisdiction (or such other tribunal that the parties shall agree to decide the matter), to have been a wrongful refusal on the part of Verizon, then Verizon shall pay all of the City's costs for defense of the action, including all reasonable expert witness fees, reasonable attorneys' fees, the reasonable costs of the City, and reasonable attorneys' fees of recovering under this Subsection.

e) The obligations of Verizon under the indemnification provisions of this Section shall apply regardless of whether liability for damages arising out of bodily injury to persons or damages to property were caused or contributed to by the concurrent negligence of the City, its officers, agents, employees or contractors. The provisions of this Section, however, are not to be construed to require the Verizon to hold harmless, defend or indemnify the City as to any claim, demand, suit or action which arises out of the negligence or misconduct of the City or its employees, contractors, or agents, representatives. In the event that a court of competent jurisdiction determines that this Agreement is subject to the provisions of RCW 4.24.115, the parties agree that the indemnity provisions hereunder shall be deemed amended to provide that the Verizon's obligation to indemnify the City hereunder shall extend only to the extent of Verizon's negligence.

f) Notwithstanding any other provisions of this Section, Verizon assumes the risk of damage to Verizon Facilities located in the public ways and upon City-owned property from activities conducted by the City, its officers, agents, employees and contractors, except to the extent any such damage or destruction is caused by or arises from the negligence, any willful or malicious action on the part of the City, its officers, agents,

employees, representatives, or contractors. Verizon releases and waives any and all such claims against the City, its officers, agents, employees and contractors. Verizon further agrees to indemnify, hold harmless and defend the City against any claims for damages, including, but not limited to, business interruption damages and lost profits, brought by or under users of Verizon's facilities as the result of any interruption of service due to damage or destruction of Verizon's facilities caused by or arising out of activities conducted by the City, its officers, agents, employees or contractors, except to the extent any such damage or destruction is caused by or arises from the negligence or any willful or malicious actions on the part of the City, its officers, agents, employees, representatives, or contractors.

g) The provisions of this Section shall survive the expiration, revocation, or termination of this Agreement.

9. INSURANCE.

a) Insurance Required. Verizon shall procure and maintain for so long as Verizon leases the Bridge Conduit, insurance against claims for injuries to persons, death, or damages to property which may arise from or in connection with the exercise of the rights, privileges and authority granted hereunder to Verizon or its employees. Verizon shall require that every subcontractor maintain substantially similar insurance coverage with substantially similar policy limits as required of Verizon. Verizon shall provide an insurance certificate from insurers with a current A.M Best rating of not less than A-VII, together with a blanket additional insured endorsement including the City, its officers, elected officials, employees, and volunteers as additional insureds as their interests may appear under this Agreement, under the Commercial General Liability and Commercial, Automobile Liability policies and shall provide to the City for its inspection prior to the commencement of any work or installation of any facilities pursuant to this Agreement, such insurance certificate which shall evidence:

i) Commercial general liability insurance, written on an occurrence basis with limits of:

- (1) \$10,000,000.00 per occurrence for bodily injury (including death) and property damage; and
- (2) \$10,000,000.00 general aggregate including premises-operations, explosion and collapse hazard, underground hazard and products/completed operations.

b) Commercial Automobile liability covering all owned, non-owned and hired vehicles with a combined single limit of \$10,000,000.00 each accident for bodily injury and property damage; and

c) Worker's compensation with statutory limits and employer's liability insurance with limits \$1,000,000.00 each accident/disease/policy limit.

d) The liability insurance policies required by this Section shall be maintained by Verizon throughout the term of this Agreement, and such other period of time during which Verizon is operating without a Agreement, or is engaged in the removal of its fiber optic line. Failure to maintain such insurance shall be grounds for Agreement cancellation. Payment of deductibles and self-insured retentions shall be the sole responsibility of Verizon. The insurance required by this Section shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. Verizon's insurance shall be primary insurance with respect to the City, its elected and appointed officers, officials, employees, and volunteers. Any insurance maintained by the City, its elected and appointed officers, officials, employees, and volunteers shall be in excess of Verizon's insurance and shall not contribute with Verizon's insurance. Verizon's maintenance of insurance shall not be construed to limit the liability of Verizon to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or equity. Further, Verizon's maintenance of insurance policies require by this Agreement shall not be construed to excuse unfaithful performance by Verizon.

e) Upon receipt of notice from its insurer(s) Verizon shall provide the City thirty (30) days' prior written notice of cancellation of any required coverage.

f) Verizon shall obtain and furnish to the City a replacement insurance certificate meeting the requirements of this Section.

10. LIMITATION OF LIABILITY.

EXCEPT FOR A BREACH OF A PARTY'S CONFIDENTIALITY, NEITHER PARTY SHALL BE LIABLE TO THE OTHER UNDER ANY THEORY FOR ANY INCIDENTAL, INDIRECT, PUNITIVE, SPECIAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO ANY LOSS OF USE, LOSS OF BUSINESS OR LOSS OF PROFIT. THIS LIMITATION WILL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED HEREIN.

11. WARRANTY.

EXCEPT FOR THE WARRANTIES EXPRESSLY PROVIDED IN THIS AGREEMENT, THE PARTIES MAKE NO WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, TO THE EXTENT PERMITTED BY LAW; AND EACH PARTY DISCLAIMS ALL OTHER WARRANTIES TO THE EXTENT PERMITTED BY LAW, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY OF INFORMATIONAL CONTENT, TITLE, AND IMPLIED WARRANTIES ARISING FROM CUSTOM OR USAGE OF THE TRADE.

12. SUBMISSION TO ALL APPLICABLE LOCAL RIGHT-OF-WAY REQUIREMENTS.

Verizon understands and acknowledges that the Bridge Conduit is subject to all applicable local right of way requirements as enacted, either currently or in the future, by the City of Redmond. Verizon represents and warrants that it shall operate the Bridge Conduit subject to, and in accordance with, the requirements of the City of Redmond and will secure all necessary and/or required permits, approvals, and authorizations from such municipalities to the degree any such approvals are necessary prior to any improvements or construction it may make hereunder.

13. RESTORATION.

At the conclusion of any construction, maintenance, or repair, all property of the City shall be restored to substantially the conditions that existed prior to such construction, maintenance, or repair.

14. GENERAL PROVISIONS

a) Any notice under this Agreement shall be given in writing and directed to the applicable Party below. Notice shall be deemed to have been delivered: (i) on the delivery date if delivered personally; or (ii) one (1) business day after deposit with a commercial overnight carrier. Either Party may from time to time change its address for purposes of this paragraph by giving the other Party notice of the change in accordance with this paragraph.

If to City:

City Clerk
City of Redmond
M/S 3NFN
15670 NE 85th Street
PO Box 97010
Redmond WA 98073

with a copy to:

Public Works Director
City of Redmond
M/S: 2NPW
15670 NE 85th Street
PO Box 97010
Redmond WA 98073

If to Verizon:

MCImetro Access Transmission Services Corp.
d/b/a Verizon Access Transmission Services
Attn: Franchise Manager HQE02E102
600 Hidden Ridge
Irving, TX 75038

with a copy to:

Verizon Business Services, Inc.
1320 N. Courthouse Road, Suite 900
Arlington, VA 22201
Attn: Vice President and Deputy General Counsel

- b) Each Party warrants it will comply with all applicable statutes, laws, rules and regulation in the exercise of its rights the performance of its obligations under this Agreement.
- c) At all times during the Term of this Agreement, Verizon, at its sole expense, shall obtain and keep in force the required insurance as set forth in Section 8 above.
- d) Except for disputes involving confidentiality, if a dispute arises between Verizon and City pertaining to this Agreement ("Dispute"), prior to the initiation of legal action and within ten (10) days of receipt of a notice of dispute, representatives of the Parties will promptly meet in an attempt resolve the Dispute. If the Parties are unable to resolve the Dispute after this meeting, then the Parties shall be free to pursue any remedies available to them at law or equity.
- e) This Agreement may not be assigned without the written prior consent of the other Party, provided however that either Party may assign this Agreement; (i) to any successor by way of any merger, consolidation or other corporate reorganization of such Party or sale of all or substantially all of the assets of such Party, provided that such subsidiary or parent or successor assumes or is otherwise fully bound by all of the obligations of the assigning party under this Agreement; (ii) or in whole or in part to an Affiliate.
- f) Neither Party will be responsible for delay of performance due to reasonable causes beyond its control. Such delay automatically extends the time for performance in an amount equal to the period of the delay.
- g) If any provision of this Agreement is held to be invalid or unenforceable then such provision will be construed to reflect the intentions of the invalid or unenforceable provision, with all other provisions remaining in full force and effect.
- h) The failure of either Party to enforce any right or provision in this Agreement will not constitute a waiver of such right or provision unless acknowledged and agreed to in writing by the Party otherwise entitled to exercise of enforce it.
- i) This Agreement and any action related thereto shall be governed, controlled, interpreted and defined by and under the laws of the of the State or Washington. Venue for any action under this Agreement shall be King County Superior Court.
- j) The Parties may sign this Agreement in counterparts, each of which will be considered an original, but all of which will constitute the same agreement. Facsimile and portable document format (PDF) signatures shall be binding as if original.
- k) This Agreement is solely for the benefit of City and Verizon including Verizon Affiliates. It is not intended to benefit any third parties.
- l) Except as required by law, neither Party shall use the name or logo of the other party in marketing, advertising, promotional materials (e.g., marketing collateral), press releases or other public announcements without receiving the prior written consent of the other Party.

- m) Each Party shall be an independent contractor and not a partner or agent of the other. This Agreement will not be interpreted or construed as creating a joint venture, partnership or agency relationship between the Parties.
- n) In any legal proceeding pursuant to this Agreement, the prevailing Party shall be entitled to recover its costs and attorney fees incurred during such proceeding.
- o) Nothing contained herein shall preclude Verizon or its Affiliates from pursuing or bidding on any future City procurement opportunity or opportunities, and nothing in this Agreement is intended to limit future Verizon-City bids or business opportunities in any way.
- p) Except as otherwise set forth in this Agreement, each Party will remain solely and independently responsible for its own expenses under or arising from this Agreement.
- q) This agreement shall be binding upon, and inure to the benefit of, Verizon and the City and their respective successors and permitted assigns.
- r) This Agreement, including all Exhibits, sets forth the entire agreement between the Parties relating to the subject matter hereof, and supersedes any and all prior or contemporaneous agreements and representations written or oral, of the Parties with respect to the subject matter set forth herein. Additions, variations or modifications to this Agreement may only be made in writing and signed by the Parties.
- s) This Agreement shall only be effective following the approval of the Redmond City Council.
- t) Time is of the essence in the performance of both parties' duties and obligations hereunder.
- u) The City and Verizon respectively represent that its signatory is duly authorized and has full right, power and authority to execute this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement in duplicate as of the day and year first above written.

MCIMETRO ACCESS TRANSMISSION
SERVICES LLC

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

Exhibit A

Depiction of Bridge Conduit

[attached]

Exhibit B

Work Notification Contact Information

Verizon: 1-800-MCIWORKS (1-800-624-9675)

City: Public Works Department (425)556-2701

