R-21-204

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A LICENSE AGREEMENT WITH UNITI FIBER LLC; AND FOR OTHER PURPOSES.

WHEREAS, Uniti Fiber LLC, wishes to construct, operate and maintain a portion of its fiber optic cable telecommunications network underneath North Little Rock streets and rights-of-way and attached to existing poles owned and maintained by the City; and

WHEREAS, the City Council finds that reasonable compensation to the City of North Little Rock for use of the City's streets and poles is $20.00 per year per pole.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH LITTLE ROCK, ARKANSAS:

SECTION 1: That the Mayor and City Clerk are hereby authorized to enter into a License Agreement (substantially similar to Exhibit "A" attached hereto) granting a license to Uniti Fiber LLC to construct, operate and maintain its fiber optic cable telecommunications systems underneath North Little Rock streets and rights-of-ways and attached to City-owned and maintained poles.

SECTION 2: That this Resolution shall be in full force and effect from and after its passage and approval.

PASSED:

APPROVED:

Mayor Terry C. Hartwick

SPONSOR:

Terry C. Hartwick by AF

Mayor Terry C. Hartwick

ATTEST:

Diane Whitbey, City Clerk

APPROVED AS TO FORM:

Amy Beckman Fields, City Attorney

PREPARED BY THE OFFICE OF THE CITY ATTORNEY/kt

FILED 11:20 A.M. _____ P.M.
By A. Fields
DATE 12-21-21

Diane Whitbey, City Clerk and Collector
North Little Rock, Arkansas

RECEIVED BY S. Ussery

EXHIBIT
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A

LICENSE AGREEMENT

This License Agreement made and entered into this _____ day of _____, _____, by and between the City of North Little Rock, Arkansas, hereinafter referred to as "City", and Uniti Fiber LLC and its subsidiaries, hereinafter referred to as "Licensee".

W I T N E S S E T H:

WHEREAS, Licensee wishes to construct, operate and maintain a portion of its fiber optic cable telecommunications network underneath City streets and rights-of-way and attached to existing poles owned and maintained by the City; and

WHEREAS, Licensee and the City agree that $20.00 per year per pole is reasonable compensation to the City for use of the City's streets and poles.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein, the parties hereto agree as follows:

1. That the City hereby grants to the Licensee a license to construct, operate and maintain its fiber optic cable telecommunications systems underneath City streets and rights-of-ways and attached to City poles.

2. Licensee hereby agrees to perform the installation of the network at its own expense.

3. Licensee agrees to abide at all times by the National Electric Safety Code (NESC).

4. Licensee agrees to reimburse the North Little Rock Electric Department, and other companies, if any, that own facilities attached as of the date of this Agreement to the City's poles, for all costs incurred in making any adjustments required to accommodate attachment of Licensee's facilities to City's poles.

5. Licensee agrees to pay the sum of Twenty & 00/100 cents ($20.00) per pole per year, payable in advance, for the use of city streets, rights-of-way, and poles.

6. Licensee shall indemnify and save the City harmless against any loss that may result to the equipment or any property owned or used by the City and against any and all claims and demands for payments attributable to injury or death to persons (including payments made under any Workers' Compensation Law or under any plan for employer's liability and benefits) arising out of or in connection with the erection, construction, maintenance, repair, use or removal of Licensee's network hereunder, except to the extent that any such loss or claim is caused by the negligence or willful misconduct of the City or any person acting on behalf of the City.

7. Licensee may at any time remove its attachments from any pole or poles of the City, and in connection therewith, shall give notice immediately of such removal to the City. No refund of any rental shall be due on account of such removal.

8. Licensee's excavation and repair of City's streets and poles thereon shall comply with the City's rules and standards and specifications, with all municipal, state, and federal laws and regulations and with the National Electric Safety Code and by made and maintained in such a manner as will not conflict with the use of said facilities.

9. The City may use, change, operate and maintain its poles and facilities in connection with its business as it sees fit and in such a manner as will best enable it to fill its own service requirements and shall not be liable to the Licensee for any damage to or interference with the operation of facilities and appurtenances of Licensee, excepting acts of gross negligence or willful misconduct.

10. Nothing herein contained shall be construed to confer upon Licensee any right of property in the poles, streets, and rights-of-way of City or to require City to maintain said poles and facilities or any part of them longer than in City's judgement its own business requires.

11. Licensee shall carry insurance in such form and with such companies as are satisfactory to the City to protect the parties hereto from and against any and all claims and demands, actions, judgments, costs, expenses and liabilities of every kind which may become the subject of liability for indemnification by Licensee under this Agreement. The amounts of such insurance against liability due to damage of property shall be $25,000.00 as to any one claimant, $100,000.00 as to any one accident and against liability due to injury or death of persons, $100,000.00 as to any one person and $300,000.00 as to any one accident. Licensee also shall carry such insurance as will protect it from all claims under any Workers' Compensation Law in effect that may be applicable to it. All insurance required shall remain in force for the entire life of this Agreement. Licensee shall submit to City certificates by each company insuring Licensee to the effect that it has insure Licensee for all liabilities of Licensee except after thirty (30) days written notice to the City.

12. Licensee shall not assign, transfer or sublet any of the rights herein granted without the prior written consent of the City, except that no consent shall be required for a transfer or assignment to any entity controlled by, or under common control with, or which acquires or succeeds to ownership of substantially all of the assets of, Licensee. Subject to said provision, this Agreement shall extend to and bind the successors and assigns of the parties hereto.

13. This Agreement shall become effective upon its execution and shall continue in effect for a term of five (5) years from the date of execution or until such date as the North Little Rock City Council adopts a comprehensive telecommunications

policy, whichever date occurs later, at which time the parties may negotiate a new License Agreement. In the event this Agreement is terminated at the end of five years and no new Agreement is reached, Licensee shall remove within thirty (30) days, or transfer to a third party, acceptable to Licensee and City, its attachments and facilities located on poles of the City. If not so removed by Licensee, City shall have the right to remove them at the cost and expense of Licensee without any liability therefor.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first above written.

CITY OF NORTH LITTLE ROCK, ARKANSAS

BY:_____
Terry C. Hartwick, Mayor

ATTEST:

_____
Diane Whitbey, City Clerk

UNITI FIBER LLC

BY:_____

TITLE:_____