

## FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT is executed on this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between the **City of Las Vegas**, a political subdivision of the State of Nevada, and **Gigapower, LLC**, a Delaware Limited Liability Company, authorized to do business in the State of Nevada ("Company"). The City and Company may be referred to herein individually as a "Party" or collectively as the "Parties."

### RECITALS

WHEREAS, the City is a municipal corporation duly incorporated within the State of Nevada, and authorized pursuant to Section 2.315 of the Las Vegas City Charter and NRS 268.088 to enter into this Franchise Agreement; and

WHEREAS, Company did, on November 28, 2022, file with the City of Las Vegas, State of Nevada, a written request for a Franchise Agreement for the purpose of constructing, installing, operating and maintaining a Telecommunications Service within the corporate limits of the City; and

WHEREAS, subsequent to the filing of this application, on the \_\_\_\_\_, day of \_\_\_\_\_, 2023, the City Council adopted a resolution acknowledging the filing of this application and setting forth the name of the applicant for and the purpose, character of, terms, time and conditions of the proposed Franchise Agreement and the date, time and place of a public hearing on the question of the advisability of granting said proposed Franchise Agreement to Company; and

WHEREAS, said application coming on regularly for hearing on the \_\_\_\_\_ day of \_\_\_\_\_, 2023, and it appearing by an Affidavit of Publication that due and legal notice of the filing of said application, and of the filing of the date, time and place for consideration of the same, has been given by publication of that resolution adopted by the City Council in the Las Vegas Review Journal, a newspaper of general circulation within the City of Las Vegas, County of Clark, State of Nevada, to-wit:

In the issue of said newspaper published on the \_\_\_\_\_ day of \_\_\_\_\_, 2023 and the \_\_\_\_\_ day of \_\_\_\_\_, 2023; and

WHEREAS, the City, upon the approval of the above-referenced resolution, and the subsequent approval of an ordinance to enact this franchise pursuant to Las Vegas City Charter 7.050(5), on the \_\_\_\_\_ day of \_\_\_\_\_, 2023, has determined that a Franchise Agreement, subject to the terms and conditions hereinafter set forth, be granted;

NOW THEREFORE, for and in consideration of the agreements and mutual covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which each party hereto acknowledges, the parties hereby agree to the following terms and conditions:

Section 1.     SHORT TITLE

This Franchise Agreement may be cited as the Gigapower Franchise Agreement or Agreement.

Section 2.     DEFINITIONS

For the purpose of this Gigapower Franchise Agreement, the following terms, phrases, words and their derivations shall have the meaning given in this Section. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is mandatory and “may” is permissive. Words not defined in this Section shall be given their common and ordinary meaning.

- A.     **“City”** is the City of Las Vegas, a political subdivision of the State of Nevada.
- B.     **“City Clerk”** means City Clerk of the City of Las Vegas or a designated representative.
- C.     **“Code”** means the official code of all of the City’s ordinances of a general and permanent character, as may be adopted and amended by the City Council.
- D.     **“Company”** is and refers to Gigapower, LLC.
- E.     **“Council”** refers to the legislative body of the City of Las Vegas sometimes referred to as “City Council.”
- F.     **“Director”** means the Director of the Finance Department of the City of Las Vegas or his/her designee.
- G.     **“CPCN”** means a Certificate of Public Convenience and Necessity issued by the Public Utilities Commission of Nevada authorizing the holder thereof to provide Telecommunications Service within the City.
- H.     **“Facilities”** are and refer to and include, but are not limited to, plant, works, systems, improvements and equipment owned, leased or otherwise used by the Company such as wires, fixtures, equipment, underground circuits and conduit in Public Rights-of-Way and other property necessary or convenient for the transmissions, distribution, and/or connection of authorized services within the City.
- I.     **“Franchise Agreement”** means the authorization granted herein to rent and use Rights-of-Way to construct, operate, and maintain Company Facilities in the City or any portion or portions thereof.
- J.     **“Gross Revenues”** shall mean any and all intrastate retail revenue of Company

from Telecommunications Service provided to customers within the City, including, but not limited to:

- (1) All revenue charged on a flat rate basis;
- (2) All revenue for intrastate long distance calls originating in the state of Nevada and billed to an address physically located in the City;
- (3) All revenues from installation service charges;
- (4) All revenues from connection, disconnection or change-of-service fees;
- (5) All revenues from penalties or charges to customers for late payments or for checks returned from banks;
- (6) Recoveries of bad debts previously written off and revenues from the sale or assignment of bad debts. Gross revenues may be adjusted for net write-off of uncollectible accounts computed on the average annual rate for customers within the City;
- (7) Any and all revenues that are designated by City, State or Federal law to be subject to fees under this Franchise Agreement.

“Gross Revenues” shall not include: (a) any tax passed through to consumers on behalf of governmental agencies received by the Company for services provided to customers through use of Facilities; (b) any charges passed through to the customers for interconnection with the local exchange provider; (c) any proceeds from the sale of bonds, mortgages or other evidence of indebtedness, securities or stocks; (d) any long-haul wholesale revenue; (e) any revenue other than intrastate revenue collected from retail customers. Company is not required to measure each category of revenue separately; provided that in the event of an audit by the City, Company will be required to provide an appropriate justification for amounts reported as Gross Revenue under this Agreement.

- K. **“Line Extension”** means any extension of distribution or transmission Facilities into areas within the boundaries of the City not then served by the Company.
- L. **“Mayor”** means the Mayor of the City of Las Vegas or his/her designated representative.
- M. **“Micro-Trenching”** means micro-trenching technology and construction methods pursuant to the standards and guidelines approved by the City’s Public Works Director and as generally depicted in Exhibit C attached hereto.

- N. **“Network”** means the Facilities that Company uses to serve its customers.
- O. **“Reasonable Attorney Fees”** are reasonable charges for legal representation as may be incurred by the City and determined by a court of proper jurisdiction.
- P. **“Rights-of-Way” or “ROW”** means all present and future streets, avenues, highways, alleys, bridges and public ways, (excluding railroad rights-of-way) of the City within the City limits. The term “Rights-of-Way” does not include any easements held by the City on, over or about real property owned or controlled by a party other than the City, unless those easements are used for streets, avenues, highways, alleys, or other public ways, and Company obtains consent to access such easements from the third-party that owns or controls the real property upon which such easement is granted.
- Q. **“Telecommunications Service”** means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used. This definition is intended to include commercial mobile service (“CMS”), competitive access service, and alternative local Telecommunications Services to the extent they are offered to the public or to such classes of users as to be effectively available to the public. Telecommunications Services expressly excludes cable services or open video systems as defined in Title VI, of the Communications Act of 1934, as amended, by the Telecommunications Act of 1996.

“Telecommunications Service” shall not include cable services as defined in Title 47, Chapter 5. Subchapter V-A of the United States Code, as amended (47 USCA 521, et seq.) or as recognized by the FCC. Before proposing to provide such cable services in the City, Company agrees to obtain a separate Franchise Agreement from the City for the provision of this service.

### Section 3. GRANT OF FRANCHISE AGREEMENT

- A. The City of Las Vegas, Nevada, hereby grants to Company, subject to the terms, conditions, and limitations contained in this Franchise Agreement, a Franchise with permission to rent, use and occupy Rights-of-Way within the corporate limits of the City, as same now exist or may be increased or reduced in the future, to provide Telecommunications Service, including the right and privilege to erect, construct, maintain and operate Telecommunications Facilities within the Rights-of-Way necessary or convenient for the transmission and distribution of Telecommunication Service, including private property easements on which preliminary subdivision plats have been approved by the City for the provision of public utilities within the corporate limits of the City, as the same now exist or may be increased or reduced in the future.
- B. The Company shall be subject to all requirements of City ordinances, rules, regulations and specifications hereafter enacted or established in so far as such



ordinances are not in violation of any State or Federal regulation.

- C. This Franchise Agreement does not grant Company the right to provide any "video service" as such term is defined by 711.141. This Franchise Agreement furthermore does not authorize any attachments to City-owned poles or other property (other than Rights-of-Way), nor does it authorize placement of Facilities in any City conduit. Any such use of City property by Company shall require and be subject to a separately negotiated agreement with the City.
- D. This Franchise is non-exclusive and shall not be construed as a limitation on the City's right to grant rights, privileges and immunities to other persons or entities similar to or different from those herein set forth to use the Rights-of-Way.

#### Section 4. DURATION

- A. This Franchise Agreement is granted for a period from and after the effective date of this Franchise Agreement through March 1, 2029.
- B. Notwithstanding any provision to the contrary, Company acknowledges that its rights to use the ROW arise under Title 47 of the United States Code as a provider of Telecommunications Services. At any time that Company ceases to operate as a provider of Telecommunications Services under Federal law, the City shall have the option, in its sole discretion and upon six (6) months' written notice to Company, to terminate this Agreement and to require the removal of Company's Facilities from the ROW, including the cost of any site remediation, at no cost to the City, without any liability to Company related directly or indirectly to such termination.

#### Section 5. COMPLIANCE WITH APPLICABLE LAWS

Company shall at all times comply with federal, state and local laws, rules and regulations concerning the provision of Telecommunication Services, including all applicable FCC and PUCN rules, regulations and orders.

#### Section 6. BUSINESS LICENSES, FRANCHISE FEES AND TAXES

Company shall be solely responsible for the payment of all lawful fees in connection with Company's performance under this Agreement, including those set forth below:

- A. Business Licenses, Fees and Taxes.

(1) At all times during which Company is authorized to provide Telecommunications Service within the City pursuant to a CPCN, Company shall maintain a valid unexpired business license specific to its Telecommunications Service business pursuant to Chapter 6.67 of the Code. Company may begin infrastructure work in the ROW prior to obtaining the required CPCN and business license, provided that the CPCN and business license are obtained no later than October 1, 2023 and maintained thereafter.

(2) In addition to the business license required by Subsection (1), Company shall maintain all other business licenses specific to any of Company's business activities other than those of providing Telecommunications Service, as such other business activities are specified in the Code. Company shall pay all license fees due from such other business activities separately from the payment of fees due for its Telecommunications Service business.

(3) In addition to payment of the fees specified in Subsections (1) and (2), Company shall pay all lawful property taxes, ad valorem taxes and local improvement district assessments and all exactions, fees and charges that are generally applicable during Company's real property development or use as required by the Code.

(4) If Company fails to timely pay any business license fees, Company will pay interest and penalties on such delinquent fees as specified by the applicable provisions of Title 6 of the Code.

(5) Acceptance by the City of any payment due under this Section shall not be deemed to be a waiver by the City of any breach of Company's obligations under this Agreement or applicable law, and such acceptance shall not preclude the City from later establishing that a larger amount was actually due or from collecting or receiving a refund of such balance.

#### B. Franchise Fees.

(1) In the event that the business license fees required by Section 6.A above are declared illegal, unconstitutional or void for any reason by any court or proper authority, Company shall be contractually bound to pay the City as a franchise fee for its use of the Rights-of-Way, as provided for herein, an aggregate amount equal to the amounts which otherwise would have been paid as Telecommunications Service business license fees.

(2) The fees required to be paid pursuant to Subsection (1) shall be paid quarterly by the fifteenth day of the second month following the end of each calendar quarter for which payment or portion thereof is due. Company shall furnish to the City with each payment of compensation required by this Section a written statement, showing the amount of Gross Revenue of Company subject to fees under this Agreement for the period covered by the payment.

(3) If Company fails to timely pay any amounts due for franchise fees, Company will pay, in addition to the unpaid fees, a sum of money equal to two percent (2%) of the amount due, including penalties and accrued interest, for each month and/or fraction thereof during which the payment is due and unpaid.

(4) Acceptance by the City of any payment under this Section shall not be deemed to be a waiver by the City of any breach of this Agreement occurring prior thereto, nor shall the acceptance by the City of any such payments preclude the City from later establishing that a larger amount was actually due or from collecting any balance due to the City.

Section 7. CONSTRUCTION PLANS AND DRAWINGS

- A. Before Company may conduct any work involving excavation, new construction or relocation work in any Rights-of-Way:
  - (1) Company shall obtain all required permits from the City. Company shall apply for the appropriate permits and pay any standard and customary permit fees. City shall promptly respond to Company's requests for permits and shall otherwise cooperate with Company in facilitating the deployment of the Network in the ROW in a reasonable and timely manner. Permit conditions may include, without limitation: (a) approval by the City of traffic control plans prepared by Company for Company's work in City ROW; (b) approval by the Nevada Department of Transportation ("NDOT") of traffic control plans prepared by Company for Company's work within ROW controlled by NDOT; and (c) adherence to time restrictions for work in streets as specified by the City and/or NDOT; and
  - (2) Company shall file maps and drawings with the Public Works Director showing the location of any construction or extension of its Facilities and services in any Rights-of-Way of the City. For multi-conduit banks: maps and drawings shall show overall size, material and configuration of the duct bank.
- B. Such proposed construction work to be done by the Company shall be performed in a safe manner subject to the approval of the Public Works Director and Company shall provide the City with evidence of insurance coverage pursuant to Section 24.

Section 8. INSTALLATIONS, EXCAVATIONS AND RESTORATIONS

- A. The Company shall have the right to excavate in, occupy and use any and all Rights-of-Way for the purpose of installing, erecting, constructing, repairing, maintaining, removing, relocating and operating its Facilities after obtaining any and all appropriate permits from the City, provided, however, that:
  - (1) The Company shall not, pursuant to this Franchise Agreement, place any of its Facilities, on, over, under or within any City park duly designated as such by the City, but nothing herein contained shall preclude the City from allowing such facilities on, over, under or within any City park in a manner and means approved by the Public Works Director. The Company shall not place any of its Facilities, on, over, or within the median portion of any boulevard or parkway without first having obtained the prior written consent of the Public Works Director;
  - (2) Company shall not place any of its above-ground Facilities in any sidewalk area in the Rights-of-Way without the prior written consent of the Public Works Director. Company understands that all above-ground equipment cabinets located

in the ROW are discouraged and generally prohibited as a matter of City policy, except as otherwise approved in writing by the Public Works Director. Unless otherwise approved as provided above for the ROW, any installation of above-ground equipment cabinets will be required to be placed in an easement on private property adjacent to the ROW, and will require additional approvals and/or permitting under applicable ordinances. Notwithstanding anything in the foregoing, the installation of below-ground vaults shall be allowed within the ROW pursuant to applicable zoning and undergrounding provisions contained in the City Code and provided that Company will be responsible for all costs associated with such below-ground vaults, including without limitation relocation costs of any public improvements or public utilities facilities. Company agrees to comply with the City's current ordinances regarding such installations as well as any future regulations that may be adopted by the City respecting such installations. In no instance shall the installation of any of Company's Facilities or any appurtenant structures block pedestrian walkways in ROW or result in violation of the Americans with Disabilities Act, or obstruct sight visibility as defined by City ordinance or Regional Transportation Commission of Southern Nevada standard drawings;

- (3) Company shall not place any poles within the City Rights-of-Way without the City's prior written approval;
- (4) Company shall not attach any of its Facilities to any City-owned Facilities or share any City conduit unless Company has entered into a written agreement with the City for the express rights of attachment and use;
- (5) Where appropriate and as may be required by the City through any permitting process, installation, excavations and restorations affecting street and/or lane closures may be limited by day of week and time of day;
- (6) The City reserves the right to assist in the coordination and scheduling of any Company projects where such project may be reasonably coordinated with the placement of other Right-of-Way user's facilities. Otherwise, and subject to City permitting processes and approvals, it is recognized that, notwithstanding the foregoing, the Company retains discretion over the timing of the Company's proposed projects consistent with the terms of this agreement; and
- (7) The Company shall, to the extent feasible, employ "trenchless" technology in the placement of its Facilities. Except in an emergency, not less than seven (7) working days prior to the commencement of any work by the Company which involves excavation in any Rights-of-Way the Company shall notify the Public Works Director and any appropriate utility coordinating committee for purposes of utility location. Minimum notice to the City shall be by telephone communication or in person prior to any work, followed by notice in writing as soon as practical. Company will provide advance notice so as not to disrupt services of the City or any other person or utility using any Rights-of-Way in

the City and allow the City to place any inspector it may deem necessary at the site of the project.

- B. Whenever work is performed in any Rights-of-Way, the Company shall take all reasonable precautions to minimize interruption to traffic flow, damage to property or creation of a hazardous condition.
- C. After any excavation shall be made and after work is completed pursuant to the provision of this Franchise Agreement, the Company, at Company expense shall, as soon as practicable, but not longer than twenty-four (24) hours, remove all surplus material in compliance with specifications, requirements and regulations of the City in effect at the time of such restoration and restore the portion of the Rights-of-Way. All costs incurred in surplus material removal and restoration, whether done with the City's work forces and equipment or otherwise, shall be paid by Company, including the cost of any inspectors the City may assign to the project.
- D. Company shall reconstruct, replace or restore any landscaping, street or alley, or any water, sewer, sanitary sewer, storm drainage, traffic signal or street light Facility, or any other Facility of the City disturbed by Company, whether during a location, relocation or reconstruction of a Facility, within thirty days of written notice by the City, to the condition acceptable to the Building and Safety Director, commensurate with the condition it was in prior to the work, consistent with specifications, requirements and regulations of the City in effect at the time of such restoration. City personnel may be present during any such reconstructing, replacement or restoration. All costs incurred in surplus material removal and restoration, whether done with the City's work forces and equipment or otherwise, shall be paid by Company, including the cost of any inspectors the City may assign to the project.
- E. The Company shall be responsible for the maintenance and repair of all Rights-of-Way impacted by the presence of the Company's Facilities subject to all City Ordinances and within reasonable proximity of and upon which the Company maintains above-ground Facilities, including the removal of weeds and litter.
- F. Company shall install all of its Facilities in the Rights-of-Way in a manner consistent with the Americans with Disabilities Act ("ADA") including Public Rights of Way Accessibility Guidelines ("PROWAG"), including any reconstruction or modification of existing Facilities. Following notice by the City of an ADA violation caused directly or indirectly by Company, Company shall, within thirty days or such other time as the Public Works Director reasonably determines to be appropriate, remedy the ADA violation or problem. Notwithstanding any other language in this Agreement regarding breach, notice and cure, failure to alleviate such non-compliance is a breach of this Agreement.

- G. Damages Caused by Company. Company shall, at its sole cost and expense and to the satisfaction of the City: (a) remove, repair or replace any of its Facilities that is damaged, becomes detached or has not been used for a period of more than ninety (90) days; and/or (b) repair any damage to ROW, municipal facilities or property, whether public or private, caused by Company, its agents, employees or contractors in their actions relating to operation; repair or maintenance of Facilities. If Company does not remove, repair or replace such damage to its Facilities or to ROW, municipal facilities or other property within thirty (30) days after receipt of the City's notice to do so, the City shall have the option, upon fifteen (15) days' prior written notice to Company, to perform or cause to be performed such removal, repair or replacement on behalf of Company and shall charge Company for the actual costs incurred by the City. If such damage causes a public health or safety emergency, as determined by the City, the City may immediately perform reasonable and necessary repair or removal work (but not any technical work on Company's Facilities) on behalf of Company and will notify Company as soon as practicable. Upon the receipt of a demand for payment by the City, Company shall within thirty (30) days after such receipt reimburse the City for such costs. The terms of this provision shall survive the expiration, completion or earlier termination of this Agreement.

Section 9. LOCATION AND RELOCATION OF FACILITIES

- A. All Facilities of the Company shall be placed so that they do not interfere with the use of Rights-of-Way by the City and shall only be placed after approval of the location by the Public Works Director and in accordance with any specifications adopted by the City governing the location of Facilities. The City reserves the right to construct, install, maintain and operate any public improvement, work or facility, do any work that the City may find desirable on, over or under any Rights-of-Way, and vacate, alter or close any Rights-of-Way. All such work shall be done, in such manner as not to obstruct, injure or prevent free use and operation of the Company's Facilities. The Company agrees to comply with Section 13.52.030 of the Code when locating facilities in Rights-of-Way.
- B. Relocation and Displacement of Facilities. Company understands and acknowledges that upon ninety (90) days' written notice (or with less notice that is reasonable in the event of an emergency) City may require Company to relocate one or more Facility installations. Company shall at City's direction relocate such Facilities at Company's sole cost and expense whenever City reasonably determines that the relocation is needed for any of the following purposes: (a) if required for the construction, modification, completion, repair, relocation, or maintenance of a City or other public agency project; (b) because the Facilities are interfering with or adversely affecting proper operation of traffic signals, communications, or other municipal facilities; or (c) to protect or preserve the public health or safety. If Company shall fail to relocate any



Facilities as requested by the City within ninety (90) days after receipt of the City's notice in accordance with the foregoing provision, or an additional reasonable time under the circumstances, City shall be entitled to remove or relocate the Facilities at Company's sole cost and expense, upon ten (10) days' written notice to Company. Company shall pay to the City actual costs and expenses incurred by the City in performing any removal work and any storage of Company's property after removal within thirty (30) days after the date of a written demand for this payment from the City.

Section 10. PUBLIC WORKS AND IMPROVEMENTS

- A. The City reserves the right to construct, install, maintain and operate any public improvement, work or facility and do any work that the City may find desirable on, over or under any Rights-of-Way or public place. All such work shall be done, if possible, in such manner as not to obstruct, injure or prevent free use and operation of the Company's Facilities.
- B. Whenever the City shall excavate or perform any work in any present and/or future Rights-of-Way or public place of the City, or shall contract, for such excavation work, where such excavation or work may disturb but not require removal or relocation of Company's Facilities, the City shall notify the Company sufficiently in advance of such contemplated excavation or work to enable the Company to take such measures as may be deemed necessary to protect such Facilities from damage and possible inconvenience or injury to the public or the City's Rights-of-Way or public place. If the Company cannot take such measures, the Company shall be required to relocate its Facilities in accordance with Section 7. In such case, the Company upon request, shall furnish field markings to the City or contractor, as the case may be, showing the location of all its Facilities in the area involved in such proposed excavation or other work.
- C. Whenever the City shall vacate any Rights-of-Way or public place for the convenience or benefit of any person or governmental agency or instrumentality, the Company's rights shall be preserved as to any of its Facilities then existing in such Rights-of-Way or public place.

Section 11. MOVING OF BUILDINGS

Whenever it becomes necessary to temporarily rearrange, remove, lower or raise the aerial cables or wires or other apparatus of the Company to permit the passage of any building, machinery or other object, the Company shall perform such rearrangement upon the receipt of written notice from the person or persons desiring to move said building, machinery or other objects. The written notice shall detail the route of movement of the building, machinery or other object. The costs incurred by the Company in making such rearrangements of its aerial facilities will be borne, excepting the City, by the person or persons seeking such rearrangement, unless the aerial facilities are placed or maintained in violation of the applicable rules of any local, state, or federal regulatory



agency and thereby interferes with the movement.

Section 12. SAFETY STANDARDS

The Facilities of the Company shall at all times be constructed, operated and maintained so as to protect and safeguard the health and safety of the public and to this end Company shall observe all rules pertaining thereto prescribed by any local, state, or federal regulatory authority.

Section 13. SECURITY FOR PERFORMANCE

- A. General Requirements. As security for compliance with the terms of this Agreement and applicable City Code provisions, Company shall, no later than ten (10) days after the issuance of the first permit by the City to install Facilities and prior to any use of the ROW, provide security to the City in the form of either cash deposited with the City, or an irrevocable pledge of certificate of deposit, an irrevocable letter of credit, or a performance bond, payable in each instance to the City, in an amount of one hundred thousand dollars (\$100,000) to remain in full force and effect for the term of this Agreement, any or all of which may be claimed by the City as payment for liquidated damages assessed in accordance with Section 25 below, and/or to recover losses resulting to the City from Company's failure to perform.
- 1. Bond Requirements. If bonds are used to satisfy these security requirements, they shall be in accordance with the following:
  - (a) All bonds shall, in addition to all other costs, provide for payment of reasonable attorneys' fees.
  - (b) All bonds shall be issued by a surety company authorized to do business in the State of Nevada, and which is listed in the U.S. Department of the Treasury Fiscal Service (Department Circular 570, Current Revision): companies holding certificates of authority as acceptable sureties on federal bonds and as acceptable reinsuring companies.
  - (c) Company shall require the attorney-in-fact who executes the bonds on behalf of the surety to affix thereto a certified and current copy of his or her power of attorney.
  - (d) All bonds prepared by a licensed nonresident agent must be countersigned by a resident agent per NRS 680A.300.
  - (e) All bonds shall guarantee the performance of all of Company's obligations under this Agreement and all applicable laws.
  - (f) All bonds shall be substantially in the same form as that contained in Exhibit B attached hereto or as otherwise approved by the City.

- B. Replenishment of Security. If at any time the City draws upon such performance security, Company shall within thirty (30) days after written notice from the City replenish such performance security to the original minimum amount required by this Section.
- C. City reserves the right to require additional security should the aggregate bonding value of the open permits for construction within the Public Rights-of-Way exceed performance bond amount.

Section 14. BOOKS OF ACCOUNT AND REPORTS; RECORDS

A. Audit

- 1. The City (or its designated representative) shall have the right to review or audit the Company's books and records in accordance with generally accepted accounting and audit standards regarding any amounts which may be owed under this Franchise Agreement. This right includes the right to review and audit all books and records of revenue which may be reasonably considered by the City to be subject to a business license fee or franchise fee. The City shall give written notice to the Company of any additional amount claimed to be due to the City as a result of the City's review. Such amount due, if any, shall be paid within thirty (30) days following determination by the City that such amount is due and payable. If the City's review shows the Company has overpaid, said overpayment shall be reimbursed to the Company by the City within thirty (30) days of such determination.
  - 2. The Company shall keep complete and accurate books and records of its business and operations pursuant to this Franchise Agreement in accordance with generally accepted accounting principles and in accordance with the rules and regulations of the State of Nevada.
  - 3. In the event of an audit, the Company shall provide City specific books, records, contracts, accounts, documents and papers for its operations within the City.
  - 4. All such books, records, and accounts of the Company shall be retained by the Company for a period of five (5) years. The Company shall make such records available to the City (or its designated representative) as are necessary for the City to compile its audit, and the same shall be available for inspection by the City, in the City, upon thirty (30) days' notice from the City.
  - 5. Upon request by the City (or its designated representative), the Company shall provide to the City by U.S. mail, postage prepaid, a copy of all papers filed by the Company with any federal or state regulatory agency that pertain to the Company's Facilities located in Nevada.
- B. Other Records Required by Code.

1. Company will maintain complete records pursuant to the applicable provisions of Las Vegas Municipal Code Title 6.
2. Additional Records. The City may require such additional information, records, and documents from Company from time to time as are appropriate in order to reasonably monitor compliance with the terms of this Agreement. Additionally, the City may require Company to collect supplementary information as needed.
3. Production of Records. Company shall provide records within twenty (20) business days after a request by the City for production of the same unless the City agrees to additional time. Company shall not unreasonably deny the City (or its designated representative) access to records covered by this Agreement, including confidential and proprietary information. Such records shall be made available in the City. Failure to provide records in a timely manner shall subject Company to liquidated damages as provided for herein. If any person other than Company maintains records on Company's behalf, Company shall be responsible for making such records available to the City (or its designated representative) for auditing purposes pursuant to this Section.

#### Section 15. SUPPLYING MAPS UPON REQUEST

Company shall maintain on file maps and operational data pertaining to its operations in the City. The City may inspect the maps and data at any time during business hours. Upon request of the City, the Company shall furnish to the City as soon as practical without charge, current maps either in a "hard copy" printed form or in the City's GIS format or compatible database, showing the location and dimension of any existing facilities and proposed facilities, but not other proprietary information, used in operating the Company's Facilities within the City of Las Vegas served by the Company.

#### Section 16. RATES

The rates to be charged by the Company for Telecommunications Service shall comply with the appropriate local, state or federal regulatory authority, or any other governmental official, commission or body having jurisdiction. If no governmental official, or body had rate setting jurisdiction, the Company may set rates to be charged at its sole discretion. To the extent that the City may in the future become entitled to set fees and charges for the services provided pursuant to this Franchise Agreement, the City reserves the right to regulate the rates, fees, charges, deposits and associated terms and conditions for any service provided pursuant to this Franchise Agreement to the fullest extent permitted by applicable law with appropriate procedural due process.

#### Section 17. FRANCHISE NOT EXCLUSIVE

The Franchise Agreement hereby granted shall not be exclusive and shall not be construed as a limitation on the City's right to grant rights, privileges and authority to other persons or corporations similar to or different from those herein set forth to construct, install, operate or maintain a public utility.

Section 18. ASSIGNMENT OF FRANCHISE

The Company shall not transfer or assign any rights under this Franchise Agreement or lease total capacity of its system or network to another entity unless the City shall first be given the opportunity to review the financial, technical and operational qualifications of such entity and give its approval in writing, within sixty (60) days of such notice of intent to transfer or assign; such approval shall not be unreasonably withheld. This prohibition shall not apply in the instance that the Company or its total network or system capacity is transferred, assigned, or sold to a parent, subsidiary or affiliated person. Nor shall this prohibition apply to assignments made or security interests granted in order to secure financing. However, Company agrees to provide at least thirty (30) days advance notice of any such transfer, assignment or sale. The City shall have the discretion to review the financial, technical and operational qualifications of the affiliate.

Section 19. ADDITIONAL CITY RIGHTS

Pursuant to the City Charter and applicable State statute, the right and privilege of the City to construct, purchase or condemn a public utility or telecommunications provider located within or without the boundaries of the City is expressly recognized herein.

Section 20. RESERVED.

Section 21. COMPANY CONTACT

Company shall be available to the staff employees of any City department having jurisdiction over Company's activities twenty-four (24) hours a day, seven (7) days a week, regarding problems or complaints resulting from the attachment, installation, operation, maintenance, or removal of the Facilities. The City may contact by telephone the network control center operator at 1-207-591-6427 regarding such problems or complaints.

Section 22. EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION

The Company is committed to stimulating and strengthening the participation of minorities and women within the Company and is also committed to the principle that the success and economic well-being of the Company are related closely to the economic strength and vigor of the communities and people it serves.

Section 23. INDEMNIFICATION

The Company, as a condition of the grant of this Franchise Agreement, and in consideration thereof, agrees to indemnify, defend, protect, and hold harmless the City, its Council members, officers, and employees from and against any and all claims, demands, losses, damages, liabilities, fines, charges, penalties, administrative and judicial proceedings and orders, judgments, and all costs and expenses by reason of the construction, maintenance and operation of its Facilities, and conduct of business, or any way arising out of performance

under this Franchise Agreement, directly, or indirectly, when or to the extent injury is caused, or alleged to have been caused, wholly or in part, by any act, omission, negligence, or misconduct of the Company or any of its contractors, subcontractors, officers, agents, or employees, or by any person for whose act, omission, negligence, or misconduct, the Company is by law responsible.

This provision is not intended to create liability for the benefit of third parties but is solely for the benefit of the Company and the City. In the event any claim is made against the City that falls under this indemnity provision and a Court of competent jurisdiction should adjudge, by final decree, that the City is liable therefor, the Company shall indemnify and hold the City harmless of and from any such liability, including any court costs, expenses, and Reasonable Attorney Fees incurred by the City in defense thereof and incurred at any stage, except to the extent that the City failed to provide notice thereof to Company, and tender defense of the same to Company, and said failure materially impaired Company's ability to undertake the defense thereof. Upon commencement of any suit, proceeding at law or in equity against the City relating to or covering any matter covered by this indemnity, wherein the Company has agreed by accepting this Franchise Agreement, to indemnify and hold the City harmless, or to pay said settlement, final judgment and costs, as the case may be, the City shall give the Company immediate notice of such suit or proceeding; whereupon the Company shall provide a defense to any such suit or suits, including any appellate proceedings brought in connection therewith, and pay as aforesaid, any settlement, costs or judgments that may be rendered against the City by reason of such damage suit.

Upon failure of the Company to comply with the "defense of suit" provisions of this Franchise Agreement, after reasonable notice to it by the City, the City shall have the right to defend the same and in addition to being reimbursed for any settlement or judgment that may be rendered against the City, together with all costs incurred therein, the Company shall reimburse the City Reasonable Attorney Fees, including those employed by the City in such case or cases, as well as all expenses incurred by the City by reason of undertaking the defense of such suit or suits, whether such suit or suits are successfully defended, settled, comprised, or fully adjudicated against the City. In the event the City is compelled to undertake the defense of any such suit by reason of the Company's failure to perform as here and above provided, the City shall have the full right and authority to make or enter into any settlement or compromise of such adjudication as the governing body shall deem in the best interest of the City, this without the prior approval or consent of the Company with respect to the terms of such compromise or settlement.

Nothing in this Section shall require Company to indemnify or defend the City for the gross negligence or willful misconduct of the City, its Council members, officers, or employees.

#### Section 24. INSURANCE

- A. Company shall obtain and maintain at all times during the term of this Agreement Commercial General Liability insurance and Commercial Automobile Liability insurance covering Company's operations in an amount

not less than One Million Dollars (\$1,000,000) per occurrence (combined single limit), including bodily injury and property damage, and in an amount not less than Two Million Dollars (\$2,000,000) annual aggregate for each personal injury liability and products-completed operations. The Commercial General Liability insurance policy shall name the City, its Council members, elected and appointed officers, boards, commissions and employees as additional insureds as respects any covered liability arising out of Company's performance of work under this Agreement. Coverage shall be in an occurrence form and in accordance with the limits and provisions specified herein. Claims-made policies are not acceptable. Such insurance shall not be canceled, nor shall the occurrence or aggregate limits set forth above be reduced, until the City has received at least thirty (30) days' advance written notice of such cancellation or change. Company shall be responsible for notifying the City of such change or cancellation.

- B. Filing of Certificates and Endorsements. Prior to the commencement of any work pursuant to this Agreement, Company shall file with the City original certificate(s) of insurance evidencing the coverages and limits required by this Section 24 which shall state the following:
1. The policy number; name of insurance company; name and address of the agent or authorized representative; name and address of insured; project name; policy expiration date; and specific coverage amounts;
  2. That the City shall receive thirty (30) days' prior notice of cancellation;
  3. That Company's Commercial General Liability insurance policy is primary as respects any other valid or collectible insurance that the City may possess, including any self-insured retentions the City may have; and any other insurance the City does possess shall be considered excess insurance only and shall not be required to contribute with this insurance; and
  4. That Company's Commercial General Liability insurance policy waives any right of recovery the insurance company may have against the City.

The certificate(s) of insurance shall be mailed to the City at the address specified in Section 27 below.

- C. Workers' Compensation Insurance. Company shall comply with the provisions of NRS Chapters 616A through 616D regarding industrial insurance and, if required to maintain coverage for employees, Company shall obtain and maintain at all times during the term of this Agreement statutory workers' compensation and employer's liability insurance in an amount not less than the greater of (a) any amounts required by Nevada state law or (b) One Million Dollars (\$1,000,000) and shall furnish the City with a certificate showing proof of such coverage.



- D. Insurer Criteria. Any insurance provider of Company shall be admitted and authorized to do business in the State of Nevada and shall carry a minimum rating assigned by A.M. Best & Company's Key Rating Guide of "A" Overall and a Financial Size Category of "X" (i.e., a size of \$500,000,000 to \$750,000,000 based on capital, surplus, and conditional reserves). Insurance policies and certificates issued by non-admitted insurance companies are not acceptable.
- E. Severability of Interest. Any deductibles or self-insured retentions must be stated on the certificate(s) of insurance, which shall be sent to and approved by the City. "Severability of interest" or "separation of insureds" clauses shall be made a part of the Commercial General Liability and Commercial Automobile Liability policies.

Section 25. DEFAULT; CURE; REMEDIES; LIQUIDATED DAMAGES

- A. Default and Notification. This Agreement is granted upon each and every condition herein and each of the conditions is a material and essential condition to the granting of this Agreement. If Company fails to comply with any of the conditions and obligations imposed hereunder, and if such failure continues for more than thirty (30) days after written demand from the City to commence the correction of such noncompliance on the part of Company, the City shall have the right to revoke and terminate this Agreement in addition to any other rights or remedies set forth in this Agreement or provided by law.
- B. Cure Period. If the nature of the violation is such that it cannot be fully cured within thirty (30) days due to circumstances not under Company's control, the period of time in which Company must cure the violation may be extended by the City Manager in writing for such additional time reasonably necessary to complete the cure, provided that: (a) Company has promptly begun to cure; and (b) Company is diligently pursuing its efforts to cure in the City Manager's reasonable judgment.
- C. Liquidated Damages. If Company fails to cure any noncompliance with the terms and conditions of this Agreement within the time allowed under Subsections A and B above, after the City gives Company reasonable written notice of such noncompliance, and an opportunity to be heard by the City Manager, the City may assess the following liquidated damages for such noncompliance:
  - 1. Failure to comply with the City's requirements concerning actual usage of the ROW or municipal facilities, including but not limited to any defaults resulting in construction-delay claims against the City: \$500.00 per day, for each day such failure continues.



2. Failure to comply with any other provisions of this Agreement, including but not limited to failure to promptly provide data, documents, reports, or information to the City, or to provide insurance or security for the performance of Company's obligations hereunder: \$100.00 per day, for each day such failure continues.
- D. Payment of Damages. Any liquidated damages assessed pursuant to this Section 25 shall be due and payable by check mailed or delivered to the Director of Finance, 495 South Main Street, Las Vegas, Nevada, 89101, not later than thirty (30) days after the City provides Company with written notification of the assessment.
- E. Remedy not Penalty. Company agrees that any failures in Subsection C above shall result in injuries to the City and its citizens and institutions, the compensation for which would be difficult to ascertain and prove, and that the amounts specified in Subsection C are liquidated damages, not a penalty or forfeiture.
- F. In addition to the rights under this Section, the City, upon any termination, may, at its sole discretion, direct the Company to remove, at the Company's sole cost and expense, any or all of the Facilities from all Rights-of-Way within the City, subject to the following:
  1. The City may determine that removal of buried fiber optic cable, or conduit, is not necessary;
  2. In removing any part of the Facilities, the Company shall refill and compact, at its own expense, any excavation that shall be made by it and shall leave all Rights-of-Way in as good a condition as that prevailing prior to the Company's removal of the Facilities;
  3. The City shall have the right to inspect and approve the conditions of the streets after removal has occurred;
  4. The removal shall commence within thirty (30) days of an order to remove being issued by the Finance Director or Public Works Director at the direction of the Council;
  5. The Company shall be responsible for all necessary removals of the Facilities, and maintenance of the street area in the same manner and degree as if the Facilities were in active use, and the Company shall retain all liability associated with such removals.
  6. As an alternative to removal, the Company shall, subject to the City's desire, abandon its Facilities in place and transfer ownership of the installed Facilities to the City. Nothing herein shall cause the City to incur any costs related to the

removal of the Company's Facilities or the transfer of ownership of said Facilities to the City.

Section 26. SEVERABILITY CLAUSE

If any section, subsection, sentence, clause, phrase, term, provision, condition, covenant or portion of this Franchise Agreement is for any reason, held invalid, unenforceable or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity or enforceability of the remaining portions of this Franchise Agreement. The Council hereby declares that it would have approved this Franchise Agreement and each portion thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

Section 27. NOTICES

Any notice of other communication required or permitted to be given under this Franchise Agreement (herein the "Notices") shall be in writing and shall be (1) personally delivered, or (2) delivered by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid, or by nationally recognized trackable overnight courier. The Notices shall be deemed received upon actual receipt. The Notices shall be directed to the parties at their respective addresses shown below, or such other address as either party may, from time to time, specify in writing to the other party in the manner described above.

For the purpose of this Franchise Agreement, notice to the City will be to:

Director of Finance  
Attn: Franchise Administration  
495 South Main Street, 4<sup>th</sup> Floor  
Las Vegas, NV 89101

with a copy to:

Executive Director of Infrastructure  
Public Works Director  
Office of the City Manager  
City of Las Vegas  
495 South Main Street, 7<sup>th</sup> Floor  
Las Vegas, NV 89101

Notice to the Company will be to:

Gigapower, LLC  
311 S. Akard Street, 21<sup>st</sup> Floor  
ATTN: Chief Operating Officer  
Dallas, TX 75202

with a copy to:

Gigapower, LLC  
311 S. Akard Street, 21<sup>st</sup> Floor  
ATTN: Legal Department  
Dallas, TX 75202

Section 28. PUBLIC PURPOSE

All of the regulations provided in this Franchise Agreement are hereby declared to be for a public purpose and the health, safety, and welfare of the general public. Any member of the governing body or City of official or employee charged with the enforcement of this Franchise Agreement, acting for the City in the discharge of his duties, shall not thereby render himself personally liable; and he is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his said duties. Neither the City nor the Company by accepting this Franchise Agreement waives its right to seek all appropriate legal and equitable remedies as allowed by law upon violation of the terms of this Franchise Agreement, including seeking injunctive relief in a court of competent jurisdiction. Such right to injunctive relief is expressly reserved and all terms and provisions hereof shall be enforceable through injunctive relief.

Section 29. APPLICABLE LAW

This Agreement shall be governed and construed by and in accordance with the laws of the State of Nevada, without reference to its conflicts of law principles. If suit is brought by a party to this Agreement, the parties agree that trial of such action shall be vested exclusively in federal or state courts located in Clark County, Nevada.

Section 30. ATTORNEYS' FEES

Should any dispute arising out of this Agreement lead to litigation, the prevailing party shall be entitled to recover its costs of suit, including (without limitation) reasonable attorneys' fees.

Section 31. STATE PUBLIC UTILITIES COMMISSION AND CHARTER REQUIREMENT

This Franchise Agreement is subject to and contingent upon the Company complying with all applicable rules and regulations of the Public Utilities Commission of Nevada (PUCN) and the City adopting a Resolution, conducting a public hearing and enacting an Ordinance granting a Franchise Agreement to Company in accordance with Section 7.050 of the City Charter.

Section 32. REPRESENTATIONS AND WARRANTIES

Each Party represents and warrants that it has the full right, power, legal capacity, and authority to enter into and perform the party's respective obligations hereunder and that such obligations shall be binding upon such party without the requirement of the approval or consent of any other person or entity in connection herewith.

Section 33. PERFORMANCE OF ACTS ON BUSINESS DAYS

Any reference in this Agreement to time of day refers to local time in Nevada. All references to days in this Agreement refer to calendar days, unless stated otherwise. Any reference in this Agreement to a "business day" refers to a day that is not a Friday, Saturday, Sunday or observed as a holiday by City. If the final date for payment of any amount or performance of any act required by this Agreement falls on a Friday, Saturday, Sunday or holiday, that payment is required to be made or act is required to be performed on the next business day.

Section 34. AMENDMENT OF AGREEMENT; ASSIGNMENT

This Agreement may not be amended except pursuant to a written instrument signed by both parties. This Agreement shall not be assigned by Company without the express written consent of the City.

Section 35. ENTIRE AGREEMENT

This Agreement contains the entire understanding between the parties with respect to the subject matter herein. There are no representations, agreements, or understandings (whether oral or written) between or among the parties relating to the subject matter of this Agreement which are not fully expressed herein.

Section 36. PUBLIC RECORDS

Company acknowledges that information submitted to the City is subject to public inspection and copying under Nevada Public Record Law, Chapter 239 of the Nevada Revised Statutes. Company is responsible for becoming familiar and understanding the provisions of the Nevada Public Records Law. While Nevada law does not recognize Company-provided information as "confidential," Company may identify information, such as trade secrets, proprietary financial records, customer information or technical information, submitted to the City as confidential. Company shall prominently mark any information for which it claims confidentiality with the word "Confidential" on each page of such information prior to submitting such information to the City. The City shall treat any information so marked as confidential until the City receives any request for disclosure of such information. The City retains the final discretion to determine whether to release the requested information designated as confidential by Company in accordance with applicable law. City will make its best efforts to provide Company with advance notice before any Company-provided information marked as "confidential" is released.

Section 37. NON-EXCLUSIVE REMEDIES

No provision in this Agreement made for the purpose of securing enforcement of the terms and conditions of this Agreement shall be deemed an exclusive remedy or to afford the exclusive procedure for the enforcement of said terms and conditions, but the remedies herein provided are deemed to be cumulative.

Section 38. NO THIRD-PARTY BENEFICIARIES

Except as otherwise provided in Section 7 above, it is not intended by any of the provisions of this Agreement to create for the public, or any member thereof, a third-party beneficiary right or remedy, or to authorize anyone to maintain a suit for personal injuries or property damage pursuant to the provisions of this Agreement. The duties, obligations, and responsibilities of the City with respect to third parties shall remain as imposed by Nevada law.

Section 39. CONSTRUCTION OF AGREEMENT

The terms and provisions of this Agreement shall not be construed strictly in favor of or against either party, regardless of which party drafted any of its provisions.

Section 40. EFFECT OF ACCEPTANCE

Company accepts and agrees to comply with this Agreement and all applicable federal, state, and local laws and regulations.

Section 41. DISCLOSURE OF PRINCIPALS

Pursuant to Resolution R-79-99 adopted by the City Council effective October 1, 1999, and amendments thereto by the City Council on November 17, 1999, Company warrants that it has disclosed, on the form attached hereto as Exhibit A, all principals, including partners, of Company, as well as all persons and entities holding more than one percent (1%) interest in Company or any principal of Company. If Company, principals, or partners described above are required to provide disclosure under federal law (such as disclosure required by the Securities and Exchange Commission (SEC) or the Employee Retirement Income Security Act (ERISA)), and attaches current copies of such federal disclosures to Exhibit A, the requirement of this Section shall be satisfied. Throughout the term hereof, Company shall within ten (10) days notify City in writing of any material change in the above disclosure. Copies of new federal disclosure filings shall also be sent to the City within ten (10) days of any such filing.

**IN WITNESS WHEREOF**, the parties hereto have caused this instrument to be executed by their duly authorized representatives the day and year first herein above written:

CITY OF LAS VEGAS

Gigapower, LLC, a Delaware Limited Liability Company, authorized to do business in the State of Nevada

\_\_\_\_\_  
Carolyn G. Goodman, Mayor

  
\_\_\_\_\_  
Amy E. Wheelus  
Chief Technology & Information Officer

ATTEST:

\_\_\_\_\_  
LuAnn D. Holmes, MMC                      Date  
City Clerk

APPROVED AS TO FORM:

 *February 14, 2023*  
\_\_\_\_\_  
Deputy City Attorney                      Date  
Timothy J. Geswein  
Deputy City Attorney

EXHIBIT A

CERTIFICATE

DISCLOSURE OF OWNERSHIP/PRINCIPALS



# CERTIFICATE DISCLOSURE OF OWNERSHIP/PRINCIPALS

## 1. Definitions

"City" means the City of Las Vegas.

"City Council" means the governing body of the City of Las Vegas.

"Contracting Entity" means the individual, partnership, or corporation seeking to enter into a contract or agreement with the City of Las Vegas.

"Principal" means, for each type of business organization, the following: (a) sole proprietorship – the owner of the business; (b) corporation – the directors and officers of the corporation; but not any branch managers of offices which are a part of the corporation; (c) partnership – the general partner and limited partners; (d) limited liability company – the managing member as well as all the other members.

## 2. Policy

In accordance with Resolution 79-99 and 105-99 adopted by the City Council, Contracting Entities seeking to enter into certain contracts or agreements with the City of Las Vegas must disclose information regarding ownership interests and principals. Such disclosure generally is required in conjunction with a Request for Proposals (RFP). In other cases, such disclosure must be made prior to the execution of a contract or agreement.

## 3. Instructions

The disclosure required by the Resolutions referenced above shall be made through the completion and execution of this Certificate. The Contracting Entity shall complete Block 1, Block 2, and Block 3. The Contracting Entity shall complete either Block 4 or its alternate in Block 5. Specific information, which must be provided, is highlighted. An Officer or other official authorized to contractually bind the Contracting Entity shall sign and date the Certificate, and such signing shall be notarized.

## 4. Incorporation

This Certificate shall be incorporated into the resulting contract or agreement, if any, between the City and the Contracting Entity. Upon execution of such contract or agreement, the Contracting Entity is under a continuing obligation to notify the City in writing of any material changes to the information in this Certificate. This notification shall be made within fifteen (15) days of the change. Failure to notify the City of any material change may result, at the option of the City, in a default termination (in whole or in part) of the contract or agreement, and/or a withholding of payments due the Contracting Entity.

Block 1	<u>Contracting Entity</u>
Gigapower, LLC	
Name	
311 S. Akard St., 21st Flr. Dallas, TX 75202	
Address	
(425) 533-3638	
Telephone	88-0822930
EIN or DUNS	

Block 2	<u>Description</u>
RFP #:	

Block 3	<u>Type of Business</u>
<div style="display: flex; justify-content: space-between; align-items: center;"><div><input type="checkbox"/> Individual</div><div><input type="checkbox"/> Partnership</div><div><input checked="" type="checkbox"/> Limited Liability Company</div><div><input type="checkbox"/> Corporation</div></div>	

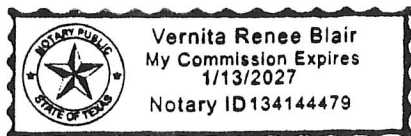
# **CERTIFICATE – DISCLOSURE OF OWNERSHIP/PRINCIPALS** **(CONTINUED)**

<b>Block 4    Disclosure of Ownership and Principals</b>			
In the space below, the Contracting Entity must disclose all principals (including partners) of the Contracting Entity, as well as persons or entities holding more than one percent (1%) ownership interest in the Contracting Entity.			
	FULL NAME/TITLE	BUSINESS ADDRESS	BUSINESS PHONE
1.	Teleport Communications America, LLC	One AT&T Way, Bedminster, NJ 07921	908-234-2000
2.	Infrastructure Endeavors Holdings, LLC	208 S. Akard Street, Dallas, TX 75202	214-757-2000
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

The Contracting Entity shall continue the above list on a sheet of paper entitled "Disclosure of Principals – Continuation" until full and complete disclosure is made. If continuation sheets are attached, please indicate the number of sheets: \_\_\_\_\_

<b>Block 5    Disclosure of Ownership and Principals - Alternate</b>	
If the Contracting Entity, or its principals or partners, are required to provide disclosure (of persons or entities holding an ownership interest) under federal law (such as disclosure required by the Securities and Exchange Commission or the Employee Retirement Income Act), a copy of such disclosure may be attached to this Certificate in lieu of providing the information set forth in Block 4 above. A description of such disclosure documents must be included below.	
<b>Name of Attached Document:</b> _____	
<b>Date of Attached Document:</b> _____	<b>Number of Pages:</b> _____

I certify, under penalty of perjury, that all the information provided in this Certificate is current, complete, and accurate. I further certify that I am an individual authorized to contractually bind the above named Contracting Entity.



\_\_\_\_\_  
 Name  
 2-13-23  
 \_\_\_\_\_  
 Date

Subscribed and sworn to before me this 13 day of

February, 2023  
  
 \_\_\_\_\_  
 Notary Public

# EXHIBIT B

## FORM OF SURETY BOND

EXHIBIT B

FORM OF SURETY BOND

Bond Number: \_\_\_\_\_

## Surety Bond

**Know all men by these presents:**

That \_\_\_\_\_ as Principal, and \_\_\_\_\_, incorporated under the laws of the State of \_\_\_\_\_, and authorized to execute bonds and undertakings as sole Surety, are held and firmly bound unto \_\_\_\_\_, as Obligee, in the sum of \_\_\_\_\_; for the payment thereof, well truly to be made, said Principal and Surety bind themselves, their administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of the foregoing obligation is such that:

**Whereas**, the Principal is about to enter into, or has entered into, a certain agreement with the Obligee dated \_\_\_\_\_, 200\_\_ for the following:  
\_\_\_\_\_.

**Now, therefore**, if the Principal shall well, truly and faithfully perform all of its duties, undertakings, covenants, terms, conditions and provisions of said agreement during the original term thereof and any extensions thereof which may be granted by the Obligee, with or without notice to the Surety, and if it shall satisfy all claims and demands incurred under such agreement and shall fully indemnify and save harmless the Obligee from all costs and damages which Obligee may suffer by reason of the Principal's failure to do so and shall reimburse and repay the Obligee all outlay and expenses which the Obligee may incur in making good any default, then this obligation shall be void; otherwise to remain in full force and effect.

**Provided, further**, that said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder, or to the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

**Provided, however,** this bond is issued subject to the following express conditions:

1. This bond shall be deemed continuous in form and shall remain in full force and effect until canceled under § 3 below, after which all liability ceases, except as to any liability incurred or accrued prior to the date of such cancellation.

2. The aggregate liability of the Surety hereunder on all claims whatsoever shall not exceed the penal sum of this bond in any event.

3. The surety reserves the right to withdraw as surety from this bond, except as to any liability incurred or accrued, and may do so upon giving the Obligee not less than sixty (60) days' written notice.

**Signed and sealed** this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

**Principal:**

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

Its: \_\_\_\_\_

**Surety:**

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

Its: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

\_\_\_\_\_  
(State of Nevada License Number)

**Nevada Resident Agent:**

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

Company: \_\_\_\_\_

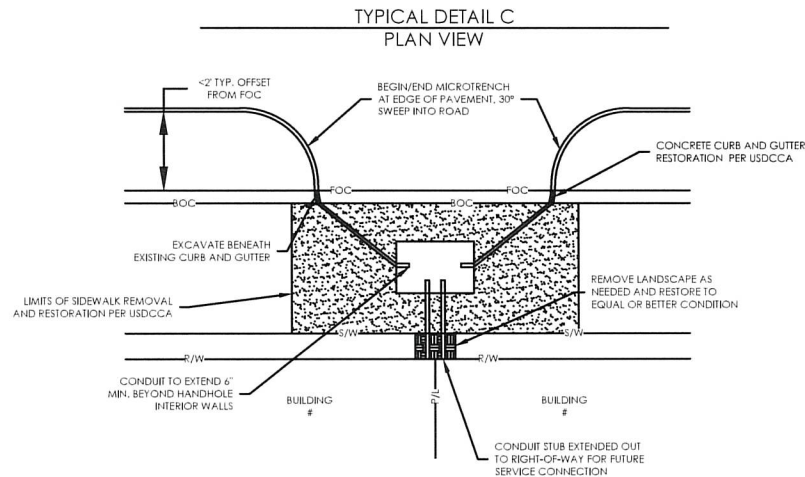
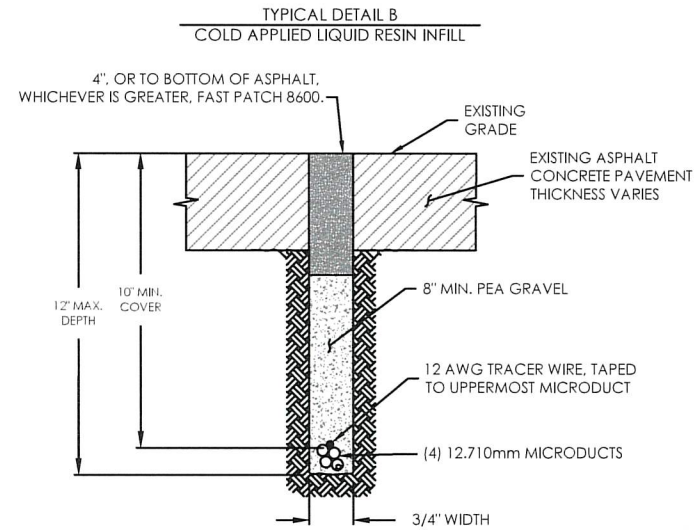
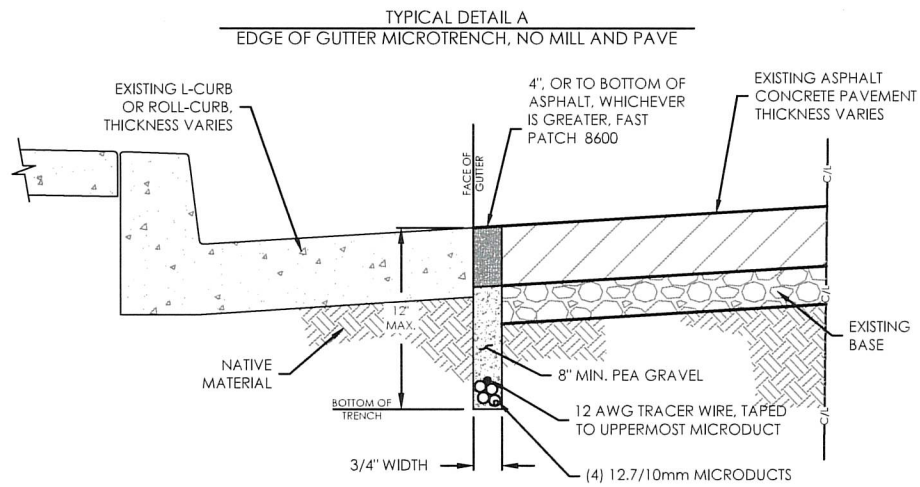
\_\_\_\_\_  
(State of Nevada License Number)

(Attach Acknowledgments of both Principal and Surety signatures)

# EXHIBIT C

## MICRO-TRENCHING DETAIL

## TYPICAL MICROTRENCH DETAIL



**NOTE:**

- MICROTRENCHING IS DESIGNATED FOR RESIDENTIAL OR MINOR COLLECTOR ROADWAYS ONLY WITH RIGHT-OF-WAY WIDTHS OF 60-FEET OR LESS. AND DEVIATIONS WILL REQUIRE APPROVAL FROM THE PUBLIC WORKS DIRECTOR.
- MICROTRENCH SHALL NOT CROSS THE CURB, GUTTER, OR SIDEWALK. ANY DAMAGE WILL REQUIRE FULL REMOVAL AND REPLACEMENT FROM THE NEAREST JOINT TO JOINT, IN ACCORDANCE WITH USDCCA.
- SIDEWALKS RESTORATION SHALL BE FROM JOINT TO JOINT ON BOTH SIDES OF THE HANDHOLE.

# UNDERGROUND SERVICE ALERT

### LEGEND

- | PROPOSED PEDESTAL |                   | PROPOSED HANDHOLE |                | PROPOSED DIRECTIONAL BORE |                  |
|-------------------|-------------------|-------------------|----------------|---------------------------|------------------|
| DB                | DE                | DB                | DE             |                           |                  |
| R/W               |                   |                   |                |                           | RIGHT OF WAY     |
| UT                |                   |                   |                |                           | UTILITY easement |
| PL                |                   |                   |                |                           | PROPERTY LINE    |
| CS                |                   |                   |                |                           | GAS LINE         |
| W                 |                   |                   |                |                           | WATER MAIN       |
| SD                |                   |                   |                |                           | SEWER            |
| ST                |                   |                   |                |                           | STORM DRAIN      |
| E                 |                   |                   |                |                           | POWER LINE       |
|                   | ELECTRIC HANDHOLE |                   | ELECTRIC METER |                           | ELECTRIC CABINET |
|                   | ELECTRIC MANHOLE  |                   | TRANSFORMER    |                           |                  |
|                   | LIGHT POLE        |                   | GAS MANHOLE    |                           |                  |
|                   | SEWER MANHOLE     |                   | GAS VALVE      |                           |                  |
|                   | SEWER VALVE       |                   | GAS METER      |                           |                  |
|                   | TRAFFIC SIGNAL    |                   | WATER VALVE    |                           |                  |
|                   | COMM MANHOLE      |                   | HYDRANT        |                           |                  |
|                   | COMM HANDHOLE     |                   | WATER METER    |                           |                  |
|                   | COMM PEDESTAL     |                   | UTILITY POLE   |                           |                  |
|                   | DRAINAGE MANHOLE  |                   | CULVERT        |                           |                  |
|                   | CATCH BASIN       |                   |                |                           |                  |

PREPARED FOR:

**GIGAPOWER**

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## REVISIONS

DATE	DESCRIPTION	INITIAL

## SCALE

SIZE B SHEET: N.T.S.

SIZE D SHEET: N.T.S.

DRAFTED BY:	SHEET NUMBER	REV
	D01 OF D01	