

**CITY OF LIBERTY
RIGHTS-OF-WAY USE AGREEMENT
APPLICATION FORM**

This Application is for a Rights-of-Way Use Agreement in the **City of Liberty** for the construction, maintenance and use of the City's rights-of-way pursuant to Section 25-27 of the City Code. Consistent with state and federal law, the City has adopted Ordinances related to the management, coordination, and use of the rights-of-way to provide telecommunications, cable, utilities and other services. This Application requires payment of a refundable application **deposit of \$500.00**, which shall be utilized to at least partly offset the City's costs in this process, consistent with applicable law; any amount not used by the City for its actual costs will be refunded to the Applicant on request after execution of a Rights-of-Way Use Agreement. If applicable, the Applicant shall be obligated to reimburse the City for its reasonable expenses associated with the review, negotiation and adoption of a Rights-of-Way Use Agreement of franchise that may reasonably exceed the Application deposit amount. This Application will be used to determine the qualifications and eligibility of the Applicant to be granted a franchise or Right-of-Way Use Agreement under the City Code, and federal, state and local law, and to assist the City in ensuring compliance of the Applicant with applicable law, and addressing any unique or special circumstance as may be established by and/or applicable to the Applicant.

For the purposes of this Application Form, the term "Communications Service" means the transmission via facilities, in whole or in part, of any writings, signs, signals, pictures, sounds or other forms of intelligence through wire, wireless or other means, including, but not limited to, any telecommunications service, enhanced service, information service, or internet service, as such terms are now, or may in the future be, defined hereunder or under federal law, and including all instrumentalities, facilities, apparatus (Communications Facilities), and services (among other things, the receipt, forwarding, and delivery of telecommunications) incidental to such transmission or designed to directly or indirectly facilitate or accept such transmission and shall also include "video services" as defined in § 67.2677 RSMo. The term "Communications Service" does not include the rental of conduit or physical facilities, which if proposed must be expressly separately requested below. **Any party seeking to provide cable television, video services, or use wireless communication facilities shall also so provide in this Application as these are subject to additional and separate requirements and/or approvals of federal, state, and local law thereby applicable and subject to verification in this Application.**

It is recognized that any application may not fully describe or coincide with all types of utility uses, Communications Services or facilities that an applicant may propose particularly given the numerous potentially applicable regulatory schemes that may apply to the City's authority and the application depending on the nature of the specific applicant, use, and services applicant proposes to offer. If it is believed that certain questions are either not relevant or are inapplicable as a result of system design, law, or other reason, please indicate the basis for such belief as to Applicant's particular application. Each applicant is also asked to provide any additional information that it believes to be useful to the City in processing this application and granting a use agreement.

Nothing in this Application shall be deemed to provide any entitlement to use of the rights-of-way. Rather such use shall only be authorized after a fully executed separate Rights-of-Way Use Agreement has been approved by the City, specific rights-of-way permits for excavation or activity are issued, and all other applicable requirements as may be amended from time to time have been satisfied and maintained.

PART A: GENERAL INFORMATION

1. Name of Applicant, Including All Affiliates of the Applicant:

Applicant:

Date:

Affiliates:

2. Address of Applicant:

3. Name, Telephone Number, and **email** address of Contact Person for Applicant:

ATTACH COPY OF APPLICANT'S DRIVER'S LICENSE OR OTHER QUALIFYING IDENTIFICATION required by § 208.009 RSMo. For entities, attach identification of the authorized agent of entity.

4. This is an Application for (check all that apply and explain):

a. _____ An initial license to construct, operate and/or maintain ducts, conduits, dark fiber or other facilities in the City's rights-of-way for the purpose of (check applicable):

b. _____ An expansion, change, or modification of an existing system, renewal or amendment of a franchise or Rights-of-Way Use Agreement to change or expand services, facilities or term or ownership transfer.

c. _____ Other, describe: _____

5. To provide the following type of services or facilities:

(1) _____ Communications Services (list services) _____

(2) _____ Utility services (list services) _____

(3) _____ Other (list services or use) _____

6. Please provide, if any, any specific proposed terms, provisions, or requested accommodations, including a proposed duration and any scheduling constraints of the Applicant.

7. Does the Applicant have Public Service Commission authority to provide any services within the City? _____ **If so, please attach a copy of all applicable Commission Orders and tariffs applicable within the City.**

8. Does Applicant have a current business license with the City?

9. Did Applicant have a prior franchise or agreement with the City? _____ **If so, please attach a copy.**
10. Does Applicant have a current or prior permit or other approval from the City granting access to use the City rights-of-way? _____ **If so, please attach a copy.**
11. Is any wireless (RF) communication broadcasting equipment proposed to be located within the ROW? (if yes, provide detail descriptions, including dimensions applicable frequencies, and other specifications for each proposed location).
12. Provide proposed compensation to City for use of the rights-of-way (compensation may depend on type of use, location, and facilities, if any, used):

PART B: DESCRIPTION OF PROPOSED CONSTRUCTION PLANS, THE SYSTEM AND SERVICES

1. **Facilities.** Describe in Detail (information may be included partly or wholly on an electronic map):
 - a. The geographic area within the City in which the Applicant proposes to construct or maintain its facilities and/or offer Communications Service and a schedule for any expansion/buildout.
 - b. Type(s) of facilities to be installed, constructed or utilized (e.g., reinforced conduit, duct banks, fiber, co-axial cable, copper twisted pair, wireless radio transceivers or other wireless equipment) and the proposed location within the public rights-of-way or other locations where such facilities will be placed.
 - c. To the extent known, the location of all facilities, including the use of existing overhead and underground public utility, conduit, communications cable, water, sewer drainage, poles, light stands and other facilities, in the public rights-of-way along the proposed route, or other locations.
 - (1) If the facilities are to be installed overhead, identify the space available for locating Communications facilities on existing utility poles or City facilities along the proposed route (identify pole owner and locations).
 - (2) If the facilities are to be installed underground in existing ducts or conduits, identify:
 - (i) The available capacity in such ducts or conduits before installation of Applicant's facilities.
 - (ii) The capacity that will remain after the Applicant's facilities are installed.
 - (iii) The number and location of additional manholes or handholes required.

- (3) If Applicant is proposing to install new ducts or conduits underground in the public rights-of-way, identify:
 - (i) The proposed location(s).
 - (ii) The excess capacity that will exist after installation.
 - (iii) The number, size and location of vaults, manholes and handholes required.
 - (iv) Other equipment and facilities to be installed.
 - (v) The type or design of conduit (provide specification or diagram if available) and method of installation.
- d. If known, the specific trees, structures, improvements, facilities, and obstructions, if any, that Applicant proposes to temporarily or permanently remove or relocate.
- e. Provide a scaled map of the proposed service area visually indicating the same information.

2. **Services.** Assuming that the Applicant obtains permission to use the public rights-of-way for the construction proposed by the Applicant, describe the types of facilities and/or services that the Applicant plans to provide upon approval of a separate Rights-of-Way Agreement for use of the rights-of-way for providing services. This information is necessary for the City to determine applicable fees or regulatory requirements.

- a. Does the Applicant plan to offer telephone service of any kind to City residents? If yes, describe type of service (i.e. switched local, VOIP, other technology or type)?

- b. Does the Applicant plan to offer any type of video service to its customers, including cable television, open video system service, or video services?
- c. Does the Applicant intend to lease or sell dark fiber on its system to other entities?
- d. Does the Applicant intend to lease or sell transmission capacity on its system to other entities?
- e. Does Applicant intend to lease or sell space in ducts, on poles or in conduits for use by other entities?
- f. Does Applicant intend to lease or sell Internet access services, enhanced information services, security services, energy-related services or any other Communications Services not previously listed in this section?
- g. If any of the questions in this paragraph 2 were answered “yes,” please describe in detail to whom, how, and when such services or facilities will be offered **and provide the specific state or local franchise or authority to provide such service in the City.** Please note separate facilities owned by another but utilizing Applicant's facilities, including conduits, are subject to the Application requirements and fees imposed by the City.

Attachments included: _____ (yes/no and list)

3. Please provide a schedule and completion dates for development and construction of the Applicant's proposed facilities, Communications System or Open Video System.
4. Please describe the Applicant's proposed maintenance plan.
 - a. If leasing access to ducts, poles or conduits to or from third-party Communications Service providers, please explain the installation and maintenance procedures for such third-party Communications facilities. Please identify the third-parties and provide lease terms/arrangements.
5. If the Applicant proposes to provide any Communications Service, has it obtained all required federal, state and local permits, licenses, certificates and franchises and met all other legal requirements? If yes, please attach all relevant documentation (i.e. PSC certificate, etc.).
6. Will the Applicant have a local office in the City? If so, how many employees will it office? In what capacity will the employees serve? Will such employees perform construction and maintenance on the system? Will such employees serve as a local contact for the City regarding the agreement?
7. Provide a detailed estimate of construction costs for the Initial System with respect to the use of the City's rights-of-way, including excavation and right-of-way restoration, or if this Application relates to a request to expand the type, scope, or geographical location of services, a detailed estimate of the right-of-way construction costs of such expansion. This information will be subject to independent verification by the City.

PART C: LEGAL BACKGROUND OF APPLICANT

1. Has the Applicant ever been engaged in any litigation with a municipality with respect to the use of rights-of-way? If so, please describe the nature of the dispute, the municipalities involved, the amount of damages, if any, paid by either party and whether the dispute has been finally resolved.
2. List any parent companies, subsidiaries, or other entities which a controlling equity interest in the Application or in which Applicant owns a controlling equity interest.

3. Is the Applicant currently involved in any disputes before any federal, state, or local regulatory agency that questions or could reasonably impact the ability of the Applicant

to legally construct, maintain or provide facilities or services in the City? If so, please describe.

PART D: FINANCIAL BACKGROUND OF APPLICANT

1. What will the cost be for the construction in the rights-of-way of the proposed facilities or services in next 24 months?

2. Please submit a copy of proposed insurance meeting City Code requirements and any proposal for a security adequate to protect the City's interest in ensuring that all construction and related right of way costs for the proposed facilities or services are covered. If Applicant claims any lawful exemption to either insurance or bonding requirements of the Code, please provide detailed basis and supporting documentation for each such exemption.

3. Has the Applicant ever been placed in a receivership, declared bankruptcy, been declared insolvent, or had property foreclosed upon by a creditor? If so, please explain in detail the circumstances behind each instance.

I certify that I am authorized to execute this Application and any subsequent Agreement on behalf of the Applicant. I further understand that if there are material omissions of information requested by this Application or deliberately false answers given to questions on this Application, the City may revoke any Rights-of-Way Use Agreement, permit, or license it has granted based on this Application. Further, such actions shall be punished as provided pursuant to City Code or other applicable law.

Dated: _____

By: _____

Title _____

Print name _____

Notary Public