



**RESOLUTION NO. 20180731A**

**RESOLUTION OF AUTHORIZATION  
TO ENTER INTO AGREEMENT WITH METRONET  
UTILITY EASEMENT AGREEMENT**

**BE IT RESOLVED**, by the Board of Trustees of the Village of Sugar Grove, Kane County, Illinois as follows:

**WHEREAS**, the Village of Sugar Grove Board of Trustees find that it is in the best interest of the Village to grant an utility easement to Metro Fibernet, LLC d/b/a Metronet and to execute the attached agreement;

**NOW, THEREFORE, BE IT RESOLVED** by the President and Board of Trustees of the Village of Sugar Grove, Kane County, Illinois, as follows:

That attached hereto and incorporated herein by reference as Exhibit A is an Utility Agreement between Metro Fibernet, LLC d/b/a Metronet and the Village of Sugar Grove for certain fees. The President and Clerk are hereby authorized to execute said easement agreement on behalf of the Village and to take such further actions as are necessary to fulfill the terms of said agreement.

**PASSED AND APPROVED** by the President and Board of Trustees of the Village of Sugar Grove, Kane County, Illinois, on this 31<sup>st</sup> day July 2018.

\_\_\_\_\_  
P. Sean Michels, President of the Board of Trustees  
of the Village of Sugar Grove, Kane County,  
Illinois

	Aye	Nay	Absent
Trustee Paluch	_____	_____	_____
Trustee Koch	_____	_____	_____
Trustee Johnson	_____	_____	_____
Trustee Montalto	_____	_____	_____
Trustee Herron	_____	_____	_____
Trustee Lendi	_____	_____	_____

ATTEST: \_\_\_\_\_  
Cynthia L. Galbreath,  
Clerk, Village of Sugar Grove

Document Prepared by and  
After Recorded Return to:

Metro Fibernet, LLC  
Attn: Legal Department  
8837 Bond Street  
Overland Park, KS 66214

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(Space Above this Line for County Recorder's Use only)

### **Grant of Utility Easement**

This Grant of Utility Easement ("**Grant of Easement**") is made as of this \_\_\_ day of \_\_\_\_\_ 2018, by the Village of Sugar Grove ("**Grantor**").

#### **RECITALS:**

A. Grantor is the owner of record of a certain parcel(s) of real estate legally described on Exhibit A attached hereto and made a part hereof (the "**Parcel**").

B. Subject to and in accordance with the terms and provisions of this Grant of Easement, Grantor desires to convey to Metro Fibernet, LLC d/b/a Metronet ("**Grantee**") a utility easement on, in, under and across a certain portion of land on the Parcel (the "**Easement Parcel**") that is legally described on Exhibit B□1 and depicted on Exhibit B□2 hereto.

**NOW, THEREFORE**, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby grants and agrees as follows:

1. Grant of Easement. Subject to the terms, covenants, conditions and restrictions contained in this Grant of Easement, Grantor hereby declares, grants, and establishes for the benefit of Grantee a nonexclusive easement ("**Easement**") on, in, under and across the Easement Parcel to construct, operate, maintain, expand, replace and remove facilities that Grantee may desire, consisting of but not limited to cabinets, concrete pads, aerial cables, underground cables, wires, conduits, manholes, drains, splicing boxes, utility meters, surface location markers, gas mains, electric lines, water lines, telecommunications systems and other facilities or structures for similar uses, upon, over, through, under and along the Easement Parcel together with the right of access over and across such limited portions of the Parcel that are reasonably necessary to undertake the foregoing in and under the Easement Parcel. This Easement also includes the right of ingress and egress over and across the property adjacent to the Easement Parcel for the purpose of exercising the rights granted herein, and the right to clear and keep cleared all trees, roots, brush and other obstructions

from the surface and sub-surface of the Easement Parcel during construction and maintenance and to use adjacent areas as necessary. The rights granted to Grantee pursuant to this Grant of Easement shall be assignable for the placement of facilities for the purpose of providing services to Grantee, such as to third party utilities and service providers.

2. Restoration of Easement Parcel. If the exercise by Grantee of its rights under this Grant of Easement causes a disturbance, destruction or removal of any gardens, shrubs, landscaping, paving or other improvements permitted to be located on the Easement Parcel pursuant to the terms hereof or otherwise located on the Parcel, then Grantee will restore the affected portion of the Easement Parcel and/or the Parcel to substantially its prior condition; provided, however, Grantee may reasonably cut or trim any tree, shrub or other plant that interferes with the construction, operation, maintenance, renewal, relocation or removal of the cabinets, underground pipes, meters, wires, cables, conduits, manholes, transformers, pedestals and other facilities in the Easement Parcel as is permitted to Grantee pursuant to the terms of this Grant of Easement. Prior approval from Village is required before trimming or cutting down trees. Prior approval from Village is required before open-cutting the pavement.

3. Additional Easements □ Limitation of Improvements. Grantor will have the right to use and enjoy the Easement Parcel so long as Grantor's use does not interfere with the rights conveyed to Grantee. The rights reserved by the Grantor include the right to cross sections of the Easement Parcel and right-of-way with roads, parking lots, sewers, utilities, drains and the like in such manner as not to disturb Grantee's facilities or the operation or maintenance thereof. In addition, Grantor reserves the right to grant additional easements in, on, over or under the Easement Parcel; provided, however, any such grant of additional easements shall not interfere with the rights granted hereunder to Grantee. Notwithstanding the foregoing, Grantor shall not permit any buildings or other permanent structures not set forth above to be constructed or placed on the Easement Parcel if such structure would disturb Grantee's facilities or the operation or maintenance thereof or otherwise interfere with Grantee's use of the Easement Parcel for the purposes stated herein.

4. Access. Grantee shall have a right of access seven (7) days a week, twenty-four (24) hours a day to the Easement Parcel, including the right of access to the Easement Parcel inside the fenced portion of the Parcel. The Grantee shall at no time hinder or prohibit access to this site by the Grantor. The Easement Parcel is a key municipal water facility site which is integral in providing water to the Grantor's customers. As a result, the Grantor's rights to access and maintain the facilities on this site supersede any rights of the Grantee.

5. Term. This Grant of Easement shall be coterminous with the term of the franchise agreement by and between CMN-RUS, Inc. and Grantor, or any subsequent franchise or similar agreement entered into between CMN-RUS, Inc. and Grantor that replaces such franchise agreement. In the event there is a change in applicable law, and CMN-RUS, Inc. no longer is required to enter into a franchise or similar agreement with Grantor to provide video services, upon the delivery of written notice from either Grantor or Grantee to the other party, the parties shall negotiate in good faith on an appropriate amendment to this Section 5 that shall include a new term which shall not be less than ten (10) years. Any such amendment shall be recorded. Grantor may terminate this Grant of Easement in whole or in part upon thirty (30) days written notice to Grantee for Grantee's

non-use of the Easement for the purpose for which it was granted for any consecutive twelve (12) month period.

6. Insurance and Indemnity. Throughout the term of this Grant of Easement, the Grantee shall, at its own cost and expense, maintain such insurance and provide the Grantor certificates of insurance in accordance with the amounts set forth in Section 7-5-8 of the Sugar Grove Village Code. The Grantee shall indemnify, defend and hold harmless the Grantor, its officers, employees, and agents (the "Indemnitees") from and against any injuries, claims, demands, judgments, damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense (the "Indemnification Events"), arising from the Grantee's construction and operation of its facilities within or on the Parcel. The Grantee's obligation with respect to the Indemnitees shall apply to Indemnification Events which may occur during the term of this Grant of Easement, provided that the claim or action is initiated within the applicable statute of limitations, notwithstanding that the claim may be made or action filed subsequent to the termination or expiration of this Grant of Easement. The Grantor shall give the Grantee timely written notice of its obligation to indemnify and defend the Grantor after the Grantor's receipt of a claim or action pursuant to this Section 6. For purposes of this Section 6, the word "timely" shall mean within a time period that does not cause prejudice to the respective positions of the Grantee and/or the Grantor. If the Grantor elects in its own discretion to employ additional counsel, the costs for such additional counsel for the Grantor shall be the responsibility of the Grantor. The Grantee shall not indemnify the Grantor for any liabilities, damages, costs or expense resulting from any conduct for which the Grantor, its officers, employees and agents may be liable under the laws of the State of Illinois. Nothing herein shall be construed to limit the Grantee's duty to indemnify the Grantor by reference to the limits of insurance coverage described in this Grant of Easement.

7. Miscellaneous.

(a) Recitals. The foregoing Recitals are deemed to form a part of this Grant of Easement as if restated herein.

(b) Governing Law. This Grant of Easement will be interpreted and construed in accordance with the laws of the State of Illinois, without regard to conflict of law rules.

(c) Binding Effect and Priority of Grant. All of the covenants and rights declared and established hereunder will be considered as covenants and rights running with the land and not conditions, and the same will be binding upon and inure to the benefit of the parties hereto.

(d) Partial Invalidity. If any term, covenant or condition of this Grant of Easement or the application thereof to any person or circumstance will, to any extent, be invalid or unenforceable, the remainder of this Grant of Easement, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected thereby, and each term, covenant and condition of this Grant of Easement will be valid and enforceable to the fullest extent permitted by law.

IN WITNESS WHEREOF, the said Grantor has hereunto affixed its name, this \_\_\_\_ day of \_\_\_\_\_, 2018.

VILLAGE OF SUGAR GROVE

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

STATE OF ILLINOIS        )  
  ) SS:  
COUNTY OF KENDALL    )

On \_\_\_\_\_, 2018, before me, the undersigned, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the within instrument.

WITNESS my hand and official seal.

Notary Public

\_\_\_\_\_

METRO FIBERNET, LLC hereby joins in this Grant of Easement to evidence its approval hereof, its agreement with the terms hereof, and its intent to be bound hereby.

METRO FIBERNET, LLC

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

Name: \_\_\_\_\_

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

STATE OF \_\_\_\_\_ )

) SS:

COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 2018, before me, the undersigned, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the within instrument.

WITNESS my hand and official seal.

Notary Public

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