

CITY OF GEORGETOWN, KENTUCKY

ORDINANCE NO. 2021-11

AN ORDINANCE CONFIRMING THE SALE AND AWARDING A NON-EXCLUSIVE FRANCHISE TO GREAT PLAINS COMMUNICATIONS LLC FOR THE PLACEMENT OF FACILITIES FOR TELECOMMUNICATIONS SERVICES WITHIN THE PUBLIC RIGHTS-OF-WAY OF THE CITY OF GEORGETOWN, CONSISTENT WITH THE TERMS OF ORDINANCE 2021-05.

SUMMARY

1. Awards the bid of the non-exclusive telecommunications services franchise established in Ordinance 2021-05 to Great Plains Communications LLC.
2. Authorizes the Mayor to sign the Telecommunications Services Franchise Agreement.
3. Provides for repeal of inconsistent laws, severability of provisions, and an effective date upon passage and publication.

The full text of this Ordinance is available for examination in the City Clerk's Office, 100 North Court Street, Georgetown, Kentucky 40324 or at www.georgetownky.gov.

INTRODUCED AND PUBLICLY READ FIRST TIME: July 26, 2021

PUBLICLY READ SECOND TIME AND PASSED: August 9, 2021

APPROVED: Tom Prather
Tom Prather (Aug 10, 2021 15:09 EDT)

Tom Prather, Mayor

ATTEST: Tracie Hoffman
Tracie Hoffman (Aug 10, 2021 15:20 EDT)

Tracie Hoffman, City Clerk

I, Devon E. Golden, hereby certify I am an Attorney licensed to practice law in the Commonwealth of Kentucky. My office is located at 100 North Court Street, Georgetown, Kentucky 40324. I further certify the foregoing Summary of Ordinance 2021-11 of the City of Georgetown, Kentucky, was prepared in accordance with the requirements of KRS 83A.060(9) and is a true and accurate summary of the contents of said Ordinance.



Devon E. Golden

CITY OF GEORGETOWN, KENTUCKY

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SPONSORS: Tammy Lusby Mitchell and Greg Hampton

WHEREAS, Ordinance 2021-05, adopted by the Georgetown City Council on March 22, 2021, provided for the creation and sale of a non-exclusive franchise, for a term of ten (10) years with up to two (2) additional extensions of time of five (5) years each, for the privilege of constructing, operating, maintaining and distributing telecommunications services facilities within public rights-of-way within the corporate boundaries of the City of Georgetown; and

WHEREAS, after publication of said advertisement on April 23, 2021, the City Clerk received a qualified bid from Great Plains Communications LLC (“Franchisee”).

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF GEORGETOWN, KENTUCKY, AS FOLLOWS:

Section 1. That a non-exclusive telecommunications services franchise, as created by Ordinance 2021-05, be, and it hereby is, awarded to Great Plains Communications LLC for the cost of advertising and sale of said telecommunications services franchise.

Section 2. That the Mayor shall be, and hereby is, authorized and directed to execute a Telecommunications Services Franchise Agreement consistent with the terms and conditions established in Ordinance 2021-05 with the Franchisee.

Section 3. All prior ordinances, municipal orders, or policies or parts thereof in conflict herewith, are to the extent of such conflict, hereby repealed.

Section 4. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unlawful 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 of the remaining portions hereof.

Section 5. This Ordinance shall become effective upon passage and publication.

PUBLICLY INTRODUCED AND READ FIRST TIME: July 26, 2021

PUBLICLY READ SECOND TIME AND PASSED: August 9, 2021

APPROVED: Tom Prather
Tom Prather (Aug 10, 2021 15:09 EDT)
Tom Prather, Mayor

ATTEST: Tracie Hoffman
Tracie Hoffman (Aug 10, 2021 15:20 EDT)
Tracie Hoffman, City Clerk

FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT is made and entered into this 9th day of August, 2021, by and between the **CITY OF GEORGETOWN**, a municipal corporation and political subdivision of the Commonwealth of Kentucky (hereinafter "Georgetown") and **Great Plains Communications LLC**, a corporation existing under and by virtue of the laws of the Commonwealth of Kentucky (hereinafter "Franchisee").

WITNESSETH:

WHEREAS, by Ordinance 2021-05, Georgetown provided for the creation and sale of a non-exclusive franchise for telecommunications services; and

WHEREAS, Ordinance 2021-05 authorized the advertising for bids on said franchise, and Franchisee submitted a timely bid to acquire said franchise; and

WHEREAS, by Ordinance No. 2021- 11, Georgetown accepted the bid of Franchisee to acquire said franchise; and

WHEREAS, Georgetown and Franchisee have entered into this Franchise Agreement to memorialize the sale by Georgetown to Franchisee of said franchise, subject to the terms and conditions reflected in Ordinance 2021-05 and Ordinance 2021- 11 (collectively, the "Franchise Ordinances");

NOW THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, the receipt and sufficiency of which are hereby acknowledged, Georgetown and Franchisee hereby agree to incorporate the foregoing recitals as if fully set forth herein and further agree as follows:

1. Ordinance 2021-05, which is attached hereto as Exhibit "A," is incorporated herein by reference in its entirety and shall apply as if fully set forth herein.

2. The bid of Franchisee for said franchise, which is attached hereto as Exhibit “B,” is incorporated herein by reference in its entirety and shall apply as if fully set forth herein.

3. Ordinance 2021- 11, which is attached hereto as Exhibit “C,” is incorporated herein by reference in its entirety and shall apply as if fully set forth herein.

4. The franchise memorialized in this Franchise Agreement shall commence September 1, 2021 and shall expire as provided in the terms of the Franchise Ordinances.

5. Franchisee does hereby bind itself, its successors and assigns, to faithfully and fully perform each and every condition of said franchise as memorialized in this Agreement and the Franchise Ordinances and further to faithfully perform all acts required of it as the purchaser of said franchise.

6. This Franchise Agreement memorializes the agreement between the parties contained and embodied in the Franchise Ordinances and shall be binding upon and inure to the benefit of the respective successors in interest to the parties hereto.

IN WITNESS WHEREOF, the City of Georgetown and Franchisee have executed this Franchise Agreement as their free and voluntary act and deed effective as of the day and year first above written.

****THE REMAINDER OF THIS PAGE IS LEFT BLANK INTENTIONALLY****

CITY OF GEORGETOWN

BY: Tom Prather
Tom Prather (Aug 10, 2021 15:09 EDT)
Tom Prather, Mayor

STATE OF KENTUCKY)
)
COUNTY OF Scott)

The foregoing Franchise Agreement was subscribed, sworn to and acknowledged before me by Tom Prather, as Mayor of the City of Georgetown, Kentucky, on this the 10th day of August, 2021.

My commission expires: 11/18/2022

Tracie Hoffman
Tracie Hoffman (Aug 10, 2021 15:20 EDT)
NOTARY PUBLIC
KENTUCKY, STATE-AT-LARGE

GREAT PLAINS COMMUNICATIONS LLC

BY: _____
[representative]

STATE OF _____)
)
COUNTY OF _____)

The foregoing Franchise Agreement was subscribed, sworn to and acknowledged before me by _____, as _____ of Great Plains Communications LLC, on this the _____ day of _____, 2021.

My commission expires: _____

NOTARY PUBLIC



ADDENDUM

Great Plains Communications LLC, on behalf of its wholly-owned subsidiary InterCarrier Networks LLC ("Applicant"), hereby submits this Addendum to supplement its Telecommunications Franchise Bid submitted to the City of Georgetown, KY ("City"). This Addendum is intended to respond to a letter dated June 2, 2021 that Applicant received from Linda Ain acting on behalf of the City.

In response to the City's letter:

1. See Attachment 1 for affidavit. Dustin Nobbe will serve as the primary point of contact for Applicant with respect to this project. Mr. Nobbe is located in southern Indiana but will be available to respond to all requests from the City in a timely manner. Additionally, Applicant has contractor personnel located along the project route for more immediate answers, if required, and Applicant may hire a full-time employee closer to the Kentucky route in the near future.
2. See Attachment 2 for revised insurance certificate. Applicant submitted this same revised insurance certificate via email on June 7, 2021, reattached here for convenience.
3. Applicant has submitted an occupational license application to GSCRC. Denny Rice of the GSCRC indicated the business license is being mailed as of July 1, 2021.
4. Applicant is aware that any facilities placed in the City's rights of way must comply with the applicable requirements of Ordinance 2021-03-08 and those set forth in the City's Code of Ordinances and any other applicable local law or regulation. Applicant agrees that it will cooperate with both the City and Scott County on any encroachment permits, plans for proposed work, and traffic control and restoration plans as deemed necessary.
5. Applicant is aware that the project may require permits through the State for any portions in KYTC right of way. Applicant has received (or will receive before commencing work) all applicable KYTC permits from the State.

Please let me know if any further information is required or if you require this Addendum to be submitted in any other format.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nick Holle', with a long horizontal line extending to the right.

Nick Holle
Corporate Counsel
Great Plains Communications
402-456-6445
nholle@gpcem.com

Attachment 1

AFFIDAVIT


Comes the Affiant, Nicholas Holle, and after being first duly sworn under penalty of perjury as follows:

His name is Nicholas Holle, and he is an authorized representative of InterCarrier Networks LLC ("Applicant"), a wholly-owned subsidiary of Great Plains Communications LLC.

Applicant hereby acknowledges and certifies that, in case of an emergency, a representative from Applicant can be physically in the City of Georgetown ("City") within two hours of receiving a call from the City.

Further, Affiant sayeth naught.

Dated July 9, 2021

Sign: 

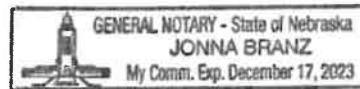
Nicholas Holle
InterCarrier Networks LLC
Great Plains Communications LLC
1600 Great Plains Centre
Blair, NE 68008
402-456-6445

State of Nebraska)
) ss
County of Washington)

The foregoing instrument was subscribed, sworn to, and acknowledged before me by Nicholas Holle, Corporate Counsel and Secretary of InterCarrier Networks LLC, on behalf of the company, on July 9, 2021.



Notary Public
{SEAL}



Attachment 2

INSURANCE CERTIFICATES

See enclosed.



CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
06/07/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Aon Risk Services Central, Inc. Aon Risk Insurance Services Central, Inc Omaha NE Office CA License # 0D04043 17807 Burke Street, Suite 401 Omaha NE 68118 USA	CONTACT NAME: PHONE (A/C. No. Ext): (402) 697-1400 FAX (A/C. No.): (402) 697-1594 E-MAIL ADDRESS:														
INSURED Great Plains Communications LLC 1600 Great Plains Centre P.O. Box 500 Blair NE 68008 USA	<table border="1"> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> <tr> <td>INSURER A: Atlantic Specialty Insurance Company</td> <td>27154</td> </tr> <tr> <td>INSURER B:</td> <td></td> </tr> <tr> <td>INSURER C:</td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Atlantic Specialty Insurance Company	27154	INSURER B:		INSURER C:		INSURER D:		INSURER E:		INSURER F:	
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INSURER B:															
INSURER C:															
INSURER D:															
INSURER E:															
INSURER F:															

Holder Identifier :

COVERAGES **CERTIFICATE NUMBER:** 570087658712 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS. **Limits shown are as requested**

INSR LTR	TYPE OF INSURANCE	ADDITIONAL INSURED	SUBROGATION WAIVED	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input checked="" type="checkbox"/> LOC OTHER:			7110168560001	09/30/2020	09/30/2021	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$15,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COM/OP AGG \$2,000,000
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY			7110168560001	09/30/2020	09/30/2021	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION			7110168560001	09/30/2020	09/30/2021	EACH OCCURRENCE \$20,000,000 AGGREGATE \$20,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	4060463310001	09/30/2020	09/30/2021	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$500,000 E.L. DISEASE-EA EMPLOYEE \$500,000 E.L. DISEASE-POLICY LIMIT \$500,000

Certificate No : 570087658712

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
The City of Georgetown, its elected and appointed officials, employees, agents and successors are included as Additional Insured in accordance with the policy provisions of the General Liability policy.

CERTIFICATE HOLDER**CANCELLATION**

City of Georgetown 100 N Court Street Georgetown KY 40324 USA	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE <i>Aon Risk Services Central Inc</i>

THE LAW FIRM OF LINDA K. AIN
(859) 806-0646
lindaain@twc.com

VIA EMAIL

June 2, 2021

Nick Holle
Great Plains Communications LLC
Corporate Counsel
nholle@gpcom.com

Re: Telecommunications Franchise Bid – Great Plains

Dear Mr. Holle:

I am writing to advise you that the City of Georgetown (“City”) is in receipt of Great Plains Communications LLC (“Great Plains”) telecommunications franchise bid dated May 13, 2021. Great Plains’ application is noted as received, however, the materials submitted are incomplete. Please be advised that the City will allow Great Plains to revise its application with an addendum. Additionally, please note that the City reserves the right to require such supplementary, additional or other information that it deems reasonably necessary for its determination.

Great Plains’ bid is incomplete because it fails to provide the following:

1. The local representative listed on the application is in Indiana. The City needs an affidavit from Great Plains stating that, in case of an emergency, a representative of Great Plains can be physically in the City within two hours of receiving a call from the City.
2. Section 3(E)(6) of Ordinance 2021-03-08 states: This policy must include the City, including its Mayor and City Council members officials, boards, members, agents, and employees, as additional insureds as respects all operations of the insured Franchisee. Said language is not include on the COI.
3. To date, Great Plains has not submitted an occupational license application to GSCRC. Said application must be submitted before a franchise will be granted. Please register at:
<https://www.gscrevenue.com/Assets/Files/Forms/GSC%20Revenue%202021%20Form%20BQ100.pdf>
4. Additionally, please be advised any facilities placed in the City’s rights of way must be in conformance with the applicable requirements of Ordinance 2021-03-08 and those set forth in the City’s Code of Ordinances and any other applicable local law or regulation. That being said, both the City and Scott County require encroachment permits, plans for proposed work, as well as traffic control and restoration plans if necessary.

5. This project may also require permitting through the State for those portions in KYTC right of way. Has Great Plains applied for said permits?

Please forward an addendum with the information requested above to Tracie Hoffman, with electronic copies to me (lindaain@twc.com), Andrew Hartley (andrew.hartley@georgetownky.gov) and Devon Golden (devon.golden@georgetownky.gov).

Sincerely,



Linda Ain

THE LAW FIRM OF LINDA K. AIN
(859) 806-0646
lindaain@twc.com

VIA EMAIL

June 2, 2021

Nick Holle
Great Plains Communications LLC
Corporate Counsel
nholle@gpcom.com

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<https://www.gscrevenue.com/Assets/Files/Forms/GSC%20Revenue%202021%20Form%20BQ100.pdf>
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2021-07-26 - Telecomm. Franchise Award - Great Plains

Final Audit Report

2021-08-10

Created:	2021-08-10
By:	Tracie Hoffman (tracie.hoffman@georgetownky.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAA6zC9XHNB0ne1sfkCyLaGaeAq5bJJR-Op

"2021-07-26 - Telecomm. Franchise Award - Great Plains" History

-  Document created by Tracie Hoffman (tracie.hoffman@georgetownky.gov)
2021-08-10 - 6:13:34 PM GMT- IP address: 96.11.21.18
-  Document emailed to Tom Prather (tom.prather@georgetownky.gov) for signature
2021-08-10 - 6:15:59 PM GMT
-  Email viewed by Tom Prather (tom.prather@georgetownky.gov)
2021-08-10 - 7:08:19 PM GMT- IP address: 96.11.21.18
-  Document e-signed by Tom Prather (tom.prather@georgetownky.gov)
Signature Date: 2021-08-10 - 7:09:45 PM GMT - Time Source: server- IP address: 96.11.21.18
-  Document emailed to Devon Golden (devon.golden@georgetownky.gov) for signature
2021-08-10 - 7:09:46 PM GMT
-  Email viewed by Devon Golden (devon.golden@georgetownky.gov)
2021-08-10 - 7:10:25 PM GMT- IP address: 96.11.21.18
-  Document e-signed by Devon Golden (devon.golden@georgetownky.gov)
Signature Date: 2021-08-10 - 7:10:32 PM GMT - Time Source: server- IP address: 96.11.21.18
-  Document emailed to Tracie Hoffman (tracie.hoffman@georgetownky.gov) for signature
2021-08-10 - 7:10:34 PM GMT
-  Document e-signed by Tracie Hoffman (tracie.hoffman@georgetownky.gov)
Signature Date: 2021-08-10 - 7:20:28 PM GMT - Time Source: server- IP address: 96.11.21.18
-  Agreement completed.
2021-08-10 - 7:20:28 PM GMT