



# City of Grand Island

Tuesday, August 25, 2020

Council Session

## Item G-4

**#2020-193 - Approving Master Pole Attachment License  
Agreement between the City of Grand Island and USCOC  
Nebraska/Kansas LLC**

Staff Contact: Tim Luchsinger, Stacy Nonhof

# **Council Agenda Memo**

**From:** Timothy Luchsinger, Utilities Director  
Stacy Nonhof, Interim City Attorney

**Meeting:** August 25, 2020

**Subject:** Master Pole Attachment License Agreement between the City of Grand Island and USCOC Nebraska/Kansas LLC

**Presenter(s):** Timothy Luchsinger, Utilities Director

## **Background**

USCOC Nebraska/Kansas LLC, (US Cellular) a limited liability registered to do business in Nebraska, has applied for approval to place wireless antenna facilities on City light poles. The agreement follows agreements previously approved by council, which allow private attachments to City's utility poles, with some specific changes to this agreement that were the result of negotiations between the USCOC Nebraska/Kansas LLC and City's Legal, Public Works, and Utilities Departments.

## **Discussion**

The proposed agreement includes an initial five-year term and provides that its attachments to the pole must meet safety and equipment requirements of the Utilities Department. Council is advised that the trend in wireless communications is toward smaller antennas, sometimes referred to as micro cells and distributed antenna systems, for both data backhaul and mobile voice/data services. This trend is fueled by ever-increasing demands for wireless access as well as the industry move toward 5G service, which will be needed to support new technologies such as autonomous cars and the "internet of things." Thus, pole attachment agreements with USCOC Nebraska/Kansas LLC and others will become more commonplace.

## **Alternatives**

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date

4. Take no action on the issue

### **Recommendation**

City Administration recommends that the Council approve the Master Pole Attachment License Agreement between the City of Grand Island and USCOC Nebraska/Kansas LLC.

### **Sample Motion**

Move to approve the Master Pole Attachment License Agreement between the City of Grand Island and USCOC Nebraska/Kansas LLC.



# Master Pole Attachment License Agreement Between

The City of Grand Island

&

USCOC Nebraska/Kansas,  
LLC

## NON-EXCLUSIVE MASTER POLE ATTACHMENT LICENSE AGREEMENT

THIS AGREEMENT, made as of \_\_\_\_\_, 2020, between the City of Grand Island, hereinafter called LICENSOR, and USCOC Nebraska/Kansas, LLC, a Delaware limited liability company, hereinafter called LICENSEE.

### WITNESSETH

WHEREAS, LICENSOR is the owner of certain Street Lights or electric distribution poles (“Utility Poles”) located within public rights-of-way within the boundaries of the City of Grand Island, Nebraska (the “City”); and

WHEREAS, LICENSEE provides telecommunication services in the territory in which LICENSOR provides electric power; and

WHEREAS, LICENSEE desires to install, maintain, and operate communications and related equipment, conduit, utilities, and appurtenances in or upon certain of LICENSOR’S Street Lights or Utility Poles; and

WHEREAS, LICENSOR and LICENSEE desire to enter into this Agreement to define the general terms and conditions which govern their relationship with respect to particular Sites (as defined herein) at which LICENSOR may wish to permit LICENSEE to install, maintain, and operate its Equipment on said Street Lights or Utility Poles as hereinafter set forth; and

WHEREAS, LICENSOR and LICENSEE acknowledge that they will enter into a site license supplement (“*Supplement*”), a copy of which is attached hereto as **Exhibit A**, with respect to each particular Site approved by the LICENSOR, as provided herein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the adequacy and sufficiency of which is hereby acknowledged, the Parties hereto, for themselves, their successors and assigns, do hereby covenant and agree as follows

### ARTICLE I. DEFINITIONS

As used in this Agreement:

- A “Collocation” shall mean the mounting or installation of equipment on a tower, pole, building or other structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.
- B “Engineering Design Standards” shall mean those standards approved by the Licensor’s Public Works and Utilities Departments.
- C “Equipment” shall mean messengers, guy strands, aerial wires, cables, amplifiers, associated power supply equipment and other transmission

apparatus necessary for the proper operation of LICENSEE'S telecommunication system including without limitation cabinets, antennae, utilities and fiber that comprise a Small Cell installation.

- D "Small Cell" shall mean the Equipment attached to LICENSOR'S Street Light or Utility Pole that comprises part of a Network operated by LICENSEE for the provision of Telecommunications Services.
- E "Make-Ready Costs" shall mean materials, labor, engineering, supervision, site work, and tree trimming costs required in connection with LICENSEE'S installation or modification of Equipment on a Street Light or Utility Pole. Make-Ready Costs shall include the actual costs of changing out Street Lights or Utility Poles (to the extent LICENSOR will be required to change out Street Lights or Utility Poles under this Agreement), including the cost of installation, temporary construction, and all other necessary construction in accordance with applicable industry and safety standards. In addition, Make-Ready Costs include reimbursement to LICENSOR for its removal of lights and lighting equipment and LICENSOR owned communications and/or security equipment, if any, from existing Street Lights or Utility Poles not being used jointly by LICENSOR and LICENSEE and reinstalling them on replacement Street Lights or Utility Poles installed by LICENSEE for joint use by LICENSOR and LICENSEE. Make-Ready Costs shall be actual and documented costs, with documentation to be provided by LICENSOR to LICENSEE within thirty (30) days of receipt of LICENSEE'S written request. Make-Ready Costs shall not include fees which may be separately charged to LICENSEE pursuant to City Ordinance for plan review, permits, and inspections required in connection with any work to be performed by LICENSEE in LICENSOR'S Right-of-Way or other areas.
- F "Non-Standard Street Light" shall mean any decorative Street Light needed for LICENSEE'S use under this Agreement, whether or not such decorative Street Light is located within a historic district.
- G "Property" shall mean City Right-of-Way within the City as may be approved by LICENSOR pursuant to a fully-executed Supplement.
- H "Right-of-Way" or "ROW" shall mean right-of-way dedicated to the public and accepted by the LICENSOR in trust for public use or acquired in fee by the LICENSOR for purposes of maintaining streets and street improvements, including utility easements platted in the front of platted lots which are permitted for use by utilities other than those operated by LICENSOR. However, the term Right-of-Way does not include any easements acquired by the LICENSOR that are limited to municipal uses only, such as sewer, water, drainage, or other municipal purposes, regardless of whether such easements are acquired through the platting process or any other acquisition (and regardless of whether such easements are referred to elsewhere as Right-of-Way) and shall not include any place or property that does not contain or will not contain Street Lights or Utility Poles owned and maintained by the LICENSOR.

- I “Site” shall mean LICENSOR’S Street Light or Utility Pole in the Right-of-Way as may be approved by LICENSOR pursuant to a fully-executed Supplement, licensed to LICENSEE on a non-exclusive basis, and such areas as necessary to provide access for utilities, ingress and egress, and to maintain LICENSEE’S Equipment (to the extent LICENSOR owns and holds control over the property to be used for ingress and egress), as approved in each Supplement to this Agreement.
- J “Street Lights” shall mean poles used or to be used for LICENSOR’S lighting in the Right-of-Way as may be approved by LICENSOR in a Supplement. The term Street Lights includes Non-Standard Street Lights; however, the term does not include signal lights, traffic poles, power poles, traffic devices, or light poles for sports fields or arenas, stadium lighting or other lighting of any kind, and does not pertain to poles or other structures owned by others regardless of whether maintained by the LICENSOR for lighting or any other purpose.
- K “Utility Pole” shall mean a City pole that holds cable television or telephone lines or an electric distribution pole and wires that carry approximately 14,000 volts. It shall not include an electric transmission pole and wires that carry 69,000 volts or more.
- L “Telecommunications Services” or “Services” has the same meaning as that term is defined in the United States Code, 47 U.S.C. 153 (53) or any other use authorized by and licensed to LICENSEE by the FCC.

## ARTICLE II. SCOPE OF AGREEMENT

- A By this Agreement, LICENSOR agrees that LICENSEE may install and maintain its Equipment under the terms and conditions in this Agreement and each applicable Supplement to be entered into from time to time.
- B LICENSEE may install and maintain Equipment on LICENSOR’S Street Lights and Utility Poles, with such installations to be limited to replacement when required either due to insufficient loading capacity or space, including separation and clearance requirements established by NESC, or mutual written agreement between the Parties of existing Street Lights or Utility Poles or the use of existing Street Lights or Utility Poles (with all such Street Lights and Utility Poles to be used jointly by LICENSOR and LICENSEE), when feasible or available. However, if such are not available for use or replacement, the Parties acknowledge that this Agreement does not limit any rights LICENSEE may have to install and maintain LICENSEE-owned poles (“LICENSEE Poles”) at other locations within LICENSOR’S Right-of-Way, with the design, location, and placement as approved by LICENSOR pursuant to LICENSOR’S Ordinances, the Manual on Uniform Traffic Control Devices (the “MUTCD”), or other regulations then in effect. LICENSOR makes no representation or warranty as to the condition of its existing Street Lights or Utility Poles. Any use of City conduit by LICENSEE shall require a separate mutually-approved agreement with fees, rates and terms between the LICENSOR and LICENSEE.

- C Subject to the provisions of the Agreement, including the proper execution of APPENDIX 1 and 2, LICENSOR hereby issues to LICENSEE, for any lawful Telecommunications Services purpose, a revocable nonexclusive authorization for the attachment of LICENSEE'S Equipment to LICENSOR'S poles within the territory in which both parties now or hereafter operate.
- D No use, however extended, of LICENSOR'S poles or payment of any fees or charges required under this Agreement shall create or vest in LICENSEE any ownership or property rights in said poles, but LICENSEE'S rights therein shall be and remain a mere license. Nothing herein contained shall be construed to compel LICENSOR to construct, retain, extend, place or maintain any facilities not needed for its own service requirements, nor to reconstruct, replace or substitute any facilities damaged, destroyed or discontinued.
- E LICENSEE acknowledges that LICENSOR has heretofore entered into, and may in the future enter into, agreements and arrangements with third parties allowing the attachment of their facilities to the poles covered by this Agreement. LICENSOR agrees that no such agreement or arrangement will, in any way, diminish the scope of the license granted hereby or LICENSEE'S rights hereunder.
- F LICENSEE'S attachment to poles belonging to a third party shall be subject to any restrictions in the Agreement between that third party and LICENSOR authorizing the attachment.

### ARTICLE III. FEES AND CHARGES

- A LICENSEE shall pay to LICENSOR the fees and charges specified in and in accordance with the terms and conditions of APPENDIX 1.

Nonpayment of any amount due under this Agreement shall constitute a default under Article XXV of this Agreement

At the expiration of Initial Term of this Agreement and at the end of each Renewal Term thereafter, LICENSOR may adjust the fees and charges specified in APPENDIX 1 after notice made in writing to LICENSEE not later than sixty (60) days before the end of the then current Term. Any such adjustment shall reflect only changes in LICENSOR'S costs, determined in a manner consistent with the determination of the fees and charges specified in APPENDIX 1 and shall not exceed recurring annual fees established by law applicable law

### ARTICLE IV. SPECIFICATIONS

LICENSEE'S fiber, cable, and Equipment shall be placed and maintained in accordance with the requirements and specifications of APPENDIX 2. LICENSOR shall have the right, upon reasonable notice to LICENSEE, to make reasonable changes and amendments to APPENDIX 2, as controlling laws and regulations are revised. Unless different standards are specified herein, the provisions of the



National Electrical Code and the National Electrical Safety Code, and any amendments thereto or replacements thereof, shall be applicable.

Unless otherwise waived in writing by LICENSOR, at LICENSEE'S sole expense, a qualified and experienced professional engineer possessing a valid professional engineer license issued by the State of Nebraska must sign or stamp the construction drawings provided to LICENSOR. LICENSEE must participate in a pre-construction survey and LICENSEE's general contractor may conduct the post-construction inspection and certify that LICENSEE'S Equipment were installed on the identified poles in compliance with the standards APPENDIX 2. The professional engineer's qualifications must include experience performing such work, or substantially similar work, on electric transmission or distribution systems

#### ARTICLE V. LEGAL AUTHORITY

The parties shall at all times observe and comply with, and the provisions of this Agreement are subject to all laws, ordinances and regulations which in any manner affect the rights and obligations of the parties under this Agreement, so long as such laws, ordinances or regulations remain in effect.

#### ARTICLE VI. ISSUANCE OF LICENSES

- A Before LICENSEE shall replace or make use of any of LICENSOR'S existing Street Lights or Utility Poles within any Property, the Site licensed to LICENSEE shall be as described in the applicable Supplement, as executed by the Parties. LICENSEE shall request permission in writing for each site, which writing shall be made by means of a completed application submitted in compliance with the procedures set forth in this Agreement.
- B Notwithstanding the foregoing, LICENSEE may, without submitting an application for a new site, modify or replace all or a portion of Site that is subject to an existing Supplement by making a permit request limited to such modification or replacement, provided: (i) such modification or replacement results in the installation of Equipment within the spaces designated or depicted in the applicable Supplement; (ii) the resulting installation does not increase the load on the applicable Street Light or Utility Pole or the utilization of the Equipment beyond the loading or utilization, if any, that was established in the applicable Supplement; (iii) the new or additional equipment would not be of the type and frequency which would cause harmful interference which is measurable in accordance with then-existing industry standards; (iv) the Equipment would not interfere with the existence and operation of equipment of the LICENSOR or other higher priority users or cause the Site to exceed FCC Radio Frequency ("RF") emission limits; and (v) the new or additional equipment is substantially similar in design, height, width and color. Any request for such permit shall be accompanied by: (a) a certification by a structural engineer licensed in the state of Nebraska that the proposal meets the structural criteria in this Agreement; (b) certification by a professional RF engineer that the new or additional equipment will not cause interference with equipment of LICENSOR or other higher priority users; and (c) current fees for permit and plan review.

- C Following approval of this Agreement, each individual Supplement may be executed by LICENSOR’S Utilities Director and Public Works Director or his/her/their designee(s) after approval of LICENSEE’S application by all applicable City Departments, including any department of LICENSOR that owns or controls property on which LICENSEE Poles would be placed.
- D LICENSEE shall have the non-exclusive right, at its sole cost and expense, to use each Site, as identified in each individual Supplement, for the purpose of constructing, maintaining, repairing, and operating a telecommunications facility and uses incidental thereto, in a manner consistent with the applicable Supplement (“Approved Use”).
- E Each application must be complete and include the applicable application fee. Twenty (20) days after submission of an application, LICENSOR shall notify LICENSEE whether the application is considered complete or incomplete. If an application is considered incomplete, then LICENSOR shall identify the missing information in writing to LICENSEE and LICENSEE may resubmit the revised application within thirty (30) days. After the application fee has been paid, the LICENSOR shall review the plans and application. After an application is considered complete, LICENSOR shall approve or deny within ninety (90) days. An application may be denied for reasons reasonably related to capacity, safety, reliability, or engineering concerns, or if the LICENSEE Pole or proposed attachment would violate LICENSOR’S Ordinances (including Engineering Design Standards) or other laws of general applicability related to building codes, electrical codes, or related standards, including, but not limited to, height, size, traffic concerns (collectively, the “Code Standards”), zoning, aesthetics (including color and the ability to blend in with historic features in historic districts), or the other requirements of this Agreement. LICENSOR shall document the basis for any denial, including the specific provisions of the Law(s) on which the denial was based (if applicable), and send the documentation (either electronically or by U.S. mail) to the LICENSEE on the day that it denies an application.
- F Along with each application, LICENSEE shall furnish LICENSOR detailed construction plans and drawings for each individual Site, together with necessary maps, indicating specifically the Street Light or Utility Pole of LICENSOR to be used jointly by LICENSEE and LICENSOR, the number, size, and character of the Equipment and Equipment to be placed by LICENSEE, replacement of an existing Street Light or Utility Pole, if a replacement is required or requested by LICENSOR or LICENSEE, any LICENSEE Pole(s) which LICENSEE seeks to install, and any new installations for transmission equipment, conduit, pull boxes, and appurtenances. For purposes of this Section, LICENSOR will deliver written notices (including application approval) electronically via the same system used by the LICENSEE to submit the application or construction plans, or separately by email to the contact person listed on LICENSEE’S submission.

- G In a consolidated application for collocation, LICENSEE may submit a request for up to five (5) Sites. The information must be in detail by Site, so that the LICENSOR can readily determine whether additional information is required for an individual Site and review that individual Site expeditiously, rather than reviewing voluminous data to determine which Site the data pertains to. If approved, the Parties shall execute a Supplement for such individual Site or Sites. Upon execution of the Supplement, LICENSEE shall have the right to use the Site, and its contractors may obtain building permits and proceed with the installation work in accordance with the terms of the Supplement and this Agreement.
- H In connection with LICENSEE'S initial installation or subsequent modifications, LICENSEE shall replace Street Lights or Utility Poles, where required, purchase Equipment, have electric, fiber and communications service lines installed at its expense, and otherwise perform all other work at its own expense and in such manner as to not interfere with LICENSOR'S use of the Property or the Site. Such initial installations or subsequent modifications shall comply with Article VIII, below.
- I Except for emergencies, installations and equipment maintenance shall not be scheduled during City events. Installation and maintenance shall also be scheduled to accommodate ongoing or newly completed work in or near the applicable LICENSOR Property, such as protection of newly planted turf or other vegetation in City Parks, newly installed asphalt or sidewalks in Right-of-Way, and other municipal work. In order to avoid such situations, LICENSEE shall provide notice of the planned work at least forty-eight (48) hours in advance and coordinate with the LICENSOR to develop a mutually acceptable schedule for such work.
- J Along with each application, LICENSEE shall submit a non-refundable application fee in the amount of \$500.00 (five hundred dollars) with an additional \$100.00 (one hundred dollars) for each site beyond five (5) in a single application. The application fee shall be \$250.00 (two hundred fifty dollars) for a Utility Pole associated with the collocation of a small wireless facility.
- K The application fees may be increased from time to time, based upon cost studies conducted by LICENSOR to determine a reasonable approximation of the objectively reasonable and non-discriminatory costs incurred by LICENSOR and specifically related to and caused by the application. Such studies, and any adjustments pursuant thereto, shall be subject to the limitations of applicable Laws, including, without limitation, the FCC's Declaratory Ruling and Third Report and Order released September 27, 2018 ("FCC's Order") and other and additional applicable Rules and Regulations of the FCC. Copies of each such study shall be provided to LICENSEE for review so that LICENSEE may, without being obligated to do so, provide LICENSOR with comments regarding the costs detailed by the study and any proposed adjustment to LICENSOR'S fees. Any ordinance changing the then-current application and plan review fees for deployment of equipment on LICENSOR'S Street Lights and Utility Poles shall

be applied on a competitively neutral and non-discriminatory basis, in accordance with applicable Laws, and adopted by City Ordinance. LICENSOR shall provide written notice to LICENSEE of any City Ordinance adjusting such fees.

- L In the event the FCC's Order, rules or regulations is/are reversed or vacated in whole or in part in a final decision issued by a court of competent jurisdiction, or otherwise amended or vacated by the FCC or federal law, the Parties shall negotiate, in good faith, and attempt to reach a mutually agreeable amendment to this Agreement.
- M After an application is approved and construction occurs, LICENSEE will be responsible for any inspection fees as required by LICENSOR so long as such inspection fees are the same as those imposed on other commercial businesses and utilities in the City and are competitively neutral and non-discriminatory basis, in accordance with applicable Laws, and adopted by City Ordinance.
- N LICENSEE shall not authorize third parties to use LICENSOR'S Street Lights or Utility Poles in any manner, and the LICENSOR reserves the sole right to authorize such use by any third parties; provided, however, such use shall not encroach on LICENSEE'S Equipment or other portions of the Site licensed to LICENSEE, or otherwise interfere with LICENSEE'S Approved Use in violation of this Agreement. Both Parties acknowledge that LICENSOR favors and encourages a policy of collocation to minimize the number of new poles in the City.
- O LICENSEE shall not allow third parties to place signs, flags, advertising, or other similar items on the Street Lights, Utility Poles or its Equipment. LICENSEE'S own signage shall be limited to signs, decals, tags, or labels as required by applicable Laws and be shown in the final Construction Drawings approved by LICENSOR.
- P Any replacement Street Lights, Utility Poles and LICENSEE Poles must conform to permitting or review requirements for design or placement which may be required by the LICENSOR with respect to any property in Historic Districts.

#### ARTICLE VII. USE OF AND ACCESS TO SITES

- A Pursuant to all of the terms and conditions of this Agreement, and the applicable Supplement, LICENSOR agrees to license to LICENSEE each Site on a non-exclusive basis for the installation, operation, and maintenance of Equipment, together with the non-exclusive right of ingress and egress within the Properties seven (7) days a week, twenty-four (24) hours a day, to and from the Sites; provided; however, LICENSEE provides at least forty-eight (48) hours advance notice to LICENSOR to coordinate access. LICENSOR'S consent to ingress and egress on any property is conditioned upon LICENSOR'S ownership and control of such Property.

- B LICENSOR reserves and LICENSEE agrees for LICENSOR, its authorized officers, employees, agents or contractors, to enter and access any Site at any time for the purpose of conducting LICENSOR inspections, maintenance and repairs (including permitting other parties to use the Site to provide services). Without limiting the foregoing, LICENSOR and LICENSEE agree that LICENSOR may, without disturbing LICENSEE's Equipment: (1) inspect any property, Site and equipment for LICENSEE'S compliance with the terms of this Agreement and applicable Supplement; and (2) make repairs, alterations or additions to any Site or maintain or use any Site in any manner not prohibited by the terms of this Agreement or applicable Supplement, all without a claim by LICENSEE for any loss of occupation or use of, or any abatement of the annual fee for use of the applicable Site, except to the extent such claims or damages may be due to, or caused by, the negligence or willful misconduct of the LICENSOR or its employees, contractors or agents. LICENSOR will provide no less than fifteen (15) days' notice to LICENSEE prior to commencing any work described in clause (2) above. Notwithstanding anything in this Agreement to the contrary, LICENSOR may access the Site at any time if it is necessary to protect the safety, health or welfare of the public.
- C The primary use and purpose of the ROW is to provide for maintaining streets, street improvements, drainage, and street lighting, and the primary use and purpose of the City Parks Property is to conduct and provide space for public parks, recreational, and community purposes, including, but not limited to, recreational activities and maintaining park aesthetics (each, a "Primary Use"). LICENSOR'S operations take priority over LICENSEE'S use as provided in an approved Supplement. In the event Rights-of-Way are expanded or changed or the configuration of a City Park or its facilities are changed, such that the placement of Street Lights or Utility Poles must be changed, then LICENSEE shall have the option to either (a) move or install the Street Light or Utility Pole with its equipment to a new, mutually agreed upon location on City Property (at the same rental rate), or (b) terminate the Supplement for said Site. LICENSOR shall inform LICENSEE at the earliest possible date of its Plan to eliminate or change the location of the Street Light or Utility Pole subject to this Agreement, but in any event (other than emergencies), no less than ninety (90) calendar days.
- D While performing any construction, installation, maintenance, or repair of its Equipment, LICENSEE shall employ protective measures and devices conforming with City Codes, and any permits required in connection therewith.
- E LICENSEE agrees that the following priorities of use, in descending order, shall apply in the event of communications interference, emergency public safety needs, Site repair or reconditioning, or other conflict while this Agreement is in effect, and LICENSEE'S Approved Use shall be subordinate accordingly:
1. LICENSOR, its employees, agents, and contractors;
  2. Public safety agencies, including law enforcement, fire, and ambulance services, that are not related to LICENSOR;

3. Other governmental agencies where use is not related to public safety;
  4. Other licensees (if any) pre-existing on a Site prior to LICENSEE;
  5. LICENSEE referenced in this Agreement.
- F In the event of any occurrence or event that poses an immediate threat of substantial harm or damage to the health, safety, or welfare of the public and/or the Property or Sites, as solely determined by LICENSOR (an “Emergency Event”), the LICENSOR may take actions the LICENSOR determines are required to address such Emergency Event; provided that promptly after such actions that affect the Sites, and in no event later than seventy-two (72) hours after such actions, LICENSOR gives written notice to LICENSEE of LICENSOR’S emergency actions.
- G If LICENSOR determines that the conditions of the Emergency Event would be benefited by cessation of LICENSEE’S operations, LICENSOR shall notify LICENSEE’S Network Operations Center (“NOC”) (at (800) 510\_\_\_\_-6091), and LICENSEE shall immediately cease its operations on the affected Sites, until LICENSOR notifies LICENSEE that the Emergency Event has been resolved and that LICENSEE can resume its Approved Use.
- H If LICENSEE intends to install (or have a third party install) underground electric, telephone, cable or fiber optic lines, or utility equipment, it shall request approval from the LICENSOR, by submitting to LICENSOR’S City Engineer a detailed written plan for such installation, and the installation of any meter pedestals on, over, and/or under the Property and to the Sites as necessary for LICENSEE’S Approved Use. LICENSOR’S City Engineer shall, in its reasonable discretion, notify LICENSEE that it approves, denies, or modifies the plan within sixty (60) calendar days of receipt of the same, and in the case of any denial or modification, LICENSOR shall state the reasons therefor. Failure to respond within sixty (60) calendar days does not create a “deemed acceptance” of the plan. LICENSEE will be required to arrange and pay for such installation.
- I LICENSEE must, at the time of application, when any permit request is made, or when a pole is damaged, obtain and submit to LICENSOR a structural engineering study carried out by an independent structural engineer licensed in the State of Nebraska, showing that the Street Light(s) or Utility Pole(s) is (are) able to support the Equipment as well as the equipment used by the LICENSOR or cable or telephone companies. Said study must be signed by an independent structural engineer licensed in the State of Nebraska. If the study finds that any proposed or existing Street Light(s) or Utility Pole(s) is (are) inadequate to support the proposed loads, and the Street Light(s) is (are) not required to be replaced by LICENSOR, LICENSEE shall either replace the Street Light(s), at its cost, or may withdraw the application or terminate the Supplement, as applicable.
- J LICENSEE’S use of the Sites and Property, and its design and installation of its Equipment and LICENSOR’S Street Lights or Utility Poles, to the extent installed

by LICENSEE, must be in accordance with all applicable Laws including, but not limited to, the Americans with Disabilities Act.

- K Unless and to the extent provided otherwise in the applicable Supplement, LICENSEE shall install or procure electrical and fiber optic lines and equipment at its own expense, and the use of such services will be metered and paid by LICENSEE separately from any electric service or other services obtained and used by LICENSOR for LICENSOR'S Street Lights or Utility Poles.
- L LICENSEE shall be permitted at any time during the Term of each Supplement to install, maintain, and provide access to and use of, as necessary (during any power interruption at a Site), a temporary, portable power source to keep LICENSEE'S communications facility operational, along with all related equipment and appurtenances within or on the Site, in such locations as reasonably approved by LICENSOR, and such alternative location on LICENSOR'S property will be made available at no additional cost to LICENSEE so long as such temporary power source and related equipment and appurtenances do not interfere with street maintenance, resurfacing, repair or rehabilitation, or construction or repairs on the applicable Property, impair traffic, impede sight lines, cause a nuisance, or violate generally applicable Ordinances or City Code standards of the LICENSOR then in effect. The expense of any temporary power source and related equipment and appurtenances will be borne by the LICENSEE. If the Property, or alternate property owned and operated by the LICENSOR in the immediate area of the Site, will not accommodate such portable power source, related equipment, and appurtenances, it shall be LICENSEE'S responsibility to locate auxiliary sites and secure any permits or permissions for such other property, at its sole expense. LICENSOR will not be responsible for theft, vandalism, or damage to any such temporary equipment.

#### ARTICLE VIII. POLE PLACEMENT, REPLACEMENTS, RESTRICTIONS AND REARRANGEMENTS

- A In the event LICENSOR determines that the space on any pole to which LICENSEE wishes to attach Equipment is required for its exclusive use or that the pole may not reasonably be rearranged or replaced, LICENSOR may refuse attachment of LICENSEE'S Equipment to that pole.
- B In the event LICENSOR determines that any pole to which LICENSEE wishes to attach or install Equipment is inadequate or otherwise needs rearrangement of the existing facilities thereon to support or accommodate the additional facilities of LICENSEE in accordance with the specifications set forth in APPENDIX 2, LICENSOR will indicate on the application (Exhibit A) the changes necessary to provide adequate pole space and the estimated cost thereof to LICENSEE and return the application to LICENSEE. If LICENSEE wishes that such changes be made and returns the application marked to so indicate, LICENSOR will make such changes, including the replacement of inadequate poles, and LICENSEE shall pay LICENSOR the make-ready costs in accordance with the terms of

APPENDIX 1. LICENSEE shall also reimburse the owner or owners of other facilities attached to said poles for any expense incurred by it or them in transferring or rearranging said facilities to accommodate LICENSEE'S Equipment.

- C For each existing Street Light or Utility Pole replaced by LICENSEE or replaced by LICENSOR at LICENSEE'S request, the LICENSEE shall provide the LICENSOR'S replacement Street Light or Utility Pole at LICENSEE'S expense. LICENSEE shall be responsible for initial installation of LICENSEE'S Equipment and electric, fiber and communications services to the Equipment on the Street Light or Utility Pole. Provided LICENSOR confirms, upon inspection, that installation is complete and meets the requirements set forth in this Agreement and the applicable Supplement, LICENSOR will maintain ownership and responsibility for maintenance of the replacement Street Lights and Utility Poles (but not LICENSEE'S Equipment or electric, fiber and communications services for LICENSEE'S Equipment).
- D Should LICENSOR need for its own service requirements the space occupied by LICENSEE'S Equipment on any of LICENSOR'S poles, LICENSEE will be notified that it shall either surrender its license for that pole and, at its own expense, vacate the space by removing its Equipment, or it shall authorize LICENSOR to replace the pole at the expense of LICENSEE, in the same manner as stated in the preceding Paragraph (B) covering the replacement or rearrangement of poles when required to accommodate LICENSEE'S Equipment; or, if LICENSOR advises LICENSEE that LICENSEE'S desired Equipment can be accommodated on present poles of LICENSOR by rearranging LICENSOR'S facilities thereon, LICENSEE shall authorize LICENSOR to make such arrangements at the expense of LICENSEE. LICENSEE shall also reimburse the owner or owners of other facilities attached to said poles for any expense incurred by it or them in transferring or rearranging said facilities to accommodate LICENSEE'S Equipment. Any strengthening of poles will be provided at the expense of LICENSEE in accordance with the specifications in APPENDIX 2.
- E When LICENSOR receives multiple applications for attachment to any pole that must be replaced or rearranged to provide sufficient space, LICENSOR will, to the extent that it is practical to do so, prorate the common expenses of engineering, rearrangement and replacement, if any, among all the applicants. LICENSEE shall be bound by LICENSOR'S determination as to any such proration of costs to LICENSEE.
- F Whenever it is necessary for LICENSOR to make pole replacements or rearrangements in order to accommodate LICENSEE'S Equipment, LICENSOR will endeavor to have such work performed as soon as is practicable upon consideration of LICENSOR'S service requirements, but only after issuance of the license to, and acceptance of responsibility for make-ready costs by, LICENSEE.



- G LICENSEE shall provide all anchors and guying necessary for its Equipment. If the presence of LICENSEE'S Equipment on LICENSOR'S poles make it necessary for LICENSOR to modify its existing guying or add new guying to its poles, then LICENSOR'S cost of such modifications or additions shall be reimbursed by LICENSEE.
- H When LICENSOR'S facilities occupy space on a pole owned by a third party, LICENSEE shall reimburse LICENSOR for any expense incurred in transferring or rearranging its facilities thereon, if such transfer or rearrangement is the result of LICENSEE'S use or proposed use of said pole.
- I Street Light and Utility Poles, replacement poles, and LICENSEE'S poles shall be of a type, construction, and style generally available in the commercial market as approved by City.
- J All Street Lights or Utility Poles used by LICENSEE under this Agreement, designated as a LICENSOR-owned Street Lights or Utility Poles in the applicable Supplement, including replacement Street Lights or Utility Poles installed by LICENSEE, shall remain the property of LICENSOR; provided, however, installation has been completed, and the Site has been inspected, and found by the LICENSOR to meet the requirements of this Agreement and the applicable Supplement. Any payments made by the LICENSEE for installation or replacement of, or changes to, existing Street Lights or Utility Poles and facilities, conduits, conductor pull boxes, facilities, or appurtenances which are the property of LICENSOR shall not entitle LICENSEE to ownership of any of said infrastructure.
- K All Equipment and conduits, conductor pull boxes, cabinets, meters, pedestals, facilities, or appurtenances shall be designed and installed within, adjacent to, or upon the Street Light or Utility Pole, only in accordance with the Construction Drawings as approved by LICENSOR, and designed and installed in compliance with LICENSOR'S Ordinances or other Code Standards. If any Equipment or facilities are placed adjacent to the Street Lights or Utility Poles, such Equipment and facilities must comply with the design and other requirements as provided by the City, to the reasonable satisfaction of LICENSOR. To the extent technically feasible, design and installation of Street Lights and Utility Poles must provide for secure access to both LICENSEE and LICENSOR equipment.

#### ARTICLE IX. CONSTRUCTION AND MAINTENANCE OF FACILITIES

- A LICENSEE shall, at its own expense, make and maintain its Equipment in a safe condition and in thorough repair, and in a manner reasonably acceptable to LICENSOR, and so as not to conflict with the use of LICENSOR'S poles by LICENSOR or by other authorized users thereof, or interfere with other facilities thereon or which may from time to time be placed thereon. If reasonably necessary to satisfy any of the above conditions, LICENSEE shall, upon thirty (30) days' notice from LICENSOR and at its own expense, relocate or replace its facilities on LICENSOR'S poles, or transfer them to substituted poles, or perform

any other work in connection with its facilities that may reasonably be required by LICENSOR; provided, however, that in cases of emergency, LICENSOR may arrange to relocate or replace the Equipment placed on its poles by LICENSEE, transfer them to substituted poles or perform any other work in connection with LICENSEE'S Equipment that may be required in the maintenance, replacement, removal or relocation of LICENSOR'S poles or of the facilities thereon, or which may be placed thereon, or for the service needs of LICENSOR, and LICENSEE shall reimburse LICENSOR for the expense thereby incurred; provided further, however, that LICENSEE shall have no obligation to relocate, replace, or transfer its facilities solely to accommodate the service needs of any person other than LICENSOR, unless such person shall make arrangements, satisfactory to LICENSEE, to reimburse LICENSEE for such work.

- B All tree trimming required on account of LICENSEE'S Equipment shall be done by LICENSEE at its sole risk and expense and in a manner satisfactory to LICENSOR. The parties may agree that LICENSOR shall conduct tree trimming and be reimbursed by LICENSEE.

#### ARTICLE X. TERMINATION OF LICENSES

- A Upon notice from LICENSOR to LICENSEE that the use of any pole is not authorized by Federal, State, County or Municipal authorities or private property owners, the license covering the use of such pole shall immediately terminate and shall be surrendered and LICENSEE shall remove its fiber, Equipment at once from the affected pole or poles at LICENSEE'S expense.
- B LICENSEE may at any time remove its facilities from any pole of LICENSOR but shall immediately give LICENSOR written notice of such removal and surrender of License in the form of Exhibit B attached hereto and made a part hereof. If LICENSEE surrenders its license for a pole but fails to remove its facilities from that pole, LICENSOR shall have the right, upon reasonable notice, to remove LICENSEE'S Equipment at LICENSEE'S expense and without any liability on the part of LICENSOR for damage or injury to LICENSEE'S Equipment. In the event that LICENSEE'S fiber, Equipment shall be removed from any pole as provided by this Article, no attachment shall again be made to such pole unless LICENSEE shall have first complied with all of the provisions of this Agreement as though no such attachment had previously been made. Upon removal of LICENSEE'S Equipment from the pole for a particular license, there shall be no further obligations, including recurring rental payments, for LICENSEE regarding such license.
- C LICENSOR shall have the right, upon written notice, to terminate the license for a particular pole:
  - 1. If, in LICENSOR'S sole judgment, its service needs require full utilization of that pole; or

2. If changes in the physical facilities, space or location requirements or service requirements of LICENSOR render such poles inadequate to support the facilities of LICENSEE; provided, however, that in such event LICENSEE may request the substitution of suitable poles upon the same terms and conditions as would be applicable under ARTICLE VII.

#### ARTICLE XI. INSPECTIONS OF LICENSEE'S INSTALLATIONS

- A LICENSOR reserves the right to make periodic inspections of any part of the fiber, cable, equipment and facilities of LICENSEE on its poles, and LICENSEE shall reimburse LICENSOR for the expense of such inspections. Inspections will be made no more than once a year and only upon notice to LICENSEE unless, in LICENSOR'S judgment, such inspections are required for reasons involving safety or are required because of LICENSEE'S violation of the terms of this Agreement. The charge for the inspection shall be in accordance with the terms and conditions of APPENDIX 1. The making of such inspections or the failure to do so shall not operate to relieve LICENSEE of any responsibility, obligation or liability assumed under this Agreement.
- B If any fiber, cable, equipment and facilities of LICENSEE shall be found on a pole for which no license is outstanding, LICENSOR, without prejudice to its other rights or remedies under this Agreement or otherwise, may (1) impose a charge, and (2) require LICENSEE to remove such fiber, cable, equipment and facilities forthwith or LICENSOR may remove them without liability and the expense of removal shall be borne by LICENSEE; provided, however, that if LICENSEE shall forthwith make application for a license in the form of Exhibit A hereto, LICENSOR will not require such removal unless necessary for LICENSOR'S service requirements and, except in the case of an emergency, will not remove LICENSEE'S Equipment without first giving thirty (30) days notice to LICENSEE. For the purpose of determining the charge, absent satisfactory evidence to the contrary, the unlicensed use shall be treated as having existed for a period of two (2) years prior to its discovery or for the period beginning with the date of this Agreement, whichever period shall be the shorter; and the fee, at the appropriate rate as shown in APPENDIX 1, for each year and for any portion of a year contained in such period, shall be due and payable forthwith. Any such fee imposed by LICENSOR shall be in addition to its rights to any other sums due and payable and to any claims or damages under this Agreement or otherwise. No act or failure to act by LICENSOR with regard to said fee or said license shall not operate retroactively or constitute a waiver by LICENSOR of any of its rights or privileges under this Agreement or otherwise.

#### ARTICLE XII. INDEMNIFICATION

LICENSEE shall defend, indemnify and hold LICENSOR harmless against any claim of liability or loss from personal injury or property damage resulting from or arising out of the negligence or willful misconduct of the LICENSEE, its employees, contractors or agents, except to the extent such claims or damages may be due to,

or caused by, the negligence or willful misconduct of the LICENSOR, or its employees, contractors or agents.

LICENSOR shall defend, indemnify and hold LICENSEE harmless against any claim of liability or loss from personal injury or property damage resulting from or arising out of the negligence or willful misconduct of the LICENSOR, its employees, contractors or agents, except to the extent such claims or damages may be due to, or caused by, the negligence or willful misconduct of the LICENSEE, or its employees, contractors or agents.

- A LICENSOR shall exercise precaution to avoid damaging the communication fiber of the LICENSEE and shall make an immediate report to the LICENSEE of the occurrence of any such damage caused by its employees, agents or contractors. LICENSOR agrees to reimburse the LICENSEE for all reasonable costs incurred by the LICENSEE for the physical repair of such facilities damaged by the negligence of LICENSOR; provided, however, LICENSOR shall not be liable to LICENSEE for any interruption of LICENSEE'S service or for interference with the operation of LICENSEE'S communication/education fiber, or for any special, indirect, or consequential damages.

LICENSEE shall exercise precaution to avoid damaging the facilities of LICENSOR and of others attached to poles or anchors and shall make an immediate report to the owner of facilities so damaged; and LICENSEE assumes all responsibility for any and all direct loss and from such damage caused by LICENSEE'S employees, agents or contractors.

- B LICENSEE shall indemnify, protect and save harmless the LICENSOR from any and all damages and costs, including reasonable attorney fees, incurred by the LICENSOR as a result of acts by the LICENSEE, its employees, agents or contractors, including but not limited to the cost of relocating poles, anchors or guys resulting from a loss of right-of-way or property owner consents and/or the cost of defending those rights and/or consents.
- C The LICENSEE shall indemnify, protect and save harmless the LICENSOR from any and all claims, demands, causes of actions and costs, including attorney fees, for damages to property and injury or death to persons, including but not limited to payments under any Workmen's Compensation Law or under any plan for employee's disability and death benefits, which may arise out of or be caused by the erection, maintenance, presence, or use or removal of LICENSEE'S Equipment or by their proximity to the facilities of other parties attached to a pole or anchor, or by any act or omission of the LICENSEE'S employees, agents or contractors on or in the vicinity of the LICENSOR'S poles, anchors or guys.
- D The LICENSEE shall indemnify, protect and save harmless the LICENSOR from any and all claims, demands, causes of action and costs, including attorney fees, which arise directly or indirectly from the construction and operation of LICENSEE'S Equipment, including but not limited to taxes, special charges by others and from and against all claims, demands and costs, including attorney

fees, for infringement of patents with respect to the manufacture, use and operation of LICENSEE'S Equipment in combination with poles, anchors, guys or otherwise.

- E LICENSEE shall promptly advise the LICENSOR of all claims relating to damage of property of injury to or death of persons, arising or alleged to have arisen in any manner, directly or indirectly, from the erection, maintenance, repair, replacement, presence, use or removal of the LICENSEE'S Equipment.

### ARTICLE XIII. INSURANCE

- A LICENSEE shall obtain and maintain insurance, including endorsements insuring the indemnification provisions of this Agreement, issued by an insurance carrier with an A- VII or better AM Best rating to protect the LICENSOR and joint user from and against all claims, demands, causes of actions, judgments, costs, including attorney fees, expenses and liabilities of every kind and nature which may arise or result, directly or indirectly from or by reason of such loss, injury or damage as covered in this Agreement including ARTICLE XI preceding.

The amount of such insurance:

Insurance Coverage	Limits
1. Worker's Compensation Statutory	
Employer's Liability:	
a. Bodily Injury by Accident accident	\$ 500,000 each
b. Bodily Injury by Disease limit	\$1,000,000 policy
c. Bodily Injury by Disease employee	\$ 500,000 each

#### Comprehensive Automobile

a. Bodily Injury and Property Damage Combined Single Limit	\$1,000,000
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#### Comprehensive General Liability

a. Bodily Injury and Property person	\$1,000,000 each
Damage Combined aggregate	\$2,000,000

- B LICENSEE shall submit annually to LICENSOR a certificate of insurance. Licensee will not cancel any such policy of insurance issued to LICENSEE except after 30 written notice to LICENSOR.
- C All insurance required in accordance with (B) and (C) preceding must be effective before LICENSOR will authorize attachment to a pole and/or anchor, utilization of an anchor/guy strand or occupancy of a conduit system and shall remain in force until such LICENSEE'S Equipment have been removed from all such poles, anchors, or conduit systems. In the event that the LICENSEE shall fail to maintain the required insurance coverage, LICENSOR may consider it a default to the Agreement subject to the language in Article XXV.

#### ARTICLE XIV. LICENSE NOT EXCLUSIVE

Nothing herein contained shall be construed as a grant of any exclusive license, right or privilege to LICENSEE. LICENSOR shall have the right to grant, renew and extend rights and privileges to others not parties to this Agreement, by contract or otherwise, to use any poles covered by this Agreement.

#### ARTICLE XV. TERMINATION.

Notwithstanding anything to the contrary contained herein, provided LICENSEE is not in default hereunder beyond applicable notice and cure periods, LICENSEE shall have the right to terminate each Supplement after the Commencement Date for any reason or no reason, provided that three (3) months' prior written notice is given to LICENSOR. However, no refund will be issued by the LICENSOR for the year in question. Upon such termination, the applicable Supplement shall be of no further force or effect except to the extent of the representations, warranties, and indemnities made by each Party to the other thereunder, and LICENSEE'S obligation to remove its Equipment, conduits, and all personal property from LICENSOR'S Site and Property and restore the Site and Property as provided in this Agreement.

#### ARTICLE XVI. INTERFERENCE

- A LICENSEE, in the performance and exercise of its rights and obligations under this Agreement and any Supplement, agrees to install Equipment of the type and frequency which will not cause harmful interference which is measurable in accordance with then-existing industry standards, or physically interfere in any manner with the equipment of any higher priority users including, but not limited to, the existence and operation of any and all public and private rights-of-way, sanitary sewers, water mains, storm drains, gas mains, poles, aerial and underground electrical and telephone wires, traffic signals, communication facilities, cable television, location monitoring services, public safety and other then-existing telecommunications equipment, utility or any municipal property. In the event any LICENSEE Equipment causes interference, and after LICENSOR has notified LICENSEE of such interference by a written communication and a call to LICENSEE'S NOC (at (800) 510-6091), LICENSEE will take all

commercially reasonable steps necessary to correct and eliminate the interference including, but not limited to, at LICENSEE'S option, powering down the interfering equipment and later powering up the interfering equipment for intermittent testing. The LICENSEE agrees to cooperate with subsequent users of the Property to resolve issues affecting interference with signals.

- B The LICENSOR agrees that after the LICENSEE has attached Equipment to a specific Site, other tenants, LICENSEES, or Street Light or Utility Pole users who currently have or in the future take possession of space at the Site, with the exception of any higher priority users, will not be permitted to install new or additional equipment that is of the type and frequency which would cause harmful interference which is measurable in accordance with then-existing industry standards to the then-existing Equipment of LICENSEE or otherwise interfere with the existence and operation of equipment of higher priority users. More specifically, the LICENSOR will attempt to require each subsequent user to provide the LICENSOR with either of the following: (a) a radio frequency interference study carried out by an independent professional radio frequency engineer ("Independent RF Engineer") approved by the LICENSOR showing that such subsequent user's proposed use will not interfere with any existing, licensed communications facilities, LICENSOR'S licensed and unlicensed communications facilities, or other higher priority users, if any; or (b) a certificate of compliance from a professional radio frequency engineer employed by or chosen by the subsequent user verifying that the installation by the subsequent user, along with LICENSEE'S Equipment, will result in signals that are in compliance with then-existing RF emission requirements of the FCC and that such user's equipment will not cause interference with LICENSOR'S, LICENSEE'S or any other third party's existing use of the Street Light or Utility Pole on the Site or Property.
- C LICENSOR does not warrant that LICENSEE will be free from interference caused by third parties. LICENSOR'S obligation with respect to interference by third parties is limited to requiring compliance with the above criteria. However, in the event the LICENSEE claims interference by a subsequent user or a user with higher priority claims interference is caused by the LICENSEE, the LICENSOR may attempt to facilitate discussions between the parties. Otherwise, the LICENSEE must engage in dispute resolution with such other user (including court action if necessary) and hire its own experts as needed to resolve the issue.
- D Where agreed by LICENSEE and any other user(s), determinations as to the occurrence of harmful interference may be made by an Independent RF Engineer, which agreement would also address the party responsible for the costs of the Independent RF Engineer's analysis. If additional dispute resolution is necessary, LICENSOR shall encourage the affected parties to resolve the dispute as quickly and efficiently as possible, at no cost to the LICENSOR.

## ARTICLE XVII. REMOVAL AT END OF TERM

LICENSEE shall, upon expiration of the Term of a Supplement, or within ninety (90) calendar days after any earlier termination, remove its Equipment, conduits, fixtures, and all personal property and restore the Site to its original condition, reasonable wear and tear and damage by fire or other casualty or third parties excepted. LICENSOR agrees and acknowledges that all of the Equipment, conduits, fixtures, and personal property of LICENSEE shall remain the personal property of LICENSEE, and LICENSEE shall have the right to remove the same at any time during the Term. All Street Lights and Utility Poles, conduit, and pole boxes of LICENSOR are and shall remain the property of LICENSOR. If at such time for removal LICENSEE fails to remove its Equipment, LICENSEE shall pay rent at 150% of the then-existing yearly rate, or the existing monthly pro-rata basis if based upon a longer payment term, until such time as the removal of the antenna structure, fixtures, and all personal property are completed. However, if LICENSEE'S Equipment, conduits, fixtures, and all personal property are not removed within six (6) months of expiration of the Term of a Supplement, or any earlier termination, and are not thereafter removed within sixty (60) calendar days of LICENSOR'S written notice to LICENSEE that such items have not yet been removed, such items shall automatically become the property of LICENSOR, and LICENSOR shall dispose of such items as it desires without any compensation to LICENSEE.

#### ARTICLE XVIII. NO REPRESENTATION OR WARRANTY

- A LICENSOR makes no representation or warranty regarding the condition of its title to the Property or its right to grant to LICENSEE use or occupation thereof under this Agreement. The license granted herein is "AS IS, WHERE IS." LICENSEE is entering into this Agreement, and LICENSEE'S use of the Property is subject to LICENSEE'S own investigation and acceptance. LICENSEE'S rights granted pursuant to this Agreement are subject and subordinate to all limitations, restrictions, and encumbrances relating to LICENSOR'S interest in the Property that may affect or limit LICENSOR'S right to grant those rights to LICENSEE. This Agreement is not an Easement and does not create or grant any rights to LICENSEE except as stated herein.
- B . LICENSOR makes no representations or warranties regarding the suitability, condition or fitness of any Street Light, Utility Pole or Site for the installation, maintenance or use of LICENSEE'S equipment. LICENSEE and LICENSOR acknowledge and agree that existing future improvements, adjacent to or within the proximity of the Site, may interfere, block or degrade any radio or other wireless communication facility's signal transmitted from or received at such Site by LICENSEE, and LICENSEE expressly waives and releases LICENSOR from any liability or loss that LICENSEE may incur as a result thereof, except to the extent that any such interference , blocking or degradation results from the acts or omissions of LICENSOR. The fee shall not be abated as a result of any interference, blocking or degradation.

LICENSEE hereby waives any right of recovery from and affirmatively releases LICENSOR, its agents, officers, employees or contractors from any and all claims, liabilities, losses, damages or loss of property or revenue from any cause whatsoever



regarding any Site, specifically including, without limitation, damage, if any, resulting from LICENSOR'S maintenance operations adjacent to any Site or from vandalism or unauthorized use of any Site, except as such damage is solely caused by the negligence or willful misconduct of LICENSOR, its agents, officers, employees or contractors during the course of performing their official duties.

- C LICENSEE shall take reasonable precautions against damage to or unauthorized use of any Site.

## ARTICLE XIX. ASSIGNMENT

This Agreement and each Supplement, including any rights, privileges and obligations thereunder, under it may be sold, assigned, or transferred by the LICENSEE without any approval or consent of the LICENSOR to the LICENSEE'S principal, affiliates, subsidiaries of its principal, or to any entity which acquires all or substantially all of LICENSEE'S assets in the market defined by the FCC in which the Sites are located by reason of a merger, acquisition or other business reorganization. LICENSEE shall provide written notice of any such sales, assignments, or transfers within sixty (60) calendar days thereof. As to other circumstances, this Agreement and each Supplement may not be sold, assigned, or transferred without the prior written consent of LICENSOR, not to be unreasonably withheld, conditioned, or delayed.

## ARTICLE XX. TERMINATION OF AGREEMENT

If a Party shall fail to comply with any of the terms or conditions of this Agreement or default in any of its obligations under this Agreement, the non-breaching Party shall provide the noncomplying Party written notice of such non-compliance or default. After receipt of such written notice, the non-complying Party shall have thirty (30) days in which to cure any non-compliance or default; provided the breaching Party shall have such extended period as may be required beyond the thirty (30) days if the defaulting Party commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. Delay in curing an alleged failure to perform will be excused if due to causes beyond the control of the Party against whom the failure to perform has been alleged. If non-complying Party shall fail to cure or correct, the non-defaulting or non-complying Party may, at its option, forthwith terminate this Agreement and all licenses granted hereunder, or the licenses covering the poles as to which such default or noncompliance shall have occurred

LICENSOR shall have the right to terminate this entire Agreement or individual licenses granted hereunder:

1. If the LICENSEE'S Equipment are maintained or used in violation of any law or in aid of any unlawful act or understanding; or
2. If any permit or other authorization which may be required by any governmental authority for the operation or maintenance of LICENSEE'S

fiber, cables, wire, equipment and facilities on LICENSOR'S poles is revoked, denied, or not granted before the date when possession of such permit or authorization becomes a condition of continued operations; or

3. If LICENSEE defaults under ARTICLE IV.

B LICENSEE may terminate this Agreement at any time by removing its facilities from all of LICENSOR'S poles, as provided in ARTICLE IX (B).

#### ARTICLE XXI. TERM OF AGREEMENT

This Agreement shall, unless terminated in accordance with its provisions, continue in effect for an initial term of five (5) years. The Agreement shall automatically extend for up to two (2) additional terms of five (5) years each (each, a "Renewal Term"), upon a continuation of all the same provisions hereof, unless either Party gives the other Party written notice of terminating Party's intention to terminate the Agreement at least sixty (60) days before the expiration of the Initial Term or any Renewal Term.

Each Supplement shall commence upon the last signature on the Supplement ("Commencement Date") and shall run concurrently with this Agreement unless earlier terminated pursuant to terms of this Agreement.

#### ARTICLE XXII. NOTICES

Notices under this Agreement may be given by posting the same in first class mail to the LICENSEE as follows:

Attn: Legal and Regulatory Affairs  
8410 West Bryn Mawr  
Chicago, IL 60631  
E-mail: legaldept@uscellular.com

and to the LICENSOR as follows:

Utilities Director  
City of Grand Island  
1306 W 3<sup>rd</sup> St Grand Island, NE 68801

With a copy to:

Legal Department  
P.O. Box 1968  
Grand Island, NE 68802-1968

#### ARTICLE XXIII. PUBLIC RECORDS

This Agreement and all Supplements thereto are subject to disclosure as public records under Nebraska law. To the extent permissible under Nebraska law, LICENSEE may identify information, such as trade secrets, proprietary financial records, customer information, or technical information, submitted to the LICENSOR as confidential. LICENSEE 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 LICENSOR. The LICENSOR shall treat any information so marked as confidential until the LICENSOR receives any request for disclosure of such information. Within three (3) days of receiving any such request, the LICENSOR shall provide LICENSEE with written notice of the request. LICENSEE shall have three (3) days within which to provide a written response to the LICENSOR, before the LICENSOR will disclose any of the requested confidential information. In the event the LICENSOR provides its notice to the LICENSEE more than three (3) days after receipt of a public information request, LICENSOR will extend the period for responding to the public information request, such that the LICENSEE will have three (3) days to respond. The LICENSOR retains the final discretion to determine whether to release the requested confidential information, in accordance with applicable laws.

#### ARTICLE XXIV. DEFAULT

In the event there is a breach by a Party with respect to any of the provisions of this Agreement or a Supplement, or its obligations hereunder or thereunder, the non-breaching Party shall give the breaching Party written notice of such breach. After receipt of such written notice, the breaching Party shall have thirty (30) days in which to cure any breach; provided the breaching Party shall have such extended period as may be required beyond the thirty (30) days if the breaching Party commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. Delay in curing an alleged failure to perform will be excused if due to causes beyond the control of the Party against whom the failure to perform has been alleged. A Party's failure to cure a breach within the time period set forth herein shall constitute a “Default.”

#### ARTICLE XXV. REMEDIES

- A In the event of a Default by either Party, without limiting the non-defaulting Party in the exercise of any right or remedy which the non-defaulting Party may have by reason of such Default, the non-defaulting Party may terminate this Agreement and/or the applicable Supplement and may pursue any remedy now or hereafter available to the non-defaulting Party under applicable laws or under the judicial decisions of the State of Nebraska. Further, upon a Default, the non-defaulting Party may, at its option (but without an obligation to do so), perform the defaulting Party's duty or obligation on the defaulting Party's behalf including, but not limited to, the obtaining of reasonably required insurance policies. The costs and expenses of any such performance by the non-defaulting Party shall be due and payable by the defaulting Party within forty-five (45) days of invoice therefor.

- B The Parties acknowledge that there may not be an adequate remedy at law for noncompliance with various provisions of this Agreement, and therefore, either Party shall have the right to equitable remedies, such as, without limitation, injunctive relief and specific performance.

#### ARTICLE XXVI. ENVIRONMENTAL

LICENSEE shall conduct its business in compliance with all applicable laws governing the protection of the environment. In the event that LICENSEE encounters any hazardous substances that do not result from its activities, it shall immediately provide written notice to LICENSOR of such condition. LICENSOR hereby represents and warrants to LICENSEE that, to the best of LICENSOR's knowledge, LICENSOR has never generated, stored, handled, or disposed of any hazardous waste or hazardous substance upon the Premises, and that LICENSOR has no knowledge of such uses historically having been made of the Premises or such substances historically having been introduced thereon.

#### ARTICLE XXVII. CASUALTY

In the event of damage by fire or other casualty to any Site that cannot reasonably be expected to be repaired within forty-five (45) days following the same or which LICENSOR elects not to repair, or if the Site is damaged by fire or other casualty so that such damage may reasonably be expected to disrupt LICENSEE'S operations at the Site for more than forty-five (45) days, then LICENSEE may, at any time following such fire or other casualty, provided LICENSOR has not completed the restoration required to permit LICENSEE to resume its operation at the Site, terminate the Supplement upon fifteen (15) days' prior written notice to LICENSOR. Any such notice of termination shall cause the Supplement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of the Supplement. The rent shall abate during the period of repair following such fire or other casualty in proportion to the degree to which LICENSEE'S Approved Use of the Site is impaired.

#### ARTICLE XXVIII. FORCE MAJEURE

Notwithstanding any other provision of this Agreement, neither LICENSOR nor LICENSEE shall be liable for delay in performance of, or failure to perform, in whole or in part, its obligations pursuant to this Agreement or any Supplement, due to an event or events reasonably beyond the ability of LICENSEE or LICENSOR to anticipate and control. "Force majeure" includes, but is not limited to, acts of God, incidences of terrorism, war or riots, labor strikes or civil disturbances, earthquakes, fire, floods, explosions, epidemics and tornadoes.

#### ARTICLE XXIX. NO INTEREST IN PROPERTY

Nothing herein shall be deemed to create a lease, or grant an easement of any property, or grant any interest in any Site, other than a real property license to use the applicable Site, revocable as set forth herein.

#### ARTICLE XXX. NOT AGENT OF LICENSOR

Nothing in this Agreement or any acts of LICENSEE shall authorize LICENSEE or any of its employees, agents or contractors to act as an agent, contractor, joint venturer or employee of LICENSOR for any purpose.

#### ARTICLE XXXI. RESERVATION OF RIGHTS

LICENSEE understands, acknowledges and agrees that any and all authorizations granted to LICENSEE under this Agreement and individual Supplement are non-exclusive and shall remain subject to all prior and continuing regulatory and proprietary rights and powers of LICENSOR to regulate, govern and use LICENSOR property, as well as any existing encumbrances, deeds, covenants, restrictions, easements, dedications and other claims of title that may affect LICENSOR'S property. LICENSOR and LICENSEE agree that nothing contained in, or contemplated by, this Agreement or individual Supplement is intended to confer, convey, create or grant to LICENSEE any perpetual interest in any LICENSOR Site or in any of LICENSOR'S Rights-of-Way.

#### ARTICLE XXXII. MISCELLANEOUS

- A This Agreement and the Supplements that may be executed from time to time hereunder contain all agreements, promises, and understandings between the LICENSOR and the LICENSEE regarding this transaction, and no oral agreement, promises, or understandings shall be binding upon either the LICENSOR or the LICENSEE in any dispute, controversy, or proceeding. This Agreement and Supplements may not be amended or varied except in a writing signed by both Parties. This Agreement and Supplements shall extend to and bind the permitted successors and assigns of the parties hereto. The failure of either Party to insist upon strict performance of any of the terms or conditions of this Agreement, or to exercise any of its rights hereunder, shall not waive such rights, and such Party shall have the right to enforce such rights at any time.
- B The performance of this Agreement and each Supplement shall be governed, interpreted, construed, and regulated by the laws of Nebraska without reference to its choice of law rules.

Venue and jurisdiction for disputes arising under this Agreement shall be in the District Court of Hall County, Nebraska or the United States District Court for the District of Nebraska, as applicable

- C LICENSEE shall construct, install, operate and maintain its Equipment at each Site in accordance with all applicable federal, state and local governmental laws, rules and regulations now in existence or as hereafter enacted or amended.

#### ARTICLE XXXIII. CONDEMNATION

If the whole or any part of any Property or Site shall be taken by any public authority under the power of eminent domain, or is sold to any entity having the power of eminent domain under threat of condemnation, then the term of the applicable Supplement shall cease as of the date of the granting of the petition or the date of the closing. All rentals payable or paid to said termination date shall be paid to, or retained by, LICENSOR. Any award, compensation, or damages shall be paid to and be the sole property of LICENSOR, but nothing herein shall preclude LICENSEE from claiming against the condemning authority with respect to moving expenses and loss of personal property and, if applicable, receiving an award therefor from the condemning authority.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate as of the day and year first written above.

WITNESS (ATTEST)

\_\_\_\_\_  
\_\_\_\_\_

BY \_\_\_\_\_  
Title \_\_\_\_\_

WITNESS (ATTEST)

\_\_\_\_\_

CITY OF GRAND ISLAND, NEBRASKA,

BY \_\_\_\_\_  
Roger G. Steele, Mayor

Exhibit A

APPLICATION AND SITE LICENSE

\*Pole Attachment

Application No. \_\_\_\_\_

Date \_\_\_\_\_

\_\_\_\_\_  
(LICENSEE)

\_\_\_\_\_  
(Street Address)

\_\_\_\_\_  
(City and State)

CITY OF GRAND ISLAND UTILITIES DEPARTMENT:

In accordance with the terms and conditions of the Master Pole Attachment License Agreement between the City of Grand Island and \_\_\_\_\_, dated \_\_\_\_\_, application is hereby made for a nonexclusive license to attach telecommunications Equipment to Street Light and Utility Poles at the following sites (pole locations).

Pole Location: \_\_\_\_\_

Equipment to be attached: \_\_\_\_\_

Description of requested attachment: \_\_\_\_\_

Pole Location: \_\_\_\_\_

Equipment to be attached: \_\_\_\_\_

Description of requested attachment: \_\_\_\_\_

Pole Location: \_\_\_\_\_

Equipment to be attached: \_\_\_\_\_

Description of requested attachment: \_\_\_\_\_

**USE ADDENDUM SHEET FOR ADDITIONAL LOCATIONS**

\_\_\_\_\_  
(LICENSEE)

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

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

Phone Number: \_\_\_\_\_

\* Individual applications to be numbered in sequential ascending order by License.

Supplemental License Number \_\_\_\_\_ is hereby granted to attach the Equipment described in this application to \_\_\_\_\_ poles at the Sites set forth.

1. Non-Exclusive Master License Agreement. This Supplement is a Supplement as referenced in that certain Non-Exclusive Master License Agreement between LICENSOR and LICENSEE. All of the terms and conditions of the Agreement are incorporated herein by reference and made a part hereof without the necessity of repeating or attaching the Agreement. In the event of a contradiction, modification, or inconsistency between the terms of the Agreement and this Supplement, the terms of the Supplement shall govern. Capitalized terms used in this Supplement shall have the same meaning described for them in the Agreement unless otherwise indicated herein.

2. Site. LICENSOR hereby licenses to LICENSEE certain spaces on and within LICENSOR's Property and/or Street Light and Utility Poles in accordance with the Application and Construction Plans approved by LICENSOR. Notwithstanding the foregoing, LICENSOR makes no representations or warranties to LICENSEE with regard to the condition or structural capacity of LICENSOR's Street Light or Utility Pole. LICENSEE acknowledges and agrees that LICENSOR delivers the Site and Street Light or Utility Pole for LICENSEE's use in its current "**AS IS, WHERE IS**" condition.

3. Term. The Commencement Date and Term of this Supplement shall be as set forth in the Agreement.

4. Annual Fee. Annual fee for this Supplement shall be as provided in the Agreement, payable in annual installments. ALL FEE PAYMENTS MUST PROMINENTLY IDENTIFY THE AGREEMENT.

5. Site Specific Terms. (Include any Site-specific terms)

USCOC Nebraska/Kansas, LLC  
(LICENSEE)

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

CITY OF GRAND ISLAND  
(LICENSOR)

By: \_\_\_\_\_  
Title: Utilities Director  
Date: \_\_\_\_\_



## ADDENDUM TO SUPPLEMENTAL APPLICATION

Pole Location: \_\_\_\_\_  
Equipment to be attached: \_\_\_\_\_  
Description of requested attachment: \_\_\_\_\_

Pole Location: \_\_\_\_\_  
Equipment to be attached: \_\_\_\_\_  
Description of requested attachment: \_\_\_\_\_

Pole Location: \_\_\_\_\_  
Equipment to be attached: \_\_\_\_\_  
Description of requested attachment: \_\_\_\_\_

Pole Location: \_\_\_\_\_  
Equipment to be attached: \_\_\_\_\_  
Description of requested attachment: \_\_\_\_\_

Pole Location: \_\_\_\_\_  
Equipment to be attached: \_\_\_\_\_  
Description of requested attachment: \_\_\_\_\_

Pole Location: \_\_\_\_\_  
Equipment to be attached: \_\_\_\_\_  
Description of requested attachment: \_\_\_\_\_

Pole Location: \_\_\_\_\_  
Equipment to be attached: \_\_\_\_\_  
Description of requested attachment: \_\_\_\_\_

Pole Location: \_\_\_\_\_  
Equipment to be attached: \_\_\_\_\_  
Description of requested attachment: \_\_\_\_\_

Pole Location: \_\_\_\_\_  
Equipment to be attached: \_\_\_\_\_  
Description of requested attachment: \_\_\_\_\_

## NOTIFICATION OF POLE ATTACHMENT ABANDONMENT

\* Abandonment Notice No. \_\_\_\_\_

Date \_\_\_\_\_

\_\_\_\_\_  
(LICENSEE)\_\_\_\_\_  
(Street Address)\_\_\_\_\_  
(City and State)

## CITY OF GRAND ISLAND UTILITIES DEPARTMENT:

In accordance with the terms and conditions of the License Agreement between us, dated \_\_\_\_\_, notification is hereby made of abandonment of pole attachments of communications equipment as listed below:

Pole Location: \_\_\_\_\_

Pole Location: \_\_\_\_\_

Pole Location: \_\_\_\_\_

*(Use additional sheet (s) for additional locations)*\_\_\_\_\_  
(LICENSEE)

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

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

Phone Number: \_\_\_\_\_

CITY OF GRAND ISLAND UTILITIES DEPARTMENT  
(LICENSOR)

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

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

Phone Number: \_\_\_\_\_

\*Individual abandonment notifications to be numbered in sequential ascending order by LICENSEE.

Pole Location: \_\_\_\_\_

Pole Location: \_\_\_\_\_

Pole Location: \_\_\_\_\_

Pole Location: \_\_\_\_\_

Pole Location: \_\_\_\_\_

Pole Location: \_\_\_\_\_

Pole Location: \_\_\_\_\_

Pole Location: \_\_\_\_\_

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Pole Location: \_\_\_\_\_

Pole Location: \_\_\_\_\_

Pole Location: \_\_\_\_\_

Pole Location: \_\_\_\_\_

Pole Location: \_\_\_\_\_

Pole Location: \_\_\_\_\_

Pole Location: \_\_\_\_\_

## APPENDIX 1

### SCHEDULE OF FEES AND CHARGES

THIS APPENDIX 1 is, from the effective date hereof, an integral part of the License Agreement between the City of Grand Island, herein called LICENSOR, and\_\_\_\_\_, therein called LICENSEE, dated \_\_\_\_\_, 20\_\_\_\_ (hereinafter called the Agreement), and contains the fees and charges governing the use of LICENSOR'S poles to accommodate the fiber, cable, wire equipment and facilities of LICENSEE in the territory in which both parties hereto now or hereafter operate. The effective date of this APPENDIX 1 is \_\_\_\_\_.

### POLE ATTACHMENTS

1. ATTACHMENT FEE: As determined by the most current Fee Schedule for the City of Grand Island.

- a. Computation:

For the purpose of computing the total attachment fees due hereunder, the total fee shall be based upon the number of poles to which attachments are actually made, on the first day of June and the first day of December of each year. The first advance payment of the annual charge for Licenses granted under this Agreement shall be prorated from the date that the attachment is made to the pole to the first regular payment date.

- b. Payment Amount:

The annual rate to collocate on a City-owned pole is \$20.00 (twenty dollars) per pole per year.

- c. Payment Date:

Attachment fees shall be due and payable semiannually, in advance, on the first day of January for the first half of the calendar year next preceding, and on the first day of July for the last half of the calendar year. Failure to pay such fees within 20 days after presentment of the bill therefore or on the specified payment date, whichever is later, shall constitute a default of this Agreement.

d. Termination of License:

Upon termination or surrender of a license granted hereunder, the applicable attachment fee shall be prorated for the period during which the attachment was made to LICENSOR'S pole during the final semiannual period and shall be credited to LICENSEE; provided, however, that there shall be no proration of an attachment fee if the license is terminated as a result of any act or omission of LICENSEE in violation of this Agreement.

2. OTHER CHARGES

a. Computation:

(1) All charges incurred by LICENSOR as a result of inspections, engineering, rearrangements, removals of LICENSEE'S facilities from LICENSOR'S poles and any other work performed for LICENSEE shall be based upon the full cost and expense to LICENSOR for performing such work plus the appropriate current overhead rate on the costs incurred in performing such work for LICENSEE. The cost to LICENSOR shall be determined in accordance with the regular and customary methods used by LICENSOR in determining such costs.

(2) The charge for replacement of poles shall include the entire non-

betterment cost to LICENSOR, including the increased cost of larger poles, sacrificed life value of the poles removed, cost of removal less any salvage recovery and the cost of transferring LICENSOR'S facilities from the old to the new poles.

b. Payment Date:

All bills for such other charges shall be payable upon presentment to LICENSEE, and shall be deemed delinquent if not paid within 30 days after presentment to LICENSEE.

DATED: \_\_\_\_\_

WITNESS (ATTEST)

\_\_\_\_\_

BY \_\_\_\_\_

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

WITNESS (ATTEST)

\_\_\_\_\_

CITY OF GRAND ISLAND, NE

A Municipal Corporation

BY \_\_\_\_\_

Title: Mayor

## APPENDIX 2

### ATTACHMENTS TO POLES

THIS APPENDIX 2 is, from the effective date hereof, an integral part of the License Agreement (hereinafter called the Agreement) between the City of Grand Island, therein called LICENSOR, and, \_\_\_\_\_ therein called LICENSEE, dated \_\_\_\_\_, 20\_\_\_\_, and contains certain minimum requirements and specifications governing the attachment of fiber, Equipment of LICENSEE (sometimes called Attachments in this Appendix) to poles of LICENSOR in the territory in which both parties hereto now or hereafter operate. The effective date of this Appendix 2 is \_\_\_\_\_, 20\_\_\_\_.

#### GENERAL

1. The LICENSEE is responsible for the proper design, construction and maintenance of its Attachments. Attachments generally will be limited to strand support cable, wire, service drops, terminals and necessary appurtenances deemed by LICENSOR to be suitable for pole mounting.
2. Any rearrangement of LICENSOR'S facilities or replacement of poles required to accommodate LICENSEE'S Attachments shall be done by LICENSOR or a contractor authorized by LICENSOR.
3. The fees and charges specified in APPENDIX 1 shall be applicable, (to all licenses granted to LICENSEE hereunder) without regard to the methods of attachment used.
4. LICENSEE'S Attachments shall be plainly identified by appropriate marking, satisfactory to LICENSOR.
5. LICENSEE'S workmen shall assure themselves that any pole to be climbed has sufficient strength or is adequately braced or guyed to support the weight of the workmen.
6. All requirements of the National Electrical Safety Code referred to herein shall mean the 2017 Edition of such code, or any later amendment or replacement thereof, and shall include any additional requirements of any applicable Federal, State,

County or Municipal Code. References to simply the Safety Code, or to N.E.S.C., have the same meaning.

7. While many of the standards and technical requirements for LICENSEE'S cable, equipment and facilities are set forth herein, LICENSOR reserves the right to specify the type of construction required in situations not otherwise covered in this Appendix. In such cases, LICENSOR will in its discretion furnish to LICENSEE written material which will specify and explain the required construction.

8. LICENSEE'S Attachments shall not use or carry voltages or currents in excess of the limits prescribed for cable television conductors by the National Electrical Safety Code Section 230 F1 & F2. However, all parts of the LICENSEE'S Attachments carrying voltages in excess of 60 volts AC (rms) to ground or 135 volts DC to ground, except for momentary signaling or control voltages, shall be enclosed in an effectively grounded sheath or shield. All energized parts of LICENSEE'S Attachments shall be suitably covered to prevent accidental contact to the general public, LICENSOR'S workmen or workmen of another LICENSEE having facilities on the same pole.

9. LICENSOR shall determine whether LICENSEE'S Attachments cause or may cause electrical interference with LICENSOR'S or any other LICENSEE'S communication/education facilities. LICENSEE shall, on demand of the LICENSOR, correct immediately at LICENSEE'S expense any such interference including, if necessary, removal of the Attachments causing the interference.

10. No Attachment shall use the earth as the sole conductor for any part of the circuit.

11. LICENSEE shall not circumvent LICENSOR'S or any other LICENSEE'S corrosion mitigation measures (e.g., short circuit insulating joints).

#### GROUNDING AND BONDING

12. All power supplies shall be grounded. The neutral side of the power drop shall be continuous and not fused. The neutral line shall also be bonded to any power supply cabinet. Any cabinet shall be connected to an earth ground at the pole. In areas where the LICENSOR has a ground wire (which is connected to the LICENSOR'S neutral) running down the pole, the cabinet can be connected to it. Where a LICENSOR vertical



ground wire is not available, the LICENSEE must place a ground rod. All cabinets, housings and metal socket bases on a common pole shall be bonded to each other, to the LICENSOR'S strand and to the LICENSEE'S strand.

13. Where two or more aerial suspension strands are located on the same pole, the suspension strands shall be bonded together. LICENSEE shall attach the bonding wire to its strand and leave a sufficient length of wire to complete the bond. Where the strands of two or more LICENSEEs are to be bonded together, the LICENSEE placing the last strand, if authorized to do so by the other LICENSEEs, shall make both connections. Where such authorization is not granted by the LICENSEE owning the existing strand, LICENSEE shall attach the bonding wire to its strand and leave enough wire to permit making a connection and shall be responsible for completing the bonding. LICENSEE may bond its cable sheath to LICENSOR'S common neutral, vertical ground wires, and ground rods at whatever frequency LICENSEE desires. All vertical ground wires shall be covered by a molding. Ground rods installed by LICENSEE shall be in accordance with National Electrical Safety Code.

14. Suspension strands at trolley feeders and trolley contact wires located on the same street shall be bonded at the first, last and every intermediate fifth poles until the remaining section between bonds is not more than eight or less than four spans. At other locations, the strands shall be bonded at the first, last and every intermediate tenth poles until the remaining section between bonds is not more than thirteen or less than four spans. Strands shall be bonded at or near the first pole on each side of underground dips or trolley wire crossovers.

15. Strands attached to the same bolt do not have to be bonded.

16. Where a LICENSEE'S strand leaves a pole which carries other strands supporting cable television cables, and LICENSEE'S strand continues to a pole carrying power facilities of LICENSOR, LICENSEE'S fiber cable shall be:

- (A) Bonded to other cable television strands on the pole that it leaves;
- (B) Bonded to an effective ground preferably within two spans but not greater than ten (10) spans after leaving said pole, and;
- (C) Bonded with a No. 6 solid, soft-drawn copper wire. The wire must be attached to the strand with an approved clamp, such as a lashing

wire clamp, designed for attachment to each specific size of strand involved (for example, Chance Lashing Wire Clamp, Catalog Number 9000, or equivalent).

17. Strands supporting drop wire shall be bonded to the cable suspension strand.

18. Any connecting or bonding to LICENSOR'S facilities shall be done by LICENSOR and the connecting or bonding wire shall be sufficient length to allow LICENSOR to complete the connection or bond.

### CLEARANCES

19. LICENSEE'S Attachments are subject to cable television facilities clearances and shall meet all of the pertinent clearance requirements of the National Electric Safety Code. Safety Code rules covering the most commonly encountered conditions are listed below:

NESC 2017 Edition  
General Rule

(A)	Vertical clearance on poles jointly occupied by communication fiber, cable television facilities, and power facilities	235
(B)	Mid-span clearance between communication fiber, cable television facilities, and power facilities	235
(C)	Crossing clearances of facilities carried on different supports	233
(D)	Clearances from street light brackets and associated wiring	238
(E)	Clearances of conductors from another line	233
(F)	Clearances of vertical and lateral conductors from other wires and	239

	surfaces on the same support	
(G)	Clearances in any direction from line conductors and supports, and to vertical or lateral conductors, span or guy wires, attached to the same support	235
(H)	Vertical clearance of wires above ground or rails	232
(I)	Structures for overhead lines	280
	1. Supporting structure items one (1) thru five (5)	
	2. Unusual conductor supports	
(J)	Minimum approach distance to energized conductors by communication workers	431

#### LOCATION AND SPACING

20. LICENSOR shall specify the location of LICENSEE'S Attachments on each pole, including the location of LICENSEE'S riser cables. Where LICENSOR has installed its own communication circuits (supervisory control circuits) for operation of its electric system, clearance of LICENSEE'S facilities from these communication circuits shall be the same as from LICENSOR'S common neutral conductor.

21. The minimum vertical separation between LICENSEE'S strand, and the strand of another LICENSEE when located on same side of pole shall be twelve (12) inches. LICENSEE'S strand shall be located at a point on the pole that provides the minimum clearance allowed by the National Electric Safety Code from the ground. LICENSEE may, however, agree with another LICENSEE to reduce the separation between their respective strands. Separation between the bolt holes must be in any event at least four (4) inches.

22. LICENSEE shall be required to place all of its Attachments, so not to interfere with climbing space, as defined in the National Electrical Safety Code.

23. Through bolts may not be placed less than ten inches from the top of the

pole. When through bolts present a hazard to climbing; i.e., extend more than two inches beyond the nut, they shall be trimmed to a safe length.

24. Pole steps will not be allowed on any LICENSOR pole, except to specific cases judged to be in the interest of safety by the LICENSOR.

### LOADING

25. The LICENSEE shall furnish to LICENSOR as a part of Exhibit A to this Agreement the details as to the ultimate strength, tension at 60F, and maximum tension in its suspension strand or conductor under the applicable storm loading specifications in Code.

26. LICENSEE shall furnish to LICENSOR as a part of Exhibit A to this Agreement details as to the weight and size of its fiber/cables, suspension strands and/or conductors, with and without the ice loading, as specified by the National Electrical Safety Code (Rule 251) or appropriate local code for the loading area concerned. NESC Rule 250 covers the degree of loading (light, medium, heavy) appropriate in different sections of the country. Where a local code designates a heavier degree of loading than the NESC, the local requirements shall govern.

27. LICENSEE may lash its fiber/cable to the strand of another LICENSEE, where this is acceptable to all other LICENSEEs involved and to LICENSOR. Maximum tension of LICENSEE'S strand shall not exceed 60% of the breaking strength under applicable storm loading, as defined by the National Electrical Safety Code (Rule 251). Where local codes designate a heavier degree of loading than the NESC, the local requirements shall govern.

### GUYING

28. Guying will be required on poles where the total unbalanced load, including the tension due to LICENSEE'S Attachments under the appropriate storm loading prescribed by the National Electrical Safety Code (Rule 251), exceed 200 pounds unless the pole was designed as an unguyed corner pole and the pole has adequate strength and stability, in the opinion of LICENSOR, to withstand the additional load.

29. Guys, when required, shall be of such material and dimensions as to

provide adequate strength to withstand the transverse loads specified in the National Electrical Safety Code (Rule 252B), and the longitudinal load assumed in the Code (Rule 252C). Guys on poles which also support power facilities shall be in compliance with the National Electrical Safety Code (Rule 261C and 282).

30. Guy guards shall be installed in compliance with NESC (Rule 282E).

31. LICENSEE may attach its guy to LICENSOR'S anchor rods only where LICENSOR specifically authorizes it in writing. Should it be necessary to replace the anchor at a later date to provide added strength for LICENSOR'S requirements, the anchor shall be replaced at LICENSEE'S expense if the existing anchor rod would support LICENSOR'S Attachments without regard to LICENSEE'S guy.

32. More than one LICENSEE may use a common guy to sustain their combined load.

33. Guys shall be insulated as specified in the Safety Code (Rules 215 and 283) and at any location where LICENSEE'S guy parallels LICENSOR'S guy with insulator. LICENSEE'S guys shall not short circuit LICENSOR'S guy insulators.

34. Cross guying of LICENSEE'S guys with LICENSOR'S guys is not allowed.

35. Material used for guys shall be compatible from a corrosion standpoint with the hardware to which it is attached.

DATED: \_\_\_\_\_

WITNESS (ATTEST)

\_\_\_\_\_

BY \_\_\_\_\_

Title:

WITNESS (ATTEST)

CITY OF GRAND ISLAND, NEBRASKA  
A Municipal Corporation

\_\_\_\_\_  
BY \_\_\_\_\_

Title: Mayor

RESOLUTION 2020-193

WHEREAS, USCOC Nebraska/Kansas LLC is a telecommunications company that wishes to attach small cell antennas and accessories to City owned utility poles; and

WHEREAS, a Pole Attachment License Agreement is needed to allow the equipment to be placed on City utility poles; and

WHEREAS, the National Electric Safety Code prescribes methods and clearances required for installation of multiple wire strand utility company facilities and equipment on utility poles; and

WHEREAS, the proposed Pole Attachment License Agreement requires USCOC Nebraska/Kansas LLC to pay the per pole annual fee as determined by the current Fee Schedule for the City of Grand Island that is received from other companies that utilize this service.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Mayor is hereby authorized to, on behalf of the City, to execute the Pole Attachment License Agreement between the City of Grand Island and USCOC Nebraska/Kansas LLC.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, August 25, 2020.

\_\_\_\_\_  
Roger G. Steele, Mayor

Attest:

\_\_\_\_\_  
RaNae Edwards, City Clerk

Approved as to Form	☐ _____
August 20, 2020	☐ City Attorney