



RESOLUTION NO. U-11591

1 A RESOLUTION related to the Department of Public Utilities, Light Division;
2 authorizing the execution of the proposed Amendment No. 1 to the Pre-
3 Payment Agreement with Crown Castle Fiber LLC to increase the
4 maximum cumulative Pre-Payment Account Balance from \$500,000 to
5 \$5,000,000.

6 WHEREAS the City of Tacoma, Department of Public Utilities, Light
7 Division ("Tacoma Power") entered into Wireline and Wireless Master Pole
8 Attachment Agreements with Crown Castle Fiber LLC ("Crown Castle") on
9 March 28, 2022 (the "MPAA"), and

10 WHEREAS under the MPAA, Crown Castle must submit an application
11 for review and approval before installing pole attachments, and

12 WHEREAS if the proposed route requires work to create space on the
13 poles for the proposed pole attachment (the "make-ready work"), Tacoma
14 Power will survey the route and provide an estimate for the necessary make-
15 ready work, and

16 WHEREAS Crown Castle must approve the estimate by signing the
17 quotation and submitting full payment for each route that requires make-ready
18 work and this process is repeated for each application requiring make-ready
19 work, and

20 WHEREAS to expedite the approval, payment, and scheduling of
21 Tacoma Power make-ready work, a Pre-Payment Agreement was executed
22 with Crown Castle on November 19, 2025, and
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WHEREAS the agreement established a maximum deposit limit of \$500,000 and allows Crown Castle to maintain a pre-payment account with Tacoma Power, and

WHEREAS Tacoma Power draws from this account to cover estimated costs for make-ready work, and

WHEREAS Crown Castle has requested an increase its maximum cumulative Pre-Payment Account Balance in the Pre-Payment Agreement from \$500,000 to \$5,000,000 to support upcoming wireline and wireless projects within the Tacoma Power service area; Now, Therefore,

BE IT RESOLVED BY THE PUBLIC UTILITY BOARD OF THE CITY OF TACOMA:

That Amendment No. 1 to Pre-Payment Agreement between the Department of Public Utilities, Light Division ("Tacoma Power") and Crown Castle Fiber LLC ("Crown Castle"), to increase the maximum cumulative Pre-Payment Account Balance for Crown Castle from \$500,000 to \$5,000,000, to facilitate make-ready work in accordance with Tacoma Power's Master Pole Attachment Agreement is hereby approved, and the Director is authorized to execute said Agreement, in substantially such form as on file with the Clerk of the Board and as approved by the City Attorney's Office.

Approved as to form:

/s/	Chair
_____	_____
Chief Deputy City Attorney	Secretary
_____	Adopted _____
Clerk	



Board Action Memorandum

TO: Jackie Flowers, Director of Utilities
COPY: Charleen Jacobs, Director and Board Offices
FROM: Tosha Siebert, Transmission and Distribution Section Manager
MEETING DATE: March 11, 2026
DATE: February 20, 2026

GUIDING PRINCIPLE ALIGNMENT (select as many that apply):

Please indicate which of the Public Utility Board's Guiding Principle(s) is supported by this action.

- Customer and Community
- Resource Sustainability and Stewardship
- Employees and Culture

SUMMARY: Tacoma Power requests Public Utility Board approval to amend the Crown Castle Fiber LLC Pre-Payment Agreement to increase the maximum deposit limit from \$500,000 to \$5,000,000. This adjustment is intended to facilitate the expedited payment of make-ready work, reduce administrative costs, and minimize project delays in accordance with Tacoma Power's Master Pole Attachment Agreement.

BACKGROUND: Tacoma Power entered into Wireline and Wireless Master Pole Attachment Agreements (MPAA) with Crown Castle Fiber LLC on March 28, 2022. Under the MPAA, Crown Castle must submit an application for review and approval before installing pole attachments. If the proposed route requires make-ready work to create space on the poles, Tacoma Power will survey the route and provide an estimate for the necessary work. The customer must approve the estimate by signing the quotation and submitting full payment. This process is repeated for each application.

To expedite the approval, payment, and scheduling of Tacoma Power make-ready work, a Pre-Payment Agreement was executed with Crown Castle Fiber LLC on November 19, 2025. The agreement established a maximum deposit limit of \$500,000 and allows Crown Castle to maintain a pre-payment account with Tacoma Power. With Crown Castle's authorization, Tacoma Power draws from this account to cover estimated costs for make-ready work.

Crown Castle Fiber LLC has requested an increase in the Pre-Payment Agreement maximum deposit limit from \$500,000 to \$5,000,000 to support upcoming wireline and wireless projects within the Tacoma Power service area.

ARE THE EXPENDITURES AND REVENUES PLANNED AND BUDGETED? No

IF THE EXPENSE IS NOT BUDGETED, PLEASE EXPLAIN HOW IT IS TO BE COVERED.

Expenses associated with Tacoma Power's pole attachment program are recovered through costs outlined in the Master Pole Attachment Agreement and Pre-Payment Agreement.

IF THE ACTION REQUESTED IS APPROVAL OF A CONTRACT, INCLUDE LANGUAGE IN RESOLUTION AUTHORIZING \$200,000 INCREASE IN ADMINISTRATIVE AUTHORITY TO DIRECTOR? No



Board Action Memorandum

ATTACHMENTS:

Crown Castle Wireline Master Pole Attachment Agreement
Crown Castle Wireless Master Pole Attachment Agreement
Crown Castle Pre-Payment Agreement
Crown Castle Pre-Payment Agreement Amendment No. 1

CONTACT:

Primary Contact: Beverley Pinkerton, Senior Business Services Analyst, 253-441-4945
Supervisor's Name: Joseph Parris

**AMENDMENT NO. 1 TO PRE-PAYMENT AGREEMENT
BETWEEN
CITY OF TACOMA DEPARTMENT OF PUBLIC UTILITIES
LIGHT DIVISION
AND
CROWN CASTLE FIBER LLC**

THIS AMENDMENT is made and entered into effective as of the ___ day of _____, 2026 ("Effective Date"), by and between the **CITY OF TACOMA**, Department of Public Utilities, Light Division, dba Tacoma Power (hereinafter called "Tacoma Power") and **Crown Castle Fiber LLC** (hereinafter called "Crown Castle"). Tacoma Power and Crown Castle are sometimes referenced in this Amendment individually as "Party" and collectively as "Parties."

WHEREAS, Tacoma Power and Crown Castle entered into a Pre-Payment Agreement (herein "Agreement") with an effective date of November 19, 2025, for the purpose of expediting the approval, payment, and scheduling of Tacoma Power Make-Ready Work in the not to exceed cumulative deposit amount of \$500,000 with a termination date of November 18, 2027; and

WHEREAS, the Parties desire to amend the Agreement to increase the maximum cumulative Pre-Payment Account balance to no more than \$5,000,000 at any given time.

NOW, THEREFORE, in consideration of the mutual promises and obligations hereinafter set forth, the Parties hereby agree as follows:

1. The not to exceed amount in Section V.A. and the maximum cumulative Pre-Payment Account Balance of the Pre-Payment deposits by Company, as set forth in Section V. G., is hereby increased by \$4,500,000 from \$500,000 to \$5,000,000.

EXCEPT AS SPECIFICALLY MODIFIED BY THIS AMENDMENT NO. 1, all other terms of the Agreement, together with all Exhibits, Attachments and/or Schedules thereto, are hereby ratified and shall remain in full force and effect, unaltered by this Amendment No.1.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment effective as of the Effective Date first written above.

CITY OF TACOMA
Department of Public Utilities, Light
Division, 0/8/A Tacoma Power

Jackie Flowers
Director of Utilities

Date

Andrew Cherullo
Finance Director

Date

Approved as to Form:

Deputy City Attorney
Michael W Smith

Date

Crown Castle Fiber LLC

Name: _____

Title: _____

City of Tacoma use only – Approver Initials

Senior Manager, Business Services: Sharon Brophy _____

Section Manager, Power Utility: Tosha Siebert _____

Senior Accountant, Finance Utility: Emilee Sibbett _____

Pre-Payment Agreement

Between

**City of Tacoma
Department of Public Utilities
Light Division**

And

Crown Castle Fiber LLC

This Pre-Payment Agreement ("Agreement") is executed in duplicate this 19th Day of November, 2025 ("Effective Date") by and between the **City of Tacoma, Department of Public Utilities, Light Division**, a municipal corporation of the State of Washington (d/b/a and hereinafter referred to as "Tacoma Power") and **Crown Castle Fiber LLC** (hereinafter referred to as "Company"). Tacoma Power and Company are sometimes referenced in this Agreement individually as "Party" and collectively as "Parties."

BACKGROUND

- A. The Parties have entered into that Master Pole Attachment Agreement ("MPAA") dated March 28, 2022.
- B. The MPAA requires the Company to submit a completed application for review and approval by Tacoma Power prior to placing pole attachments. The Company's proposed pole attachment route may require Make-Ready Work in order to provide space on pole(s). Per the MPAA, Tacoma Power will survey the proposed route and prepare an estimate of Tacoma Power's cost to perform Make-Ready Work. Tacoma Power will then include the estimate on a quotation form and submit it to the Company for their review and approval. Before Tacoma Power will schedule or commence any Make-Ready Work, the Company must, pursuant to the MPAA, sign and return the quotation form with a check for full payment. Per the MPAA and quotation form, this process is followed for each application.
- C. In order to expedite the approval, payment, and scheduling of Tacoma Power Make-Ready Work, the Parties desire to implement the pre-payment procedure described in this Pre-Payment Agreement (the "Pre-Payment Procedure"). The Pre-Payment Procedure will allow the Company to deposit monies with Tacoma Power into a Pre-Payment Account (as defined below). With Company or Company's Designee approval, Tacoma Power will draw from that Pre-Payment Account to pay its estimated costs to complete Tacoma Power Make-Ready Work.

NOW THEREFORE, in consideration of the mutual covenants, terms and conditions set out below the Parties agree as follows:

I. BACKGROUND.

The background section is incorporated into and made a part of this Agreement.

II. DEFINITIONS.

The capitalized terms in this Agreement shall have the meanings as defined or specified in this Agreement. The term "Make-Ready Work" is defined in the MPAA.

III. TERM

- A. **Term.** The Term of this Agreement shall commence on the Effective Date and shall continue in effect for a period of twenty-four (24) months.
- B. **Termination.** This Agreement may be terminated by either Party at any time upon sixty (60) calendar days formal written notice thereof provided by the other Party.

IV. MPAA

Except for the Pre-Payment Procedure as expressly provided for in this Agreement, the terms and condition of the MPAA govern the Parties' agreement relative to the subject matter of the MPAA and the Company's access to and use of Tacoma Power poles including, without limitation, the process of issuing quotes for Tacoma Power Make-Ready Work.

V. PRE-PAYMENT PROCEDURE

- A. **Pre-Payment Deposit.** To participate in the Pre-Payment Procedure, Company shall deposit, within thirty (30) calendar days of the Effective Date, a minimum pre-payment deposit of Two Hundred Thousand and No/100 Dollars (\$200,000.00), and not to exceed Five Hundred Thousand and No/100 Dollars (\$500,000.00), (the "Pre-Payment Deposit").
- B. **Pre-Payment Account.** Tacoma Power will account for the Pre-Payment Deposit and additional deposits as provided for herein in a separate Tacoma Power account known as the "Pre-Payment Account". The Pre-Payment Account funds will be used to reimburse Tacoma Power's costs for Tacoma Power Make-Ready Work. The Pre-Payment Account will be non-interest-bearing.
- C. **Deposits.** Company shall make deposits as necessitated to cover costs associated with Quotes (as defined below) approved under the terms of this Agreement.

Checks shall be made payable to:

City of Tacoma

Checks shall be mailed to:

Tacoma Public Utilities
Attn: Tacoma Power Business and Financial Management
3628 S 35th St.
Tacoma, WA 98409

- D. **Estimated Cost/Quote.** A "Quote," as defined herein, means a quotation form containing the estimated cost to perform the specified Tacoma Power Make-Ready Work. "Company's

Designee" or "Designee" means a company or party designated by the Company in writing to Tacoma Power as authorized to review and approve Tacoma Power Quotes. Tacoma Power will send email notifications to the Company or to a Company Designee when Quotes are available for review in Accela. If the Company, or Company's Designee, approve the Quote, the Company or Designee, shall have thirty (30) calendar days from receiving the email notification to upload a copy of the Tacoma Power Quote signed by Company or its Designee into Accela. Upon receipt of the signed quote, Tacoma Power will deduct the Quote amount from the Pre-Payment Account. Confirmation of such deduction shall be provided in the monthly Statement (as defined below). If the estimated cost of the Quote exceeds the remaining balance in Company's Pre-Payment Account, Tacoma Power shall notify Company via email at time of Quote issuance and Company must deposit additional funds within thirty (30) business days of receipt of such notification.

- E. Actual Cost/True-Up.** Upon completion of the Make-Ready Work, Tacoma Power will determine the actual cost for said work ("Actual Costs"). In the event the Actual Costs exceed the estimated cost provided in the Quote, a final invoice will be generated and provided to Company for payment. Company agrees to pay Tacoma Power for the difference in cost, provided that Tacoma Power documents such costs to enable Company to verify the cost difference in compliance with the requirements of this Agreement. In the event the amount of the estimated cost provided in the Quote exceeds the Actual Costs, Tacoma Power shall refund to Company the difference in cost. Amounts resulting from true-up shall not be deducted from or added to the balance in the Pre-Payment Account unless agreed to by both Parties.
- F. Monthly Statement.** Tacoma Power shall keep records of all Pre-Payment Account deposits by Company pursuant to this Agreement and of all Tacoma Power refunds and deductions from such Pre-Payment Account. Tacoma Power will prepare and provide a monthly reconciliation statement detailing such deposits, deductions, and refunds to Company in an agreed-upon format ("Statement") no later than the 10th of each month. The Statement shall include a starting and ending balance for each month. Company will review the monthly Statement by the 25th of each month. If there is a disagreement after the reconciliation Statement is provided, the Parties will meet within ten (10) business days to resolve such disagreement. Within thirty (30) calendar days following the date of expiration or earlier termination of this Agreement pursuant to Section III "Term," Tacoma Power will submit to Company a final written Pre-Payment Account Statement.
- G. Pre-Payment Account Balance.** Company shall deposit funds to ensure that the balance in the Pre-Payment Account is sufficient to cover costs associated with Quotes approved by the Company or Company's Designee under the terms of this Agreement. Deposits shall be made as provided for in Section V.C. The maximum accumulative account balance in the Pre-Payment Account shall be no more than Five Hundred Thousand and No/100 Dollars (\$500,000.00) at any given time. Deposits in excess of \$500,000 or deposits that will result in a Pre-Payment Account balance in excess of \$500,000 shall be returned to Company. In the event the Pre-Payment Account balance is insufficient to cover the estimated Make-Ready Work costs, Tacoma Power shall email notice to Company to make a sufficient deposit within thirty (30) calendar days. If Company fails to make the said deposit within thirty (30) calendar days, or at any time the Pre-Payment Account balance falls to \$0, Tacoma Power may discontinue using the Pre-Payment Procedure and use the Make-Ready Work process specified in the MPAA until sufficient additional funds are deposited.

H. Refunds. Upon termination or expiration of this Agreement, Tacoma Power will submit a final written Statement to the Company detailing a closing balance of the Pre-Payment Account. Any balance remaining in the Pre-Payment Account shall be remitted to Company in full within forty-five (45) calendar days following Agreement termination or expiration.

I. Notices. Formal and informal notices will follow the terms and conditions specified in the MPAA.

VI. MISCELLANEOUS PROVISIONS

- A. Amendments.** Except for the Pre-Payment Procedure expressly set forth herein, this Agreement is not intended to supersede or modify the MPAA. This Agreement may not be amended except pursuant to a written instrument signed by all parties.
- B. Assignment.** The Company shall not assign any interest in this Agreement and shall not transfer any interest in the same (whether by assignment or notation), without the prior written approval of Tacoma Power; provided that Company may assign any interest in this Agreement only to (i) any entity that is an affiliate of Company, or (ii) to any entity that acquires all or substantially all of the Company's assets that are subject to this Agreement.
- C. Applicable Law and Venue.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Washington. In the event that suit shall be brought by either party to enforce or interpret the terms of this Agreement, the parties agree that venue shall be exclusively vested in the state courts of the County of Pierce, or if federal jurisdiction is appropriate, exclusively in the United States District Court, Western District of Washington, Tacoma, Washington.
- D. No Third-Party Beneficiaries.** This Agreement shall not be construed as, or deemed to be an Agreement for the benefit of, any third party or parties; and no third party or parties shall have any right or action hereunder for any cause whatsoever.
- E. Survival.** Any Company obligations to pay Tacoma Power's Make Ready Work costs shall survive the expiration or early termination of this Agreement. Tacoma Power's obligation to provide a final written report and to make any refunds or remittances required hereunder will survive the expiration or early termination of this Agreement.
- F. No Joint Venture.** Neither this Agreement, nor the reimbursements made hereunder, shall constitute or create any form of association, joint venture, partnership or cooperative activity of any nature whatsoever for any purpose between Tacoma Power and Company.
- G. Counterparts.** This Agreement may be signed via counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement. The persons executing this Agreement are duly authorized to execute this Agreement in their individual or representative capacity as indicated.
- H. Severability.** If any provision of this Agreement shall be determined to be invalid by any court of competent jurisdiction, the remaining portions of this Agreement shall remain in full force and effect.

**City of Tacoma
Department of Public Utilities, Light
Division, D/B/A Tacoma Power**

Jackie Flowers
Jackie Flowers
Director of Utilities

12/09/2025
Date

Andrew Cherullo
Andrew Cherullo
Finance Director

12-9-2025
Date

Approved as to Form:

Michael W Smith
Michael W Smith
Deputy City Attorney

11/25/25
Date

Crown Castle Fiber LLC

Wesley Jones
[Name] Wesley Jones
[Title] Director of Permitting and Utilities

11/24/2025
Date

City of Tacoma use only – Approver Initials

Senior Manager, Business Services: Sharon Brophy SB

Section Manager, Power Utility: John Merrell JM

Senior Accountant, Finance Utility: Emilee Sibbett ES











Microsoft Word - Tacoma Power Pre-Payment Agreement_Final

Final Audit Report

















2025-12-09

Created:	2025-11-19
By:	Beverly Pinkerton (bpinkerton@cityoftacoma.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAARIUJ_m90Hpct3m0_-YKNyrdldOMKkebD

"Microsoft Word - Tacoma Power Pre-Payment Agreement_Final" History

-  Document created by Beverly Pinkerton (bpinkerton@cityoftacoma.org)
2025-11-19 - 9:39:32 PM GMT
-  Document emailed to Wesley Jones (wesley.jones@crowncastle.com) for signature
2025-11-19 - 9:49:29 PM GMT
-  Email viewed by Wesley Jones (wesley.jones@crowncastle.com)
2025-11-21 - 10:09:01 PM GMT
-  Document e-signed by Wesley Jones (wesley.jones@crowncastle.com)
Signature Date: 2025-11-24 - 5:24:10 PM GMT - Time Source: server
-  Document emailed to Beverley Pinkerton (bpinkerton@tacoma.gov) for approval
2025-11-24 - 5:24:12 PM GMT
-  Email viewed by Beverley Pinkerton (bpinkerton@tacoma.gov)
2025-11-24 - 5:53:25 PM GMT
-  Document approved by Beverley Pinkerton (bpinkerton@tacoma.gov)
Approval Date: 2025-11-24 - 5:54:31 PM GMT - Time Source: server
-  Document emailed to Sharon Brophy (sbrophy@tacoma.gov) for approval
2025-11-24 - 5:54:33 PM GMT
-  Email viewed by Sharon Brophy (sbrophy@tacoma.gov)
2025-11-24 - 6:36:27 PM GMT
-  Document approved by Sharon Brophy (sbrophy@tacoma.gov)
Approval Date: 2025-11-24 - 8:05:36 PM GMT - Time Source: server

 Adobe Acrobat Sign

-  Document emailed to John Merrell (jmerrell@tacoma.gov) for approval
2025-11-24 - 8:05:38 PM GMT
-  Email viewed by John Merrell (jmerrell@tacoma.gov)
2025-11-24 - 8:27:24 PM GMT
-  Document approved by John Merrell (jmerrell@tacoma.gov)
Approval Date: 2025-11-24 - 8:46:49 PM GMT - Time Source: server
-  Document emailed to Michael W Smith (mwsmith@tacoma.gov) for signature
2025-11-24 - 8:46:51 PM GMT
-  Email viewed by Michael W Smith (mwsmith@tacoma.gov)
2025-11-25 - 9:27:14 AM GMT
-  Document e-signed by Michael W Smith (mwsmith@tacoma.gov)
Signature Date: 2025-11-25 - 3:30:11 PM GMT - Time Source: server
-  Document emailed to Emilee Sibbett (esibbett@tacoma.gov) for approval
2025-11-25 - 3:30:13 PM GMT
-  Email viewed by Emilee Sibbett (esibbett@tacoma.gov)
2025-12-01 - 3:32:57 PM GMT
-  Document approved by Emilee Sibbett (esibbett@tacoma.gov)
Approval Date: 2025-12-01 - 3:34:08 PM GMT - Time Source: server
-  Document emailed to Andrew Cherullo (acherullo@tacoma.gov) for signature
2025-12-01 - 3:34:10 PM GMT
-  Email viewed by Andrew Cherullo (acherullo@tacoma.gov)
2025-12-06 - 1:24:37 PM GMT
-  Email viewed by Andrew Cherullo (acherullo@tacoma.gov)
2025-12-07 - 3:37:17 PM GMT
-  Email viewed by Andrew Cherullo (acherullo@tacoma.gov)
2025-12-09 - 4:08:05 PM GMT
-  Document e-signed by Andrew Cherullo (acherullo@tacoma.gov)
Signature Date: 2025-12-09 - 4:11:02 PM GMT - Time Source: server
-  Document emailed to Jackie Flowers (jflowers@tacoma.gov) for signature
2025-12-09 - 4:11:04 PM GMT
-  Email viewed by Jackie Flowers (jflowers@tacoma.gov)
2025-12-09 - 4:16:06 PM GMT

 Adobe Acrobat Sign

 Document e-signed by Jackie Flowers (jflowers@tacoma.gov)

Signature Date: 2025-12-09 - 4:17:09 PM GMT - Time Source: server

Agreement completed.

2025-12-09 - 4:17:09 PM GMT

WIRELINE Master Pole Attachment Agreement

Between

**City of Tacoma
Department of Public Utilities
Light Division**

And

Crown Castle Fiber LLC

This Master Pole Attachment Agreement ("Agreement") is executed in duplicate this 28th Day of March, 2022, by and between the **City of Tacoma, Department of Public Utilities, Light Division**, a municipal corporation of the State of Washington (d/b/a and hereinafter referred to as "Tacoma Power") and **Crown Castle Fiber LLC** a business or public agency entity engaged in telecommunications service activities in the State of Washington (hereinafter referred to as "Company"). Tacoma Power and the Company are sometimes referenced in this Agreement individually as "Party" and collectively as "Parties."

BACKGROUND

- A. Tacoma Power is authorized under Washington law to engage in the production, acquisition, distribution, and sale of electric power.
- B. Tacoma Power owns and operates an electric utility and related telecommunications infrastructure and, acting in a proprietary capacity, plans, designs, constructs, operates, and maintains a Distribution System (as defined in Section II K. below) that utilizes Poles and other electric power distribution facilities.
- C. Telecommunication service providers, government entities, and other parties desire to attach wires, cable, and other equipment onto Tacoma Power's Distribution System for the purpose of providing telecommunications and telecommunications services.
- D. As Tacoma Power desires to facilitate community access to telecommunication services and enable the best use of its Distribution System, Tacoma Power opts to provide, when it may lawfully do so, access to its Distribution System for the purpose of attaching wires, cables, and other equipment in furtherance of telecommunication services pursuant to, and in strict compliance with, the terms and conditions of this Agreement.

THEREFORE, in consideration of the mutual covenants, terms, and conditions set out below the Parties agree as follows:

I. TERM

- A. **Term.** The Term of this Agreement shall commence on the Effective Date and shall continue in effect for a period of ten (10) years ("Term").

- B. **Termination.** This Agreement may be terminated by either Party at any time upon ninety (90) days written notice thereof provided to the other Party.
- C. **Attachment Removal.** Upon termination or expiration of this Agreement, the Company shall remove all Attachments from the Pole(s) and/or other property of Tacoma Power and surrender all facilities accessed pursuant to this Agreement within ninety (90) days. If the Company fails to so remove and/or surrender within ninety (90) days, Tacoma Power may remove the Company's Attachments or hire a contractor to remove the attachments at the Company's sole expense and risk or, alternatively, Tacoma Power may claim and use such Attachments for its own purposes, which forfeiture shall be deemed to be to occur with the Company's full and unconditional consent.
- D. **Post Termination Use.** Nothing in this Agreement or associated Permits shall be construed to require Tacoma Power to allow Company to use Tacoma Power's Poles after termination of this Agreement.
- E. **Payment Obligations Preserved.** All payment obligations incurred under this Agreement shall be preserved until satisfied.

II. DEFINITIONS:

When used with initial capitalization, the following terms shall have the meaning set forth below:

- A. **Application:** means the written application, substantially in the form of **Appendix A, Pole Attachment Application**, the Company submits to Tacoma Power for placement of Attachments.
- B. **Anchor:** is a device to reinforce a Pole to which it is attached by a Guy wire.
- C. **Anchor Attachment:** consists of a Company Guy wire with shielding where appropriate, attached to a Tacoma Power Anchor. Any Attachment to an existing Tacoma Power Anchor will require prior approval by Tacoma Power.
- D. **Applicable Standards:** has the meaning as defined in Section XV.
- E. **Attachment means:**
 - 1. Any wires, cable, fiber optic cable, and/or coaxial cable, auxiliary equipment enclosure and associated hardware, owned or controlled by the Company, which is placed on a Pole, in the space normally designated for communications lines and equipment, owned or controlled by Tacoma Power as a part of its Distribution System. Attachment includes Co-lash and/or Overlash.
 - 2. Any related equipment, such as amplifiers or enclosures and other than wires, cable, fiber optic cable, coaxial cable and associated hardware, owned or

controlled by the Company, which is placed on a Pole, outside the space normally designated for communication lines.

- F. **Billing Periods:** means the two six-month billing periods, spanning January 1st through June 30th and July 1st through December 31st, respectively.
- G. **Capacity:** means the ability of a Pole to accommodate an additional attachment or attachments based on Applicable Standards.
- H. **Co-lash:** means to attach any additional "aerial communication cable" which consists of wires, cable, fiber optic cable, and/or coaxial cable, and associated hardware owned or controlled by a person or entity other than the Company to an existing and permitted Attachment owned by the Company.
- I. **Communications Space:** means that space on joint-use structures where communication facilities are separated from the supply space by the communication Worker safety zone. This space is below the communication worker safety zone.
- J. **Communication Worker Safety Zone or Safety Space:** means that space as defined in National Electric Safety Code (NESC) Rule 235C4. This zone generally originates at the lowest point of the supply space. This space is intended to maintain a physical separation between supply and communication facilities. The minimum dimensions of this space shall at no time be violated.
- K. **Distribution System:** means the Poles, lines, and equipment, and includes under-build on transmission structures, owned or controlled by Tacoma Power for the distribution of electrical power below 14.4 kV.
- L. **Effective Date:** means the date first written above or the date Tacoma Power approved the Company's initial Pole Attachment Application, whichever is first to occur.
- M. **Emergency:** means a situation exists which, in the reasonable discretion of the Company or Tacoma Power, if not remedied immediately, will result in a threat to public safety, a hazardous condition, damage to property or a service outage.
- N. **Force Majeure:** has the meaning ascribed to this term in Section XIII.
- O. **Guy:** means a cable used to provide support or reinforcement for Poles, installed between the Pole and an Anchor or between a pole and another Pole.
- P. **NJUNS:** means the National Joint Utility Notification System.
- Q. **Nonfunctional Attachment:** means an Attachment that does not comply with Applicable Standards, is unusable, unfit or no longer used by the Company
- R. **Overlash:** means to attach any additional "aerial communication cable" which consists of wires, cable, fiber optic cable, and/or coaxial cable, and associated

hardware owned or controlled by the Company to an existing and permitted Attachment.

- S. **Permit:** means a written acknowledgment by Tacoma Power, which grants a revocable, non-exclusive, license authorizing the Company to install and maintain Pole Attachments on Poles and/or other Distribution System facilities as specified per an approved Pole Attachment Application.
- T. **Pole:** means structures, usually wood, owned and/or controlled by Tacoma Power and used to support the lines and other equipment of the Distribution System and other Attachments, which include, but are not necessary limited to Anchors, Guy Wires, hardware, wires, cables, strands, apparatus, enclosures, structures or other items attached to the Pole or any hardware affixed to or associated with the Pole.
- U. **Reserved Capacity:** means capacity or space on a Pole that Tacoma Power has identified and reserved for its own future utility requirements at the time of the Permit grant, including the installation of communications circuits for operation of Tacoma Power's electric system.
- V. **Service Provider:** means every corporation, company, association, joint stock association, firm, partnership, person, city, or town owning, operating, or managing any telecommunications service for hire, sale, or resale to the general public and/or governmental agencies or institutions. Service provider includes the legal successor to any such entities.
- W. **Supply Space:** means space on joint-use structures where supply facilities are separated from the communication space by the communication worker safety zone. This space is above the communication worker safety zone.
- X. **Tacoma Power Make-Ready Work:** means Work performed by Tacoma Power or its contractors that is necessary to provide and prepare space on Tacoma Power's Poles for placement of Attachments. Tacoma Power Make-Ready Work does not include moving, removing, or adjusting any third party attachments to Tacoma Power poles including any third party wires, cable, fiber optic cable, and/or coaxial cable, and associated hardware.
- Y. **Third Party Make-Ready Work:** means Work performed by a third party or parties, or third party contractors that is necessary to provide and prepare space on Tacoma Power's Poles for placement of Attachments. Third Party Make-Ready Work includes, but is not limited to, removing secondary conductors and racks, raising power conductors, installing line attachment equipment, and moving, replacing and/or relocating attachments. Third Party Make-Ready Work does not include Tacoma Power Make-Ready Work.
- Z. **Unallocated Space or zone:** means the physical space located on each Pole within the Communications zone that is available and suitable for new or additional Attachments by the Company.

AA. Unauthorized Attachments: means (1) Attachments for which the Company fails to submit an Application (see Section IV of this Agreement), (2) approved Attachments for which Company fails to declare in its inventories (see Section IX of this Agreement), (3) Attachments not in accordance with Applicable Standards and codes as required by Section VIII. H, and (4) Attachments that the Company fails to timely transfer, abandon or remove as required by Section VII. E.

AB. Unauthorized Attachments Fee: has the meaning ascribed to this term in Section X.E.

AC. Work: when used in the Agreement means work and shall be understood to include all supervision, materials, labor, transportation, and equipment. When referencing the Company, "Work" shall refer to everything agreed to be done and furnished by the Company, including the Attachments, maintenance, repair, relocation and/or removal of its Attachments; and/or any other labor performed in connection with this Agreement.

III. RESPECTIVE RIGHTS AND RESPONSIBILITIES APPLICABLE TO ATTACHMENTS

A. Purpose. In accordance with the provisions of this Agreement and subject to the issuance of individual Permits, Tacoma Power agrees that the Company may make use of Poles owned or controlled by Tacoma Power as part of its Distribution System, for Attachments in furtherance of lawful telecommunications, and for no other purpose.

B. Agreement Governs All Attachments. This non-exclusive Agreement governs all Attachments by the Company, now or hereafter made to Tacoma Power's Distribution System.

C. Other Agreements and Third-Party Attachments. Nothing in this Agreement limits, restricts or prohibits Tacoma Power from continuing or entering into any other agreement or arrangement regarding the use of its Distribution System. The rights of Company under this Agreement are at all times subject to existing agreements or arrangements between Tacoma Power and any joint owner(s) of Poles and/or with respect to existing Attachments and uses of any Pole(s).

D. Attachments Must Comply with Agreement and Applicable Standards. All Attachments shall be installed and maintained in accordance with the requirements and specifications of this Agreement. Attachments and Company's performance of any work must comply with all Applicable Standards of the industry, good engineering practices and those of Tacoma Power specifically.

E. Tacoma Power's Paramount Rights.

1. Tacoma Power Discretion. Tacoma Power shall have sole discretion to determine any question regarding the right to attach, construction compliance, and shared use of available space on poles.

2. Withdrawal of Permission. Permission to make attachments to Tacoma Power poles may be withdrawn for violation of Applicable Standards, regulations or Tacoma Power policies, breach of this Agreement (including, but not limited to, failure to provide proof of required insurance and/or permits), or for any other reason associated with Tacoma Power's requirements for use of its poles.

3. Immediate Removal of Attachments. At its sole expense, Company shall immediately remove any of its Attachments that:

(a) Fails to conform to Applicable Law – which may include, but is in no way limited to the potential or actual loss of Tacoma Power's franchise rights and/or utility in good standing status based on presence of Attachment and/or failure to relocate Attachment in violation of applicable franchise and/or Pole permitting authority requirements;

(b) Interferes with the electric utility and/or telecommunication operations of Tacoma Power or the City of Tacoma – which may include, but is in no way limited to:

- Potential or actual forfeiture of Tacoma Power's right to occupy the property upon which the Attachment to its Distribution System is located.

(c) Is a Nonfunctional Attachment, as designated by Tacoma Power in its sole discretion.

Failure to remove any Attachments as required in this paragraph shall constitute an Unauthorized Attachment and is subject to the Unauthorized Attachment fee specified in Schedule 1.

4. Reserved Capacity. Access to space on Tacoma Power Poles will be made available to Company with the understanding that certain Poles may be subject to Reserve Capacity for future electric service use. At the time of Permit issuance, Tacoma Power shall notify Company if capacity on particular poles is being reserved for reasonably foreseeable future utility or electric use. For Attachments made with notice of such a Reservation of Capacity, on giving Company at least sixty (60) calendar days prior notice, Tacoma Power may reclaim such Reserved Capacity at any time following the installation of Company's Attachment if required for Tacoma Power's future utility service. If reclaimed for Tacoma Power's use, Tacoma Power may at such time also install associated facilities, including the attachment of communications lines for internal Tacoma Power operational or governmental communications requirements. Tacoma Power shall give Company the option to remove its Attachment(s) from the affected Pole(s) or to pay for the cost of any Tacoma Power Make-Ready Work needed to expand Capacity for core utility service requirements, so that Company can maintain its Attachment on the affected Pole(s). The allocation of the cost of any such Tacoma Power Make-Ready Work, (including the transfer, rearrangement, or relocation of third party Attachment(s)) shall be determined in accordance with Section V. Company shall be responsible for coordinating and arranging for any Third Party Make-Ready Work and for the costs of rearranging or replacing the attachments of a third

party if such rearranging or replacing is required as a result of Company seeking additional Attachments, modification of one of its existing Attachments, or due to clearance requirements as defined by code (see Section VII. H.). Company shall not be required to bear any of the costs of rearranging or replacing its Attachment(s), if such rearrangement or replacement is required as a result of an additional attachment or the modification of an existing attachment sought by any other entity.

5. Agreement Does Not Limit Tacoma Power's Operations. This Agreement does not in any way limit Tacoma Power's right to locate, operate, maintain, or remove its Poles in the manner that will best enable it to fulfill its service requirements or to comply with any federal, state, or local legal requirement.

F. Company Attachment Removal. Company may at any time remove its Attachments from the Tacoma Power's Distribution System provided, however, that before commencing such removal, the Company must obtain Tacoma Power's written approval of the Company's plans for removal. Said plans shall include the name of the person or entity performing such work and the date(s) and time(s) during which such work will be completed. No refund of any fees or costs will be made upon removal. If Company surrenders such Permit pursuant to the provisions of this section, but fails to remove its Attachments within thirty (30) calendar days, Tacoma Power shall have the right, but not the obligation, to remove or transfer Company's Attachments at Company's expense.

G. Company Attachment Replacement or Material Alteration. If the Company desires to replace existing Attachment equipment due to material alteration, Company must submit a completed Application prior to conducting such replacement or alteration work.

H. Pole Replacement and Relocation Notification. Whenever it is necessary to replace, move, reset, or relocate a Pole, Tacoma Power shall give notice to relocate to Company via NJUNS (except in the case of an emergency, when oral notice may be given and subsequently confirmed by email or NJUNS).

I. Subcontractor Authorization. Company must provide to Tacoma Power written notification granting Company subcontractors the authority to apply for Permits and perform work on Company's behalf. Notification must be on file with Tacoma Power prior to submittal of Permit Application.

IV. REQUESTS FOR ATTACHMENTS

A. Application. If the Company desires to place Attachments on any Pole, the Company must submit to Tacoma Power an Application substantially in the form of **Appendix A, Pole Attachment Application**. Each Pole Attachment Application is limited to fifty (50) poles or less. Company shall not place an Attachment on any Pole without completing such Application and obtaining Tacoma Power's prior written consent in the form of a Permit therefor. Permits will not be issued if Company has Unauthorized Attachments. Tacoma Power may refuse to issue

Permits if Company fails to respond to communications from Tacoma Power within two (2) weeks.

B. Application Contents. Each Application shall contain the following information:

1. The Pole(s) affected by the Company's Attachment, by identifying the number of Poles and their location. The information shall be mailed to Tacoma Power in Excel spreadsheet format and provided electronically via e-mail to format and provided electronically via e-mail to pwjointutilities@cityoftacoma.org.
2. A detailed description of the Company's Attachments that will contact Tacoma Power Poles, including a description of how the Company intends to implement its Attachments.
3. A detailed description of what action the Company proposes to take to accommodate any additional strain that will be imposed upon the affected Poles by the Company's Attachments. Attachment requirements are further discussed in Section VII.
4. Specifications of the proposed attachment including:
 - Cable and or messenger diameter in inches to the third decimal
 - Weight per foot in lbs./ft.
 - Design Tension in lbs.

C. Incomplete Applications. Incomplete applications will be returned for corrections. The deadline for returning corrected applications is two (2) weeks. If Company fails to meet the deadline, the Application will expire and a new Application and corresponding fees will be required.

D. Records and Maps. Each Application shall also include map(s) which correctly identify each Pole the Company will contact, including an attachment height block indicating the height of all current (including all third party attachments) and all requested attachments and any other information the Tacoma Power may request (for example, with regard to the proposed nature, appearance, circuit arrangement and line sags of the Attachment. Tacoma Power will make pole records and maps reasonably available, subject to reasonable compensation for staff time and materials.

E. Overlash. In the event Company desires to Overlash to a previously permitted Company Attachment, Company shall submit a Pole Attachment Application (Appendix A) to Tacoma Power prior to installing such Overlash. If Tacoma Power approves in its sole discretion such Application, the Overlash fees set forth in Schedule 1 (Attachment Fees) attached hereto, shall apply.

F. Co-lash. The following provisions shall apply to any Co-lash.

1. In the event Company desires to allow a Co-lash to accommodate the facilities of a third party, the third party must enter into a Master Pole Attachment Agreement, submit a Pole Attachment Application, and obtain a Tacoma Power approved Permit as with any Attachment as provided herein prior to installing

such Co-lash. The Co-lash fees set forth in Schedule 1 (Attachment Fees) attached hereto, shall apply. Tacoma Power shall not grant any such Permits or authorization for Co-lash without Company's consent.

2. Absent approval, any Overlash or Co-lash constitutes an Unauthorized Attachment and is subject to removal or, at Tacoma Power's discretion, subject to being billed an Unauthorized Attachment Fee per Section X.E.
3. Further, if Company allows Co-lash of its Attachments by a third party without Tacoma Power's approval as specified above, Company shall be liable for, and Company shall defend, indemnify, and reimburse Tacoma Power in connection with, all losses, costs, and expenses, including reasonable attorney's fees that Tacoma Power may incur as a result of removal of said Co-lash including, but not limited to, losses, costs, expenses and fees resulting from claims by such third parties related to the Co-lash removal.

V. MAKE-READY WORK

- A. Procedure.** Tacoma Power Make-Ready Work shall be performed by Tacoma Power. The cost of Tacoma Power Make-Ready Work shall be reimbursed by the Company pursuant to Section VII of this Agreement.

The Company's proposed route may require Tacoma Power to perform Tacoma Power Make-Ready Work in order to provide space on Pole(s) for the Company's use. At the Company's expense, Tacoma Power shall survey the proposed route and prepare an estimate of Tacoma Power's cost to perform Tacoma Power Make-Ready Work, if any. Tacoma Power will submit said estimate to the Company for their review prior to start of any Tacoma Power Make-Ready Work. Upon receipt of Tacoma Power's estimate, Company shall have **forty-five (45)** days to approve the estimate and provide payment in accordance with this Agreement and the specifications of the estimate. If Company fails to respond within forty-five days, the Application and Tacoma Power Make-Ready Work estimate will expire and a new Application, with corresponding fees, will be required.

Nothing in this Section V. shall prohibit the Company from proposing alternate routes to avoid Tacoma Power Make-Ready Work.

Upon completion of Tacoma Power Make-Ready Work, Tacoma Power shall invoice Company for Tacoma Power's actual cost of such Tacoma Power Make-Ready Work. In such case, upon completion, Company shall pay Tacoma Power's actual cost of Tacoma Power Make-Ready Work.

- B. Scheduling of Tacoma Power Make-Ready Work.** In performing all Tacoma Power Make-Ready Work, to accommodate Company's Attachment, Tacoma Power will endeavor to include such work in its normal work schedule. If Company requests that the Tacoma Power Make-Ready Work be performed on a priority basis or outside of Tacoma Power's normal work hours, Company will pay any resulting increased costs. Nothing in this Agreement shall be construed to require Tacoma

Power to perform Company's work before other scheduled work or Tacoma Power service restoration.

- C. Written Approval of Installation Plans Required.** Before making any Attachments to Tacoma Power's Poles, including Overlashing and Co-lashing of existing Attachments, Company must obtain Tacoma Power's written approval of detailed plans for the Attachments. Such detailed plans shall accompany a Permit application as required under Section IV

- D. Completion of Tacoma Power Make-Ready Work.** Tacoma Power will complete Tacoma Power Make-Ready Work on Tacoma Power Poles within ninety (90) days of receipt of payment. If there are extenuating circumstances that make the necessary Tacoma Power Make-Ready Work more complicated or time-consuming, including, but not limited to, the number of Poles, seasonal weather conditions, Tacoma Power shall identify those factors in the Tacoma Power Make-Ready Work estimate and the parties shall agree upon a reasonable timeframe for completion.

- E. Restrictions / Who May Perform Tacoma Power Make-Ready Work.** Tacoma Power Make-Ready Work shall be performed only by Tacoma Power or its contractor. If Tacoma Power cannot perform the Tacoma Power Make-Ready Work to accommodate Company's Attachments within ninety (90) calendar days of Company's approval of the Tacoma Power Make-Ready Work estimate, Company may request the ability to use a qualified contractor to perform such work and shall specify when such work would be performed. In all instance, qualified contractor, if allowed, must be pre-approved by Tacoma Power.

Tacoma Power will not replace Poles to provide space for Attachments except under the following conditions:

1. The Pole in question does not meet current Applicable Standards for height.
2. If the Pole in question must be replaced due to poor conditions, as determined in Tacoma Power's sole discretion, then replacement with a standard height pole will be at Tacoma Power's expense. If the condition of the Pole does not warrant replacement, then replacement with a standard height Pole will be at the Company's expense.
3. Tacoma Power may replace the Pole in question with a taller Pole to allow space for Company's Attachment(s) if Company pays for and accepts responsibility for all costs for the new Pole and all costs associated with Pole replacement.

Tacoma Power shall have sole discretion and authority for determining height standards and condition of Poles.

- F. Third Party Make-Ready Work.** Company shall coordinate and arrange for any Third Party Make Ready Work required in order to provide space on Tacoma Power's poles for Company's Attachments. Tacoma Power shall not be responsible, be liable, or have any obligation for arranging, coordinating, or costs for Third Party Make-

Ready Work. Third Party Make Ready Work must comply with all Applicable Standards and the third party's Master Pole Attachment Agreement and Permits with Tacoma Power.

VI. APPROVAL

- A. Application Review and Approval.** Upon submission of a complete Application, Tacoma Power will review and within sixty (60) days approve or deny the Application, excluding Make Ready work, as appropriate and pursuant to the intent of this Agreement.
- B. Tacoma Power's Approval Limitations.** Tacoma Power's review and approval for the proposed attachments is not intended as a comprehensive engineering review/analysis of the request and all associated implications. It shall remain the sole responsibility of the Company to assure the installation meets all code and permitting requirements. Further, consent by Tacoma Power to the construction or maintenance of any Attachments by Company shall not be deemed consent, authorization, or acknowledgment that Company has obtained all required authorizations with respect to such Attachment or that the proposed plans, construction, or maintenance are correct, meet professional or engineering standards, are sufficient, or are fit for a particular purpose.
- C. Attachments outside Normal Designated Space.** Tacoma Power reserves the right to approve on a case by case basis Attachments, such as enclosures and amplifiers, the Company wishes to place outside the space normally designated for communication lines and equipment.
- D. Discretion to Refuse or Withhold Approval.** Tacoma Power may refuse to approve or withhold an Application where, in Tacoma Power's sole opinion, there is insufficient Capacity on a Pole for the Company's Attachment, or for reasons relating to safety, reliability, generally applicable engineering purposes, and/or any other Applicable Standards. Further, Tacoma Power may refuse to approve or withhold an Application where any of Company's other Attachments are not in compliance with applicable Permit or this Agreement or where Company is out of compliance with terms and obligations of this Agreement or as otherwise reasonably necessary to ensure timely performance by Company in response to any Tacoma Power notice authorized hereunder.
- E. Permit Issuance.** Tacoma Power may approve an Application if, in its sole judgment, exercised reasonably, Tacoma Power determines that it (1) has sufficient Capacity to accommodate the requested Attachments, (2) Company meets all the requirements set forth in this Agreement, and (3) the Attachment and Application complies with all Applicable Standards. Upon approval, Tacoma Power shall send Company an executed Permit substantially in the form of Appendix A, Pole Attachment Permit, consenting in whole or in part to the Attachments requested in the Application. This Agreement shall not in itself constitute any such consent.
- F. Necessary Authorizations.** Before Company may occupy any Poles, Company shall obtain from the appropriate public or private authority, or from any property owner or other appropriate person, any required authorization to construct, operate, or

maintain its Attachments on public or private property. Tacoma Power retains the right to require evidence that appropriate authorization has been obtained before any Permit is issued. Company's obligations under this Section VI include, but are not limited to, its obligation to obtain and pay for all necessary approvals to occupy public/private rights-of-way and easements and all necessary licenses and authorizations to provide the services that it provides over its Attachments. Company shall defend, indemnify, and reimburse Tacoma Power for all losses, costs, and expenses, including reasonable attorney's fees that Tacoma Power may incur as a result of claims by governmental bodies, owners of private property, or other persons, that Company does not have sufficient rights or authority to attach Company's Attachments on Tacoma Power's Poles or to provide particular services.

- G. Installation Deadline and Notice.** Once Tacoma Power has approved the Company's Application, the Company must install its Attachments within one hundred and eighty (180) days of the Permit Effective Date stated on the subject Pole Attachment Permit, a sample form of which is attached hereto as Appendix A. If Company fails to install its Attachments within said one hundred and eighty (180) days it will relinquish its rights under the Permit and forfeit its Application fee. A one-time, thirty (30) day extension may be granted at Tacoma Power's discretion if requested prior to the permit expiration date. Company shall inform Tacoma Power's Joint-Use Coordinator, Business and Financial Management, by email, upon completing installation of approved Attachments. Failure to notify Tacoma Power within fifteen (15) days of completion of construction may result in the suspension or rejection of additional pole attachment permit applications.
- H. Joint Pole Ownership.** This Agreement is intended to be applicable to poles owned in whole or part by Tacoma Power. The Company will need to obtain additional authorization from CenturyLink in order to attach to poles jointly owned by Tacoma Power and CenturyLink. CenturyLink may require a pole attachment fee from the Company.
- I. Revocable Nonexclusive License.** No use, regardless of duration, of any Pole owned by Tacoma Power, and no payment of any fees or charges required under this Agreement, shall create or vest in Company any easement or other ownership or property right of any nature in any portion of such Pole. Any permission or Permit to use Tacoma Power's Poles granted by Tacoma Power is a revocable, nonexclusive license to install and maintain Attachments to said Poles. Neither this Agreement nor any Permit granted pursuant to this Agreement, shall constitute an assignment of any Tacoma Power rights to its Poles or any other Tacoma Power owned facility. Notwithstanding anything to the contrary in this Agreement, Company shall remain, at all times, a licensee only.
- J. Permitted Uses.** Use of Tacoma Power's Poles is limited to those uses specified in this Agreement and associated Permits. No other use shall be allowed without Tacoma Power's express written consent.
- K. No Forfeiture of Tacoma Power Rights.** No Permit granted under this Agreement shall extend, or be deemed to extend, to any of Tacoma Power's Poles to the extent that the Company's Attachments would result in a forfeiture of Tacoma Power's

rights. Any Permit that would result in forfeiture of Tacoma Power's rights shall be deemed invalid as of the date that Tacoma Power granted it. Further, if any of Company's existing Attachments, whether installed pursuant to a valid Permit or not, would cause such forfeiture, Company shall promptly remove its Attachments upon receipt of written notice from Tacoma Power. If Company does not remove its Attachments in question within thirty (30) days of receiving written notice from Tacoma Power, Tacoma Power may at its option perform such removal at Company's expense. Notwithstanding the forgoing, Company shall have the right to contest any such forfeiture before any of its rights are terminated, provided that Company shall indemnify Tacoma Power for liability, costs, and expenses, including reasonable attorney's fees that may accrue during Company's challenge.

VII. REQUIREMENTS FOR ATTACHMENT

- A. Access / Climbing Space.** The Company's Attachments shall not impede access to climbing space or in any way disturb or conflict with Tacoma Power's equipment or any other entity's equipment.
- B. Costs / Make-Ready Work.** The Company is responsible for, and shall pay, all costs associated with its Attachments on Tacoma Power Poles including, but not limited to, Tacoma Power Make-Ready Work and maintenance of such Attachments. Section V Make-Ready Work, discusses requirements associated with Tacoma Power and Third-Party Make-Ready Work that must be performed to accommodate the Company's Attachments relative to Tacoma Power Poles and equipment. The Company shall pay and/or reimburse Tacoma Power for Tacoma Power Make-Ready Work performed, and for costs incurred, by Tacoma Power pursuant to this Section VII.
- C. Guys and Anchors.** Unless otherwise directed by Tacoma Power, the Company shall install, maintain and/ or replace, as necessary, Guys and Anchors necessary to support the additional strain imposed on any Pole by the Company's Attachments. The Company must submit to Tacoma Power, for Tacoma Power's review and approval, detailed plans and support calculations for Guys and Anchors. If the Company fails to install, maintain and/or replace Guys and Anchors, Tacoma Power may install or replace Guys or Anchors at the Company's sole expense.
- D. Crossarms.** If Company determines that crossarms or other equipment installation is necessary for its Attachments, it will submit detailed plans for Tacoma Power's review and approval. Tacoma Power reserves the right to install, at the Company's sole expense, crossarms and/or other equipment necessary for the Company's Attachments.
- E. Abandonment, Relocation, Replacement, Rebuild, or Removal of Pole.**
1. If at any time Tacoma Power desires or is required to abandon, relocate, replace, rebuild or remove any of its Poles on which Company Attachments are located, Tacoma Power shall provide Company thirty (30) day written notice prior to the date it intends to abandon, relocate, replace, rebuild or remove said Pole or Poles. The Company shall change the location of its Attachments as necessitated

by Tacoma Power's abandonment, relocation, replacement, rebuild or removal of a Pole. All such Attachment changes shall be made at Company's sole cost and expense. If the Company fails to make or complete any changes required hereunder within thirty (30) days of notification, Tacoma Power, at its discretion, may perform such changes, at Company's sole risk, and invoice Company for reimbursement of all costs incurred.

2. Pursuant to Pierce County policy, utilities may receive a "Utility in Good Standing" designation if they maintain compliance with Pierce County policies and regulations relative to utility facilities in Pierce County's right of ways. A utility that receives the "Utility in Good Standing" designation is not required to obtain permits for a certain defined class of work. This designation, therefore, provides a "Utility in Good Standing" with significant benefits in terms of avoided permit fees and avoided costs associated with time spent obtaining permits. Company's failure to remove Attachments as directed herein may result in Tacoma Power losing its status as a "Utility in Good Standing" within its service territory located in Pierce County. If Tacoma Power loses said status due to Company's failure to perform its removal obligation, then, Company shall reimburse Tacoma Power for the following costs until Tacoma Power's "Utility in Good Standing" status is reinstated:
 - a. The costs for all Pierce County permits Tacoma Power would not have been required to obtain if it was a "Utility in Good Standing" and
 - b. Administrative costs incurred by Tacoma Power in obtaining said permits.
- F. Underground.** If Tacoma Power plans to underground its Distribution System in a given area, and if the Company serves or has potential to serve such area, the Company shall cooperate with Tacoma Power in any planning and design associated with undergrounding. If Tacoma Power converts its overhead distribution to underground, the Company shall underground its Attachments, as applicable and within the space available at the Company's own expense unless otherwise mandated by applicable law.
- G. Tags.** Tacoma Power requires the Company to tag Company's Attachments with an identifier. All Attachments, as defined in Section II, must be identified by a tag containing the assigned three digit numerical code. Each tag must be prepared and installed as per City of Tacoma, Department of Public Utilities, Tacoma Power, Transmission and Distribution Standards C-OH-1060. Failure to provide proper tagging will be considered a violation of the Applicable Standards and will result in a Unauthorized Attachment (Section II. Z.) Fee (Section II. AA.).
- H. Attachment Requirements.** All Company Attachments shall be in accordance with requirements of Subsection XV of this Agreement and all Applicable Standards, including the State of Washington Administrative Code (WAC) Chapter 296-45-045; National Electric Safety Code ("NESC"), and all franchises, Codes and Tacoma Power standards as now in force or as revised or amended in the future. The Company recognizes that Tacoma Power constructs its facilities to NESC Grade C. Therefore, the Company shall construct its facilities in a manner consistent with that requirement.

- I. **Restrictions on Items Placed near Poles.** Company shall not place pedestals, vaults, or other enclosures on or within four feet of any Pole or other Tacoma Power facility without Tacoma Power's prior written permission. If permission is granted, all such installations shall be per the specifications and requirements of this Agreement. Company agrees to move any such above-ground enclosures in order to provide sufficient space for Tacoma Power to set a replacement pole.

VIII. PERFORMANCE OF WORK

- A. **Work Requirements.** The Company shall perform the Work in a skillful manner, in accordance with Section XV of this Agreement, including WAC Chapter 296-45-045, NESC, and amendments or successor codes, standards, all franchise requirements, and all Applicable Standards. The Company shall ensure that the Work and its equipment are in all respects (1) safe, (2) of first-class quality, (3) free from all faults and defects in workmanship, material and design, and (4) in conformance with the requirements of this Agreement.
- B. **Surveys and Inspections.** Tacoma Power reserves the right to perform preliminary surveys prior to the actual installation of Company's Attachments, to inspect each new Attachment of Company after strand placement and prior to fiber/coax placement, and to make periodic inspections of Company's Attachments. Within thirty (30) days of receiving written notice from Tacoma Power, Company shall correct all Attachments that Tacoma Power identifies as being out of compliance with Applicable Standards. These surveys and inspections, or the absence of surveys and inspections, shall not operate to or in any manner impose any legal duty or liability on Tacoma Power or relieve the Company of any responsibility, obligation, duty or liability assumed under this Agreement or imposed by any Applicable Standard or applicable law, rule or regulation. Additional pole attachment permit applications may also be suspended or rejected if Company fails to request final inspections by Tacoma Power Hybrid Fiber Coax (HFC) Construction group.
- C. **Corrections.** The Company shall, as soon as is practically possible, correct or replace any Work or equipment found to be defective or not in conformity with the requirements of this Agreement. If Company fails to perform any Work, corrections and/or replacements as required by this Agreement, Tacoma Power may perform such Work, corrections, and/or replacements at the Company's expense. Tacoma Power reserves the right to charge for the crew time used to inspect/re-inspect installations that do not meet the code standards. Additional pole attachment permit applications may also be suspended or rejected if NESC clearance violations are identified during Tacoma Power's final inspection. Suspension(s) may continue until all violations have been corrected.
- D. **Debris.** The Company shall, at all times, keep its work areas cleared of rubbish, refuse and other debris and in a neat, clean and safe condition. Upon completion of any portion of any of the Work, Company shall immediately remove all rubbish, refuse and other debris and all of its equipment and surplus materials associated or resulting from the Work. If Company fails to do so, Tacoma Power may perform such removal at the Company's expense.

- E. **Notice of Strand and Hardware Installation.** It shall be the Company's responsibility to notify the Tacoma Power Hybrid Fiber Coax (HFC) Construction group (Section XXI. C.) when all strand and hardware installation; including all grounding, bonding, standoff brackets, down guys, pole to pole guys, head guys and anchors have been placed and strand has been tensioned **prior** to placement and lash of communication cables. It is the Company's responsibility to ensure that all Applicable Standards have been met.

- F. **Company's Installation/Removal/Maintenance Work.** All of Company's installation, removal and maintenance work, by either Company's employees or authorized contractors, shall be performed at Company's sole cost and expense, in a good workmanlike manner, and must not adversely affect the structural integrity of Tacoma Power's Poles or other attaching entities facilities or equipment. All such work is subject to the insurance requirements of Section XIV.

All of Company's installation, removal, and maintenance work, either by its employees or authorized contractors, shall comply with all applicable regulations specified in Section VII. Company shall assure that any person installing, maintaining, or removing its Attachments is fully qualified and familiar with all Applicable Standards indicated in Section SV.

IX. INVENTORY

- A. The Company shall submit Attachment inventories in an electronic Excel spreadsheet format, flash drive or other format specified by Tacoma Power annually, on or before December 15th of each year. Failure to provide inventories may result in Tacoma Power hiring a contractor to conduct said inventory at Company's expense. Inventory shall list all Attachments, contacting Pole numbers and addresses. The inventory may not be used in lieu of a Pole Attachment Application. The Company shall include with the inventories a listing of any Attachment the Company has removed from Poles since the last inventory. The Company shall identify the Pole from which the Attachment was removed, describe the removed Attachment, and indicate the approximate date of removal.
- B. Upon request, the Company shall furnish to Tacoma Power, as part of the inventories, an up-to-date electronic map depicting the locations of its Attachments.
- C. Notwithstanding Subsection A above, Tacoma Power reserves the right to conduct its own inventory of the Company's Attachments at any time, but not more than once per year, at the Company's expense.
- D. Attachments not previously applied for and listed in the inventory shall be deemed to be Unauthorized Attachments and will be billed an Unauthorized Attachment Fee as provided in Section X.E below.

X. FEES

- A. Payment of Fees.** Company shall pay to Tacoma Power the fees specified in Schedule 1.
- B. Application Fee.** The Company will submit a nonrefundable Application fee with each Application. Schedule 1, Pole Attachment Agreement Fees, contains the Application fee schedule.
- C. Security Deposit.** Tacoma Power reserves the right to request a security deposit for Attachments hereunder as it may deem necessary. If required, and upon written notice by Tacoma Power, the Company will promptly pay a security deposit for Attachments. Upon termination of this Agreement, the security deposit will be returned to the Company, less any outstanding fees, penalties and/or other costs associated with the Company's Attachments per this Agreement. The applicable security deposit, as determined by Tacoma Power, is set forth in the attached Schedule 1, Pole Attachment Agreement Fees.
- D. Attachment Fees.** The Company shall pay Tacoma Power fees for the Company's Attachments semiannually per the Attachment fee schedule, Schedule 1, "Pole Attachment Agreement Fees" which is attached to this Agreement. The Company's obligation to pay for its Attachments commences on the Permit effective date.
- E. Unauthorized Attachment Fees.** Unauthorized Attachments shall be billed at five (5) times the current fee for authorized Attachments ("Unauthorized Attachment Fee"). The Company's obligation to pay the Unauthorized Attachment Fee commences on the date Tacoma Power discovers any Unauthorized Attachment(s).
- F. Fee / Deposit Modification.** Every April 1, Tacoma Power may review and modify, as appropriate, the Attachment fees, the Application fee, and/or security deposit, to account for changes in Tacoma Power's cost accounting methodology and policies, legal and/or regulatory changes, operation of Tacoma Power's system, or any other justifiable costs and/or reasons not delineated in this Agreement. Tacoma Power will provide written notice of the change. Changes in the fees will apply to all Attachments covered by this Agreement commencing with the subsequent July 1 to December 31 billing period. If an application is submitted after April 1, such rate shall apply.
- G. Alternative Fees.** Tacoma Power reserves the right to charge an alternative fee to public agencies and municipalities whose Attachments provide for public safety and well-being.
- H. True-Up.** Whenever Tacoma Power, in its discretion, requires advance payment for the estimated cost to Tacoma Power for Tacoma Power Make-Ready work prior to undertaking an activity on behalf of Company and the actual cost of the activity exceeds the advance payment of estimated expenses, Company agrees to pay Tacoma Power for the difference in cost, provided that Tacoma Power documents such costs with sufficient detail to enable Company to verify the charges. To the

extent that Tacoma Power's actual cost of the activity is less than the estimated cost, Tacoma Power shall refund to Company the difference in cost.

- I. Tacoma Power Make-Ready Work Fees and Costs.** The Company shall pay and/or reimburse Tacoma Power for all costs associated with Tacoma Power Make-Ready Work completed by Tacoma Power and/or a Tacoma Power's contractor. The Company shall also be responsible for the costs of Third Party Make Ready Work if such Third Party Make Ready Work is caused by or necessitated by making room for Company's additional Attachments or modification of one of Company's existing Attachments or to comply with Standard/code clearance requirements.
- J. Failure to Timely Transfer, Abandon or Remove Facilities.** Company will be charged an Unauthorized Attachment Fee if the Company fails to change the location of its attachment within thirty (30) days of notification as set forth in VII. REQUIREMENTS FOR ATTACHMENT.
- K. Field Inspection Fee.** The Company shall pay Tacoma Power for all costs associated with inspections conducted outside of the Permit Application process.

XI. BILLING**A. Billing Procedure.**

- Tacoma Power will invoice Company for Attachment Fees semi-annually in January (for the period of January through June) and in July (for the period of July through December) of each year during the Term.
- Within thirty (30) calendar days of the date Tacoma Power discovers any Unauthorized Attachments, Tacoma Power may invoice the Company for Attachment fees for the current Billing Period, provided however, Tacoma Power will prorate such fees as appropriate.
- For the final invoice, (upon termination) within thirty (30) calendar days after the first day of January or July, as applicable, Tacoma Power shall invoice the Company for Attachment fees for the current Billing Period, provided however, Tacoma Power will prorate such fees as appropriate.

- B. Payment.** The Company shall pay all invoices within thirty (30) days of receipt. All payments shall be made in immediately available funds payable to Tacoma Power, or by wire transfer to a bank named by Tacoma Power. If Tacoma Power does not receive payment for any fees or other amount owed within thirty (thirty) calendar days after it becomes due, the Company shall pay interest to Tacoma Power at the rate of one percent (1%) per month, or the maximum interest allowed by law, on the amount due. Nonpayment of any undisputed amounts due under this Agreement beyond sixty (60) days shall constitute a material default of this Agreement. Payment must include invoice number on check.

- C. Interest on Unpaid Balances.** Interest on any unpaid amounts (including amounts placed in escrow) will bear interest until paid at the rate of 1% per month. When payments are made by mail, bills shall be considered as having been paid on the date of receipt by Tacoma Power.
- D. Taxes.** Company shall pay all applicable and lawful value-added, sales, use, excise, and other taxes, duties, imposts, fees or charges (collectively "Taxes") properly levied or imposed on it by a duly constituted and authorized taxing or other governmental authority with respect to the Company's use of the Poles whether or not such amounts are required to be collected by Tacoma Power under applicable law. In addition, Tacoma Power will invoice and Company shall pay all state, local, and federal taxes and franchise, tariff, and agreement fees (if any), imposed upon Tacoma Power with respect to its activities contemplated under this Agreement. In the event that any authority with jurisdiction imposes a tax on any aspect of the transactions contemplated hereunder including but not limited to taxes imposed pursuant to Chapter 82.29A of the Revised Code of Washington, Company agrees to indemnify, defend, and save harmless Tacoma Power from and against such taxes or other Taxes and any penalties and interest thereon or costs associated with any attempts to collect the same.
- E. Billing Dispute.** In the event of a billing dispute between Tacoma Power and the Company, Tacoma Power will continue to provide service under this Agreement as long as the Company continues to make all payments not in dispute, and pays into an independent escrow account the portion of the invoice in dispute, pending resolution of such dispute. If the Company fails to meet this requirement for continuation of service, then Tacoma Power may provide notice to the Company of its intention to terminate this Agreement and apply the security deposit to owed amounts.

XII. LIABILITY, INDEMNIFICATION, AND EXCULPATION

- A. Risk and Duty to Inspect.** Company agrees to use Tacoma Power's Poles at Company's sole risk. Company acknowledges and agrees that it has an obligation to inspect the Poles and/or premises surrounding said Poles prior to commencing any work on said Poles.
- B. Indemnity / Hold Harmless.** Unless caused by the sole negligence or willful misconduct of Tacoma Power its employees, contractors or agents, the Company releases and agrees to defend, indemnify and hold harmless Tacoma Power, its successors and assigns, and its respective directors, officers, employees and agents of Tacoma Power and its successors and assigns (collectively referred to as the "Indemnitees") from any and all claims, losses, costs, liabilities, damages and expenses (including, but not limited to reasonable attorneys' fees) arising out of or in connection with any Attachments, Permits, the performance of any Work, the operation of any equipment or the Company's system, or the acts or omissions of the Company or any of its suppliers or contractors of any tier, the respective successors and assigns of the Company or any such suppliers or contractors, the directors, officers, employees and agents of each of the foregoing, or anyone acting on the

Company's behalf in connection with said Attachments, performance of Work or operation of equipment or the Company's system.

- C. Scope.** Such indemnity, protection and hold harmless shall include any demand, claim, suit or judgment for damages to property or injury to or death of persons, including officers, agents and employees of either party hereto including payment made under or in connection with any Worker's Compensation Law or under any plan for employees' disability and death benefits, which may arise out of or be caused or contributed by the erection, maintenance, presence, use or removal of Company's Attachments or by the proximity of the respective cables, wires, apparatus and appliances of Company including any claims or demands of customers of the Company with respect thereto. The Company hereby acknowledges that it is waiving employer immunity under Title 51 RCW, the Industrial Insurance Law, and that this Agreement has been mutually negotiated.
- D. Service Interruption.** Tacoma Power shall not be liable to the Company or to the Company's customers, and the Company hereby indemnifies, protects and saves harmless Tacoma Power against any and all such claims or demands, suit or judgment for loss, liability, damages and expense by the Company's customers, for an interruption to the service of the Company, or for interference with the operation of the Company's Attachments, and/or appliances of the Company, or for interference with the operation of the Company's Attachments, and/or wires and appliances of the Company.
- E. Third Parties.** To the fullest extent permitted by applicable law, the foregoing release, indemnity and hold harmless shall apply to and for the benefit of the Indemnitees. This Section XII shall not be intended or interpreted to provide any person an independent claim or course of action based upon third party doctrine.
- F. Consideration.** Tacoma Power is willing to permit Attachments for the fees described in Schedule 1 only in consideration of and in reliance upon such release, indemnity and hold harmless.
- G. DISCLAIMER.** TACOMA POWER MAKES NO EXPRESS OR IMPLIED WARRANTIES WITH REGARD TO TACOMA POWER'S POLES OR THE PREMISES SURROUNDING SAID POLES, ALL OF WHICH ARE HEREBY DISCLAIMED, AND TACOMA POWER MAKES NO OTHER EXPRESS OR IMPLIED WARRANTIES, EXCEPT TO THE EXTENT EXPRESSLY AND UNAMBIGUOUSLY SET FORTH IN THIS AGREEMENT. TACOMA POWER EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
- H. Environmental Hazards.** Company represents and warrants that its use of Tacoma Power's Poles will not generate any Hazardous Substances, that it will not store or dispose on or about Tacoma Power's Poles or transport to Tacoma Power's Poles any Hazardous Substances and that Company's Attachments will not constitute or contain and will not generate any Hazardous Substance in violation of federal, state, or local law now or hereafter in effect, including any amendments. "Hazardous Substance" shall be interpreted broadly to mean any substance or material

designated or defined as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic or radioactive substance, dangerous radio frequency radiation, or other similar terms by any federal, state, or local laws, regulations or rules now or hereafter in effect, including any amendments. Company further represents and warrants that in the event of breakage, leakage, incineration, or other disaster its Attachments would not release any Hazardous Substances. Company and its agents, contractors, and subcontractors shall defend, indemnify, and hold harmless Tacoma Power and its respective officials, officers, board members, council members, commissioners, representatives, employees, and agents against any and all liability, costs, damages, fines, taxes, special charges by others, penalties, punitive damages, or expenses (including reasonable attorney's fees and all other costs and expenses of litigation) arising from or due to the release, threatened release, storage, or discovery of any Hazardous Substances on, under, or adjacent to Tacoma Power's Poles attributable to Company's use of Tacoma Power's Poles.

- I. Municipal Liability Limits.** No provision of this Agreement is intended, or shall be construed, to be a waiver for any purpose by Tacoma Power of any applicable state limits on municipal liability or governmental immunity. No indemnification provision contained in this Agreement under which Company indemnifies Tacoma Power shall be construed in any way to limit any other indemnification provision contained in this Agreement.
- J. Attorney Fees.** If Tacoma Power brings a successful action in a court of competent jurisdiction to enforce this Agreement, Company shall pay Tacoma Power's reasonable attorney's fees.

XIII. FORCE MAJEURE

An event of Force Majeure means any act of Nature, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, regulation or restriction imposed by governmental military or lawfully established civilian authorities, or any other cause beyond a Party's control. Neither Party will be considered in default as to any obligation under this Agreement if prevented from fulfilling the obligation due to an event of Force Majeure. However, a Party whose performance under this Agreement is hindered by an event of Force Majeure shall make all reasonable efforts to perform its obligations under this Agreement.

XIV. WORKER'S COMPENSATION, INSURANCE AND BONDS

- A. Workers Compensation and Employer's Liability.** The Company shall ensure that, with respect to all persons performing the Work, (including Third Party Make-Ready Work) for or on its behalf, the Company or its suppliers or contractors maintain in effect at all times during the term coverage or insurance in accordance with the applicable laws relating to worker's compensation and employer's liability (including, but not limited to, the Washington Industrial Insurance Act and the laws of the state in which any such person was hired), regardless of whether such coverage or insurance is mandatory or merely elective under the law. The Company shall

furnish to Tacoma Power such assurance and evidence of such coverage or insurance (such as copies of certificates of insurance and Certificates of Compliance issued by the Washington State Department of Labor and Industries) as Tacoma Power may request. Tacoma Power reserves the right to accept self-insurance from the Company.

- B. Commercial General Liability.** The Company shall obtain, and maintain continuously for the term of this Agreement, at its own expense, an ISO form, occurrence based (not "claims-made") Commercial General Liability insurance policy, with endorsements and/or other insurance necessary to provide coverage for the Work and other activities and services of this Agreement. The Commercial General Liability policy (CGL) shall have policy limits no less than \$2,000,000 combined single limit of liability each occurrence with general aggregate limit of no less than \$4,000,000. The insurance carrier issuing the policy must have an A.M. Best rating of at least A and be legally admitted and licensed to do business in the State of Washington. The City of Tacoma, Department of Public Utilities shall be named as an additional insured on said CGL policy and said policy shall be primary over and non-contributing to any insurance or self-insurance program of the City of Tacoma.
- C. Deductible / Self-Insurance.** The insurance coverage required by this Section shall not be subject to a deductible or self-insured retained limit of liability in excess of \$10,000 as respect to Tacoma Power. Company agrees to indemnify and hold the City of Tacoma harmless from the obligation to pay the deductible or self-insured retained limit of liability as if the City of Tacoma were an additional insured without the self-insured retained limit or deductible.
- D. Cross Liability.** Such insurance shall include a "cross liability," "severability of interests," or "separation of insured" clause indicating essentially that except with respect to the limits of insurance, and any rights or duties specifically assigned in this coverage part to the first named insured, this insurance applies as if each named insured were the only named insured, and separately to each insured against whom the claim is made or suit is brought.
- E. Certificate of Insurance.** Prior to commencement of performance of any of the Work, including Third Party Make-Ready Work if performed by or on behalf of the Company, the Company shall provide Tacoma Power a certificate of insurance with its endorsements as evidence of coverage. The company or companies issuing such insurance and the policies issued shall be subject to approval by Tacoma Power.
- F. Notice of Claims.** The company shall promptly advise Tacoma Power of all claims relating to damage to property or injury to or death of persons arising or alleged to have arisen in any manner by, or directly associated with, the erection, maintenance, presence, use or removal of the Company's equipment. Copies of all accident or other reports made to any insurer by the Company shall be furnished to Tacoma Power.
- G. Additional Assurances.** The Company shall also furnish Tacoma Power with such additional assurance and evidence of such insurance (including, but not limited to:

copies of insurance policies, declaration pages, and endorsements) as Tacoma Power may from time to time request to reasonably verify the insurance coverage types and limits required hereunder are in effect. Within thirty (30) days after any notice of termination, cancellation, expiration or alteration in any policy of insurance required under this Agreement, the Company shall deliver to Tacoma Power a Certificate of Insurance acceptable to Tacoma Power with respect to any replacement policy.

- H. Subrogation.** The Company shall ensure that any policies of insurance that the Company or any of its suppliers or contractors of any tier carry as insurance against property damage or against liability for personal injury (including death) shall include a provision therein providing a waiver of the insurer's right to subrogation against the Indemnitees. To the extent permitted by its insurance policies Tacoma Power hereby waives all rights of subrogation for damages to its properties against the Company, its successors and assigned, and the respective directors, officers, employees and agents of the Company and its successors and assignees.
- I. Liabilities and Obligations.** The requirements of this Agreement as to insurance and acceptability to Tacoma Power of insurers and insurance to be maintained by the Company are not intended to and shall not in any manner limit or qualify the liabilities and obligations of or assumed by the Company under this Agreement.
- J. Bonds.** In addition, the Company shall furnish to Tacoma Power, at such times and in such forms as Tacoma Power may in writing request, surety bonds with performance, payment and maintenance clauses payable to Tacoma Power.

XV. COMPLIANCE WITH LAWS

- A. Applicable Standards.** In connection with any Attachments, in the performance of the Work and in the operation of equipment pursuant to this Agreement, the Company shall comply and shall ensure that the equipment, the Work, and all of the Company's suppliers and contractors (of any tier) comply with all Applicable Standards. "Applicable Standards" shall mean:
1. All applicable laws, ordinances, rules, regulations, orders, licenses, permits, franchises and other requirements, now or hereafter in effect, of any governmental authority;
 2. All applicable engineering, industry, and safety standards and codes governing the installation, maintenance, and operation of electric utility facilities and the performance of all work in or around electric utility facilities and includes the most current editions and/or versions of the National Electric Safety Code ("NESC"), the National Electric Code ("NEC"), and the regulations of the Occupational Safety and Health Administration ("OSHA"); and
 3. Tacoma Power's construction standards, specifications, rules, and regulations which apply to Company's Work and/or Third Party Make-Ready Work and will be provided by Tacoma Power to the Company on request; in addition, Construction Standards are available on the Tacoma Power website:

Tacoma Power Wireline Master Pole Attachment Agreement
PUB January 10, 2018

<http://www.mvtpu.org/tacomapower/electrical-permitting/electrical-construction-standards.htm>

In the event any of the above Applicable Standards conflict with one another, the Company shall comply with the most stringent of the conflicting standards as determined by Tacoma Power.

- B. Compliance.** The Company shall furnish such documents as may be required to effect or evidence compliance. All laws, regulations and orders required to be incorporated in agreements of this character are hereby incorporated herein by this reference. If Company's Attachments violate or are not in compliance with any applicable laws, ordinances, rules, regulations, orders, licenses, permits, franchises and other requirements, now or hereafter in effect, of any governmental authority or if said governmental authority requires any change to Company's Attachments then Company shall complete said changes and bring its Attachments into compliance.

XVI. EMERGENCIES

- A.** In the event of an emergency, as defined in Section II, relating to the Attachment, Company shall immediately contact Tacoma Power at the emergency phone number below and take immediate action to correct any safety or use problems, including but not limited to the actions in Section VIII, "Performance of Work," even if the full repair cannot be made at the time, in order to protect persons and property or to allow use of the area on which the pole is located. The Parties' respective emergency phone numbers are as follows:

Tacoma Power: (253) 502-8602

Company: (866) 446-3984

- B.** In the event that Tacoma Power cannot reach Company at the emergency number listed above, Tacoma Power shall, in its sole judgment, repair Company's Attachment in order to protect persons and property, at the Company's sole expense.

XVII. NONWAIVER

The failure of Tacoma Power to insist upon or enforce strict performance by the Company of any of the provisions of this Agreement or to exercise any rights under this Agreement shall not be construed as a waiver or relinquishment to any extent of its right to assert or rely upon any such provisions or rights in that or any other instance; rather, the same shall be and remain in full force and effect.

XVIII. ASSIGNMENT; SUCCESSORS AND ASSIGNS; SUB-LICENSING

- A. Assignment.** The Company shall not assign, transfer or otherwise dispose of any of the privileges granted under this Agreement without prior written notice to, and the written consent of, Tacoma Power; PROVIDED, that such consent shall not be unreasonably withheld; and PROVIDED FURTHER that no such written consent

Tacoma Power Wireline Master Pole Attachment Agreement
PUB January 10, 2018

shall be required for an assignment or transfer to an entity that the Company controls, is controlled by, or is under the common control of, or to an entity that acquires all or substantially all of the assets of the Company. Any assignment, transfer or disposition of such privileges without the prior written notice to and/or the written consent of Tacoma Power as required under this Article shall be deemed a material breach of this Agreement. In no event will an assignment or transfer permitted hereunder constitute or effect a release of Company with respect to any liabilities or any of Company's obligations under this Agreement unless such release is expressly granted by Tacoma Power in writing.

- B. Sub-Licenses or Leases.** Without Tacoma Power's prior written consent, Company shall not sub-license or lease to any third party, including but not limited to, allowing third parties to place Attachments on Tacoma Power's Poles, including Co-lashing, or to place Attachments for the benefit of such third parties on Tacoma Power's Poles. Any such action shall constitute a material breach of this Agreement. The use of Company's Attachments by third parties that involves no additional Attachment or Co-lashing is not subject to this Section XVIII.B.

XIX. ENTIRE AGREEMENT

- A.** The terms and provisions contained in the Agreement, Schedule 1, and Appendix A to this Agreement, constitute the entire agreement between the Parties. This Agreement may be modified, extended or renewed only by written amendment, executed by the duly authorized representative of both Parties. The persons who have executed this Agreement represent and warrant that they are duly authorized to execute this Agreement in their representative capacity as indicated.
- B.** This Agreement supersedes any and all prior agreements, with respect to Attachments.
- C.** The invalidity or unenforceability of any provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.
- D.** The provisions of this Agreement, which by their sense and context are reasonably intended to survive the completion, expiration or cancellation of this Agreement, shall survive expiration or termination of this Agreement.

XX. APPLICABLE LAW

This Agreement shall be interpreted, governed by, and construed under the laws of the State of Washington. The Parties agree and stipulate that in the event any litigation should occur concerning or arising out of this Agreement, the sole venue of any legal action shall be the Pierce County Superior Court of the State of Washington. The substantially prevailing party in any litigation arising hereunder shall be entitled to its reasonable attorney's fees and court costs, including appeals, if any.

XXI. NOTICES AND OTHER COMMUNICATIONS

- A. Notices.** Any formal notice, request, approval, consent, instruction, direction or other communication given by either Party or to the other pursuant to this Agreement shall be in writing and shall be delivered by either (1) certified first class mail, return receipt requested, or (2) by reputable overnight courier service to the individuals denoted below, unless otherwise directed in writing, at the address provided:

TO: Tacoma Power:

Tacoma Power
Business and Financial Management
ATTN: Joint-Use Coordinator
3628 S. 35th Street
Tacoma, WA 98409

TO: Company

ATTN:
Crown Castle Fiber LLC c/o Crown Castle
2000 Corporate Drive
Canonsburg, PA 15317-8564
ATTN: Ken Simon, General Counsel

- B. Invoices/Informal Notice.** Billing invoices and informal notices, such as technical or routine business communications, may be transmitted by electronic mail. Either Party may from time to time change such address by giving the other Party written notice of such change in accordance with the provisions of this Section.

Company address for informal notices and billing purposes shall be as follows:

Company: Crown Castle Fiber LLC, c/o Crown Castle, 2000 Corporate Drive, Canonsburg, PA 15317-8564
Attn: Contracts Administration
Email Address: fiberaccountspayable@crowncastle.com

Tacoma Power address for informal notices and billing questions shall be as follows:

Tacoma Power
Business and Financial Management
ATTN: Joint-Use Coordinator
3628 S. 35th Street
Tacoma WA 98409

Email Address: pwrjointutilities@cityoftacoma.org

- C. Strand and Hardware Installation.** It shall be the Company's responsibility to notify Tacoma Power Hybrid Fiber Coax Construction group when installation is completed as indicated in Section VIII. E.

Tacoma Power
Hybrid Fiber Coax Construction Division
kmathes@cityoftacoma.org
253-502-8851

D. **Construction Standards.** Company shall comply with all applicable Tacoma Power Standards as indicated in Section XV. A.

<http://www.mytpu.org/tacomapower/electrical-permitting/electrical-construction-standards.htm>

XXII. HEADINGS

The headings of sections of this Agreement are for convenience of reference only and are not intended to restrict, affect or be of any weight in the interpretation or construction of the provisions of such sections.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement to be effective as of the Effective Date.

COMPANY

By: Michael Tuma Date: 3/28/2022 | 3:12:15 PM EDT

Printed Name: Michael Tuma

Title: Supervisor, Contract Execution

Tax ID No.: 01-0570431

TACOMA POWER:

By: Chris Robinson Date: 04/07/2022

Chris Robinson
Power Superintendent/COO



Approved:

By: Andrew Cherullo Date: 04/06/2022

Andrew Cherullo, Finance Director

Approved as to Form:

By: Michael W. Smith Date: 04/05/2022

Deputy City Attorney
Michael W. Smith

Schedule 1
Master Pole Attachment Agreement
Fees

City of Tacoma
Department of Public Utilities
Tacoma Power

This Schedule sets forth the Fees for Attachments to Tacoma Power's Distribution System, together with applicable power supply and customer charges.

1. Attachment Fees:

Annual rate for Attachments: \$26.49

Auxiliary wireline equipment enclosure: \$52.98

2. Application Fees:

Application Fee: \$175 per Application up to 15 Poles, plus additional \$5 per Pole thereafter.

3. Security Deposit:

No security deposit is required as of the Effective Date of the Agreement, but Tacoma Power reserves the right, per Section IX. B. and at any time during the Term of the Agreement, to review its operational risks hereunder and require that Company provide a security deposit in an amount deemed necessary by Tacoma Power.

4. Pole Records and Maps:

Actual time and materials

5. Additional Charges for Electricity Supplied by Tacoma Power:

In addition to the annual Attachment Fees per Pole set forth above, the following monthly power cost and customer charges apply to, and shall be collected for, Attachments that require electricity supplied by Tacoma Power. The Company is responsible for and shall timely pay all such charges when invoiced by Tacoma Public Utilities:

- **Energy and Delivery charges** per the monthly rate specified in Tacoma Municipal Code Section 12.06.170 B. 1. and 2.
- **Customer charge** per the monthly rate specified in Tacoma Municipal Code Section 12.06.170 B. 3.

Note: All Fees and Charges specified in this Schedule 1 are subject to amendment by the City of Tacoma Public Utility Board and/or City Council. The Company shall be responsible for and shall pay the applicable annual Attachment fee(s) if and as adjusted per future Resolution(s) adopted by the Tacoma Public Utility Board, as well as all Municipal Code Schedule B rates applicable to power cost and/or customer charges as the same may hereafter be revised per future Ordinance(s) adopted by the Tacoma City Council.

Appendix A

City of Tacoma
Department of Public Utilities
Tacoma Power

Master Pole Attachment Agreement
SAMPLES

Pole Attachment Permit Conditions & Instructions

Application

Detail Pole/Attachment Data

Map

Permit



Pole Attachment Application - Form Instructions

- 1 Company must have a valid attachment agreement on file with Tacoma Power before application will be processed.
- 2 If utilizing sub-contractors, Company must provide a letter authorizing sub-contractors to perform work on their behalf. In addition, Company must provide a copy of their pole attachment agreement that governs their Pole Attachment Application(s) to all sub-contractors who submit said application(s) on their behalf.
- 3 All shaded areas are REQUIRED to be completed. Failure to provide complete information can result on a delay to process your request and/or denial to attach. No approval, survey or review work will be performed until a complete and accurate request has been submitted.
- 4 If Electrical Services will be required, make sure to include request on "Electrical Services Information" field.
- 5 Application for communication enclosures and/or miscellaneous equipment must include specification sheet(s) including weight, dimensions, and configuration of equipment.
- 6 Application for wireless Attachments must meet submittal requirements set forth in Section IV of the pole attachment agreement, which shall include specification sheet(s) including device dimensions and weight, power supply, RF output power, enclosure material type, FCC Standard Compliance, operating AC voltage, power consumption, and transmit output power.
- 7 Proposed attached method means: NEW DIRECT, CO-LASH, OVERLASH, REMOVAL, or OTHER. If you are co-lashing, please specify to whom, AND include approval authorization from the co-lashing partner.
- 8 Proposed attachment height must be specific and in feet & inches. **Approximate height is not acceptable.**
- 9 Attachments must meet all applicable requirements of the NESC and Tacoma Power Construction Standards including but not limited to the following clearances:
 Support Clearances
 - Communication cables to supply cables: 40"
 - Between communication cables and CenturyLink attachment: 12"
 - Between communication cables and any other communication cable: 6"
 Span Clearances
 - Communication cables to supply cables: 30"
 - Between communication cables: 4"
 Additionally - on Jointly Owned poles CenturyLink will not attach below 18'
- 10 A check, payable to City of Tacoma, for all applicable fees and two full sets of your application must be mailed to Tacoma Power. An electronic copy of your application must also be emailed to pwjointutilities@cityoftacoma.org. The application sets must contain the following documents:
 - Filled in and signed Application (Tab 1)
 - Filled in Detail Pole Attachment Data (Tab 2)
 - Legible map(s) of all poles on route and pole height block (Tab 3 example). Streets must be clearly identified and labeled. Map(s) must include existing pole attachments and attachment heights, and any required make-ready for each pole on the application.
 - Existing attachments must be listed in order from top to bottom and include attachment heights in decimal form.
- 11 Construction needs to be completed within 180 days unless a permit extension is granted by Tacoma Power.
- 12 A final construction inspection by Tacoma Power is required.



Wireline Application

Permit # _____

Application Date _____

INSTRUCTIONS: This cover sheet must be completed for each application request. Complete all shaded areas. Any fields left blank may result in return of incomplete request.

Name of Attaching Company (MPAA holder)

Name of Applicant (Contractor)

Attaching Company Contact Person

Applicant Contact Person

Attaching Company Telephone Number

Applicant Contact Telephone Number & Email Address

Attaching Company Address

Applicant Address

City, State, ZIP

City, State, ZIP

Project Information:	
Site Address:	Company's Reference Number:
Total # of New Contacts:	Total # of Removals:
Total # of Overlashing:	Total # of Co-Lashing:
Total # of Other:	Total # of Affected Poles:

Electrical Services Information (if applicable):
 Requires Electrical Service YES NO

Detailed Description of work:

Authorized Signature	Date
Printed Name & Title	Email Address

****Failure to supply requested information may delay acceptance of the application****

For Internal Use Only:

Applicant has a valid Franchise Agreement and/or other required agreements are in effect to operate within the franchise jurisdiction.



Detail Pole/Attachment Data

Permit # _____

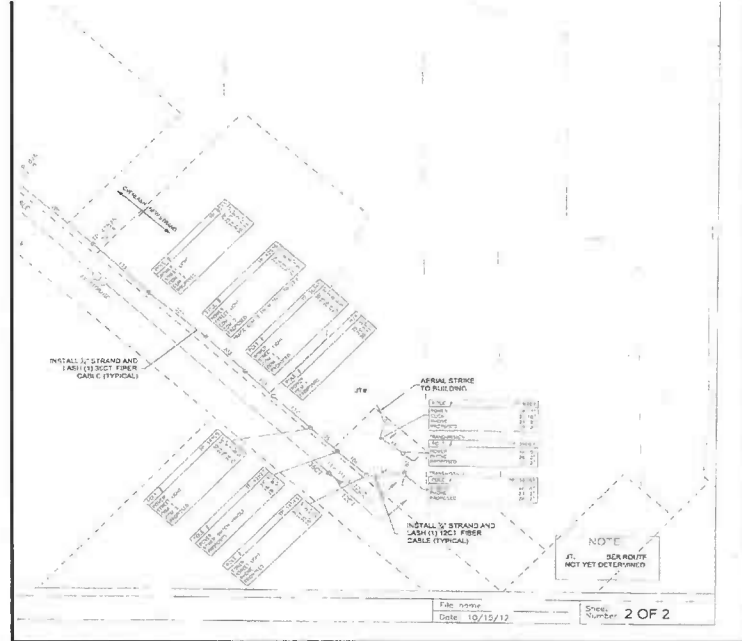
1	2	3	4	5	6	7	8	9	10	11		
Tacoma Power's Pole Number	Company's Pole Number (if applicable)	Company's Map/Draw Number	Proposed Attachment Method (see key below)	Size/Type of Attachment (see key below)	Cable Type (see key below)	Diameter (inches to third decimal)	Design Tension (lbs)	Number of guys to be installed	Attachment to existing anchor (Y/N)	Main Ready? (Y/N)	Height of Attachment on Pole (ft & inches)	Include Original Ground Elevation
1												
2												
3												
4												
5												
6												
7												
8												
9												
10												
11												
12												
13												
14												
15												

- Tacoma Power Pole Number can be up to 5 digits, obtained from TPU
- Company's Pole Number, if applicable
- List drawing number of Company's map that shows the pole
- Enter proposed attachment method from key below.
- Enter appropriate letters from key below.
- Enter proposed attachment specifications if design tension unknown. 60% of Rated breaking strength (RBS) will be used.
- Enter the number of down guys that will be attached after construction.
- Enter Yes or No if you will be attaching to an existing TPU anchor.
- Make Ready work that the Company has approved.
- Enter specific height of proposed attachment. Appropriate height is NOT acceptable.
- If removing an existing attachment, include the original TPU issued permit number.

Proposed Attachment Method
 MW = New Direct Attachment
 CLA = Co-Lash (overlashing onto an existing wire/cable owned by a third party)
 OVL = Overlashing (overlashing onto an existing wire/cable owned by the company)
 RBS = Removal
 OOO = Other

- Attachment Type Key**
- A. Amplifier B. Enclosure C. Slack Box D. Spike Box E. Power Supply
 - F. Risers G. Other (please specify)

Company/Contractor's Name: _____
 Attachment S/N: _____





3628 South 35th Street
Tacoma, Washington 98409-3192

TACOMA PUBLIC UTILITIES

APPENDIX A - Attachment Permit Sample

POLE ATTACHMENT PERMIT
Permit No. YYYY - ###

Applicant:

Applicant Name
Applicant Street Address
Applicant City, State, Zip

Site: Project location (Ref # _____)

Permit No. YYYY-### is hereby **granted for attachment on pole count (##) poles** as described on the list(s), map(s), and photograph(s) submitted as Appendix A, Wireless Application received on MMMM DD, YYYY, including any Tacoma Power modifications as indicated, to the Wireless Master Pole Attachment Agreement dated MMMM DD, YYYY. Make-ready work was/was not required for this project.

Permit Effective Date: MMMM DD, YYYY

Please note that you are required to furnish and install attachment labels on each installation per the attached Tacoma Power Construction Standard C-OH-2000.

You are also required to notify Tacoma Power, through this office, in writing within 15 calendar days after your pole attachment project is completed. You may e-mail your completed notification to me at pwjointutilities@cityoftacoma.org.

Expiration Date: MMMM DD, YYYY
(180 days, unless otherwise approved in writing)

Tacoma Power
Department of Public Utilities

By: _____
Name: _____
Title: _____
Date: _____



Certificate Of Completion

Envelope Id: 61B5C67367F74FC8962CB7706D099C40
Subject: Crown Castle - Tacoma Power // WIRELINE MPAA // 62643890
Project ID:
Customer:
Customer Execution Date:
Source Envelope:
Document Pages: 35
Certificate Pages: 4
AutoNav: Enabled
Envelope Stamping: Enabled
Time Zone: (UTC-05:00) Eastern Time (US & Canada)

Status Sent

Envelope Originator:
David Kutschbach
2000 Corporate Drive
Canonsburg, PA 15317
David.Kutschbach@crowncastle.com
IP Address: 4.78.16.2

Record Tracking

Status: Original
3/28/2022 2:51:42 PM
Holder: David Kutschbach
David.Kutschbach@crowncastle.com
Location: DocuSign

Signer Events

Michael Tuma
michael.tuma@crowncastle.com
Supervisor, Contract Execution
Crown Castle International Corp.
Security Level: Email, Account Authentication (None)

Signature

DocuSigned by:
Michael Tuma
39954640209431
Signature Adoption: Pre-selected Style
Using IP Address: 67.171.93.209

Timestamp

Sent: 3/28/2022 2:57:02 PM
Viewed: 3/28/2022 3:12:05 PM
Signed: 3/28/2022 3:12:15 PM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp

Electronic Record and Signature Disclosure created on: 9/19/2018 4:15:25 PM

Parties agreed to: Beverly Pinkerton

Agent Delivery Events	Status	Timestamp
Beverly Pinkerton bpinkerton@ci.tacomaw.wa.us Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Accepted: 3/29/2022 10:41:57 AM ID: od772911-e25b-4e82-b9e7-05aef67665d8		Sent: 3/28/2022 3:12:18 PM Viewed: 3/29/2022 10:41:57 AM
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
Wesley Jones Wesley.Jones@crowncastle.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	3/28/2022 2:57:02 PM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

In order to provide more efficient and faster service, Crown Castle ("we", "us" or "company") is pleased to announce the use of DocuSign, Inc. ("DocuSign") electronic signing system. The terms for providing such documents for execution and various other documents and records to you electronically through DocuSign are set forth below. Please read the information below carefully and if you can satisfactorily access this information electronically and agree to these terms, please confirm your agreement by clicking the "I agree" button at the bottom of this document.

Getting paper copies

At any time, you may request from us a paper copy of any document for execution or other document or record provided or made available electronically to you by us. You will be able to download and print documents we send to you through the DocuSign system during and immediately after each signing session and, if you elect to create a DocuSign signer account, you may access them for a limited period of time thereafter. To request paper copies of documents previously provided by us to you electronically, send an e-mail to esignature@CrownCastle.com, requesting the subject paper copies and stating your e-mail address, name, US Postal address and telephone number.

Withdrawing your consent to receive and/or execute documents electronically

If you elect to receive documents for execution and various other documents and records from us electronically, you may at any time change your mind and tell us that thereafter you want to receive such documents only in paper format. To withdraw your consent to electronic delivery and execution of documents, use the DocuSign "Withdraw Consent" form on the signing page of a DocuSign envelope, instead of signing it. Thereafter, you will no longer be able to use the DocuSign system to electronically receive and execute documents or other records from us. You may also send an e-mail to esignature@CrownCastle.com stating that you are withdrawing your consent to electronic delivery and execution of documents through the DocuSign system and stating your e-mail address, name, US Postal Address, and telephone number.

Consequences of withdrawing consent to receive and/or execute documents electronically

If you elect to receive documents for execution and various other documents and other records only in paper format, it will slow the speed at which we can complete the subject transactions because of the increased delivery time.

Documents for execution, and other documents and records may be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we may provide documents for execution, and other documents and records electronically to you through the DocuSign system during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any document for execution or other document or record, we prefer to provide all documents for execution, and other documents and records by the same method and to the same address that you have given us. If you do not agree with this process, please let us know as described below.

How to contact Crown Castle

You may contact us to let us know of any changes related to contacting you electronically, to request paper copies of documents for execution and other documents and records from us, and to withdraw your prior consent to receive documents for execution and other documents and records electronically as follows:

To contact us by phone call: 724-416-2000

To contact us by email, send messages to: esignature@CrownCastle.com

To contact us by paper mail, send correspondence to

Crown Castle
2000 Corporate Drive
Canonsburg, PA 15317

To advise Crown Castle and DocuSign of your new e-mail address

To let us know of a change to the e-mail address where we should send documents for execution and other documents and records to you, you must send an email message to esignature@CrownCastle.com and state your previous e-mail address and your new e-mail address.

In addition, you must notify DocuSign, Inc. to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in the DocuSign system.

Required hardware and software

Browsers:	Internet Explorer® 11 (Windows only); Windows Edge Current Version; Mozilla Firefox Current Version; Safari™ (Mac OS only) 6.2 or above; Google Chrome Current Version. Note - Pre-release (e.g., beta) versions of operating systems and browsers are not supported.
Mobile Signing:	Apple iOS 7.0 or above; Android 4.0 or above
PDF Reader:	Acrobat® Reader or similar software may be required to view and print PDF files
Screen Resolution:	1024 x 768

Enabled Security Settings:	Allow per session cookies
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These minimum requirements are subject to change. If these requirements change, you will be asked to re-accept the disclosure. Pre-release (e.g. beta) versions of operating systems and browsers are not supported.

Acknowledging your access and consent to receive documents electronically

Please confirm that you were able to access this disclosure electronically (which is similar to the manner in which we will deliver documents for execution and other documents and records) and that you were able to print this disclosure on paper or electronically save it for your future reference and access or that you were able to e-mail this disclosure to an address where you will be able to print it on paper or save it for your future reference and access. Further, if you consent to receiving documents for execution and other documents and records in electronic format on the terms described above, please let us know by clicking the "I agree" button below.

By checking the 'I agree' box, I confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- As a recipient, you can read, electronically sign and act upon this message, and you agree not to forward it or any other DocuSign e-mail communications. In the event another party needs to be added to the DocuSign communication, you must make a request to the e-mail originator.

WIRELESS Master Pole Attachment Agreement

Between

**City of Tacoma
Department of Public Utilities
Light Division**

And

Crown Castle Fiber LLC

This Master Pole Attachment Agreement ("Agreement") is executed in duplicate this 28th Day of March 2022, by and between the **City of Tacoma, Department of Public Utilities, Light Division**, a municipal corporation of the State of Washington (d/b/a and hereinafter referred to as "Tacoma Power") and **Crown Castle Fiber LLC**, a business or public agency entity engaged in telecommunications service activities in the State of Washington (hereinafter referred to as "Company"). Tacoma Power and the Company are sometimes referenced in this Agreement individually as "Party" and collectively as "Parties."

BACKGROUND

- A. Tacoma Power is authorized under Washington law to engage in the production, acquisition, distribution, and sale of electric power.
- B. Tacoma Power owns and operates an electric utility and related telecommunications infrastructure and, acting in a proprietary capacity, plans, designs, constructs, operates, and maintains a Distribution System (as defined in Section II J. below) that utilizes Poles and other electric power distribution facilities.
- C. COMPANY owns, operates and/or manages wireless data and communication facilities and desires to place Wireless Telecommunications Attachments (as defined in Section II Z. below) onto Tacoma Power's Distribution System and/or other facilities and property owned or controlled by the City of Tacoma for the purpose of providing, furnishing, or otherwise delivering Telecommunications Service (as defined in Section II X. below).
- D. Based on Tacoma Power's desire to facilitate community access to Telecommunications Service and to otherwise enable the best use of its Distribution System when it may lawfully do so, Tacoma Power has opted to provide access to its Distribution System for the purpose of permitting Company to place and maintain Wireless Telecommunications Attachments in furtherance of Company's Telecommunications Service activities subject to, and in strict compliance with, the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the respective covenants and benefits set forth in the terms and conditions below, the value and sufficiency of which is hereby mutually acknowledged, the Parties hereto agree as follows:

I. TERM

- A. **Term.** The Term of this Agreement shall commence on the Effective Date (as defined in Section II. K. below) and shall continue in effect for a period of ten (10) years thereafter.
- B. **Termination.** This Agreement may be terminated by either Party at any time during the Term upon ninety (90) days written notice thereof provided to the other Party.
- C. **Attachment Removal.** Upon termination or expiration of this Agreement, the Company shall remove all of its Attachments from the Pole(s) and/or other property of Tacoma Power and surrender all facilities accessed pursuant to this Agreement within ninety (90) days. If the Company fails to so remove and/or surrender within ninety (90) days, Tacoma Power may remove the Company's Attachments or hire a contractor to remove the Attachments at the Company's sole expense and risk or, alternatively, Tacoma Power may claim and use such Attachments for its own purposes, which forfeiture shall be deemed to be made with the Company's full and unconditional consent.
- D. **Post Termination Use.** Nothing in this Agreement or associated Permits shall be construed to require Tacoma Power to allow Company to use Tacoma Power's Poles after termination of this Agreement.
- E. **Payment Obligations Preserved.** All payment obligations incurred under this Agreement shall be preserved until satisfied.

II. DEFINITIONS:

When used with initial capitalization, the following terms shall have the meaning set forth below:

- A. **Anchor:** means an assembly that stabilizes a Pole and holds it in place. An Anchor assembly may consist of a rod and fixed object or plate, typically embedded in the ground, which is attached to a guy strand or Guy Wire, which in turn is attached to the Pole. The definition of "Anchor" does not include the guy strand that connects the Anchor to the Pole.
- B. **Anchor Attachment:** consists of a Company Guy wire with shielding where appropriate, attached to a Tacoma Power Anchor. Any Attachment to an existing Tacoma Power Anchor will require prior approval by Tacoma Power.
- C. **Application:** means the written Application, substantially in the form of **Appendix A (Attachment Application)** attached hereto, which the Company must complete and submit to Tacoma Power for any and all requested Attachment as a pre-condition for the authorized placement of such Attachment(s).
- D. **Applicable Standards:** means all electrical industry codes, regulations, and associated engineering, construction, and safety standards governing the installation,

maintenance, and operation of electric utility facilities, as well as the performance of all work in or around electric utility facilities and shall include, but are not limited to, the most current editions and/or versions of the National Electric Safety Code ("NESC"), the National Electric Code ("NEC"), regulatory and/or safety provisions specified by the Federal Communications Commission ("FCC"), the Occupational Safety and Health Administration ("OSHA") and the Washington Administrative Code ("WAC"), together with all Tacoma Power construction standards, specifications, rules, and regulations pertinent to the Company's Attachments and related Make-Ready Work now in effect and as may hereafter be amended or adopted by Tacoma Power¹. Without limiting the generality of the foregoing, Applicable Standards specifically includes Transmission and Distribution ("T&D") Standard C-OH-2000, which is attached hereto as **Exhibit 1** and fully incorporated herein by this reference, as well as such other current and/or future T&D Standards adopted by Tacoma Power and applicable to Wireless Telecommunications Attachments. Tacoma Power construction standards are available on Tacoma Power's website: <http://www.mylpu.org/tacomapower/electrical-permitting/electrical-construction-standards.htm> and will be provided by Tacoma Power to the Company on request.

E. Attachment: means:

1. The physical Attachment to and/or placement on a Pole and/or other Distribution System facilities of a device or similar single piece of wireless data or communications equipment such as an antenna or other radio transmission apparatus, which may include appurtenant facilities such as communications cables, mounting hardware, power supplies, meters, and power service wires used to accommodate such wireless data or communications equipment located or placed on Distribution System facilities and/or adjacent property owned or controlled by the City of Tacoma.
2. For purposes of this Agreement, Attachments include Wireless Telecommunications Attachments - such as Pole top antenna for macro cell and small cell ²deployment, and Supply Space antenna for AMI/AMR and small cell deployment, respectively. This definition of Attachment does not include wireline facilities or other Attachments made between Poles and/or located within the space normally designated for communications lines and equipment, which are governed by separate agreement.

F. Billing Periods: means the two six-month billing periods, spanning January 1st through June 30th and July 1st through December 31st, respectively.

G. Capacity: means the ability of a Pole to accommodate an additional Attachment or Attachments based on Applicable Standards.

¹ For purposes of this Agreement, statutes, codes, regulations, rules, standards and other requirements applicable to the telecommunications industry and adopted by government agencies with regulatory and/or jurisdiction authority shall be construed and interpreted as the Applicable Law (as said term is further defined in Article XV herein). Similarly, Applicable Law shall include any and all requirements that pertain to Attachment(s) made to Tacoma Power's Distribution System (including, but not limited to Poles), which are currently or hereafter set forth in Tacoma Power's Customer Services Policies and/or any Franchise(s) governing such facilities.

² These terms are further defined in RCW 80.36.375

H. Communications Space: means the space on a Pole located below, and separated from the Supply Space by, the Communication Worker Safety Zone and is where communication cables and equipment for telephone, cable television and other communication facilities are located.

I. Communication Worker Safety Zone or Safety Space: means the space on a Pole as defined in National Electric Safety Code (NESC) Rule 235C4. This zone generally originates at the lowest point of the Supply Space. This space is intended to maintain a physical separation between supply and communication facilities. The minimum dimensions of this space shall at no time be violated.

J. Distribution System: means the Poles, lines, and equipment, and includes under-build on transmission structures, owned or controlled by Tacoma Power for the distribution of electrical power below 14.4 kV.

K. Effective Date: means the date first written above or the date Tacoma Power approved the Company's initial Attachment Application, whichever is first to occur.

L. Emergency: means a situation exists which, in the reasonable discretion of the Company or Tacoma Power, if not remedied immediately, will result in a threat to public safety, a hazardous condition, damage to property or a service outage.

M. Force Majeure: has the meaning ascribed to this term in Article XIII.

N. Guy: means a cable used to provide support or reinforcement for Poles, installed between the Pole and an Anchor or between a Pole and another Pole.

O. Make-Ready Work – By Tacoma Power: means engineering or construction activities necessary to make a Pole, duct, conduit, right of way, or other support equipment available for a new Attachment, Attachment modifications, or additional Attachments. Such work may include rearrangement of existing Tacoma Power Attachments, installation of additional support for the utility Pole, or creation of additional capacity, up to and including replacement of an existing Pole with a taller Pole.

P. Make-Ready Work – By Third Party: means Work performed by a third party or parties, or third party contractors that is necessary to provide and prepare space on Tacoma Power's Poles for placement of Attachments.

Q. NJUNS: means the National Joint Utility Notification System.

R. Nonfunctional Attachment: means an Attachment that does not comply with Applicable Standards, is unusable, unfit or no longer used by the Company.

S. Permit: means a written acknowledgment by Tacoma Power, which grants a revocable, non-exclusive, license authorizing the Company to install and maintain Pole Attachments on Poles and/or other Distribution System facilities as specified per an approved Attachment Application.

T. Pole: means structures, usually wood, owned and/or controlled by Tacoma Power and used to support the lines and other equipment of the Distribution System and other

Attachments, which include, but are not necessary limited to Anchors, Guy Wires, hardware, wires, cables, strands, apparatus, enclosures, structures or other items attached to the Pole or any hardware affixed to or associated with the Pole.

- U. Reserved Capacity:** means capacity or space on a Pole that Tacoma Power has identified and reserved for its own future utility requirements at the time of the Permit grant, including the installation of communications circuits for operation of Tacoma Power's electric system.
- V. Service Provider:** means every corporation, company, association, joint stock association, firm, partnership, person, city, or town owning, operating, or managing any telecommunications service for hire, sale, or resale to the general public and/or governmental agencies or institutions. Service provider includes the legal successor to any such entities.
- W. Supply Space:** means the physical space located on each Pole where supply facilities are separated from the Communication Space by the Communication Worker Safety Zone. This space is above the Communication Worker Safety Zone.
- X. Telecommunications Service:** for purposes of this Agreement specifically includes, but is not limited to, any and all wireless transmission of information by radio or by similar over the air means for hire, sale, or resale to the general public and/or governmental agencies or institutions. Telecommunications service hereunder includes, but is not necessarily limited to, transmission of information by wire, optical cable, electromagnetic, or similar means to accomplish wireless or similar over the air transmissions.
- Y. Unallocated Space or zone:** means the physical space located on each Pole within the Communications zone that is available and suitable for new or additional Attachments by the Company.
- Z. Wireless Telecommunications Attachment:** means any installation on a Pole owned and/or controlled by Tacoma Power that sends and/or receives radio frequency signals including, but not limited, to directional, omnidirectional and parabolic antennas, structures to support sending or receiving and/or transmitting devices, cabinets, accessory equipment and other ancillary equipment. A span wire required to support an unbalanced load shall be considered within this definition if the operator does not have an authorized Attachment on that same Pole.
- AA. Unauthorized Attachments:** means any Attachment (i) installed on a Pole by Company without the submission of a properly completed Application to Tacoma Power (pursuant to Article IV herein) and/or in the absence of a Permit issued by Tacoma Power or some other suitable arrangement whereby Tacoma Power has approved the Attachment prior to installation, (ii) approved Attachments for which Company fails to declare in its inventories (See Article IX of this Agreement), (iii) Attachments not in accordance with Applicable Standards and/or Applicable Law as required by Section VII. G, and/or (iv) Attachments that the Company fails to timely transfer, abandon or remove as required by Section VII. E.

BB. Unauthorized Attachment Fee: means the fee that will be charged by Tacoma Power for, and commencing upon notice or discovery of, any Unauthorized Attachment made by Company. Said fee is equal to five (5) times the current Attachment fee (specified in **Schedule 1** hereto) for authorized Attachments.

CC. Work or work: when used in the Agreement shall be understood to generally pertain to any labor performed pursuant to the terms and conditions of this Agreement and includes all supervision, materials, labor, transportation, and equipment related work activity. When referencing the Company, "Work" shall refer to everything agreed to be done and furnished by the Company, including that pertaining to its Attachments, maintenance, repair, relocation and/or removal of its Attachments.

III. RESPECTIVE RIGHTS AND RESPONSIBILITIES APPLICABLE TO ATTACHMENTS

- A. Purpose.** In accordance with the provisions of this Agreement and subject to the issuance of individual Permits, Tacoma Power agrees that the Company may make use of Poles owned or controlled by Tacoma Power as part of its Distribution System, for Attachments in furtherance of lawful Telecommunications Service, and for no other purpose.
- B. Agreement Governs All Attachments.** This non-exclusive Agreement governs all Attachments by the Company, now or hereafter made to Tacoma Power's Distribution System.
- C. Other Agreements and Third-Party Attachments.** Nothing in this Agreement limits, restricts or prohibits Tacoma Power from continuing or entering into any other agreement or arrangement regarding the use of its Distribution System. The rights of Company under this Agreement are at all times subject to existing agreements or arrangements between Tacoma Power and any joint owner(s) of Poles and/or with respect to existing Attachments and uses of any Pole(s).
- D. Attachments Must Comply with Agreement and Applicable Standards.** All Attachments shall be installed and maintained in accordance with the requirements and specifications of this Agreement. Attachments and Company's performance of any work must comply with all Applicable Standard of the industry, good engineering practices and those of Tacoma Power specifically.
- E. Tacoma Power's Paramount Rights.**
1. **Tacoma Power Discretion.** Tacoma Power shall have sole discretion to determine any question regarding the right to attach, construction compliance, and shared use of available space on Poles.
 2. **Withdrawal of Permission.** Permission to make and/or maintain Attachments to Tacoma Power's Distribution System (including, but not limited to Poles) may be withdrawn by Tacoma Power based on:
 - a) Company non-compliance with Applicable Standards or violation of Applicable Law per Article XV;

- b) Company failure to perform any material obligation under this Agreement including, but not limited to, per Section XI B (non-payment), Section XVIII (unauthorized assignment and/or sub-licensing), and/or Section XIV (lack of required insurance coverage and/or proof).
- c) Any other reason Tacoma Power determines is necessary, in its sole discretion, due to the paramount operational needs and requirements of its electrical utility system.

3. Immediate Removal of Attachments. Tacoma Power may require, upon as directed in written notice to Company, the immediate removal of any Company Attachment that:

- a) Fails to conform to Applicable Law – which may include, but is in no way limited to the potential or actual loss of Tacoma Power's franchise rights and/or utility in good standing status based on presence of Attachment and/or failure to relocate Attachment in violation of applicable franchise and/or Pole permitting authority requirements;
- b) Interferes with the electric utility and/or telecommunication operations of Tacoma Power or the City of Tacoma – which may include, but is in no way limited to:
 - Potential or actual forfeiture of Tacoma Power's right to occupy the property upon which the Attachment to its Distribution System is located.
 - Reported radio frequency interference with or degradation of Tacoma Power equipment and/or operations, the equipment and/or operations of other existing Attachments or entities using the Distribution System.
- c) is a Nonfunctional Attachment, as designated by Tacoma Power in its sole discretion.

NOTE: Threatened forfeiture of Tacoma Power rights: Company acknowledges and expressly agrees that if any of its existing Attachments (whether installed pursuant to a valid Permit or not) would cause any threatened or actual forfeiture and/or other impairment of Tacoma Power's rights associated with its electric utility or telecommunication operations, Company shall promptly remove its Attachments upon receipt of written notice thereof from Tacoma Power. If Company does not remove its Attachments in question within thirty (30) days of receiving such notice, Tacoma Power may at its option perform such removal at Company's sole risk and expense. Notwithstanding the foregoing, Company shall have the right to contest any such forfeiture before any of its rights are terminated; provided that Company shall indemnify Tacoma Power for liability, costs, and all expenses (including, but not limited to, reasonable attorney's fees) that may accrue during Company's challenge.

NOTE: Elimination of radio frequency interference: Company acknowledges and expressly agrees it shall not allow the diffusion of radio frequency signals from its Attachments to cause interference with or degradation of the licensed or unlicensed radio frequencies of devices used by Tacoma Power and/or of any other lawfully

operated public or third-party devices and uses (including, but not limited to, traffic signals). Company further agrees that it shall, at its sole cost and expense, eliminate any such interference or degradation as soon as practicable after receiving notice thereof from Tacoma Power and/or any third-party, which notice may be made by telephone, email, or written correspondence. Notice by telephone shall be promptly documented in writing via email or mailed correspondence.

In the event Tacoma Power determines, in its sole discretion, and provides written notice that Company has failed to timely eliminate reported radio interference and/or degradation, Company shall immediately remove the Attachment(s) causing same. If the Attachment is not so immediately removed, Tacoma Power may remove the Attachment without liability to Company and/or any third-party affected by such removal. In that case, Company will reimburse Tacoma Power for the removal cost within thirty (30) days of the invoice date issued by Tacoma Power for such cost.

In addition to the foregoing, and any other rights to terminate this Agreement, Tacoma Power has the right to terminate all of Company Attachment rights at the affected site in its sole discretion upon written notice to Company if any Attachment placed at said site by Company unreasonably interferes with any equipment located on thereon and Company fails to eliminate or otherwise resolve the interference to the satisfaction of Tacoma Power within thirty (30) days of the date of such notice.

- 4. Reserved Capacity.** Access to space on Tacoma Power Poles will be made available to Company with the understanding that certain Poles may be subject to Reserve Capacity for future electric service use. At the time of Permit issuance, Tacoma Power shall notify Company if capacity on particular poles is being reserved for reasonably foreseeable future utility or electric use. For Attachments made with notice of such a Reservation of Capacity, on giving Company at least sixty (60) calendar days prior notice, Tacoma Power may reclaim such Reserved Capacity at any time following the installation of Company's Attachment if required for Tacoma Power's future utility service. If reclaimed for Tacoma Power's use, Tacoma Power may at such time also install associated facilities, including the Attachment of communications lines for internal Tacoma Power operational or governmental communications requirements.

Tacoma Power shall give Company the option to remove its Attachment(s) from the affected Pole(s) or to pay for the cost of any Make-Ready Work needed to expand Capacity for core utility service requirements, so that Company can maintain its Attachment on the affected Pole(s). The allocation of the cost of any such Make-Ready Work, (including the transfer, rearrangement, or relocation of third party Attachment(s)) shall be determined in accordance with Section V. A. below. Company shall not be required to bear any of the costs of rearranging or replacing its Attachments if such rearrangement or replacement is required as a result of an additional Attachment or the modification of an existing Attachment sought by any third party.

Company expressly acknowledges and agrees that Tacoma Power shall have the sole and exclusive right to reserve capacity on Poles governed by this Agreement

and that Tacoma Power does not, and will not under any circumstance, accept, review, or approve requests for reserved capacity submitted by Company or by any third-party.

5. Agreement Does Not Limit Tacoma Power's Operations. This Agreement does not in any way limit Tacoma Power's right to locate, operate, maintain, or remove its Poles in the manner that will best enable it to fulfill its service requirements or to comply with any federal, state, or local legal requirement.

F. Company Attachment Removal. Company may at any time remove its Attachments from the Tacoma Power's Distribution System Provided, however, that before commencing such removal, the Company must obtain Tacoma Power's written approval of the Company's plans for removal. Said plans shall include the name of the person or entity performing such work and the date(s) and time(s) during which such work will be completed. No refund of any fees or costs will be made upon removal. If Company surrenders such Permit pursuant to the provisions of this Article III., but fails to remove its Attachments within thirty (30) calendar days, Tacoma Power shall have the right, but not the obligation, to remove or transfer Company's Attachments at Company's expense.

G. Company Attachment Replacement or Material Alteration. If the Company desires to replace existing Attachment equipment due to material alteration, Company must submit a completed Application prior to conducting such replacement or alteration work.

H. Unauthorized Attachments. Except as otherwise specified and permitted by the terms and conditions of this Agreement, the Company is expressly prohibited from placing and/or siting any Attachment on Poles owned or controlled by Tacoma Power and/or on any other Tacoma Power Distribution System facilities. Upon mutual execution of this Agreement, the Company shall make best efforts to timely investigate and determine whether, as of the Effective Date hereof, it has made and/or maintains any Unauthorized Attachments as defined in Section II AA. above. In the event Company determines the existence of any Unauthorized Attachment, as the result of such investigation and/or at any time thereafter during the Term of this Agreement, the Company shall immediately provide written notice thereof to Tacoma Power. Upon such notification or, alternatively, upon Tacoma Power's independent discovery of any Unauthorized Attachment(s) by Company, the following terms and conditions shall apply:

1. Tacoma Power shall have the right to invoice Company and collect Unauthorized Attachment Fees in accordance with Section III. H. and XI. A. 2 herein. Company shall be responsible for and shall timely pay all Unauthorized Attachment Fees invoiced by Tacoma Power.
2. In addition to payment of Unauthorized Attachment Fees invoiced by Tacoma Power, and within thirty (30) days of invoice receipt, the Company shall either (i) submit a fully completed Application to obtain a Permit for each and every Unauthorized Attachment identified in the invoice, or (ii) complete removal of each such Unauthorized Attachment(s).
3. In the event Company fails, within thirty (30) calendar days of receipt of a Tacoma Power invoice for Unauthorized Attachment Fees, to fully pay such invoice and/or fully complete the removal of all Unauthorized Attachments identified in such invoice,

Tacoma Power shall have the right to have all Unauthorized Attachments removed at the Company's sole risk and expense; and in the event of such removal, the Company hereby expressly agrees to fully indemnify and hold harmless Tacoma Power from and against any and all liability, loss, cost and expense whatsoever related to or caused by such removal.

4. Tacoma Power shall have no obligation to accept, review and/or approve any pending or future Applications for Attachment submitted by Company during any period of time that Company fails to be in compliance with any of the terms and conditions of this Subsection H.

IV. REQUESTS FOR ATTACHMENTS

A. Application. If the Company desires to place Attachments on any Pole, the Company shall complete and submit an Attachment Application to Tacoma Power substantially in the form of **Appendix A Attachment Application**, attached hereto. Each Attachment Application is limited to fifty (50) poles or less. Company shall not place an Attachment onto any Pole without completing such Application and obtaining Tacoma Power's prior written consent in the form of a Permit therefor. Permits will not be issued if Company has Unauthorized Attachments. Tacoma Power may also refuse to issue Permits in the event Company fails to respond to and/or reasonably comply with any notice, in accordance with Section XXI., given by Tacoma Power pursuant to this Agreement within two (2) weeks following delivery of such notice.

B. Application Contents. Each Attachment Application shall describe in detail:

1. The Pole(s) and any other Distribution System facilities affected by Company's requested Attachment, including the number and location of each affected Pole. This information shall be mailed to Tacoma Power in Excel spreadsheet format and provided electronically via e-mail format to pwjointutilities@cityoftacoma.org.
2. A detailed description of the Company's Attachments that will contact Tacoma Power Poles and any other Distribution System facilities, including a description of how the Company intends to implement installation of its Attachments. See Map Sample in Appendix A, which is attached thereto as "A-3".
3. Pictures of Pole the Attachment will be mounted on. See Pole Photo Sample in Appendix A, which is attached thereto as "A-4".
4. What action the Company proposes to take to accommodate any additional strain that will be imposed upon the affected Poles by the Company's Attachments as further discussed in Article VII.
5. The following specifications shall be submitted for each Application to attach Wireless Telecommunications Attachments including, but not limited to, replacement of such Attachments:
 - Product Specifications that include device dimensions and weight, power supply, radio frequency output power, enclosure material type, FCC Standard

Compliance, operating AC voltage, power consumption, and transmit output power.

- C. Incomplete Applications.** Incomplete Applications will be returned for corrections. Company shall have two (2) weeks, from the date an incomplete Application is returned, to submit a corrected Application(s). If Company fails to meet the deadline, the returned Application will expire and a new Attachment Application, with corresponding fees, will be required.
- D. Records and Maps.** Each Application shall also include map(s) which correctly identify each Pole the Company will contact, including an Attachment height block indicating the height of all current/requested Attachments and any other information the Tacoma Power may request (for example, with regard to the proposed nature, appearance, circuit arrangement and line sags of the Attachment. See **Map Sample** (Attachment A-3 to **Appendix A**). Tacoma Power will make Pole records and maps reasonably available, subject to reasonable compensation for staff time and materials.

V. MAKE-READY WORK

A. Procedure for Tacoma Power Make-Ready Work. Tacoma Power will determine, in its sole discretion based on review of a Company Attachment Application, whether any Tacoma Power Make-Ready Work is required. When required, all Tacoma Power Make-Ready Work shall be performed by Tacoma Power. The cost of such Tacoma Power Make-Ready Work performed for the benefit of Company shall be the sole responsibility of Company and Company shall pay such cost as specified in this Article V. and in Article VII. and in accordance with Subsection H. of Article X. below. The scope, cost, and performance of Tacoma Power Make-Ready Work shall be determined and completed as follows:

- 1. **Scope and Cost:** The Company's proposed route may require Tacoma Power to perform Tacoma Power Make-Ready Work in order to provide space on Pole(s) for the Company's use. At the Company's expense, Tacoma Power shall survey the proposed route and prepare a Time and Materials Quote form, a sample which is attached hereto as **Exhibit 2** ("T&M Quote"), setting forth Tacoma Power's estimated costs to perform any Tacoma Power Make-Ready Work it determines to be necessary based on said route. Tacoma Power will submit said T&Ms Quote to the Company for its review prior to commencing any Tacoma Power Make-Ready Work. Upon receipt of the T&M Quote, Company shall have forty-five (45) days to approve same and provide payment in accordance with this Agreement and the specifications of said T&M Quote.

NOTE: If Company fails to respond within said forty-five (45) day period, the Application and T&M Quote for Tacoma Power Make-Ready Work will expire and a new Attachment Application, with corresponding fees, will be required.

Nothing in this Article V. shall prohibit the Company from proposing alternate routes to avoid Tacoma Power Make-Ready Work.

Upon completion of Tacoma Power Make-Ready Work, Tacoma Power shall invoice Company for any actual costs incurred by Tacoma Power to perform Tacoma Power

Make-Ready Work that exceed the amount pre-paid by Company; and in the event such actual costs are less than the pre-payment amount, Tacoma Power will refund the difference to Company.

- 2. **Scheduling of Tacoma Power Make-Ready Work.** In performing all Tacoma Power Make-Ready Work to accommodate Company's Attachment, Tacoma Power will endeavor to include such work in its normal work schedule. If Company requests that the Tacoma Power Make-Ready Work be performed on a priority basis or outside of Tacoma Power's normal work hours, Company will pay any resulting increased costs. Nothing in this Agreement shall be construed to require Tacoma Power to perform Company's work before Tacoma Power's other scheduled work and/or emergency-outage service restoration work.
- 3. **Written Approval of Installation Plans Required.** Before making any Attachments to Tacoma Power's Poles, Company must obtain Tacoma Power's written approval of detailed plans for the Attachments. Such detailed plans shall accompany an Attachment Application in accordance with Article IV.
- 4. **Completion of Tacoma Power Make-Ready Work.** Tacoma Power will complete routing Tacoma Power Make-Ready Work within ninety (90) days of receipt of payment. If there are extenuating circumstances that make the necessary Tacoma Power Make-Ready Work more complicated or time-consuming, including, but not limited to, the number of Poles, seasonal weather conditions, Tacoma Power shall identify those factors and notify Company via e-mail; the Parties shall agree upon a reasonable timeframe for completion.

B. Restrictions - Who May Perform Tacoma Power Make-Ready Work. Tacoma Power Make-Ready Work shall be performed only by Tacoma Power and/or a contractor hired by Tacoma Power to perform such work.

C. Pole Replacement to accommodate new Attachment(s). Tacoma Power will not replace Poles to provide space for Attachments except under the following conditions:

- 1. The Pole in question does not meet current standards for height.
- 2. If the Pole in question must be replaced due to poor conditions, as determined in Tacoma Power's sole discretion, then the cost and expense of Pole procurement and all labor and materials required to replace with a standard height Pole will be borne by Tacoma Power. If the condition of the Pole does not warrant replacement as determined by Tacoma Power in its sole discretion, then the cost and expense of Pole procurement and all labor and materials required to replace with a standard height Pole will be borne by the Company.
- 3. At Tacoma Power's sole discretion, it may replace the Pole in question with a taller Pole as necessary to ensure adequate space for Company's Attachment(s); **Provided**, Company accepts sole responsibility for, and promptly pays all cost and expense of Pole procurement, labor and materials associated with such Pole replacement.

Tacoma Power shall have sole discretion and authority to determine Pole height requirements and standards based on Pole space and condition and adequacy of Pole space conditions.

- D. Third Party Make-Ready Work.** The Company's proposed route may require Third Party Make-Ready Work in order to provide space on Pole(s) for the Company's use. All Third Party Make-Ready Work required and performed hereunder shall comply with Applicable Standards and the terms and conditions of Master Pole Attachment Agreement(s) and related Permits(s), if any, between the affected third party and Tacoma Power. The Company shall be responsible for coordinating and arranging any Third Party Make-Ready Work below the Supply Space, as well as for the cost of rearranging or replacing the Attachments of a third party if such action is required as a result of a Company request for additional Attachment(s) and/or for the modification of one of its existing Attachments. Company shall not be responsible hereunder for any of the costs of rearranging or replacing the Attachment(s) of a third party if such action is (i) required solely as a result of a third-party or other entity's request for additional Attachment(s) and/or for the modification of existing Attachment(s), or (ii) due to clearance requirements as specified by Applicable Standards and/or Applicable Law (see Section VII. G.)

Notwithstanding the foregoing, it is expressly understood and agreed that the Company shall at all times be responsible for, and is required to timely address, all coordinating and/ or arranging of Third Party Make-Ready Work that involves or otherwise affects Company Attachments. Tacoma Power shall not be responsible, liable, or have any obligation for coordinating and/or arranging any Third Party Make-Ready Work necessitated by any additional Attachment(s) and/or modification requested by the Company, nor shall Tacoma Power have any responsibility whatsoever for the cost of such Third Party Make-Ready Work.

VI. APPROVAL

- A. Application Review and Approval.** Upon submission of a complete Attachment Application, Tacoma Power will review and within sixty (60) days approve or deny the Application, as appropriate and pursuant to the intent of this Agreement.
- B. Tacoma Power's Approval Limitations.** Tacoma Power's review and approval for the proposed Attachments is not intended as a comprehensive engineering review/analysis of the request and all associated implications. It shall remain the sole responsibility of the Company to assure the installation meets all code and permitting requirements. Further, consent by Tacoma Power to the construction or maintenance of any Attachments by Company shall not be deemed consent, authorization, or acknowledgment that Company has obtained all required authorizations with respect to such Attachment or that the proposed plans, construction, or maintenance are correct, meet professional or engineering standards, sufficient, or fit for a particular purpose.
- C. Attachments outside Normal Designated Space.** Tacoma Power reserves the right to approve on a case by case basis Attachments, such as enclosures and amplifiers, the Company wishes to place outside the space normally designated for communication lines and equipment.

- D. Discretion to Refuse or Withhold Approval.** Tacoma Power may refuse to approve and/or may withhold a final determination of any Attachment Application when, in Tacoma Power's sole opinion, there is insufficient Capacity on a Pole for the Company's Attachment, or for reasons relating to safety, reliability, generally applicable engineering purposes, and/or any other Applicable Standards. Further, Tacoma Power may refuse to approve and/or may withhold final determination of any Application when (i) any existing Attachment of Company is not in compliance with the Permit issued for such Attachment or with any of its obligations according to the terms and conditions of this Agreement, and/or (ii) otherwise reasonably necessary to ensure timely response to, or performance as directed in, any notice issued by Tacoma Power as authorized hereunder. Company must bring other Attachments into compliance with Permit requirements and otherwise be in compliance with this Agreement before Tacoma Power shall approve additional Attachments.

- E. Permit Issuance.** Tacoma Power may approve an Application if, in its sole judgment, exercised reasonably, Tacoma Power determines that (i) it has sufficient Capacity to accommodate the requested Attachments, (ii) Company meets all the requirements set forth in this Agreement, and (iii) the Attachment and Application complies with all Applicable Standards. Upon approval, Tacoma Power shall send Company an executed Permit substantially in the form of **Appendix B**, Attachment Permit, attached hereto, documenting Tacoma Power's consent, in whole or in part, to the Attachments requested in the Application. This Agreement shall not in itself constitute any such consent.

- F. Permit Constitutes a License – Restrictions on Transfer.** Subject to the terms and conditions of this Agreement, Tacoma Power's approval of a Company Application and issuance of a Permit based thereon shall constitute a grant of a revocable, non-exclusive license to Company authorizing Company to install and maintain Attachments on Tacoma Power Pole(s) and/or such other Distribution System facilities as specifically identified in the Application and approved by the Permit. Company shall submit an Application, and must obtain a Permit from Tacoma Power, for each Attachment requested and made. Except as otherwise provided in this Agreement or pursuant to Applicable Law (see Article XV below), no Company Attachment identified in an Application or otherwise may be made to any Tacoma Power Pole(s) or other Distribution System property prior to Application approval by Tacoma Power and issuance of a Permit based thereon.

1. Except as provided in Article XVIII below or as otherwise permitted by Applicable Law, only the Company is allowed to make and/or maintain Attachments pursuant to any and all Permit issued by Tacoma Power under this Agreement. Such Permits do not grant Company any sub-licensing or sub-letting authority.
2. No attempted assignment, sub-license or sub-lease of Company's Permit rights and duties granted hereunder will be lawful or recognized by Tacoma Power unless Company has fully complied with the requirements of Section XVIII. C. below.

- G. Necessary Authorizations.** Before Company may occupy any Poles, Company shall obtain from the appropriate public or private authority, or from any property owner or other appropriate person, any required authorization to construct, operate, or maintain its Attachments on public or private property. Tacoma Power retains the right to require evidence that appropriate authorization has been obtained before any Permit is issued. Company's obligations under this Article VI include, but are not limited to, its obligation to

obtain and pay for all necessary approvals to occupy public/private rights-of-way and easements and all necessary licenses and authorizations to provide the services that it provides over its Attachments. Company shall defend, indemnify, and reimburse Tacoma Power for all losses, costs, and expenses, including reasonable attorney's fees that Tacoma Power may incur as a result of claims by governmental bodies, owners of private property, or other persons, that Company does not have sufficient rights or authority to attach Company's Attachments on Tacoma Power's Poles or to provide particular services.

- H. Installation Deadline and Notice.** Once Tacoma Power has approved the Company's Application, the Company must install its Attachments within one hundred and eighty (180) days of the Permit Effective Date stated on the subject Attachment Permit, a sample form of which is attached hereto as **Appendix B**. If Company fails to install its Attachments within said one hundred and eighty (180) days it will relinquish its rights under the Permit and forfeit its Application fee a one-time, thirty (30) day extension may be granted at Tacoma Power's discretion if requested prior to the Permit expiration date. Company shall provide notice, pursuant to Section XXI. B, to Tacoma Power's Joint-Use Coordinator, Business and Financial Management, in writing upon completing installation of approved Attachments. Failure to notify Tacoma Power within fifteen (15) days of completion of construction may result in the suspension or rejection of additional Company Attachment Applications.
- I. Joint Pole Ownership.** The Agreement is intended to be applicable to poles owned in whole or part by Tacoma Power. Poles that are jointly owned with CenturyLink Corporation, or their respective successors, will be identified by Tacoma Power, and the Company will need to obtain additional authorization from CenturyLink in order to attach to said jointly owned poles. CenturyLink may require a Attachment fee from the Company.
- J. Revocable Nonexclusive License.** No use, regardless of duration, of any Pole owned by Tacoma Power, and no payment of any fees or charges required under this Agreement, shall create or vest in Company any easement or other ownership or property right of any nature in any portion of such Pole. As specified in subsection F. above, any permission or Permit to use Tacoma Power's Poles granted by Tacoma Power hereunder shall be deemed a revocable, nonexclusive license to install and maintain Attachments to said Poles. Company's rights shall be and are limited to a license for the Attachment in strict compliance with the terms and conditions of this Agreement. Neither this Agreement nor any Permit granted pursuant to this Agreement, shall constitute an assignment of any Tacoma Power rights to its Poles or any other Tacoma Power owned facility. Notwithstanding anything to the contrary in this Agreement, Company shall remain, at all times, a licensee only.
- K. Permitted Uses.** Use of Tacoma Power's Poles is limited to those uses specified in this Agreement and associated Permits. No other use shall be allowed without Tacoma Power's express written consent.
- L. No Forfeiture of Tacoma Power Rights.** No Permit granted under this Agreement shall extend, or be deemed to extend, to any of Tacoma Power's Poles to the extent that the Company's Attachments would result in a forfeiture of Tacoma Power's rights. Any Permit that would result in forfeiture of Tacoma Power's rights shall be deemed invalid as of the

date that Tacoma Power granted it. The provisions in Section III. E. 3. shall apply in the event of any threatened forfeiture of Tacoma Power rights.

VII. REQUIREMENTS FOR ATTACHMENT

- A. Access / Climbing Space.** The Company's Attachments shall not impede access to climbing space or in any way disturb or conflict with Tacoma Power's equipment or any other entity's equipment.
- B. Costs / Make-Ready Work.** The Company is responsible for, and shall pay, all costs associated with its Attachments on Tacoma Power Poles including, but not limited to, Make-Ready Work and maintenance of such Attachments. Article V Make-Ready Work, discusses requirements associated with Make-Ready Work that must be performed to accommodate the Company's Attachments relative to Tacoma Power Poles and equipment. The Company shall pay and/or reimburse Tacoma Power for Make-Ready Work performed, and for costs incurred, by Tacoma Power pursuant to this Article VII.
- C. Guys and Anchors.** Unless otherwise directed by Tacoma Power, the Company shall install, maintain and/or replace, as necessary, Guys and Anchors necessary to support the additional strain imposed on any Pole by the Company's Attachments. The Company must submit to Tacoma Power, for Tacoma Power's review and approval, detailed plans and support calculations for Guys and Anchors. If the Company fails to install, maintain and/or replace Guys and Anchors, Tacoma Power may install or replace Guys or Anchors at the Company's sole expense.
- D. Crossarms.** If Company determines that crossarms or other equipment installation is necessary for its Attachments, it will submit detailed plans for Tacoma Power's review and approval. Tacoma Power reserves the right to install, at the Company's sole expense, crossarms and/or other equipment necessary for the Company's Attachments.
- E. Abandonment, Relocation, Replacement, Rebuild, or Removal of Pole.** Disposition of Poles due to changed Pole status or condition will be determined and processed as follows:
1. If at any time Tacoma Power desires or is required to abandon, relocate, replace, rebuild or remove any of its Poles on which Company Attachments are located, Tacoma Power shall provide Company thirty (30) days' written notice prior to the date it intends to abandon, relocate, replace, rebuild or remove said Pole or Poles. The Company shall change the location of its Attachments as necessitated by Tacoma Power's abandonment, relocation, replacement, rebuild or removal of a Pole. All such Attachment changes shall be made at Company's sole cost and expense. If the Company fails to timely make or complete any changes required hereunder, Tacoma Power may perform such changes, at Company's sole risk, and invoice Company for reimbursement of all costs incurred.
 2. Pursuant to Pierce County Utility Accommodation Policies, utilities may receive a "Utility in Good Standing" designation if they maintain compliance with said Policies and regulations relative to utility facilities located in Pierce County's right of ways. A utility that receives the "Utility in Good Standing" designation is not required to obtain permits for a certain defined class of work. This Utility in Good Standing designation,

therefore, provides Tacoma Power with significant benefits in terms of avoided permit fees and avoided costs associated with time spent obtaining permits. Company's failure to remove Attachments or otherwise comply with Pole disposition requirements as directed herein may result in Tacoma Power losing its status as a "Utility in Good Standing" within its service territory located in Pierce County. If Tacoma Power loses said status due to Company's failure to perform its Attachment removal, transfer or other obligations under this Agreement, then it is expressly acknowledged and agreed that Company shall reimburse Tacoma Power for the following costs until Tacoma Power's "Utility in Good Standing" status is reinstated:

- a) All actual costs charged to and paid by Tacoma Power to obtain Pierce County permits for Tacoma Power operations, which costs would not have been required or incurred if it was a "Utility in Good Standing" and
- b) All of Tacoma Power's administrative costs and expense associated with obtaining said permits.

F. Underground. If Tacoma Power plans to underground its Distribution System in a given area, and if the Company serves or has potential to serve such area, the Company shall cooperate with Tacoma Power in any planning and design associated with undergrounding. If Tacoma Power converts its overhead distribution to underground the Company shall underground its Attachments, as applicable and within the space available, at the Company's own expense unless otherwise mandated by Applicable Law.

G. Attachment Requirements. All Company Attachments shall be in accordance with requirements of this Article VII and, without limiting the applicability or enforcement of any other provision herein, Articles III, V, VI, VIII, XII, XIV, and XV of this Agreement. Company and its Attachments shall at all times fully comply with Applicable Standards, including the State of Washington Administrative Code (WAC) Chapter 296-45-045; National Electric Safety Code ("NESC"), as well as all franchises, Codes and Tacoma Power standards as now in force or as the same may be revised or amended in the future. The Company recognizes that Tacoma Power constructs its facilities to NESC Grade C. Therefore, the Company shall construct its facilities in a manner consistent with that requirement.

H. Restrictions on Items Placed near Poles. Company shall not place pedestals, vaults, or other enclosures on or within four feet of any Pole or other Tacoma Power facility without Tacoma Power's prior written permission. If permission is granted, all such installations shall be per the specifications and requirements of this Agreement. Company agrees to move any such above-ground enclosures in order to provide sufficient space for Tacoma Power to set a replacement Pole.

I. Signage – Radio Frequency Emissions. Company shall be required to post signage which indicates Company's twenty-four hour emergency contact number, applicable radio frequency emission hazards and National Electrical Safety Code NESC required information to the extent required by Federal Communications Commission FCC rules or in the absence of FCC approval the information commonly used in the industry for such signs. The signage will be placed so that it is clearly visible to workers who climb the Pole or ascend by mechanical means.

J. Installation and operation of Wireless Telecommunications Attachments. All Wireless Telecommunications Attachments shall fully comply with Tacoma Power construction standards including, but not limited to Standard C-OH-2000 (Customer Requirements – RF Antenna Installations), which is attached hereto as **Exhibit "1"**.

No Attachments of any type or nature shall be installed or operated within the Safety Space of any Pole. Installation of Wireless Telecommunications Attachments within the Supply Space and the Communications Space of a Pole shall comply with **Exhibit 1**.

1. Per Standard C-OH-2000 (See "Who will Install and Maintain the Antenna Equipment"), all Radio Frequency ("RF") emitting Attachments in the Supply Space will be installed by Tacoma Power personnel, and/or Tacoma Power approved electrical contractors. Final determination of who installs each RF Attachment shall be made by Tacoma Power, in its sole discretion, in consideration of (i) applicable labor requirements based on operating voltages, and (ii) the paramount operational needs and requirements of Tacoma Power's electric utility and other business operations. Tacoma Power will also determine the timing of RF Attachment installation, in its sole discretion, based on these considerations as well as its internal review and the Company's desired schedule.

- Tacoma Power may allow, in its sole discretion, the Company and/or other party owning the proposed Attachment to hire an approved electrical contractor with qualified electrical employees as defined in Chapter 296-45 of the Washington Administrative Code (WAC) to install antenna equipment in the Supply space.

- Attachment(s) below the Safety Space will be installed and maintained by the Company and/or third party that owns the Wireless Telecommunications Attachment.

2. As specified in Standard C-OH-2000, the following criteria apply to Pole selection and installation location:

- Antenna equipment shall be mounted on clean tangent poles when possible.
- Antenna equipment shall not be installed above any transmission conductors.
- Antenna equipment shall not be installed above any distribution conductors where that installation will be under any transmission conductors not attached to the Pole.
- Radio Frequency emitting antennas shall not be installed in or below the communications space.
- Antenna equipment shall not be mounted on 4 way or 3 way corner poles (buck leads) or poles with:
 - > primary switches
 - > primary cable terminations
 - > transformers
 - > capacitors
 - > sectionalizers
 - > regulators
 - > primary metering

> locations where adequate clearance is not available

ensure that all personnel who perform the Work shall be fully experienced and properly qualified to perform the same.

3. **RF Hazard Protection.** Per applicable safety regulations including, but not limited to, elimination of RF exposure to Tacoma Power employees in accordance with WAC 296-62-09005, all Wireless Telecommunications Attachments such as RF Attachments shall be installed to enable – and/or shall be subject to – immediate on-site electrical service disconnect by Tacoma Power. Tacoma Power will make reasonable effort to provide 24 hour advance notice of service disconnect, but Company acknowledges and expressly agrees that Tacoma Power is authorized to immediately disconnect electrical service to Company’s Wireless Telecommunications Attachments (including RF Attachments) at any time with or without notice. Company further expressly agrees that Tacoma Power shall not as a result of such service disconnect, unless proven to be an intentional wrongful act, be liable to Company or to any third party for any claims, damages, costs, expense, lost revenue or other kind or type of loss whatsoever, all of which Tacoma Power hereby expressly disclaims any risk, duty or responsibility related thereto.

4. Due to evolving technology, further specific Wireless Telecommunications Attachment device and equipment requirements will be determined by Tacoma Power on a case by case basis.

5. The Company shall be solely responsible for, and shall pay, all costs of RF Attachment installation and operation. All work performed by Tacoma Power shall be as specified in this Agreement including, but not limited to, Article VIII. (Performance of Work) and Article V (Make-Ready Work), and all charges or fees associated with RF Attachment installation and/or operation shall be as specified in this Agreement including, but not limited to, Article X. (Fees), Article XI. (Billing), and the attached **Schedule 1** (entitled **Attachment Agreement Fees**).

K. Performance of Work. Company’s Installation/Removal/Maintenance Work. All of Company’s installation, removal and maintenance work, by either Company’s employees or authorized contractors, shall be performed at Company’s sole cost and expense, in a good and workmanlike manner, and must not adversely affect the structural integrity of Tacoma Power’s Poles or other attaching entity facilities or equipment. All such work is subject to the insurance requirements of Article XIV.

All of Company’s installation, removal, and maintenance work, either by its employees or authorized contractors, shall comply with all applicable requirements specified in Article VII. Company shall assure that any person installing, maintaining, or removing its Attachments is fully qualified and familiar with all Applicable Standards indicated in Article XV.

VIII. PERFORMANCE OF WORK

A. Work Requirements. The Company shall perform the Work in a skillful manner, in accordance with Article XV of this Agreement, and including WAC Chapter 296-45-045, NESC, and amendments or successor codes, standards, and all franchise requirements. The Company shall ensure that the Work and its equipment are in all respects (i) safe, (ii) of first-class quality, (iii) free from all faults and defects in workmanship, material and design, and (iv) in conformance with the requirements of this Agreement. Company shall

B. Surveys and Inspections. Tacoma Power reserves the right to perform preliminary surveys prior to the actual installation of Company’s Attachments, to inspect each new Attachment of Company after device placement and prior to product placement, and to make periodic inspections of Company’s Attachments. Within thirty (30) days of receiving written notice from Tacoma Power, Company shall correct all Attachments that Tacoma Power identifies as being out of compliance with Applicable Standards. These surveys and inspections, or the absence of surveys and inspections, shall not operate to or in any manner impose any legal duty or liability on Tacoma Power or relieve the Company of any responsibility, obligation, duty or liability assumed under this Agreement or imposed by any Applicable Standard or Applicable Law, rule or regulation. Additional Attachment Applications may also be suspended or rejected if Company fails to request final inspections by Tacoma Power’s Hybrid Fiber Coax (HFC) Construction group.

C. Corrections. The Company shall, as soon as is practically possible, correct or replace any Work or equipment found to be defective or not in conformity with the requirements of this Agreement. If Company fails to perform any Work, corrections and/or replacements as required by this Agreement, Tacoma Power may perform such Work, corrections, and/or replacements at the Company’s expense. Tacoma Power reserves the right to charge for the crew time used to inspect/re-inspect installations that do not meet the code standards.

D. Debris. The Company shall, at all times, keep its work areas cleared of rubbish, refuse and other debris and in a neat, clean and safe condition. Upon completion of any portion of any of the Work, Company shall immediately remove all rubbish, refuse and other debris and all of its equipment and surplus materials associated or resulting from the Work. If Company fails to do so, Tacoma Power may perform such removal at the Company’s expense.

IX. INVENTORY

The Company shall submit Attachment inventories an electronic Excel spreadsheet format, flash drive or other format specified by Tacoma Power annually, on or before December 15th of each year of the Term. Failure to provide inventories may result in Tacoma Power hiring a contractor to conduct said inventory at Company’s expense. Said inventory shall list all Attachments, contacting Pole numbers and addresses. The inventory may not be used in lieu of an Attachment Application.

A. The Company shall include with the inventories a listing of any Attachment the Company has removed from Poles since the last inventory. The Company shall identify the Pole from which the Attachment was removed, describe the removed Attachment, and indicate the approximate date of removal.

B. Upon request, the Company shall furnish to Tacoma Power, as part of the inventories, an up-to-date electronic map depicting the locations of its Attachments.

C. Notwithstanding Subsection A above, Tacoma Power reserves the right to conduct its own inventory of the Company’s Attachments at any time, but not more than once per year, at the Company’s expense.

- D. Attachments not previously applied for and listed in the inventory shall be deemed to be Unauthorized Attachments and are subject to the terms and conditions in Section III. H. including, but not limited to, an Unauthorized Attachment Fee as provided in Section X.D. below.

X. FEES

- A. **Payment of Fees.** Company shall pay to Tacoma Power all applicable fees as specified in **Schedule 1 (Attachment Agreement Fees)**, attached hereto and fully incorporated herein by this reference.
- B. **Application Fee.** The Company will submit a nonrefundable Application Fee with each Attachment Application in accordance with the Application Fee provisions in **Schedule 1**.
- C. **Security Deposit.** Tacoma Power reserves the right to request a security deposit for Attachments hereunder as it may deem necessary. If required, and upon written notice by Tacoma Power, the Company will promptly pay a security deposit for Attachments hereunder. Upon termination of this Agreement, the security deposit will be returned to the Company, less any outstanding fees, penalties and/or other costs associated with the Company's Attachments per this Agreement. The applicable security deposit as determined by Tacoma Power upon the Effective Date of this Agreement is specified in **Schedule 1**.
- D. **Attachment Fees.** The Company shall pay Tacoma Power fees for the Company's Attachments semiannually. The Company's obligation to pay Schedule 1 fees for any of its Attachments commences either on the Effective Date of the Company's Permit or on the date Tacoma Power discovers any Unauthorized Attachments, whichever is earlier with respect to the subject Attachment(s). Unauthorized Attachments will be billed at five times the current annual Attachment fee specified in **Schedule 1** and shall be subject to further enforcement action per the terms and conditions specified in Section III. H. above.
- E. **Fee / Deposit Modification.** Every April 1, Tacoma Power may review and modify **Schedule 1** as it deems appropriate (i) to account for changed conditions or circumstances involving Tacoma Power's cost accounting methodology, policies, operational needs, or system requirements, (ii) due to legal and/or regulatory requirements, and/or (iii) for any other justifiable cost basis and/or reason not delineated in this Agreement. Such review and modification of Schedule 1 may include, but is not limited to, Attachment Fees, Application Fees, and/or the Security Deposit. If modified, Tacoma Power will provide written notice to Company specifying the change(s). Such Schedule 1 changes shall apply to all Attachments covered by this Agreement and billing based on such change(s) will commence as of the next billing period (e.g. the July 1 to December 31 billing period); Provided, that if an Application is submitted after April 1, any Schedule 1 change(s) made shall apply as of the submittal date.
- F. **Alternative Fees.** Tacoma Power reserves the right to charge an alternative fee to public agencies and municipalities that own and/or operate Attachments for public safety, health, and/or well-being purposes.
- G. **True-Up.** Whenever Tacoma Power, in its discretion, requires advance payment of estimated expenses prior to undertaking an activity on behalf of Company and the actual

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cost of the activity exceeds the advance payment of estimated expenses, Company agrees to pay Tacoma Power for the difference in cost, provided that Tacoma Power documents such costs with sufficient detail to enable Company to verify the charges. To the extent that Tacoma Power's actual cost of the activity is less than the estimated cost, Tacoma Power shall refund to Company the difference in cost.

- H. **Tacoma Power and Third Party Make-Ready Work Fees and Costs.** The Company is solely responsible for and shall pay and/or reimburse Tacoma Power for all costs it incurs that are associated with Tacoma Power Make-Ready Work performed by Tacoma Power and/or a Tacoma Power's contractor pursuant Article V. herein. The Company shall also be responsible for the costs for any and all Third Party Make-Ready Work that (i) is required to make or ensure available Pole for Company's additional Attachments, (ii) involves modification of one or more of Company's existing Attachments, and/or (iii) is necessary to comply with Applicable Standard and/or Applicable Law including, but not limited to, safety or code clearance requirements Ready Work is caused by or necessitated by making room for Company's additional Attachments or modification of one of Company's existing Attachments or to comply with Standard/code clearance requirements.
- I. **Failure to Timely Transfer, Abandon or Remove Facilities.** Company will be charged an Unauthorized Attachment Fee, and shall be subject to further enforcement action pursuant to Section III. H., if the Company fails to change the location of its Attachment within thirty (30) days of notification as set forth in Article VII. Requirements For Attachment
- J. **Field Inspection Fee.** The Company shall pay Tacoma Power for all costs associated with inspections conducted outside of the Attachment Application process.

XI. BILLING

A. Billing Procedure.

1. Tacoma Power will invoice Company for Attachment Fees semi-annually in January (for the period of January through June) and in July (for the period of July through December) of each year during the Term.
2. Within thirty (30) calendar days of the date Tacoma Power discovers any Unauthorized Attachments, Tacoma Power may invoice the Company for Attachment fees for the current Billing Period, provided however, Tacoma Power will prorate such fees as appropriate.
3. For the final invoice, (upon termination) within thirty (30) calendar days after the first day of January or July, as applicable, Tacoma Power shall invoice the Company for Attachment fees for the current Billing Period, provided however, Tacoma Power will prorate such fees as appropriate.

- B. **Payment.** The Company shall pay all invoices within thirty (30) days of receipt. All payments shall be made in immediately available funds payable to Tacoma Power, or by wire transfer to a bank named by Tacoma Power. If Tacoma Power does not receive payment for any fees or other amount owed within thirty (thirty) calendar days after it becomes due, the Company shall pay interest to Tacoma Power at the rate of one percent (1%) per month, or the maximum interest allowed by law, on the amount due.

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Nonpayment of any undisputed amounts due under this Agreement beyond sixty (60) days shall constitute a material default of this Agreement. Payment must include invoice number on the check.

- C. Interest on Unpaid Balances.** Interest on any unpaid amounts (including amounts placed in escrow) will bear interest until paid at the rate of 1% per month. When payments are made by mail, bills shall be considered as having been paid on the date of receipt by Tacoma Power.
- D. Taxes.** Company shall pay all applicable and lawful value-added, sales, use, excise, and other taxes, duties, imposts, fees or charges (collectively "Taxes") properly levied or imposed on it by a duly constituted and authorized taxing or other governmental authority with respect to the Company's use of the Poles whether or not such amounts are required to be collected Tacoma Power under Applicable Law. In addition, Tacoma Power will invoice and Company shall pay all state, local, and federal taxes and franchise, tariff, and agreement fees (if any), imposed upon Tacoma Power with respect to its activities contemplated under this Agreement. In the event that any authority with jurisdiction imposes a tax on any aspect of the transactions contemplated hereunder including but not limited to taxes imposed pursuant to Chapter 82.29A of the Revised Code of Washington, Company agrees to indemnify, defend, and save harmless Tacoma Power from and against such taxes or other Taxes and any penalties and interest thereon or costs associated with any attempts to collect the same.
- E. Billing Dispute.** In the event of a billing dispute between Tacoma Power and the Company, Tacoma Power will continue to provide service under this Agreement as long as the Company continues to make all payments not in dispute, and pays into an independent escrow account the portion of the invoice in dispute, pending resolution of such dispute. If the Company fails to meet this requirement for continuation of service, then Tacoma Power may provide notice to the Company of its intention to terminate this Agreement and apply the security deposit to owed amounts.

XII. LIABILITY, INDEMNIFICATION, AND EXCULPATION

- A. Risk and Duty to Inspect.** Company agrees to use Tacoma Power's Poles at Company's sole risk. Company acknowledges and agrees that it has an obligation to inspect the Poles and/or premises surrounding said Poles prior to commencing any work on said Poles.
- B. Indemnity / Hold Harmless.** Unless caused by the sole negligence or willful misconduct of Tacoma Power its employees, contractors or agents, the Company releases and agrees to defend, indemnify and hold harmless Tacoma Power, its successors and assigns, and its respective directors, officers, employees and agents of Tacoma Power and its successors and assigns (collectively referred to as the "Indemnitees") from any and all claims, losses, costs, liabilities, damages and expenses (including, but not limited to reasonable attorneys' fees) arising out of or in connection with any Attachments, Permits, the performance of any Work, the operation of any equipment or the Company's system, or the acts or omissions of the Company or any of its suppliers or contractors of any tier, the respective successors and assigns of the Company or any such suppliers or contractors, the directors, officers, employees and agents of each of the foregoing, or anyone acting on the Company's behalf in connection with said Attachments, performance of Work or operation of equipment or the Company's system.

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- C. Scope.** Such indemnity, protection and hold harmless shall include any demand, claim, suit or judgment for damages to property or injury to or death of persons, including officers, agents and employees of either party hereto including payment made under or in connection with any Worker's Compensation Law or under any plan for employees' disability and death benefits, which may arise out of or be caused or contributed by the erection, maintenance, presence, use or removal of Company's Attachments or by the proximity of the respective cables, wires, apparatus and appliances of Company including any claims or demands of customers of the Company with respect thereto. The Company hereby acknowledges that it is waiving employer immunity under Title 51 RCW, the Industrial Insurance Law, and that this Agreement has been mutually negotiated.

- D. Service Interruption.** Tacoma Power shall not be liable to the Company or to the Company's customers, and the Company hereby indemnifies, protects and saves harmless Tacoma Power against any and all such claims or demands, suit or judgment for loss, liability, damages and expense by the Company's customers, for an interruption to the service of the Company, or for interference with the operation of the Company's Attachments, and/or appliances of the Company, or for interference with the operation of the Company's Attachments, and/or wires and appliances of the Company.

- E. Third Parties.** To the fullest extent permitted by Applicable Law, the foregoing release, indemnity and hold harmless shall apply to and for the benefit of the Indemnitees. This Article XII shall not be intended or interpreted to provide any person an independent claim or course of action based upon third party doctrine.

- F. Consideration.** Tacoma Power is willing to permit Attachments for the fees described in **Schedule 1** only in consideration of and in reliance upon such release, indemnity and hold harmless. The Parties mutually acknowledge that said consideration is not, however, the sole and exclusive consideration hereunder and expressly agree that further, additional and sufficient, consideration exists with respect to all other Party rights and obligations set forth in this Agreement

- G. DISCLAIMER.** TACOMA POWER MAKES NO EXPRESS OR IMPLIED WARRANTIES WITH REGARD TO TACOMA POWER'S POLES OR THE PREMISES SURROUNDING SAID POLES, ALL OF WHICH ARE HEREBY DISCLAIMED, AND TACOMA POWER MAKES NO OTHER EXPRESS OR IMPLIED WARRANTIES, EXCEPT TO THE EXTENT EXPRESSLY AND UNAMBIGUOUSLY SET FORTH IN THIS AGREEMENT. TACOMA POWER EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

- H. Environmental Hazards.** Company represents and warrants that its use of Tacoma Power's Poles will not generate any Hazardous Substances, that it will not store or dispose on or about Tacoma Power's Poles or transport to Tacoma Power's Poles any Hazardous Substances and that Company's Attachments will not constitute or contain and will not generate any Hazardous Substance in violation of federal, state, or local law now or hereafter in effect, including any amendments. "Hazardous Substance" shall be interpreted broadly to mean any substance or material designated or defined as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic or radioactive substance, dangerous radio frequency radiation, or other similar terms by any federal, state, or local laws, regulations or rules now or hereafter in effect, including any amendments. Company further represents and

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warrants that in the event of breakage, leakage, incineration, or other disaster its Attachments would not release any Hazardous Substances. Company and its agents, contractors, and subcontractors shall defend, indemnify, and hold harmless Tacoma Power and its respective officials, officers, board members, council members, commissioners, representatives, employees and agents against any and all liability, costs, damages, fines, taxes, special charges by others, penalties, punitive damages, or expenses (including reasonable attorney's fees and all other costs and expenses of litigation) arising from or due to the release, threatened release, storage, or discovery of any Hazardous Substances on, under, or adjacent to Tacoma Power's Poles attributable to Company's use of Tacoma Power's Poles.

- I. **Municipal Liability Limits.** No provision of this Agreement is intended, or shall be construed, to be a waiver for any purpose by Tacoma Power of any applicable state limits on municipal liability or governmental immunity. No indemnification provision contained in this Agreement under which Company indemnifies Tacoma Power shall be construed in any way to limit any other indemnification provision contained in this Agreement.

If Tacoma Power brings a successful action in a court of competent jurisdiction to enforce this Agreement, Company shall pay Tacoma Power's reasonable attorney's fees.

XIII. FORCE MAJEURE

An event of Force Majeure means any act of Nature, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, regulation or restriction imposed by governmental military or lawfully established civilian authorities, or any other cause beyond a Party's control. Neither Party will be considered in default as to any obligation under this Agreement if prevented from fulfilling the obligation due to an event of Force Majeure. However, a Party whose performance under this Agreement is hindered by an event of Force Majeure shall make all reasonable efforts to perform its obligations under this Agreement.

XIV. WORKER'S COMPENSATION, INSURANCE AND BONDS

- A. **Workers Compensation and Employer's Liability.** The Company shall ensure that, with respect to all persons performing the Work, (including Third Party Make-Ready Work) for or on its behalf, the Company or its suppliers or contractors maintain in effect at all times during the term coverage or insurance in accordance with the Applicable Law relating to worker's compensation and employer's liability (including, but not limited to, the Washington Industrial Insurance Act and the laws of the state in which any such person was hired), regardless of whether such coverage or insurance is mandatory or merely elective under the law. The Company shall furnish to Tacoma Power such assurance and evidence of such coverage or insurance (such as copies of certificates of insurance and Certificates of Compliance issued by the Washington State Department of Labor and Industries) as Tacoma Power may request. Tacoma Power reserves the right to accept self-insurance from the Company.

- B. **Commercial General Liability.** The Company shall obtain, and maintain continuously for the term of this Agreement, at its own expense, an ISO form, occurrence based (not "claims-made") Commercial General Liability insurance policy, with endorsements and/or other insurance necessary to provide coverage for the Work and other activities and services of this Agreement. The Commercial General Liability policy (CGL) shall have policy limits no less than \$2,000,000 combined single limit of liability each occurrence with general aggregate limit of no less than \$4,000,000. The insurance carrier issuing the policy must have an A.M. Best rating of at least "A" and be legally admitted and licensed to do business in the State of Washington. The City of Tacoma, Department of Public Utilities shall be named as an additional insured on said CGL policy and said policy shall be primary over and non-contributing to any insurance or self-insurance program of the City of Tacoma.

- C. **Deductible / Self-Insurance.** The insurance coverage required by this Article shall not be subject to a deductible or self-insured retained limit of liability in excess of \$10,000 as respect to Tacoma Power. Company agrees to indemnify and hold the City of Tacoma harmless from the obligation to pay the deductible or self-insured retained limit of liability as if the City of Tacoma were an additional insured without the self-insured retained limit or deductible.

- D. **Cross Liability.** Such insurance shall include a "cross liability," "severability of interests," or "separation of insured" clause indicating essentially that except with respect to the limits of insurance, and any rights or duties specifically assigned in this coverage part to the first named insured, this insurance applies as if each named insured were the only named insured, and separately to each insured against whom the claim is made or suit is brought.

- E. **Certificate of Insurance.** Prior to commencement of performance of any of the Work, including Make-Ready Work, the Company shall provide Tacoma Power a certificate of insurance with its endorsements as evidence of coverage. The company or companies issuing such insurance and the policies issued shall be subject to approval by Tacoma Power.

- F. **Notice of Claims.** The company shall promptly advise Tacoma Power of all claims relating to damage to property or injury to or death of persons arising or alleged to have arisen in any manner by, or directly associated with, the erection, maintenance, presence, use or removal of the Company's equipment. Copies of all accident or other reports made to any insurer by the Company shall be furnished to Tacoma Power.

- G. **Additional Assurances.** The Company shall also furnish Tacoma Power with such additional assurance and evidence of such insurance (including, but not limited to: copies of insurance policies, declaration pages, and endorsements) as Tacoma Power may from time to time request to reasonable verify the insurance coverage types and limits required hereunder are in effect. Within thirty (30) days after any notice of termination, cancellation, expiration or alteration in any policy of insurance required under this Agreement, the Company shall deliver to Tacoma Power a Certificate of Insurance acceptable to Tacoma Power with respect to any replacement policy.

- H. **Subrogation.** The Company shall ensure that any policies of insurance that the Company or any of its suppliers or contractors of any tier carry as insurance against property damage or against liability for personal injury (including death) shall include a provision therein

providing a waiver of the insurer's right to subrogation against the Indemnitees. To the extent permitted by its insurance.

- I. **Liabilities and Obligations.** The requirements of this Agreement as to insurance and acceptability to Tacoma Power of insurers and insurance to be maintained by the Company are not intended to and shall not in any manner limit or qualify the liabilities and obligations of or assumed by the Company under this Agreement.
- J. **Bonds.** In addition, the Company shall furnish to Tacoma Power, at such times and in such forms as Tacoma Power may in writing request, surety bonds with performance, payment and maintenance clauses payable to Tacoma Power.

XV. COMPLIANCE WITH APPLICABLE LAW

- A. **Applicable Law.** Unless expressly and affirmatively pre-empted by federal law and/or regulation specifically applicable to the subject matter identified, this Agreement shall be governed by and construed in accordance with the laws of the State of Washington, which shall include the Constitution, and all applicable statutes, codes, ordinances, orders, decisions and rules of the state, municipal or other governmental authorities thereof (collectively, "Applicable Law"). For clarification purposes only, and without limiting the generality of the foregoing, the Applicable Law also includes the following legal and/or regulatory requirements, now or hereafter in effect, established by any governmental authority with jurisdiction:
1. Any and all federal, state, and local regulations, rules and requirements applicable to Telecommunications Service and/or Wireless Telecommunications Attachments specifically including, but not necessarily limited to: The Communications Act of 1934, as amended by the Telecommunications Act of 1996; the Rules and Regulations promulgated by the Federal Communications Commission under said Act(s) –when applicable and in accordance with Washington State law; the National Electric Safety Code ("NESC"); Chapter 80.36, RCW; and Chapter 296-45, WAC.
 2. All regulations, rules and requirements set forth in any Franchise(s) and third-party issued licenses or permits that pertain to the siting, installation, operation, maintenance or removal of (i) Wireless Telecommunications Attachments, and/or (ii) Tacoma Power's Distribution System facilities.
 3. All terms, conditions, standards, and requirements set forth in Tacoma Power's Customer Service Policies, now in effect and as may be hereafter amended or adopted, that pertain to its Distribution System and any Company Attachment permitted hereunder.

NOTE: All laws, regulations and orders required to be incorporated in agreements of this character are hereby incorporated herein by this reference

- B. **Compliance.** With respect to any and all Attachments made pursuant to this Agreement, and in the performance of Work and Make-Ready Work related thereto and/or the operation or maintenance of equipment associated therewith, the Company shall fully comply with the foregoing Applicable Law – as well as all Applicable Standards. The Company shall be responsible for, and shall make best efforts to ensure, compliance with the said Applicable

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Law and Applicable Standards by Company and its employees, agents, contractors, sub-contractors, suppliers, and/or licensees of any tier.

1. If Company's Attachments violate or are not in compliance with any applicable laws, ordinances, rules, regulations, orders, licenses, permits, franchises and other requirements, now or hereafter in effect, of any governmental authority or if said governmental authority requires any change to Company's Attachments then Company shall complete said changes and bring its Attachments into compliance.
2. The Company shall, if and as requested by Tacoma Power, furnish such documents as may be required to effect or evidence compliance in accordance with this Article XV.

XVI. EMERGENCIES

- A. In the event of an emergency relating to the Equipment, Company shall immediately contact Tacoma Power at the emergency phone number below and take immediate action to correct any safety or use problems, including but not limited to the actions in Article VIII, "Performance of Work," even if the full repair cannot be made at the time, in order to protect persons and property or to allow use of the site. The Parties' respective emergency phone numbers are as follows:
- Tacoma Power: (253) 502-8602
Company: (866) 446-3984
- B. In the event that Tacoma Power cannot reach Company at the emergency number listed above, Tacoma Power shall, in its sole judgment, repair Company's Attachment in order to protect persons and property, at the Company's sole expense.

XVII. NONWAIVER

The failure of Tacoma Power to insist upon or enforce strict performance by the Company of any of the provisions of this Agreement or to exercise any rights under this Agreement shall not be construed as a waiver or relinquishment to any extent of its right to assert or rely upon any such provisions or rights in that or any other instance; rather, the same shall be and remain in full force and effect.

XVIII. ASSIGNMENT AND SUB-LICENSING

- A. **Company is Sole Licensee.** Except as otherwise permitted by Applicable Law, only the Company is allowed to make Attachments pursuant to a Permit issued under this Agreement. Except as expressly provided in Subsections B and C of this Article, nothing in this Agreement will permit or be construed as permitting any person or entity other than Company to make, maintain, alter, and/or remove Attachments.
- B. **Assignment.** The Company shall not assign, transfer or otherwise dispose of any of the privileges granted under this Agreement without prior written notice to, and the written consent of, Tacoma Power; **PROVIDED**, that such consent shall not be unreasonably withheld; and **PROVIDED FURTHER** that no such written consent shall be required for an

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assignment or transfer to an entity that the Company controls, is controlled by, or is under the common control of, or to an entity that acquires all or substantially all of the assets of the Company.

- C. Sub-Licenses or Leases.** The Company shall not, without Tacoma Power's prior written consent, sub-license or lease a Permit issued by Tacoma Power - nor any rights, duties or interests whatsoever related to any Attachment approved by such a Permit - to any third party under any circumstance. Examples of prohibited sub-licensing or leasing include but are not limited to, allowing third parties to place Attachments on Tacoma Power's Poles, or to place Attachments for the benefit of such third parties on Tacoma Power's Poles and/or any other Distribution System facilities. The use of Company's Attachments by third parties that involves no additional Attachment or Co-lashing is not subject to this Section XVIII.C.
1. A separate and additional Attachment Application shall be completed and submitted by any third-party to which Company intends to sub-license, lease, or otherwise transfer its Attachment rights, duties and/or any other interests under a Permit issued by Tacoma Power hereunder. In the event Company intends to make any such sub-license, lease or other transfer, the Company shall ensure said Application is fully completed and submitted to Tacoma Power for review and approval prior to making or allowing any change to the physical condition, and/or legal status, of the subject Attachment(s).
- D. Continuing Liability of Company.** In no event will an assignment or sub-license or lease transfer, when permitted and approved hereunder, constitute or effect a release of Company with respect to any liabilities or any of Company's obligations under this Agreement unless such release is expressly granted by Tacoma Power in writing.
- E. Violation – Effect of Prohibited Assignment, Sub-license, Lease or Transfer.** Any assignment, transfer or disposition of Permit privileges without the prior written notice to and written consent of Tacoma Power as required under this Article shall be deemed null and void at law and in equity. Any action, act and/or omission in violation of the terms and conditions set forth in Subsections A. - C. above shall further be deemed a material breach of this Agreement and entitle Tacoma Power to immediately revoke the Permit(s) involved and take any and all other remedial action available to it pursuant to this Agreement, Applicable Law, and in equity.

XIX. ENTIRE AGREEMENT

- A.** The terms and provisions contained in the Agreement, including all Appendices, Schedules, and Exhibits hereto, shall constitute the entire agreement between the Parties. This Agreement may be modified, extended or renewed only by written amendment, executed by the duly authorized representative of both Parties. The persons who have executed this Agreement represent and warrant that they are duly authorized to execute this Agreement in their representative capacity as indicated.
- B.** This Agreement supersedes any and all prior agreements, with respect to Attachments.
- C.** The invalidity or unenforceability of any provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.

- D.** The provisions of this Agreement, which by their sense and context are reasonably intended to survive the completion, expiration or cancellation of this Agreement, shall survive expiration or termination of this Agreement.

XX. GOVERNING LAW AND VENUE

This Agreement shall be governed by the laws of the State of Washington, which shall be the Applicable Law as set forth in Article XV above. The Parties agree and stipulate that in the event any litigation should occur concerning or arising out of this Agreement, the sole venue of any legal action shall be the Pierce County Superior Court of the State of Washington. The substantially prevailing party in any litigation arising hereunder shall be entitled to its reasonable attorney's fees and court costs, including appeals, if any.

XXI. NOTICES AND OTHER COMMUNICATIONS

- A. Notices.** Any formal notice, request, approval, consent, instruction, direction or other communication given by either Party or to the other pursuant to this Agreement shall be in writing and shall be delivered by either (i) certified first class mail, return receipt requested, or (ii) by reputable overnight courier service to the individuals denoted below, unless otherwise directed in writing, at the address provided:

TO: Tacoma Power:

Tacoma Power
Business and Financial Management

TO: Company:

Crown Castle Fiber LLC c/o Crown Castle
2000 Corporate Drive
Canonsburg, PA 15317-8564

ATTN: Joint-Use Coordinator

3628 S. 35th Street

ATTN:

Ken Simon, General Counsel

- B. Invoices / Informal Notice.** Billing invoices and informal notices, such as technical or routine business communications, may be transmitted by electronic mail. Either Party may from time to time change such address by giving the other Party written notice of such change in accordance with the provisions of this Article.

Company address for informal notices and billing purposes shall be as follows:

**Company: Crown Castle Fiber LLC c/o Crown Castle, 2000 Corporate Drive,
Canonsburg, PA 15317-8564**

Attn: Contracts Administration

Email Address: DAS.Administration@crowncastle.com

Tacoma Power address for informal notices and billing questions shall be as follows:

Tacoma Power:

Business and Financial Management

ATTN: Joint-Use Coordinator
3628 S. 35th Street
Tacoma WA 98409

Email Address: pwjointutilities@cityoftacoma.org

C. Construction Standards. Current versions of all Tacoma Power Standards specified in this Agreement may be obtained at:

<http://www.mytpu.org/tacomapower/electrical-permitting/electrical-construction-standards.htm>

XXII. HEADINGS

The headings of Articles, Sections and/or subsections of this Agreement are for convenience of reference only and are not intended to restrict, affect or be of any weight in the interpretation or construction of the provisions of such sections.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement to be effective as of the Effective Date defined herein.

COMPANY

By: Michael Tuma Date: 3/28/2022 | 3:11:19 PM EDT

Printed Name: Michael Tuma

Title: Supervisor, Contract Execution

Tax ID No.: 01-0570431

TACOMA POWER:

By: Chris Robinson Date: 04/18/2022

Power Superintendent/COO

Approved: [Signature]

Approved as to Form:

By: Andy Cherallo Date: 04/18/2022

Andrew Cherallo, Finance Director

By: Michael W. Smith Date: 04/15/2022

Deputy City Attorney

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SCHEDULE 1
Attachment Agreement Fees

This Schedule 1 sets forth applicable fees, rates, and other cost related charges for Attachments made to Tacoma Power's Distribution System.

1. Wireless Attachment Fees:

Annual rate for microcell: \$101

Annual rate for small cell facility: \$1,200

Annual rate for minor facility: \$6,473

Unauthorized Attachment fee: 5 times (5x) annual rate per Attachment type above.

2. Application Fees:

Attachment Application Fee: \$175 per Application up to 15 Poles/Attachments, plus additional \$5 per each Pole thereafter up to a total of 50.

Fee Methodology. The specified Application Fee is based on all reasonable costs and expenses incurred by Tacoma Power for to fully process each Application. Such costs include, but are not limited to, necessary review, inspection, administrative and supervision activities, transportation, employee compensation, reproduction and/or graphic services, supplies, telephone and other telecommunication services, plus related administrative overhead.

NOTE: An additional charge will be billed on a time and materials basis for any Application that requires specific engineering review and/or inspection beyond the fixed fee(s) established per this fee methodology. This charge is separate and independent of any time and materials costs that may be incurred in connection with Tacoma Make-Ready Work per Article V. of the Agreement.

3. Security Deposit:

No security deposit is required as of the Effective Date of the Agreement, but Tacoma Power reserves the right, per Section X. C. and at any time during the Term of the Agreement, to review its operational risks hereunder and require that Company provide a security deposit in an amount deemed necessary by Tacoma Power.

4. Pole Records and Maps:

Actual time and materials will be billed per Section IV. D. of the Agreement.

5. Tacoma Power Make-Ready Costs:

Actual time and materials will be billed in accordance with any Time and Material Quote (Exhibit 2) required in accordance with Section V. A. of the Agreement.

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6. Additional Charges for Electricity Supplied by Tacoma Power:

In addition to the annual Attachment Fee(s) set forth above, the following monthly power cost and customer charges shall apply and be collected for Wireless Telecommunication Attachments that require electricity supplied by Tacoma Power. The Company is responsible for and shall timely pay all such charges when invoiced by Tacoma Public Utilities:

- **Energy and Delivery charges** per the monthly rate specified in Tacoma Municipal Code Section 12.06.170 B. 1. and 2.
- **Customer charge** per the monthly rate specified in Tacoma Municipal Code Section 12.06.170 B. 3.

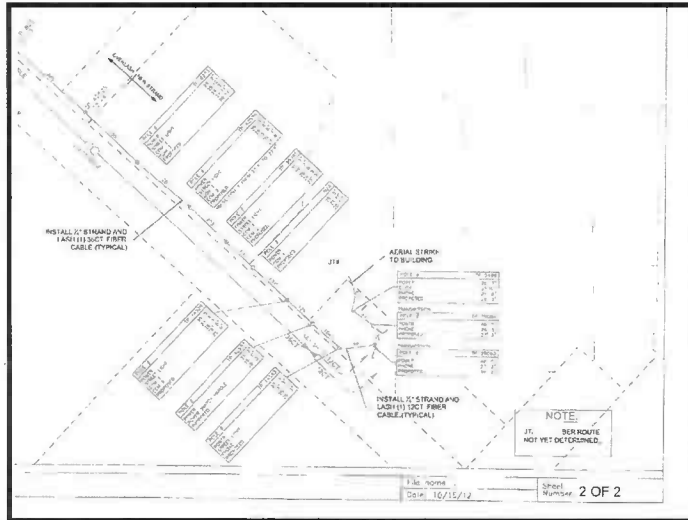
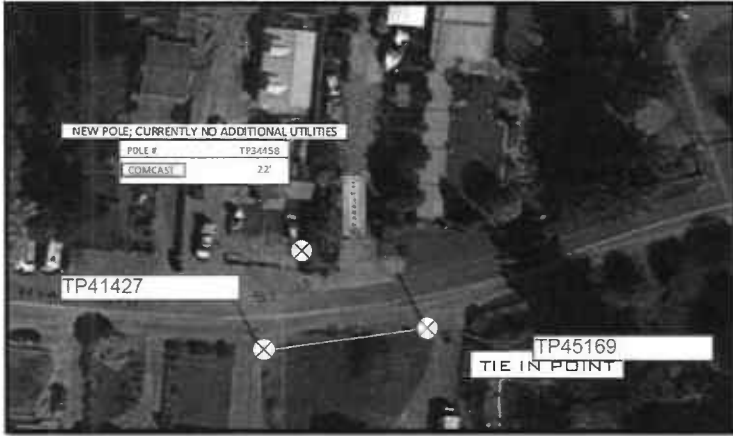
PLEASE NOTE:

Any and all fees, rates and other cost related charges specified in this Schedule 1 are subject to revision and may be amended by the City of Tacoma's Public Utility Board and/or City Council. The Company shall be responsible for, and shall pay when invoiced, any such fees, rates or charges if and as adjusted per future Resolutions adopted by the Public Utility Board Resolution(s) and/or per future Resolutions or Ordinances adopted by the City Council including, but not limited to the Schedule B rates applicable to power cost and customer charges set forth in Chapter 12.06 of the Tacoma Municipal Code.

APPENDIX A – Sample Attachment Application

- 1 Company must have a valid attachment agreement on file with Tacoma Power before application will be processed.
- 2 If utilizing sub-contractors, Company must submit a letter authorizing sub-contractor to perform work on their behalf. In addition, Company must have provided a copy of their pole attachment agreement that governs their Pole Attachment Application(s) to all sub-contractors who submit said application(s) on their behalf.
- 3 All shaded areas are REQUIRED to be completed. Failure to provide complete information will result on a delay to process your request and/or denial to attach. No approval, survey, or review work will be performed until a complete and accurate request has been submitted.
- 4 If Electrical Services will be required, make sure to include request on "Electrical Services Information" field.
- 5 Application for communication enclosures and/or miscellaneous equipment must include specification sheet(s) including weight, dimensions, and configuration of equipment.
- 6 Application must meet submittal requirements set forth in Section IV of the pole attachment agreement, which must include product specification sheet(s) including device dimensions and weight, power supply, RF output power, enclosure material type, FCC Standard Compliance, operating AC voltage, power consumption, and transmit output power.
- 7 Proposed attached method means: NEW DIRECT, STRAND MOUNTED, CO-LASH, REMOVAL, or OTHER. If you are co-lashing, please specify to whom, AND include approval authorization from the co-lashing partner.
- 8 Proposed attachment height must be specific and in feet and inches. Approximate height is not acceptable.
- 9 Attachments must meet all applicable requirements of the NESC and Tacoma Power Construction Standards, including but not limited to the following clearances:
 Support Clearances
 - Communication cables to supply cables: 40"
 - Between communication cables and CenturyLink attachment: 12"
 - Between communication cables and any other communication cable: 6"
 Span Clearances
 - Communication cables to supply cables: 30"
 - Between communication cables: 4"
 Additionally, on Jointly Owned poles CenturyLink will not attach below 18'.
- 10 A check, payable to City of Tacoma, for all applicable fees and two full sets of your application must be mailed to Tacoma Power. An electronic copy of your application must also be emailed to pwjointutilities@cityoftacoma.org. The application sets must contain the following documents:
 - Filled in and signed Application (Tab 1)
 - Filled in Detail Pole Attachment Data (Tab 2)
 - Legible map(s) of all poles on route and pole height block (Tab 3 example). Streets must be clearly identified and labeled. Map(s) must include existing pole attachments and attachment heights, and any required make-ready for each pole on the application.
 - Existing attachments must be listed in order from top to bottom and include attachment heights in feet and inches.
 - Color pictures of existing Tacoma Power pole.
- 11 Construction must be completed within 180 days unless a permit extension is granted by Tacoma Power.
- 12 A final construction inspection by Tacoma Power may be required.

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Tacoma Power WIRELESS MPAA (Form Date: January 10, 2018)

A-4



Tacoma Power WIRELESS MPAA (Form Date: January 10, 2018)

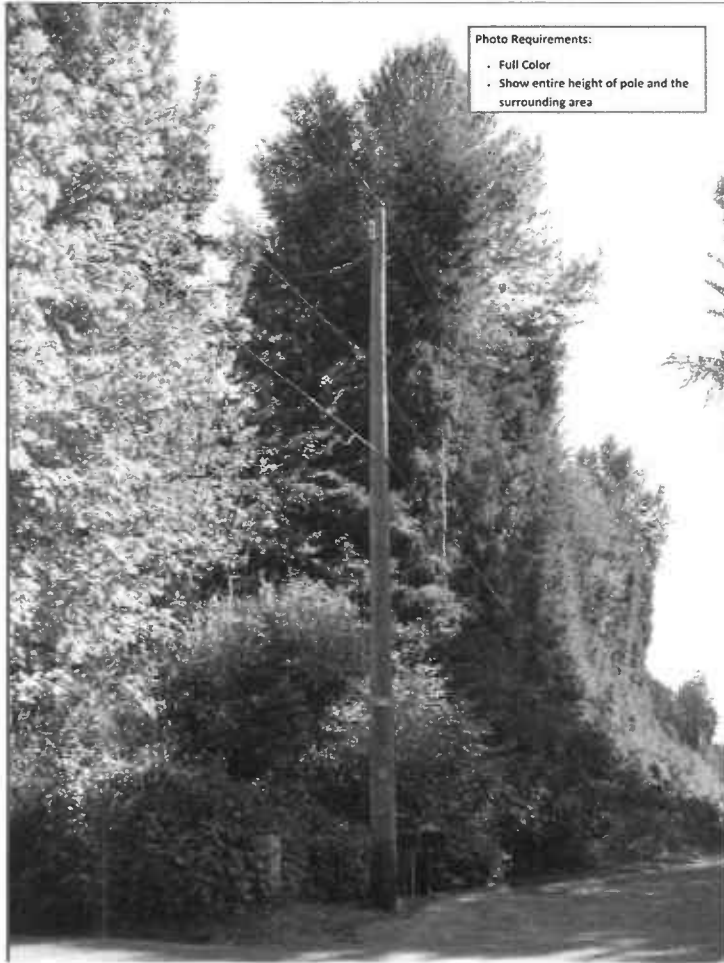


Photo Requirements:
 - Full Color
 - Show entire height of pole and the surrounding area

APPENDIX B – Attachment Permit Sample

POLE ATTACHMENT PERMIT
Permit No. YYYY - ###

Applicant:

Applicant Name
Applicant Street Address
Applicant City, State, Zip

Site: Project location (Ref # _____)

Permit No. YYYY-### is hereby **granted for attachment on pole count (##) poles** as described on the list(s), map(s), and photograph(s) submitted as Appendix A. Wireless Application received on MMMM DD, YYYY, including any Tacoma Power modifications as indicated, to the Wireless Master Pole Attachment Agreement dated MMMM DD, YYYY. Make-ready work was/was not required for this project.

Permit Effective Date: MMMM DD, YYYY

Please note that you are required to furnish and install attachment labels on each installation per the attached Tacoma Power Construction Standard C-OH-2000.

You are also required to notify Tacoma Power, through this office, in writing within 15 calendar days after your pole attachment project is completed. You may e-mail your completed notification to me at pwjointutilities@cityoftacoma.org.

Expiration Date: MMMM DD, YYYY
(180 days, unless otherwise approved in writing)

Tacoma Power
Department of Public Utilities

By: _____
Name: _____
Title: _____
Date: _____

EXHIBIT 1 – Construction Standards

EXHIBIT 2 – Time and Materials Quote



Department of Public Utilities – Light Division d/b/a Tacoma Power
 Attn: Business & Financial Management (ABS-G)
 3628 South 35th Street
 Tacoma, WA 98409

Date:	Account #:										
Bill To Party:	Customer #:										
	Quotation #:										
	Valid To Date:										
	Ref Order #:										
Description of Tacoma Power Make-Ready Work:											
Make Ready estimate for Pole Attachment Applications # _____											
<table border="1"> <thead> <tr> <th style="text-align: center;">Description</th> <th style="text-align: center;">Amount</th> </tr> </thead> <tbody> <tr> <td>Equipment</td> <td style="text-align: right;">\$</td> </tr> <tr> <td>Labor</td> <td style="text-align: right;">\$</td> </tr> <tr> <td>Materials</td> <td style="text-align: right;">\$</td> </tr> <tr> <td>Overhead</td> <td style="text-align: right;">\$</td> </tr> </tbody> </table>		Description	Amount	Equipment	\$	Labor	\$	Materials	\$	Overhead	\$
Description	Amount										
Equipment	\$										
Labor	\$										
Materials	\$										
Overhead	\$										
<p>Quoted Amounts represent the ESTIMATED cost of time, material, and overhead to perform the Tacoma Power Make-Ready Work described above based on best available information. Quote excludes all applicable permit costs: Company is solely responsible for, and will separately obtain and pay the cost of, any applicable permit required to fully and properly perform the subject Make-Ready Work.</p> <p>The Company acknowledges that actual costs incurred by Tacoma Power may vary from the Estimated Quote Amount(s) and Company expressly agrees that it is responsible for any additional time and materials costs actually incurred by Tacoma Power, plus overhead. If, upon completion of the subject Make-Ready Work, the actual costs and overhead exceed the total pre-paid Quote Amount stated below, the Company is required to pay all such additional costs when invoiced by Tacoma Power. If actual costs and overhead are less than the total pre-paid Quote Amount, the unused balance of pre-paid funds will be refunded to Company.</p> <p>Please be advised that the final invoice or refund based on actual cost of Tacoma Power Make-Ready Work will be processed as soon as practicable following completion of such Work – typically within 3-4 weeks. You may call _____ at (253) 502- _____ to obtain information relating to the status of the work order.</p> <p><u>PLEASE SIGNED AND RETURN THIS T&M QUOTE, WITH A CHECK FOR FULL PAYMENT OF THE QUOTE AMOUNT, TO THE CONTACT/ADDRESS NOTED ABOVE.</u> Please make check payable to “City of Tacoma.”</p> <p style="text-align: right;"><i>THIS QUOTE IS VALID FOR 45 DAYS</i></p>											

Tacoma Power's Make-Ready work can begin as soon as the signed T&M Quote and payment are received.	
Quote Amount	\$

Please sign and return this Agreement along with the above specified deposit amount. Checks will not be processed unless accompanied with this signed Agreement.

NOTE: By signing below, the UNDERSIGNED acknowledges the ACCEPTANCE of the terms and conditions set forth herein, formally represents he/she is authorized to accept this T&M Quote on behalf of the Company, and hereby requests Tacoma Power to perform the Make-Ready Work described above upon payment of the stated Quote Amount, which is the Estimated cost of such Work.

Accepted: _____
Printed Name: _____
Title: _____

Date: _____

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3628 South 35th Street
Tacoma, Washington 98409-3192

TACOMA PUBLIC UTILITIES

May 1, 2020

RE: Updates to Tacoma Power Pole Attachment Fees

Tacoma Power is interested in facilitating community access to telecommunication services and enabling the best use of its transmission and distribution system. To that purpose, Tacoma Power has provided a process for third party attachments of wire, cable and other equipment to Tacoma Power's poles through a Master Pole Attachment Agreement (MPAA).

Pursuant to Section X.E. of the Wireless MPAA, every April 1, Tacoma Power may review and modify Schedule 1 as deemed appropriate (i) to account for changed conditions or circumstances involving Tacoma Power's accounting methodology, policies, operational needs, or system requirements, (ii) due to legal and/or regulatory requirements, and/or (iii) for any other justifiable cost basis and/or reason not delineated in this Agreement. Based on results of a recent rate study, review of Tacoma Power's Pole Attachment Application processes and requirements outlined in FCC Order 18-133, Tacoma Power is updating its annual rate for Attachments and Application Fees referenced in Schedule 1 of the Wireless MPAA.

The annual rental fees, which will go into effect with the July-December 2020 billing period are as follows:

Annual rate for microcell: \$198
Annual rate for small cell facility: \$421
Annual rate for minor facility: No Change

Effective as of May 1, 2020, Wireless Pole Attachment Permit Application fees are as follows:

Application Fee: \$300 per Application up to 5 poles, plus \$100 per each additional attachment up to 10.

Sincerely,

Sharon Brophy
Tacoma Power, Transmission & Distribution
Joint Use Program Manager
SBrophy@cityoftacoma.org