

CITY ORDINANCE NO. CO-086-2021

**AN ORDINANCE OF THE LAFAYETTE CITY COUNCIL AUTHORIZING AND
DIRECTING THE LAFAYETTE MAYOR-PRESIDENT TO ENTER INTO A POLE
ATTACHMENT AND WIRELESS FACILITY ATTACHMENT AGREEMENT WITH
COX COMMUNICATIONS LOUISIANA, LLC**

BE IT ORDAINED by the Lafayette City Council, that:

WHEREAS, Lafayette City-Parish Consolidated Government (“LCG”) entered into a Pole Attachment Agreement with Telecable Associates, Inc. d/b/a Cox Communications, now Cox Communications Louisiana, LLC (“Cox”), on October 10, 2000, as authorized by Ordinance No. O-209-2000, for attachment of Cox facilities to Lafayette Utilities System (“LUS”) poles; and

WHEREAS, Cox is furnishing cable services within the boundaries of the City of Lafayette and the Parish of Lafayette for the benefit of the residents of the City and Parish, and in order to do so, has obtained a statewide video franchise agreement; and

WHEREAS, Cox seeks to provide wireless services within the boundaries of the City and Parish for the benefit of the residents of the City and Parish; and

WHEREAS, in furtherance of its provision of cable services and wireless services, Cox seeks to attach certain facilities, including wireless facilities, to and affecting LCG’s poles within the jurisdiction of LUS; and

WHEREAS, Cox desires to enter into the attached Pole Attachment and Wireless Facility Attachment Agreement to replace the prior Pole Attachment Agreement dated October 10, 2000, to reflect the changed status of Cox as a statewide video franchisee, and to authorize Wireless Facility Attachments to or affecting the LUS Poles; and

WHEREAS, LCG desires to enter into the attached Pole Attachment and Wireless Facility Attachment Agreement with Cox.

NOW, THEREFORE, BE IT FURTHER ORDAINED by the Lafayette City Council, that:

SECTION 1: All of the aforescribed “Whereas” clauses are adopted as part of this ordinance.

SECTION 2: The Lafayette Mayor-President is hereby authorized and directed to execute the Pole Attachment and Wireless Facility Attachment Agreement with Cox substantially in the form attached hereto.

SECTION 3: The Lafayette Mayor-President is hereby further authorized and directed to execute any and all other necessary documents in connection with the Pole Attachment and

Wireless Facility Attachment Agreement with Cox and to take any and all other necessary action in connection therewith.

SECTION 4: All ordinances or resolutions, or parts thereof, in conflict herewith are hereby repealed.

SECTION 5: This ordinance shall become effective upon signature of the Lafayette Mayor-President, the elapse of ten (10) days after receipt by the Lafayette Mayor-President without signature or veto, or upon an override of a veto, whichever occurs first.

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POLE ATTACHMENT AND WIRELESS FACILITY ATTACHMENT AGREEMENT

This AGREEMENT is made this _____ day of _____, 2021 (the "Effective Date"), between Cox Communications Louisiana LLC, a Delaware limited liability company ("Licensee"), duly authorized to do and doing business in the State of Louisiana, herein represented by its duly authorized representative, and Lafayette City-Parish Consolidated Government, through Lafayette Utilities System, its Utilities Department ("Licensor"), herein represented by Joshua S. Guillory, Mayor-President, duly authorized by Ordinance CO-086-2021 of the Lafayette City Council.

WITNESSETH:

WHEREAS, no person may attach to or affect Licensor's Poles due to attachments without having obtained authorization by Licensor, and no person may be granted such authorization without having entered into a written agreement with Licensor; and

WHEREAS, Licensee is furnishing cable services within the boundaries of the City of Lafayette and the Parish of Lafayette for the benefit of the residents of the City and Parish, and in order to do so, has obtained a statewide video franchise agreement, effective November 1, 2015; and

WHEREAS, Licensee seeks to provision wireless services within the boundaries of the City and Parish for the benefit of the residents of the City and Parish; and

WHEREAS, in furtherance of its provision of cable services and wireless services, Licensee seeks to attach certain Facilities, including Wireless Facilities, to and affecting Licensor's Poles; and

WHEREAS, this new Agreement is to replace the prior Pole Attachment Agreement dated October 10, 2000 to reflect the changed status of Licensee as a statewide video franchisee and to authorize Wireless Facility Attachments to or affecting Licensor's Poles; and

WHEREAS, Licensee's Attachments to and affecting Licensor's Poles shall in all instances be subject to Licensor's obligations pursuant to previously existing agreements, and shall be subject to considerations of Licensor's service requirements including considerations of economy and safety (which service requirements, together with Licensor's obligations to provide electric power services to the public, shall be paramount to any permission granted hereunder); and

WHEREAS, Licensor is willing, pursuant to applicable law, to authorize the attachment of Licensee's Facilities to and affecting Licensor's Poles, including Wireless Facilities.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions herein contained, the parties hereto do mutually agree as follows:

**ARTICLE I
DEFINITIONS**

Applicable Standards means all applicable engineering and safety standards governing the installation, maintenance, and operation of electrical, cable, video, telecommunication, and wireless communications facilities and the performance of all work in the public right of way, and includes the most current versions of the National Electric Safety Code ("NESC"), the National Electrical Code ("NEC"), the regulations of the Federal Communications Commission ("FCC") or the Occupational Safety and Health Administration ("OSHA"), and provisions of the Lafayette City-Parish Consolidated Government ("LCG") building, construction, zoning, and safety codes, including those of LCG's Department of Public Works and Department of Development and Planning, as they be updated from time to time, each of which is incorporated by reference into this Agreement, and/or other reasonable safety, engineering, architectural, or aesthetic requirements of any local, state, or federal authority having jurisdiction over such facilities.

Attachment means a Pole Attachment or a Wireless Facility Attachment.

Attachment Modification (or *Modification*) means a modification to a Pole Attachment or Wireless Facility Attachment that results in a Material Change from the Attachment existing on the Effective Date or as subsequently approved by the Director.

Director means Licensor's Director of Utilities or his designee.

Facility means cables, wires, associated facilities and equipment, and Wireless Facilities.

Lafayette Utilities System (LUS) means the Utilities Department of LCG.

Material Change means a change in the location or size of an Attachment or a change in Pole loading. The term does not include standard service maintenance, like-equipment replacement, or service drops.

Micro Wireless Facility means a Wireless Facility having dimensions no larger than 24 inches in length, 15 inches in width, and 12 inches in height and an exterior antenna, if any, no longer than 11 inches.

Overlash means an Attachment involving the placement of additional cabling or other Facilities upon existing cabling or strand wire.

Pole means an above-grade structure owned by Licensor and under the jurisdiction of LUS, including a utility pole.

Pole Attachment means physical attachment or placement of Licensee's Facilities (including Wireless Facilities) to or on Licensor's Poles, or other physical attachment or placement of Licensee's Facilities other than Wireless Facilities so as to affect Licensor's Poles. The term includes Overlash of Facilities other than Wireless Facilities. For the avoidance of doubt, Licensee's cable drops, risers, splicing enclosures, splitters, power supplies, and other standard equipment and associated facilities critical to the operation of Licensee's network and comprising a single Attachment (as reasonably determined by the Director) shall not be considered separate Pole Attachments.

Small Wireless Facility means a Wireless Facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than three cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet; and (ii) all other wireless equipment associated with the Facility is cumulatively no more than 28 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and cable runs for the connection of power and other services.

Wireless Facility means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (i) equipment associated with wireless communications; and (ii) radio transceivers, antennas, associated coaxial or fiber optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes Small Wireless Facilities and Micro Wireless Facilities. The term does not include the structure or improvements on, under, or within which the equipment is collocated.

Wireless Facility Attachment means physical attachment or placement of Licensee's Wireless Facilities so as to affect Licensor's Poles, including but not limited to attachment of Wireless Facilities to existing Pole Attachments. The term includes Overlash of Wireless Facilities. The term excludes physical attachment or placement of Facilities (including Wireless Facilities) to or on Licensor's Poles (which is a Pole Attachment).

ARTICLE II POLE ATTACHMENTS

Subject to the terms and conditions herein, including maintenance at all times by Licensee of the necessary rights to provide cable or video service (whether through a statewide video franchise or local franchise) and wireless service, and to the extent permitted by applicable law, Licensor hereby authorizes Licensee to make Pole Attachments to or affecting Licensor-owned Poles. The authorization granted hereby is non-exclusive, and is subject to the following terms and conditions:

1. All Pole Attachments authorized hereby shall be attached and placed to or on Licensor's Poles in compliance with the spacing and separation distances described and detailed in Exhibit "A" attached hereto and made a part hereof, as said Exhibit may be updated by Licensor as of the date of application for approval, except as authorized pursuant to Article II(4).

2. Licensee shall not maintain or attach a Facility to or so as to affect Licensor's Poles unless and until Licensee has procured all permits or permissions from public authorities or private property owners necessary to effectuate the Attachment in a lawful manner, including but not limited to all licenses or permits required by Ordinance No. O-026-2019 of the Lafayette City-Parish Council.

3. Before making any Pole Attachment after the Effective Date, Licensee shall submit to the Director a completed application in the form set forth in Exhibit "B" attached hereto and made a part hereof, as said exhibit may be updated by Licensor as of the date of application, or in any other form prescribed by Licensor. The application shall provide or attach all information required in the application form, including but not limited to detailed specifications of the Facilities to be installed (including all equipment comprising the Pole Attachment), location of the Pole to which the equipment will be attached, location of the Pole Attachment (including all equipment comprising the Pole Attachment) and all existing facilities on the Pole, means of attachment, and the owner of the equipment to be deployed; and an engineering report with appropriate Pole loading analysis (unless waived by the Director). The Director may require from Licensee, and Licensee shall provide, any additional drawings, plans, or other documentation or information that the Director may reasonably deem necessary for the evaluation of the Pole Attachment. Licensee shall not make the requested Pole Attachment until the Director grants written approval of the Pole Attachment to Licensee, or in an emergency, verbal approval. A new application is not necessary for any Pole Attachment that was approved by Licensor in writing before the Effective Date.

4. Pole Attachments that are not attached and placed as described and detailed in Exhibit "A" are not authorized except upon: (1) written request by Licensee to the Director, detailing the reasons for the deviation from Exhibit "A" and demonstrating that the requested Pole Attachment would comply with all relevant Applicable Standards, particularly including but not limited to the NESC and the NEC; and (2) written approval of the requested deviation by the Director, the grant of which shall be in the sole judgment and discretion of the Director. The requirements of this Article II(4) are in addition to those under Article II(3).

5. Before making any Attachment Modification to any Pole Attachment, Licensee shall submit a separate application for the Attachment Modification as provided in Articles II(3) and II(4). Licensee shall not make the requested Attachment Modification until the Director grants written approval of the Attachment Modification to Licensee, or in an emergency, verbal approval.

6. The Director shall use Licensee's Pole loading analysis to determine whether the existing structures are capable of handling the additional loading from the requested Pole Attachment or Attachment Modification. Licensor shall treat applications for Pole Attachments or Attachment Modifications on a "first come, first served" basis, based on existing facilities. If the Director determines, in his sole discretion, that the Poles cannot accommodate the requested Pole Attachment or Attachment Modification, before the Director may approve the Attachment or Modification Licensee shall:

a. Request Licensor to make any necessary improvements in accordance with Article VI, at the expense of Licensee;

b. Approach an existing facility owner and request relocation of that owner's facilities, and if the owner consents, amend the application to so reflect and attach documentation of that consent and a new Pole loading analysis taking such relocation into account; or

c. Find an alternate location for its Pole Attachment.

7. No Pole Attachment or Attachment Modification is authorized hereby except to or affecting Licensor's Poles or Licensee's Facilities; or to a third party's facilities, provided that written permission from the third party for the Attachment or Modification is attached to Licensee's application.

8. Neither any approval of a Pole Attachment or Attachment Modification nor any provision of this Agreement, including but not limited to Exhibit A, constitutes nor may be construed to convey any right, reservation, or guarantee of any particular space on any particular Pole. Any approval is limited strictly to the terms of the approval expressly granted.

9. Attachment of Facilities (other than Wireless Facilities) on facilities that Licensee does not own (including by Overlash) is a Pole Attachment requiring application and approval as provided in this Article III, and Licensee shall be charged the applicable engineering assessment and inspection fee and annual rental as stated in Article VIII. Attachment of Facilities (other than Wireless Facilities) to facilities owned by Licensee (including by Overlash) is a Pole Attachment requiring application and approval as provided in this Article III, except that Licensee shall not be charged an engineering assessment and inspection fee or rental.

10. Pole Attachments or Attachment Modifications of Wireless Facilities shall additionally be subject to the requirements of Articles III(9) and III(10).

ARTICLE III WIRELESS FACILITY ATTACHMENTS

Subject to the terms and conditions herein, including maintenance at all times by Licensee of the necessary rights to provide wireless service, and to the extent permitted by applicable law, Licensor hereby authorizes Licensee to make Wireless Facility Attachments affecting Licensor-owned Poles, including but not limited to attachment of Wireless Facilities to existing Pole Attachments by Overlash. The authorization granted hereby is non-exclusive, and is subject to the following terms and conditions:

1. All Wireless Facility Attachments authorized hereby shall be attached and placed to or on Licensor's Poles in compliance with the spacing and separation distances described and detailed in Exhibit "A," as said Exhibit may be updated by Licensor as of the date of application for approval.

2. Licensee shall not maintain or attach a Wireless Facility so as to affect Licensor's Poles unless and until Licensee has procured all permits or permissions from public authorities or private property owners necessary to effectuate the Attachment in a lawful manner, including but not limited to all licenses or permits required by Ordinance No. O-026-2019 of the Lafayette City-Parish Council.

3. Before making any Wireless Facility Attachment after the Effective Date, Licensee shall submit to the Director a completed application in the form set forth in Exhibit "B," as said exhibit may be updated by Licensor as of the date of application, or in any other form prescribed by Licensor. The application shall provide or attach information required in the application form, including but not limited to detailed specifications of the Wireless Facility to be installed (including all equipment comprising the Wireless Facility Attachment), location of the Poles on either side of the requested Attachment, location of the Attachment (including all equipment comprising the Wireless Facility Attachment) and all existing facilities affected by the Attachment, means of attachment, the owner of the equipment to be deployed, and

the licensee of the radiofrequency license to operate the equipment; and an engineering report with appropriate Pole loading analysis (unless waived by the Director). The Director may require from Licensee, and Licensee shall provide, any additional drawings, plans, or other documentation or information that the Director may reasonably deem necessary for the evaluation of the Wireless Facility Attachment. Licensee shall not make the requested Wireless Facility Attachment until the Director grants written approval of the Wireless Facility Attachment to Licensee, or in an emergency, verbal approval. A new application is not necessary for any Wireless Facility Attachment that was approved by Licensor in writing before the Effective Date.

4. Before making any Attachment Modification to any Wireless Facility Attachment, Licensee shall submit a separate application for the Attachment Modification as provided in Article III(3). Licensee shall not make the requested Attachment Modification until the Director grants written approval of the Attachment Modification to Licensee, or in an emergency, verbal approval.

5. The Director shall use Licensee's Pole loading analysis calculations to determine whether the existing structures are capable of handling the additional loading from the requested Wireless Facility Attachment or Attachment Modification. Licensor shall treat applications for Wireless Facility Attachments or Attachment Modifications on a "first come, first served" basis, based on existing facilities. If the Director determines, in his sole discretion, that the Poles cannot accommodate the requested Wireless Facility Attachment, before the Director may approve the Attachment or Modification Licensee shall:

a. Request Licensor to make any necessary improvements in accordance with Article VI, at the expense of Licensee;

b. Approach an existing Wireless Facility Attachment owner and request relocation of that owner's equipment, and if the owner consents, amend the application to so reflect and attach documentation of that consent and a new Pole loading analysis taking such relocation into account; or

c. Find an alternate location for its Wireless Facility Attachment.

6. No Wireless Facility Attachment or Attachment Modification is authorized hereby except to Licensor's facilities or Licensee's Facilities; or to a third party's facilities, provided that written permission from the third party for the Attachment or Modification is attached to Licensee's application.

7. Neither any approval of a Pole Attachment or Attachment Modification nor any provision of this Agreement, including but not limited to Exhibit A, constitutes nor may be construed to convey any right, reservation, or guarantee of any particular space on any particular Pole. Any approval is limited strictly to the terms of the approval expressly granted.

8. Attachment of Wireless Facilities to facilities that Licensee does not own (including by Overlash) is a Wireless Facility Attachment requiring application and approval as provided in this Article III, and Licensee shall be charged the applicable engineering assessment and inspection fee and annual rental as stated in Article VIII. Attachment of Wireless Facilities to facilities owned by Licensee (including by Overlash) is a Wireless Facility Attachment requiring application and approval as provided in this Article III, except that Licensee shall not be charged an engineering assessment and inspection fee or rental.

9. Licensee shall operate its Wireless Facilities in such a manner that will not cause technical interference to Licensor's existing or future operations, including but not limited to electrical, radio, television, internet, telecommunications, and public safety communications services and devices. Licensee shall also operate its Wireless Facilities in such a manner that will not cause such interference to the operations of other attaching entities with respect to facilities authorized before the approval of Licensee's Wireless Facility. Licensee hereby warrants that its installation and operation of Wireless Facilities will not cause such interference, and if such interference is caused, shall immediately disconnect or switch off the Wireless Facility causing the interference upon learning or being notified of such interference. If Licensee

does not or cannot reduce such interference to levels reasonably acceptable to Licensor, Licensor may elect to terminate the approval for the Wireless Facility by giving Lessee fifteen (15) days written notice.

10. Licensee shall provide Licensor and other attaching entities with the capability to disconnect or switch off the Wireless Facility or associated equipment so that the output of radio frequency emission can be stopped while they are performing installation, repair, maintenance, transfer, removal, or other work on or near the Wireless Facility. Such disconnect capability must be readily accessible and located as shown on Exhibit "A", as said exhibit may be updated by Licensor from time to time, and identifiable and be suitable for lock, tag out safety procedures. Licensor shall provide 24 hours' advance notice of such disconnection to Licensee via a telephone number or email address as provided by Licensee, except that Licensor may disconnect the Facility or equipment immediately in case of an emergency, in which case Licensor shall provide notice to Licensee immediately prior to disconnection, or if unable to contact Licensee, as soon thereafter as practicable.

ARTICLE IV SPECIFICATIONS

1. All Facilities installed and maintained by Licensee shall comply with all Applicable Standards in effect at the time of installation or last Modification, whichever is later, particularly including but not limited to the NESC and the NEC, as they may be amended from time to time. Where differences in specifications exist, the more stringent provision shall apply. In addition, Licensee shall at all times be subject to all lawful exercises by Licensor of its police power to adopt and enforce ordinances, resolutions, rules, regulations, policies, and practices necessary to the convenience, health, safety, and welfare of the public; and Licensee agrees to comply with all applicable ordinances, resolutions, rules, regulations, policies, and practices of Licensor pursuant to such power.

2. Licensee shall install all necessary grounding for Licensee's facilities. No interconnection may be made between Licensor grounds and Licensee Facility grounds except: (a) where the Director has issued a written approval of Licensee's standard grounding procedures; and (b) where such interconnection is in accordance with the NESC or NEC or accepted grounding procedures, as they may be amended from time to time.

3. If any guying or strengthening of a Pole is needed as a result of Licensee's Attachment or Modification, as determined by the Director, Licensee shall accomplish same at Licensee's expense prior to approval of Licensee's Attachment or Modification, or if determined after approval, within thirty (30) days after receiving a written demand from Licensor. Licensee shall provide any protective equipment necessary to protect persons or property from injury or damage due to Licensee's Facilities.

4. It shall be the sole responsibility and duty of Licensee, prior to making any Attachment or Modification to or affecting Licensor's Poles, to make all necessary arrangements, including those required to ensure compliance with NESC or other Applicable Standard requirements, which will include a pole loading analysis using NESC, IEEE, and LUS standards and taking into account all other existing and authorized uses of the Poles, including but not limited to any use by a telecommunications or cable television company.

5. If the Pole as to which Licensee seeks an Attachment or Modification is currently not in compliance with NESC or other Applicable Standard requirements, or would be due to the requested Attachment or Modification, the Director may refuse the Attachment or Modification. Alternatively, Licensee may pay the cost of any Pole rearrangement, addition, reconstruction, or modification required to comply with the NESC or other Applicable Standard, in advance, to the owner or owners of any facilities attached to said Poles, including Licensor, for any expense to be incurred by them in relocating, transferring, replacing, changing, or rearranging such other facilities. Notwithstanding the foregoing, Licensee may seek reimbursement or offset against such costs from all entities that benefit from the rearrangement, addition,

reconstruction, or modification for their proportionate share of such costs based solely upon the number of entities attaching to the Pole. The entities from whom such reimbursement or offset can be sought are all those who are currently attached to the Pole, including Licensor, and all those who subsequently attach within two years after the date of Licensee's initial attachment, provided such remedy is available under Licensor's agreements in effect at the time of Licensee's request. However, if the Pole would be in compliance based solely on Licensor's facilities attached to the Pole, Licensor shall bear no portion of the cost of rearrangement, addition, reconstruction, or modification pursuant to this Article IV(5) and Licensor shall be disregarded in the allocation of that cost.

6. The Director may allow additional time for performance of Licensee's obligations under this Agreement, in his sole discretion.

ARTICLE V ATTACHMENT REMOVAL; POLE REPLACEMENT OR RELOCATION

1. If Licensee desires to remove its own Facilities, Licensee shall give written notice of such removal to Licensor at least thirty (30) days prior to such removal. The removal shall not commence without the prior written approval of Licensor, which shall not be unreasonably withheld. If no action is taken by Licensor within sixty (60) days after receipt of Licensee's notice under this paragraph, Licensor's written approval shall be deemed granted. Licensee shall notify Licensor upon completion of any removal. The foregoing notwithstanding, in the event of an emergency, Licensee may immediately remove any of its Facilities. Licensee shall provide Licensor with written notice of such removal within five (5) business days thereafter. Facilities pending approval for removal shall not be assessed further annual rental fees if written notice of removal is delivered to Licensor prior to the beginning of the next calendar year.

2. Licensor reserves the right to relocate and/or replace any and all of Licensor's Poles at any time without liability to Licensee. If Licensor relocates or replaces a Pole, Licensee shall either remove its Facilities or relocate them to the new Pole, and cut the Pole from which it removes or relocates its Facilities at a height six inches above the next lower facilities on the Pole, at Licensee's expense, , at or before the time it removes its Facilities or as otherwise agreed by Licensor and Licensee. If Licensee fails to do so, Licensor may perform the relocation and charge Licensee for the relocation (or if necessary, removal) of its Facilities and additional reasonable and related cost incurred to relocate or remove such Facilities. Licensee shall pay any such charges within thirty (30) days after receiving a written demand from Licensor. In cases of emergency or necessity, as determined by Licensor, and following reasonable attempts to notify Licensee, Licensor may immediately relocate, adjust, or remove Licensee's Facilities and charge Licensee for the reasonable and actual cost of such work. At no cost to Licensee, Licensee shall submit an application for relocated or adjusted Attachments and obtain the Director's approval therefor as provided in Articles II(3), II(4), or III(3).

3. Upon notice from Licensor to Licensee that the use of any Pole has been abandoned by Licensor or lawfully prohibited by governmental authorities, the approval for any Attachments to or affecting such Pole shall immediately terminate and Licensee shall, at no cost to Licensor, remove within thirty (30) days all Facilities attached to that Pole, and cut the Pole from which it removes or relocates its Facilities at a height six inches above the next lower facilities on the Pole at or before the time it removes its Facilities or as otherwise agreed by Licensor and Licensee.

ARTICLE VI ADDITION, RELOCATION, EXTENSION, REPLACEMENT, RECONSTRUCTION, CONSTRUCTION, MODIFICATION, OR REARRANGEMENT OF LICENSOR'S FACILITIES

1. Whenever Licensee requests an Attachment that will require new facilities or improvements, including additional Poles, or a relocation, extension, replacement, reconstruction, construction, modification, or rearrangement of an existing Pole owned by Licensor, Licensee shall so

explain in the application for the Attachment, stating the nature of the addition, relocation, extension, replacement, reconstruction, construction, modification, or rearrangement that is the subject of Licensee's request. Notwithstanding anything to the contrary, Licensor shall have no obligation to construct new Poles or facilities, or to relocate, extend, replace, reconstruct, construct, modify, or rearrange existing Poles or facilities, and the decision whether to grant Licensee's request, and the terms and conditions imposed upon any such approval, shall be entirely within the Director's sole discretion.

2. Licensee shall make payment to Licensor for all reasonable costs incurred by Licensor in connection with its engineering assessment, inspection, construction, and implementation of any Pole addition, relocation, extension, replacement, reconstruction, construction, modification, or rearrangement requested by Licensee under Article VI(1) within thirty (30) days after receiving a written demand from Licensor.

3. Licensee shall make payment in advance to the owner or owners of any other facilities attached to said Poles, including Licensor, for any reasonable expense to be incurred by them in connection with any Pole addition, relocation, extension, replacement, reconstruction, construction, modification, or rearrangement requested by Licensee under Article VI(1).

ARTICLE VII ADDITIONAL TERMS

1. In addition to the other requirements of this Agreement, approval of Attachments or Modifications is subject to the following terms:

a. All Attachments shall be subject to approval of the Director in accordance with the following principles, requirements, and procedures:

i. Any new Attachments must accommodate, at new attacher's expense, any then-existing agreements between Licensor and other entities regarding the use of space on the Poles.

ii. Licensor may, at the request of Licensee, consider creating additional space for communications uses on the Poles by taking such actions as removing secondary rack wiring and substituting triplex wire, and moving streetlight fixtures, guy wires, and other attachments to the Poles. Any actions undertaken to create more communications space shall be considered make-ready work, and any such costs shall be borne by Licensee.

iii. All make-ready costs, including any permit review costs, shall be paid by Licensee prior to making any Attachments.

iv. If no space can be created on the Poles requested, as determined by the Director, Licensee may seek an exception to any of the requirements set forth in this Article VII(1) by submitting a written request to the Director. The Director shall review the request with reference to considerations that may warrant making an exception including but not limited to additional Pole height, reduced environmental effects, the lack of alternatives for achieving equivalent service available to Licensee, the lack of alternative routing that can be made available, and the feasibility of undergrounding all or part of the cable.

2. Licensee shall ensure that the climbing space requirements as defined by the NESC, as it may be amended from time to time, are being met for every application for a Pole Attachment, Wireless Facility Attachment, or Attachment Modification.

3. It is expressly understood that the authorization granted hereby is solely for the purpose of allowing Licensee to attach its Facilities to or affecting Poles owned by Licensor and that this Agreement does not, in any manner, authorize the provision of cable, video, or wireless services.

4. Nothing herein shall be construed to confer upon or vest in Licensee any ownership or other interest in Licensor's Poles or other facilities. Nothing herein shall be construed to compel Licensor to maintain said Poles or other facilities longer than, or in any condition or to any standard other than, in Licensor's sole judgment, Licensor's own business requires.

5. This Agreement does not affect or impose any duty or obligation on Licensor to furnish electricity to Licensee's Facilities.

6. Notwithstanding anything contained herein, Licensee is not hereby authorized to make any use of its Facilities that would violate any term or condition under which Licensor provides service, nor shall any provision of this Agreement be construed to require Licensor to do, perform, or permit any act that would violate any of the terms or conditions under which Licensor provides service.

7. Licensor may allow third parties to attach to Licensee's Facilities, provided that Licensee grants permission to the third party in writing, the third party obtains its own Attachment Agreement with Licensor, and Licensor approves the third party's Attachments pursuant to that agreement. In such event, the third party shall be responsible for obtaining its own Attachment Agreement with Licensor and approval for the Attachment by Licensor. However, upon granting any such permission, Licensee shall immediately notify Licensor and provide a copy of its written consent.

ARTICLE VIII FEES, CHARGES, AND OTHER CONSIDERATION

1. Except as otherwise provided in Article V(1), on each January 1, Licensee shall pay an annual rental fee of \$10.00 to Licensor for each pole as to which one or more Pole Attachments are attached, and for each Wireless Facility Attachment, for that calendar year. In addition, on each January 1, Licensee shall also pay a portion of the annual rental fee of \$10.00 to Licensor for each such Attachment initially approved in the prior calendar year, prorated from the date of approval. The rental fee is subject to exclusion under Articles II(9) and III(8).

2. Licensee shall pay a one-time, non-refundable engineering assessment and inspection fee of \$120.00 to Licensor for each Pole Attachment, Wireless Facility Attachment, and Attachment Modification, as provided in Articles II(5) and III(4). Licensor may, in its discretion, utilize one or more contractors to review and process applications for Attachments or Modifications. In the event that Licensor chooses to utilize such contractors, Licensee shall pay the reasonable fees of such contractor for the review and processing of Licensee's application. Such fees shall be based upon standard processes and prevailing rates in Lafayette Parish, Louisiana, in an amount not to exceed two hundred fifty dollars (\$250) per hour. The engineering assessment and inspection fee is subject to exclusion under Articles II(9) and III(8).

3. At the discretion of Licensor, the rental fee and the engineering assessment and inspection fee may be increased where reasonable, upon written notice to Licensee at least ninety (90) days prior to the date that the payment is due.

4. Excepting situations of nonperformance by Licensor, there shall be no refund of any rental fee or engineering assessment and inspection fee to Licensee for any reason whatsoever, including, but not limited to, termination of this Agreement or of any rights hereunder.

5. Licensee shall pay to Licensor any rental fee or other amount due under this Agreement within thirty (30) days after receiving a written demand from Licensor or after the due date provided herein. Nonpayment of any rental fee or other amount due under this Agreement within these thirty (30) days shall constitute a default of this Agreement.

6. Payment of the rental fee or other amount due under this Agreement is not a payment in lieu of any other tax, fee, or assessment required by LCG, the State of Louisiana, or any other entity with jurisdiction, under applicable laws, regulations, or ordinances.

7. Licensee shall pay all reasonable costs of adjustments or additions made to the facilities of Licensor, including Licensor's facilities located on the poles of a third party, in order to accommodate Licensee's Attachments authorized hereby, including but not limited to:

a. Licensor's costs of relocation, replacement, or rearrangement of the facilities of third parties, any costs of guying or strengthening Poles pursuant to Article IV(3);

b. Licensor's costs of Pole rearrangement addition, reconstruction, or modification to comply with the NESC pursuant to Article IV(5);

c. Licensor's costs incurred due to removal of Licensee's Attachments pursuant to Article V(2);

d. Licensor's costs incurred in connection with Licensor's engineering assessment, inspection, construction, and implementation of any Pole addition, relocation, extension, replacement, reconstruction, construction, modification, or rearrangement requested by Licensee under Article VI(1), pursuant to Article VI(2);

e. Licensor's costs of addition, relocation, extension, replacement, reconstruction, construction, modification, or rearrangement of Licensor's facilities pursuant to Article VI(2);

f. Licensor's make-ready costs pursuant to Article VII(1);

g. Licensor's costs incurred to remove, relocate, replace, and/or renew Attachments placed on Licensor's Poles by Licensee, and/or transfer said Attachments to substituted Poles, and/or perform any other work in connection with Licensee's Attachments in the maintenance, replacement, removal, or relocation of said Poles, or the facilities thereon, or which may be placed thereon, pursuant to Article XI(1);

h. Licensor's costs of inspections pursuant to Article XII(1);

i. Licensor's costs of removing unapproved Attachments pursuant to Article XIII(1);
and

j. Any increased costs to Licensor resulting from the presence of Licensee's Attachments after Licensor modifies any of Licensee's facilities.

8. In the event that any payment required by this Agreement is not actually received by Licensor within thirty (30) days after receiving a written demand from Licensor or after the due date provided herein, interest thereon shall accrue from such date until received at a rate equal to the rate published annually by the Louisiana Commissioner of Financial Institutions pursuant to La. R.S. 13:4202 (*see* www.ofi.state.la.us/Legal%20Judicial%20Rate.htm).

9. If Licensee contests any amount assessed or due hereunder, in whole or in part, Licensee shall pay the uncontested portion, and deliver written notice to Licensor specifying the amount it contests and the basis for contesting it. Failure by Licensee to submit such a written notice within thirty (30) days after the original demand or due date shall constitute waiver of any right to contest that the amount is not due. Licensee shall provide any information specific to the dispute at hand that may be required by Licensor to resolve the contest. Licensee shall not be considered to be in default of this Agreement until Licensor delivers a written decision regarding the contest. If or to the extent Licensor agrees with Licensee, Licensee shall not owe the amount as to which Licensor agrees with Licensee. If or to the extent Licensor disagrees with Licensee, Licensee shall owe the amount as to which Licensor disagrees with Licensee, Licensee shall

pay Licensor interest thereon pursuant to Article VIII(8) from the date of the original demand or due date, and nonpayment of the amount within these thirty (30) days after Licensor's written decision shall constitute a default of this Agreement.

ARTICLE IX SECURITY

Licensee shall not be required to provide a security instrument. However, should future circumstances warrant, the Director, at his sole discretion, may request Licensee provide up to a \$50,000 security instrument of Licensee's choosing to guarantee the payment of any sums that may become due to Licensor for fees due hereunder or charges for work performed for the benefit of Licensee under this Agreement, including the removal of Licensee's Facilities upon termination of this Agreement or any approval for Pole Attachments or Wireless Facility Attachments issued hereunder. Such instrument shall be issued by an issuer acceptable to Licensor, on terms and conditions acceptable to Licensor.

ARTICLE X RECEIPT OF OTHER APPROVALS; IMPACT OF OTHER AGREEMENTS

1. Licensee shall not make any Attachments or Modifications without first securing any and all necessary franchises, rights-of-way, permits, or easements. Licensor assumes no responsibility for securing for Licensee any franchises, rights-of-way, permits, or easements for the making and maintaining of Attachments over, across, or along public streets, alleys, roads, or privately or publicly-owned property, or for permission from any third party for Licensee to make such Attachment to Licensor's Poles, and Licensee assumes the duty and responsibility of securing the same and will defend, indemnify, and hold harmless Licensor from and against any loss, damages, expenses, or penalty resulting from Licensee's failure to do so. The authorization granted hereby is likewise subject to all laws, ordinances, rules, and regulations now in force or which may hereinafter be enacted or promulgated by any governmental body or agency having jurisdiction. Licensor shall in no way be responsible for the construction, operation, maintenance, or performance of any of Licensee's systems, Facilities, or any part thereof.

2. Nothing herein contained shall be construed as abrogating the rights or privileges previously conferred by Licensor, through contract or otherwise, to others for the use of any Poles covered or affected by this Agreement, and Licensor shall have the right to continue to extend such rights and privileges, provided that the new or additional grant of such rights and privileges after the Effective Date shall not interfere with Licensee's then-existing Attachments. Licensee agrees that any Attachments made under this Agreement shall not interfere with existing or future attachments made pursuant to rights and privileges granted by Licensor before the Effective Date or the date of approval of Licensee's specific Attachment, whichever occurred earlier.

ARTICLE XI MAINTENANCE AND LABELING

1. Licensee's Attachments shall be made and maintained by Licensee at Licensee's expense in a place and manner reasonably satisfactory to the Director. Upon receipt of notice from Licensor that said Attachments fail to conform to the requirements of the Applicable Standards, and that as a result Licensee's Attachments either (a) unduly interfere with Licensor's property or operations, or with the property or operations of any other party using or having the right to use Licensor's Poles, or (b) endanger the public or the employees of Licensor or any other party using or having the right to use said Poles, Licensee shall promptly, at its own expense, remove, alter, relocate, rearrange, transfer, reroute, improve, and/or repair its said Attachments in such a manner as the Director may direct, and/or perform any other work in connection with said Attachments that may be required by the Director. In cases of emergency and following reasonable attempt to first notify Licensee, Licensor may, if it so elects, remove, relocate, replace, and/or renew said Attachments placed on said Poles by Licensee, and/or transfer said Attachments to

substituted Poles, and/or perform any other work in connection with Licensee's Attachments that may be desirable in the maintenance, replacement, removal, or relocation of said Poles, or the facilities thereon, or which may be placed thereon. Licensee shall reimburse Licensor for any expense thereby incurred within thirty (30) days after receiving a written demand from Licensor. Nothing herein shall obligate Licensor to determine the safety of Licensee's equipment or to remedy any unsafe condition of Licensee's equipment. In no event shall Licensee be required to bear the expense of removing, altering, relocating, rearranging, transferring, rerouting, or improving its Attachments that conform to the Applicable Standards for the benefit of third parties seeking to modify Poles to which Licensee is attached pursuant to this Agreement, provided that the Pole is currently in compliance with NESC and other Applicable Standard requirements.

2. Licensee shall take any necessary precautions, including but not limited to the installation of protective equipment, to protect all persons and property against injury or damage that may result from Licensee's Attachments. Notwithstanding any other provision of this Agreement, if, in Licensor's opinion, Licensee has not taken such necessary precautions, Licensor shall have the right by written notice to Licensee, and following the expiration of a reasonable opportunity to cure, depending on the exigency of the circumstances, to immediately terminate any approval granted hereunder as to the Poles where such defects exist, or at Licensor's election, as to all Poles owned by Licensor. However, Licensor shall not be considered in any way responsible for the adequacy of such precautions of Licensee. Nothing in this Agreement shall prevent Licensee from seeking reimbursement for such modifications if caused by the actions of another party.

3. Licensee shall attach and maintain in good condition on every Pole to which an Attachment has been permitted a permanent marker designating Licensee's cables, wires or associated facilities. The marker shall be of a type that is resistant to weather and of sufficient size to contain an identifier of Licensee's choosing, readable from ground level. Prior to the commencement of construction, Licensee shall submit to Licensor a prototype of the marker for approval. Markers shall be installed on Poles containing Attachments made before the Effective Date at the time of upgrade or routine maintenance or upon notification by Licensor of the noncompliance. However, Licensor shall allow a reasonable amount of time after notification of noncompliance for Licensor to comply.

ARTICLE XII INSPECTIONS

1. Licensor reserves the right to make periodic inspections of any of Licensee's Attachments to or affecting Licensor's Poles, including guying. Licensee shall reimburse Licensor for the actual and reasonable expense of one (1) general inspection of each of Licensee's Attachments made within one (1) year of Licensee's initial construction of that Attachment, as well as the actual and reasonable expense of any other inspection of any of Licensee's specific Attachments at any time if a bona fide safety issue or a violation of the Applicable Standards is detected by the inspection. Licensee shall reimburse Licensor for these inspection costs within thirty (30) days after receiving a written demand from Licensor. All other inspections, if any, shall be made at Licensor's sole cost and expense.

2. The making of periodic inspections or the failure to do so by Licensor shall not relieve Licensee of any responsibility, obligation, or liability under this Agreement.

3. Any charge imposed by Licensor for inspections shall be in addition to any other sums due and payable by Licensee under this Agreement; provided that Licensor shall furnish Licensee with an itemized invoice of actual inspection costs simultaneously with any written demand for payment.

ARTICLE XIII UNAPPROVED ATTACHMENTS

1. Upon discovery of an unapproved Pole Attachment or Wireless Facility Attachment, Licensor shall provide written notice thereof to Licensee, which shall include the Pole number and location (the "Initial Unapproved Attachment Notice").

a. Licensee shall have thirty (30) days from its receipt of Licensor's Initial Unapproved Attachment Notice to submit an application pursuant to the terms of this Agreement for approval of any such unapproved Attachments. However, within such thirty (30) day period, Licensee may dispute the Licensor's Initial Unapproved Attachment Notice with regard to some or all Attachments identified in it by providing a written notice of contest, response, and supporting documentation to Licensor. Failure by Licensee to submit such a written notice within this thirty (30) day period shall constitute waiver of any right to contest that the Attachment was unapproved.

b. If Licensor agrees that some or all of the Attachments identified in Licensee's response are in fact approved Attachments, Licensor shall notify Licensee in writing of its determination and shall revise its Initial Unapproved Attachment Notice with regard to those Attachments.

c. If, after reviewing Licensee's supporting documentation, Licensor reasonably determines that some or all of the Attachments identified in the Initial Unapproved Notice are in fact unapproved, Licensor shall notify Licensee in writing of such determination (the "Final Unapproved Attachment Notice"). Licensee shall submit an application pursuant to the terms of this Agreement for approval of such unapproved Attachments within thirty (30) days of its receipt of such Final Unapproved Attachment Notice.

d. LUS reserves the rights to deny approval of and to remove or require Licensee to remove any unapproved Attachment after issuance of a Final Unapproved Attachment Notice or as otherwise provided in this Agreement. If Licensee does not remove any such unapproved Attachment within thirty (30) days after receiving a written demand from Licensor, Licensor may remove it without liability to Licensee, and Licensee shall reimburse Licensor for the cost of such removal.

e. For purposes of this Article XIII, an unapproved Attachment shall be deemed to have existed for the shortest period of time of the following: since the later of (i) the Effective Date of this Agreement, (ii) the most recent inspection performed by Licensor prior to the discovery of the unapproved Attachment, (iii) a period of five (5) years, or (iv) where Licensee demonstrates by satisfactory evidence, the actual period of attachment. The rental and fees as specified in Article VIII shall be applicable thereto and due and payable from the date so determined, regardless of whether Licensee is permitted to continue the Attachment.

2. The existence of an unapproved Attachment shall not be considered default of this Agreement until Licensor delivers an Initial Unapproved Attachment Notice, Licensee concurs or fails to contest it, and Licensee fails to submit an application pursuant to the terms of this Agreement for approval of any such unapproved Attachments within thirty (30) days; or if Licensee contests the Initial Unapproved Notice, until Licensor delivers a Final Unapproved Attachment Notice and Licensee fails to submit an application pursuant to the terms of this Agreement for approval of any such unapproved Attachments within thirty (30) days. If Licensor denies an application under this Article, failure by Licensee to remove the unapproved Attachment shall also constitute default of this Agreement.

ARTICLE XIV INDEMNIFICATION

1. Except to the extent arising from the negligence or misconduct by Licensor or its directors, officers and employees, Licensee shall indemnify, defend, save, and hold harmless Licensor and any and

all of its directors, officers and employees against and from any and all liability, claims, suits, causes of action, proceedings, payments, damages, penalties, costs, expenses, losses, and judgments (whether for damages or equitable relief), including reasonable attorneys' fees, costs of defense, and expenses, resulting or claimed to result, directly or indirectly, from the actions or failures to act of Licensee or its directors, officers, employees, servants, agents, or contractors in installing, repairing, maintaining, operating, modifying, moving, or removing Licensee's Facilities or any other facilities, from the presence or operation of any of Licensee's Facilities, from the attachment of Licensee's Facilities to Licensor's Poles or to any other facilities (regardless of whether approved by Licensor), or from any failure by Licensee or its directors, officers, employees, servants, agents, or contractors to comply with any Applicable Standards.

2. Licensee hereby acknowledges notice that the wires and other facilities of Licensor will at times contain, and will continue to contain, electric energy, and that it is dangerous to the life of any person to contact such wires or other facilities.

3. The obligations set forth in this Article are not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Licensee or Licensor, or their respective agents, under workers' compensation acts, disability benefits acts, or other employees' benefits acts.

4. In no event shall Licensor be liable to Licensee for any punitive, consequential, incidental, or special damages or lost profits incurred or alleged to have been incurred.

ARTICLE XV INSURANCE

1. Licensee shall procure and maintain throughout the term of this Agreement, insurance policies issued by an insurance carrier satisfactory to Licensor satisfying the following minimum requirements:

a. Workers' compensation insurance covering all employees who perform any work, actions, or operations authorized under this Agreement, with statutory limits.

b. Commercial general liability insurance covering all work, actions, operations, and obligations authorized under this Agreement, with limits of \$1,000,000 per claim and \$2,000,000 per occurrence. LCG, its elected/appointed officials, and its departments, officers, agencies, and employees shall be included as additional insureds in this policy or policies.

c. Automobile liability insurance on all self-propelled vehicles used in connection with Licensee's work, actions, or operations authorized under this Agreement, whether owned, non-owned, hired, or otherwise, with limits of \$1,000,000 per occurrence. This policy shall be a comprehensive automobile liability policy as approved by the National Bureau of Casualty Underwriters and the Insurance Department of the State of Louisiana. LCG, its elected/appointed officials, and its departments, officers, agencies, and employees shall be included as additional insureds in this policy or policies.

d. An umbrella liability policy in addition to the policies listed above, with limits of \$5,000,000 per occurrence.

2. All required insurance shall be procured prior to the execution of this Agreement and shall remain in force for the entire life of this Agreement. Licensee shall submit to Licensor certificates by each company insuring Licensee to the effect that such insurance company has included as additional insureds LCG, its elected/appointed officials, and its departments, officers, agencies, and employees with respect to insurable claims arising from Licensee's work, actions, operations, or obligations of Licensee hereunder. All such policies shall be replaced by Licensee with similar policies, prior to their termination or cancellation. Failure of Licensee to so replace any such policy or policies shall constitute a default by

Licensee under this Agreement. Licensee's insurers shall have no right of subrogation or recovery against Licensor. Licensee assumes all risk of loss to Licensee's equipment.

3. All insurance policies maintained by Licensee pursuant to this Agreement shall contain the following conditions by endorsement:

a. Each policy shall require that thirty (30) days prior to a cancellation of policies, a written notice thereof shall be delivered to Licensor's City-Parish Attorney; and

b. Each policy shall be primary coverage for all claims that fall under Licensee's obligations under this Agreement.

ARTICLE XVI TERM

Unless sooner terminated as provided herein, this Agreement shall remain in effect for an initial term of five (5) years commencing as of the Effective Date. Following the initial term, this Agreement shall automatically renew on a year-to-year basis until terminated by either party by first providing written notice of such intent at least six (6) months prior to expiration of the then-current term. Regardless of any renewals, this Agreement shall terminate fifteen (15) years after the Effective Date.

ARTICLE XVII DEFAULT; TERMINATION

1. If Licensee materially defaults in any of its obligations under this Agreement, and fails within thirty (30) days after written notice from Licensor to correct or, where correction cannot be accomplished within thirty (30) days, to commence and diligently pursue efforts to correct such default, or within such other time as may be herein provided for a specific default or mutually agreed upon by the parties, Licensor may, at its option, immediately terminate this Agreement and revoke the authorization for Attachments granted herein. Upon such termination Licensee shall within one hundred eighty (180) days, or such other period of time to which the parties may agree, and at its own expense, remove its Facilities. If not so removed, Licensor shall have the right, but not the obligation, to remove the Facilities at the cost and expense of Licensee. Licensee shall pay such cost within thirty (30) days after receiving a written demand from Licensor.

2. Alternatively, in the event of material default by Licensee, at Licensor's sole option, Licensor may revoke the approval of the Attachments to which the default pertains. Licensee shall, at its own expense, remove the Facilities for which approval was revoked within thirty (30) days after revocation. If not so removed, Licensor shall have the right, but not the obligation, following thirty (30) days advanced written notice, to remove the Facilities at the cost and expense of Licensee. Licensee shall pay such cost within thirty (30) days after receiving a written demand from Licensor.

3. This Agreement shall terminate if and to the extent that Licensee is unable to secure and maintain any and all necessary franchises.

4. If Licensor determines that Licensee is repeatedly attaching or (after notification per Article XIII) maintaining Facilities without obtaining the approval required by this Agreement, repeatedly placing or (after notification per Article XIII) maintaining Facilities on Licensor's Poles in a manner that impedes the use of Licensor's Poles by Licensor or other entities authorized to use the Poles, or repeatedly constructing or maintaining its Facilities in a manner that the Director reasonably believes endangers persons or property, Licensor may terminate this Agreement, upon written notice and after providing Licensee a reasonable opportunity to cure, depending on the exigency of the circumstances.

5. If any part of Licensor's electrical systems are placed underground by Licensor at a future date, any approval hereunder for a Pole Attachment or Wireless Facility Attachment thereto shall terminate

and Licensee shall, at no cost to Licensor, relocate its Facilities underground. The foregoing notwithstanding, Licensee may relocate to other aerial facilities on any other Pole owned by Licensor where either electric or telecommunications wiring is aerial, upon submitting an application for the relocated Pole Attachment and obtaining the Director's approval therefor as provided in Articles II(3), II(4), or III(3), as appropriate. Under no circumstances may Licensee erect new poles in any area where Licensor has placed its electrical systems underground.

6. If Licensee fails to make any payment required hereunder, or to perform any other material obligation imposed upon Licensee by this Agreement, Licensee shall be liable to and pay Licensor, in addition to all other payments herein provided, all expenses, including court costs and reasonable attorneys' fees, incurred by Licensor in collecting such defaulted amounts, or otherwise remedying, or having remedied, a default or defaults by Licensee hereunder.

7. Termination of this Agreement or any approval hereunder shall not affect Licensee's liabilities and obligations incurred hereunder prior to the effective date of such termination.

ARTICLE XVIII FAILURE TO ENFORCE

Licensor's failure to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.

ARTICLE XIX ASSIGNMENT OF RIGHTS

1. This Agreement, the rights and authorization granted hereby, and approvals granted hereunder are nonassignable and nontransferable by any means, and any attempt to assign or transfer this Agreement or any rights, authorization, or approvals hereunder shall be null and void. If for any reason such a transfer is accomplished notwithstanding this prohibition, then in such event this Agreement and all rights, authorization, or approvals hereunder that are transferred shall be null and void.

a. Notwithstanding the foregoing, Licensee may transfer this Agreement (a) to an entity under common ownership with Licensee or that is otherwise owned by or an owner of Licensee (an "Affiliate"), or (b) as part of a transfer of the entire Lafayette Cox Cable Franchise. In either event, Licensee shall notify Licensor of any such transfer and the identity of and contact information for the transferee on or before the effective date of any agreement for such transfer. In the event of a transfer to an Affiliate, Licensee shall explain and document the affiliate relationship, sufficiently that Licensor can confirm that the transferee is an Affiliate. In either event, this Agreement shall extend to and bind the transferee as Licensee, and all references herein to "Licensee" shall thereafter refer to the transferee.

2. Pole Attachments and Wireless Facility Attachments authorized under this Agreement are limited to Facilities owned by or leased to Licensee. Unless prohibited from disclosure by confidentiality obligations, the lease agreement (or if necessary due to confidentiality obligations, other evidence that the Facilities are leased to Licensee, reasonably satisfactory to Licensor) shall be attached to applications for attachment of leased Facilities, and any approval granted hereunder as to leased facilities terminates when the lease agreement terminates. Facilities that are neither owned by nor leased to Licensee may be attached only pursuant to a separate agreement allowing this between Licensor and the third party that owns the equipment.

a. Notwithstanding the foregoing, the Director may approve attachment of Facilities owned by an Affiliate without a lease to Licensee. In such event, Licensee shall explain and document the affiliate relationship, sufficiently that Licensor can confirm that the owner of the Facilities is an Affiliate.

3. Licensee shall notify Licensor in writing of any foreclosure or other judicial sale of all or a substantial part of its assets or upon the termination of any lease or interest covering all or a substantial part of such assets.

ARTICLE XX MISCELLANEOUS

Notwithstanding any other provision, this Agreement shall be read to reserve the following:

1. Licensor may establish schedules and deadlines for the placement of Attachments in particular areas, as Licensor deems appropriate to minimize the burden on Licensor or on Licensor's facilities.

2. Licensor retains in all instances the right to take those actions necessary to meet Licensor's obligations to provide electric power services to the public, without liability to Licensee.

3. This Agreement shall be deemed to be executed in the City and Parish of Lafayette, State of Louisiana; and shall be governed and construed in all respects in accordance with the laws of the State of Louisiana, as applicable to the laws regarding contracts entered into and to be performed entirely within the State of Louisiana.

4. Any and all claims asserted by or against Licensee arising under this Agreement or related thereto shall be filed, heard, and determined either: (a) in the Federal Court located in the Parish of Lafayette; or (b) in the Louisiana State District Court located in the Parish of Lafayette; or (c) with respect to matters within the sole jurisdiction of the Federal Communications Commission, by the Federal Communications Commission in Washington, D.C.

5. If Licensor initiates any action against Licensee in Federal Court or in Louisiana State District Court, service of process may be made on Licensee in accordance with applicable law.

6. Licensee hereby acknowledges and agrees that in the event of any breach of this Agreement by Licensee, Licensor and the public may suffer an irreparable injury, such that no remedy at law will afford it adequate protection against, or appropriate compensation for such injury. Accordingly, Licensee hereby agrees that Licensor shall be entitled to seek, without waiving any other rights or remedies and without the posting of any bond, specific performance of Licensee's obligations under this Agreement, as well as such other mandatory or prohibitory injunctive relief as may be granted by a court of competent jurisdiction.

7. If during any term of this Agreement more favorable terms or conditions are extended to other attachers offering similar or like service as are offered by Licensee, Licensor and Licensee agree to meet upon the request of Licensee to discuss amending the Agreement to include like provisions.

8. If Licensor prevails in any action or proceeding in court to enforce any provision of this Agreement, Licensee shall pay Licensor's actual and reasonable attorney's fees and all other costs in connection therewith.

ARTICLE XXI NOTICES

All written notices required under this Agreement shall be given by posting the same in first-class mail, postage prepaid, or by overnight courier or hand delivery, as follows:

To Licensor:

Mayor-President
Lafayette City-Parish Consolidated Government

705 West University Avenue
Lafayette, LA 70502

With copies to:

City-Parish Attorney
Lafayette City-Parish Consolidated Government
705 West University Avenue
Lafayette, LA 70502

Director of Utilities
Lafayette Utilities System
1314 Walker Road
Lafayette, LA 70506

To Licensee:

Manager, Construction and Planning
Cox Communications Louisiana, LLC
1906 Eraste Landry Road
Lafayette, LA 70506

With copies to:

Corporate Counsel, Poles and Conduit
CoxCom, LLC
6205-B Peachtree Dunwoody Road, 16th Floor
Atlanta, GA 30328

Licensor and Licensee may designate a different person or address at any time by written notice sent to the other.

IN WITNESS HEREOF, the parties hereto have executed this Agreement on the dates written below but effective as of the Effective Date.

WITNESSES:

Harriet L. Ortega
Printed name: Harriet L. Ortega
Todd Rotel
Printed name: Todd Rotel

WITNESSES:

Printed name: _____

Printed name: _____

LICENSOR

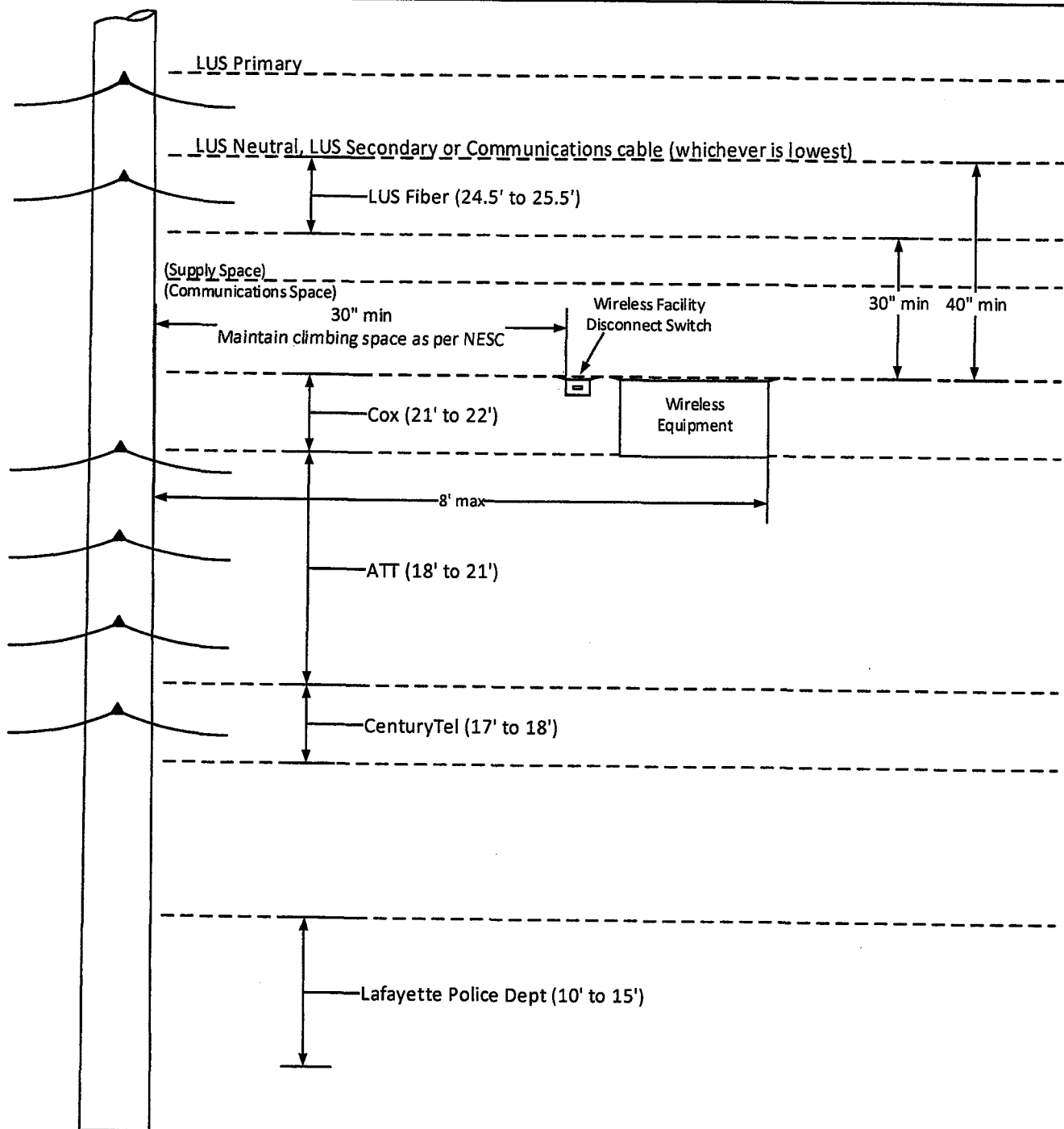
Lafayette City-Parish
Consolidated Government

BY: Joshua S. Guillory
Mayor-President
DATE: _____

LICENSEE

Cox Communications Louisiana LLC

BY: _____
Printed name: _____
Title: _____
DATE: _____



- NOTES:**
1. For variations, consult LUS engineering.
 2. All communications lines located in the supply space must meet the requirements and clearances for communication lines located in the supply space as per the current NESC.
 3. All communications lines located in the communications space must meet the requirements and clearances for communication lines located in the communications space as per the current NESC.
 4. All communications lines must meet the sag requirements and clearances as per the current NESC.
 5. Locations are for drawing purposes only, positions are not indicative of actual installation order. Either group may be above or below the other.

LAFAYETTE UTILITIES SYSTEM ENGINEERING DIVISION		ALLOCATED SPACE FOR COMMUNICATIONS LINES AT SUPPORTS	DWG. NO. STANDARD - All
DATE: 05/06/1997	SCALE: NTS		
DRAWN BY: JPH	CHECKED: T&D		
REVISION: 05/27/2021	APPROVED: ENGINEERING		



Contact: Title: Phone: Email:

Pole Coordinates: Latitude Longitude

In accordance with the terms of the current Pole Attachment and Wireless Facility Agreement, application is hereby made for applicant to make attachments to LCG poles as follows:

Attachments

Pole No	Action Install Remove Relocate	Existing Cable			Proposed Cable			Wireless					
		Count	Dia. (in)	Weight (lbs/1000')	Count	Dia. (in)	Weight (lbs/1000')	Owner	Dimensions (LxWxH)(in)	Weight (lbs)	Pole Offset (in)	TX Freq (Mhz)	RX Freq (Mhz)
	1												
	2												
	3												
	4												
	5												

Approval

Approval granted _____, 20____, subject to your approval of the following changes and rearrangements at an estimated cost to you of \$ _____, payable in advance.

The above changes and rearrangements approved and advance payment therefore enclosed.

LUS Approval: Applicant's Representative: Date:

Print Name: Print Name: Title:

Lafayette Utilities System
Engineering Division

C 0-086-2021



RECEIVED

MAY 28 2021

Lafayette Consolidated Government
Chief Administrative Officer

Internal Memorandum

Utilities Department
Director's Office (7000)

TO: Cydra Wingerter

DATE: May 28, 2021

FROM: Lowell Duhon

SUBJECT: City Council Ordinance
Cox Pole Attachment and Wireless Facility Attachment Agreement

Please find attached an ordinance authorizing the Lafayette Mayor-President to enter into a Pole Attachment and Wireless Facility Attachment Agreement with Cox Communications Louisiana, LLC ("Cox"), for Cox to attach cable, wireless, and related facilities to LUS poles.

This Agreement will replace the current Pole Attachment Agreement with Cox, which was entered into on October 10, 2000. The new Agreement updates and clarifies the terms, conditions, and procedure for Cox to attach cable and other equipment to LUS poles, and adds terms, conditions, and procedures for attaching wireless equipment, in particular.

Attached are:

1. An Ordinance of the Lafayette City Council authorizing and directing the Lafayette Mayor-President to enter into a Pole Attachment and Facility Attachment Agreement with Cox Communications Louisiana, LLC;
2. Pole Attachment and Wireless Facility Attachment Agreement, and Exhibits A & B thereto; and
3. Agenda Item Submittal Form.

The Ordinance and the Agreement were prepared by Assistant City-Parish Attorney Lawrence Marino.

Please submit this ordinance for introduction at the Council meeting on June 15, 2021 with final adoption on July 6, 2021. Should you have any questions, please contact our office.

A handwritten signature in black ink, appearing to read 'Lowell Duhon', written over a horizontal line.

Lowell Duhon

Enclosures

cc: Lawrence Marino
Greg Logan

LAFAYETTE CITY COUNCIL MEETING

AGENDA ITEM SUBMITTAL FORM

1) **JUSTIFICATION FOR REQUEST:** An ordinance of the Lafayette City Council authorizing and directing the Lafayette Mayor-President to enter into a Pole Attachment and Wireless Facility Attachment Agreement with Cox Communications Louisiana, LLC.

2) ACTION REQUESTED: Adoption of Ordinance

3) COUNCIL DISTRICT(S) (if applicable): N/A

4) REQUESTED ACTION OF COUNCIL:

A) INTRODUCTION: June 15, 2021

B) FINAL ADOPTION: July 6, 2021

5) DOCUMENTATION INCLUDED WITH THIS REQUEST:

A) Internal Memorandum from Director (1 page)

B) Ordinance (2 pages)

C) Pole Attachment and Facility Attachment Agreement (19 pages)

D) Exhibits A and B to Pole Attachment and Facility Attachment Agreement (2 pages)

6) FISCAL IMPACT:

Fiscal Impact

 X No Fiscal Impact

RECOMMENDED BY:

James L. Smith

DIRECTOR

APPROVED FOR AGENDA:

Cyda Nigert
CHIEF ADMINISTRATIVE OFFICER

DISPOSITION OF ORDINANCE NO. CO-086-2021

1. This ordinance was introduced:
June 15, 2021

YEAS: Lewis, Naquin,
Cook, Lazard

NAYS: None

ABSENT: Hebert

ABSTAIN: None

Final disposition by Council:
July 6, 2021

YEAS: Lewis, Naquin
Hebert, Cook, Lazard

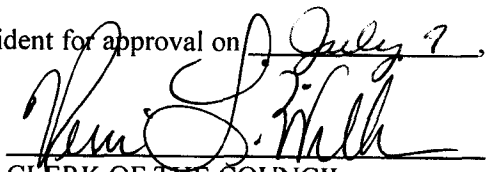
NAYS: None

ABSENT: None

ABSTAIN: None

2. Notice of Public Hearing: This ordinance was published by Title and Notice of Public Hearing was published in the Advertiser on June 18, 2021.

3. This ordinance was presented to the Mayor-President for approval on July 7, 2021, at 11:20 o'clock a.m.


CLERK OF THE COUNCIL

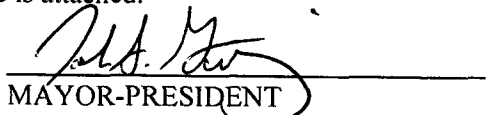
4. Disposition by Mayor-President:

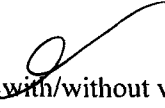
I hereby:

A. Approve this ordinance, the 9 day of July, 2021, at 10:30 o'clock a.m.

B. Veto this ordinance, the _____ day of _____, 2021, at _____ o'clock _____.m., veto message is attached.

C. Line item veto certain items this _____ day of _____, 2021, at _____ o'clock _____.m., veto message is attached.


MAYOR-PRESIDENT

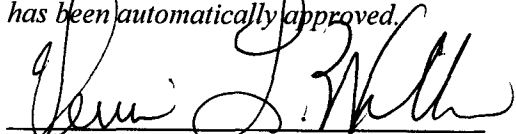
5. Returned to Council Office  with/without veto message on July 12, 2021, at 2:30 o'clock p.m.

6. Reconsideration by Council (if vetoed):

On _____, 2021, the Council did/refused to adopt this ordinance after the Mayor-President's veto.

7. Returned to the Council Office without signature of Mayor-President (*unsigned*) on _____, 2021, at _____ o'clock _____.m.

If not signed or vetoed by the Mayor-President, and ten days have elapsed since this ordinance was presented to him for action, same has been automatically approved.


CLERK OF THE COUNCIL

8. Full publication of this ordinance was made in the Advertiser on July 9, 2021.

