

AGREEMENT

This agreement, made this 22nd day of September, 2015 by and between Commonwealth of Kentucky, Office of the Secretary, 702 Capitol Ave., Room 383, Capitol Annex, Frankfort, KY. 40601, hereinafter called "Permittee" party of the first part, and the City of Olive Hill, Kentucky, located at 225 Roger Patton, hereinafter called "Owner", party of the second part.

WITNESSETH:

WHEREAS, the Permittee desires to enter into a pole attachment agreement in order to attach to Owner's poles in order to provide and promote a statewide broadband system;

WHEREAS, pursuant to the provisions of this agreement, Permittee desires to install or cause the installation of the facilities on the poles of Owner, and;

WHEREAS, Owner is willing to permit, to the extent it may lawfully do so, the attachment of the described facilities to its poles where in its judgment such use will not interfere with its own use of the facilities and or with other licenses using Owner's poles;

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

1. PERMITTED ATTACHMENTS

Permittee agrees to pay to Owner the fees, set forth in Exhibit A attached herein, commencing with the effective date of this agreement and on or before each ensuing anniversary after the affected date during the Term (defined below) of this Agreement. All attachments made pursuant to this Agreement shall be at such points and in such manner as Owner or its employees may direct. This especially includes the requirement to remove all above ground attachments and install underground at such time as requested and directed by Owner.

2. CONSTRUCTION AND MAINTENANCE REQUIREMENTS AND SPECIFICATIONS

All Facilities attached pursuant to this Agreement shall be erected and maintained in compliance with the requirements and specifications of the current National Electrical Safety Code, Owner's construction practices, all as may be changed from time to time; with any applicable rules, orders, or regulations now in effect or that hereinafter may be issued by the Public Service Commission of Kentucky; and with all existing applicable Federal, state, or local laws rules, regulations, orders and ordinances issued by any Federal, State or local authority and as may be changed from time to time. All Facilities attached pursuant to this Agreement shall be identified as to the Owner of said facilities at each attachment location. In the event any part of Permittees construction does not meet any of the above requirements, Permittee will correct same in fifteen (15) work days after written notice from Owner of non-compliance. If Permittee fails to correct same within fifteen (15) days, Owner may make such corrections and charge Permittee for the direct costs incurred. Permittee, at all times, warrants compliance with all the requirements as set out above and assumes the continuing responsibility for such compliance in the future and assumes all responsibility for any damages, fines or penalties resulting from any noncompliance. Owner undertakes no duty with respect to such compliances by requiring Permittee to meet any specifications or by requiring or failing to require any corrections, modifications, additions or deletions to any work or planned work any Permittee.

3. MAINTENANCE OF ATTACHMENTS

At all times, Permittee shall, at its own expense, make and maintain said attachments in safe condition and in good repair, and in a manner suitable to Owner and so as not conflict with the use of said poles by Owner, or by any other parties, firms, corporations, governmental units, or entites using said poles pursuant to any license or permit by owner. Permittee agrees not to interfere with the working use of facilities thereon or which may from time to time in the future, be placed thereon. Owner in no way ensures the continuance of Permittee's facilities at their original location or placement of Owner's poles or other facilities. If Owner determines, at its reasonable discretion to relocate, to replace, enlarge, add to, modify or in any manner alter its poles or other facilities, Permittee shall, at its expense upon written notice from Owner, at Owner's reasonable discretion, relocate, replace or renew the facilities placed on said poles, and transfer them to sustained poles, or perform any other work in connection with said facilities that may be required by Owner. In case of emergency, Owner may arrange to relocate, replace or renew the facilities placed on said poles; transfer them to substituted poles or perform any other work in connection with said facilities that may be required in the maintenance, replacement, removal or relocation of said poles, the facilities thereon or which may be placed thereon, or for the service needs of Owner, or its other licensees, and Permittee shall, on demand, reimburse

Owner for the direct expenses thereby incurred. Owner undertakes no duty however to inspect or ensure the repair of any facilities.

4. MAINTENANCE AND OPERATION OF OWNER'S FACILITIES

Owner reserves to itself, its successors and assigns, the right to maintain its poles and to operate its facilities thereon in such manner as will, in its own judgment, best enable it to fulfill its own service requirements, but in accordance with the specifications hereinbefore listed. Owner shall not be entitled to Permittee for any interference with the operation of Permittee's facilities, or loss of business arising in any manner out of the use of Owner's poles hereunder.

5. EASEMENTS

Permittee must secure its own easement rights from real property owners, when such easements are required and not otherwise provided by Owner. Permittee shall be entitled to make full use of the Owner's rights of way, as contemplated by its franchise agreement with Owner.

6. INSPECTION OF FACILITIES

Owner reserved the right to inspect at any time, in its sole discretion, facilities described herein, provided that Owner shall provide sufficient notice for Permittee's personnel to "ride along" during the inspection. Permittee shall, on demand, reimburse Owner for the expense of any such inspections at Owner's prevailing wage rate per man-hour plus associated expenses and applicable overheads if (and only to the extent that) Owner's inspection results in verifiable violations of this Agreement. Such inspection, made or not operate to relieve Permittee of any responsibility, obligation or liability assumed under this Agreement. Owner undertakes no duty to inspect such facilities or ensure that no damages or loss occurs by reason of such facilities.

7. PRECAUTIONS TO AVOID FACILITY DAMAGE

Permittee shall not damage any facilities of Owner or of others supported on Owner's poles and facilities. Permittee shall not interfere with Owner's operation; and hereby assumes all responsibility for any and all loss for such damage and for interference. Permittee shall make an immediate report to Owner of any damage or interference and hereby agrees to reimburse Owner for the direct expenses incurred in making repairs.

8. INDEMNITIES

To the extent permitted by law, including but not limited to, Section 177 of the Kentucky constitution, Permittee agrees to protect, defend, indemnify, and save harmless Owner from all damage, loss, claim, demand, suit, liability, penalty or forfeiture of every kind and nature, including but not limited to costs and expenses of defending against the same, payment of any settlement or judgment therefore and reasonable attorney's fees, by reason of (a) injuries

or deaths to person, (b) damages to or destruction of tangible properties , (c) pollution, contaminations of or other adverse effects on the environment or (d) violations of governmental laws, regulations or orders whether suffered directly by Owner itself or indirectly by reason of claims, demands or suits against it by third parties, resulting or alleged to have resulted from (i) the negligent acts or omissions of Permittee, its employees, agents or other representative or from their presence on the premises of Owner, (ii) performance of this Agreement; (iii) from or in connection with the construction, installation, operations, maintenance, presence, replacement, enlargement, use or removal of any facilities of Permittee attached or in the process of being attached or removed from any poles of Owner unless such actions were taken at the direction of or in a manner mandated by Owner.

Notwithstanding the foregoing, Owner shall not be entitled to indemnification under this Agreement unless it shall first (i) notify Permittee in writing within thirty (30) days of receipt of any demand, suit or claim for which indemnification is sought, and (ii) permit Permittee to contest any such suit or claim with counsel of its choice.

9. ATTACHMENT REMOVAL, ADDITIONS AND NOTICES

Permittee may voluntarily remove its attachments from any pole or poles of Owner, but shall give Owner prior written notice of any such removal. Any such removal shall be undertaken in a manner consistent with Paragraph 7 of this Agreement. Permittee may increase the number of pole attachments during the Term (defined herein). At the first anniversary date of the Effective Date and all anniversaries thereof for the Term of this Agreement, Permittee and Owner shall account for all pole attachment additions and removals (Annual Accounting). In the event there has been a change in the number of pole attachments from the previous anniversary date, the amount of the annual fee shall be adjusted accordingly. Any notices regarding the Annual Accounting shall be delivered to the other party at least thirty (30) days prior to the anniversary date in accordance with Section 17 hereunder; otherwise the annual fee from the preceding year shall be continues into the following year.

10. NON-COMPLIANCE

If either party fails to comply with any of the provisions of this Agreement or defaults in any of its obligations under this Agreement and fails to correct such default or noncompliance within thirty (30) days (except for the 15 day of requirement in paragraph 2) after written notice from the non-defaulting party, the non-defaulting party may, at its option, forthwith terminate this Agreement by giving written notice to the defaulting party of said termination, and Permittee shall thereafter, within a reasonable period of time, remove its facilities from Owners poles. No refund of any rental will be due on account of termination due to a default by Permittee.

11. BILLING

Bills for inspection, expenses and other charges under this Agreement shall be payable within sixty (60) days after presentation. Nonpayment of bills shall constitute a default of this Agreement.

12. WAIVERS

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.

13. USE OF OWNER'S FACILITIES BY OTHERS

Nothing herein contained shall be construed as affecting the rights or privileges previously conferred by Owner, by contract or otherwise, to others, not parties to this Agreement to use any poles covered by this Agreement; and Owner shall have the right to continue and to extend such rights and privileges. The permitted attachment herein granted shall at all times be subject to such previously conferred privileges.

14. ASSIGNMENT

Permittee shall not assign, transfer or sublet the privileges hereby granted without such prior written consent of Owner, which shall not be unreasonably withheld. Any attempt to so assign without such written consent shall be void. Notwithstanding the foregoing, Permittee may assign this Agreement without the consent of Owner to any affiliate, the surviving entity into which Permittee may merge or consolidate, or to any entity to which Permittee transfers all or substantially all of Permittee's business and assets.

15. PROPERTY RIGHTS

No use, however extended, of Owner's poles or other facilities under this Agreement shall create or vest in Permittee any ownership or property rights in said poles; rights herein contained shall be and remain a mere permission. Nothing herein contained shall be construed to compel Owner to maintain any of said poles for a period longer than demanded by its own service requirements.

16. TERM

This Agreement shall become effective upon its execution and if not terminated in accordance with the provisions of Paragraph 10 shall continue in effect for a term of 10 years (the "term"). Either party may terminate the Agreement at the end of the term for any reason whatsoever by giving to the other party at least sixty (60) days written notice. If not so terminated, this Agreement shall thereafter renew from year to year unless either party gives written notice to the other party at least sixty (60) days prior to the end of any such renewal term. Upon termination of the Agreement in accordance with any of its terms, Permittee shall, within a reasonable period of time, remove all its facilities attached to Owner's poles

or other facilities pursuant to this contract. All costs of such removal will be borne by the Permittee. Permittee shall exercise precautions to avoid damage to facilities of Owner in so removing and assumes all responsibility for any and all such damage. If Permittee's facilities attached to Owner's poles and other facilities pursuant to this contract are not promptly removed, Owner shall have the right to remove them to the cost and expense of Permittee and without any liability therefore.

17. NOTICES

Any notice or request required by this Agreement shall be deemed properly given if mailed, postage paid to:

Permittee:

COMMONWEALTH OF KENTUCKY
Finance & Administration Cabinet
Office of the Secretary
702 Capitol Ave.
Room 383, Capitol Annex
Frankfort, KY 40601

Owner:

City of Olive Hill
225 Roger Patton Drive
Olive Hill, KY 41164

With a copy to for Notice

COMMONWEALTH OF KENTUCKY
Finance & Administration Cabinet
Office of General Counsel
702 Capitol Ave.
Room 383, Capitol Annex
Frankfort, KY 40601

LEDCOR TECHNICAL SERVICES
Attn: Ledcor Legal Department
1200 1067 West Cordova
Vancouver, BC
V6C-1C7
Canada

LEDCOR TECHNICAL SERVICES
Attn: Jan Summarell
188 Columbia Lane E.
Shepherdsville, KY 40165

The designation of the person to be notified, and /or his address may be changed by Owner or Permittee at any time, or from time to time, by similar notice.

18. ACCESS

At all times, Permittee shall maintain, operate and construct all facilities in such manner to ensure that Owner has full and free access to all of its facilities described in Exhibit A attached to this Agreement for the purpose of repairing, rebuilding, replacing maintaining and operating such facilities.

19. SUCCESSORS AND ASSIGNS

All provisions of this Agreement shall extend to and bind the successors and assigns of the parties hereto, specifically including the provisions of paragraph 15.

20. INSURANCE

Permittee or Contractor shall maintain in force during the term of this Agreement, at its expense, public liability insurance in such amounts and types as are in line with industry standards.

21. ENTIRE AGREEMENT

This Agreement and the attached Exhibit constitute the entire Agreement between Owner and Permittee and all previous representations relative thereto, either written or oral, are hereby annulled and superseded. No modification shall be binding on Owner and Permittee.

unless it shall be in writing and signed by both parties. Nothing contained in this Agreement or attached Exhibit shall be construed as having any effect in any future agreement or contemplated future agreement between the parties.

22. HEADINGS

Paragraph headings are for the convenience of the parties only and are not to be construed as part of Agreement

23. REPRESENTATIONS AND WARRANTIES OF PERMITTEE

Permittee hereby represents and warrants that it will attach to Owner's facilities pursuant to this Agreement in compliance of all applicable laws and regulations now in effect or they may be hereinafter enacted. Permittee warrants and represents that the person executing this Agreement on behalf of Permittee is authorized to do so by all necessary corporate, Permittee or partnership action and that neither the execution of this Agreement nor the performance by the Permittee of its obligation will conflict with or result in a breach of the terms, conditions or provisions of any other agreement to which Permittee is a party, which conflict or breach could materially affect the ability of Permittee to perform its obligations hereunder.


IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed the day and years first above written.

City of Olive Hill, Kentucky

By: 

Name:

Title: Mayor

Attest: 
Title: Clerk Treasurer

Commonwealth of Kentucky

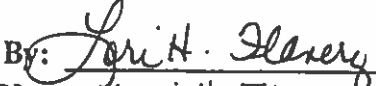
By: 
Name: Lori H. Flanery
Title: Secretary, Finance Cabinet

EXHIBIT A- FEES

Permittee shall pay Sixteen Dollars (\$16.00) per year per pole as described in Section 1. As of the signing of this Agreement, Permittee shall pay the first annual Payment based upon _____ poles.