

Pole Attachment Tariff

City of Wyandotte - Department of Municipal Services

Pole Attachment Tariff  
Wyandotte Municipal Services  
Wyandotte, MI  
Amended on May 29, 2019

## TABLE OF CONTENTS

1. SCOPE OF TARIFF
2. DEFINITIONS
3. PROCEDURE FOR ESTABLISHING ATTACHMENTS
4. MULTIPLE APPLICANTS
5. INSTALLATION STANDARDS
6. POLE INSTALLATION AND MODIFICATION
7. MAINTANENCE OF ATTACHMENTS
8. REARRANGEMENT OF ATTACHMENTS
9. GUYING
10. NON-STANDARD ATTACHMENTS
11. INSPECTION
12. ATTACHMENT INVENTORY
13. UNAUTHORIZED ATTACHMENTS
14. INTERFERENCE OR HAZARD
15. OVERLASHING
16. ATTACHMENT REMOVAL/ABANDONMENT
17. CHARGES AND FEES
18. NON-PERMITTED USE OF ATTACHMENTS
19. TIME OF PAYMENT
20. LIABILITY AND DAMAGES
21. INSURANCE
22. EASEMENTS
23. FINANCIAL ASSURANCE REQUIREMENTS
24. DEFAULT OR NON-COMPLIANCE
25. TERM OF LICENSES
26. TRANSFERS OF OWNERSHIP
27. GENERAL PROVISIONS

### EXHIBITS

- A. RATES AND CHARGES
- B. APPLICATION AND LICENSE FORM

## POLE ATTACHMENT TARIFF

### 1. SCOPE OF TARIFF

1.1 This tariff (“Tariff”) establishes the rates, terms, and conditions under which Wyandotte Municipal Services (the “Owner”) will permit an operator of a cable television system, telecommunication system, or an internet operator/provider, including the Owner’s Communications Department, as the case may be (respectively, a “Licensee”), to make future Attachments or Wireless Facilities to Owner’s distribution poles and to continue to maintain such Attachments or Wireless Facilities located on Owner’s distribution poles, including those which are now owned by a Licensee and which were permitted and approved pursuant to any earlier Pole Attachment agreement; provided, further, that such Licensee does not have an effective written contract allowing the installation of facilities on Owner’s poles at the time of the effective date of this Tariff, or at any future time.

1.2 Nothing in this Tariff shall be construed as a grant by Owner of an exclusive license, right or privilege to Licensee, nor as a limitation, restriction, or prohibition upon Owner’s right to grant interests to third parties to the pole attachment rights granted hereunder; provided, further, that nothing in this Tariff shall be construed to effect a grant of any rights under any license, permit, or agreement between the Owner and any third party with respect to attachment to poles owned by such third party.

1.3 All poles covered by this Tariff remain the property of Owner regardless of any payment by Licensee toward their cost. No use, however extended, of Owner’s poles or payment of any fee or charge required hereunder shall create or vest in Licensee any claim of right, possession, title, interest or ownership in such poles. Nothing in this Tariff shall be construed to compel Owner to construct, reconstruct, retain, extend, repair, place, replace or maintain any pole which, in Owner’s sole discretion, is not needed for its own purposes. Owner shall have the right to operate, relocate and maintain its poles and attendant facilities in such a manner as will best enable it, in its sole discretion, to fulfill its service requirements.

1.4 If any Owner has conferred upon others, by contract or otherwise, rights and privileges to use any pole covered by this Tariff, nothing herein contained shall be construed as affecting said rights and privileges, and Owner shall have the right, by contract or otherwise, to continue and extend such existing rights and privileges; provided, further, that such rights and privileges shall continue and be extended as provided by this Section 1.4 to any renewal of such contract or other arrangement.

### 2. DEFINITIONS

For the purpose of this Tariff, the following terms shall have the meanings set forth below:

Pole Attachment Tariff  
Wyandotte Municipal Services  
Wyandotte, MI  
Amended on May 29, 2019

2.1 Annual Attachment Fee. The annual charge per attachment assessed by Owner in accordance with the terms and conditions of this Tariff.

2.2. Antenna. Any communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

2.3 Attachment. Any materials or apparatus, excluding power supplies, now or hereafter used by a Licensee in the construction, operation, or maintenance of its communications facilities carried on any of Owner's poles. An Attachment shall be a single point "Thru Bolt" of wire line contact utilizing no more than one foot of vertical space on each pole and no more than twenty percent (20%) of each pole's loading capacity.

2.4 Colocate. To install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole. "Collocation" has a corresponding meaning. Colocate does not include make-ready work or the installation of a new utility pole or new wireless support structure.

2.5 Contract Year. The annual rental period of January 1 to the succeeding December 31 of each year. Any attachment during any portion of a calendar year is a rental attachment.

2.6 Decorative Light Pole. A pole that is designed solely for the purpose of public street lighting and cannot support an Attachment or Wireless Facility

2.7 Design Standards. All applicable regulations or codes promulgated by any federal, state, local or other governmental authority having jurisdiction, including, but not limited to, the National Electrical Safety Code and Owner's design or attachment requirements.

2.8 Incremental Cost. The difference between the Total Cost of installing a pole to accommodate both Owner and Licensee(s) on a new pole (either as new construction or replacement of an existing pole at Owner's initiation) and the Total Cost of installing a pole that meets Owner's needs.

2.9 Interest Rate. Interest per year divided by principal amount, expressed as a percentage – in this case, eighteen percent (18%).

2.10 Joint Use. The simultaneous use of any pole for the attachments of both parties in conformity with the specifications in Sections 5, 6, and 7.

2.11 Make-Ready Work. Changes required to a pole due to the Licensee submitting a proposal. Owner shall complete all make-ready work before Licensee can make contact.

2.12 Micro Wireless Facility. A small cell wireless facility that is not more than 24 inches in length, 15 inches in width, and 12 inches in depth and that does not have an exterior antenna more than 11 inches in length.

2.13 Non-Standard Attachment. Attachments or Wireless Facilities described on Exhibit A which are permitted to be attached by Owner in accordance with Owner's sole and absolute discretion.

2.14 Pole ground. A ground rod or wire connected thereto to which Licensee may connect at the base of an electric company pole without causing the pole to be considered Joint Use as defined in herein.

2.15 Proposal. A pole attachment construction proposal, in a format acceptable to the Owner.

2.16 Owner Rearranging. The transferring and rearranging of the Attachment facilities which includes any tree cutting or trimming incidental to the maintenance of an Attachment and obtaining of any necessary rights or permits therefore.

2.17 Reserved space. Such space on a pole as described in Section 6.3.

2.18 Small Cell Wireless Facility. A wireless facility that meets both of the following requirements:

a. Each antenna is located inside an enclosure of not more than 6 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements would fit within an imaginary enclosure of not more than 6 cubic feet.

b. All other wireless equipment associated with the facility is cumulatively not more than 25 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

2.19 Standard pole. A 45-foot class 3 wooden pole, unless otherwise designated by Owner.

2.20 Standard space for Attachments. The following described space for Attachments on a joint pole for the exclusive use of each party, respectively, except only as to such space which, by the terms of the specifications referred to in Section 3, may be occupied by the attachments therein described of the other party:

a. For the Owner, uppermost twenty (20) feet.

b. For the Licensee, a space of three (3) feet at sufficient distance below the Supply Space to provide at all times the minimum clearance required by the specifications referred to in Sections 5, 6, and 7, and at a sufficient height above the ground to provide proper vertical clearance for the lowest horizontally run line wires or cables attached to such space, pursuant to Article 235C of the National Electric Safety Code.

c. Mutual vertical clearance space on the pole between each entity's attachments shall never be less than that which will obtain minimum separation as required. These specifications do not preclude the attachments being located in and extending vertically through space reserved for the other party.

d. Except by mutual written agreement of the Owner and the Licensee addressing specific situations, Attachments shall not be permitted in the neutral space required by code and specification. This limitation does not apply to Attachments of street lighting or traffic control systems owned or used by government facilities.

2.21 Supply Space. The upper portion of a pole, used for electric lines and other electric supply equipment, located above the Communications Workers Safety Zone, that is reserved to support electric distribution equipment.

2.22 Total Cost. The cost of all materials, labor and overhead expenses relating to an Attachment. When replacing a pole and for additional poles due solely to Licensee's requirements, Total Cost includes the cost of transferring facilities and removal of the old pole with credit for any salvageable material and for a second trip (to allow transfers) to pull the old pole or the cost to transfer the facilities of the Owner and all other attaching parties.

2.23 Transferring. The moving of Attachments from one pole and placing them on another.

2.24 Transferring and Rearranging. The Transferring and Rearranging of the Attachment facilities which includes any tree cutting or trimming incidental to the transfer of the Attachment or Attachments; also including acquisition of the requisite rights or permits therefore.

2.25 Wireless Facility. Equipment at a fixed location that enables the provision of wireless services between user equipment and a communications network, including, but not limited to, radio transceivers, Antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. Wireless facility includes a Small Cell Wireless Facility and Micro Wireless Facility. Wireless facility does not include any of the following:

Pole Attachment Tariff  
Wyandotte Municipal Services  
Wyandotte, MI  
Amended on May 29, 2019

- a. The structure or improvements on, under, or within which the equipment is colocated.
- b. A wireline backhaul facility.
- c. Coaxial or fiber-optic cable between utility poles or wireless support structures or that otherwise is not immediately adjacent to or directly associated with a particular antenna.

### 3. PROCEDURE FOR ESTABLISHING ATTACHMENTS

3.1 A Licensee shall make written application for permission to install or change Attachments or Wireless Facilities on any pole of Owner, specifying the location of each pole in question, the character of its proposed Attachments or Wireless Facilities and the amount and location of space desired. Along with the written application, Licensee must provide Owner with spec sheets – including attachment drawings – and design information for the equipment proposed for attachment. Within forty-five (45) days after receipt of the application, Owner shall notify Licensee in writing whether or not, it is willing to permit the Joint Use of such poles and if so, under what conditions. Such applications and the permits granted with respect thereto shall be in the form attached hereto as Exhibit B, or such other approved form as may be issued from time to time by the Wyandotte Municipal Services. Owner shall have the sole right to determine the availability of such poles for Joint Use and shall be under no obligation to grant permission for Joint Use by Licensee but it will not unreasonably refuse to grant permission. Owner’s riser poles are to be contacted only under exceptional circumstances. If permission is granted, Licensee shall have the right to occupy the space allotted by Owner solely in accordance with the conditions specified in said permit and the terms of this Tariff, and the existing agreement, if any, between Owner and Licensee. Owner may at any time authorize other parties also to place Attachments or Wireless Facilities on Owner’s poles.

3.2 If Make-Ready work is necessary to prepare any poles for the proposed Attachments or Wireless Facilities, then Licensee shall not attach its Attachments or Wireless Facilities to Owner’s poles until Licensee receives notice from Owner that the Make-Ready work is completed. Owner shall invoice Licensee for Owner’s Total Cost of such Make-Ready Work. Upon completion, Licensee shall pay Owner’s Total Costs of Make-Ready work. Prior to starting Make-Ready work, Owner shall notify all attaching entities of the date and location of the scheduled work and shall afford all such entities an opportunity to make any modifications to their existing Attachments or Wireless Facilities in connection with the Make-Ready Work.

3.3 Make-Ready work shall be performed only by Owner and/or a contractor authorized by Owner to perform such work. If Owner cannot perform Make-Ready Work to

accommodate Licensee's Attachments or Wireless Facilities within sixty (60) calendar days of Licensee's agreement to Make-Ready work estimate, Licensee may request the ability to use a qualified contractor to perform such work and shall specify when such work would be performed.

3.4 In performing all Make-Ready work, Owner will endeavor to include such work in its normal work schedule. If Licensee requests Make-Ready Work be performed on a priority basis or outside of Owner's normal work hours, Licensee will pay any resulting increase in Total Costs. Nothing in this Tariff shall be construed to require Utility to perform Licensee's work before other scheduled work or Owner service restoration.

3.5. Poles selected for pole-top Antennas, Micro Wireless Facilities or Small cell wireless facilities must meet the following criteria:

- a. Proposed pole-top locations must have adequate pole space and not exceed the pole's maximum loading.
- b. Only one Antenna, Micro Wireless Facility, or Small cell wireless facility will be allowed on a pole-top;
- c. Must be a tangent pole;
- d. Poles selected must not have existing equipment (regulators, gang switches, capacitors, etc.);
- e. Pole must be readily accessible by bucket truck;
- f. Minimum of a class 3 pole;
- g. Attachment must be a minimum of 5 feet above the highest electric attachment;
- h. Pole extensions are not permitted;
- i. A new ground rod is required at all pole-top attachment locations.

3.6. An Antenna, Micro Wireless Facility, or Small Cell Wireless Facility may not be attached to a Decorative Light Pole.

3.7. Riser cables and grounds must be installed in a minimum of Schedule 40 conduit not larger than 2 inches.

3.8. All Antennas, Micro Wireless Facilities, or Small Cell Wireless Facilities power sources must have a lockable disconnect installed, to allow for the power source and any back-up power sources to be disconnected. The Licensee must provide the Owner with access to the disconnect by providing keys or combination to the lock. Disconnect and/or meter boxes must be installed according to Owner's standards.

#### 4. MULTIPLE APPLICANTS

4.1 Where multiple applicants are not received on the same business day, the initial applicant will be processed as if there is no other application on file for the same pole or anchor, unless the initial applicant elects otherwise

4.2 Where multiple applications are received on the same business day or the initial applicant elects not to exercise his rights, the multiple applicants must develop a mutually agreeable order of pole availability and overall make-ready work completion schedule.

4.3 Where multiple applicants cannot reach mutual agreement regarding the order of pole availability, Owner will prorate the additional Total Costs resulting from the pole replacement or rearrangement in a fair and reasonable way to the extent practicable between the attachment applicant(s). Such prorated Total Costs shall include the common engineering, material and other expenses which result to Owner from the multiple attachments. Owner's proration of total costs shall be determinative as to all parties.

4.4 Any multiple applicant who fails to agree to Owner's alternate arrangement within (15) days after receipt of written notification from Owner of such alternate arrangement will be considered by Owner to have cancelled its application relative to those poles which involve pending applications by the other applicant.

#### 5. INSTALLATION STANDARDS

5.1 All Attachments, Wireless Facilities and any associated equipment permitted by Owner shall be installed in a manner satisfactory to Owner so as not to interfere with the present or any future use which Owner may desire to make of said poles or the wires attached thereto. Owner shall reasonably determine, in its sole discretion, whether the Attachments or Wireless Facilities interfere with Owner's present or future pole use plans. All Attachments and Wireless Facilities shall be installed and maintained by Licensee in compliance with the Design Standards. For all pole-top and other type Antennas, Micro Wireless Facilities, and Small Cell Wireless Facilities, Owner must approve the design and mounting requirements prior to installation. Licensee shall identify all Attachments and Wireless Facilities at each pole location using the Owner's tagging system.

5.2 Licensee acknowledges that Owner's poles have energized facilities installed upon them and that working in the vicinity of energized facilities poses inherent dangers. At all times during the term of this Tariff, and particularly during the time of any construction, repair, or maintenance of Attachments or Wireless Facilities covered by this Tariff, Licensee shall consider the electric wires of Owner to be energized. Licensee shall warn all of its employees, agents, contractors and subcontractors, or any other parties who may be working on behalf of the undersigned, of the inherent dangers involved in working around energized electrical facilities, and the necessity of taking appropriate precautions against such inherent dangers. Licensee assumes full and complete responsibility for taking any and all necessary precautions by the installation of protective equipment, or other means, to protect all persons and property of all kinds against injury or damage occurring by reason of Licensee's Attachments or Wireless Facilities on Owner's poles.

## 6. POLE INSTALLATION AND MODIFICATION

6.1 Poles installed in new locations. Where Owner desires to install a new pole in a location where facilities have not been previously placed, and Licensee desires to attach to such pole, Owner and Licensee shall follow the procedures set forth in this Section. Licensee shall submit a Proposal setting forth a description of the facilities, which Licensee intends to install. Owner shall make a determination of the size and height of the pole necessary to accommodate its facilities alone and shall calculate the Total Cost necessary to procure and install such pole. Owner shall then make a determination of the size and height of the pole necessary to accommodate both Owner's and Licensee's facilities. Licensee shall pay Owner the Incremental Cost, if such applies. If other parties request to attach to the same pole, then Licensee shall only be responsible for its pro rata share of the Incremental Cost of the pole necessary to accommodate all parties, divided by the total number of attaching parties (exclusive of Owner).

6.2 Replacement or Modification of Existing Poles Caused by the Installation of a Licensee's Existing, Proposed, or Additional Attachment or Wireless Facility. Where, in Owner's sole judgment, an existing pole must be replaced or modified solely to adequately provide for Licensee's existing or proposed Attachment or Wireless Facility, Licensee shall pay Owner the Total Cost of the engineering and replacement of the pole within forty-five (45) days of receipt of notice of such costs by Owner. In the event Owner requests that Licensee make alterations to or replace Owner's poles, Owner will supply Licensee the necessary Make-Ready Work to provide adequate Pole space. Licensee agrees to pay the Total Cost of all Make-Ready Work provided by the Owner.

6.3 Reserved/Loaned Space. Owner may reserve space on poles for future development or other needs. Such space may, in the sole discretion of the Owner, be used temporarily by the Licensee (subject to the Owner's consent in each case) for attachment of Licensee's Attachments or Wireless Facilities. In the event the Owner intends to reclaim such "loaned space," Owner shall provide notice to Licensee of the space reclamation. Upon such

Pole Attachment Tariff  
Wyandotte Municipal Services  
Wyandotte, MI  
Amended on May 29, 2019

notice, Licensee shall either remove its facilities from the reclaimed space within thirty (30) days of Owner's notice, or pay the Total Cost of replacing the pole with a pole which will accommodate all of the existing and planned Attachments or Wireless Facilities on the pole, including the cost of removing the old pole, and transferring the facilities of Owner and any other attaching party to the new pole. If Licensee is sharing such "loaned space" with another attaching party, then Licensee and the other attaching party shall share the Total Cost of the project. Owner and Licensee using the loaned space shall each keep and maintain records indicating the poles on which loaned space has been provided. For the purposes of this Tariff, any Attachments or Wireless Facilities in a loaned space shall be regarded the same as any other Attachment or Wireless Facility.

6.4 Pole Replacements. In the event that the Owner must replace or relocate a pole, and such replacement or relocation is not caused by the addition of a new Licensee Attachment or Wireless Facility, Owner shall provide Licensee reasonable advance notice before undertaking such replacement or relocation. Licensee shall transfer its Attachments or Wireless Facilities within ten (10) days of receiving notice that the new pole is in place. If Licensee does not transfer its Attachment or Wireless Facility within such ten (10) days, then Owner may transfer the Attachments or Wireless Facilities at Licensee's expense. If Owner or another party is required to make a return trip to remove a pole as a result of Licensee failing to transfer its Attachments or Wireless Facilities within the time set forth herein, then Licensee shall reimburse Owner or such third party for the Total Cost incurred by such return trip according to Exhibit A.

6.5 Radio Frequency. For Wireless Facilities, two radio frequency (RF) warning signs must be installed. One RF warning sign must be placed at eye level, a second sign must be placed at the pole top, just beyond where the safe approach distance ends. The sign must include the Owner's name, contact number, and the approach distance of the Antenna. The Licensee must provide the Owner with documentation that confirms all RF emissions comply with applicable laws governing RF exposure levels.

6.6 General. Licensee shall remain responsible for the Total Cost of all projects initiated by Owner (exclusive of pole attachment fees) as the result of a Licensee Proposal, regardless of whether Licensee elects to install the Attachments or Wireless Facilities. Licensee shall be responsible for all engineering, inspection, and construction work undertaken by Owner on all third party owned poles where such work is initiated as a result of the proposed attachment of Licensee's facilities.

## 7. MAINTANENCE OF ATTACHMENTS AND WIRELESS FACILITIES

7.1 Licensee shall, at its own expense maintain, the Attachments and Wireless Facilities in a safe condition. Licensee's work shall be in a good and workmanlike manner, and must avoid damage to Owner's utility poles and facilities, and the facilities and attachments of third parties. Upon thirty (30) days' notice from Owner, Licensee shall immediately and at its own expense,

Pole Attachment Tariff  
Wyandotte Municipal Services  
Wyandotte, MI  
Amended on May 29, 2019

relocate, replace, repair or otherwise remove the Attachments or Wireless Facilities, and transfer them, if required by Owner. In case of an emergency, as determined in the sole discretion of Owner, Owner shall use commercially reasonable efforts to notify Licensee when such emergency requires the relocation of Licensee's Attachments or Wireless Facilities, but in the event Owner is unable to do so, Owner may relocate, replace, repair or otherwise remove the Attachments or Wireless Facilities, transfer them to substituted poles or perform any other work, maintenance, and/or repair in connection with the Attachments or Wireless Facilities, and Licensee shall, on demand, reimburse Owner for the Total Cost thereby incurred by Owner.

7.2 All of Licensee's installation, removal, and maintenance work, either by its employees or authorized contractors, shall comply with the Design Standards. Licensee shall assure that any person installing, maintaining, or removing its Attachments or Wireless Facilities is fully qualified and familiar with all the Design Standards identified by Owner. Any installation, removal, and maintenance work of Wireless Facilities above the Supply Line must be completed by employees certified to work in the vicinity of energized equipment or lines.

## 8. REARRANGEMENT OF ATTACHMENTS

8.1 If Licensee's desired Attachments or Wireless Facilities can be accommodated on existing poles of Owner in accordance with the Design Standards by Transferring and Rearranging facilities of Owner or existing attachments thereon of any other person, or if because of Licensee's existing or proposed Attachments or Wireless Facilities it is necessary for Owner to rearrange its facilities on any pole not owned by it, then in any such case Licensee shall reimburse Owner and any such other person for the respective Total Cost incurred in making such rearrangement.

## 9. GUYING

9.1 Any guying required pursuant to the Design Standards shall be installed by and at the expense of Licensee. Licensee shall not use any of Owner's guys or anchors without Owner's permission.

## 10. NON-STANDARD ATTACHMENTS

10.1 Licensee shall not install any equipment other than Attachments or Wireless Facilities upon Owner's poles. If Licensee desires to install equipment other than an Attachment or Wireless Facility to a new or existing pole, Licensee shall submit in writing the design and installation specifications of the proposed equipment and such other data required by Owner to assess the impact of such equipment on the existing pole. Except as otherwise set forth herein, Non-Standard Attachments approved hereunder shall be treated as an Attachment and shall be billed an annual attachment fee in accordance with Exhibit A attached hereto and incorporated herein. If the Non-Standard Attachment approved hereunder is associated with a Wireless

Pole Attachment Tariff  
Wyandotte Municipal Services  
Wyandotte, MI  
Amended on May 29, 2019

Facility, the Non-Standard Attachment shall be treated as a Wireless Facility and shall be billed an annual attachment fee in accordance with Exhibit A. Owner may revise the fees set forth on Exhibit A by providing thirty (30) days prior written notice.

## 11. INSPECTION

11.1 Owner may conduct at Licensee's expense an inspection of all new Attachment or Wireless Facility installations or modifications of existing Attachments or Wireless Facilities, anytime during or after construction. In addition, Owner may make additional inspections at Licensee's expense, if Owner has reasonable cause to believe that Licensee is not maintaining its Attachments or Wireless Facilities in accordance with the Design Standards and the terms of this Tariff. Owner's right to make any inspections and any inspection made pursuant to such right shall not relieve Licensee of any responsibility, obligation or liability assumed under this Tariff to maintain its Attachments or Wireless Facilities in accordance with the Design Standards and other prudent practices.

## 12. ATTACHMENT INVENTORY

12.1 Owner shall use its inventory for the purpose of verifying the number and location of all Attachments and Wireless Facilities within its system that are covered by this Tariff, and will typically update its inventory of Attachments and Wireless Facilities not less frequently than every five years.

## 13. UNAUTHORIZED ATTACHMENTS

13.1 Any Attachment or Wireless Facilities attached without the advance written approval of Owner pursuant to Section 3 of this Tariff, or any prior agreement governing such facilities, shall be considered an unauthorized Attachment. The unauthorized overlapping of additional cable by Licensee upon a third party's cable installed upon Owner's poles (see Section 14.1 herein) shall also be considered an unauthorized Attachment.

13.2 Upon discovery of an unauthorized Attachment or Wireless Facility, Owner will notify the Licensee and will review such Attachment or Wireless Facility, at Licensee's expense, to determine if the Attachment or Wireless Facility is in compliance with the Design Standards and, if necessary, order Licensee to comply with the Design Standards either through rearrangement pursuant to Section 6 above or pole replacement pursuant to Section 5 above within 30 calendar days. If Licensee does not or cannot comply with the Owner's order within 60 days, Owner may choose to remove the Attachment or Wireless Facility.

13.3 If an unauthorized Attachment or Wireless Facility poses an imminent danger to life or property, as determined in the sole discretion of Owner, Owner shall remove the

Attachment or Wireless Facility immediately. Licensee shall reimburse the Owner for the Total Cost thereby incurred by Owner to remove the Attachment or Wireless Facility.

13.4 After receiving notification of an unauthorized attachment, if Licensee fails to comply with the Owner's order within 30 days, for each unauthorized Attachment or Wireless Facility, Licensee shall pay an unauthorized attachment fee of five times the current annual rental fee per pole if the Licensee self-reports the violation or it is discovered through a joint inspection. An additional penalty of \$100 per pole will be applied if the violation is found by Owner in an inspection in which the Licensee has declined to participate.

#### 14. INTERFERENCE OR HAZARD

14.1 Whenever Owner notifies Licensee in writing or orally, with written confirmation, that any Attachment or Wireless Facility made hereunder does not comply with the Design Standards, Licensee shall within thirty (30) days of receiving such notice, either remove such non-complying attachment, or bring such Attachment or Wireless Facility within compliance with the Design Standards. If non-compliance of such Design Standards is causing interference with Owner's use or maintenance of the pole, or is causing a hazard, then Licensee shall undertake the remedial efforts set forth above in this Section within ten (10) days of receiving notice from Owner.

14.2 In the case of an emergency, which in Owner's reasonable judgment requires Owner to immediately remove or relocate the licensee's Attachments or Wireless Facilities, Owner may remove or relocate such Attachments or Wireless Facilities as required, at licensee's expense, without prior notice or responsibility for any damage to Licensee caused by such removal or rearrangement.

#### 15. OVERLASHING

15.1 Overlashing by Licensee upon Licensee's facilities is not considered an attachment, provided that there is no additional hardware attached to the pole and the pole is capable of handling the additional pole loading. The Owner shall be notified prior to construction of the proposed overlashing to allow it to assess the structural integrity of the pole relative to the additional load by submitting, and paying for, new requests for permits for each pole to be passed on the overlash route.

15.2 Licensee shall not overlash any Attachments upon a third party's facilities which are attached to Owner's poles, or permit third parties to overlash licensee's facilities, without the consent of Owner. Owner shall not unreasonably withhold its consent, provided such third party overlashed facilities are reviewed by Owner pursuant the Proposal procedure set forth Section 5 above, and both over lashing parties consent to such over lashing in a written format acceptable to Owner.

Pole Attachment Tariff  
Wyandotte Municipal Services  
Wyandotte, MI  
Amended on May 29, 2019

## 16. ATTACHMENT REMOVAL/ABANDONMENT

16.1 Licensee may, at any time, abandon the use of a pole hereunder by giving written notice to Owner and then removing from the pole all of Licensee's Attachments or Wireless Facilities.

## 17. CHARGES AND FEES

17.1 Non-Recurring Expenses. Except as otherwise set forth herein, Licensee shall reimburse Owner for the Total Cost of all non-recurring expenses incurred by Owner, which are caused by or attributable to Licensee's Attachments as shown in Exhibit A.

17.2 Annual Attachment Fee. Maximum allowable rate pursuant to 47 USC 224(d) and (e) as established in Federal Communications Commission Order on Reconsideration 15-151. Calculations will be provided to Licensee annually upon request. Billing of annual charges shall be rendered, in arrears, annually on or about January 1 of each year for the current Contract Year.

17.3 Third Party Overlash Annual Attachment Fee. Licensee shall pay an overlash annual attachment fee for each pole where Licensee has overlashed Attachments to a third party's facilities, which are attached to Owner's poles equal to the applicable Annual Attachment Fee set forth in Exhibit A. Such third party overlash fee shall be paid in the manner set forth in this Section 17.

17.4 General. Licensee shall pay the applicable Annual Attachment Fee, in arrears upon the next annual billing, for each new Attachment or third party overlashed Attachment made during the Contract Year. There shall be no proration of fees hereunder, including adjustments in billing for those Attachments made or removed during the Contract Year.

17.5 Wireless Facilities Annual Fee. To Colocate Antennas, Micro Wireless Facilities or Small Cell Wireless Facilities on the Owner's pole, Licensee shall pay \$50 per pole annually. Every 5 years after March 12, 2019, the effective date of Michigan's Small Wireless Communications Facilities Deployment Act, the Wireless Facilities Fee shall be increased by 10% and rounded to the nearest dollar.

17.6 Wireless Facilities Process Request Fee. The fee to process requests by Licensee to Colocate Antennas, Micro Wireless Facilities or Small Cell Wireless Facilities on Owners poles is \$100 per pole. There will be an additional fee of \$100.00 per pole for processing the request, if a modification or maintenance of the colocation requires an engineering analysis. Every 5 years after March 12, 2019, the effective date of Michigan's Small Wireless

Pole Attachment Tariff  
Wyandotte Municipal Services  
Wyandotte, MI  
Amended on May 29, 2019

Communications Facilities Deployment Act, the fee shall be increased by 10% and rounded to the nearest dollar.

## 18. NON-PERMITTED USE OF ATTACHMENTS

18.1 Licensee represents and warrants that it shall only use the Attachments or Wireless Facilities as described in its application, with the advance consent of the Owner obtained through the processes established by this Tariff or any predecessor agreement in writing between the Owner and the Licensee granting Licensee the right to make Attachments or attach Wireless Facilities for such purposes (the "Permitted Use"). Upon discovery of the use of an Attachment without authorization of the Owner, or for any purpose other than the Permitted Use (a "Non-Permitted Use"), Owner may terminate Licensee's license to make Attachments or attach Wireless Facilities to Owner's poles under this Tariff and/or require Licensee to pay Owner additional attachment fees as set forth in the following paragraph, in addition to any other remedies, which may be available to Owner under applicable law.

18.2 Upon discovery of a Non-Permitted Use, Licensee shall pay Owner an additional attachment fee for each Attachment involved in the Non-Permitted Use of \$150 per Attachment. Unless Licensee can prove otherwise, it shall be assumed for purposes of making the above calculation that Licensee has engaged in such Non-Permitted Use since the commencement of this Tariff. Licensee shall also pay Owner any and all non-recurring administrative expenses Owner incurs as a result of processing and documenting such Unauthorized Use Attachments.

## 19. TIME OF PAYMENT

19.1 Unless otherwise set forth herein, payments due hereunder shall be made within thirty (30) days from the date of the invoice therefore. On all amounts not so paid, an additional charge for interest at the Interest Rate, compounded daily will be assessed. Where the provisions of this Tariff require any payment by Licensee to Owner other than for the Annual Attachment Fee, Owner may, at its option, require that the estimated amount thereof be paid in advance of permission to use any pole or the performance by Owner of any work.

## 20. LIABILITY AND DAMAGES

20.1 Owner reserves to itself, its successors and assigns, the right to maintain its poles and to operate its cables thereon in such manner as will best enable it to fulfill its own service requirements. Owner shall exercise reasonable precaution to prevent damage to, or interference with the operation of the equipment of Licensee, but Owner shall not be liable for, and Licensee waives all claims for, any such damage or interference which may arise out of the use of Owner's poles hereunder, or operation of its cables thereon (excluding claims based upon Owner's gross negligence, reckless, or intentional misconduct).

Pole Attachment Tariff  
Wyandotte Municipal Services  
Wyandotte, MI  
Amended on May 29, 2019

20.2 Licensee shall exercise reasonable precautions to prevent damage to facilities of Owner or of other authorized users of said poles and Licensee hereby assumes all responsibility for any and all damage to facilities of Owner, or other authorized users arising out of, or caused by the erection, maintenance, installation, presence, use or removal of Licensee's cables or equipment. Licensee shall make an immediate report to Owner of the facilities affected by the occurrence of any damage and hereby agrees to reimburse such owner for the expenses incurred in making the necessary repairs and replacement.

20.3 To the extent permitted by law, Licensee covenants and agrees that it shall hold Owner, and all of its agents, employees, officers and affiliates harmless for any claim, loss, damage, cost, charge, expense, lien, settlement or judgment, including interest thereon, whether to any person or property or both, arising directly or indirectly out of, or in connection with Licensee's, or any of its contractors' or subcontractors', use of Company facilities, including poles to which Owner or any of its agents, employees, officers and affiliates may be subject or put by reason of any act, action, neglect or omission on the part of Owner or Licensee or any of its contractors or subcontractors or any of their respective officers, agents, employees, and affiliates (excluding claims based on Owner's reckless or intentional misconduct); said obligation to hold Owner harmless includes, but is not limited to, injuries which occur to employees of Licensee or its contractors and sub-contractors, or injuries to members of the public, or injuries to employees of Owner.

20.4 As used herein, direct damages shall not include loss of profit, loss of revenue, loss or production, loss of earnings, loss of contract, or any other indirect, special or consequential loss or damage.

## 21. INSURANCE

21.1 Licensee shall obtain and furnish the insurance described in this Section 21. Licensee shall maintain, and shall cause its contractors and subcontractors performing any work in connection with activities permitted under any license granted under this Tariff to maintain, such insurance at all times during the term of any license granted to it under this Tariff.

21.2 Coverage for the legal liability of Licensee and its contractors and subcontractors under the workers' compensation and occupational disease law of the state of Michigan.

21.3 Commercial general liability insurance with limits of not less than \$10,000,000 in the aggregate.

21.4 Commercial automobile liability insurance with a limit for bodily injury and property damage of not less than \$1,000,000 each accident.

21.5 Licensee will not be permitted to access Owner's poles until Owner receives from Licensee one copy of an acceptable certificate of insurance covering the terms of Subsections 21.1-21.4 above. Such certificate shall state that the insurance carrier has issued the policies providing for the insurance specified above, that such policies are in force, and that the insurance carrier will give Owner thirty (30) days prior written notice of any material change in, or cancellation of, such policies. If such insurance policies are subject to any exceptions to the terms specified herein, such exceptions shall be explained in full in such certificates. Owner may, at its discretion, require Licensee to obtain insurance policies that are not subject to any exceptions. Licensee and its subcontractors shall obtain waivers of subrogation on all of their insurance for the benefit of Owner. Policies written on a "claims-made" basis shall be maintained for a period of five years after termination of any license granted to the Licensee under the terms of this Tariff. Licensee acknowledges that continued maintenance of the insurance requirements under this Tariff is a substantial and important part of this Tariff and that any lapse in insurance coverage shall be corrected so that coverage will be in place during the period required hereunder, with no gaps or lapses in coverage.

21.6 The amounts of insurance required under this Tariff shall be increased as Owner may reasonably require from time to time to account for inflation, generally increased insurance settlements, court verdicts or any other business purposes. If Licensee does not timely deliver to Owner a certificate showing all of the required insurance to be in full force and effect as required by this Tariff, Owner may either: (i), declare Licensee to be in substantial default under the terms of this Tariff upon which event this Tariff shall automatically terminate within sixty (60) days without the need for any further notice, or (ii) obtain the insurance to fulfill any and all of the insurance obligations under this Tariff. On Owner's demand, Licensee shall reimburse Owner the full amount of any insurance premiums paid by Owner, a fee of \$250.00 dollars to cover applicable expenses and overhead costs incurred by Owner, and interest at the Interest Rate, compounded daily, from the date of Owner's demand, until reimbursement by Licensee.

## 22. EASEMENTS

22.1 Licensee shall secure any right, license or permit from any governmental body, authority or other person or persons, which may be required for the construction or maintenance of Licensee's Attachments. Owner does not grant, convey, or guarantee any easements, rights-of-way or franchises for the construction and maintenance of the Attachments. Licensee hereby agrees to indemnify and save Owner harmless (on a *pro rata* basis with all other users of Owner's poles who failed to secure such right, license, permit or easement, based on their respective proportionate use of space on such poles and to the extent the other users are part of such claim) from any and all claims, including the expenses incurred by Owner to defend itself against such claims, resulting from or arising out of the failure of Licensee to secure such right, license, permit or easement for the construction or maintenance of the Attachments on Owner's poles, the loss of right-of-way or property owner consent, of the costs of relocating any of Owner's facilities or other attachments on Owner's poles. In the event that Owner becomes

Pole Attachment Tariff  
Wyandotte Municipal Services  
Wyandotte, MI  
Amended on May 29, 2019

aware of a claim affecting Licensee under the terms of this provision, Owner shall endeavor to put Licensee on timely notice of such claim. However, such notice obligation of Owner does not extend to permits or franchises required by governmental entities. As applicable, all of the terms of the indemnity set forth in this Tariff are incorporated herein and shall apply with equal force to the indemnity set forth in this Section.

## 23. FINANCIAL ASSURANCE REQUIREMENTS

23.1 To protect the Owner and its customers against the possibility of failure of performance or payment in connection with Licensee's financial and operational obligations under this Tariff, Licensee shall furnish to the Owner reasonable documentation of Licensee's creditworthiness and ability to perform its financial obligations under any license granted under this Tariff. In the event that Owner determines, in the exercise of reasonable discretion, that additional assurance of payment is necessary in order to ensure fulfillment of Licensee's obligations, Licensee shall provide such assurance in accordance with the provisions of this Section.

23.2 Where Owner reasonably estimates that the cost of its performance of any action authorized or required under this Tariff will exceed five thousand dollars (\$5,000) but is unlikely to exceed ten thousand dollars (\$10,000), Owner may require Licensee to make a cash deposit for the estimated cost of Owner's performance of the relevant action. In such circumstances, Owner will provide Licensee with a reasonably itemized, written estimate of its costs as part of its demand for such cash deposit, and shall notify Licensee in writing as to the date on which such deposit is due. Upon receipt of the cash deposit, Owner shall be entitled to draw on the deposit for reimbursement of its costs in connection with performance of the relevant action and shall periodically present to Licensee an itemized statement of the disbursements and other costs to which it has applied the deposit.

23.3 Where Owner reasonably estimates that the cost of its performance of any action authorized or required under this Tariff or the cost to Owner of Licensee's non-performance of any obligation under this Tariff, is likely to exceed an amount equal to two (2) year's Annual Attachment Fees for all Attachments, or \$10,000 dollars, whichever is greater, Owner may in its reasonable discretion require Licensee to supply any of the following forms of financial assurance, in a form reasonably acceptable to Owner for payment or performance of the relevant action or obligation, or such other form of financial assurance as may be mutually agreeable to Owner and Licensee:

23.3.1 An irrevocable standby letter of credit, issued by a bank having a minimum corporate debt rating of an "A-" by Standard & Poor's or "A3" by Moody's or "A-" by Duff & Phelps or "A-" by Fitch, or an equivalent short term debt rating by one of these agencies, for the full value of the required financial assurance. The letter of credit will renew automatically unless the issuing bank provides notice to Owner at least ninety (90) days prior to the letter of credit's

Pole Attachment Tariff  
Wyandotte Municipal Services  
Wyandotte, MI  
Amended on May 29, 2019

expiration of the bank's decision not to renew the letter of credit. If the letter of credit amount falls below the required level because of a drawing, it must be replenished immediately.

23.3.2 A performance bond, which shall (a) be reasonably acceptable to Owner as to form, substance and surety, (b) clearly identify Owner as the obligee and provide for a penal sum equal to the full value of the required financial assurance, (c) include a clear statement that the surety will promptly and faithfully perform Licensee's obligations to Owner if Licensee fails to do so, and (d) be issued by an insurance company rated "A" or better by A.M. Best & Co.

23.3.3 An irrevocable corporate guaranty obtained from an affiliated company ("Guarantor") of Licensee for the full value of the required financial assurance, provided that the Guarantor that has greater financial assets than the Licensee, a strong balance sheet and income statements and, at minimum, an investment grade rating by either Standard & Poor's, Moody's, Duff & Phelps', or Fitch's.

## 24. DEFAULT OR NON-COMPLIANCE

24.1 If Licensee fails to comply with any of the provisions of this Tariff, or defaults in the performance of any of its obligations under this Tariff, and fails within thirty (30) days, after written notice from Owner to correct such default or noncompliance, Owner may, at its option, take any one or more of the following actions: (i) suspend Licensee's access to climb or work on its Attachments on all of Owner's poles; (ii) terminate the specific permit or permits covering the poles to which such default or noncompliance is applicable; (iii) remove, relocate, or rearrange Attachments of Licensee to which such default or noncompliance relates, all at Licensee's expense; (iv) decline to permit additional Attachments hereunder until such default is cured; or (v) in the event of any failure to pay any of the charges, fees or amounts provided in this Tariff or any other substantial default, or of repeated defaults, terminate any License granted to Licensee under this Tariff. Notwithstanding the foregoing, Licensee shall have up to an additional thirty (30) days to correct such default or noncompliance if Licensee promptly commences its corrective efforts within the thirty-day period described above and diligently continues such corrective actions thereafter. No liability shall be incurred by Owner because of any or all such actions. The remedies provided herein are cumulative and in addition to any other remedies available to Owner under this Tariff or otherwise. No such termination, however, shall reduce or eliminate the obligation of the Licensee to make payments of any amounts due to Owner for any services covered, shall not waive charges for any Attachment until said Attachment is removed from the pole to which it is attached and shall not affect Licensee's Insurance requirements contained in this Tariff. Owner shall be entitled to recover any and all attorney fees, costs and expenses incurred in successfully pursuing any of the remedies set forth above.

## 25. TERM OF LICENSES

Pole Attachment Tariff  
Wyandotte Municipal Services  
Wyandotte, MI  
Amended on May 29, 2019

25.1 Except as otherwise provided in this Section 25, the attachment right granted by this Tariff shall continue for a period of one year from the date hereof, and shall thereafter automatically renew for successive one year periods unless one party gives the other party written notice of termination at least sixty (60) days in advance of the next renewal date. Should Licensee not place Attachments or reserve space on Owner's poles in any portion of the area covered by this Tariff within six (6) months of its effective date, Owner may, at its option, terminate the License(s) granted to Licensee under this Tariff. Licensee shall completely remove its Attachments from Owner's poles within one-hundred twenty (120) days of the termination date, unless an extension of the existing License is negotiated or a new License covering such poles has been executed by the parties hereto. If Licensee fails to remove its facilities, Owner may, and is hereby given the clear and incontestable right to, remove Licensee's facilities, at Licensee's expense, from Owner's poles and without any liability to Owner.

## 26. TRANSFERS OF OWNERSHIP

26.1 This Tariff shall be binding upon and inure to the benefit of the parties hereto, and Licensee shall not assign, transfer, sublet or sublicense any of the rights hereby granted without the prior written consent of Owner.

## 27. GENERAL PROVISIONS

27.1 Governing Law. This Tariff shall be construed in accordance with, and its performance shall be governed by, the Michigan Constitution and applicable laws in effect of the State of Michigan.

27.2 No Third-Party Rights. This Tariff shall not create for, nor give to, any third party any claim or right of action against either party to this Tariff that would not arise in the absence of this Tariff.

27.3 No Representations as to Land Title. In granting Licensee the right to jointly use Owner's poles or other facilities as provided herein, Owner makes no representation as to what rights may exist in others regarding the land on which its poles and other facilities are located. Licensee shall have full responsibility for meeting the title claims or requirements of any other parties relating to the placement of its facilities upon, under, or above said land, and Licensee shall hold harmless Owner against any such claim.

27.4 Non-Waiver. No delay, forbearance or omission in the exercise of any power or remedy herein provided or otherwise available to Owner shall impair or affect Owner's right thereafter to exercise the same.

27.5 Headings. Headings used in this Tariff are inserted only for convenience of reference and shall not affect the interpretation or construction of this Tariff.

Pole Attachment Tariff  
Wyandotte Municipal Services  
Wyandotte, MI  
Amended on May 29, 2019

27.6 Survival of License Obligations. All payment, performance and indemnity obligations of Licensee under this Tariff shall survive the termination of any license granted under this Tariff, until said obligations are satisfied.

27.7 Operating Routine. An Operating Routine shall be jointly prepared by the Owner and the Licensee, and shall be approved respectively by the one designated person responsible to administer joint use for the Licensee and the Owner. This routine shall be based on this Tariff and shall give the detailed methods and procedures that will be followed in establishing, maintaining and discontinuing the joint use of poles. In case of any ambiguity or conflict between the provisions of this Tariff and those of the Operating Routine, the provisions of this Tariff shall be controlling. This Operating Routine may be changed at any time upon the approval of the one designated person responsible to administer joint use for each party, provided such changes do not conflict with the terms of this Tariff.

ISSUED ON: May 29, 2019

ISSUED BY:

WYANDOTTE DEPARTMENT OF MUNICIPAL SERVICES

By: *Paul L. LaManes*

Title: General Manager

Pole Attachment Tariff  
Wyandotte Municipal Services  
Wyandotte, MI  
Amended on May 29, 2019

EXHIBIT A  
RATES AND CHARGES  
(Effective, \_\_\_\_\_, 2019)

**Annual Fees for Attachments:**

Pole Attachment Annual Fee: Maximum allowable rate pursuant to 47 USC 224(d) and (e) as established in Federal Communications Commission Order on Reconsideration 15-151. Calculations will be provided to Licensee annually upon request.

Non-Standard Attachments – Risers: \$25.00 per pole

**Annual Fees for Wireless Facilities:**

Colocation Fee for Antennas  
Micro Wireless Facilities  
or Small Cell Wireless Facilities \$50.00 per pole

**Non-Recurring Fees:**

Pole Attachment Application Fee: 50% deposit of estimated Total Cost of an engineering review with remaining balance of actual Total Cost due upon completion of the engineering review

Wireless Facilities Application Fee: \$100.00 per pole. There will be an additional fee of \$100.00 per pole for processing the request, if a modification or maintenance of the colocation requires an engineering analysis.

Make-Ready Work Charges: See Article 3 of the Tariff

Inspection Fees: See Article 11 of the Tariff

Rearranging of Licensee's equipment : See Article 8 of the Tariff

Second trip: See Article 6 of the Tariff

Pole Attachment Tariff  
Wyandotte Municipal Services  
Wyandotte, MI  
Amended on May 29, 2019

**EXHIBIT B**

**POLE ATTACHMENT APPLICATION AND LICENSE**

(License effective on execution of this form)

**New Attachment** ○ **Overlash Attachment** ○

Notwithstanding any terms or conditions set forth on this application form, applicant's contractual rights, obligations, and remedies are set forth in, and governed solely by, the Wyandotte Department of Municipal Services Utilities Pole Attachment Tariff. The Tariff shall control to the extent of any conflict between the terms of this application and the terms and conditions of the Tariff. Incomplete applications will be returned to applicant without further action by Wyandotte. Required information includes the completed application, proposed schedule, prints and maps, proposed route, project description, the purpose of the Attachment, and a copy of the Application Fee check.

APPLICATION INFORMATION

Application # \_\_\_\_\_ Applicant Name \_\_\_\_\_ Date \_\_\_\_\_  
 Corporate Rep. \_\_\_\_\_ Phone \_\_\_\_\_ Fax \_\_\_\_\_ E-mail \_\_\_\_\_

Project Description (Attach if necessary)	No. of Wyandotte Poles	No. of Foreign Poles	Planned Install Date

Proposed Cable Installation _____	Existing Cable Installation _____
No. of cables to install _____	Existing Cable Count _____
Fiber count _____	Existing pole count _____
Pole count _____	Cable(s) diameter _____
Cable diameter _____	Strand(s) diameter _____

Nearest street address of attachment	MAPSCO Grid No.	City Grid No.

Pole Attachment Tariff  
 Wyandotte Municipal Services  
 Wyandotte, MI  
 Amended on May 29, 2019

APPLICATION APPROVAL

Application Approved? Yes \_\_\_ No \_\_\_ Conditional (see attached report) \_\_\_

Make Ready Required? Yes \_\_\_ No \_\_\_

Actual Wyandotte pole count \_\_\_\_\_ Actual foreign pole count \_\_\_

Actual Install Date \_\_\_\_\_

Comments/Notes (attach if necessary)

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Wyandotte Representative (sign)	Phone	Fax	Email	Date

MAKE READY COST CONCURRENCE

If make ready is required, certain Wyandotte electrical distribution, cable, and/or any other parties equipment need to be changed in order to accommodate Licensee’s attachments on the poles and route described in this application. Wyandotte or Licensee is responsible for all make ready construction associated with this application. Wyandotte will bill Licensee for all engineering design, construction and inspection services necessary to process, review, and approve this application. If Wyandotte elects to perform make ready construction, Licensee shall pay for all costs related to such construction. If Licensee is directed to perform make ready construction, Licensee shall perform such construction at its sole risk and expense, including the cost of final inspections(s) by Wyandotte, its subcontractors, or its agents. By signature below, Wyandotte and Licensee indicate their understanding and acceptance of these terms and conditions notwithstanding any other related terms and conditions of the Wyandotte Municipal Services Pole Attachment Tariff.

General Manager

Licensee Representative

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Pole Attachment Tariff  
Wyandotte Municipal Services  
Wyandotte, MI  
Amended on May 29, 2019