

36225

POLE ATTACHMENT AND CONDUIT OCCUPANCY LICENSING AGREEMENT

BETWEEN

**Citizens Telecommunications Company of California Inc. d/b/a Frontier
Communications of California,
Frontier Communications of the Southwest Inc.
Frontier California Inc.**

AND

CITY OF LONG BEACH, a municipal corporation

POLE ATTACHMENT AND CONDUIT OCCUPANCY LICENSING AGREEMENT

1. Parties.

THIS POLE ATTACHMENT AND CONDUIT OCCUPANCY LICENSING AGREEMENT (the "Agreement") is entered into , as of January 10, 2022, for references purposes only, pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting on June 15, 2021, by and between City of Long Beach, a municipal corporation of the State of California, having its principal office at 411 W. Ocean Blvd, Long Beach, CA 90802 ("Licensee") and Citizens Telecommunications Company of California Inc. d/b/a Frontier Communications of California, a corporation doing business in the State of California, having a principal office at 3405 Northern Ave., Kingman, AZ 86409 ("Frontier Citizens"), and Frontier Communications of the Southwest Inc., a corporation doing business in the State of California, having a principal office at 3405 Northern Ave., Kingman, AZ 86409 ("Frontier Southwest"), and Frontier California Inc., a corporation doing business in the State of California, having a principal office at 9 South 4th Street, Redlands CA 92373 ("Frontier California") (Frontier Citizens, Frontier Southwest and Frontier California are collectively and individually referred to as "Frontier"). Licensee and Frontier are sometimes referred to collectively as the "Parties" or individually as "Party". This Agreement is effective as of the date last written in the signature block.

2. Definitions.

2.1 **Affiliate** – an entity is an affiliate of another corporation if they share, directly or indirectly, common corporate parent, or are otherwise under common ownership.

2.2 **Applicable Law** – all laws, statutes, common law, regulations, ordinances, codes, orders, permits, and approvals of a government authority which apply or relate to subject matter of this Agreement.

2.3 **Attachments** – any placement of Licensee's Facilities in or on Frontier's poles, ducts, innerducts, conduits, or right of ways that are reasonably required by Licensee to provide its Cable Television and/or Telecommunications Services.

2.4 **Business Day** – Monday through Friday, except for holidays on which the U. S. Mail is not delivered.

2.5 **Cable Television Services** - the one-way transmission to subscribers of video programming, or other programming services; and, subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

2.6 **Conduit Occupancy Fee** – the fee paid by Licensee to Frontier per linear foot of cable installed in each Innerduct occupied by Licensee's Facilities in Frontier's Conduit(s). Conduit Occupancy Fees are specified in Section 12.

2.7 **Conduit Occupancy Request (COR)** – a written request from Licensee to occupy Frontier's Conduit with its Facilities, submitted in accordance with Section 6 of this Agreement. For Agreements in effect prior to the date this Agreement is executed by the Parties, the term

COR shall be deemed to include Conduit Occupancy Requests made by letter or similar document.

2.8 Duct – a single enclosed path used to house Innerduct or to directly house Facilities.

2.9 Facilities – all facilities, including but not limited to, cables, equipment and associated hardware, owned and utilized by the Licensee which occupy an Innerduct or Duct.

2.10 Hazardous Materials - (i) any substance, material or waste now or hereafter defined or characterized as hazardous, extremely hazardous, toxic or dangerous within the meaning of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, or any similar law, ordinance, statute, rule or regulation of any governmental body or authority; (ii) any substance, material or waste now or hereafter classified as a contaminant or pollutant under any law, ordinance, statute, rule or regulation of any governmental body or authority; or (iii) any other substance, material or waste, the manufacture, processing, distribution, use, treatment, storage, placement, disposal, removal or transportation of which is now or hereafter subject to regulation under any law, ordinance, statute, rule or regulation of any governmental body or authority.

2.11 Innerduct – unless otherwise specified or approved by Frontier, a single enclosed raceway 1" or 1-1/4" in diameter, placed within Duct and used for housing facilities.

2.12 Licensee's Facilities or Licensee's Attachments - All facilities, including but not limited to cables, equipment and associated hardware, owned and utilized by Licensee, which are attached to a Frontier Pole or occupy a Frontier Conduit or Right of Way.

2.13 Make-Ready (Rearrangements) Work - all work, including, but not limited to, rearrangement, removal, or transfer of existing Attachments and/or Facilities, to include placement, repair, or replacement of Frontier Poles or Frontier Conduits, or any other changes required to accommodate the Licensee's Attachments on a Frontier Pole or in a Frontier Conduit. It includes (i) preparatory work that must be performed on Frontier's Poles and/or Frontier 's Conduits and related facilities in order to accommodate the Attachment of Licensee's Facilities; (ii) "make-ready engineering", which consists of reviewing the current conditions of Frontier's Facilities to which Licensee desires to attach and ascertaining what work needs to be done in order to properly accommodate Licensee's Facilities; (iii) "make-ready construction", which is the actual rearrangement work performed in accordance with the determinations made in the make-ready engineering process; and (iv) any cost associated with final inspection of facilities before, during, and after Licensee has completed construction to ensure compliance with safety and industry standards. It may include, among other things, moving Frontier's Facilities and the placing of new anchors, guys, and/or conduit.

2.14 Manholes and Handholes – subsurface enclosures which personnel may enter and use for the purpose of installing, operating and maintaining facilities.

2.15 Pole Attachment Fee - the fee assessed per pole and paid by Licensee to place Attachments on Frontier's Poles. Pole Attachment Fees are specified in Section 12 of this Agreement.

2.16 Pole Attachment Request (PAR) - a written request from Licensee to place its Attachments on Frontier's Poles, submitted in accordance with Section 6 of this Agreement. For any agreements in effect prior to the date this Agreement is executed by the Parties, the

term PAR shall be deemed to include Pole Attachment Requests made by letter or similar document.

2.17 Right of Way (ROW) - a right possessed by Frontier to use or pass over, on, in, under or through the land of another person, with respect to which Frontier has the right to authorize the usage or passage of Licensee's Facilities over, on or under such land. A Right of Way may run under, on or over public or private property (including the air space above such property).

2.18 Telecommunications Services - as defined by the Telecommunications Act of 1996, the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

2.19 Frontier's Conduit(s) or Frontier Conduit(s) – any reinforced passage or opening (or space therein) in, on, under, over or through the ground capable of containing facilities; that is owned or leased by F Frontier solely or jointly with another entity or entities; and with respect to which F Frontier has the right to authorize the occupancy of Licensee's Facilities. Conduit does not include a controlled environment vault.

2.20 Frontier's Pole(s) or Frontier Pole(s) - any pole or poles solely owned by Frontier, jointly owned by Frontier and another entity or entities, and space on poles obtained by F Frontier through arrangements with the owner(s) thereof.

2.21 Santa Fe Ave Synchronization Enhancement Project – a City of Long Beach Public Works project involving construction of communications systems on Santa Fe Avenue from Anaheim Street to Wardlow Road.

3. Purpose.

3.1 Licensee represents to Frontier that Licensee has a need to occupy, place and maintain Attachments on Frontier's Poles or in Frontier's Conduit for the purpose of providing Cable Television and/or Telecommunications Services.

3.2 Frontier agrees to permit Licensee to occupy, place and maintain its Attachments on Frontier Poles and/or in Frontier Conduit as Frontier may allow pursuant to the terms of this Agreement and subject to Applicable Law.

3.3 The scope of this agreement is limited to: 1) the geographic boundaries of City Limits on the North, West and South, and Atlantic Ave on the East, and b) occupancy related to the Santa Fe Ave Synchronization Enhancement Project.

4. Grant of License.

Frontier grants to Licensee and Licensee accepts from Frontier a non-exclusive revocable license to occupy, place and maintain in a designated space on specified Frontier Poles and/or in specified Frontier Conduit Licensee's Facilities on the terms and conditions set forth herein. Licensee shall have no further right, title, or other interest in connection with Frontier's Poles and/or Frontier's Conduit. Frontier shall have the right to grant, renew or extend privileges to others not Parties to this Agreement to occupy, place or maintain Attachments on or otherwise use any or all Frontier Poles and/or Frontier Conduit. Nothing herein is intended to, nor should it be construed to require Frontier to construct or modify any facilities not needed for its own

service requirements except to the extent required by Applicable Law. Frontier grants this license in the state(s) of California in reliance on the representation of Licensee that Licensee intends to provide Cable Television and/or Telecommunications Services with the Attachments covered by this Agreement.

5. Term.

The term of this Agreement shall commence at midnight on January 10, 2021 and shall terminate at 11:59 p.m. on January 9, 2031 subject to the termination provisions contained in this Agreement. After the end of the term, all Licensee Attachments must be removed unless the agreement has been extended at the discretion of the Parties.

6. Pole Attachment Requests/Conduit Occupancy Requests (PAR/COR).

6.1 Licensee shall submit a Pole Attachment Request/Conduit Occupancy Request (PAR/COR), identifying the Frontier Poles and/or Frontier Conduit upon which Licensee desires to place Facilities or overlash existing Attachments. Licensee may request to attach to two hundred (200) poles and occupy fifty (50) manholes/handholes on a single PAR/COR. Frontier may limit the total number of PAR/CORs from Licensee to no more than two thousand (2,000) poles or fifty (50) manholes/handholes for all requests pending approval at any one time. Licensee shall submit a Notice of Removal Form, identifying the Frontier Poles and/or Frontier Conduit upon which Licensee desires to remove Facilities. This includes those Facilities that may be overlash to the Licensee's own existing Attachments or to another licensee's approved Attachments. Each PAR/COR or Notice of Removal Form shall be in a form specified by Frontier and may be revised from time to time by Frontier. All PAR/CORs submitted to Frontier shall be processed on a first come, first served basis. Frontier, in its sole judgment, will determine the availability of space on the Frontier Poles or in Frontier Conduit specified in the PAR/COR and will provide its response to the PAR/COR within sixty (60) days of its submission. For requests with more than three hundred (300) poles add an additional fifteen (15) days. Upon approval of the PAR/COR, Frontier shall return one copy thereof to Licensee bearing an endorsement acknowledging Frontier's authorization. All Attachments placed on Frontier's Poles and/or in Frontier's Conduit pursuant to an approved PAR/COR shall become subject to all of the terms and conditions of this Agreement. Licensee may submit subsequent PAR/CORs for approval by Frontier as needed. Frontier shall make a good faith effort to accommodate Licensee's PAR/CORs to include pole change outs, reasonable facilities rearrangements, and alternative route proposals before a PAR/COR is denied. If Frontier denies a Licensee's PAR/COR, an explanation shall be provided, including a description of the alternatives explored. Frontier is under no obligation to provide general information respecting the location and availability of Frontier Poles and/or Frontier Conduits, except as may be necessary to process a PAR/COR. Except as authorized in Subsection 6.6, no Facility shall be placed or overlash on any Frontier Pole or in Frontier Conduit identified in a PAR/COR until that PAR/COR has been approved by Frontier.

6.2 Licensee (if applicable) shall pay Frontier a fee at the time of submitting a request for processing a PAR/COR to compensate Frontier for the general administrative costs as well as the actual engineering costs reasonably incurred. The fee for engineering costs shall be computed by multiplying the fully loaded hourly rate for an engineer times the number of hours reasonably required by each engineer to inspect the Frontier Poles and/or Frontier Conduit included in the PAR/COR. Frontier will true-up the charge based upon its then current rates for administrative and engineering costs, as may be changed from time to time by Frontier to remain consistent with prevailing cost.

6.3 Upon receiving an approved PAR/COR, Licensee shall have the right, subject to the terms of this License, to place and maintain the Attachments described in the PAR/COR in the space designated on the Frontier Poles and/or in the Frontier Conduits identified therein.

6.4 Make-Ready (Rearrangement) Work

6.4.1 In the event Make-Ready (Rearrangement) Work is necessary to accommodate Licensee's Attachments, Frontier shall notify Licensee of such work after and provide Licensee with a good faith estimate of the total cost of such Make-Ready (Rearrangement) Work needed to accommodate Licensee's Attachments within fourteen (14) days after the survey. Within fourteen (14) days after receiving such notice from Frontier, Licensee must notify Frontier either (i) that Licensee shall pay all of the costs actually incurred to perform the Make-Ready Work and will pay the total estimated amount to Frontier or (ii) that it desires to cancel its PAR/COR. Frontier will complete the Make-Ready Work within sixty (60) days. If Frontier receives no response from Licensee within fourteen (14) calendar days of Frontier's notice, it will be construed as the Licensee's desire to cancel its PAR/COR, any cost incurred to date for processing the Licensee's PAR/COR will be billed to the Licensee and the Attachments requested will be released for use by other requesting licensees on a first come, first serve basis. For requests with more than three hundred (300) poles add forty-five (45) days for make-ready.

6.4.2 California. In addition to the requirements above, in California the Licensee will be responsible for the performance of all or such portion of the Make-Ready (Rearrangement) Work as Licenser determines in its reasonable discretion. Before engaging a contractor to perform such work, Licensee shall obtain Frontier's written approval. Licensee shall ensure that no such contractor hired by Licensee subcontracts any work to any contractor or person unless Licensee receives the prior written approval of Frontier. Any contractor or subcontractor so selected must provide evidence of a valid C-61 (D05 Communication Equipment) license issued by the State of California. Licensee shall be responsible for assuring that all Make-Ready (Rearrangement) Work performed pursuant to this Agreement is to the satisfaction of Frontier. All Make-Ready (Rearrangement) Work shall be subject to inspection by Frontier at any time. If any Make-Ready (Rearrangement) Work is not to Frontier's satisfaction, Licensee shall be responsible for the performance of any necessary rework. In the event outside obligations prohibit Licensee from performing the Make-Ready work or rework, Frontier will perform the work and bill the Licensee. Licensee agrees to reimburse Frontier for the Make-Ready work or rework at its then current fully loaded labor rates. In any event, in addition to bearing all Make-Ready (Rearrangement) Work and rework costs, Licensee shall reimburse Frontier for Frontier's costs of performing inspections. Frontier may change its specifications, work rules, and regulations at any time upon twenty-four (24) hours written notice or oral notice to Licensee.

6.5 Frontier shall not be responsible to Licensee for any loss sustained by Licensee by reason of the refusal or failure of any other party with Attachments on Frontier's Poles and/or in Frontier's Conduit to rearrange or modify its Attachments as may be required to accommodate Licensee's Facilities.

6.6 Unauthorized Attachments. Licensee is not authorized and shall have no right to place Facilities on any Frontier Pole and/or in any Frontier Conduit unless that Frontier Pole or Frontier Conduit is identified in an approved PAR/COR. Notwithstanding the provisions of this Subsection, service drop Attachments may be made prior to obtaining an approved PAR/COR for such from Frontier, however, Licensee shall submit a PAR/COR to Frontier for such service drop Attachments within two (2) Business Days immediately following the Attachment.

7. Availability of Frontier Pole and Frontier Conduit Maps.

Existing Frontier Pole and Frontier Conduit maps will be made available for viewing by Licensee for the purpose of pre-order planning at the Frontier area engineering offices during normal business hours, subject to reasonable advance notification. While formal written requests will not be required in connection with the first request by Licensee to view Frontier Pole and Frontier Conduit maps, Frontier reserves the right to refuse any subsequent viewing request or require written justification for the request if Licensee has demonstrated that it does not have a good faith intention to submit a PAR/COR. If the availability of specific point-to-point conduits can be determined at the time of viewing Frontier Pole and Frontier Conduit maps, maps reflecting such point-to-point information may be made available for copying provided that such map does not contain information that is deemed proprietary to Frontier. In such case, Licensee will be provided with a sketch of the required point-to-point information without the proprietary information. Licensee will pay to Frontier a fee sufficient to cover the general administrative costs incurred for making such copies available. IN MAKING Frontier MAPS AVAILABLE, Frontier WILL BE MAKING NO EXPRESS OR IMPLIED WARRANTY OF ANY KIND, INCLUDING WITHOUT LIMITATION, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ACCURACY, OTHER THAN THAT THEY ARE THE SAME CONDUIT MAPS USED BY Frontier IN ITS DAY-TO-DAY OPERATIONS.

Requests for General Information Regarding Space on Frontier Poles and in Frontier Conduits.

Frontier will provide information regarding the availability of Frontier Pole or Frontier Conduit space within sixty (60) calendar days of a written request by Licensee. Because Frontier will endeavor to determine available space as quickly as possible, a shorter interval may be experienced for requests of a limited scope where physical field verification is not necessary. In the event the sixty (60) calendar day time frame cannot be met, Frontier shall so advise Licensee and shall seek a mutually satisfactory alternative response date. No representation regarding the availability of space shall be made in the absence of a physical field verification.

9. Authority to Place Attachments.

9.1 Before Licensee places any Facility, whether Attachments or overlash on Frontier's Poles and/or in Frontier's Conduit pursuant to an approved PAR/COR, Licensee shall submit evidence satisfactory to Frontier including but not limited to an affidavit of its authority to erect and maintain the Facilities to be placed on Frontier's Poles and in Frontier's Conduit within the public streets, highways and other thoroughfares or on private property. Licensee shall be solely responsible for obtaining all ROWs, easements, licenses, authorizations, permits and

consents from federal, state and municipal authorities or private property owners that may be required to place Attachments on Frontier's Poles and/or in Frontier's Conduit. In the event Licensee must obtain any additional easements, permits, approvals, licenses and/or authorizations from any governmental authority or private individual or entity in order to utilize Frontier's Poles or Frontier's Conduits under an approved PAR/COR, Frontier shall, upon Licensee's request, provide written confirmation of its consent to Licensee's utilization of Frontier's Poles and/or Frontier's Conduit in a particular location in accordance with this Agreement, if needed by Licensee to obtain such additional approvals or authorizations. Frontier shall also provide maps or drawings of its facilities locations to the extent reasonably required by such governmental authority or private individual or entity for purposes of considering or granting Licensee's request to it for authority or approval.

9.2 Frontier shall not unreasonably intervene in or attempt to delay the granting of any ROWs, easements, licenses, authorizations, permits and consents from federal, state or municipal authorities or private property owners that may be required for Licensee to place its Attachments on Frontier's Poles and/or in Frontier's Conduits.

9.3 If any ROW, easement, license, authorization, permit or consent obtained by Licensee is subsequently revoked or denied for any reason, Licensee shall retain all rights to pursue all appeals before Frontier revokes permission to attach to its poles or in its conduit. Revocations of permission to attach to Frontier's Poles or Frontier's Conduit will be allowed only after Licensee has exhausted all legal, administrative, and equitable remedies in all state and federal forums. If Licensee does not prevail in its appeals, permission to attach to Frontier's Poles or Frontier's Conduit shall terminate immediately and Licensee shall promptly remove its Attachments. Should Licensee fail to remove its Attachments within sixty (60) calendar days of receiving notice to do so from Frontier, Frontier shall have the option to remove all such Attachments and store them in a public warehouse or elsewhere at the expense of and for the account of Licensee without Frontier being deemed guilty of trespass or conversion, and without Frontier becoming liable for any loss or damages to Licensee occasioned thereby. All costs incurred by Frontier to remove Licensee's Attachments shall be reimbursed to Frontier by Licensee upon demand.

9.4 Upon notice from Frontier to Licensee that the cessation of the use of any one or more of Frontier's Poles or Frontier's Conduits is necessary for reasons of safety or has been directed by any federal, state or municipal authority, or private property owner, permission to attach to such pole(s) or conduit(s) shall terminate immediately and Licensee shall remove its Attachments within the timeframe provided by the requesting or directing party or sixty (60) calendar days of receiving notice to do so from Frontier, whichever is less, provided that Licensee shall not have less than ten (10) days from receiving notice to accomplish the removal. For safety violations, Licensee shall correct all non-standard conditions within thirty (30) calendar days from receipt of written notice from Frontier. Should Licensee fail to correct safety violations or remove its Attachments within the time frame provided by the requesting or directing party or sixty (60) calendar days of receiving notice to do so from Frontier, whichever is less, provided that Licensee shall not have less than ten (10) days from receiving notice to do so, Frontier shall have the option to correct such safety violations or remove all such Attachments and store them in a public warehouse or elsewhere at the expense of and for the account of Licensee without Frontier being deemed guilty of trespass or conversion, and without Frontier becoming liable for any loss or damages to Licensee occasioned thereby. All costs incurred by Frontier to remove Licensee's Attachments shall be reimbursed to Frontier by Licensee upon demand by Frontier.

10. Placement of Attachments.

10.1 Licensee shall, at its own expense, place and maintain its Facilities, whether Attachments or overlash, on Frontier's Poles and/or in Frontier's Conduit in accordance with (i) such requirements and specifications, as published and amended from time to time by the industry, the Manual of Construction Procedures (Blue Book), (ii) all rules or orders now in effect or that hereafter may be issued by any regulatory agency or other authority having jurisdiction, and (iii) all currently applicable requirements and specifications of the National Electrical Safety Code, and the applicable rules and regulations of the Occupational Safety and Health Act.

10.2 Licensee's Facilities on Frontier's Poles shall be tagged at maximum intervals of every three hundred (300) feet and Licensee's Facilities in Frontier's Conduits shall be tagged at each Manhole so as to identify Licensee as the owner of the Attachments. The tags shall be of sufficient size and lettering so as to be easily read from ground level. Tagging shall be performed on a going forward basis and where prior approved Attachments exist, such tagging must be performed at any time the Licensee is performing any service work on existing unmarked Facilities unless the parties mutually agree to other tagging procedures.

10.3 Nothing herein shall be construed as granting Licensee any ownership interest in support structures, whether or not constructed and/or paid for by Licensee under the Make Ready (Rearrangement) provisions in Subsection 6.4 of this Agreement.

11. Failure of Licensee to Place Attachments.

Once Licensee has obtained an approved PAR/COR, Licensee shall have ninety (90) calendar days from the date the PAR/COR is approved to begin the placement of its Attachments on the Frontier Poles and/or in the Frontier Conduit covered by the PAR/COR. If Licensee has not begun placing its Attachments within that ninety (90) calendar day period, Licensee shall so advise Frontier with a written explanation for the delay. If Licensee fails to advise Frontier of its delay with a written explanation there of or if Licensee fails to act in good faith by not making a bona fide effort to begin placing its Attachments within the ninety (90) calendar days prescribed by this Section, the previously approved PAR/COR shall be deemed rescinded by Frontier and Licensee shall have no further right to place Attachments pursuant to that PAR/COR.

12. Pole Attachment Fees and Conduit Occupancy Fees.

12.1 Licensee shall pay to Frontier an annual Pole Attachment Fee and/or Conduit Occupancy Fee, as specified on Exhibit A - Attachment Fees, upon which Licensee has made an Attachment. Pole Attachment Fees shall apply for each Frontier Pole upon which Licensee obtains authorization to place an Attachment. Conduit Occupancy Fees shall apply for each linear foot of Facilities placed in Innerduct and Manholes occupied by Licensee's Facilities in Frontier's Conduit. Linear feet occupied will begin at the center of the Manhole/Handhole and will include any excess cable stored within a Manhole/Handhole. If Licensee's Facilities occupy more than one Innerduct, a separate Conduit Occupancy Fee shall be paid by Licensee for each Innerduct occupied. The Conduit Occupancy Fee is the fee applicable to 1" or 1-1/4" diameter Innerduct. Frontier reserves the right to charge a higher fee for Innerduct of greater diameter. The Pole Attachment Fee or Conduit Occupancy Fee may be changed by Frontier from time to time as permitted by law upon sixty (60) calendar days, or the appropriate number of days as prescribed by federal, state or local government authority, written notice to

Licensee.

12.2 Pole Attachment Fees and/or Conduit Occupancy Fees shall be billed in advance and become due and payable on the date a PAR/COR is approved by Frontier for all Frontier Poles and/or Frontier Conduit identified in that PAR/COR. Fees for new attachments shall not be prorated to the end of the calendar year and will be billed on an annual calendar year basis. There shall be no prorating of Pole Attachment Fees and/or Conduit Occupancy Fees for Attachments removed during the calendar year. A calendar year means January 1 to the succeeding December 31. If any undisputed amount due on the billing statement is not received by Frontier on the payment due date, Frontier may charge, at its sole discretion, and Licensee agrees to pay, interest on the past due balance at a rate equal to the lesser of the interest rates set forth in the applicable Frontier (GTE/Contel) state access tariffs or the GTOC/GSTC FCC No. 1 tariff, of one and one-half percent (1.5%) per month or the maximum nonusurious rate of interest under applicable law. Late payment charges shall be included on the next statement.

12.3 All pole and conduit related Facilities placed by the Licensee on Frontier's Poles or in Frontier's Conduit will be billed at the telecom provider fees shown in Exhibit A - Attachment Fees attached hereto except in the case of a Licensee that certifies that all of its Facilities are for provision of "solely Cable Television Services" as defined in Section 2 of this Agreement. A Licensee shall certify annually by affidavit that all of its Attachments are used for providing solely Cable Television Services. Absent from certification, telecom rates shown in Exhibit A - Attachment Fees shall apply.

12.4 Frontier shall maintain an inventory of the total number of Frontier Poles occupied by Licensee based upon the cumulative number of poles specified in all PAR/CORs approved by Frontier. Frontier shall maintain an inventory of the total linear footage of Facilities in Innerduct and Manholes occupied by Licensee based upon the cumulative linear footage per Innerduct and/or Duct from all PAR/CORs approved by Frontier. Frontier may, at its option, conduct a physical inventory of Licensee's Attachments under this Section. At Frontier's election, such physical inventories shall be conducted by Frontier upon renegotiation of this Agreement or any subpart or appendix thereof, and a maximum of one time per five (5) calendar years thereafter. The costs incurred by Frontier to conduct the physical inventory shall be reimbursed to Frontier by the Licensee upon demand by Frontier. It shall be Licensee's sole responsibility to notify Frontier of any and all removals of Attachments from Frontier's Poles and/or Frontier's Conduits. Except as provided in Section 19 of this Agreement in connection with the termination of this Agreement, such notice shall be provided to Frontier at least thirty (30) days prior to the removal of the Attachments. Each Notice of Removal shall be in a form specified by Frontier and may be revised from time to time at Frontier's sole discretion. Licensee shall remain liable for Pole Attachment Fees and/or Conduit Occupancy Fees until Licensee's Attachments have been physically removed from Frontier's Poles and/or Frontier's Conduits.

12.5 In addition to the Conduit Occupancy Fees above, if at any time the Licensee is allowed by Frontier to enter a Manhole through means other than Frontier's existing Conduit or Ducts, an annual charge per foot of Facilities placed within the Manhole system will apply as well as any previously identified Make-Ready (Rearrangement) charges.

13. Modifications, Additions or Replacements to Existing Attachments.

13.1 Licensee shall not modify, add to, overlash, or replace Facilities on any pre-existing

Attachment or in any Frontier Conduit without first notifying Frontier in writing of the intended modifications or replacement at least sixty (60) calendar days prior to the date the activity is scheduled to begin. The required notification shall include: (i) the date the activity is scheduled to begin, (ii) a description of the planned modification or replacement, (iii) a representation that the modification or replacement will not require any space other than the space previously designated for Licensee's Attachments, (iv) a representation that the modification or replacement will not impair the structural integrity of the poles and conduit involved, and (v) a representation that the modification or replacement will not impact other Licensee's Attachments. Licensee shall be solely responsible for obtaining all ROWs, easements, licenses, authorizations, permits and consents from federal, state and municipal authorities or private property owners that may be required to modify or add Attachments on Frontier's Poles and/or in Frontier's Conduit. In the event Licensee must obtain any additional easements, permits, approvals, licenses and/or authorizations from any governmental authority or private individual or entity in order to utilize Frontier's Poles or Frontier's Conduits under an approved PAR/COR, Frontier shall, upon Licensee's request, provide written confirmation of its consent to Licensee's utilization of Frontier's Poles and/or Frontier's Conduit in a particular location in accordance with this Agreement, if needed by Licensee to obtain such additional approvals or authorizations. Overlapping Licensee's Facilities, whether it is the Licensee's own facilities or that of a third party, shall require prior approval of a PAR/COR per Section 6 of this Agreement.

13.2 Should Frontier determine that the modification or replacement specified by Licensee in its notice will require more space than that allocated to Licensee or will require the reinforcement of, replacement of or an addition of support equipment to the facilities involved in order to accommodate Licensee's modification or replacement, Frontier will so notify Licensee, whereupon Licensee will be required to submit a PAR/COR in compliance with this Agreement in order to obtain authorization for the modification, addition or replacement of its Facilities.

13.3 Access to Frontier's Poles or Frontier's Conduits for repairs, modifications or replacements required in emergency situations shall be governed by Section 23 of this Agreement.

13.4 Should Licensee request Frontier to expand capacity or purchase additional plant, Licensee agrees to pay all costs.

14. Rearrangements to Accommodate Other Licensees.

Licensee acknowledges that at some point in the future it may become necessary to rearrange Licensee's Facilities in order to create space to accommodate the facilities of another licensee. Licensee agrees that in such event Licensee will cooperate in good faith with such other licensee to come to a mutually agreeable understanding regarding the manner in which the rearrangement of Licensee's Facilities will be achieved.

15. Unauthorized Attachments to Frontier's Poles and/or in Frontier's Conduits.

15.1 Unauthorized Attachments on Frontier Poles and/or in Frontier's Conduits are a breach of this Agreement. Unless, upon request, Licensee provides written proof of authorization from Frontier, an Attachment to Frontier's Poles and/or in Frontier's Conduits shall be considered unauthorized. Such breach of Agreement must be remedied as set forth below otherwise Licensee is subject to all legal remedies afforded Frontier under Applicable Law.

15.2 The Parties agree that because it would be impracticable and extremely difficult to determine the actual amount of damages resulting from Licensee's unauthorized Attachment, the charge outlined below shall be paid by Licensee to Frontier for each unauthorized Attachment to a Frontier Pole and/or in a Frontier Conduit. Such payment shall be deemed liquidated damages and not a penalty. Licensee also shall pay Frontier a Pole Attachment Fee and/or Conduit Occupancy Fee for each unauthorized Attachment and/or Manhole/Handhole occupied accruing from the date the unauthorized Attachment was first placed on the Frontier Pole and/or in the Frontier Conduit. In the event that the date the unauthorized Attachment was first placed on a Frontier Pole and/or in a Frontier Conduit cannot be determined, then Licensee shall pay five (5) times the annual rental rate using the most current rate data. Licensee also shall pay to Frontier all costs incurred by Frontier to rearrange any unauthorized Attachments of Licensee if such rearrangement is required to safeguard Frontier's Pole Attachments and/or Frontier's Conduit or to accommodate the Attachments of another party whose Attachments would not have required a rearrangement but for the presence of Licensee's unauthorized Attachments. Licensee shall also pay to Frontier all costs incurred by Frontier to reinforce, replace or modify any Frontier Pole and/or Frontier Conduit, which reinforcement, replacement or modification was required as a result of the unauthorized Attachment of Licensee. The Pole Attachment Fee and/or Conduit Occupancy Fee referenced in this Subsection 15.2 shall be determined in the same manner as such a fee would have been determined if the Attachment had been authorized by Frontier.

15.2.1 California. The unauthorized Attachment charge shall be equal to five hundred dollars (\$500) per each unauthorized Attachment and/or per Conduit/Manhole occupied.

15.3 Once Frontier has notified Licensee of an unauthorized Attachment, the Licensee must submit a PAR/COR to request an authorized Attachment. A PAR/COR submitted per this provision will be treated like any other PAR/COR subject to this Agreement on a going-forward basis. Licensee will be responsible for all fees associated with a PAR/COR (as identified in this Agreement). If a PAR/COR is not received by Frontier within fifteen (15) calendar days of Licensee's receipt of an unauthorized Attachment notification, then Licensee has sixty (60) calendar days from the date of its receipt of the initial unauthorized Attachment notification to vacate the unauthorized Attachment. Removal of the Licensee's unauthorized Attachment does not relieve Licensee of any and all charges applicable to the unauthorized Attachments made to Frontier's Facilities.

15.4 For purposes of this Section, an unauthorized Attachment shall include, but not be limited to:

15.4.1 An Attachment to a Frontier Pole and/or in a Frontier Conduit for which a Frontier Pole or Frontier Conduit is not identified in any PAR/COR approved in accordance with this Agreement.

15.4.2 An Attachment that occupies more space than that allocated to Licensee by Frontier.

15.4.3 An Attachment that is not placed in accordance with the provisions of this Agreement or the appropriate PAR/COR issued pursuant to this Agreement.

15.4.4 An addition or modification by Licensee to its pre-existing Attachments that impairs the structural integrity of the involved Frontier Pole and/or Frontier Conduit or other Frontier facilities or those of other licensees.

15.4.5 An Attachment that consists of facilities owned or controlled by and for the use of a party other than Licensee.

15.4.6 An Attachment that is overlapping Licensee's existing Attachment that is not identified in any PAR/COR approved in accordance with this Agreement.

16. Surveys and Inspections of Attachments.

16.1 Upon written notice to Licensee, the total number and exact location of Licensee's Attachments on Frontier's Poles and/or in Frontier's Conduit may be determined, at Frontier's discretion, through a survey to be made not more than once per calendar year by Frontier. If so requested, Licensee and/or any other entity owning or jointly owning the poles and conduit with Frontier may participate in the survey. The costs incurred by Frontier to conduct the survey shall be reimbursed to Frontier by Licensee upon demand by Frontier. If the Attachments of more than one Licensee are surveyed, each such Licensee shall contribute a proportionate share of the costs reimbursed to Frontier.

16.2 Apart from surveys conducted in accordance with this Section, Frontier shall have the right to inspect any Attachment by Licensee on Frontier's Poles and/or in Frontier's Conduit as conditions may warrant upon thirty (30) calendar days written notice to Licensee. Licensee shall, upon demand by Frontier, reimburse Frontier all costs incurred to conduct its inspection. No joint survey or inspection, or lack thereof, by Frontier shall operate to relieve Licensee of any responsibility, obligation or liability assumed under this Agreement.

17. Notice of Modification or Alteration of Frontier Poles or Frontier Conduit by Frontier.

17.1 In the event Frontier plans to modify or alter any Frontier Poles upon which Licensee has Attachments and/or Frontier Conduit in which Licensee has Facilities, Frontier shall provide Licensee notice of the proposed modification or alteration at least sixty (60) calendar days prior to the time the proposed modification or alteration is scheduled to take place. Should Licensee decide to simultaneously modify or alter its Attachments on the Frontier Poles and/or in the Frontier Conduit to be modified or altered by Frontier, Licensee shall so notify Frontier in writing at least fifteen (15) calendar days prior to when work is to begin. In such event, Licensee shall bear a proportionate share of the total costs incurred by Frontier to make such poles and conduit accessible to Licensee. Licensee's proportionate share of the total cost shall be based on the ratio of the amount of new space occupied by Licensee to the total amount of new space occupied by all of the parties joining in the modification.

17.2 In the event Frontier is required by a federal, state, or local authority or for any other reason beyond Frontier's control (e.g., normal deterioration) to move, replace or change the location of Frontier's Poles and/or location, alignment, or grade of Frontier's Conduit, Licensee shall concurrently relocate Licensee's Attachments. Frontier and each Licensee required to relocate its Attachments shall bear its own costs for such relocation.

18. Disclaimer of Warranties.

EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, Frontier MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

19. Default and Remedies.

19.1 The occurrence of any one of the following shall be deemed a "Material Default" by Licensee under this Agreement:

19.1.1 Failure by Licensee to pay any fee or other sum required to be paid under the terms of this Agreement and such default continues for a period of thirty (30) calendar days after written notice thereof to Licensee;

19.1.2 Failure by Licensee to perform or observe any other term, condition, covenant, obligation or provision of this Agreement and such default continues for a period of thirty (30) calendar days after written notice thereof from Frontier (provided that if such default is not curable within such thirty (30) calendar day period, the period will be extended if Licensee commences to cure such default within such thirty (30) day period and proceeds diligently thereafter to effect such cure);

19.1.3 The filing (related to Licensee's Attachments or acts or omissions of Licensee) of any tax or mechanic's lien against Frontier's Poles and/or Frontier's Conduits which is not bonded or discharged within thirty (30) days of the date Licensee receives notice that such lien has been filed;

19.1.4 Licensee's voluntary or involuntary bankruptcy;

19.1.5 Licensee's known use or maintenance of its Attachments in violation of any law or regulation, or in aid of any unlawful act or undertaking;

19.1.6 The denial or revocation of any authorization which may be required of the Licensee by any governmental or private authority for the placement, operation or maintenance of Licensee's Attachments.

19.2 In the event of a Material Default, Frontier, without any further notice to the Licensee (except where expressly provided for below or required by applicable law) may do any one or more of the following:

19.2.1 Perform, on behalf and at the expense of Licensee, any obligation of Licensee under this Agreement which Licensee has failed to perform and of which Frontier shall have given Licensee notice, the cost of which performance shall be paid by Licensee to Frontier upon demand;

19.2.2 Terminate this Agreement by giving notice of such termination to Licensee and upon sixty (60) calendar days written notice, remove Licensee's Attachments and store them in a public warehouse or elsewhere at the expense of and for the account of Licensee without Frontier being deemed guilty of trespass or conversion, and without Frontier becoming liable for any loss or damages to Licensee occasioned thereby; or

19.2.3 Exercise any other legal or equitable right or remedy which Frontier may have.

19.3 Any costs and expenses incurred by Frontier (including, without limitation, reasonable attorneys' fees) in enforcing this Agreement shall be repaid to Frontier by Licensee upon demand.

19.4 Upon termination of this Agreement by Frontier because of a Material Default by Licensee, Licensee shall remain liable to Frontier for any and all fees, other payments and damages which may be due or sustained prior to such termination, all reasonable costs, fees and expenses, including, without limitation, reasonable attorneys' fees incurred by Frontier in pursuit of its remedies hereunder. In addition to and notwithstanding Section 15, the Parties agree that because it would be impracticable and extremely difficult to determine the actual amount of damages, additional liquidated damages for termination because of Material Default shall be an amount equal to one full year of Pole Attachment Fees and/or Conduit Occupancy Fees.

19.5 All rights and remedies of each Party set forth in this Agreement shall be cumulative and none shall exclude any other right or remedy, now or hereafter allowed by or available under any statute, ordinance, rule of court, or the common law, either at law or in equity, or both.

20. Indemnification.

20.1 Licensee shall compensate Frontier for the full actual loss, damage or destruction of Frontier's property that in any way arises from or is related to this Agreement or activities undertaken pursuant to this Agreement (including, without limitation, the installation, construction, operation or maintenance of Licensee's Attachments).

20.2 Licensee will further indemnify, defend and hold harmless Frontier and Frontier's agents, officers, employees and assigns, from any and all losses, damages, costs, expenses (including, without limitation, reasonable attorneys' fees), statutory fines or penalties, actions or claims for personal injury (including death), damage to property, or other damage or financial loss (collectively "Claims") of whatever nature in any way arising out of or connected with a breach of this Agreement or negligence by Licensee in relation to activities undertaken pursuant to this Agreement (including, without limitation, the installation, construction, operation or maintenance of Licensee's Attachments). If the joint, concurring, comparative

fault or negligence of Frontier gives rise to the Claims then the obligation to indemnify and defend Frontier will be proportionally reduced by Frontier's respective degree of fault or negligence.

20.3 Licensee will indemnify Frontier from subsequent taxes and fees that may be levied by municipalities or other governmental entities and related to or arising from the presence of Licensee's Attachments on Frontier's Poles and/or in Frontier's Conduits, including but not limited to taxes or fees related to use of public rights-of-way, in association with this Agreement. Such fees that are levied would be in addition to the Pole Attachment Fees and/or Conduit Occupancy Fees reflected in this Agreement.

20.3 Without limiting any of the foregoing, Licensee assumes all risk of, and agrees to relieve Frontier of any and all liability for, loss or damage (and the consequences of loss or damage) to any Attachments placed on Frontier's Poles and/or in Frontier's Conduits and any other financial loss sustained by Licensee, whether caused by fire, extended coverage perils, or other casualty.

20.4 Without limiting the foregoing, Licensee expressly agrees to indemnify, defend and hold harmless Frontier and Frontier's agents, officers, employees and assigns from any and all claims asserted by customers of Licensee in any way arising out of or in connection with this Agreement or Licensee's Attachments. If the joint, concurring, comparative fault or negligence of Frontier gives rise to the claims then the obligation to indemnify and defend Frontier will be proportionally reduced by Frontier's respective degree of fault or negligence.

20.5 Notwithstanding anything to the contrary in this Agreement, Licensee further shall indemnify and hold harmless Frontier, its agents, officers, employees and assigns from and against any claims, liabilities, losses, damages, fines, penalties and costs (including, without limitation, reasonable attorneys' fees) whether foreseen or unforeseen, which the indemnified Parties suffer or incur because of: (i) any discharge of Hazardous Materials resulting from acts or omissions of Licensee; (ii) acts or omissions of the Licensee, its agents, employees, contractors, or representatives in connection with any cleanup required by law, or (iii) failure of Licensee to comply with environmental, safety and health laws.

20.6 In no event shall either Party be liable to the other Party for any special, consequential or indirect damages (including, without limitation, lost revenues and lost profits) arising out this Agreement or any obligation arising hereunder, whether in an action for or arising out of breach of contract, tort or otherwise.

20.7 Licensee shall indemnify, protect and hold harmless Frontier from and against any and all claims for libel and slander, copyright, patent, and/or other intellectual property rights infringement arising directly or indirectly by reason of Attachment of Licensee's equipment on Frontier's Poles and/or in Frontier's Conduit pursuant to this Agreement.

20.8 Licensor reserves to itself, its successors and assigns, the right to relocate and maintain its poles and conduits and to operate its facilities in conjunction therewith in such a manner as will best enable it to fulfill its own service requirements. The Licensor shall be liable to Licensee only for and to the extent of any damage caused by the negligence of the Licensor and Licensor's agents or employees to Licensee's equipment attached to Frontier's Poles and/or in Frontier's Conduit.

21. Insurance.

21.1 Licensee shall maintain Commercial General Liability Insurance, at its sole cost and expense, sufficient to cover its indemnification obligations as set forth in Article 20 of this Agreement. Such coverage shall include, but not be limited to, Premises- operations, explosion and collapse, underground hazard, products/completed operations, contractual liability, independent contractors, and personal and advertising injury with limits of at least \$2,000,000 combined single limit for each occurrence for bodily and property damage. Commercial Automobile Liability covering all owned, non-owned and hired vehicles with limits of at least \$2,000,000 combined single limit each accident for bodily injury and property damage. Worker's Compensation Insurance as required by Statute, and Employer's Liability Insurance with limits of not less than \$1,000,000 each employee/disease/policy limit. Any of the limits in this Section may be satisfied with primary and/or excess coverage.

21.2 All coverage required of Licensee under this Agreement shall remain in force for the entire life of this Agreement. The company or companies issuing such insurance shall be authorized to do business in the applicable states and shall have an A.M. Best Rating of A or better, and with the exception of workers' compensation and employer's liability, Frontier, its Affiliates and Subsidiaries shall be named as an additional insured in each such policy. All insurance required of Licensee under this Agreement shall be considered primary and non-contributory with any insurance or program of self insurance that may be maintained by Frontier. Licensee shall submit to Frontier certificates of insurance or self-insurance evidencing that all coverage required by this Agreement is in full force and effect and shall state that the insurer or its representative(s) shall endeavor to provide thirty (30) calendar days prior written notice of intent to non-renew, cancellation or material adverse change to Frontier, except that ten (10) day notice for non-payment of premium shall apply. Failure to provide such notice shall impose no obligation or liability of any kind upon insurer or its representative(s).

21.3 Licensee shall promptly advise Frontier in writing of any and all claims for damages, including, but not limited to, damage to property or injury to or death of persons, allegedly arising out of or in any manner related, directly or indirectly, to the presence or use of Licensee's Attachments.

22. Taxes.

Any state or local excise, sales, or use taxes or other surcharges or fees (excluding any taxes levied on income) resulting from the performance of this Agreement shall be borne by the Party upon which the obligation for payment is imposed under applicable law, even if the obligation to collect and remit such taxes, surcharges or fees is placed upon the other Party. The collecting Party shall charge and collect from the obligated Party, and the obligated Party agrees to pay to the collecting Party, all applicable taxes, surcharges or fees, except to the extent that the obligated Party notifies the collecting Party and provides to the collecting Party appropriate documentation as Frontier requires that qualifies the obligated Party for a full or partial exemption. Any such taxes, surcharges or fees shall be shown as separate items on applicable billing documents between the Parties. The obligated Party may contest the same in good faith, at its own expense, and shall be entitled to the benefit of any refund or recovery, provided that such Party shall not permit any lien to exist on any asset of the other Party by

reason of the contest. The collecting Party shall cooperate in any such contest by the other Party. The other Party will indemnify the collecting Party from any such taxes, surcharges or fees that may be subsequently levied on payments by the other Party by the collecting Party.

23. Emergency Restoration Procedures.

In the event of an emergency, restoration procedures may be affected by the presence of Licensee's Attachments. While Frontier shall not be responsible for the repair of Licensee's Attachments that are damaged (except by mutual written agreement), Frontier shall nonetheless control access to Frontier Poles and Frontier Conduit if the restoration is to be achieved in an orderly fashion. Licensee agrees to reimburse Frontier for a proportionate share of the cost of all labor, equipment, and/or materials furnished by Frontier in support of any restoral operations from which Licensee is a beneficiary.

23.1 Where multiple parties are involved in emergency restorations, access to Frontier's Poles and/or Frontier's Conduits will be controlled by Frontier's Maintenance District Manager or a related on-site representative according to the following guidelines:

23.1.1 Service Disruptions/Outages

- a. In the event of service disruptions and/or outages, Frontier shall make all reasonable efforts to grant access to as many other entities with Attachments as is reasonably safe.
- b. Where simultaneous access is not possible, Licensee will be provided priority access to support operations of the Santa Fe Ave Synchronization Enhancement Project .

23.1.2 Service Affecting Emergencies

- a. In the event of service affecting emergencies not resulting in service disruptions or outages, Frontier shall make all reasonable efforts to grant access to as many other entities with Attachments as is reasonably safe.
- b. Where Frontier is unable to grant simultaneous access to all other entities with Attachments, Licensee will be provided priority access to support operations of the Santa Fe Ave Synchronization Enhancement Project.
- c. Frontier will not undertake the partial transfer of the Licensee's Attachment on a Frontier Pole and/or in a Frontier Conduit, except in the event of emergency repair situations where Licensee cables or drops are broken. In such cases, Frontier will reserve the right to transfer Licensee's Attachments that are still attached to Frontier's Pole and/or in Frontier's Conduit, remove the damaged pole and/or conduit, leave the repair/replacement cable work for Licensee, and bill the Licensee the actual costs incurred to perform the Attachment and/or Facility transfer.

23.2 Without limiting any other indemnification or hold harmless provisions of this Agreement, Licensee agrees that any decision by Frontier regarding access to Licensee's Attachments, or any action or failure to act by Frontier, under this Section 23 shall not constitute a basis for any claim by Licensee against Frontier for any damage to Licensee's Attachments or disruption of Licensee's services, or any other direct or indirect damages of any kind whatsoever incurred by Licensee.

24. Damage Suspected to Licensee's Attachments Only.

24.1 In the event Licensee receives information that Licensee's Attachments are damaged, Licensee shall notify Frontier of said damage at **1-877-486-5667**. Licensee shall provide Frontier all information known to it regarding the damage to Licensee's Attachments.

24.2 In the event Frontier receives notice that Licensee's Attachments are damaged, Frontier will notify Licensee of said damage by telephone at the Licensee's emergency telephone number at **562-570-6100**. Frontier shall provide Licensee all information known to it regarding the damage to Licensee's Attachments.

24.3 After the giving of such notice by either Licensee or Frontier, Licensee shall be authorized to perform emergency restoration maintenance activities in connection with Licensee's Attachments, subject to the provisions of this Agreement.

24.4 Without limiting any other indemnification or hold harmless provisions of this Agreement, Licensee agrees that any decision by Frontier regarding access to Licensee's Attachments, or any action or failure to act by Frontier, appropriately or inappropriately, under this Section shall not be the basis for any claim by Licensee against Frontier for any damage to Licensee's Attachments or disruption of Licensee's services, or any other direct or indirect damages of any kind whatsoever incurred by Licensee and Licensee shall indemnify and hold Frontier harmless from any such claim.

25. Access to Frontier's Manholes / Handholes.

25.1 Frontier will allow Licensee to audit Manholes / Handholes that are included in any PAR/COR submitted to Frontier to confirm usability. Licensee shall give Frontier at least thirty (30) calendar days' advance written notice of its desire to audit and shall obtain all authorizations from appropriate authorities required to open the Manholes / Handholes. Frontier shall have the right to have a Frontier employee or agent present when its Manholes / Handholes are being opened. Such Frontier employee or agent shall have the authority to suspend Licensee's activities in and around Frontier's Manholes / Handholes if, in the sole discretion of said employee or agent, any hazardous conditions arise or any unsafe practices are being followed by Licensee's employees, agents, or contractors. Licensee agrees to reimburse Frontier the cost of having Frontier's employee or agent present. Such charge shall be Frontier's fully loaded labor rates then in effect.

25.2 For purposes other than to audit usability, Frontier's Manholes / Handholes shall be opened only as permitted by Frontier and only after Licensee has obtained all necessary authorizations from appropriate authorities to open Manholes / Handholes and conduct work operations therein. Frontier shall have the right to have a Frontier employee or agent present at any site at which its Manholes / Handholes are being opened. Such Frontier employee or agent shall have the authority to suspend Licensee's work operations in and around Frontier's Manholes / Handholes if, in the sole discretion of said employee or agent, any hazardous

conditions arise or any unsafe practices are being followed by Licensee's employees, agents, or contractors. Licensee agrees to reimburse Frontier the cost of having Frontier's employee or agent present. Such charge shall be Frontier's fully loaded labor rates then in effect. The presence of Frontier's authorized employee or agent shall not relieve Licensee of its responsibility to conduct all of its work operations in and around Frontier's Conduit in a safe and workmanlike manner, in accordance with the terms of this Agreement nor result in any assumption of risk or waiver or remedies by Frontier.

26. Safety and Environmental Matters.

26.1 Licensee is solely responsible for assuring the safety of its employees (as well as the public and Frontier's employees) in relation to work conducted pursuant to this Agreement. Licensee is responsible for complying with all laws relating to the safety of its employees including, but not limited to, all requirements of the Occupational Safety and Health Administration and U.S. Environmental Protection Agency (and their State and local counterparts). In particular, but not by way of limitation, Licensee is responsible as follows:

26.1.1 Most utility poles are treated with one or more chemicals or preservatives. In addition, there are a number of potential hazards associated with working on or around utility poles including, but not limited to, rotted or defective poles, potential exposure to lead-containing products, exposure to electric lines and falling from high places. Licensee is responsible for inspecting all poles to determine their condition, and the appropriate safety practices and equipment for its employees. Licensee is responsible for assuring that its employees receive any and all protective equipment and clothing necessary to perform the work safely, and that employees receive all appropriate safety, environmental and technical training to safely perform the job. If Licensee has any questions about the conditions at a particular pole it must contact Frontier.

26.1.2 There are many potential safety concerns associated with Manhole entry. These include, but are not limited to, concerns related to working in confined spaces, air quality, hazardous material exposure and exposure to lead cable and other lead-containing products and safe-workplace set-up practices. Licensee is responsible for inspecting all Manholes to determine the appropriate safety practices for its employees, and implementing the proper safety practices in accordance with regulatory requirements, including but not limited to required personal protective equipment, air monitoring equipment, rescue equipment and procedures, and equipment necessary to purge and ventilate. Licensee is responsible for assuring that its employees receive any and all protective equipment and clothing and that employees receive all appropriate training. If Licensee has any questions about the conditions at a particular Manhole it must contact Frontier.

26.2 Licensee is responsible for complying with all laws designed to protect the environment including, but not limited to, laws relating to any type of discharge to the environment as well as laws relating to Hazardous Materials.

26.2.1 The water or sediment contained in Manholes may contain a number of Hazardous Materials or other regulated substances including but not limited to lead, sewage and petroleum products. If Licensee discovers any water or sediment in Manholes that prevent it from safely working in the Manhole, it must notify Frontier and request that Frontier, at Licensee's expense, remove (or have removed by a third party) the water, material or sediment from the Manhole.

26.2.2 Licensee must not bring any Hazardous Materials onto any Frontier Pole, into any Manhole or onto any other piece of Frontier's equipment or property without the prior written consent of Frontier. Frontier may refuse to grant such consent in its sole, reasonable discretion. Licensee must assure that Frontier is provided with a copy of a Material Safety Data Sheet (MSDS) for each such Hazardous Material. Licensee must ensure that all Hazardous Materials contain labels and warnings as required by Applicable Law.

26.2.3 All materials, including Hazardous Materials, brought or used on the Equipment are the sole responsibility of Licensee. Licensee is responsible for storing, using and removing all materials from such premises in accordance with Applicable Law. Licensee is also responsible for the proper management of all wastes that it generates while at the premises. If a spill or breakage of Hazardous Materials occurs, Licensee is responsible for managing all applicable emergency response efforts required by law or regulation. Licensee must immediately call Frontier's Safety, Health and Environment Hotline at 1-585-777-7773 or such other number as may otherwise be updated if a spill or breakage of Hazardous Materials occurs. If reporting is required by Applicable Law, Licensee also must notify the applicable governmental agencies.

26.2.4 Licensee must not, without express written permission of Frontier, perform any operation or use any machinery on Frontier's Poles or in Frontier's Conduits that requires an environmental permit. Frontier may refuse to consent to such operation or machinery if the permit is not required for Frontier's operations at the premises. Licensee is responsible for preparing its own emergency response plans and performing community reporting as may be required by Applicable Law.

26.3 Licensee must report to Frontier any condition that could have an adverse environmental impact or that poses a potential safety hazard to any person even if Licensee did not cause such condition.

27. Abandonment.

Nothing in this Agreement shall prevent or be construed to prevent Frontier from abandoning, selling, assigning or otherwise disposing of any poles and/or conduits or other Frontier property used for Licensee's Attachments; provided, however, that Frontier shall condition any such sale, assignment or other disposition subject to the rights granted to Licensee pursuant to this Agreement. Frontier shall promptly notify Licensee of any proposed sale, assignment or other disposition of any

poles and/or conduit or other Frontier property used for Licensee's Attachments.

28. Notices.

Any written notice to be given to a Party to this Agreement shall be in writing and given or made by means of telegram, facsimile transmission, certified or registered mail, express mail or other overnight delivery service, or hand delivery, proper postage or other charges prepaid, and addressed or directed to the respective Parties as follows:

To Licensee:	City of Long Beach Attn: City Manager 411 West Ocean Boulevard Long Beach, CA 90802
To Licensee:	City of Long Beach Attn: Lea Eriksen 411 West Ocean Boulevard Long Beach, CA 90802
To Frontier:	Frontier Communications Attn: Joint Pole MC: WA0102OS 1800 41 st Street, Suite N100 Everett, WA 98203 CA.STRUCTURE.ACESS@ftr.com
To Frontier: (Legal notices only)	Frontier Communications Attn: Joint Use Contracts 8001 W. Jefferson Blvd. Fort Wayne, IN 46804

Any notice given by personal delivery shall be deemed to have been given on the day of actual delivery and, if given by registered or certified mail, return receipt requested, on the date of receipt thereof and, if given by facsimile transmission, on the day of transmittal thereof if given during the normal business hours of the recipient and on the next Business Day if not given during normal business hours.

29. Non-Waiver of Terms and Conditions.

No course of dealing, course of performance or failure to enforce any of term, right, condition or other provision of this Agreement shall constitute or be construed as a waiver of any term, right or condition or other provision of this Agreement.

30. Confidential Information.

30.1 Identification. Either Party may disclose to the other proprietary or confidential customer, technical, or business information in written, graphic, oral or other tangible or intangible forms ("Confidential Information"). In order for information to be considered Confidential Information under

this Agreement, it must be marked "Confidential" or "Proprietary," or bear a marking of similar import. Orally or visually disclosed information shall be deemed Confidential Information only if contemporaneously identified as such and reduced to writing and delivered to the other Party with a statement or marking of confidentiality within thirty (30) calendar days after oral or visual disclosure. The failure to so label any information shall constitute a complete waiver of any and all claims for damages caused by any release of the information.

30.2 Handling. In order to protect such Confidential Information from improper disclosure, each Party agrees:

30.2.1 That all Confidential Information shall be and shall remain the exclusive property of the source;

30.2.2 To limit access to such Confidential Information to authorized employees and contractors who have a need to know the Confidential Information for performance of this Agreement;

30.2.3 To keep such Confidential Information confidential and to use the same level of care, but in no event less than a reasonable degree of care, to prevent disclosure or unauthorized use of the received Confidential Information as it exercises in protecting its own Confidential Information of a similar nature;

30.2.4 Not to copy, publish, or disclose such Confidential Information to others or authorize anyone else to copy, publish, or disclose such Confidential Information to others without the prior written approval of the source;

30.2.5 To return promptly any copies of such Confidential Information to the source at its request; and

30.2.6 To use such Confidential Information only for purposes of fulfilling work or services performed hereunder and for other purposes only upon such terms as may be agreed upon between the Parties in writing.

30.3 Exceptions. These obligations shall not apply to any Confidential Information that was legally in the recipient's possession prior to receipt from the source, was received in good faith from a third party not subject to a confidentiality obligation to the source, now is or later becomes publicly known through no breach of confidential obligation by the recipient, was developed by the recipient without the developing persons having access to any of the Confidential Information received in confidence from the source, or that is required to be disclosed pursuant to subpoena or other process issued by a court or administrative agency having appropriate jurisdiction, provided, however, that the recipient shall give prior notice to the source and shall reasonably cooperate if the source deems it necessary to seek protective arrangements. If a receiving party is required by law to make any disclosure prohibited or otherwise constrained by this Agreement, the party will (i) provide the disclosing party with prompt written notice of such requirements so that disclosing party may seek a protective order or other appropriate relief; and (ii) cooperate with disclosing party in obtaining such an order or other appropriate relief or in taking legally available steps to resist or narrow such requirement. Licensee will honor a disclosing Party's designation of a document as

"confidential" provided that disclosing party agrees to indemnify and defend the City for honoring the designation.

30.4 Survival. The obligation of confidentiality and use with respect to Confidential Information disclosed by one Party to the other shall survive any termination of this Agreement for a period of three (3) years from the date of the initial disclosure of the Confidential Information.

31. Dispute Resolution.

31.1 The Parties desire to first attempt to resolve certain disputes, controversies and claims arising out of this Agreement or any Addenda hereto before a Party begins litigation. Prior to commencing litigation, at the written requests of either Party, the Parties agree to meet and negotiate in good faith to resolve any disputes arising under this Agreement. If the above negotiations do not resolve the dispute within sixty (60) days of the initial written request, wither Party may take appropriate legal action.

31.2 Continuous Service. The Parties shall continue providing services to each other during the pendency of any dispute resolution procedure and the Parties shall continue to perform their obligations in accordance with this Agreement.

32. Compliance with Laws and Regulations.

Each Party shall comply with all federal, state, and local statutes, regulations, rules, ordinances, judicial decisions, and administrative rulings applicable to its performance under this Agreement.

33. Force Majeure.

In the event performance of this Agreement, or any obligation hereunder, is either directly or indirectly prevented, restricted, or interfered with by reason of fire, flood, earthquake, pandemic or like acts of God, wars, revolution, civil commotion, explosion, acts of public enemy, embargo, acts of the government in its sovereign capacity, labor difficulties, including without limitation, strikes, slowdowns, picketing, or boycotts, unavailability of equipment from vendor, changes requested by Customer, or any other circumstances beyond the reasonable control and without the fault or negligence of the Party affected, the Party affected, upon giving prompt notice to the other Party, shall be excused from such performance on a day-to-day basis to the extent of such prevention, restriction, or interference (and the other Party shall likewise be excused from performance of its obligations on a day-to-day basis until the delay, restriction or interference has ceased); *provided however*, that the Party so affected shall use diligent efforts to avoid or remove such causes of nonperformance and both Parties shall proceed whenever such causes are removed or cease.

34. Assignment and Legal Name Changes.

34.1 Any assignment by either Party of any right, obligation, or duty, in whole or in part, or of any interest, without the written consent of the other Party shall be void, except that either Party may assign all of its rights, and delegate its obligations, liabilities and duties under this Agreement, either in whole or in part, to any entity that is, or that was immediately preceding such assignment, an Affiliate of that Party without consent, but with written notification. The effectiveness of an assignment shall be conditioned upon the assignee's written assumption of

the rights, obligations, and duties of the assigning Party.

34.2 Notification of any Licensee legal name changes or the notification to Frontier of a new Affiliate of the Licensee shall be made in accordance with Section 28.

35. Applicable Law.

This Agreement shall be governed by and construed in accordance with the domestic laws of the state where the Attachments reside and shall be subject to the exclusive jurisdiction of the courts therein.

36. Subsequent Law.

The terms and conditions of this Agreement shall be subject to any and all applicable laws, rules, or regulations that subsequently may be prescribed by any federal, state or local governmental authority. To the extent required by any such subsequently prescribed law, rule, or regulation, the Parties agree to modify, in writing, the affected term(s) and condition(s) of this Agreement to bring them into compliance with such law, rule, or regulation.

37. Headings.

The headings in this Agreement are inserted for convenience and identification only and shall not be considered in the interpretation of this Agreement.

38. Entire Agreement.

This Agreement shall at all times be subject to such changes or modifications as may be required or authorized by any regulatory commission or other governmental entity, including, but not limited to state and federal commissions, in the exercise of its lawful jurisdiction. This Agreement constitutes the entire agreement of the Parties pertaining to the subject matter of this Agreement and supersedes all prior agreements, negotiations, proposals, and representations, whether written or oral, and all contemporaneous oral agreements, negotiations, proposals, and representations concerning such subject matter. No representations, understandings, agreements, or warranties, expressed or implied, have been made or relied upon in the making of this Agreement other than those specifically set forth herein.

39. No Offer.

Submission of this Agreement for examination or signature does not constitute an offer by Frontier for the provision of services described herein. The Agreement shall be effective only upon execution by both Parties as provided in Section 5.

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be duly executed effective as of the day and year last written below.

Witness

Frontier Communications of the Southwest Inc.

Citizens Telecommunications Company of California Inc. d/b/a Frontier Communications of California

Frontier California Inc.

By: [Signature]
Name: Roberto Hernandez
Title: MANAGER, ENGINEERING
Date: 3-31-22

By: [Signature]
Name: OSCAR E. ESCOBAR
Title: DIRECTOR, CONSTRUCTION/ENGINEERING
Date: 3-31-22

Witness

City of Long Beach, a municipal corporation

By: [Signature]
Name: [Signature]
Title: [Signature]
Date: [Signature]

By: Linda F. Tatum
Name: LINDA F. TATUM
Title: ASST CITY MANAGER
Date: 4/8/2022

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.

APPROVED AS TO FORM
April 5, 2022
CHARLES PARKIN, City Attorney
By: [Signature]
ERIN WEESNER-MCKINLEY
DEPUTY CITY ATTORNEY

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be duly executed effective as of the day and year last written below.

Witness

Frontier Communications of the Southwest Inc.

Citizens Telecommunications Company of California Inc. d/b/a Frontier Communications of California

Frontier California Inc.

By: [Signature]
Name: Rafael J. Hernandez
Title: MANAGER, ENGINEERING
Date: 3-31-22

By: [Signature]
Name: OSCAR E. ESCOBAR
Title: DIRECTOR, CONSTRUCTION ENGINEERING
Date: 3-31-22

Witness

City of Long Beach, a municipal corporation

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

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