



HURRICANE CITY UTAH

Mayor
Clark Fawcett

City Manager
Kaden C. DeMille

Power Board
Mac J. Hall, Chair
Dave Imlay, Vice Chair
Colt Stratton
Kerry Prince
Mark Maag
Angie Erickson

Power Board Meeting Agenda

9/9/2026

3:00 PM

Power Department Meeting Room – 526 W 600 N

Notice is hereby given that the Power Board will hold a Regular Meeting in the Power Department Meeting room located at 526 W 600 N, Hurricane, UT. A silent roll call will be taken, along with the Pledge of Allegiance and prayer by invitation.

AGENDA

1. Pledge of Allegiance
2. Prayer
3. Approval of minutes from August 2026

STAFF REPORTS

Mike Johns/Power Director
Brian Anderson/Transmission & Distribution Superintendent
Mike Ramirez/Service Superintendent
Jared Ross/Substation & Generation Foreman

OLD BUSINESS

1. Discussion and possible recommendation to the City Council regarding updates to the Pole Attachment Agreement – Alex Farnsworth

NEW BUSINESS

1. Outage Discussion
2. UAMPS Updates
3. **Closed Meeting pursuant to Utah Code Section 52-4-205, upon request**

ADJOURNMENT

The above notice was posted to the Hurricane City website, the Utah State Public Notice Website, and at the following locations:

1. Hurricane City Office – 147 North 870 West, Hurricane, UT
2. US Post Office – 1075 West 100 North, Hurricane, UT
3. Washington County Library (Hurricane Branch) – 36 South 300 West, Hurricane, UT

REASONABLE ACCOMMODATION: Hurricane City will make efforts to provide reasonable accommodations to disabled members of the public in accessing City programs, please contact the Executive Assistant, 435-635-5536, at least 24 hours in advance if you have special needs.





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The Hurricane City Power Board met on August 12, 2026, at 3:00 p.m. at the Clifton Wilson Substation located at 526 W 600 N.

In attendance were Mac Hall, Dave Imlay, Colt Stratton, Kerry Prince, Mark Maag, Angie Erickson, Mike Johns, Brian Anderson, Mike Ramirez, Alex Farnsworth, Kaden DeMille, Fred Resch, Mike Vercimak, Weston Walker, Dayton Hall, Brenden Angus, Bruce Zimmerman, and Crystal Wright.

Mac Hall welcomed everyone to the meeting. Angie Erickson led the Pledge of Allegiance and Mac Hall offered the prayer. Dave Imlay motioned to approve the minutes from July 2026. Colt Stratton seconded the motion. Motion passed unanimously.

Mike Johns: Mike Johns introduced Tayt Picklesimer who is our new Groundman. He then reported that Jordan Steglich just passed his 3rd year as a full Journeyman Lineman with us. We hit a new peak system load on August 6th of 59.896MW. He reminded the board about the UAMPS Member Conference coming up the end of the month. He showed a report showing the 2025 outages compared to the 2026 outages. Our outage management software details the length, how many customers were affected, how much load was affected, and the cause of each outage. Every scheduled and unplanned outage has an outage report completed for tracking.

Brian Anderson: Brian Anderson reported there is about two weeks' worth of work left to complete the Capacity 2.0 project. All the cutovers are complete and we're preparing to wreck out the old line in the fields. The crews installed an open bank at 1300 South 700 West for the Hurricane City Water Department irrigation project.

Mike Ramirez: Mike Ramirez provided details on two outages that occurred. The first one was in the Sky Ranch area. He detailed what they had to do to locate and fix a fault in a wire that had been nicked and covered up. It was a direct buried wire in the area previously belonging to Rocky Mountain Power. It was a difficult and lengthy process. Then he described a pole that rotted off in the rain and the high wind on SR-9 and approximately 6000 West. This line stayed energized during the entire pole replacement and transfer of wires. He reported that the Quail Creek Water Treatment Plant is moving forward quickly. That will be a big load on that circuit, and we'll have to figure out how to move forward.

Jared Ross: Mike Johns reported for Jared Ross. The generators have been running well with very few significant shutdowns. The Sky Mountain Civil project will be completed in the next couple weeks. The summer internal generation run has kept the substation crew busy. He showed some drone footage taken this week of Sky Mountain Substation, the future Substation #1 site, and the Three Falls Substation. He went through each video answering questions from board members and providing information about substation construction and purpose.

AMI Update: Mike Ramirez reported that we installed 20 new AMI meters. We had a meeting with our utility billing office, Eaton, and Caselle to work through how to upload data between the two companies and create a meter reading file to upload from Eaton into Caselle for billing. It took a long time, but we successfully updated the AMI



40 system with customer data from Caselle, and then downloaded meter reads from Eaton and uploaded those back
41 into Caselle. Instructions were created for future meter reading uploads.

42
43 **Grid Reliance Grant Update:** Mike Ramirez reported that we are moving forward with engineering and soil samples.
44 We submitted our first reimbursements for the Grid Reliance Grant which is the 600 North Phase 3B & 3C project.
45 We successfully received our first reimbursement check for this project.

46
47 **Pole Attachment Standards Update:** Alex Farnsworth provided an update on this item. After a few more changes,
48 these documents are now with Dayton Hall for review. We are hoping to have this item ready for next month's
49 Power Board meeting. As a note, the update to the Underground Standards and Specifications was presented at City
50 Council last month and approved. They have been updated on the City website and contractors were notified. He
51 thanked the board for their input on that item.

52
53 **Resource Introduction:** Mike Johns presented information regarding each of our individual resources that make up
54 our power portfolio. We have new board members, and he wanted to present an overview of this portfolio. He went
55 through each resource separately answering questions and providing information specific to each one. This
56 information included what type of resource the project is, when the project started, how long the project is projected
57 to last, and how much we receive in resource from the project.

58
59 **UAMPS Updates:** Mike Johns stated the resource introduction was the update.

60
61 Meeting adjourned at 4:24 p.m. The next Power Board meeting is scheduled for September 9, 2026, at 3:00 p.m.

BUDGET

AVERAGE YEARLY POWER PRICES

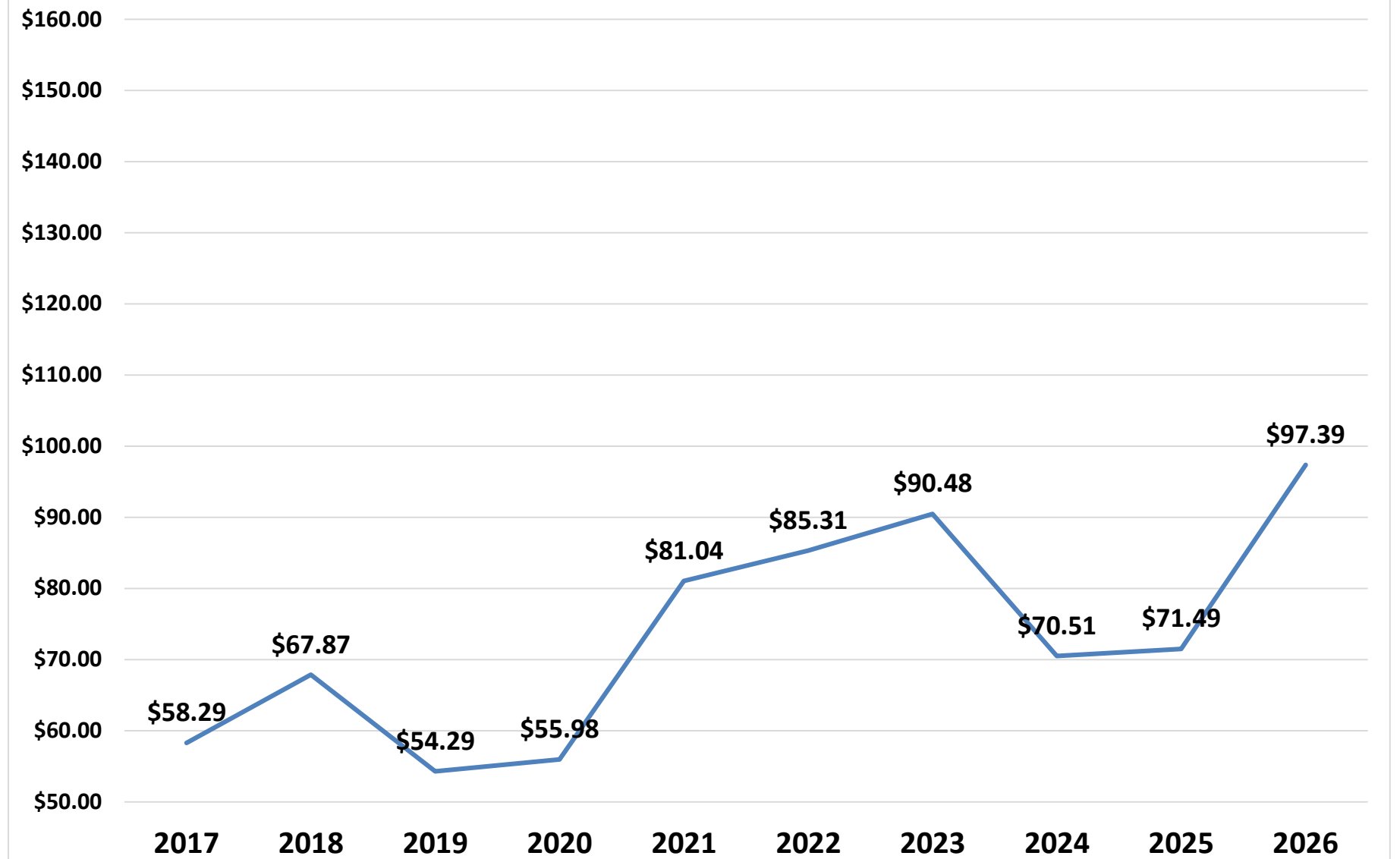
25-26 bdgt amount (thru June 2026) **\$75.53**
 BDGT Year to Date **\$74.08**

	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026
<i>Jan</i>	\$59.07	\$60.62	\$59.75	\$57.76	\$60.14	\$68.25	\$132.44	\$80.85	\$73.20	\$75.88
<i>Feb</i>	\$63.04	\$60.96	\$67.00	\$60.67	\$63.19	\$70.88	\$83.72	\$71.23	\$74.69	\$76.52
<i>Mar</i>	\$60.99	\$60.09	\$65.17	\$64.67	\$63.64	\$67.28	\$87.92	\$70.62	\$77.45	\$72.86
<i>Apr</i>	\$59.49	\$55.02	\$55.44	\$55.92	\$61.86	\$82.63	\$75.32	\$70.32	\$76.44	\$68.93
<i>May</i>	\$60.32	\$58.86	\$58.55	\$58.55	\$59.69	\$72.66	\$67.45	\$64.54	\$63.90	\$79.86
<i>June</i>	\$58.54	\$52.17	\$55.30	\$53.44	\$86.91	\$77.60	\$69.52	\$63.88	\$63.66	\$79.23
<i>Jul</i>	\$58.29	\$67.87	\$54.29	\$55.98	\$81.04	\$85.31	\$90.48	\$70.51	\$71.49	\$97.39
<i>Aug</i>	\$59.00	\$66.55	\$54.58	\$78.40	\$72.03	\$96.60	\$84.39	\$67.05	\$65.48	
<i>Sep</i>	\$62.36	\$55.00	\$54.34	\$64.93	\$82.38	\$127.29	\$83.74	\$66.46	\$74.68	
<i>Oct</i>	\$59.79	\$59.36	\$59.70	\$62.82	\$75.92	\$83.45	\$83.77	\$75.82	\$71.95	
<i>Nov</i>	\$62.14	\$64.60	\$63.80	\$63.60	\$70.47	\$96.34	\$73.03	\$85.85	\$81.66	
<i>Dec</i>	\$58.80	\$61.61	\$58.55	\$60.33	\$70.07	\$161.27	\$71.99	\$68.50	\$75.69	
<i>Yr Avg</i>	\$60.15	\$60.23	\$58.87	\$61.42	\$70.61	\$90.80	\$83.65	\$71.30	\$72.52	\$78.67
<i>Weighted Avg</i>	\$59.90	\$60.56	\$58.11	\$61.98	\$72.46	\$92.09	\$84.16	\$70.50	\$71.50	\$80.97

**Cy to
Date**

These figures capture the total cost of power to the power department. The power department uses costs only associated with the purchasing and generation of power and includes debt payments and interest associated with power resources.

Jul

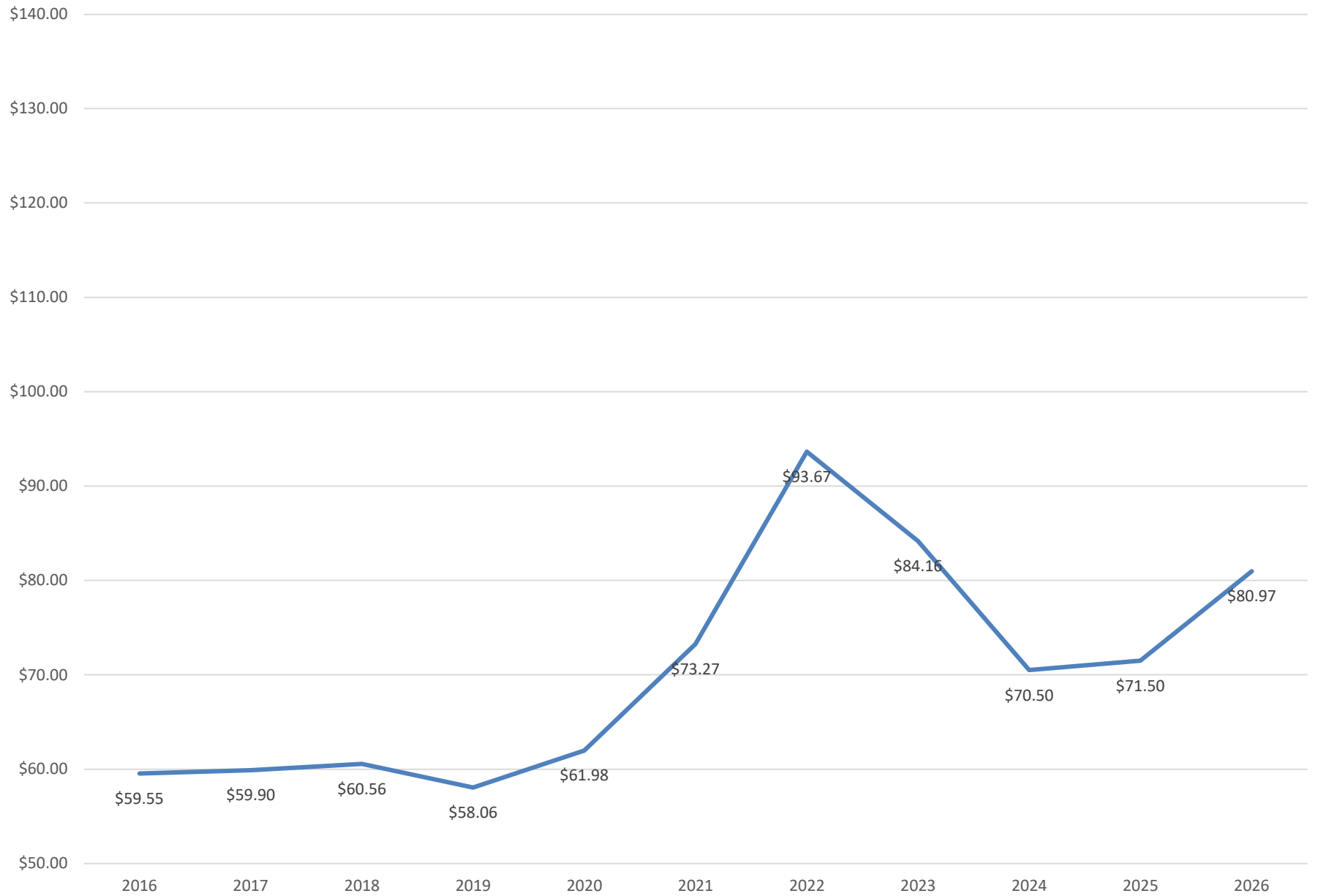


PCA

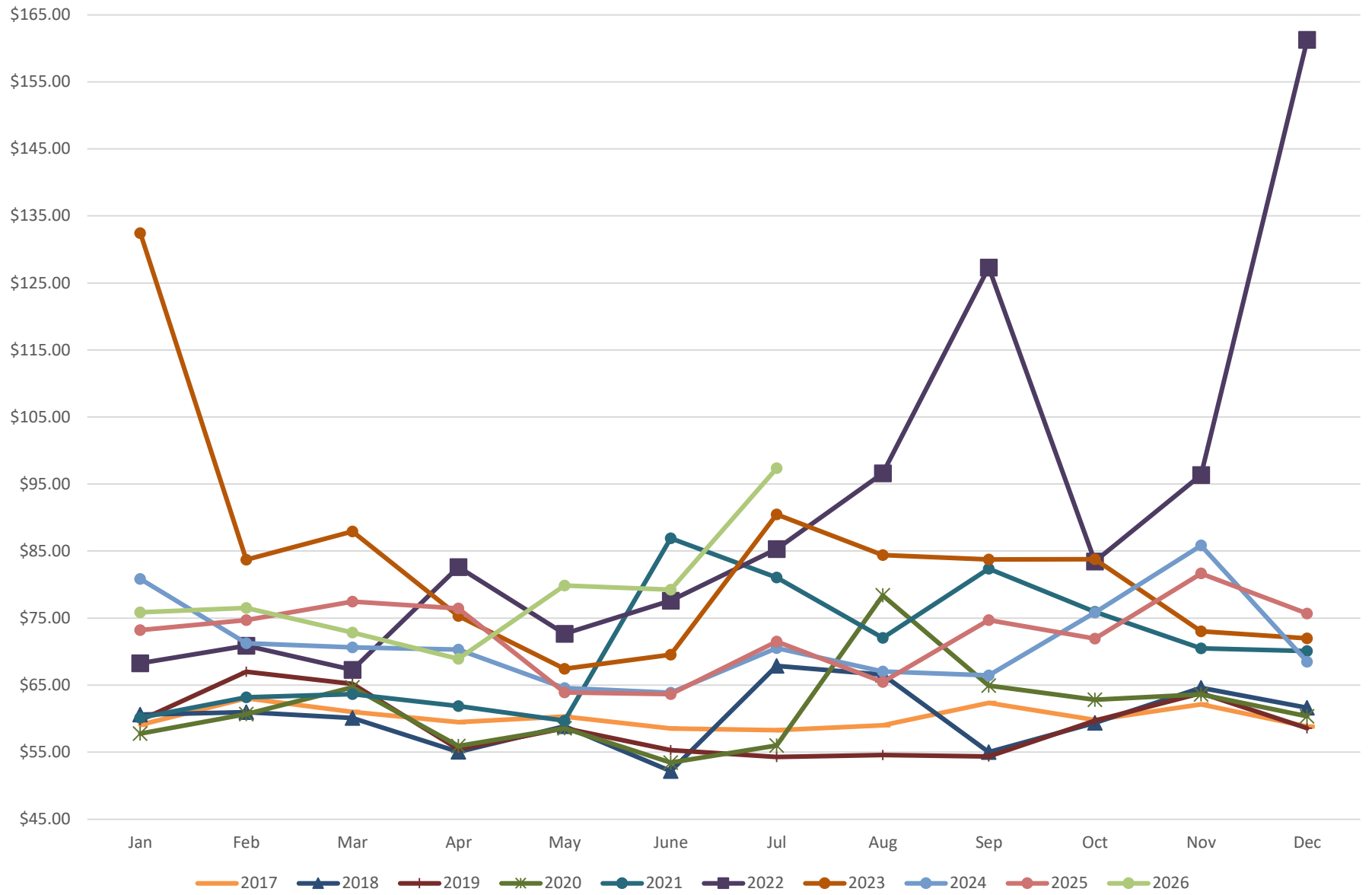
(Based on 12-mo rolling average)



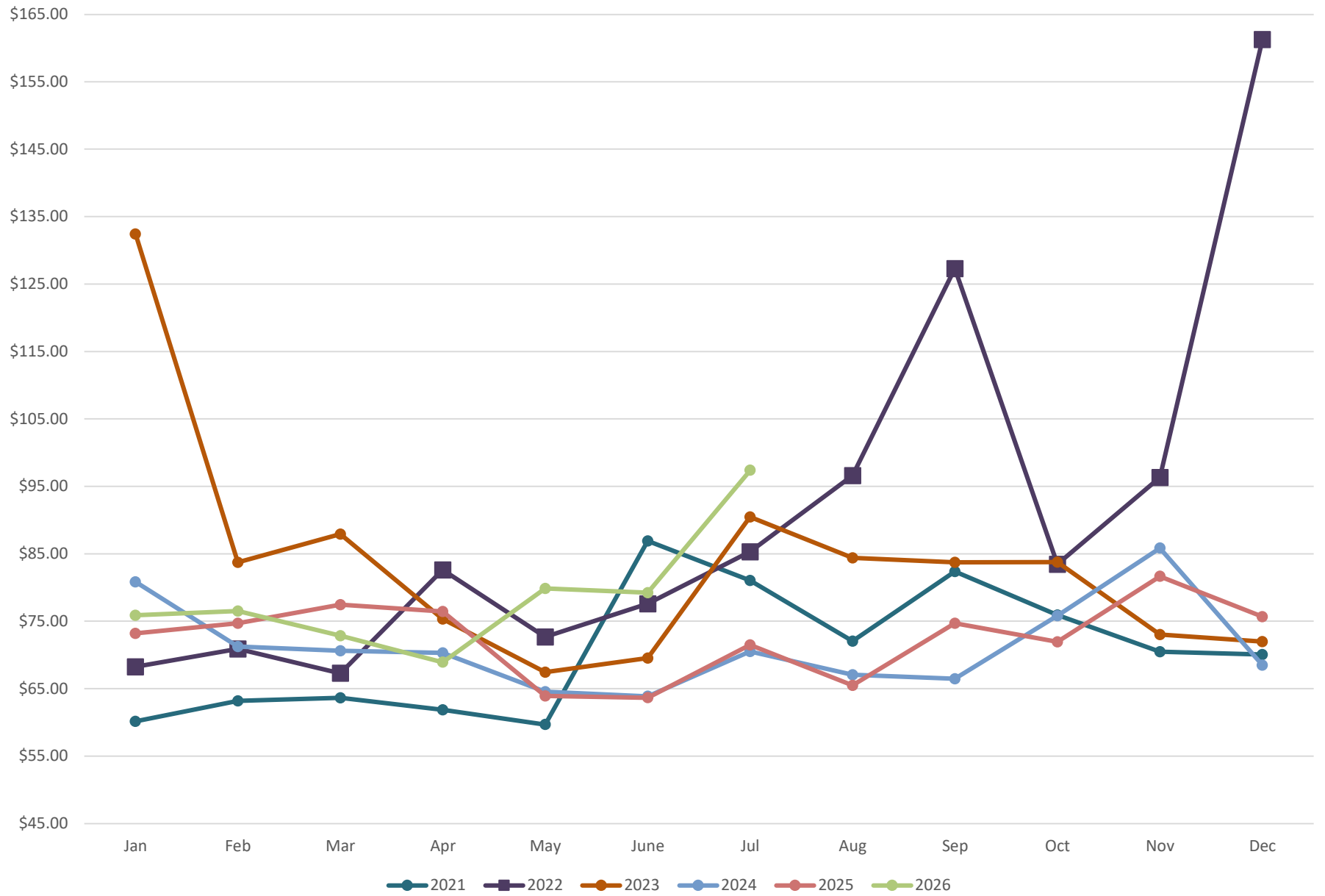
Weighted Average



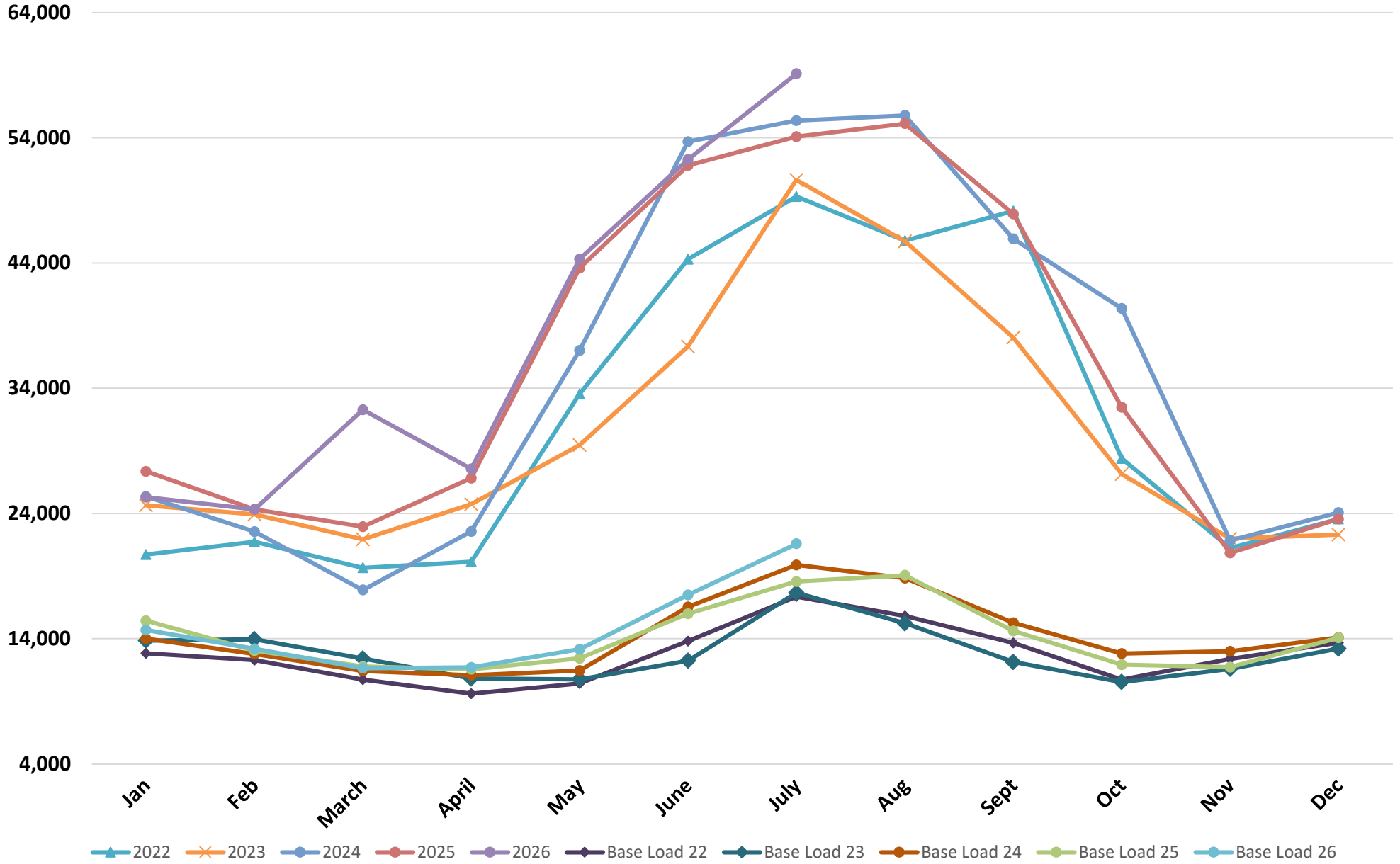
Avg Monthly Price



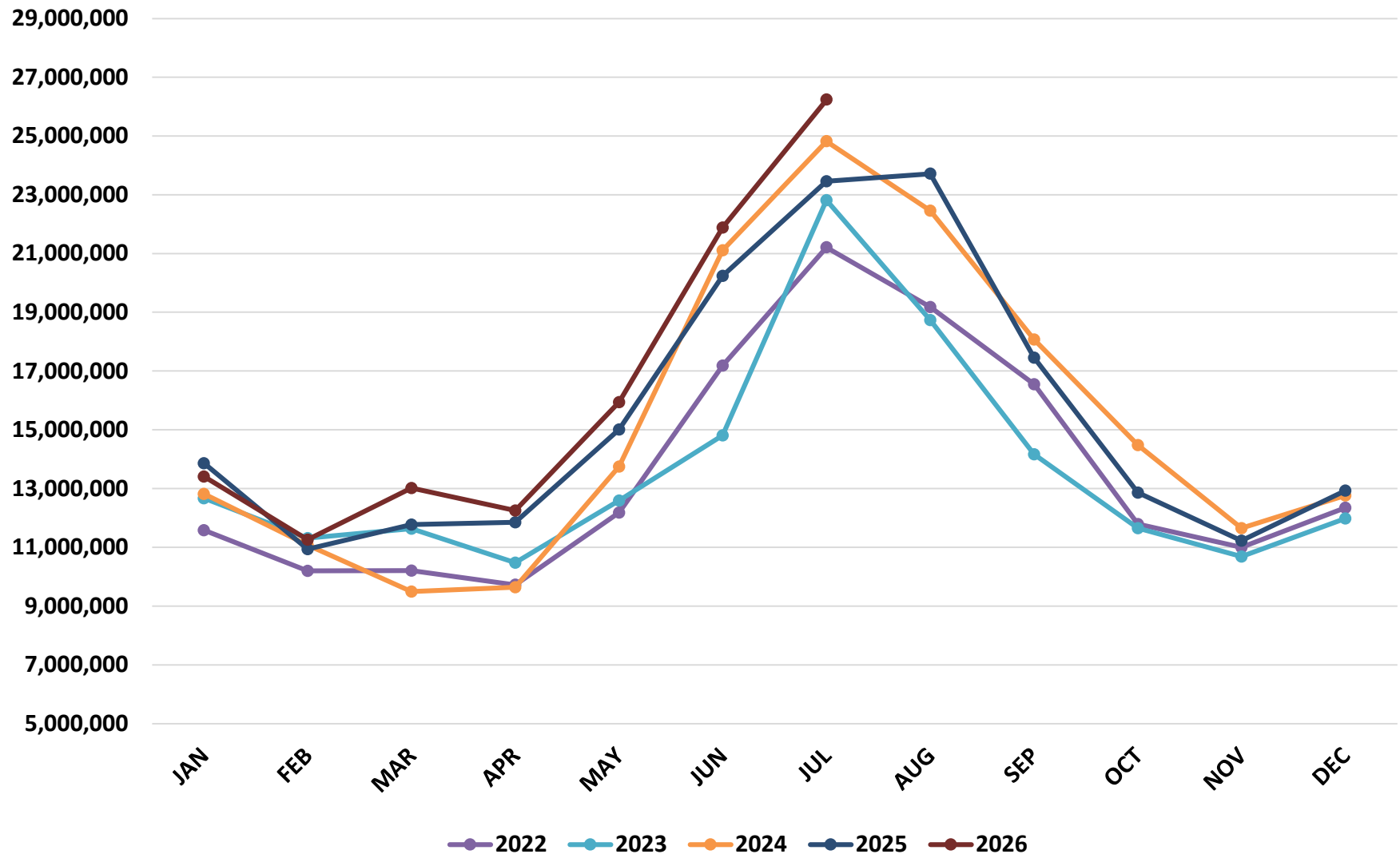
Avg Monthly Price (5 Yrs)



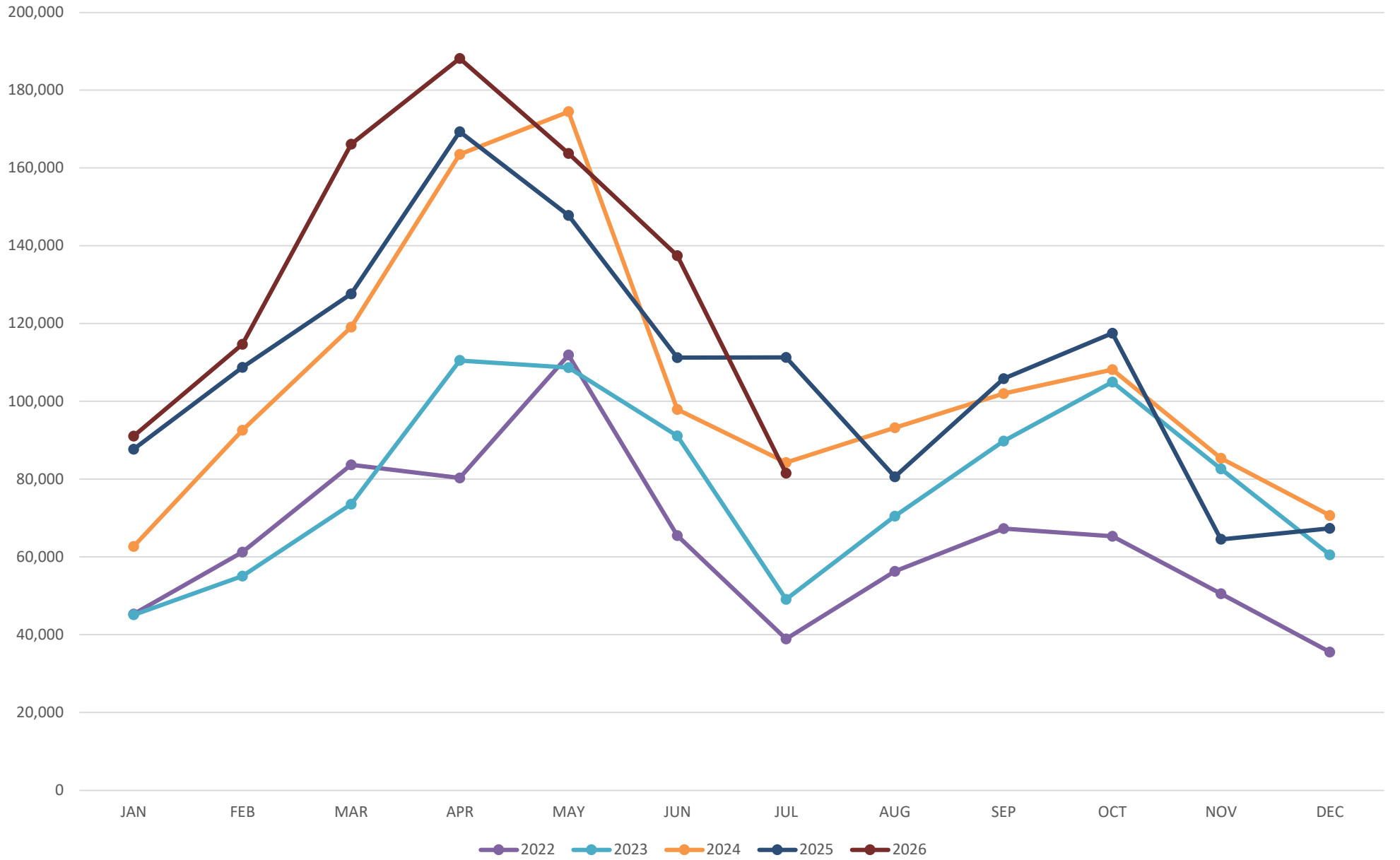
2022 - 2026 KW LOAD



2022 - 2026 KWH LOAD



Solar Kwh





POWER
HURRICANE CITY

UTAH

Pole Attachment License Agreement

Between Hurricane City and _____

(Licensee)



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Pole Attachment License Agreement

This Pole Attachment Licensing Agreement (the "Agreement") dated _____, 20__ is made by and between Hurricane City, a Utah Municipal Corporation ("City"), and _____ ("Licensee"). City and Licensee may be referred to collectively as the "Parties."

RECITALS

- A. Licensee proposes to install and maintain Communications Facilities and associated equipment, Licensee's Attachments, on certain City's Poles to provide Communications Services; and
- B. City is willing, when it may lawfully do so, to issue one or more Permits authorizing the placement or installation of Licensee's Attachments on City's Poles, provided that City may refuse, on a nondiscriminatory basis, to issue a Permit where there is an insufficient Capacity or for reasons relating to safety, reliability, generally applicable engineering purposes, and/or any other Applicable Standard, basis, or contract; and
- C. The parties intend that this Agreement replaces any previous pole attachment agreement(s) between the Parties upon the Effective Date of its execution; and

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



AGREEMENT

ARTICLE 1 – DEFINITIONS

For the Purposes of this Agreement, the following terms, phrases, words, and their derivations, shall have the meaning given below; unless more specifically defined within a specific Article or Paragraph of this Agreement. When not inconsistent with the context, words used in the present tense include the future and past tense, and words in singular number include the plural number. The words “shall” and “will” are mandatory and “may” is permissive. Words not defined shall be given their common and ordinary meaning.

- 1.1. Affiliate:** when used in relation to Licensee, means another entity that owns or controls, is owned or controlled by, or is under common ownership or control with Licensee.
- 1.2. Applicable Standards:** means all applicable engineering and safety standards governing the installation, maintenance, and operation of facilities and the performance of all work in or around electric City Facilities and includes the most current versions on National Electric Safety Code (“NESC”), the National Electrical Code (“NEC”), and the regulations of the Occupational Safety and Health Administration (“OSHA”), each of which is incorporated by reference in this Agreement, and/or other reasonable safety and engineering requirements of City or other federal, state, or local authority with jurisdiction over City Facilities.
- 1.3. Attaching Entity:** means any public or private entity, including Licensee, that, pursuant to a license agreement with City, places an Attachment on City’s Pole to provide Communications Service.
- 1.4. Attachment(s):** means Licensee’s Communications Facilities that are placed directly on City’s Poles, are Overlashed onto an existing Attachment, a Riser or a service drop attached to a single Pole where Licensee has an existing Attachment on such a Pole.
- 1.5. Capacity:** means the ability of a Pole segment to accommodate an additional Attachment or change to a current Attachment based on Applicable Standards, including space and loading considerations.
- 1.6. Climbing Space:** means that portion of a Pole’s surface and surrounding space that is free from encumbrances to enable City employees and contractors to safely climb, access, and work on City Facilities and equipment.
- 1.7. Communications Facilities:** means wireline or small cell wireless facilities, including but not limited to, fiber optic, copper, and/or coaxial cables, wireless antennas, receivers or transceivers, including any and all associated equipment, utilized to provide Communications Service.



- 1.8. **Communications Service:** means the transmission or receipt of voice, video, data, broadband internet, or other forms of digital or analog signals over Communications Facilities.
- 1.9. **Guy:** means a cable that is in tension to add stability to a free standing structure at dead ends and angle poles. The guy includes; guy wire, anchor and other miscellaneous hardware.
- 1.10. **Conduit System:** means underground City trench (Joint City Trench) which includes: electrical, fiber and/or communications systems. City owned conduit systems are not part of this agreement.
- 1.11. **Innderduct:** means flexible conduit installed inside a larger rigid conduit for placement of wire or cable.
- 1.12. **Licensee:** means _____, its authorized successor and assignees.
- 1.13. **Make-Ready Work:** means all work that City reasonably determines to be required to accommodate Licensee's Communications Facilities and/or to comply with all Applicable Standards. Such work includes, but is not limited to, rearrangement and/or transfer of City Facilities or existing Attachments, inspections, engineering work, permitting work, tree trimming (other than tree trimming performed for normal maintenance purposes), pole replacement and construction, but does not include Licensee's routine maintenance.
- 1.14. **Occupancy:** means the use or reservation of space for Attachments on a City Pole.
- 1.15. **Overlash:** means to place an additional wire or cable Communications Facility onto an existing attached Communications Facility.
- 1.16. **Pedestals/Vaults/Enclosures:** means above-or below-ground housings that are not attached to City Poles but are used to enclose a cable/wire splice, power supplies, amplifiers, passive devices, and/or to provide a service connection point (see Appendix D Specifications)
- 1.17. **Permit:** means written or electronic authorization (see Appendix C) by City for Licensee to make or maintain Attachments to specific City Poles pursuant to the requirements of this Agreement. Licensee's attachments made prior to the Effective date and authorized by City (Existing Attachments) shall be deemed Permitted Attachments hereunder.
- 1.18. **Pole:** means a pole owned or controlled by City that is used for the distribution of electricity and/or Communications Service and is capable of supporting Attachments for Communications Facilities.
- 1.19. **Post-Construction Inspection:** means the inspection by City or Licensee or some combination of both to verify that the Attachments have been made in accordance with Applicable Standards and the Permit.
- 1.20. **Post-Construction Survey:** means all work or operations required by Applicable Standards and/or City to determine the Make-Ready Work necessary to accommodate Licensee's Communications Facilities on a Pole.



Such work includes, but is not limited to, field inspection and administrative processing.

- 1.21. **Reserved Capacity:** means capacity or space on a Pole that the City has identified and reserved for its own future City requirements at the time of the Permit grant, including the installation of communications circuits for operation of City's electric system.
- 1.22. **Riser:** means metallic encasement materials placed vertically on the Pole to guide and protect wires and cables.
- 1.23. **Tag:** means to place distinct markers on wires and cables, coded by color or other means specified by City and/or applicable federal, state or local regulations, that will readily identify the type of Attachment (e.g., cable TV, telephone, high-speed broadband data, public safety) and its owner.
- 1.24. **City Facilities:** means all personal property and real property owned or controlled by City, including Poles, Conduit System, and related facilities.
- 1.25. **Service Area:** This agreement applies to poles and City Facilities served by Hurricane City Power. It does not apply to poles and facilities owned and operated by other entities located within Hurricane City boundaries.

ARTICLE 2 – SCOPE OF AGREEMENT

- 2.1. **Grant of License.** Subject to the provisions of this Agreement, City may grant Licensee a revocable, nonexclusive license authorizing Licensee to install and maintain communications Attachments to City's Poles. As of the Effective Date of this Agreement, any pre-existing Attachment(s) will be considered subject to and integrated into this Agreement. Attachment of communications lines or equipment to City-owned transmission poles and structures is not allowed.
- 2.2. **Parties Bound by Agreement.** Licensee and City agree to be bound by all provisions of this Agreement.
- 2.3. **Permit Issuance Conditions.** City will issue one or more Permit(s) to Licensee only when City determines, in its sole judgement, exercised reasonably, that (i) it has sufficient Capacity to accommodate the requested Attachment(s), (ii) Licensee meets all requirements set forth in this Agreement, and (iii) such Permit(s) comply with all Applicable Standards and contracts.
- 2.4. **Reserved Capacity.** Access to space on City Poles may be made available to Licensee with the understanding that certain Poles may be subject to Reserve Capacity for future electric service use. At the time of Permit issuance, City shall notify Licensee if capacity on particular poles is being reserved for reasonably foreseeable future electric use. For Attachments made with notice of such a Reservation of Capacity, on giving Licensee at least sixty (60) calendar days prior notice, City may reclaim such Reserved



Capacity at any time following the installation of Licensee's Attachment if required for City's future City service. If reclaimed for City's use, City may at such time also install associated facilities, including the attachment of communications lines for internal City operational or governmental communications requirements. City shall give Licensee the option to remove its Attachment's from the affected Pole(s) or to pay for the cost of any Make-Ready Work needed to expand Capacity for City Service requirements, so that the licensee can maintain its Attachment on the affected Pole(s). The allocation of the cost of any such Make-Ready Work (including the transfer, rearrangement, or relocation of third party Attachments) shall be determined in accordance with Article 9. Licensee shall not be required to bear any of the costs of rearranging or replacing its Attachment(s), if such rearrangement or replacement is required as a result of an additional attachment or the modification of an existing attachment sought by any other entity.

- 2.5. No Interest in Property.** No use, however lengthy, of any City Facilities and no payment of any fees or charges required under this Agreement, shall create or vest Licensee any easement or other ownership or property right of any nature in any portion of such Facilities. Neither the Agreement, nor any Permit granted under this Agreement, shall constitute an assignment of any of City's rights to City Facilities. Notwithstanding anything in the Agreement to the contrary, Licensee shall, at all times, be and remain a Licensee only.
- 2.6. Licensee's Right to Attach.** Nothing in this Agreement, other than a Permit issued pursuant to Article 6, shall be construed as granting Licensee any right to attach Licensee's Communications Facilities to any specific Pole or within any specific portion of the Conduit System.
- 2.7. City's Rights over Poles.** The parties agree that this Agreement does not in any way limit City's right to locate, operate, maintain, or remove its Poles in the manner that will best enable it to fulfill its service requirements or to comply with any federal, state, or local legal requirement.
- 2.8. Other Agreements.** Except as expressly provided in this Agreement, nothing in this Agreement shall limit, restrict, or prohibit City from fulfilling or enforcing any agreement or arrangement regarding its Poles into which City has previously entered, or may enter in the future, with others not party to this Agreement.
- 2.9. Permitted Use.** This Agreement is limited to the uses specifically stated in the recitals set forth above and no other use shall be allowed without City's express written consent to such use. Nothing in this Agreement shall be construed to require City to allow Licensee to use City's Poles after the termination of this Agreement.
- 2.10. Overlapping.** The following provisions apply to Overlapping:
- 2.10.1.** Licensee shall obtain a Permit for each Overlapping, in accordance with the requirements of Article 6. Absent such authorization, Overlapping constitutes an unauthorized Attachment and is subject to removal or, at



City's discretion, imposition of an Unauthorized Attachment fee, as specified in Appendix A, Item 5.

2.10.2. Licensee or Licensee's Affiliate shall, however, be responsible for all Make-Ready Work and other charges associated with the Overlashing.

2.10.3. Make-Ready Work procedures set forth in Article 7 shall apply, as necessary, to all Overlashing.

2.11. Enclosures. Enclosures of any kind and Overhead Storage shall not be attached to City Poles or lashed/clipped to Attachments of City Poles. Existing Enclosures and Overhead Storage may remain on and connected to City Poles, but will be subject to charges specified in Appendix A. All enclosures and Storage must be installed underground with a permitted Riser. Licensee shall not place Pedestals, Vaults, and/or other Enclosures within five (5) feet of any Pole or two and one half (2.5) feet from other City Facilities without City's prior written permission. If permission is granted, all such installations shall be per the Specifications in Appendix D of this Agreement. Furthermore, Licensee agrees to move any such above-ground enclosures in order to provide sufficient space for City to set a replacement Pole. All Licensee's Pedestals, Vaults, and Enclosures shall be labeled and marked with Licensee's company name. All conduit installations shall terminate inside a company identified Pedestal, Vault or Enclosure.

2.12. Vegetation Management. Licensee shall be responsible for all vegetation management next to all overhead and underground lines and facilities owned by Licensee.

ARTICLE 3 – FEES AND CHARGES

3.1. Payment of Fees and Charges. Licensee shall pay to City the fees and charges specified in Appendix A and shall comply with the terms and conditions specified in this Agreement.

3.2. Payment Period. Unless otherwise expressly provided, Licensee shall pay any invoice it receives from City pursuant to this Agreement within thirty (30) calendar days after City issues the invoice.

3.3. Billing of Attachment Fee. City shall invoice Licensee for the per-pole Attachment Fee annually. City will submit to the Licensee an invoice for the annual rental period not later than March 1st of each year. The initial annual rental period shall commence upon the execution of this Agreement and conclude on March 1st of the next year, and each subsequent annual rental period shall commence on the following March 1st and conclude on March 1st of the subsequent year. The invoice shall set forth the total number of City's



Poles on/in which Licensee was issued and/or holds Permit(s) for Attachments during such annual rental period, including any previously authorized and valid Permits.

- 3.4. Refunds.** No fees and charges specified in Appendix A shall be refunded on account of any surrender of a Permit granted under this Agreement. Nor shall any refund be owed if a Pole is not used or abandoned by the City.
- 3.5. Late Charge.** If City does not receive payment for any fee or other amount owed within thirty (30) calendar days after it becomes due, Licensee shall pay interest to City at the rate of eighteen (18%) per month on the amount due.
- 3.6. Payment for Work.** At its sole discretion, City may require that Licensee pay in advance all reasonable costs, including, but not limited to, administrative, construction, inspections, and Make-Ready Work expenses, in connection with the initial installation or rearrangement of Licensee's Communications Facilities pursuant to the procedures set forth in Articles 6 and 7 below.
- 3.7. True-Up.** Whenever City, in its discretion, requires advance payment of estimated expenses prior to undertaking an activity on behalf of Licensee and the actual cost of the activity exceeds the advance payment of estimated expenses, Licensee agrees to pay City for the difference in cost, provided that City documents such costs with sufficient detail to enable Licensee to verify the charges. To the extent that City's actual cost of the activity is less than the estimated cost, City shall refund to Licensee the difference in cost.
- 3.8. Determination of Charges.** Wherever this Agreement requires the Licensee to pay for work done or contracted by the City, the charge for such work shall include all reasonable material, labor, engineering, administrative, and applicable overhead costs. City shall bill its services based upon actual costs, and such costs will be determined in accordance with City's cost accounting systems used for recording capital and expense activities. All such invoices shall include an itemization of dates of work, location of work, labor costs per hour, persons employed, and costs of materials used. Labor costs shall be the greater of the fully loaded costs of municipal labor or the current "union scale" for comparable work in the region. If Licensee was required to perform work and fails to perform such work, necessitating completion of the work by City, City may either charge an additional ten percent (10%) of its costs or assess the penalty specified in Appendix A.



- 3.9. Work Performed by City.** Wherever this Agreement requires City to perform any work, City, at its sole discretion, may utilize its employees or contractors, or any combination of the two, to perform such work.
- 3.10. Default for Nonpayment.** Nonpayment of any amount due under this Agreement beyond sixty (60) days shall constitute a material default of this Agreement.
- 3.11. Fee Updates by City.** The fees and charges specified in Appendix A may be updated from time to time by resolution of the Hurricane City Council. City shall provide notice of any updated fees and charges to Licensee, and the updated fees and charges shall be effective on the date(s) as set forth in the resolution.

ARTICLE 4 – SPECIFICATIONS

- 4.1. Installation/Maintenance of Communications Facilities.** When a Permit is issued pursuant to this Agreement, Licensee's Communications Facilities shall be installed and maintained in accordance with the requirements and specifications of Appendix D. All of Licensee's Communications Facilities must comply with all Applicable Standards. Licensee shall be responsible for the installation and maintenance of its Communications Facilities. Licensee shall, at its own expense, make and maintain its Attachment(s) in safe condition and good repair, in accordance with all Applicable Standards. Notwithstanding anything in this Agreement to the contrary, Licensee shall not be required to update or upgrade its Attachments if they met Applicable Standards at the time they were made, unless such updates or upgrades are required by any revised Applicable Standards.
- 4.2. Tagging.** Licensee shall Tag all of its Communications Facilities as specified in Appendices D and F and/or applicable federal, state, and local regulations upon installation of such Facilities. Within one year of the execution of this Agreement, Licensee shall also tag any untagged Communications Facilities that were on all City Poles on the effective date of this Agreement. Failure to provide proper tagging will be considered a violation of the Applicable Standards.
- 4.3. Interference.** Licensee shall not allow its Communications Facilities to impair the ability of City or any third party to use City's Poles, nor shall



Licensee allow its Communications Facilities to interfere with the operation of any City Facilities or third-party facilities.

- 4.4. Protective Equipment.** Licensee and its employees and contractors shall utilize and install adequate protective equipment to ensure the safety of people and facilities. Licensee shall, at its own expense, install protective devices designed to handle the electric voltage and current carried by City's facilities in the event of a contact with such facilities. Except as provided in Paragraph 16.1, City shall not be liable for any actual or consequential damages to Licensee's Communications Facilities, Licensee's customers' facilities, or to any of Licensee's employees, contractors, customers, or other persons.
- 4.5. Violation of Specifications.** If Licensee's Communications Facilities, or any part of them, are installed, used, or maintained in violation of this Agreement, and Licensee has not corrected the violation(s) within thirty (30) calendar days from receipt of written notice of the violation(s) from City, City, at its option, may correct such conditions. City will attempt to notify Licensee in writing prior to performing such work whenever practicable. When City believes, however, that such violation(s) pose an immediate threat to the safety of any person, interfere with the performance of City's service obligations, or present an immediate threat to the physical integrity of City Facilities, City may perform such work and/or take such action as it deems necessary without first giving written notice to Licensee. As soon as practicable afterward, City will advise Licensee of the work performed or the action taken. Licensee shall be responsible for all actual and reasonable costs incurred by City in taking action pursuant to this Paragraph, and Licensee shall indemnify City against any and all liability, costs, and expenses, including reasonable attorneys and expert fees, arising out of or relating to any such work.
- 4.6. Restoration of City Service.** City's service restoration requirements shall take precedence over any and all work operations on Licensee on City's Poles.
- 4.7. Effect of Failure to Exercise Access Rights.** If Licensee does not exercise any access right granted pursuant to this Agreement and/or applicable Permit(s) within ninety (90) calendar days of the effective date of such right and any extension to such Permit(s), City may, but shall have no obligation to, use the space scheduled for Licensee's Attachment(s) for its own needs or make the space available to other Attaching Entities. In such instances, City



shall endeavor to make other space available to Licensee, upon written application under Article 6, as soon as reasonably possible and subject to all requirements of this Agreement, including the Make-Ready Work provisions. If City uses the space for its own needs or makes them available to other parties, then from the date that City or a third party begins to use such space, Licensee may obtain a refund on the portion of any Attachment Fees that it has paid in advance for that space. For purposes of this paragraph, Licensee's access rights shall not be deemed effective until any necessary Make-Ready Work has been performed.

- 4.8. Removal of Nonfunctional Attachments.** At its sole expense, Licensee shall remove any of its Attachments or any part thereof that becomes nonfunctional, unused, and/or is no longer fit for service (Nonfunctional Attachment) as provided in this Paragraph 4.8. A Nonfunctional Attachment that Licensee has failed to remove as required in this paragraph shall constitute an unauthorized Attachment and is subject to the Unauthorized Attachment fee specified in Appendix A, Item 6. Except as otherwise provided in this Agreement, Licensee shall remove Nonfunctional Attachments within one (1) year of the Attachment becoming nonfunctional, unless Licensee receives written notice from City that removal is necessary to accommodate City's or another Attaching Entity's use of the affected Pole(s), in which case Licensee shall remove the Nonfunctional Attachment within sixty (60) days of receiving the notice.

ARTICLE 5 – PRIVATE AND REGULATORY COMPLIANCE

- 5.1. Necessary Authorizations.** Before Licensee occupies any of City's Poles, Licensee shall obtain from the appropriate public or private authority, or from any property owner or other appropriate person, any required authorization to construct, operate, or maintain its Communications Facilities on public or private property. City retains the right to require evidence that appropriate authorization has been obtained before any Permit is issued to Licensee. Licensee's obligations under this Article 5 include, but are not limited to, its obligation to obtain and pay for all necessary approvals to occupy public/private rights-of-way and easements and all necessary licenses and authorizations to provide the services that it provides over its



Communications Facilities. Licensee shall defend, indemnify, and reimburse City for all losses, costs, and expenses, including reasonable attorney's fees, that City may incur as a result of claims by governmental bodies, owners of private property, or other person, that Licensee does not have sufficient rights or authority to attach Licensee's Communications Facilities on City's Poles or to provide particular services.

- 5.2. Lawful Purpose and Use.** Licensee's Communications Facilities must at all times serve a lawful purpose, and the use of such Facilities must comply with all applicable federal, state, and local laws.
- 5.3. Forfeiture of City's Rights.** No Permit granted under this Agreement shall extend, or be deemed to extend, to any of City's Poles, to the extent that Licensee's Attachment would result in a forfeiture of City's rights. Any Permit that would result in forfeiture of City's rights shall be deemed invalid as of the date that City granted it. Further, if any of Licensee's existing Communications Facilities, whether installed pursuant to a valid Permit or not, would cause such forfeiture, Licensee shall promptly remove its Facilities upon receipt of written notice from City. If Licensee does not remove its Communications Facilities in question within thirty (30) days of receiving written notice from City, City may at its option perform such removal at Licensee's expense. Notwithstanding the foregoing, Licensee shall have the right to contest any such forfeiture before any of its rights are terminated, provided that Licensee shall indemnify City for liability, costs, and expenses, including reasonable attorney's fees, that may accrue during Licensee's challenge.
- 5.4. Effect of Consent to Construction/Maintenance.** Consent by City to the construction or maintenance of any Attachments by Licensee shall not be deemed consent, authorization, or acknowledgement that Licensee has obtained all required Authorizations with respect to such Attachment.

ARTICLE 6 – PERMIT APPLICATION PROCEDURES

- 6.1. Permit Required.** Licensee shall not make any Attachments to any of City's Poles without first applying for and obtaining a Permit pursuant to the applicable requirements of Appendix B. Unless updates or upgrades are required by Applicable Standards, or unless City notifies Licensee to the contrary, Licensee shall not be required to obtain Permits for Attachment(s)



existing as of the effective date of this Agreement. Such grandfathered Attachments shall, however, be subject to the Attachment Fees specified in Appendix A. Licensee shall provide City a list of all such pre-existing Attachments within six (6) months of the effective date of this Agreement.

6.2. Permits for Overlashing. As set out in Paragraph 2.10, Permits are required for any Overlashing allowed under this Agreement and Licensee, Licensee's Affiliate or other third party, as applicable, shall pay any necessary Make-Ready Work costs to accommodate such Overlashing.

6.3. Professional Certification. Unless otherwise waived in writing by City, as part of the Permit application process and at Licensee's sole expense, a qualified and experienced professional engineer, or an employee or contractor of Licensee who has been approved by City, must participate in the Pre-Construction Survey, conduct the Post-Construction Inspection, and certify that Licensee's Communications Facilities can be and were installed on the identified Poles in compliance with the standards in Paragraph 4.1 and in accordance with the Permit. The professional engineer's qualifications must include experience performing such work, or substantially similar work, on electric transmission or distribution systems. City may require the Licensee's professional engineer to conduct a post-construction inspection that City will verify by means that it deems to be reasonable. City, at its discretion, may waive the requirements of this Paragraph 6.3, for any individual Permit and for service drops.

6.4. City Review of Permit Application. Upon receipt of a properly executed Application for Permit (Appendix C), which shall include the Pre-Construction Survey, certified per Paragraph 6.3 above, and detailed plans for the proposed Attachments in the form specified in Appendix E, City will review the Permit Application and discuss any issues with Licensee, including engineering or Make-Ready Work requirements associated with the Permit Application. City acceptance of the submitted design documents does not relieve Licensee of full responsibility for any errors and/or omissions in the engineering analysis. Unless otherwise agreed, the Permit application process shall be consistent with the following timeline:

6.4.1. Review Period. City shall review and respond to properly executed and complete Permit Applications for routine installations as promptly as is reasonable with a goal of providing a response during normal circumstances of within sixty (60) days of receipt. City may require additional time to review, and Licensee may incur additional costs for



the review. The City reserves the right to have a third-party review applications. All costs associated with a third-party review will be paid by the Licensee. City's response will either provide a written explanation as to why the Application for Pole Attachment Permit is being denied, in whole or in part, or upon request provide an estimate of the costs of all necessary Make-Ready Work

- 6.4.2. Upon receipt of City's Make-Ready estimate, Licensee shall have thirty (30) days to approve the estimate and provide payment in accordance with this Agreement and the specifications of the estimate.
- 6.4.3. City will complete routine Make-Ready Work within one hundred twenty (120) days of receipt of payment. If there are extenuating circumstances that make the necessary Make-Ready more complicated or time-consuming, including, but not limited to, the number of Poles, seasonal weather conditions or supply chain issues, City shall identify those factors in the Make-Ready estimate and the parties shall agree upon a reasonable timeframe for completion.
- 6.4.4. Attachments of wireless Communications Facilities located above the electric space are prohibited.
- 6.4.5. City may toll the time period for completion of Make-Ready Work by written notice in order to respond to severe storms, natural disasters, or other emergency situations.

- 6.5. **Permit as Authorization to Attach.** Upon completion of any necessary Make-Ready Work, receipt of payment for such work, and inspection, City will sign and return the Permit Application, which shall serve as authorization for Licensee to make its Attachment(s).

ARTICLE 7 – MAKE-READY WORK/INSTALLATION

- 7.1. **Estimate for Make-Ready Work.** If the City determines that it can accommodate Licensee's request for Attachment(s), including Overlapping of an existing Attachment, it will, upon request, advise Licensee of any estimated Make-Ready Work charges necessary to accommodate the Attachment.
- 7.2. **Payment of Make-Ready Work.** Upon completion of the Make-Ready Work, City shall invoice Licensee for City's actual cost of such Make-Ready Work. Alternatively, City, at its discretion, may require payment in advance for



Make-Ready Work based upon the estimated cost of such work. In such case, upon completion, Licensee shall pay City's actual cost of Make-Ready Work. The costs of the work shall be itemized in accordance with Paragraph 3.6 and trued up in accordance with Paragraph 3.7.

- 7.3. Who may Perform Make-Ready Work.** Make-Ready Work shall be performed only by City and/or a contractor authorized by City to perform such work. If City cannot perform the Make-Ready Work to accommodate Licensee's Communications Facilities within one hundred twenty (120) 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. In all instances, qualified contractors, if allowed, must be pre-approved by the City for such work on an annual basis. Authorization to use a qualified contractor will be at the City's sole discretion.
- 7.4. Scheduling of Make-Ready Work.** In performing all Make-Ready Work to accommodate Licensee's Communications Facilities, City will endeavor to include such work in its normal work schedule. If Licensee requests that the Make-Ready Work be performed on a priority basis or outside of City's normal work hours, Licensee will pay any resulting increased costs. Nothing in this Agreement shall be construed to require City to perform Licensee's work before other scheduled work or City service restoration.
- 7.5. Notification of Make-Ready Work.** Before starting Make-Ready Work, City 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 in connection with the Make-Ready Work.
- 7.6. Written Approval of Installation Plans Required.** Before making any Attachments to City's Poles, including Overlashing of existing Attachments, Licensee must obtain City's written approval of detailed plans for the Attachments. Such detailed plans shall accompany a Permit application as required under Paragraph 6.4.
- 7.7. Licensee's Installation/Removal/Maintenance Work.**
- 7.7.1. All of Licensee's installation, removal, and maintenance work, by either Licensee's employees or authorized contractors, shall be performed at Licensee's sole cost and expense, in a good and workmanlike manner, and must not adversely affect the structural integrity of City's Poles.



- 7.7.2. All of Licensee's installation, removal, and maintenance work, either by its employees or authorized contractors, shall comply with all applicable regulations specified in Paragraph 4.1. Licensee shall ensure that any person installing, maintaining, or removing its Communications Facilities is fully qualified and familiar with all Applicable Standards, the provisions of Article 17, and the Minimum Design Specifications contained in Appendix D.

ARTICLE 8 – TRANSFERS

- 8.1. **Required Transfers of Licensee's Communications Facilities.** If City reasonably determines that a transfer of Licensee's Communications Facilities is necessary, require Licensee to perform such transfer at Licensee's expense within ninety (90) calendar days after receiving notice from City. If Licensee fails to transfer its Facilities within ninety (90) calendar days after receiving such notice from City, City shall have the right to transfer Licensee's Facilities using its personnel and/or contractors. The costs of such transfers shall be as specified under Article 9. City shall not be liable for damage to Licensee's Facilities except to the extent provided in Paragraph 16.1. The written advance notification requirement of this Paragraph shall not apply in emergency situations. In emergency situations, City shall provide such advance notice as is practical, given the urgency of the particular situation. City shall then provide written notice of any such actions taken within ten (10) days following the occurrence. Irrespective of who owns Facilities that are Overlashed on to Licensee's Attachments, Licensee is responsible for the transfer of such Facilities and the costs of doing so.
- 8.2. **Temporary Transfers.** City will notify Licensee of any temporary transfers of Licensee's communication facilities if pole replacement or any other overhead City work is required. Licensee will take full responsibility for work and the safety of the public until the transfer has been completed.

ARTICLE 9 – MODIFICATION AND/OR REPLACEMENTS

- 9.1. **Licensee's Action Requiring Modification/Replacement.** If any Pole to which Licensee desires to make Attachment(s) is unable to support or



accommodate the additional facilities in accordance with all Applicable Standards, City will notify Licensee of the necessary Make-Ready Work, and associated costs, to provide adequate Pole space, including, but not limited to, replacement of the Pole and/or rearrangement or transfer of City's Facilities, as well as the facilities of other Attaching Entities. Licensee shall be responsible for separately entering into an agreement with other Attaching Entities concerning the allocation of costs for the relocation or rearrangement of such entities existing Attachments. If Licensee elects to go forward with the necessary changes, Licensee shall pay to City the actual cost of the Make-Ready Work, performed by City, in accordance with Paragraph 3.6. City, in its discretion, may require advance payment. Licensee shall also be responsible for obtaining, and furnishing to City before the commencement of any Make-Ready Work, agreements between Licensee and the other Attaching Entities (including Overlashers) concerning the relocation or rearrangement of their Attachments and the costs involved.

- 9.2. Treatment of Multiple Requests for Same Pole.** If City receives Permit Applications for the same Pole from two or more prospective Licensees within sixty (60) calendar days of the initial request, and accommodating their respective requests would require modification of the Pole or replacement of the Pole, City will allocate among such Licensees the applicable costs associated with such modification or replacement.
- 9.3. Guying.** The use of guying to accommodate Licensee's Attachments shall be provided by, and at the expense of, Licensee and to the satisfaction of City, as specified in Appendix D. Licensee shall not attach its guy wires to City's anchors without prior written permission of City. If permission is granted, charges may apply. All new guy anchors and hardware must be pre-approved by the City and inspected after installation. Once this is completed, pole attachments can begin.
- 9.4. Allocation of Costs.** The costs for any rearrangement or transfer of Licensee's Communications Facilities or the replacement of a Pole (including any related costs for tree cutting or trimming required to clear the new location of City's cables or wires) shall be allocated to City and/or Licensee and/or other Attaching Entity on the following basis:
- 9.4.1. If the City intends to modify or replace a Pole solely for its own system upgrade or maintenance requirements, it shall be responsible for the costs related to the modification/replacement of the Pole. Licensee shall be responsible for costs associated with the rearrangement or



transfer of Licensee's Communications Facilities to the new poles or system configuration. Prior to making any such modification or replacement, City shall provide Licensee written notification of its intent in order to provide Licensee a reasonable opportunity to modify or add to its existing Attachment. Should the Licensee decide to do so, it must seek City's written permission in accordance with this Agreement. If Licensee elects to add to or modify its Communications Facilities, Licensee shall pay its fair share of the costs incurred by City in making the space on the Poles accessible to Licensee.

9.4.2. If the modification or replacement of a Pole is necessitated by the requirements of Licensee, Licensee shall be responsible for all costs caused by the modification or replacement of the Pole as well as the costs associated with the transfer or rearrangement of any other Attaching Entity's Communications Facilities. At the time Licensee submits a Permit Application to City, Licensee shall submit evidence, in writing, that it has made arrangements to reimburse all affected Attaching Entities for their costs caused by the transfer or rearrangement of their Facilities. City shall not be obligated in any way to enforce or administer Licensee's responsibility for the costs associated with the transfer or rearrangement of another Attaching Entity's Facilities pursuant to this Paragraph 9.4.2.

9.4.3. If the modification or the replacement of a Pole is the result of an additional Attachment or the modification of an existing Attachment sought by an Attaching Entity other than City or Licensee, the Attaching Entity requesting the additional or modified Attachment shall bear the entire cost of the modification or replacement, as well as the costs for rearranging or transferring Licensee's Communications Facilities. Licensee shall cooperate with such third-party Attaching Entity to determine the costs of moving Licensee's facilities.

9.4.4. If the Pole must be modified or replaced for reasons unrelated to the use of the Pole by Attaching Entities (e.g., storm, accident, deterioration), City shall pay the costs of such modification or replacement and Licensee shall pay the costs of rearranging or transferring its Communications Facilities.

9.5. City Not Required to Relocate. Nothing in this Agreement shall be construed to require City to relocate its Attachments or to modify or replace its Poles for the benefit of Licensee.



ARTICLE 10 – ABANDONMENT OR REMOVAL OF CITY FACILITIES

- 10.1. Notice of Abandonment or Removal of City Facilities.** If City desires at any time to abandon, remove, or move underground any City Facilities to which Licensee's Communications Facilities are attached, it shall give Licensee notice in writing to that effect at least sixty (60) calendar days prior to the date on which it intends to abandon or remove such City's Facilities. Notice may be limited to thirty (30) calendar days if City is required to remove or abandon its City Facilities as the result of the action of a third party and the longer notice period is not practical. If, following the expiration of the 30-day period, Licensee has not yet removed and/or transferred all of its Communication Facilities and has not entered into an agreement to purchase City's Facilities, City shall have the right, but not the obligation to remove Licensee's Communications Facilities at Licensee's expense. The written advance notification requirement of this Paragraph shall not apply in emergency situations. In emergency situations, City shall provide such advance notice as is practical, given the urgency of the particular situation.
- 10.2. Underground Relocation.** If City moves any portion of its aerial system underground, Licensee shall remove its Communications Facilities from any affected Poles within sixty (60) calendar days of receipt of notice from City and must either relocate its affected Facilities underground with City or find other means to accommodate its Facilities. If Licensee does not remove its Attachments within sixty (60) days, City shall have the right to remove or transfer Licensee's Communications Facilities at Licensee's expense. Licensee's failure to remove its Facilities as required under this Paragraph 10.2 shall subject Licensee to the penalty provisions of Appendix A, item 5.

ARTICLE 11 – REMOVAL OF LICENSEE'S FACILITIES

- 11.1. Removal on Expiration/Termination.** At the expiration or other termination of this License Agreement or individual Permit(s), Licensee shall remove its Communications Facilities from the affected Poles at its own expense. If Licensee fails to remove such Facilities within sixty (60) calendar days of expiration or termination or some greater period as allowed by City, City shall



have the right, but not the obligation, to remove or transfer such Facilities at Licensee's expense.

ARTICLE 12 – TERMINATION OF PERMIT

- 12.1. Automatic Termination of Permit.** Any Permit issued pursuant to this Agreement shall automatically terminate when Licensee ceases to have authority to construct and operate its Communications Facilities on public or private property at the location of the particular Pole(s) covered by the Permit.
- 12.2. Surrender of Permit.** Licensee may at any time surrender any Permit for Attachment(s) and remove its Communications Facilities from the affected Pole(s), provided, however, that before commencing any such removal, Licensee must obtain City's written approval of Licensee's plans for removal, including the name of the person or entity performing such work and the date(s) and time(s) during which such work will be completed. All such work is subject to insurance requirements of Article 18. No refund of any fees or costs will be made upon removal. If Licensee surrenders such Permit pursuant to the provisions of this Article, but fails to remove its Attachments from City's Facilities within thirty (30) calendar days, City shall have the right, but not the obligation, to remove or transfer Licensee's Attachments at Licensee's expense.

ARTICLE 13 – INSPECTION OF LICENSEE'S FACILITIES

- 13.1. Inspections.** City may conduct an inventory and inspection of Attachments at any time. Within thirty (30) calendar days of receiving written notice from City, Licensee shall correct all Attachments that City identifies as being out of compliance with Applicable Standards. If City finds that five percent (5%) or more of Licensee's Attachments are either in non-compliance or not permitted, Licensee shall pay its pro rata share of the costs of the inspection.
- 13.2. Notice.** City will give Licensee reasonable advance written notice of such inspections, except in those instances in which safety considerations justify the need for such inspection without delay.
- 13.3. No Liability.** Inspections performed under this Article 13, or the failure to do so, shall not operate to impose upon the City any liability of any kind



whatsoever or to relieve the Licensee of any responsibility, obligations, or liability, whether assumed under this Agreement or otherwise existing.

- 13.4. Attachment Records.** Notwithstanding the above inspection provisions, Licensee shall furnish to City annually an up-to-date electronic map depicting the locations of its Attachments, in a format specified by City.
- 13.5. Pole Testing.** Pole testing on City owned poles will only be performed by the City. No other pole testing shall be performed by Licensee or Licensee's contracted testing company. City will provide individual pole testing results upon Licensee's request.

ARTICLE 14 – UNAUTHORIZED OCCUPANCY OR ACCESS

- 14.1. Penalty Fee.** If any of Licensee's Attachments are found occupying any Pole for which no Permit has been issued, City, without prejudice to its other rights or remedies under this Agreement, may assess an Unauthorized Access Penalty Fee, as specified in Appendix A, Item 6. If Licensee fails to pay such Fee within thirty (30) calendar days of receiving notification of it, City shall have the right, but not the obligation, to remove such Communications Facilities at Licensee's expense.

To avoid penalty fees and removal, Licensee will be required to submit an application for attachment, pay all application fees, and have all inspections passed. Permit to attach may then be issued by the City if the application is approved.

- 14.2. No Ratification of Unauthorized Use.** No act or failure to act by City with regard to any unauthorized use shall be deemed as ratification of the unauthorized use. Unless the parties agree otherwise, a Permit for a previously unauthorized Attachment shall not operate retroactively or constitute a waiver by City of any of its rights or privileges under this Agreement or otherwise, and Licensee shall remain subject to all obligations and liabilities arising out of or relating to its unauthorized use.

ARTICLE 15 – REPORTING REQUIREMENTS

At the time that Licensee pays its annual Attachment Fee, Licensee shall also provide the following information to City, using the reporting form contained in Appendix G:



- 15.1. The Poles on which Licensee has installed, during the relevant reporting period, Risers and service drops, for which no Permit was required.
- 15.2. All Attachments that have become nonfunctional during the relevant reporting period. The report shall identify the Pole on which the nonfunctional Attachment is located, describe the nonfunctional equipment, and indicate the approximate date the Attachment became nonfunctional.
- 15.3. Any equipment Licensee has removed from Poles during the relevant reporting period. The report shall identify the Pole from which the equipment was removed, describe the removed equipment, and indicate the approximate date of removal. This requirement does not apply where Licensee is surrendering a Permit pursuant to Paragraph 12.2.

ARTICLE 16 – LIABILITY AND INDEMNIFICATION

- 16.1. **Liability.** City reserves to itself the right to maintain and operate its Poles in the manner that will best enable it to fulfill its service requirements. Licensee agrees to use City's Poles at Licensee's sole risk. Subject to Paragraph 16.5, City agrees to reimburse Licensee for all reasonable costs incurred by Licensee for the physical repair of facilities damaged by the gross negligence or willful misconduct of City; provided, however, that the aggregate liability of City to Licensee, in any fiscal year, for any fines, penalties, claims, damages, or costs, arising out of or relating in any way to Licensee's service or interference with the operation of Licensee's Communications Facilities (including special, indirect, punitive, or consequential damages) shall not exceed the amount of the total Annual Attachment Fees paid by Licensee to City for that year, as calculated based on the number of Attachments under Permit at the time of occurrence, as set forth in Appendix A, Item 3.
- 16.2. **Indemnification.** Licensee, and any agent, contractor, or subcontractor of Licensee, shall defend, indemnify, and hold harmless City and its officials, officers, board members, council members, commissioners, representatives, employees, agents, and contractors against any and all liability, costs, damages, fines, taxes, special charges by others, penalties, payments (including payments and death benefits), and expenses (including reasonable attorney's fees of City and all other costs and expenses of litigation) ("Covered Claims") arising in any way, including any act, omission, failure, negligence, or willful misconduct, in connection with the



construction, maintenance, repair, presence, use, relocation, transfer, removal, or operation by Licensee, or by Licensee's officers, directors, employees, agents, or contractors, of Licensee's Communications Facilities, except to the extent of City's gross negligence or willful misconduct solely giving rise to such Covered Claims. Such Covered Claims include, but are not limited to, the following:

- 16.2.1. Intellectual property infringement, libel and slander, trespass, unauthorized use of television or radio broadcast programs and other program material, and infringement of patents;
- 16.2.2. Cost of work performed by City that was necessitated by Licensee's failure, or the failure of Licensee's officers, directors, employees, agents or contractors, to install, maintain, use, transfer, or remove Licensee's Communications Facilities in accordance with the requirements and specifications of this Agreement, or from any other work this Agreement authorizes City to perform on Licensee's behalf;
- 16.2.3. Damage to property, injury to or death of any person arising out of the performance or nonperformance of any work of obligation undertaken by Licensee, or Licensee's officers, directors, employees, agents, or contractors, pursuant to this Agreement;
- 16.2.4. Liabilities incurred as a result of Licensee's violation, or a violation by Licensee's officers, directors, employees, agents, or contractors, of any law, rule, or regulation of the United States, any state, or any other governmental entity or administrative agency.

16.3. Procedure for Indemnification.

- 16.3.1. City shall give prompt written notice to Licensee of any claim or threatened claim, specifying the factual basis for such claim and the amount of the claim. If the claim relates to an action, suit, or proceeding filed by a third party against City, City shall give the notice to Licensee no later than sixty (60) calendar days after City receives written notice of the action, suit, or proceeding.
- 16.3.2. City's failure to give the required notice will not relieve Licensee from its obligation to indemnify City unless, and only to the extent, that Licensee is materially prejudiced by such failure.
- 16.3.3. Licensee will have the right at any time, by notice to City, to participate in or assume control of, the defense of the claim with counsel of its choice, which counsel must be reasonably acceptable to City. City agrees to cooperate fully with Licensee. If Licensee assumes control of



the defense of any third-party claim, City shall have the right to participate in the defense at its own expense. If Licensee does not assume control or otherwise participate in the defense of any third-party claim, Licensee shall be bound by the results obtained by City with respect to the claim.

- 16.4. Environmental Hazards.** Licensee represents and warrants that its use of City's Poles will not generate any Hazardous Substances, that it will not store or dispose on or about City's Poles or transport to City's Poles any hazardous substances and that Licensee's Communications Facilities will not constitute or contain and will not generate any hazardous substance in violation of federal, state, or local law now or hereafter in the effect, including any amendments. "Hazardous Substance" shall be interpreted broadly to mean any substance or material designated or defined as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic or radioactive substance, dangerous radio frequency radiation, or other similar terms by any federal, state, or local laws, regulations or rules now or hereafter in effect, including any amendments. Licensee further represents and warrants that in the event of breakage, leakage, incineration, or other disaster, its Communications Facilities would not release any Hazardous Substances. Licensee and its agents, contractors, and subcontractors shall defend, indemnify, and hold harmless City and its respective officials, officers, board members, council members, commissioners, representatives, employees, agents, and contractors against any and all liability, costs, damages, fines, taxes, special charges by others, penalties, punitive damages, or expenses (including reasonable attorney's fees and all other costs and expenses of litigation) arising from or due to the release, threatened release, storage, or discovery of any Hazardous Substances on, under, or adjacent to City's Poles attributable to Licensee's use of City's Poles.
- 16.5. Municipal Liability Limits.** No provision of this Agreement is intended, or shall be construed, to be a waiver for any purpose by the City of any applicable state limits on municipal liability or governmental immunity. No indemnification provision contained in this Agreement under which Licensee indemnifies City shall be construed in any way to limit any other indemnification provision contained in this Agreement.
- 16.6.** If City brings a successful action in a court of competent jurisdiction to enforce this Agreement, Licensee shall pay City's reasonable attorney's fees.



ARTICLE 17 – DUTIES, RESPONSIBILITIES, AND EXCULPATION

- 17.1. Duty to Inspect.** Licensee acknowledges and agrees that City does not warrant the condition or safety of City's Facilities, or the premises surrounding the Facilities, and Licensee further acknowledges and agrees that it has an obligation to inspect City's Poles and/or premises surrounding the Poles, prior to commencing any work on City's Poles or entering the premises surrounding such Poles.
- 17.2. Knowledge of Work Conditions.** By executing this Agreement, Licensee warrants that it has acquainted, or will fully acquaint, itself and its employees and/or contractors and agents with the conditions relating to the work that Licensee will undertake under this Agreement and that it fully understands or will acquaint itself with the facilities, difficulties, and restrictions attending the execution of such work.
- 17.3. DISCLAIMER. CITY MAKES NO EXPRESS OR IMPLIED WARRANTIES WITH REGARD TO CITY'S POLES, ALL OF WHICH ARE HEREBY DISCLAIMED, AND CITY MAKES NO OTHER EXPRESS OR IMPLIED WARRANTIES, EXCEPT TO THE EXTENT EXPRESSLY AND UNAMBIGUOUSLY SET FORTH IN THIS AGREEMENT. CITY EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**
- 17.4. Duty of Competent Supervision and Performance.** The parties further understand and agree that, in the performance of work under this Agreement, Licensee and its agents, employees, contractors, and subcontractors will work near electrically energized lines, transformers, or other City Facilities. The parties understand and intend that energy generated, stored, or transported by City Facilities will not be interrupted during the continuance of this Agreement, except in emergencies endangering life or threatening grave personal injury or property. Licensee shall ensure that its employees, agents, contractors, and subcontractors have the necessary qualifications, skill, knowledge, training, and experience to protect themselves, their fellow employees, agents, contractors, and subcontractors; employees, agents, contractors, and subcontractors of City; and the general public, from harm or injury while performing work permitted or contemplated pursuant to this Agreement. In addition, Licensee shall furnish its employees, agents, contractors, and subcontractors competent



supervision and sufficient and adequate tools and equipment for their work to be performed in a safe manner. Licensee agrees that in emergency situations in which it may be necessary to de-energize any part of City's equipment, Licensee shall ensure that work is suspended until the equipment has been de-energized and that no such work is conducted unless and until the equipment is made safe.

- 17.5. Requests to De-energize.** If City de-energizes any equipment or line at Licensee's request and for its benefit and convenience in performing a particular segment of any work, Licensee shall reimburse City in accordance with Paragraph 3.8, for all costs and expenses that City incurs in complying with Licensee's request. Before City de-energizes any equipment or line, it shall provide, upon request, an estimate of all costs and expenses to be incurred in accommodating Licensee's request.
- 17.6. Interruption of Service.** If Licensee causes an interruption of service by damaging or interfering with any equipment of City, Licensee shall, at its own expense, immediately do all things reasonable to avoid injury or damages, direct and incidental, resulting therefrom and shall notify City immediately.
- 17.7. Duty to Inform.** Licensee further warrants that it understands the imminent dangers (INCLUDING SERIOUS BODILY INJURY OR DEATH FROM ELECTROCUTION) inherent in the work necessary to make installations on City's Poles by Licensee's employees, agents, contractors, or subcontractors, and Licensee accepts the duty and sole responsibility to notify and inform Licensee's employees, agents, contractors, or subcontractors of such dangers, and to keep them informed regarding same.

ARTICLE 18 – INSURANCE

- 18.1. Policies Required.** At all times during the term of this Agreement, Licensee shall keep in force and effect all insurance policies as described below:
- 18.1.1. Workers Compensation and Employers' Liability Insurance.** Statutory workers' compensation benefits and employers' liability insurance with a limit of liability no less than that required by Utah law at the time of the application of this provision for each accident. This policy shall be endorsed to include a waiver of subrogation in favor of the City. Licensee shall require subcontractors and others not protected under its insurance to obtain and maintain such insurance.



- 18.1.2. **Commercial General Liability Insurance.** Policy will be written to provide coverage for, but not limited to, the following: premises and operations, products and completed operations, personal injury, blanket contractual coverage, broad form property damage, independent contractor's coverage with Limits of liability not less than \$2,000,000 general aggregate, \$2,000,000 products/completed operations aggregate, \$2,000,000 personal injury, \$2,000,000 each occurrence.
- 18.1.3. **Automobile Liability Insurance.** Business automobile policy covering all owned, hired and non-owned private passenger autos and commercial vehicles. Limits of liability not less than \$1,000,000 each occurrence, \$1,000,000 aggregate.
- 18.1.4. **Umbrella Liability Insurance.** Coverage is to be in excess of the sum employers' liability, commercial general liability, and automobile liability insurance required above. Limits of liability not less than \$4,000,000 each occurrence, \$4,000,000 aggregate.
- 18.1.5. **Property Insurance.** Each party will be responsible for maintaining property insurance on its own facilities, buildings, and other improvements, including all equipment, fixtures, and City structures, fencing, or support systems that may be placed on, within, or around City Facilities to protect fully against hazards of fire, vandalism and malicious mischief, and such other perils as are covered by policies of insurance commonly referred to and known as extended coverage insurance or self-insure such exposures.
- 18.2. **Qualification; Priority; Contractors' Coverage.** The insurer must be authorized to do business under the laws of the state of Utah and have an "A" or better rating in Best's Guide. Such insurance will be primary. All contractors and all of their subcontractors who perform work on behalf of Licensee shall carry, in full force and effect, workers' compensation and employers' liability, comprehensive general liability, and automobile liability insurance coverages of the type that Licensee is required to obtain under this Article 18 with the same limits.
- 18.3. **Certificate of Insurance; Other Requirements.** Prior to the execution of this Agreement and prior to each insurance policy expiration date during the term of this Agreement, Licensee will furnish City with a certificate of insurance (Certificate) and, upon request, certified copies of the required insurance policies. The Certificate shall reference this Agreement and workers'



compensation and property insurance waivers of subrogation required by this Agreement. City shall be given thirty (30) calendar days advance notice of cancellation or nonrenewal of insurance during the term of this Agreement. City, its council members, board members, commissioners, agencies, officers, officials, employees and representatives (collectively, “Additional Insureds”) shall be named as Additional Insureds under all of the policies, except workers’ compensation, which shall be so stated on the Certificate of Insurance. All policies, other than workers’ compensation, shall be written on an occurrence and not on a claims-made basis.

All policies may be written with deductibles, not to exceed \$100,000, or such greater amount as expressly allowed in writing by the City. Licensee shall defend, indemnify and hold harmless City and Additional Insureds from and against payment of any deductible and payment of any premium on any policy required under this Article. Licensee shall obtain Certificates from its agents, contractors, and their subcontractors and provide a copy of such Certificates to City upon requests.

18.4. Limits. The limits of liability set out in this Article 18 may be increased or decreased by mutual consent of the parties, which consent will not be unreasonably withheld by either party, in the event of any factors or occurrences, including substantial increases in the level of jury verdicts or judgments or the passage of state, federal, or other governmental compensation plans, or laws that would materially increase or decrease Licensee’s exposure to risk.

18.5. Prohibited Exclusions. No policies of insurance required to be obtained by Licensee or its contractors or subcontractors shall contain provisions that: (1) exclude coverage of liability assumed by this Agreement with City except as to infringement of patents or copyrights or for libel and slander in program material, (2) exclude coverage of liability arising from excavating, collapse, or underground work, (3) exclude coverage for injuries to City’s employees or agents, or (4) exclude coverage of liability for injuries or damages caused by Licensee’s contractors or the contractors’ employees, or agents. This list of prohibited provisions shall not be interpreted as exclusive.



ARTICLE 19 – AUTHORIZATION NOT EXCLUSIVE

City shall have the right to grant, renew, and extend rights and privileges to others not party to this Agreement by contract or otherwise, to use City Facilities covered by this Agreement. Such rights shall not interfere with the rights granted to Licensee by the specific Permits issued pursuant to this Agreement.

ARTICLE 20 – ASSIGNMENT

- 20.1. Limitations on Assignment.** Licensee shall not assign its rights or obligations under this Agreement, nor any part of such rights or obligations, without the prior written consent of City, which consent shall not be unreasonably withheld.
- 20.2. Obligations of Assignee/Transferee and Licensee.** No assignment or transfer under this Article 20 shall be allowed until the assignee or transferee becomes a signatory to this Agreement and assumes all obligations of Licensee arising under this Agreement. Licensee shall furnish City with prior written notice of the transfer or assignment, together with the name and address of the transferee or assignee. Notwithstanding any assignment or transfer, Licensee shall remain fully liable under this Agreement and shall not be released from performing any of the terms, covenants, or conditions of this Agreement without the express written consent to the release of Licensee by City.
- 20.3. Sub-licensing.** Without City's prior written consent, Licensee shall not sub-license or lease to any third party, including but not limited to, allowing third parties to place Attachments on City's Facilities, including Overlashing, or to place Attachments for the benefit of such third parties on City's Poles. Any such action shall constitute a material breach of this Agreement. The use of Licensee's Communications Facilities by third parties (including but not limited to leases of dark fiber) that involves no additional Attachment or Overlashing is not subject to this Paragraph 20.3.

ARTICLE 21 – FAILURE TO ENFORCE

Failure of City or Licensee to take action to enforce compliance with any of the terms or conditions of this Agreement or to give notice or declare this Agreement or any authorization granted hereunder terminated shall not constitute a waiver or relinquishment



of any term or condition of this Agreement, but the same shall be and remain at all times in full force and effect until terminated, in accordance with this Agreement.

ARTICLE 22 – ISSUE RESOLUTION PROCESS

- 22.1. Dispute Resolution.** Except for an action seeking a temporary restraining order or an injunction or to compel compliance with this dispute resolution procedure, the parties can invoke the dispute resolution procedures in this Article at any time to resolve a controversy, claim, or breach arising under this Agreement. Each party will bear its own costs for dispute resolution activity.
- 22.2. Initial Meeting.** At either party's written request, each party will designate knowledgeable, responsible, senior representatives to meet and negotiate in good faith to resolve a dispute. The representatives will have discretion to decide the format, frequency, duration, and conclusion of these discussions. The parties will conduct any meeting in-person or via conference call, as reasonably appropriate.
- 22.3. Executive Meeting.** If ninety (90) days after the first in-person meeting of the senior representatives, the parties have not resolved the dispute to their mutual satisfaction, each party will designate executive representatives at the director level or above to meet and negotiate in good faith to resolve the dispute. To facilitate the negotiations, the parties may agree in writing to use mediation or another alternative dispute resolution procedure.
- 22.4. Unresolved Dispute.** If after sixty (60) days from the first executive-level, in-person meeting, the parties have not resolved the dispute to their mutual satisfaction; either party may invoke any legal means available to resolve the dispute, including enforcement of the default and termination procedures set out in Article 23.
- 22.5. Confidential Settlement.** Unless the parties otherwise agree in writing, communication between the parties under this Article will be treated as confidential information developed for settlement purposes, exempt from discovery and inadmissible in litigation.
- 22.6. Business as Usual.** During any dispute resolution procedure or lawsuit, the Utilities will continue providing services to each other and performing their obligations under this Agreement.



ARTICLE 23 – TERMINATION OF AGREEMENT

- 23.1.** City shall have the right, pursuant to the procedures set out in this Article 23, to terminate this entire Agreement, or any Permit issued under it, whenever Licensee is in default of any material term or condition of this Agreement, including, but not limited to, the following circumstances:
- 23.1.1.** Construction, operation, or maintenance of Licensee's Communications Facilities in violation of law, or in aid of any unlawful act or undertaking; or
 - 23.1.2.** Construction, operation, or maintenance of Licensee's Communications Facilities after any authorization required of Licensee has lawfully been denied or revoked by any governmental authority or any private holder of easements or other rights, or violation of any other agreement with City; or
 - 23.1.3.** Construction, operation, or maintenance of Licensee's Communications Facilities without the insurance coverage required under Article 18.
- 23.2.** City will notify the Licensee in writing of any defaults by Licensee under this Agreement. Licensee shall take immediate corrective action to eliminate any such defaults within fifteen (15) calendar days, or such longer period as the parties may agree, and shall confirm in writing to City that the cited condition or conditions have ceased or been corrected, or are in the process of being corrected.
- 23.3.** If Licensee contests the existence of the default, it may invoke the dispute resolution procedures of Article 22.
- 23.4.** If the parties are unable to resolve the dispute and Licensee fails to discontinue or correct a default in a timely manner or fails to give the required confirmation, City may immediately terminate this Agreement or any Permit(s) granted under it. In the event of termination of this Agreement or any of Licensee's rights, privileges, or authorizations, City may seek removal of Licensee's Communications Facilities pursuant to the terms of Article 11, from any or all of City's Poles. In such instance, Licensee shall remain liable to City for all fees and charges accrued pursuant to the terms of this Agreement.



ARTICLE 24 – TERM OF AGREEMENT

- 24.1.** This Agreement shall become effective upon its execution and, if not terminated in accordance with other provisions of this Agreement, shall continue in effect for a term of five (5) years and, unless terminated by either party, shall automatically be renewed for two additional five-(5) year terms. Either party may terminate this Agreement at the end of the initial term or a successor term by giving written notice of intent to terminate the Agreement at the end of the then-current term. Such a notice must be given at least ninety (90) calendar days prior to the end of the then-current term.
- 24.2.** Even after the termination of this Agreement, Licensee's indemnity obligations shall continue with respect to any claims or demands related to Licensee's Communications Facilities, as provided for in Article 16.

ARTICLE 25 – AMENDING AGREEMENT

This Agreement shall not be amended, changed, or altered except in writing and with approval by authorized representatives of both parties.

ARTICLE 26 – NOTICES

- 26.1.** Wherever in this Agreement notice is required to be given by either party to the other, such notice shall be in writing and shall be in effect when personally delivered to, or when mailed by certified mail with return receipt requested, with postage prepaid, and except where specifically provided for elsewhere, properly addressed as follows:

If to City, at: Hurricane City - Attorney
147 North 870 West
Hurricane, UT 84737

If to Licensee, at: _____

- 26.2.** The above, notwithstanding, the parties may agree to utilize electronic communications, such as email, for notifications related to the Permit's application, approval process, necessary transfer and/or pole modifications.



- 26.3.** Licensee shall maintain a staffed, 24-hour emergency, telephone number, not available to the general public, where City can contact Licensee to report damage to Licensee's facilities or other situations requiring immediate communications between the parties. Such contact person shall be qualified and able to respond to City's concerns and requests. Failure to maintain an emergency contact shall subject Licensee to a penalty of \$100 per incident, and shall eliminate City's liability to Licensee for any actions that City deems reasonably necessary given the specific circumstances.

ARTICLE 27 – ENTIRE AGREEMENT

This Agreement and its appendices constitute the entire agreement between the parties concerning attachments of Licensee's Communications Facilities on City's Poles or within the geographical service area covered by this Agreement. Unless otherwise expressly stated in this Agreement, all previous agreements, whether written or oral, between City and Licensee are superseded and of no further effect.

ARTICLE 28 – SEVERABILITY

If any provision or portion thereof of this Agreement is, or becomes, invalid under any applicable statute or rule of law, and such invalidity does not materially alter the essence of this Agreement to either party, such provision shall not render unenforceable this entire Agreement. Rather, the parties intend that the remaining provisions shall be administered as if the Agreement did not include the invalid provision.

ARTICLE 29 – GOVERNING LAW

All matters relating to this Agreement shall be governed by the laws (without reference to choice of law) of the state of Utah.

ARTICLE 30 – INCORPORATION OF RECITALS AND APPENDICIES

The recitals stated above and all appendices to this Agreement are incorporated into and constitute part of this Agreement.



ARTICLE 31 – PERFORMANCE BOND

On execution of this Agreement, Licensee shall provide to City a performance bond or letter of credit in an amount of ____ (\$____). The bond shall be with an entity and in a form acceptable to the City. The purpose of the bond is to ensure Licensee’s performance of all of its obligations under this Agreement and for the payment by Licensee of any claims, liens, taxes, liquidated damages, penalties, and fees due to City that arise by reason of the construction, operation, maintenance, or removal of Licensee’s Communications Facilities on or about City’s Poles.

ARTICLE 32 – FORCE MAJEURE

- 32.1.** If either City or Licensee is prevented or delayed from fulfilling any term or provision of this Agreement by reason of fire, flood, earthquake, or like acts of nature, wars, revolution, civil commotion, explosion, acts of terrorism, embargo, acts of the government in its sovereign capacity, material changes of laws or regulations, labor difficulties, including without limitation, strikes, slowdowns, picketing or boycotts, unavailability of equipment of vendor, or any other such cause not attributable to the negligence or fault of the party delayed in performing the acts required by the Agreement, then performance of such acts shall be excused for the period of the unavoidable delay, and the affected party shall endeavor to remove or overcome such inability as soon as reasonably possible.
- 32.2.** City shall not impose any charges on Licensee stemming solely from Licensee’s inability to perform required acts during a period of unavoidable delay as described in Paragraph 32.1, provided that Licensee present City with a written description of such force majeure within a reasonable time after occurrence of the event or cause relied on, and further provided that this provision shall not operate to excuse Licensee from the timely payment of any fees or charges due City under the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate on the day and year first written above.

(CITY)

(LICENSEE)

BY: _____

BY: _____

Title: _____

Title: _____



DRAFT



HURRICANE CITY

STATE OF UTAH

:ss

County of _____

I, the undersigned, a Notary Public in and for the state of Utah, hereby certify that on the _____ day of _____, 20____, personally appeared before me [NAME] _____, [TITLE] _____ to me known to be the individual described in and who executed the foregoing instrument and acknowledged that they signed and sealed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal the day and year above written.

Notary Public in and for the State of Utah, residing at
UTAH



LICENSEE

STATE OF UTAH

:SS

County of _____

I, the undersigned, a Notary Public in and for the state of Utah, hereby certify that on the ____ day of _____, 20____, personally appeared before me [NAME] _____, [TITLE] _____ to me known to be the individual described in and who executed the foregoing instrument and acknowledged that they signed and sealed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal the day and year above written.

Notary Public in and for the State of Utah, residing at
UTAH



Appendix A – Fees and Charges

Pole Attachment Fees and Penalties

1. PAYMENTS

- a. All payments specified in this document will be made to Hurricane City.
- b. Unless otherwise stated in writing, licensee shall pay all applicable invoices within thirty (30) calendar days after the invoice has been issued.
- c. Nonpayment of any amount after thirty (30) days shall constitute a material default of the agreement.

2. REFUNDS

- a. No fees or charges shall be refunded on account of any surrender of a permit granted. Nor shall any refund be owed if a pole is not used or abandoned by the City.

3. ANNUAL FEES

- a. Pole Attachment Fee (per pole).....\$20.00
- b. Over Head Wire Storage on Pole Fee.....\$50.00

4. NON-RECURRING FEES

- a. Permit Application Fee (1-20 poles).....\$225.00
 - i. In the event over 20 poles are required a new application shall be submitted.
- b. Riser Fee.....\$50.00
- c. Make Ready Work Charges.....See Article 3 of Agreement
- d. Miscellaneous Charges.....See Article 3 of Agreement
- e. Inspection Fees.....Included with Pole Attachment Permit Application

5. PENALTY FOR FAILURE TO TRANSFER, ABANDON, or REMOVE FACILITIES

- a. If the licensee is required to transfer, abandon or remove facilities. The licensee shall be charged 1/5 the annual attachment fee per day, per pole, for the first thirty (30) days. After the initial thirty (30) days the fee shall be increased to equal the annual attachment fee per day per pole.

6. UNAUTHORIZED ATTACHEMENTS

- a. If any unauthorized attachments are discovered the owner of the communication cable shall be charged 5 times the annual attachment fee per occurrence.



Appendix B – Pole Attachment Permit Application Process

The following procedure is to be followed by each Licensee seeking to make new attachments (wireline or small cell) on Hurricane City Power's (HCP) Poles, or when overlash to existing pole tenant facilities on HCP's Poles. Note that no entity may make any Attachments to HCP's Poles or overlash to existing pole tenant facilities supported on HCP's Poles without having first entered into a binding Pole Attachment Licensing Agreement with HCP. Third parties seeking to overlash existing pole tenant facilities must also have a written overlash agreement with the pole tenant to be overlash. The overlash agreement must be provided to HCP at the time of application.

1. Licensee shall submit a written request to perform a Pre-Construction Inspection. The request must include a preliminary route description. Licensee shall have an approved professional engineer or HCP approved employee or contractor, participate in a Pre-Construction Inspection, which will include a review of the proposed Attachment(s) to determine the feasibility of the request and identify any potential Make-Ready Work. Appendix E to this Agreement contains the minimum design review information that an applicant must provide. Including a worksheet for determining the minimum specifications that the proposed attachments must meet.
2. Following the Pre-Construction Inspection, Licensee shall submit a completed Application for Permit that includes: route map, information required in Appendix E, installation plans, recommendations on Make-Ready Work, and a pole-loading and clearance analysis (if required) stamped by an approved professional engineer, registered in the State of Utah and has at least 3 years of experience in electrical City system design. Licensee shall prepare the Permit Application in adherence with the Applicable Standards, pay applicable fees and submit application to HCP.
3. HCP will review the recommendations from the inspection and the pole-loading and clearance analysis, and discuss any issues with the Licensee.
4. Upon receipt of written authorization, including payment for the Make-Ready Work charges as set out by HCP and agreed to by the Licensee, HCP will proceed with Make-Ready Work according to the specific agreed-upon installation plans and the terms of the Agreement.
5. Upon completion of the Make-Ready Work, HCP will sign and return the Application for Permit authorizing the Licensee to make its Attachment(s) in accordance with agreed-upon installation plans.

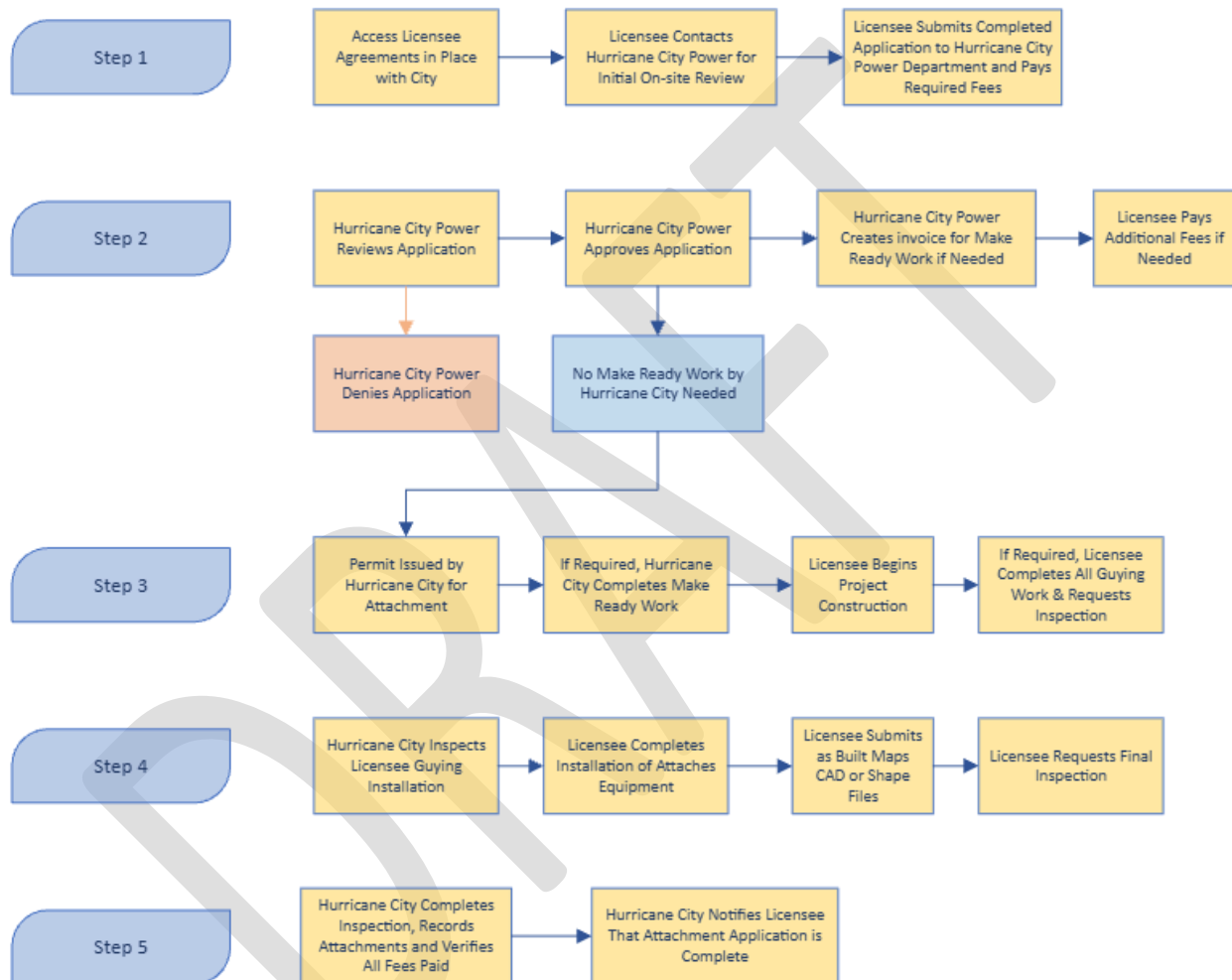


6. Unless waived in writing by HCP, the Licensee's professional engineer, HCP approved employee, or contractor shall submit written certification that he/she has completed the Post-Construction Inspection and that the installation was done in accordance with the provisions of the Permit. The Post-Construction Inspection shall be submitted within ninety (90) calendar days after installation is complete. City will verify the inspection by means that it deems to be reasonable.

DRAFT



TYPICAL POLE ATTACHMENT APPLICATION PROCESS





Appendix C – Application for Pole Attachment Permit

Application Date: ____ / ____ / ____

To:

Hurricane City Power
526 W 600 N
Hurricane, UT 84737

Fee: \$_____

Desire to: ☐ Attach to City Pole(s)

☐ Remove Attachment from City Pole(s) Fee required. No fee required.

☐ Overlash to existing facility attached to HCP pole(s)

Fee required

Permit No. _____

Superseded Permit No. _____

Number of Poles on this permit _____

Licensee Name _____

Address _____

Contract Person: Name _____ Phone _____

Title _____ Email _____

New Attachment Pole Count _____

Overlash Pole Count _____

Adding Y / N

Replacing Y / N

Removing Y / N

Removal Pole Count _____

Guying required Y / N



General Description of Proposed Installation(s)/Removal(s)

In accordance with the terms and conditions of the Pole Attachment Licensing Agreement dated _____, application is hereby made for a Permit to attach to and/or vacate Pole(s) in the locations detailed on the attached Route Map(s). Also, attached is detailed documentation and drawings as required by Appendix E of the Agreement. If applicable, the engineer's name, state, registration number, and phone number are:

Name _____

Phone _____



Permission is hereby granted to Licensee to attach and/or vacate pole(s) listed on the attached Field Date Summary Sheets, subject to payment of the necessary Make-Ready Work charges as set out by HCP and agreed to the Licensee

SUBMITTED:

Licensee _____

By _____

Title _____

Date _____

Total fees: \$ _____

Paid: ☐ Yes ☐ No

APPROVED:

Hurricane City Power Department

By _____

Title _____

Date _____

Date _____



Appendix D – Specifications for Licensee’s Attachments to City Poles

SECTION 1 – COMMUNICATION POLE ATTACHMENTS

I. GENERAL PREFACE

Hurricane City has adopted these Standards and Specifications to establish minimum requirements for the design, installation, operation, and maintenance of communication facilities attached to City-owned joint utility poles. All Attachments shall be made in accordance with the Applicable Standards, as defined in paragraph 1.2 of this agreement. These standards are required to be used by all persons engaged in the design, installation, maintenance, or operation of overhead communications systems within Hurricane City limits. These standards establish minimum requirements. Compliance with these standards does not relieve the permit holder from complying with applicable federal, state, or local laws, codes, or regulations. Where these Standards conflict with applicable federal, state, or local laws, codes, or regulations, the more restrictive requirement shall govern.

If a Contractor needs to have Hurricane City Power, which may be referred to as HCP throughout this document, provide access to electrical facilities, they are required to set up an appointment to have HCP meet them at the job site.

All costs for overhead communications systems are the responsibility of the service provider unless otherwise stated in these Standards and Specifications.

In consultation with the Hurricane City Power Board, HCP may make minor adjustments to these standards at any time to address unique or unusual circumstances or to align with updated industry standards. Within 30 days of making such adjustments to these standards, HCP shall submit a report to the Hurricane City Council detailing all changes to these standards.

SECTION 2 – ACQUIRING NEW ATTACHMENTS

I. FRANCHISE AGREEMENT

- A. All communication providers shall have a current, valid franchise agreement with Hurricane City and a current, valid pole attachment agreement with HCP prior to any attachment to a City-owned joint utility pole.



II. APPLICATION

- A. An application for new pole attachments must be submitted to HCP and approved before any new attachments are made. A permit review fee for each application to attach to 1-20 poles under a pole attachment agreement must be paid before the application is reviewed.

III. TRANSMISSION POLES

- A. New or modified attachments to transmission poles are prohibited, with the only exception being that existing copper cables on transmission poles may be replaced with smaller, lighter fiber cables. Existing attachments on transmission poles may remain, subject to the requirements of any applicable pole attachment agreements and these standards. New attachments are only permitted on distribution poles.

IV. EXISTING ATTACHMENTS

- A. All existing pole attachments by the applicant must be brought up to the standards in this document before any new applications are approved.

V. ENGINEERING REQUIREMENTS

- A. HCP may require engineering design for new attachments. When HCP determines that engineering is necessary, HCP will approve the engineering company, and all expenses will be paid by the applicant.

VI. POLE UPGRADES

- A. If a joint utility pole is required to be upgraded to facilitate a requested pole attachment, the applicant shall bear all costs associated with replacing or upgrading the joint utility pole.

SECTION 3 – COMMUNICATION RISERS

I. CONSTRUCTION

- A. All risers shall transition from Schedule 40 PVC below grade to aluminum conduit above grade with an appropriate transition coupling.
- B. PVC or fiberglass conduit shall not be attached directly to a joint utility pole.



II. MOUNTING

- A. All risers shall be clamped to a stand-off bracket. If a stand-off bracket has not been installed on a joint utility pole the communication provider shall install a 12" Aluma-Form bracket or approved equivalent at the provider's expense.
- B. A bracket shall be installed within 6 inches of the top of the conduit.
- C. No bracket shall be installed lower than 7 feet above grade.
- D. Brackets shall not be more than 10 feet apart and shall be evenly spaced.
- E. The entire length of the communication riser shall be parallel to the joint utility pole.
- F. No more than three communication risers shall be installed on any joint utility pole unless specifically approved in writing by HCP.
- G. All communication risers shall be separated by at least 2 inches.
- H. Stand-off brackets shall be installed perpendicular to the roadway. This is to ensure that a climbing space is maintained along the length of the joint utility pole.
- I. Communication riser shall attach to the inside channel of the Aluma-Form.
- J. Ground wires may be attached directly to Pole.

SECTION 4 – CABLE ATTACHMENT METHODS

I. MESSENGER STRAND ATTACHMENT

Where required, a messenger cable shall be installed to prevent excessive sagging and reduce the stress on the communication cable.

- A. Wood/Metal Pole
 - 1. Messenger strands shall be installed using a through-bolt and an approved messenger suspension clamp.
 - 2. All drilled holes shall be on roadside of the pole.
 - 3. All drilled holes for communication attachments shall be separated by 18 inches vertically.

II. CABLE LASHING

- A. Communication cables shall be lashed to the messenger cable by using appropriate lashing equipment. Lashing wire shall be terminated and secured at the pole using a lashing clamp to ensure the wire remains tight and to prevent the communication cable from loosening during normal service conditions.



III. CABLE SAG

- A. Communication cables shall be tensioned so that there is a uniform sag between all the communication cables. The provider shall determine the proper cable tension based on span length, loading, conductor type, and applicable manufacturer recommendations.
- B. No cable shall be allowed to sag such that the lowest point is less than 15.5 feet in a roadway or 9.5 feet in a pedestrian walkway.

IV. SERVICE LOOP

- A. Communication service loops are prohibited on all joint utility poles.

V. GROUNDING

- A. All communication cables shall use the #6 bare copper grounding wire on the joint utility pole as stated in NESC Rules 92C and 97G. If a grounding wire is not present on a pole, the communication provider shall immediately notify HCP. Upon approval, the communication provider shall install a ground rod and attach a #6 bare copper wire to the ground rod.

VI. INSPECTION

- A. HCP shall be notified when a new cable has been installed to schedule an inspection to verify the cable meets the standards in this document. Any required corrections shall be made before the cable is placed in service.

SECTION 5 – DOWN GUYS AND ANCHORS

I. INSTALLATION

- A. Licensee shall be responsible for procuring and installing all anchors and guy wires to support the additional stress placed on the City's Poles by Licensee's Attachments. Anchors must be guyed adequately.
- B. Anchors and guy wires must be installed on each City Pole where an angle or a dead-end occurs. Licensee shall make guy attachments to Poles at or below its cable Attachment. No proposed anchor can be within four (4) feet of an existing anchor without written consent of City.
- C. Licensee may not attach guy wires to the anchors of City or third-party user without the anchor owner's specific prior written consent.



- D. No attachment may be installed on a City Pole until all required guys and anchors are installed. No Attachment may be modified, added to, or relocated in such a way as will materially increase the stress or loading on City Poles until all required guys and anchors are installed.

II. GROUNDING

- A. Licensee's down guys, if needed, shall be bonded, to the vertical ground wires of City's Pole, in accordance to NESC rule 92C. If there is no vertical ground present at the pole, the connections to the system neutral are to be made by the City as an item of Make-Ready Work. City will determine if guys should be grounded or insulated.

SECTION 6 – TAGGING

I. MARKING

- A. Every cable shall have an aerial cable marker installed near the connection point at each joint utility pole. Tags shall be UV-resistant, weather-resistant, and permanently legible. The aerial cable marker shall have the following information clearly identified.
- Name of the communication company that owns the cable.
 - Type of cable (telephone, fiber-optic, etc.)
 - Phone number for emergency response personnel.
 - Date of installation.
 - Tags shall be installed such that the name of the company can be clearly read from the ground.
- B. Existing cables shall have a label installed within one (1) year of the signing date of the new pole attachment agreement.
- C. All Licensee's Pedestals, Vaults and other Enclosures shall be tagged with the Licensee's name and contact information.

II. ATTACHMENT

- A. All tags shall fully wrap around the cable to avoid falling off due to high wind speeds.



SECTION 7 – CLEARANCES

I. DEFINITIONS

- A. **SUPPLY SPACE:** The uppermost section of a utility pole that is reserved for all conductors, transformers, etc. that are responsible for the distribution and transmission of electric energy. Only authorized and qualified contractors are permitted in this space due to high-voltage hazards.
- B. **COMMUNICATION WORKER SAFETY ZONE:** The space between the supply space and communication space. This shall not be less than 48 inches and is measured from the lowest equipment in the supply space to the highest communication cable. This space is to act as a safety buffer from the high voltage hazards of the supply space.
- C. **COMMUNICATION SPACE:** The lowest space on a utility pole that is reserved for communication cables. This space is from the bottom of the communication worker safety zone and the minimum ground clearance. See road clearance or pedestrian clearance sections for additional information.

II. COMMUNICATION CABLE SEPARATION

- A. All communication cables shall be separated by no less than 18 inches.

III. STREET LIGHT CLEARANCE

- A. All communication cables shall be separated by no less than 18 inches from any streetlight drip loops. This requirement does not supersede the 48-inch minimum communication worker safety zone.

IV. SERVICE DROP CLEARANCE

- A. No communication cables shall be attached to a service mast per NEC 230.28.
- B. The 48-inch communication worker safety zone shall be maintained at the joint utility pole. The communication service drop shall maintain a 18-inch minimum separation from the supply service drop to the structure.

V. CABLE SAG AND MID-SPAN CLEARANCE

- A. At mid span all communication cables shall maintain the 18-inch minimum separation from other communication cables.



- B. At mid span communication to line conductors shall follow NESC table 235-6.
 - 12" from neutral by exception #16
 - 30" from supply lines with circuit phase-to-phase voltage from 0 to 8.7kV
 - 30" plus 0.4" per kV in excess of 8.7kV.

VI. ROAD CLEARANCE

- A. For all insulated communication conductors, messengers, overhead surge protection wires, guys, and neutral conductors that span over a road, street, or any other area that is subject to truck traffic, the minimum ground clearance shall not be less than 15.5 feet.

VII. PEDESTRIAN CLEARANCE

- A. For all insulated communication conductors, messengers, overhead surge protection wires, guys, and neutral conductors that span over spaces or ways subject to pedestrian traffic, a minimum ground clearance shall not be less than 9.5 feet.

VIII. CLIMBING SPACE

- A. All attachments shall be installed in a manner that preserves climbing space in accordance with NESC rule 236.

IX. PEDESTALS AND ENCLOSURES

- A. Every effort should be made to install Pedestals, Vaults and/or Enclosures at a minimum of five (5) feet from Poles and two and one half (2.5) feet from City Facilities, or the distance specified by the City, whichever is greater.

SECTION 8 – MAINTENANCE

I. SCOPE

- A. This section describes the required maintenance of all communication cables on joint utility poles. If HCP determines that these standards have not been met, HCP will contact the cable provider. The provider will have ninety (90) days from the notification date to correct the discrepancies. If corrective action has not been completed within ninety (90) calendar days, HCP may remove the noncompliant facilities at the owner's expense.



II. AVAILABILITY

- A. As part of signing a pole attachment agreement, every provider shall provide and maintain a local contact for HCP. This contact information shall be updated whenever changes occur.
- B. The local contact will be required to attend the regularly scheduled meetings of the City's Joint Utility Committee (JUC).

III. EMERGENCY RESPONSE

- A. In the event of an emergency, HCP will coordinate with the local contact provided. The provider's designated contact shall respond to the incident within one (1) hour and coordinate all necessary repairs.

IV. REMOVAL OF ABANDONED INFRASTRUCTURE

- A. When an aerial cable has been abandoned, that cable shall be removed completely from the joint utility pole within ninety (90) days of abandonment. Existing abandoned cables shall not be reused to support new communication cables.

V. NONCOMPLIANCE WITH STANDARDS

- A. If HCP determines that a provider has failed to comply with these Standards after written notice and expiration of the correction period, HCP may remove the noncompliant facilities at the owner's expense.



Appendix E –

Distribution Line Minimum Design Review Information and Worksheet

The following guidelines are provided, and corresponding information must be submitted with each Permit application for Pole Attachments on City's system. City may direct that certain Attachments do not require the submission of Design Review Information.

Each Permit application must include a report from a licensed professional engineer registered to practice in the state of Utah and have at least 3 years of experience in electric City system design, or a City-approved employee or contractor of Licensee. This report must clearly identify the proposed construction and must verify that the Attachments proposed will maintain City's compliance with NESC Class B construction for the loading district as outlined in the NESC Section 25.

The applicant shall provide the following information to be submitted at the time of the Permit application. The applicant shall have performed all required calculations. Applicant shall keep copies of the engineering data available for a period of twenty (20) years.

In determining compliance, the following minimum conditions shall be used in the calculations for pole strength:

1. All single-phase lines shall be assumed to have been reconducted to 1/0 ACSR conductor for both phase and neutral. If a larger conductor size exists, the larger size shall be used in the calculations.
2. All three-phase lines shall be assumed to have been to 477 ACSR Pelican conductors for three (3) phases and neutral. If existing conductors are larger than 477 ACSR, the larger size shall be used in the calculations.
3. All pole lines shall assume a secondary/service conductor, installed from pole to pole, of #4/0 AWG triplex cable, with ACSR messenger.
4. For pole strength calculations, all poles shall be as they actually exist, or be considered Class 4 for calculation. If pole date is not available.
5. All line angles or dead ends shall be guyed and anchored. Transverse pole strength shall not be assigned to attaching pole users for line angles, i.e., pole should be viewed as being void of other cables, conductors, wires, or guys and considering only the applicant's wires/cables for guying calculations.
6. Points of attachment shall be as they actually exist on the poles.



7. For a City-approved joint use of anchors, the Licensee shall utilize guy insulators in its guys.
8. Licensee shall comply with any NESC and/or City safety factors, whichever are more conservative, in their designs. The engineer for the Permit applicant shall provide for each application the following confirmations:
 - 8.1. That design is in accordance with pole strength requirements of the NESC, taking into account the effects of Utilities Facilities and other attaching entities' facilities that exist on the poles, without regard to the condition of the existing facilities.
9. Sidewalk guys are not allowed unless pre-approved by the City.
10. Other Site/Project specific requirements.

DRAFT



Required permits that have been obtained (insert n/a if not applicable)

- _____ (Y/N) Highway – State, County, City
- _____ (Y/N) Encroachment Permit Needed
- _____ (Y/N) Local zoning boards, towns boards, etc
- _____ (Y/N) Joint-use permits, if required
- _____ (Y/N) Notified other pole users of contracts or crossings

Confirm that you have:

- _____ (Y/N) Obtained appropriate franchise(s)
- _____ (Y/N) Obtained pole/anchor easements from landowners
- _____ (Y/N) Obtained crossing and overhang permits
- _____ (Y/N) Obtained permit to survey R/W
- _____ (Y/N) Completed Utah Department of Transportation (UDOT) requirements, if applicable
- _____ (Y/N) Placed permit number on plans
- _____ (Y/N) Complied with City's Underground Construction Standard requirements
- _____ (Y/N) Included sag/tension data on proposed cable

Calculations are based upon the latest edition of the NESC and the latest editions of the requirements of the State of Utah.

It is the Licensee's responsibility to obtain all necessary permits and provide the City with a copy of each.

The engineer for the Permit applicant shall provide for each Pole(s) the following information. Additional information may be required for complete analysis. (Note: other formats containing the same information is allowable.)



Project ID

Pole Number _____

Pole Class _____ [Existing-i.e., 4,3,2...]

Pole Size _____ [Existing-i.e., 35, 40...]

Pole Type _____ [Southern Yellow Pine, Douglas Fir...]

Pole Ahead Span _____ [Feet]

Pole Ahead Span Direction _____ [Degrees from Magnetic North]

Pole Back Span _____ [Feet]

Pole Back Span Direction _____ [Degrees from Magnetic North]

Calculated Bending

Moment at Ground Level _____ [ft-lbs]

Existing: Pole Configuration Information

Power phase conductor _____ quantity of _____

AWG/MCM _____ ACSR @ _____ feet above ground line

Power neutral condition _____ quantity of _____

AWG/MCM _____ ACSR @ _____ feet above ground line

Power secondary condition _____ quantity of _____

AWG/MCM _____ ACSR @ _____ feet above ground line

Power Service #1 _____ qty of _____ size @ _____ ft above ground line

Power Service #2 _____ qty of _____ size @ _____ ft above ground line

Power Service #3 _____ qty of _____ size @ _____ ft above ground line

Communication Cables _____ qty of _____ dia @ _____ ft above ground line

Communication Service #1 _____ qty of _____ dia @ _____ ft above ground line

Communication Service #2 _____ qty of _____ dia @ _____ ft above ground line



CATV Cables _____ qty of _____ dia @ _____ ft above ground line

CATV Service #1 _____ qty of _____ dia @ _____ ft above ground line

CATV Service #2 _____ qty of _____ dia @ _____ ft above ground line

User #3 cables _____ qty of _____ dia @ _____ ft above ground line

Equipment #1 type _____ qty of _____ size @ _____ ft above ground line

Equipment #2 type _____ qty of _____ size @ _____ ft above ground line

Equipment #3 type _____ qty of _____ size @ _____ ft above ground line

Proposed: Pole Configuration Information

Proposed cables _____ qty of _____ dia @ _____ ft above ground line

Proposed cables _____ qty of _____ dia @ _____ ft above ground line

Equipment #1 type _____ qty of _____ size @ _____ ft above ground line

Equipment #2 type _____ qty of _____ size @ _____ ft above ground line

The minimum vertical clearance under all loading conditions measured from the proposed cable to ground level on each conductor span shall be stated above.

Variations in topography resulting in ground elevation changes shall be considered when stating the minimum vertical clearance within a given span.

Calculated pole bending moment at ground level: _____ [ft-lbs]

Pole breaking bending moment at ground level: _____ [ft-lbs]

Calculated transverse safety factor: _____ [ratio should be greater than 1.00]



Proposed loading data [provide similar data for each cable proposed]

A. Weight data (cable and messenger)

1. Vertical weight, bare = _____ [# /ft]

B. Tension data (final tensions on messenger)

1. NESC maximum load for area of construction: _____ [lbs]

2. 60°F, NO wind: _____ [lbs]

Permit applicant's engineer shall provide for each transverse guy, or dead end to which guys and/or anchors are attached, the following information:

Pole number _____

Calculated cable messenger tension under NESC maximum loading condition _____ [lbs]

If connection is:

A dead end, is it a single or double? _____ [S, D]

A change in tension, what is change? _____ [lbs]

A line angle, what is angle change? _____ [degrees]

What is the tension change at angle? _____ [lbs]

For each dead end:

Point of Attachment for guy hook _____ [feet above ground level]

Anchor distance from pole _____ [feet]

Calculated guy tension _____ [lbs]

Rated guy working strength _____ [lbs]

For each change in tension:

Point of attachment for guy hook _____ [feet above ground level]

Anchor distance from pole _____ [feet]

Calculated guy tension _____ [lbs]

Rated guy working strength _____ [lbs]



For each line angle:

Point of attachment for guy hook _____ [feet above ground level]

Anchor distance from pole _____ [feet]

Calculated guy tension _____ [lbs]

Rated guy working tension _____ [lbs]

For each anchor:

Anchor distance to nearest anchor _____ [feet]

Calculated anchor tension _____ [lbs]

Rated anchor strength _____ [lbs]

Soil composition _____ [sandy, loam, clay, rock]



Appendix F – Field Drawing and Data Summary Sheet Instructions

Item	Instructions
City Pole Number/Object ID#	If a Pole stencil is not in place, it may be left for the City if the accompanying sketch is adequate to Determine the Location.
Communication Companies Plan Sheet Pole Number	This must correspond with the plan sheet or Pole Sketch Pole identification number.
Pole Height and Class	List the present Pole height and class, and list the proposed Pole height and class if it is necessary for the City to replace the Pole for clearance, etc.
Attachment Height	Communications Company attachment height above ground level. List guy lead in feet.
Inches Below City	The number of inches Communications Company is to be attached below City while maintaining clearance as required.
Span Length	List the back span length for each attachment.
Inches Sag	List the messenger sag for the design listed on the cover sheet at 60°F.
Ground Clearance	List the ground clearance at the low point of the back span. Must not be less than the National Electrical Safety Code (latest edition).
Tagging	1) All main lines, service drops, and enclosures are tagged with company identification as indicated in Appendix D. 2) Tag shall be affixed to all main line cables within 1 foot of each pole with identification facing the road.



Appendix G – Annual Reporting Form for Attachments

Due by February 1st each year.

Licensee Name:

Contact Name:

Contact Phone Number:

Contact Email:

Beginning date for report: _____ Ending dates for report: _____

Number of HCP Poles attached to _____

Submit updated map? (provide GIS file if available) Y / N

If no, when will maps be made available?

Answer: _____ (Date available)

Tagging system complete? Y / N

If no, when will tagging be completed?

Answer: _____ (Date to be completed)

Number of new Risers installed: _____.

(On a separate sheet, list addresses.)

Number of non-functional attachments: _____.

(On a separate sheet, list scheduled removal dates.)

Number of equipment removed from poles: _____.

(On a separate sheet, list date(s) removed and addresses.)

Number of new O.H. Storage installed: _____.

(On a separate sheet, list date(s) installed and addresses.)

Number of O.H. Storage removed or transferred to UG Box: _____.

(On a separate sheet, list date(s) and addresses.)

Number of new attachment applications/licenses completed: _____.