

Responses to Rye Information Requests to Crown Castle
from its Outside Counsel, Best, Best & Krieger

September 14, 2016

1. The City is interested in having as many of the facilities located on City property as are needed to provide coverage, either in the rights of way or in other public places as provided under the RUA. We are seeking information regarding costs because the contract prioritizes city facilities absent a cost-based showing. You do not need to provide this cost information right away if you'd prefer to explore the alternatives with us first. Please indicate:

Crown's Right of Way Use Agreement, dated February 17, 2011 ("RUA") by its terms provides for installations of Equipment in City owned Public Ways as defined in the RUA. The agreement with various exhibits generally incorporates three wireless pole attachment scenarios:

- On City Of Rye owned light poles or other structures in the right of way (See RUA ¶1.9, 3.1)
- On third party utility poles or other structures in the right of way (e.g. Con Ed poles) (See RUA ¶3.2)
- On new telephone distribution poles installed by Crown in the right of way (See RUA ¶3.2)

The premise of this question seems to suggest that Crown's RUA extends beyond Public Ways to other City owned real properties. That would be a novel interpretation of the document based on Crown's own experiences and interpretations of it and in particular the definition of "Public Way" as set forth in Paragraph ¶1.12 of the RUA. With respect to the remainder of this question, we presume this is a reference to Paragraph 3.3 of the RUA which incorporates a preference for municipal structures in public ways where Crown "has a choice of attaching equipment to either Municipal Facilities or third party-owned property in the Pubic Way" and such Municipal Facilities are "equally suitable functionally for the operation of the Network" and "the rental fee and costs are "equal to or less" than a third party alternative. This municipal preference is an economic revenue preference for the City based on the compensation structure of the RUA. (See RUA ¶ 4 which includes additional per node fees for attachments to Municipal Facilities).

At this point in time, the node locations have been technically designed to meet specific service objectives and also surveyed and analyzed for pole access in accordance with Con Ed's requirements. Any change in one node location could impact others. The type of alternatives review this question presupposes, even for other structures in the City Public Way, is simply not contemplated by the RUA at this point in the design process. See RUA ¶ 5.1 (granting the City a 30 day comment period on Equipment locations listed for installations).

- a. What City facilities and locations you have already looked at (including traffic signals).

Crown has extensively analyzed structures in the City's Public Ways in the geographic locations or polygons where node installations are proposed. Physical field inspections and aerial/street view data from Google Earth were the primary sources for Crown's review. Notably, the City of Rye's mapping tool at www.municipality5.com does not include a data layer for municipal owned structures in the public rights of way.

Based on Crown's review of the areas where node installations are proposed, City owned structures in the right of way are simply not prevalent, if existing at all. Of note, one municipal street light location was identified and is proposed (Crown Node #27) which is Westchester County owned and at the intersection of Playland Parkway and Milton Road.

b. How we can best identify what places facilities can be located.

Crown has provided the City with a map of the node locations and a corresponding spread sheet which includes latitude and longitude coordinates, nearby property street addresses and other data for each of the nodes proposed. These locations are the result of Crown, Verizon Wireless and Consolidated Edison analyses that incorporate numerous factors including technical and operational requirements and wireless pole attachment standards among other considerations. Crown's location and design process has been discussed in detail with the City dating back to the Fall of 2015.

At this point in time, this is more properly a question for the City to internally discuss. At a minimum, the City would need to provide a list or map identifying such Municipal Facilities and further details regarding same as provided for in paragraph 5.2 of the RUA. As more fully set forth below, Crown has no specific legal obligation at this point in time to engage in such alternatives discussion given the passage of thirty days and no objection to the list of locations presented to the City by Crown (See RUA ¶ 5.1). As such, if Municipal Facilities were presented to Crown, Crown would take that under advisement as part of its requests for any required permits for the Equipment it has currently proposed.

c. What amount you will be paying for recurring rental costs for use of existing utility poles, and what non-recurring costs (make-ready) you will incur for use of the utility poles.

Crown provided a copy of its Consolidated Edison ("Con Ed") wireless pole attachment agreement to the City with the revenue component redacted on July 29, 2016. Additional costs for make ready work is typically charged by the utilities based on the specific work that may be required at a specific node location. Not all node locations will require make ready work.

This economic information associated with Crown's capex and opex expenditures for its installations on utility poles is not germane to the City's review at this point

in time. It would only be implicated under the RUA legally if the City presented Crown with facts that Crown has a choice of installation on an existing Municipal Facility in the Public Way and such Municipal Facility were equally suitable and Crown rejected same for whatever reason. Only then would such information be potentially relevant.

As such, Crown takes this request for information under advisement until such time as the City may present Crown with any Municipal Facility in the Public Way it believes to be an alternative for purposes of paragraph 3.3 of the RUA and further evaluation by Crown.

- d. What amount you will be paying, recurring and non-recurring for placement of the proposed new poles.

New pole sets would be Crown owned structures unless incorporated into the Consolidated Edison distribution network. The new telephone poles in this instance would remain Crown owned. Please refer to our answer to 1.c above regarding this economic information, the request for which Crown has taken under advisement until such time as the City may present Crown with any existing Municipal Facility in the Public Way for further evaluation and as related to these two proposed poles.

- e. Whether the new structures will be dedicated to placement of wireless facilities.

No. The new telephone poles would support power and fiber attachments. In both instances, existing aerial utilities that extend to adjacent structures may be relocated to the new poles. The poles will also be available for other pole attachments in accordance with New York State law. See N.Y. Pub. Serv. Law (“PSL”) § 119-a.

- f. What amount you will be paying for fiber construction on a per mile basis identifying separately per mile aboveground and per mile belowground costs.

Generally not applicable. Verizon Wireless has elected to procure fiber connections to each node location from Verizon of New York, Inc., the latter of which already has a franchise and fiber in the City of Rye. Only in a few instances are new aerial fiber and power connections proposed by Crown – to connect the nodes at the new pole set locations to existing lines across the street. Underground connections are also proposed to one Equipment installation on a County light pole. To the extent the City believes the construction costs for those lines are somehow germane to the pending proceeding before the City Council, Crown takes this request for information under advisement until such time as the City may present Crown with any Municipal Facility in the Public Way it believes to be an alternative to these node locations for purposes of paragraph 3.3 of the RUA and further evaluation by Crown.

- g. What non-City sites were considered as alternatives to the proposed location, if any, and what different technological configurations (higher but fewer structures) were considered, if any.

Crown evaluated existing utility pole and County and/or Rye structures in the various public rights of way in the City. Crown has proposed pole top, light pole and communications zone antenna attachments for 62 of the 64 locations, such antenna installations are all in accordance with the RUA with the City. See RUA ¶¶ 1.3. For the two new pole set locations, “electric/telephone poles” of the same kind and height that Consolidated Edison maintains in the City’s Public Way, are proposed for installation in accordance with the RUA. See RUA ¶ 3.2 Crown has not proposed taller poles in City Public Ways or poles that are different in size or material than those prevalent in Rye.

To the extent, this request for information seeks information on private properties outside of the City’s Public Ways that Crown or other companies have evaluated previously, it is not legally relevant to the proceeding pending before the City. The RUA and its prior interpretations by the City and the express terms of Chapter 167 of the City Code requires no such evaluation of private property alternatives outside of the right of way prior to installation of Crown Equipment in Public Ways in accordance with the RUA. Thus, with respect to the information sought in Section 1.g of the request by the City’s outside counsel, it is far beyond the scope of the City’s original jurisdiction under applicable federal, state and local laws, the RUA and/or Chapter 167 of the City Code. The City, while maintaining jurisdiction to manage use of its rights-of-way, does not have the type of legislative or administrative discretion implicit in this type of request for information. Given that this request for information further implicates the City’s overall jurisdiction related to Crown’s Equipment installations in the public right of way we have included a further legal discussion here.

Crown has previously cited for the City federal laws including Section 253 of the Communications Act as applicable. 47 U.S.C.A. § 253. Section 253(c)’s safe harbor provisions reserve to municipalities management authority over telecommunications uses in municipal rights of way, but not unfettered discretion of the type typically enjoyed by municipalities in its proprietary capacity. See generally FCC National Broadband Plan, Connecting America, § 6.1 (citing 47 U.S.C.A. § 253(c)). Indeed, to the extent that Section 253(c) permits state and/or local regulation to manage use of right-of-ways, such regulations, in order to avoid preemption under Section 253(a), must be applied to all entities on a competitively neutral and non-discriminatory basis and confined to management of, as opposed to approval or denial of the right to install wireless facilities in, a right-of-way. See TCG New York, Inc. v. City of White Plains, 305 F.3d 67 (2d Cir. 2002) (holding that notwithstanding that Section 253(c) of the Communications Act permits a municipality to “manage the public rights-of-way or to require fair and reasonable compensation from telecommunications providers, on a competitively neutral and nondiscriminatory basis...” a

municipality may not utilize a discretionary regulatory scheme to enforce the provisions of Section 253(c)); TC Sys., Inc. v. Town of Colonie, New York, 263 F. Supp. 2d 471, 483 (N.D.N.Y. 2003) (reaffirming that municipalities are prohibited from enacting ordinances that would provide them with the discretion to effectively prohibit telecommunications services within the municipality).

Moreover, in New York, Crown is a recognized telephone corporation with a CPCN issued by the New York State Public Service Commission ("NYS PSC"). Crown and its predecessors in interest have operated in the state as a facilities-based provider of communications services for years. As a New York state authorized telephone corporation, state law recognizes and treats Crown as a public utility company. See PSL § 2(17). Moreover, it is well-settled in New York that a telephone corporation has a right to use and occupy public ROWs for purposes of erecting and maintaining telecommunications infrastructure. See N.Y. Transp. Corps. Law § 27 (providing that telephone corporations "may erect, construct and maintain the necessary fixtures ... over or under any of the public roads, streets and highways" subject to municipal permission). A municipality is without the power, however, to outright deny such corporations' use of the public right-of-way or impose prohibitory zoning requirements. See New York Tel. Co. v. Town of N. Hempstead, 41 N.Y.2d 691, 698, 363 N.E.2d 694, 698 (1977); Long Is. Light. Co. v. Vil. of Old Brookville, 72 N.Y.S.2d 718, 719 (Sup Ct. Nas. Co. 1947) *aff'd sub nom. Long Island Lighting Co. v. Vill. of Old Brookville*, 273 A.D. 856, 77 N.Y.S.2d 143 (2d Dept. 1948), *aff'd sub nom. Long Island Lighting Co. v. Vill. of Old Brookville*, 298 N.Y. 569, 81 N.E.2d 104 (1948).

In this instance, Crown and its predecessors in interest sought municipal permission (referred to as "consent" in Crown's CPCN) from the City of Rye to deploy its Equipment in City rights of way in 2010. The City, by resolution of the City Council granted such consent in 2011, a copy of which resolution is annexed hereto in Exhibit A. The City Council's permission to use the City's rights of way was conditioned on entering into a right of way agreement, the terms and conditions for which were incorporated into the RUA subsequently executed by the City and Crown's predecessor in interest. Notably, federal 253(c) requirements that require municipalities to engage in non-discriminatory treatment were incorporated into the RUA at paragraph 3 where the City acknowledged it could not require zoning or other permits for Crown's Equipment installed in City Public Ways unless the City required such permits and approvals for other users of City's Public Ways.

The City resolution from 2011 is the City's consent for purposes of Crown's NYS PSC CPCN, City Code Section 167-5 and New York state law which otherwise permits Crown to install pole attachments on existing Con Ed poles or new telephone poles in the right of way. The RUA entered into in 2011 incorporates various terms and conditions that govern the parties' relationship whether required by Rye or volunteered by Crown at the time and are akin to the types of franchise agreements required for other uses of public ways such as cable. The

RUA also serves as the City's agreement, in its proprietary capacity, to allow Crown to install Equipment on Municipal structures in the Public Ways.

With respect to City review and approval of specific installations of Crown Equipment in City Public Ways, Paragraph 3 of the RUA reserved to the City prior approval authority subject to the process more fully set forth in paragraph 5 of the RUA. The permit process expressly specified in Paragraph 5.1 contemplates that Crown will submit the list of Equipment locations, as may be proposed from time to time, to the City and that the City will review same within 30 days for any objections it may have related to use of the right of way. Procedurally, should the City fail to comment on such a list, the locations are deemed approved with no further action required by Crown or the City under the RUA. Additionally, only such other City permits as "may" be required for similarly situated users of the City's Public ways including the "ILEC and/or the cable provider(s)" are required.

The RUA clearly incorporates limitations on the City's jurisdiction, both express and implied, that exist in federal and state law. Absent from the City's consent resolution in 2011 or the RUA itself is any reservation of City Council authority to review node locations and placements. Moreover, in Crown's prior experience and confirmed in recent discussions with the City including the results of a FOIL request, the City does not require/enforce a specific form of permit application for equipment installations or work on poles and lines in City rights-of-way by any utility whether done in furtherance of Chapter 167 of the City Code or not. As such, the City Engineer or other City agencies have never previously required permits for any such poles or equipment let alone Crown's existing Equipment installations on Con Ed poles in the City's Public Ways.

The pending proceeding before the City Council has as its genesis a request by Crown to interpret Section 3.2 of the RUA. Specifically, that a larger equipment cabinet, proposed by Crown to more readily permit internal radios and/or future carrier shared use of its neutral host system, "substantially conformed" to the examples of Equipment included in Exhibit A to the RUA. This request dates back to 2015 when Crown communicated with the City that it was planning to install additional Equipment in City Public Ways. Notably, the RUA allows Crown to install Equipment as defined in paragraph 1.2, even Equipment not specifically referenced or depicted in Exhibit A. Thus, in this matter, Crown sought an interpretation given the modest difference in dimension (7" taller, 3" deeper and 8.5" deeper) with a volume difference of about 4 cubic feet attached to the pole).¹

¹ The difference expressed in volume in prior references to an increase of .1 cu ft. are hereby corrected for the record. Crown maintains the larger equipment box size is not substantial in context with the poles themselves and other similarly sized or larger equipment in the right of way such as transformers, signage, light poles and other telecommunications equipment.

In response to Crown's RUA interpretation request, the City Attorney and City Manager stated that City Council review of that interpretation and an amendment to the RUA to include an additional specification for the larger box in Exhibit A would be required by the City. The City Attorney and City Manager also stated that the list of Crown's proposed Equipment installations in City Public Ways would procedurally require City Council review. This despite past practice of the City Engineer in accordance with the RUA in reviewing such locations and the City not requiring any specific permits for such installations. See, e.g., Crown 2014 correspondence to the City Engineer for two modifications of nodes installed in 2011 and one new node site location previously supplied.

Crown objected to the City's suggestion that Sections 3 and 5 of the RUA somehow reserved jurisdiction to the City Council for its review of proposed Equipment installations in City Public Ways as compared with the administrative process set up under the RUA for implementation by the City Engineer as is customary. Nevertheless, without prejudice, Crown filed a request for an RUA Amendment in April of 2016 to incorporate an additional specification for the larger equipment cabinet with the other examples already included in Exhibit A of the RUA. Upon receiving Crown's request, the City elected to also open and hold a public hearing, despite no express requirement for same in the RUA or applicable City Codes.

To date, no specific City objection to the list of specific node locations supplied by Crown to the City has been proffered to Crown for its evaluation and discussion. This despite repeated requests for same through the City Council at public hearings and through City staff. Given the passage of over thirty days since the latest list of Equipment locations were provided to the City and in the absence of a specific comment, the current list of node locations has arguably been approved by default in accordance with Section 5.1 of the RUA. Nevertheless, without prejudice to its legal rights, Crown has continued to engage in discussions with the City Council as part of the RUA Interpretation/Amendment request it filed and the list of node locations and proposed Equipment. Reference is made in this regard to the procedural/timing agreement executed by the parties.

At this point in time, Crown is considering withdrawing its request for an Interpretation/Amendment of the RUA related to the equipment cabinet and an additional specification for a larger size. While the flexibility to install the larger equipment cabinet is something worth pursuing given the City's presumed interest in shared infrastructure as part of Crown's neutral host DAS system, the process and public discussions continue to focus on matters outside the City's jurisdiction and/or irrelevant to the equipment box size. Crown will formally advise the City in writing shortly if that component of its request is withdrawn, and if so, this proceeding, to the extent the City Council has asserted permitting jurisdiction, will be limited to permit review and approval of Crown's proposed Equipment installations in accordance with Paragraphs 3 and 5 of the RUA. Notably, there

are various City approval limitations set forth in paragraph 3.2 of the RUA for the equipment specified in Exhibit A -- specifically, that a City denial of a permit application for any such attachment to a utility pole "shall not be based upon the "size, quantity, shape, color, weight, configuration, or other physical properties of [Crown's] Equipment".

2. Will the wireless telecommunications facility be maintained in a safe manner and in compliance with all conditions of any permit issued, as well as all applicable and permissible local codes, ordinances and regulations, including any and all applicable county, state and federal laws, rules and regulations.

See paragraph 5 of the RUA which already incorporates requirements for Crown's Equipment installed in City Public Ways to comply with applicable federal, state and City Codes. Crown's installations are constructed and maintained in a safe manner in accordance with NYS PSC requirements which are incorporated by law into its pole attachment agreement with Con Ed, copies of which were previously supplied to the City. The City has not previously identified any specific municipal safety standard or other applicable safety code requirement relevant to Crown's Equipment installations in the Public Way. To the extent the City Engineer has such references or concerns, Crown would be pleased to review same with the City Engineer.

3. Will any sidewalks and streets affected by the installation of the facilities be restored to City standards? (For sidewalks, patching is prohibited).

The vast majority of the construction work involves aerial pole attachments with no at grade construction. The three exceptions are in the location of the two new pole sets and one County owned light pole. Photographs of the proposed new pole set locations were previously supplied to the City along with a discussion regarding the lack of suitable existing structures for attachments (See July 8, 2016 information supplied to the City) and clearly shows there are no sidewalks in these areas. The pole sets will be typical utility pole sets outside of the traveled portion, but within the right-of-way. Attached in Exhibit B are drawings for underground utilities to be extended to the one County light pole location with details regarding street and sidewalk work anticipated. To the extent the City Engineer has any specific comments or concerns, Crown would be pleased to review same with him.

4. Will you provide drawings certified by a New York State engineer for each site for review by the City prior to construction?

Yes, if required as a condition of approval issued in furtherance of Section 5 of the RUA, Crown can provide N.Y.S.P.E. stamped drawings to the City Engineer. Please advise what review the City would then contemplate and the timing associated for same prior to construction. Presumably, it's just a stamped set of drawings for City files and can be confirmed as received and approved by the City Engineer within 5 business days to avoid delays to construction.

5. Is Crown Castle willing to provide the following certifications through a New York State licensed engineer now and post construction?

Crown certifies that its Equipment installations in City Public Ways are designed and will be constructed to meet applicable county, state and federal structural requirements for loads, including wind and ice loads and that related facilities are grounded and bonded. Please provide a draft form of certification you seek on the City's behalf for Crown's review with a N.Y.S.P.E. in response to this information request and which could simply be a City Council approval condition.

6. Will the wireless telecommunications facility be installed, maintained and tested in a manner that ensures compliance with FCC regulations governing RF radiation, as the same exist now or may be hereafter amended?

Crown previously provided reports to confirm that all the proposed nodes in the DAS will operate well below FCC standards. The reports are titled *Antenna Site FCC RF Compliance Assessment and Report prepared for Crown Castle for Pole Mounted DAS Operations, Rockland County* and dated January 26, 2016 and as updated August 8, 2016. The reports confirm FCC compliance for the Crown DAS: (1) for people standing at street level below the antenna installations; (2) for antenna technicians or other workers climbing the pole or otherwise close to the antennas; and (3) for people in buildings adjacent to and at the same general height as the antennas to within three to four feet of the antenna itself. There is no specific FCC requirement for routine evaluation of the DAS network as proposed. Should any FCC regulatory protocols change in the future, they would be evaluated and/or implemented by Crown at that time.

7. Have any studies been undertaken to determine whether the locations proposed are adequate to ensure the safety and stability of the proposed facilities once installed? If yes, please identify for which sites the studies have been performed and provide the studies. If not, please identify whether the studies will be performed, when they will be performed, and who would perform them.

Yes. Structural calculations are performed for each location that Crown seeks to place an attachment. The structural calculations are performed in accordance with Section 1603.1.4 of the New York State Building Code (Wind Design Data) and conform to the following code standards and requirements:

NEW YORK STATE BUILDING CODE: 1603.1.4

Proposed Crown equipment and associated utility pole designed and evaluated as follows:

1. To withstand a 3-second wind gust of 110-mph.
2. For a wind importance factor of 1.0.
3. With a wind Exposure C.

4. An internal pressure coefficient was considered and determined to be not applicable (non-building structure).
5. The components of cladding and wind pressures were considered and determined to be not applicable (non-building structure).

In accordance with calculations performed by the industry standard Osmose O-Calc program for analysis of timber or metal pole structural capacities, and field observations on field walks, it was determined that all of the pole attachments are capable of supporting the proposed Crown DAS equipment. A new foundation is required for the one existing County light pole which would be re-installed thereafter along with Crown's Equipment. For paperwork and administrative purposes, these computer program outputs are not being provided to the City, but further information can certainly be incorporated into the certification sought in response to Questions 4 and 5 above and as a condition of City Council approval.

8. What design does Crown Castle propose to use at each location where it seeks to install facilities?

The spreadsheet of locations previously provided to the City in accordance with the RUA includes a column describing the type of Equipment design titled "Pole Type". "Commzone" is used to indicate node locations where the antenna component will be installed in the communications zone on the existing utility pole which is a NYS PSC industry term. "Wood Pole top" is used to indicate node locations where the antenna component will be installed on top of the existing utility pole. "MSL" is an acronym for municipal street light. "New" is used as a reference for the two locations where a new wood utility pole is proposed with a pole top antenna and related equipment. The most current spreadsheets for the 64 locations are attached to the EAF provided to the City in correspondence dated June 24, 2016 and supplemented on July 11, 2016.

- a. Are there any facilities (whether owned by Crown Castle or not) in addition to those shown on the drawings attached to the contract that would be installed as part of the project?

Crown's fixtures and equipment are all as permitted by the definition of Equipment in paragraph 1.3 of the RUA. The examples included in Exhibit A of the RUA can generally be cross referenced to the spreadsheet for reference and are consistent with what is proposed by Crown (note the proposed larger equipment cabinet size as the only exception). It's not clear what further information is sought by this particular question though Crown generally notes that there are components installed inside the equipment cabinets and also fiber to fiber connections at the pole locations and other hub equipment which is located outside of the City of Rye.

- b. If so identify and describe those facilities in detail, including dimensions and locations, and ownership of the facilities.

Verizon Wireless plans to use remote units that will be installed inside the equipment cabinet hung on the pole as part of the Crown DAS system. The cabinet specification included in Exhibit A of the RUA is large enough to accommodate Verizon Wireless' planned remote units. The specifications for the remote units were previously supplied to the City and its consultants (commscope "Ion" manufactured product).

- c. Will any excavation be required? If so, describe that excavation in detail.

Excavation is only contemplated for the two new pole sets and for trenching for utilities and foundation replacement to the one light pole attachment proposed. Construction of new poles is conducted in the same manner as Con Ed. A contractor locates all existing underground facilities. The contractor ascertains existing conditions and protects and support in a suitable manner all underground facilities encountered during the excavating operations. Prior to excavating for pole placement and after locating all existing underground facilities, the contractor digs a test hole or holes at the proposed location of each pole. If obstructions are encountered the contractor would contact the Crown and the City Engineer and consider moving to a new location, typically as directed by the City Engineer. The pole is erected plumb in an augured hole of sufficient depth to allow for embedment. The area around the pole is backfilled with suitable material and thoroughly compacted. The contractor restores, in kind, all areas which were disturbed by the pole installation operation, which is typically grass seeding. Details of the trenching work for the one County light pole location is included in the drawings attached as Exhibit B.

- d. For new supporting structures, please provide site plans, including elevations and scale drawings for the facility, as well as identifying all surrounding utilities and structures.

The proposed new poles are no different in degree or kind than those existing in the City of Rye and routinely installed by Con Ed. Additionally, photographs of the new pole set locations and surrounding utilities in the City's Public Ways were previously supplied to the City in July. As noted in response to Question 4, construction drawings can be provided to the City Engineer prior to construction as a condition of approval.

- e. Please provide a drawing or mock-up showing the existing supporting structure before and after installation, and identifying the area from which it would be visible. It would be helpful to identify any existing wireless facilities that Crown Castle believes are located at or near the same location.

The photographs and simulations previously provided to the City along with the drawings included in Exhibit A to the RUA address the visual elements of the pole attachments to be installed by Crown in the City's Public Ways. Generally

speaking, the Equipment will be visible along with other utility infrastructure in the City's Public Ways from points in close proximity to the poles. Google Earth street view images are also a good resource for review of the node locations by latitude and longitude. If the pole is currently visible from surrounding areas, the Crown Equipment attached thereto will be visible in part as well. Crown supplied photographs to the City previously of several of the existing node installations, copies of which are included again here in Attachment C. These photos provide a good context for all the types of Equipment Crown is planning to deploy with the latest list of locations and design descriptions. To the extent this request seeks further information related to visibility from private parcels of property, this is not information in Crown's control to provide to the City.

- f. For facilities that would be in historic districts or visible from historic district or structures, please explain why Crown Castle believes facilities should be permitted at those locations.

Crown has requested information from its NEPA and historic consultants to determine whether or not any part of the City Public Ways where nodes are proposed are in or adjacent to any National Historic District. Crown understands there are two National Historic Districts in Rye – south of Boston Post Road by the Jay Mansion and the County owned Playland. Note that the two new poles sets proposed by Crown are not in or within 250 feet of these National Historic Districts and that the Crown nodes in these areas would be pole attachments confined to the public right-of-way.

Crown believes that all of the equipment identified in Exhibit A of the RUA meets the requirements of categorical exclusion under federal regulations and the recent amendments to the FCC's Programmatic Agreement (to the extent any nodes are even adjacent to or in a National Historic District). See Wireless Infrastructure Report and Order, FCC 14-153, ¶¶ 90-95; Nationwide Programmatic Agreement for the Collocation of Wireless Antennas, First Amendment, Stipulation VII.B., FCC WT 15-180.

Crown did recently initiate a Section 106 consultation process related to this project. Given the size, color and nature of the antenna and equipment attachments proposed, even if such existing poles are in or within 250 feet of either of the two National Historic Districts, Crown submits that these attachments would appropriately be the subject of a no adverse effect determination by SHPO to the extent not already covered by the recent amendments to the federal programmatic agreement referenced above. The existing utility poles are not contributing resources to these National Districts nor will the incremental change in visibility effect the District or the basis for listing the contributing resources that are in the District. Furthermore, the City's BAR unanimously recommended approval Crown's updated designs on May 9, 2016.

To the extent any node on the list previously provided to the City and the associated Public Way is in or adjacent to a locally designated historic district or site, you indicated in your letter that the City will be providing further information to Crown for further evaluation and a response.

- g. Please explain why the new supporting structures are required, and what alternatives Crown Castle considered and why those were rejected.

Crown provided this information to City officials on July 8, 2016. Specifically, it was noted that:

Rye_02_046 – Existing poles in area have primary power which precludes the installation of a pole top antenna. Other existing poles were also looked at for communications zone antenna locations but due to the existence of transformers and service dips, the next available pole would have moved the node out of the target area for service. The new utility pole is proposed in the ROW between two residential garages near a common property line with associated vegetation. It was sited to minimize views to the extent practical. Photos are included below.

Rye_02_057 – Same issues as above, this node is by a marina/club. Photo below - the club building is at the right and that existing pole is on that parcel not in the ROW. The pole with primary power in the ROW that is unavailable is at the left. The new node is intended for improved service on street, at the club and this area.

Photos were previously supplied to the City as referenced above.

- h. Please identify any landscaping that Crown Castle plans in connection with any of the proposed facilities.

Crown has not proposed any landscaping. 62 of the 64 nodes involve pole attachments and there will be minimal ground disturbance for the remaining proposed two new telephone pole sets. Additionally, Con Ed typically requires that the right-of-way be kept clear of debris and shrubbery and trims adjacent trees to avoid risks of power outages. Crown is not aware of any City of Rye requirements that would require landscaping for utility infrastructure in the public right of way.

9. Are there any facilities in the rights of way (other than meters and existing utility poles) that will be owned by persons other than Crown Castle. If so:

Crown is not sure what is sought or meant by this question. As noted in response to questions 8.a and 8.b above, Verizon Wireless (incorporated as New York SMSA Limited Partnership) will own its remote units (similar to an internet server module in an IT setting) that will be housed in the Crown equipment cabinet on the pole. Verizon Wireless is procuring other telecommunications services from the Verizon ILEC (incorporated as Verizon of New York, Inc.) which is typically done over its existing

fiber plant with fiber to fiber connections at the node and pole locations as installed and maintained by Crown.

Crown's agreement with Verizon Wireless is the subject of proprietary contract which is considered an Individual Case Basis ("ICB") agreement under Crown's published Tariff on file and approved by the NYS PSC. A copy of that Tariff was previously provided to the City in July 29, 2016 correspondence. To the extent this latest and subsequent request for information seeks disclosure of Crown's proprietary agreement with Verizon Wireless, Crown objects to same as beyond the scope of the City's jurisdiction for purposes of this proceeding in furtherance of the RUA. Additionally, Crown is not privy to Verizon Wireless' procurement of fiber services from ILEC.

Identify the owner and describe the facility that may be owned (including its dimensions) and:

- i. identify what rights, if any, the owner would have to install, repair, maintain or otherwise directly access the facilities it owns; or to prevent relocation, or removal of those facilities;
- ii. whether the owner claims any right to occupy the rights of way that would survive termination of the Crown Castle agreement;
- iii. whether the owner claims any right to damages for harm to the facilities; and
- iv. whether the owner assumes liability for harms that may result from the placement of facilities in the rights of way.

See Crown's response to Questions 8.a. and 8.b and the specifications for the internal remote units. The remainder of these questions are beyond the scope of the RUA. To the extent the City's outside counsel has a request it would like to make to Crown on the City's behalf to amend the RUA in relation to these questions, please provide same for Crown's evaluation.

10. Has Crown Castle entered into any agreement that would prevent a third party from collocating on the structures that Crown Castle intends to use, or that would prevent or restrict Crown Castle from leasing any part of its facilities to any other entity? If the answer is yes, please identify the agreement and describe the conditions that may prevent or restrict use by others.

No, Crown is not aware of any legal agreement it maintains which would prohibit other pole attachments on Con Ed poles. Crown's Con Ed pole attachment agreement was provided to the City on July 29, 2016 and may be reviewed by the City's counsel. See also Crown's response to Question 1.e above.

11. In Crown Castle's view, will the facilities be subject to modification under Section 6409 notwithstanding the contract? Or will the facilities be limited to those provided for under the contract?

The RUA is not exclusive and contains no limit on the number of Equipment locations Crown may install or maintain in the City nor does it limit modifications Crown may make to existing installations. Rather, the RUA contemplates the submission of proposed node locations from time to time when proposed in City Public Ways and the prior review and approval of same administratively, particularly where the Equipment substantially conforms to the specifications included in Exhibit A. See RUA ¶¶ 1.7, 3.2, and 5 for the proper construction of the RUA in this regard. Any permits that may be required for a specific pole or equipment installation are to be processed by the City in accordance with Sections 3 and 5 of the RUA.

Crown has previously modified existing Equipment in City Public Ways after notifying the City Engineer of its intent to do same and in reliance on Section 6409. See generally 2014 correspondence referenced in response to Question 1.g above and previously supplied to the City's consultants.

Section 6409 is a general reference to an Act of Congress, now codified as 47 U.S.C.A. § 1455(a). The FCC subsequently interpreted this statute and adopted a regulatory order as referenced and cited above in response to Question 8.f. The FCC also adopted regulations which can be found at 47 C.F.R. § 1.40001. The statute and FCC regulations compel municipalities to issue permits in sixty days for modifications to eligible facilities. The FCC's regulations contain objective dimensional standards as to what constitutes an eligible facility modification that expressly include DAS and small cell installations in public rights-of-way. Clearly, these federal statutes and FCC regulations would apply as a matter of federal law. Further, Crown is not aware of a provision in the RUA that would be in conflict with these specific federal statutes and regulations.

12. Please identify the concealment elements that will be incorporated into the design of the facilities.

See photographs of several of the existing installations in the City Public Way referenced above and in response to Question 8.e and photosimulations for the larger equipment cabinet previously supplied to the City. As shown therein, the concealment elements include an equipment cabinet and one antenna per node location which are brown in color and part of this neutral host system all of which were reviewed and unanimously approved by the City's BAR on May 9, 2016.

13. Please provide the DoITT standards referenced in the drawings included with the contract, and provide the comparable standards for the existing utility poles and the wireless facilities that Crown Castle proposes to install.

DoITT is a New York City agency known as the Department of Information Technology and Telecommunication. DoITT is the agency in New York City responsible for administering Crown's mobile franchise which governs installations on New York City owned structures and utility poles located in New York City rights of way. DoITT has no

jurisdiction over City or Rye standards or vice versa. As such, any standards DoITT maintains are not applicable to Crown's RUA.

The reference to "DoITT" in the exhibits included in Exhibit A does not legally, nor was it intended to incorporate, DoITT standards or limit Crown's approved Equipment to same. See RUA ¶ 1.3 defining Equipment; NextG Networks' May 21, 2010 letter submission filed with the then Mayor of Rye and discussion included here as Exhibit D and previously supplied to the City's consultants. Indeed, the RUA has no dimensional standards or limitations on Equipment and merely references Exhibit A as "examples of typical Equipment types and installation configurations" and for which Crown has certain additional protections associated with permit issuance as set forth in paragraphs 3.1 and 3.2 of the RUA.

14. Please identify any differences you have not already identified between those standards and the standards that would apply if the City agreed to modify the contract as proposed by Crown Castle.

This is not legally relevant to the City of Rye's review of Crown's request for an Interpretation/Amendment and the Equipment permitted under its RUA with the City. Crown's RUA with Rye does not limit its ability to install larger Equipment (or even new poles in City Public Ways). See RUA ¶¶ 1.3, 3.2.

15. Does the current proposal reflect the entirety of the wireless facilities that Crown Castle proposes to install, or that it is reasonably foreseeable it will install in Rye? If not, please provide the plans for the entirety of the project.

The current list of 64 locations reflects the entirety of the installations Crown proposes in City Public Ways at this time and in furtherance of its agreement with Verizon Wireless. At this time, Crown does not have any additional plans for installations which it typically does not pursue unless and until a customer requests same and it is incorporated into an agreement in furtherance of its NYS PSC Tariff.

16. Has Crown Castle undertaken any studies to determine the impact on real estate values of facilities like those it proposes to install? If yes, please provide those studies. If not, please state whether Crown Castle believes that the placement of the facilities as proposed will have a positive or negative effect on the value of property immediately adjacent to the proposed facilities, and the basis for that contention

Crown has not undertaken any specific studies to evaluate real estate values and claims of property value impacts from utility infrastructure, including Crown's node installations in Rye. Further, Crown is not aware of any claimed or actual property value impact associated with its existing installations in Rye over the past 5 years. Attached in Exhibit E is a copy of a report prepared for a DAS project in Muttontown Long Island which noted that "[i]n each and every case, we have never found a single example of measurable value diminution."

It is Crown's position that there is no credible evidence to suggest that wireless attachments to utility poles or new utility poles, such as proposed by Crown, decrease or diminish property values. Anecdotal comments and internet references to cell tower "surveys" are not evidence of a property value impact. Crown submits that macro sites and existing nodes in Rye as previously installed in residential areas of the City support a contrary conclusion. Notably, Optimum Cable has already deployed numerous WiFi hot spots in Rye rights of way without any claimed property value impact.



Fig 1.: From Optimum WiFi App, Search of Existing Outdoor WiFi hot spots in Rye

To the extent responsive to this question, Crown is also aware of anecdotal evidence from realtors who have relayed home sales that have fallen through due to the lack of reliable service both inside and outside the home and of prospective buyers who refuse to look at a home without seamless wireless service in the community.

Ultimately, property values are not a legally recognized criterion for municipal consents or franchises for utility deployments in public rights of way. Federal and state law provide for the deployment of advanced telecommunications services, such as mobile broadband, through the installation of equipment in public rights of way and management by municipalities. See generally 47 U.S.C.A. § 253; N.Y. Transp. Corps. Law § 27. Wireless pole attachments are in fact permitted under Section 119-a of the PSL. Finally, contrary to the suggestion by opponents, claimed property value impacts against a municipality from a DAS system are not cognizable in the courts. See Merrick Gables Ass'n v. Town of Hempstead, 691 F. Supp. 2d 355 (E.D.N.Y. 2010).

17. As proposed, how many additional wireless service providers can be accommodated without further modifying the physical dimensions of the facilities, including the supporting structure?

This ultimately depends on the amount of equipment such future carriers sought to install in the equipment cabinets located on the pole and the number of ports to the antenna. Crown has noted previously in testimony to the City Council, that the current Equipment cabinet Crown has been deploying in City Public Ways can support the Verizon proposed equipment. The larger equipment cabinet specifically proposed and for inclusion in Exhibit A to the RUA would permit more space for additional remote units and depending on configuration and equipment requirements could support up to two additional wireless service providers.

18. If applicant contends that denial of the application would prohibit or effectively prohibit any entity from providing personal wireless services, please explain the basis for that contention, and provide supporting documentation. This question seeks information both as to “significant gap” and “least intrusive alternatives” under applicable Second Circuit precedent.

Municipal actions related to telecommunications uses of public rights of way and claims that legislative or administrative proceedings, including procedural and substantive requirements, or as applied conditions are unreasonably discriminatory or effectively prohibit the ability to provide services in violation of federal law are typically governed by Section 253 of the Communications Act. The applicable Second Circuit case law is set forth in various cases, most notably the seminal case of TCG v. White Plains cited in response to Question 1.g above. The standard for review and what has been found by the Second Circuit and the FCC as an effective prohibition of the ability to provide telecommunications services from the public rights of way in violation of Section 253 typically focuses on whether the requirements “materially inhibits or limits the ability of any competitor or potential competitor to compete in a fair and balanced regulatory

environment.” In the context of Rye, Crown has noted that the City has not required other telecommunications users, including Cablevision, to go through the process currently being employed by Rye for Crown’s installation of telecommunications equipment in the City’s Public Ways, including the numerous WiFi nodes referenced above in the response to Question 16.

Additional cases for the City’s reference where preemption and prohibition of service claims were made in a relevant context include New York SMSA Ltd. P’ship v. Town of Clarkstown, 612 F.3d 97 (2d Cir. 2010) and Crown Castle NG E. Inc. v. Town of Greenburgh, 552 F. App’x 47 (2d Cir. 2014).

Claims under Section 332(c)(7) of the Communications Act could also be implicated by any City action, because the Crown DAS system also involves the provision of personal wireless services, which services may not be effectively prohibited as a result of permit denials. The standards articulated by the Second Circuit seventeen years ago for such claims in Sprint Spectrum, L.P. v. Willoth, 176 F.3d 630 (2d Cir. 1999) as applied here would focus on the DAS nodes as necessary to provide reliable wireless services to the public and that they are the least intrusive means to do so.

At this point in time, unlike opponents, Crown has not threatened litigation against the City. Moreover, it is well beyond the scope of the proceedings before the City Council to set forth the various legal theories that might be implicated by future City actions. In addition to federal laws, Crown enjoys certain rights under state law and also the RUA with the City. Suffice it to say, Crown while proceeding and reserving its rights related to the process and requirements to date, is looking to work with the City to install its Equipment in City Public Ways and bring this proceeding to a close

19. Please provide maps showing the existing coverage/coverage levels for the frequencies that will be used in connection with the facilities.

Crown provided these maps and the frequencies proposed to the City several months ago, which are already in the public record. Copies have also been provided separately by Crown to the City’s consultants. Crown’s RF Engineer, Mr. Greg Sharpe has also been in direct communications with Mr. Lee Afflerbach, the City’s consulting RF Engineer and provided him with additional information pursuant to his requests. To the extent Mr. Afflerbach has additional questions or requests for information, Crown will make Mr. Sharpe available for further discussions regarding the technical and operational aspects of Crown’s planned 64 node installations that will provide Verizon Wireless services.

EXHIBIT A

Joshua Trauner, the Director of Government Services for NextG Networks, said that NextG is a telecommunications company that installs a type of network called a Distributed Antenna System (DAS) which utilizes extremely low powered and small equipment installations on existing telecommunications infrastructure. Councilman Sack noted that the Corporation Counsel had advised that City did not have an option to deny the application or negotiate the fee, but asked if there were any health issues associated with the equipment that would be placed in the right-of-ways. Mr. Trauner said that safety reports have been done on the equipment that show that the radio frequency emissions are less than 1% of the maximum set by the Federal Government. He offered to supply the reports to the Council.

There was no one from the public who wished to speak.

Councilman Jovanovich made a motion, seconded by Councilman Filippi and unanimously carried, to close the public hearing.

Councilman Jovanovich made a motion, seconded by Councilwoman Keith to adopt the following Resolution:

RESOLVED, that the City Manager and Corporation Counsel are hereby authorized to enter into an Agreement with NextG Networks, Inc. for telecommunications access in the City of Rye Public Rights-of-way.

ROLL CALL:

AYES: Mayor French, Councilmembers Filippi, Gamache, Jovanovich,
Keith, Parker and Sack

NAYS: None

ABSENT: None

The Resolution was adopted by a 7-0 vote.

13. Consideration to set a Public Hearing for March 2, 2011 for the establishment of the Kirby Lane Extension Sanitary Sewer Special Assessment District

City Manager Pickup said that two district-wide petitions have been distributed to members of the proposed District and the number voting in favor is well over the 66 2/3% statutory threshold for creating a Special Assessment District. The size of the district has been expanded from the original proposal to include additional properties closer to the Mill Pond.

Councilwoman Gamache made a motion, seconded by Councilwoman Keith and unanimously carried to adopt the following Resolution:

WHEREAS, the Council wishes to establish the Kirby Lane Extension Sanitary Sewer Special Assessment District; and

EXHIBIT B

LEGEND

PROPOSED UNDERGROUND CONDUIT	— — — — —
PROPOSED FIBER OPTIC CABLE	- - - - -
PROPOSED REPLACEMENT NODE	○
PROPOSED HANDHOLE	○
EXISTING UTILITY POLE	⊕
EXISTING BOLLARD	○
EXISTING SEWER INLET	⊞
EXISTING VERIZON MANHOLE	⊕
EXISTING AT&T MANHOLE	⊕
EXISTING LEVEL 3 MANHOLE	⊕
EXISTING COMMUNICATION MANHOLE	⊕
EXISTING ELECTRIC MANHOLE	⊕
EXISTING VEOLIA MANHOLE	⊕
EXISTING PARKING METER	○
EXISTING TRAFFIC HANDHOLE	□
EXISTING HIGH PRESSURE WATER	⊕
EXISTING ELECTRIC HANDHOLE	○
EXISTING SEWER MANHOLE	⊕
EXISTING SEWER VENT	⊕
EXISTING WATER MANHOLE	⊕
EXISTING MISC MANHOLE	⊕
EXISTING MISC VALVE	⊕
EXISTING GAS VALVE VAULT	⊕
EXISTING GAS METER	⊕
EXISTING GAS VALVE	⊕
EXISTING FIRE HYDRANT	⊕
EXISTING BIKE RACK	⊕
EXISTING TRAFFIC LIGHT	⊕
EXISTING TRAFFIC CONTROL BOX	⊕
EXISTING STREET LIGHT	⊕
EXISTING STREET SIGN	⊕
EXISTING TREE	⊕
EXISTING FENCE	- x - x -
EXISTING SEWER	-) -) -
EXISTING SEWER (24" AND LARGER)	-) -) -
EXISTING STORM	- > - > -
EXISTING STORM (24" AND LARGER)	- > - > -
EXISTING WATER MAIN	- w - w -
EXISTING WATER MAIN (24" AND LARGER)	- w - w -
EXISTING GAS	- g - g -
EXISTING GAS (24" AND LARGER)	- g - g -
EXISTING ELECTRIC	- e - e -
EXISTING VERIZON	- v - v -
EXISTING AT&T	- at - at -
EXISTING VEOLIA ENERGY	- va - va -
EXISTING LEVEL3	- l3 - l3 -
EXISTING JOINT BUILT TRENCH	- jb - jb -
EXISTING COMMUNICATION	- co - co -
EXISTING FIBER OPTIC	- fo - fo -
EXISTING BUILDING	▨▨▨▨▨
APPROXIMATE RIGHT-OF-WAY LINE	- - - - -

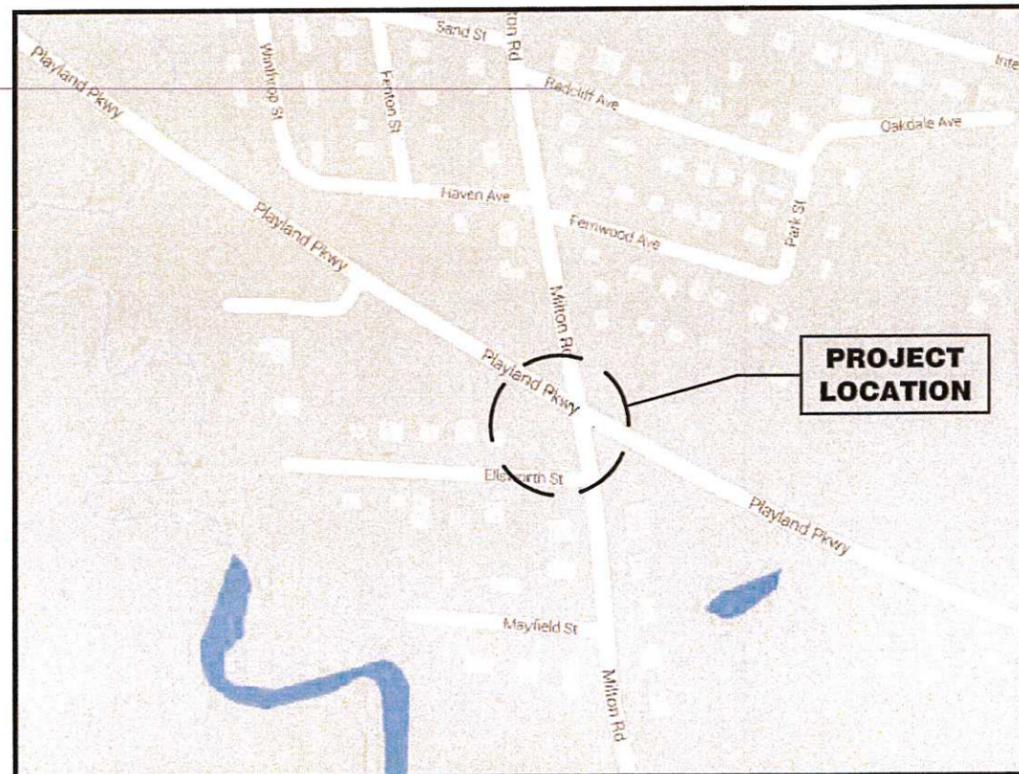


Crown Castle NG Atlantic LLC
Rye, New York

Jurisdiction: City of Rye

Proposed Underground Fiber Connection

SITE LOCATION MAP



NOT TO SCALE

ENGINEERS ESTIMATE OF MATERIALS

QUANTITY	UNIT	DESCRIPTION
9	LF	2" PVC SCHEDULE 40
300	LF	1" HDPE TONEABLE DUCT
1	EACH	19-1/4" x 32-1/4" x 24" HANDHOLE

INDEX TO SHEETS

- TITLE, LOCATION MAP
- GENERAL NOTES
- PROJECT PLAN VIEW
- PROJECT DETAILS
- PROJECT STANDARDS



ENGINEER:



HBK ENGINEERING, LLC
921 WEST VAN BUREN, SUITE 100
CHICAGO, IL 60607
PHONE: (312) 431-0076 FAX: (312) 432-0231
STATE OF ILLINOIS DEPARTMENT
OF PROFESSIONAL REGULATION
LICENSE NO. 184-002308

OWNER/DEVELOPER:



NODE LOCATION:

4 ELLSWORTH STREET
RYE, NEW YORK
JURISDICTION: CITY OF RYE

REVISIONS

REV	DATE	DESCRIPTION	BY
00	04/26/16	FOR PERMIT	MFP
01	05/09/16	PER CC COMMENTS	MFP
02			
03			
04			

DRAWN BY:	CHECKED BY:	APPROVED BY:
MFP	BJG	BMM

PROJECT NUMBER:	16-0136
FILE NAME:	RYE_002_027
DATE DRAWN:	03/14/16
VERIZON NUMBER:	ODAS_WEST_N252

SHEET: **1 OF 5**



PROFESSIONAL ENGINEER
EXPIRES 06-30-2017

Signature
SIGNATURE

05/09/2016
DATE

Crown Castle NG Atlantic LLC
GENERAL NOTES

NODE:
ODAS_WEST_N252

DEVELOPER: CROWN CASTLE NG ATLANTIC LLC
131-05 14TH AVENUE
COLLEGE POINT, NY 11356
ATTN: STEVE ORKOULAS

CONTRACTOR: TBD

ENGINEER: HBK ENGINEERING, LLC
705 GENERAL WASHINGTON AVE
SUITE 500
NORRISTOWN, PA 19403
ATTN: BRIAN MULLIGAN, P.E.

(610) 879-7500 - OFFICE

ALL CONDUIT INSTALLATIONS, REMOVALS, MODIFICATIONS, AND TEMPORARY WORK SHALL BE DONE ACCORDING TO THE FOLLOWING NON-INCLUSIVE CONDITIONS:

SECTION 1.0 SCOPE OF WORK

- 1.01 INSTALLATION OF HDPE AND PVC CONDUIT (FOR FIBER), HAND HOLES, AND ALL RELATED APPURTENANCES FOR NEW CONNECTION TO THE PROPOSED NODE. SEE PLANS FOR LOCATION, LENGTHS, QUANTITIES, AND DIMENSIONS OF PROPOSED IMPROVEMENTS.
- 1.02 THE CONTRACTOR SHALL PROVIDE ALL MATERIAL, EQUIPMENT, LABOR, INSTALLATION, RESTORATION, UTILITY RELOCATION CHARGES AND JOB SITE DELIVERY COSTS TO COMPLETE THE DESCRIBED OR ILLUSTRATED WORK, UNDER THIS CONTRACT.
- 1.03 ANY CHANGE-ORDER REQUEST MUST BE PRESENTED IN WRITING TO THE OWNER'S REPRESENTATIVE AND APPROVED PRIOR TO PROCEEDING WITH THE REQUESTED CHANGE. DOCUMENTATION CONCERNING ANY AND ALL CHANGE ORDERS WILL BE REDUCED TO FORMAL RECORD, FILED WITH THE OWNER'S REPRESENTATIVE, AND BE MADE AVAILABLE FOR FUTURE REFERENCE.
- 1.04 THE CONTRACTOR SHALL PROVIDE A MINIMUM 48 HOUR ADVANCED NOTICE TO HBK ENGINEERING (610-879-7500) TO SCHEDULE A PRE-CONSTRUCTION WALK THROUGH WITH A HBK ENGINEERING REPRESENTATIVE. THIS WALK THROUGH MUST BE COMPLETED PRIOR TO THE COMMENCEMENT OF ANY WORK WITHIN THE LIMITS OF THIS PROJECT.
- 1.05 THE ENGINEER WILL NOT BE RESPONSIBLE NOR ASSUME ANY LIABILITY FOR NEGLIGENT ACTS OR ERRORS OF OMISSIONS OF ANY CONTRACTOR, ANY SUBCONTRACTOR, OR ANY OF THE CONTRACTOR'S OR SUBCONTRACTORS' AGENTS OR EMPLOYEES OR ANY OTHER PERSONS (EXCEPT ENGINEER'S OWN EMPLOYEES) AT THE PROJECT SITE OR OTHERWISE PERFORMING ANY OF THE WORK OF THE PROJECT. ANY CONTRACTOR OR SUB-CONTRACTOR, AS WELL AS THE ENGINEER, WILL BE RESPONSIBLE FOR HIS OWN SAFETY PROGRAM. NEITHER THE PROFESSIONAL ACTIVITIES OF THE ENGINEER, NOR THE PRESENCE OF THE ENGINEER OR HIS OR HER EMPLOYEES AND SUBCONSULTANTS AT THE CONSTRUCTION SITE, SHALL RELIEVE ANY CONTRACTOR OF HIS OR HER OBLIGATIONS, DUTIES AND RESPONSIBILITIES INCLUDING, BUT NOT LIMITED TO, CONSTRUCTION MEANS, METHODS, SEQUENCE, TECHNIQUES OR PROCEDURES NECESSARY FOR PERFORMING, SUPERINTENDING OR COORDINATING ALL PORTIONS OF THE WORK OF CONSTRUCTION IN ACCORDANCE WITH THE CONTRACT DOCUMENTS AND ANY HEALTH OR SAFETY PRECAUTIONS REQUIRED BY ANY REGULATORY AGENCIES. THE ENGINEER AND HIS OR HER PERSONNEL HAVE NO AUTHORITY TO EXERCISE ANY CONTROL OVER ANY CONSTRUCTION CONTRACTOR OR OTHER ENTITY OR THEIR EMPLOYEES IN CONNECTION WITH ANY HEALTH OR SAFETY PRECAUTIONS.

SECTION 2.0 MATERIALS

- 2.01 ALL MATERIALS INSTALLED WITHIN THE LIMITS OF THIS PROJECT SHALL BE IN CONFORMANCE WITH STANDARD RECOMMENDATIONS OF THE NATIONAL ELECTRICAL MANUFACTURER'S ASSOCIATION AND AMERICAN NATIONAL STANDARDS INSTITUTE.
- 2.02 ALL CONDUIT, ELBOWS, AND COUPLINGS SHALL BE HDPE UNLESS OTHERWISE NOTED.
- 2.03 JOB SITE MATERIAL WILL BE DELIVERED TO AND MAINTAINED AT THE WORK AREA IN A WELL MANAGED MANNER TO MINIMIZE CONGESTION OR INCONVENIENCE TO OTHERS.
- 2.04 THE CONTRACTOR SHALL PROVIDE ALL MATERIAL, EQUIPMENT, LABOR INSTALLATION, RESTORATION, UTILITY RELOCATION CHARGES, AND JOBSITE DELIVERY COSTS TO COMPLETE THE DESCRIBED OR ILLUSTRATED WORK UNDER THIS CONTRACT.

SECTION 3.0 GENERAL NOTES

- 3.01 THE CONTRACTOR IS ADVISED TO READ ALL NOTES ON DRAWINGS CAREFULLY.
- 3.02 THE CONTRACTOR SHALL VERIFY EXISTING RIGHT OF WAY AND PROPERTY LIMITS TO THE EXTENT NECESSARY TO VERIFY PROPOSED WORK REMAINS WITHIN THESE LIMITS AND DOES NOT INFRINGE ONTO PRIVATE PROPERTY NOT OWNED BY THE OWNER.
- 3.03 THE SCALE FOR DRAWINGS IS FOR GENERAL INFORMATION ONLY. DIMENSIONS SHOWN AND LOCATIONS OF UTILITIES ARE NOT TO BE ASSUMED OR SCALED.
- 3.04 THE CONTRACTOR SHALL OBTAIN ALL PERMITS AND COMPLY WITH THE REQUIREMENTS OF ALL AGENCIES HAVING JURISDICTION OVER THE WORK. WORK WILL NOT BE STARTED PRIOR TO ACQUISITION OF ALL REQUIRED PERMITS.
- 3.05 CONTRACTOR SHALL COORDINATE ALL WORK WITH ALL PUBLIC AND PRIVATE UTILITIES AS WELL AS CITY AND STATE AGENCIES.
- 3.06 AT LEAST TWO (2) WORKING DAYS PRIOR TO THE CONTRACTOR'S DESIRED START DATE, THE CONTRACTOR SHALL CONTACT THE ENGINEER TO ARRANGE A FIELD MEETING AND SITE VISIT TO REVIEW THE ENTIRE SCOPE OF WORK AND SPECIFIC LOCATIONS AND METHODS OF ALL STRUCTURE ATTACHMENTS. IN NO CASE SHALL WORK PROCEED WITHOUT A FIELD MEETING.

- 3.07 THE CONTRACTOR SHALL NOTIFY THE ENGINEER WHEN FIELD CONDITIONS VARY FROM THE APPROVED PLANS OR THE METHOD OF ATTACHMENT CANNOT BE ACCOMPLISHED AS PERMITTED.
- 3.08 WHERE THE CONTRACTOR'S WORK REQUIRES INSPECTION BY THE ENGINEER PRIOR TO COMPLETION OR AS NOTED IN THE PLANS, THE CONTRACTOR SHALL NOTIFY THE ENGINEER AT LEAST TWO (2) WORKING DAYS IN ADVANCE OF THE SITE INSPECTION TO ARRANGE A TIME FOR THE ADDITIONAL INSPECTION.

SECTION 4.0 EXISTING UTILITIES

- 4.01 EXISTING CONDITIONS, STRUCTURES, UTILITIES AND SURFACE FEATURES SHOWN WERE OBTAINED FROM THE AVAILABLE INFORMATION AND FURNISHED BY THE VARIOUS UTILITY OWNERS AND ARE ASSUMED TO BE APPROXIMATE. THE CONTRACTOR SHALL PERFORM HIS OWN SURVEY AND VERIFY ALL EXISTING CONDITIONS, DIMENSIONS OF EXISTING STRUCTURES AND LOCATIONS OF EXISTING UTILITIES PRIOR TO STARTING ANY WORK.
- 4.02 ALL RIGHT OF WAY INFORMATION WAS OBTAINED FROM PUBLICLY AVAILABLE DRAWINGS AND SHALL BE CONSIDERED APPROXIMATE. IT IS ASSUMED ALL WORK SHALL BE PERFORMED WITHIN PUBLIC RIGHT-OF-WAY.
- 4.03 THE CONTRACTOR SHALL PERFORM TEST HOLES AT ALL UTILITY CROSSINGS TO VERIFY THE LOCATION AND ELEVATION OF ALL UTILITIES PRIOR TO ANY EXCAVATION, AND TO LOCATE ANY POSSIBLE OBSTRUCTIONS. CONTRACTOR TO FIELD VERIFY LOCATIONS OF ALL OVERHEAD OBSTRUCTIONS PRIOR TO COMMENCEMENT OF WORK.
- 4.04 EXISTING UTILITIES ARE SHOWN AT THEIR APPROXIMATE LOCATION. THE CONTRACTOR SHALL CONTACT "DIG SAFELY NEW YORK" AT 811 TO REQUEST LOCATING AND MARKING OF EXISTING UTILITIES AT LEAST TWO (2) FULL BUSINESS DAYS PRIOR TO PERFORMING ANY EXCAVATION WORK.
- 4.05 ALL EXCAVATION WORK NEAR AND AROUND EXISTING STRUCTURES AND UTILITIES SHALL BE BY HAND METHOD.
- 4.06 ALL DISCREPANCIES SHOULD BE REPORTED TO ENGINEER OF RECORD AT HBK ENGINEERING (610-879-7500). ANY QUESTIONS OR COMMENTS THE CONTRACTOR MAY HAVE ARE TO BE DISCUSSED WITH THE OWNER AND ENGINEER PRIOR TO CONSTRUCTION.
- 4.07 THE CONTRACTOR SHALL RECORD THE LOCATION AND ELEVATION OF ALL UTILITIES ENCOUNTERED, AND INSTALLATION OF NEW WORK, AS THE WORK PROGRESSES AND SHALL PREPARE RECORD DRAWINGS (RED-LINES) BASED ON HIS RECORDS. THESE RECORDS TO BE SUPPLIED TO HBK ENGINEERING, LLC AT COMPLETION OF WORK.
- 4.08 MAINTAIN A MINIMUM OF 6" VERTICAL CLEARANCE AND MORE THAN 12" HORIZONTAL CLEARANCE BETWEEN EXISTING SEWER OR SEWER STRUCTURES AND UTILITIES. MAINTAIN A MINIMUM OF 6" VERTICAL CLEARANCE BETWEEN EXISTING WATER MAINS AND UTILITIES. IF SEWER OR WATER FACILITIES ARE DAMAGED DURING CONSTRUCTION, IT MUST BE REPORTED TO THE ENGINEERING SECTION OF THE CITY DPW HAVING JURISDICTION AND MUST BE REPAIRED PER THE CITY STANDARD SPECIFICATIONS, DOT STANDARD DETAILS, AND REQUIREMENTS.
- 4.09 CONTRACTOR SHALL SUPPORT ALL GAS AND WATER MAINS GREATER THAN 12" IN DIAMETER WITH A PERMANENT TYPE OF STRUCTURE UNLESS OTHERWISE NOTIFIED BY THE GAS COMPANY OR CITY DPW, AND IS INCLUDED IN COST FOR DOING THE WORK. AT NO TIME DURING CONSTRUCTION SHALL WATER MAINS OR GAS MAINS GO UNSUPPORTED FOR A SPAN GREATER THAN 8'-0".
- 4.10 CONTRACTOR IS RESPONSIBLE FOR OBTAINING AND PROVIDING REVIEW AND DESIGN OF ANY AND ALL TEMPORARY UTILITY SUPPORT SYSTEMS PRIOR TO CONSTRUCTION.
- 4.11 A MINIMUM BENDING RADIUS OF 36" FOR FIBER CABLE WILL BE ADHERED TO.

SECTION 5.0 WORK

- 5.01 ALL WORK SHALL BE PERFORMED ACCORDING TO THE LATEST EDITION OF ANY AND ALL RELATING CODES AND STANDARDS, BUT NOT LIMITED TO THE FOLLOWING:
NATIONAL ELECTRIC CODE
LOCAL ELECTRIC CODE
OCCUPATIONAL SAFETY CODE
UNDERWRITER'S LABORATORIES
BUILDING MANAGEMENT
CITY OF RYE, NEW YORK STANDARD SPECIFICATIONS AND DOT STANDARD DETAILS
- 5.02 ALL EXCAVATIONS SHALL BE INSPECTED PRIOR TO PLACING ANY PIPE, UTILITY OR STRUCTURE. ALL UTILITIES SHALL BE INSPECTED, TESTED AND SHALL BE ACCEPTED PRIOR TO PLACING ANY BACKFILL FOR SHORING OF EXCAVATION.
- 5.03 CONTRACTOR IS RESPONSIBLE FOR OBTAINING AND PROVIDING REVIEW AND DESIGN OF ANY AND ALL SHORING SYSTEMS PRIOR TO CONSTRUCTION.
- 5.03 CONTRACTOR SHALL ASSUME ALL ELECTRIC CABLES ARE ENERGIZED AND SHALL BE SUPPORTED SO AS NOT TO STRESS ANY PORTION OF THE CABLE.
- 5.04 CONTRACTOR SHALL PROVIDE APPROPRIATE ENGINEERED DE-WATERING MEASURES, IF NECESSARY, TO ENSURE GROUNDWATER TABLE REMAINS AT A DEPTH BELOW THE BASE OF THE EXCAVATION AT ALL TIMES DURING EXCAVATION, REPAIR WORK AND BACKFILLING OPERATIONS.
- 5.05 ENGINEER SHALL BE NOTIFIED FOR RESOLUTION OF SITUATIONS WHERE DUCT PACKAGE DEPTH BELOW GRADE EXCEEDS DEPTH CURRENTLY SHOWN ON PLAN/PROFILE DRAWINGS.
- 5.06 ALL PENETRATIONS THROUGH NON-FIRE RATED CONSTRUCTION SHALL BE SEALED AND PATCHED TO MATCH EXISTING AND TO PROVIDE A WATERTIGHT SEAL. ALL PENETRATIONS THROUGH FIRE RATED CONSTRUCTION SHALL BE SEALED WITH APPROVED FIRE-STOP MATERIALS.
- 5.07 IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO HAVE ALL DPW TRAFFIC LOOPS LOCATED.
- 5.08 CONFIRM WITH DPW CORRESPONDENCE, THAT ALL TRAFFIC LOOP LOCATIONS HAVE BEEN COORDINATED FOR MARKING.

SECTION 6.0 SAFETY

- 6.01 CONTRACTOR SHALL TAKE ALL NECESSARY SAFETY PRECAUTIONS TO PROTECT UTILITIES, PEDESTRIANS, WORKERS AND VEHICULAR TRAFFIC. THE CONTRACTOR SHALL PROVIDE TEMPORARY PROTECTIONS (FENCES, BARRICADES, ETC.) AS REQUIRED BY LOCAL GOVERNING AGENCIES AND APPLICABLE SAFETY GUIDELINES TO PROTECT ADJACENT PROPERTY AND THE PUBLIC DURING ALL PHASES OF CONSTRUCTION.

- 6.02 THE CONTRACTOR SHALL PROVIDE ALL TEMPORARY BARRICADES, SIGNAGE, WARNING LIGHTS AND OTHER DEVICES AND MAINTAIN THESE OPERATIONAL 24 HOURS A DAY AT ALL OPEN TRENCH LOCATIONS AND AT LOCATIONS WHICH DO NOT HAVE A FINISHED SURFACE.
- 6.03 AT THE END OF EACH WORK DAY, UPON FINAL CONSTRUCTION PENDING CABLE INSTALLATION, CONDUIT CAPS WILL BE PLACED ON ALL VACANT DUCTS.
- 6.04 MAXIMUM CABLE INSTALLATION TENSION SHALL NOT EXCEED 600 POUNDS.

SECTION 7.0 RESTORATION

- 7.01 CONTRACTOR SHALL RESTORE SIDEWALK, DRIVEWAY, CURB, GUTTERS, AND LANDSCAPING ELEMENTS TO PERMANENT CONDITIONS. ALL RESTORATION SHALL BE IN ACCORDANCE WITH THE GOVERNING MUNICIPALITIES' DEPT. OF PUBLIC WORKS STANDARD SPECIFICATIONS AND STANDARD DETAILS. CONTRACTOR TO CONFORM CONCRETE TO COLOR, FINISH, AND TEXTURE OF EXISTING SIDEWALKS, CURB AND GUTTER.
- 7.02 STREETS AFFECTED BY EXCAVATION SHALL BE RESTORED PER THE GOVERNING MUNICIPALITIES' STANDARD OR SPECIFICATIONS AND DOT STANDARD DETAILS.
- 7.03 RESTORATION OF THE AREA AROUND THE CONDUIT RUN INCLUDES: CONCRETE, SOD, BLACK DIRT, BACKFILL, SHRUBS, TREES, STREET CONCRETE BASE, ASPHALT PRIMER, HOT ROLLED ASPHALT, SIDEWALK, DRIVEWAY, CURB AND GUTTER, HANDICAPPED RAMPS, AND REINSTALLATION OF ALL SIGNS, MAILBOXES, TRAFFIC SIGNALS, TRAFFIC SIGNAL BOX, METERS, CITY LIGHT STANDARD, BENCHES, PLANTERS, AND CANOPIES. CONTRACTOR TO PAY ALL FEES AND OBTAIN ALL PERMITS FOR RESTORATION.
- 7.04 THE CONTRACTOR IS TO RESTORE ALL DAMAGED STRUCTURES AND UTILITIES TO THE SATISFACTION OF THE OWNER'S REPRESENTATIVE.
- 7.05 BACKFILL SHALL BE DEPOSITED IN LAYERS NOT TO EXCEED SIX (6) INCHES IN UNCOMPACTED THICKNESS. BACKFILL SHALL BE MECHANICALLY COMPACTED TO AT LEAST NINETY-FIVE (95) PERCENT OF THE MAXIMUM DRY DENSITY. BACKFILL MATERIAL SHALL BE COMPOSED OF CLEAN FILL ONLY AND SHALL NOT CONTAIN WOOD, GRASS, ROOTS, BROKEN CONCRETE, STONES, RUBBISH, FROZEN LUMPS OR CORROSIVE MATERIALS. THE BACKFILL SHALL NOT BE PLACED IN WATER OR WATER JETTED TO ACHIEVE COMPACTION.

SECTION 8.0 STREET LIGHTING NOTES

- 8.01 UNLESS OTHERWISE NOTED, ALL STREET LIGHTING RELATED WORK SHALL BE IN ACCORDANCE WITH THE CITY OF RYE DEPARTMENT OF PUBLIC WORKS, "CONSTRUCTION SPECIFICATIONS", DOT "BOOK OF STANDARDS", THE BUILDING CODE OF THE CITY OF RYE, AND THE UTILITY CONSTRUCTION PLANS.
- 8.02 FOR WORK WITHIN THE PUBLIC RIGHT-OF-WAY THE CONTRACTOR MUST OBTAIN PERMITS FROM THE DEPARTMENT OF PUBLIC WORKS IN THE CITY OF RYE, NY (914-967-7464).
- 8.03 THE CITY OF RYE MAINTAINS STREET LIGHTING POLES AND MAINTAINS STREET LIGHT CABLES IN THE AREA. THE CONTRACTOR IS REQUIRED TO PROTECT AND MAINTAIN ALL EXISTING LIGHTING INFRASTRUCTURE, CIRCUIT CONTINUITY AND CONDUIT FACILITIES DURING CONSTRUCTION.
- 8.04 THE CONTRACTOR IS REQUIRED TO NOTIFY THE CITY OF RYE AT (914-967-7464) TWO (2) WEEKS PRIOR TO STARTING ANY WORK.
- 8.05 IF THE CONTRACTOR UNCOVERS OR DAMAGES A STREET LIGHT, CONDUIT OR CABLE DURING CONSTRUCTION, THE CONTRACTOR IS REQUIRED TO NOTIFY STREET LIGHTING MAINTENANCE INSPECTIONS AT (914-967-7464) IMMEDIATELY. STREET LIGHTING MAINTENANCE WOULD AFFECT REPAIRS TO MAKE SAFE CONDITIONS AND/OR REPLACE CABLES PRIOR TO RESUMING CONSTRUCTION. ALL SUCH REPAIRS SHALL BE MADE AT THE CONTRACTOR'S EXPENSE.
- 8.06 IF THE EXISTING LIGHTING SYSTEM CANNOT BE MAINTAINED IN SERVICE DURING CONSTRUCTION, THE CONTRACTOR IS REQUIRED TO PROVIDE TEMPORARY LIGHTING IN ACCORDANCE WITH CITY OF RYE STANDARDS UNTIL THE PERMANENT LIGHTING IS INSTALLED AN IN SATISFACTORY OPERATION. THE TOTAL COST OF MATERIALS AND LABOR FOR STREET LIGHTING TO WORK INCLUDING CABLE CONNECTION WORK SHALL BE BORNE BY THE CONTRACTOR.
- 8.07 IN AREAS WHERE THE CONTRACTOR IS TO REMOVE THE FOOTWAY WHERE BURIED CABLE IS PRESENT, THE CONTRACTOR SHALL NOTIFY AND COORDINATE WITH CON EDISON AT (718) 425-6774. CON EDISON MAY ELECT TO INSTALL NEW CABLE PRIOR TO THE INSTALLATION OF THE NEW FOOTWAY.
- 8.08 COORDINATION FOR CITY OF RYE STREET LIGHTING CONSTRUCTION SERVICES REQUIRES THAT THE LATEST RED-LINED OR UPDATED DRAWINGS (AS IT PERTAINS TO STREET LIGHTING INFRASTRUCTURE) ARE PROVIDED ELECTRONICALLY TO CITY OF RYE'S TRANSPORTATION MAINTENANCE DIVISION. IF APPLICABLE, THE MARKED UP DRAWINGS SUBMITTED WILL SERVE AS THE BASIS FOR DETERMINING THE PROBABLE COST ESTIMATE FOR CITY OF RYE SERVICES. CONTRACTOR SHALL CONTACT STREET LIGHTING MAINTENANCE (914-967-7464), AT LEAST 10 WORK DAYS PRIOR TO STARTING ANY WORK.
- 8.09 CONTRACTOR SHALL CONTACT CONDUIT MAINTENANCE INSPECTIONS AT (718) 425-6774 THREE (3) DAYS BEFORE START OF CONSTRUCTION. CABLE INSTALLATION BY CONTRACTOR WILL NOT BE CARRIED OUT WITHOUT COMPLETION OF AN INSPECTION BY CONDUIT MAINTENANCE.

ENGINEER:
hbk ENGINEERING
921 WEST VAN BUREN, SUITE 100
CHICAGO, IL 60697
PHONE: (312) 432-0076 FAX: (312) 432-0231
STATE OF ILLINOIS DEPARTMENT OF PROFESSIONAL REGULATION
LICENSE NO. 184-002308

OWNER/DEVELOPER:
CC CROWN CASTLE

NODE LOCATION:
4 ELLSWORTH STREET
RYE, NEW YORK
JURISDICTION: CITY OF RYE

REVISIONS			
REV	DATE	DESCRIPTION	BY
00	04/28/16	FOR PERMIT	MFP
01	05/09/16	PER CC COMMENTS	MFP
02	---	---	---
03	---	---	---
04	---	---	---

DRAWN BY:	CHECKED BY:	APPROVED BY:
MFP	BJG	BMM

PROJECT NUMBER:	16-0136
FILE NAME:	RYE_002_027
DATE DRAWN:	03/14/16
VERIZON NUMBER:	ODAS_WEST_N252

- NOTES:
- CONTRACTOR TO MAINTAIN A MINIMUM DEPTH OF 4' WHEN WITHIN 50' OF TREES.
 - CONTRACTOR SHALL PERFORM TEST HOLES AT ALL UTILITY CROSSINGS INCLUDING SANITARY, GAS, AND WATER LATERAL CONNECTIONS TO VERIFY THE LOCATION AND ELEVATION OF ALL UTILITIES PRIOR TO ANY EXCAVATION, AND TO LOCATE ANY POSSIBLE OBSTRUCTIONS. EXISTING INFORMATION ON SEWER, GAS, AND WATER LATERAL CONNECTIONS WAS NOT AVAILABLE DURING DESIGN DEVELOPMENT.
 - CONTRACTOR TO FIELD VERIFY LOCATIONS OF ALL OVERHEAD OBSTRUCTIONS PRIOR TO COMMENCEMENT OF WORK.

ENGINEER:

hbk ENGINEERING
 HBK ENGINEERING, LLC
 921 WEST VAN BUREN, SUITE 100
 CHICAGO, IL 60607
 PHONE: (312) 432-0076 FAX: (312) 432-0231
 STATE OF ILLINOIS DEPARTMENT
 OF PROFESSIONAL REGULATION
 LICENSE NO. 184-002308

OWNER/DEVELOPER:

CC CROWN CASTLE

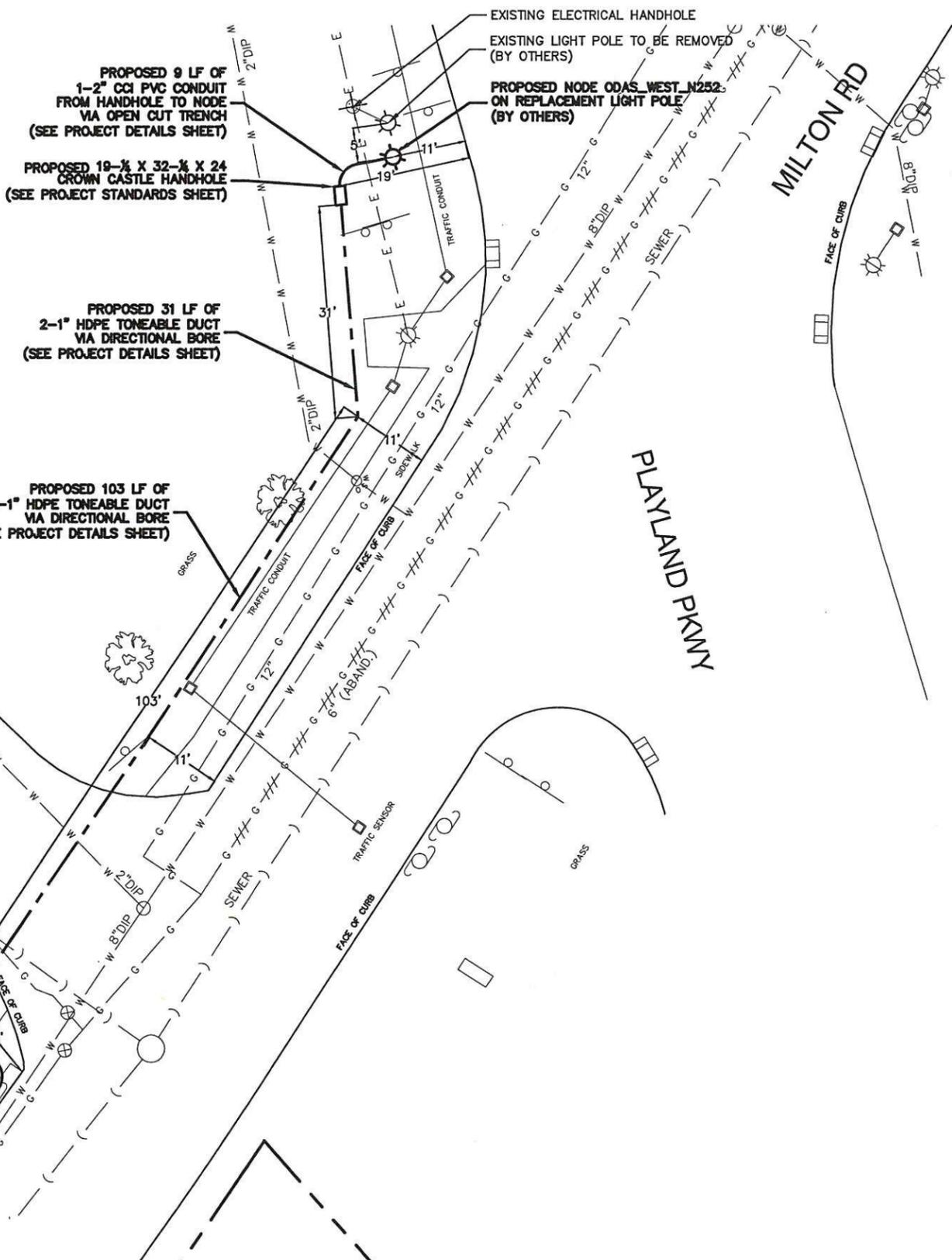
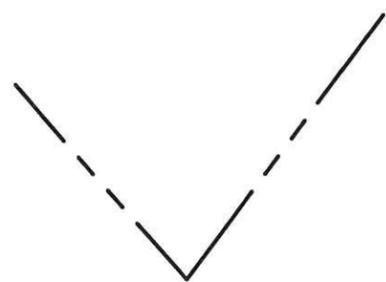
NODE LOCATION:
 4 ELLSWORTH STREET
 RYE, NEW YORK
 JURISDICTION: CITY OF RYE

REVISIONS			
REV	DATE	DESCRIPTION	BY
00	03/14/16	FOR CC REVIEW	MFP
01	05/09/16	PER CC COMMENTS	MFP
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DRAWN BY:	CHECKED BY:	APPROVED BY:
MFP	BJG	BMM

PROJECT NUMBER:	16-0136
FILE NAME:	RYE_002_027
DATE DRAWN:	03/14/16
VERIZON NUMBER:	ODAS_WEST_N252

SHEET: **3 OF 5**



PROPOSED 16 LF OF
2-1" HDPE TONEABLE DUCT
VIA OPEN CUT TRENCH
(SEE PROJECT DETAILS SHEET)

EXISTING UTILITY POLE

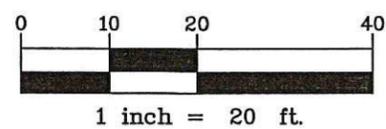
PROPOSED 103 LF OF
2-1" HDPE TONEABLE DUCT
VIA DIRECTIONAL BORE
(SEE PROJECT DETAILS SHEET)

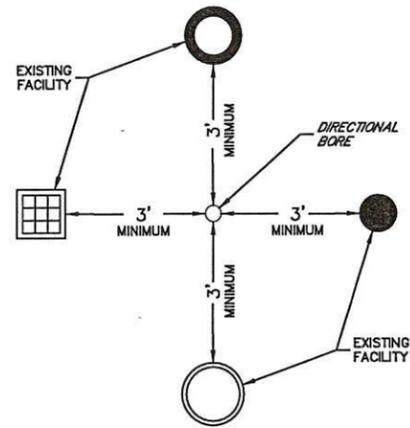
PROPOSED 31 LF OF
2-1" HDPE TONEABLE DUCT
VIA DIRECTIONAL BORE
(SEE PROJECT DETAILS SHEET)

PROPOSED 18-1/2" X 32-1/2" X 24
CROWN CASTLE HANDHOLE
(SEE PROJECT STANDARDS SHEET)

PROPOSED 9 LF OF
1-2" CCI PVC CONDUIT
FROM HANDHOLE TO NODE
VIA OPEN CUT TRENCH
(SEE PROJECT DETAILS SHEET)

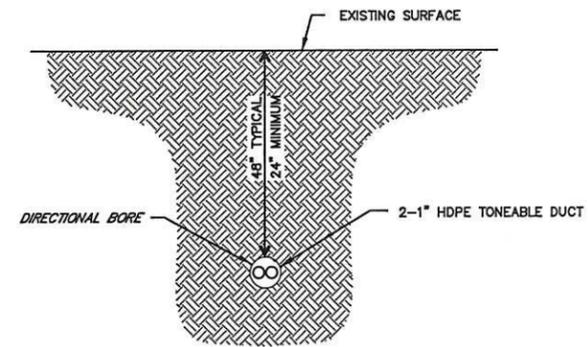
EXISTING ELECTRICAL HANDHOLE
EXISTING LIGHT POLE TO BE REMOVED
(BY OTHERS)
PROPOSED NODE ODAS_WEST_N252
ON REPLACEMENT LIGHT POLE
(BY OTHERS)



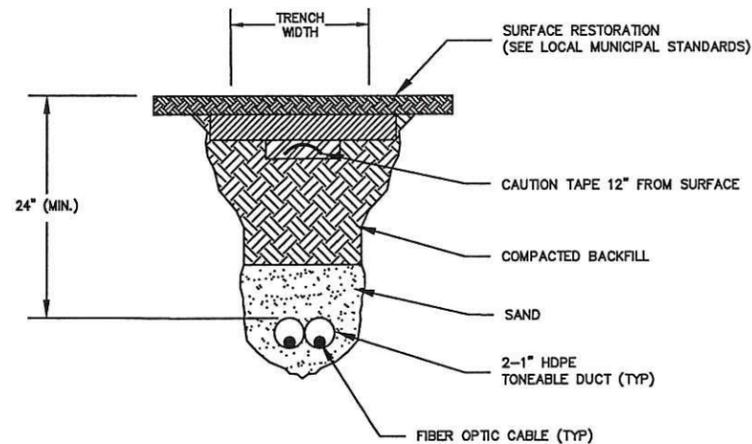


MAINTAIN A MINIMUM OF AT LEAST 3 FEET OF SEPARATION IN ANY DIRECTION BETWEEN DIRECTIONAL BORE AND ALL EXISTING FACILITIES.

UTILITY SEPARATION DETAIL



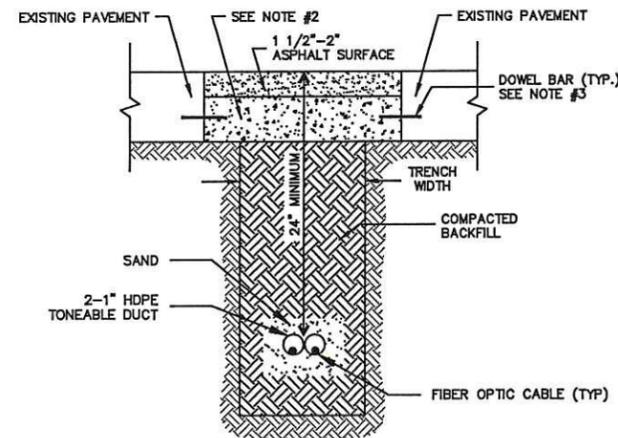
DIRECTIONAL BORING DETAIL



NOTES:

1. THE PORTLAND CEMENT CONCRETE BASE SHALL BE 9 OR MORE INCHES FOR CONCRETE STREETS. THE CONCRETE SHALL BE BROUGHT TO GRADE (INCLUDING THE 1' OVERLAP) AND FINISHED.
2. ALL EXISTING PAVEMENTS SHALL BE CUT 1' EITHER SIDE OF TRENCH OR PAVEMENT OPENING. UNDERMINED PAVEMENT, OR DISTURBED SOIL MUST BE REMOVED AND PROPERLY RESTORED.
3. ALL CONDUIT IN OPEN CUT TRENCHES THAT ARE NOT CONCRETE ENCASED SHALL INSTALL WARNING TAPE 12 INCHES BELOW GRADE.

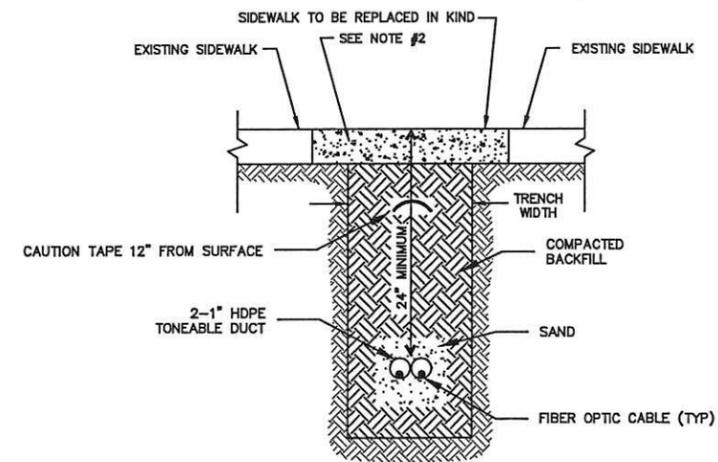
TYPICAL TRENCH DETAIL



NOTES:

1. THE PORTLAND CEMENT CONCRETE BASE SHALL BE 9 OR MORE INCHES FOR CONCRETE STREETS. THE CONCRETE SHALL BE BROUGHT TO GRADE (INCLUDING THE 1' OVERLAP) AND FINISHED.
2. ALL EXISTING PAVEMENTS SHALL BE CUT 1' EITHER SIDE OF TRENCH OR PAVEMENT OPENING. UNDERMINED PAVEMENT, OR DISTURBED SOIL MUST BE REMOVED AND PROPERLY RESTORED.
3. ALL ARTERIAL STREET PAVEMENTS WHICH HAVE BEEN RECONSTRUCTED IN THE LAST SEVEN YEARS WILL REQUIRE PLACEMENT OF #5 DOWEL BARS, 18 INCHES LONG, DRILLED AND GROUTED (NON-SHRINK) AT 30 INCH CENTERS ON ALL SIDES. A MINIMUM OF TWO DOWEL BARS WILL BE REQUIRED ON EACH SIDE OF THE SAW CUT BOUNDARIES.
4. ALL TIE BARS AND DOWEL BARS ARE TO BE EPOXY COATED.
5. PAVEMENT SHALL BE REMOVED TO NEAREST CONSTRUCTION JOINT IF TRENCH EDGE IS 2' OR LESS FROM JOINT.

ROADWAY TRENCHING DETAIL



NOTES:

1. ALL EXISTING PAVEMENTS SHALL BE CUT 1' EITHER SIDE OF TRENCH OR PAVEMENT OPENING. UNDERMINED PAVEMENT, OR DISTURBED SOIL MUST BE REMOVED AND PROPERLY RESTORED.
2. ALL CONDUIT IN OPEN CUT TRENCHES THAT ARE NOT CONCRETE ENCASED SHALL INSTALL WARNING TAPE 12 INCHES BELOW GRADE.
3. SIDEWALK TO BE REPLACED IN ACCORDANCE WITH GOVERNING MUNICIPALITY REQUIREMENTS (STONE BEDDING, WWF, ETC.)

SIDEWALK REPLACEMENT DETAIL

ENGINEER:

hbk ENGINEERING

HBK ENGINEERING, LLC
921 WEST VAN BUREN, SUITE 100
CHICAGO, IL 60607
PHONE: (312) 432-0076 FAX: (312) 432-0231
STATE OF ILLINOIS DEPARTMENT
OF PROFESSIONAL REGULATION
LICENSE NO. 184-002308

OWNER/DEVELOPER:

CROWN CASTLE

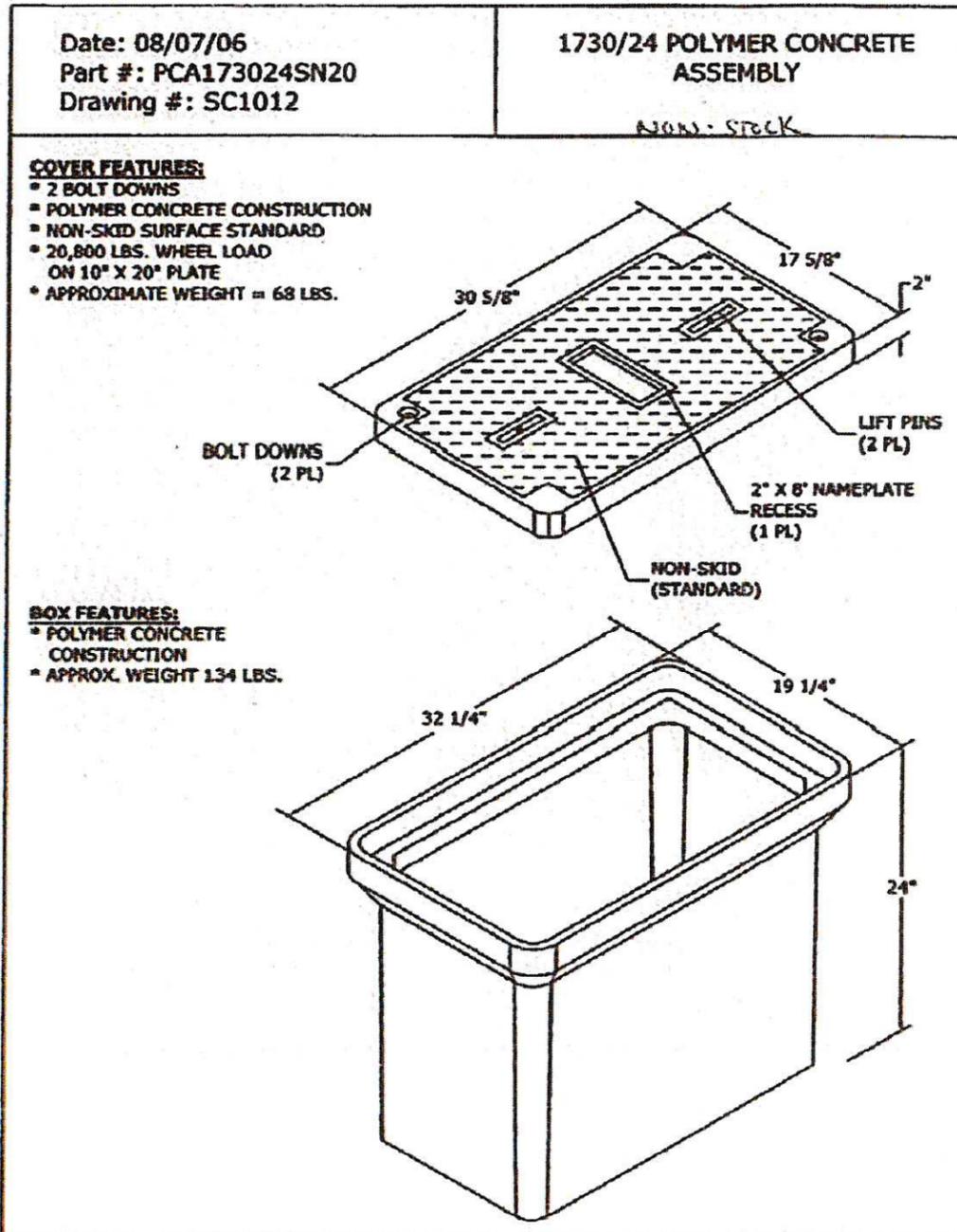
NODE LOCATION:
4 ELLSWORTH STREET
RYE, NEW YORK
JURISDICTION: CITY OF RYE

REVISIONS			
REV	DATE	DESCRIPTION	BY
00	04/20/16	FOR PERMIT	MFP
01	05/09/16	PER CC COMMENTS	MFP
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DRAWN BY:	CHECKED BY:	APPROVED BY:
MFP	BJG	BMM

PROJECT NUMBER:	16-0136
FILE NAME:	RYE_002_027
DATE DRAWN:	03/14/16
VERIZON NUMBER:	ODAS_WEST_N252

1. CONTRACTOR TO USE 1730/24 POLYMER CONCRETE ASSEMBLY.



ENGINEER:

hbk ENGINEERING
 921 WEST VAN BUREN, SUITE 100
 CHICAGO, IL 60607
 PHONE: (312) 432-9876 FAX: (312) 432-0231
 STATE OF ILLINOIS DEPARTMENT OF PROFESSIONAL REGULATION
 LICENSE NO. 184-002308

OWNER/DEVELOPER:

CC CROWN CASTLE

NODE LOCATION:

4 ELLSWORTH STREET
 RYE, NEW YORK
 JURISDICTION: CITY OF RYE

REVISIONS			
REV	DATE	DESCRIPTION	BY
00	04/26/16	FOR PERMIT	MFP
01	05/09/16	PER CC COMMENTS	MFP
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DRAWN BY:	CHECKED BY:	APPROVED BY:
MFP	BJG	BMM

PROJECT NUMBER:	16-0136
FILE NAME:	RYE_002_027
DATE DRAWN:	03/14/16
VERSION NUMBER:	ODAS_WEST_N252

EXHIBIT C

NYD6387 Comm Zone Installation - Across from 401 Theodore Fremd Ave



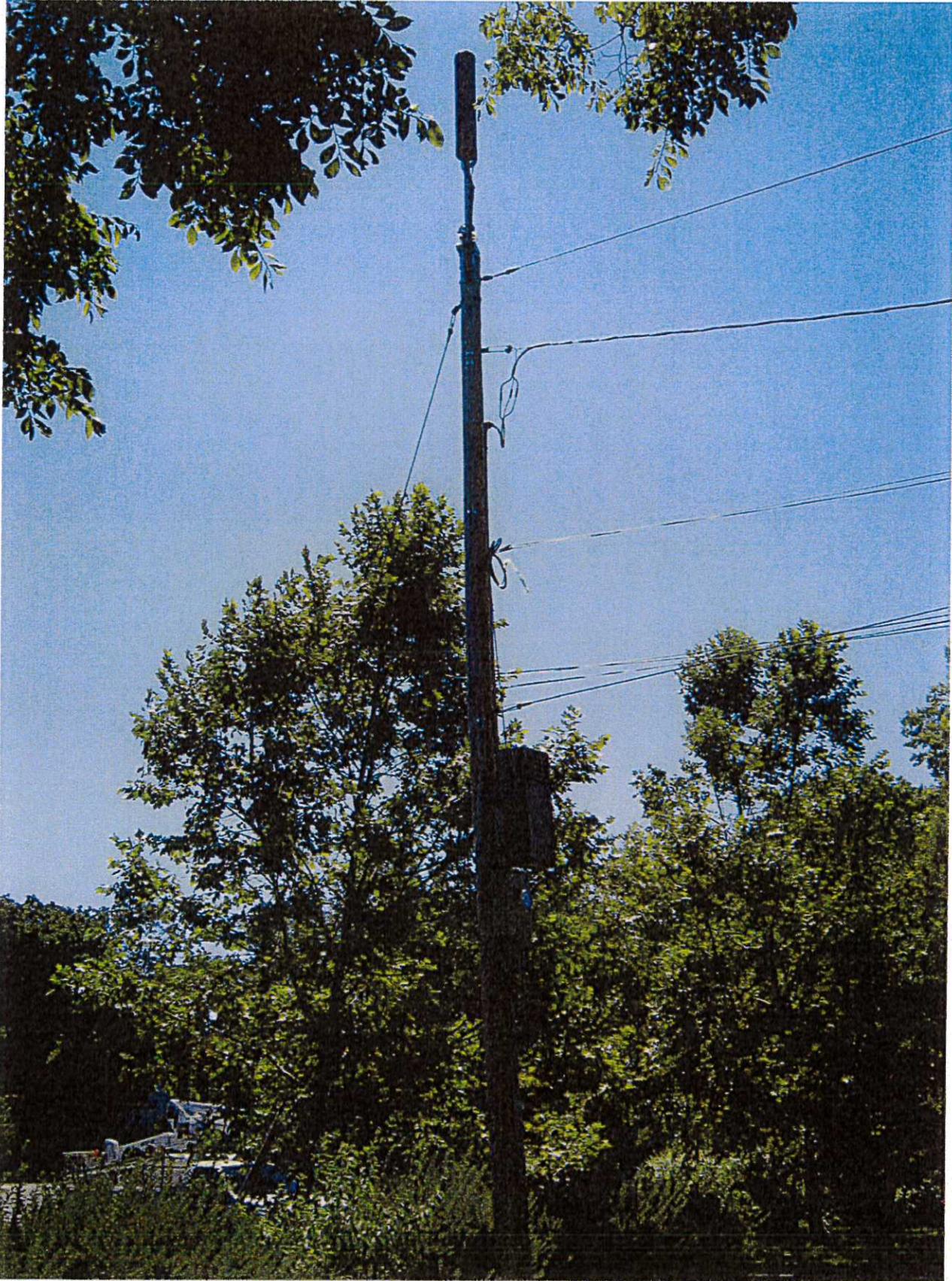
NYD6387 Comm Zone Installation - Across from 401 Theodore Fremd Ave



NYD6383 Pole Top Installation - Side of 411 Milton Rd (50ft South)



NYD6383 Pole Top Installation - Side of 411 Milton Rd (50ft South)



NYD6382 Pole Top Installation - Across from 594 Forest Ave



NYD6382 Pole Top Installation - Across from 594 Forest Ave



EXHIBIT D



F
Crown Castle
131-05 14th Avenue
College Point, NY 11356

June 24, 2014

Via FedEx

Ryan Coyne, P.E., City Engineer
Department of Public Works
City of Rye
1051 Boston Post Road
Rye, NY 10580

RE: Crown Castle NG East LLC ("Crown Castle") - Upgrades to equipment installed in the City of Rye (the "City") Public Right-of-Way

Dear Mr. Coyne:

This a courtesy notice that Crown Castle will be performing upgrades on its telecommunications equipment currently installed on two (2) wood utility poles in the City of Rye's Public Right-of-Way, as well as, attaching to one (1) other wood utility pole. Installation is anticipated to commence at the end of the third quarter of 2014. Crown Castle has previously installed and currently maintains such equipment pursuant to a RUA, dated February 17, 2011. These upgrades are now required in order to continue to meet the demands of improved technology and will not substantially change the physical dimensions of the equipment. Therefore, the upgrades fall within the scope of Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (the "Tax Act"). Additionally, the Federal Communications Commission ("FCC") has clarified that the Tax Act applies to distributed antenna system and small cells, which is what Crown Castle's deployed equipment constitutes.¹

This planned equipment upgrade is exactly the type of technological improvement that Congress intended to encourage when passing the Tax Act. Further, this notice serves as a confirmation that since no permits were required for the initial installation of equipment, no permits are required to perform this upgrade.

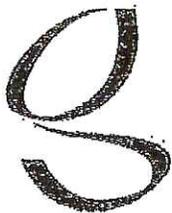
¹ See http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-2047A1.pdf for FCC Clarification on the Tax Act.

Please do not hesitate to contact me with any questions at (917) 563-3670 or via email john.cavaliere@crowncastle.com.

Very truly yours,
CROWN CASTLE NG EAST LLC

A handwritten signature in black ink, appearing to read "John Cavaliere", written in a cursive style.

John Cavaliere
Government Relations Manager



NextG Networks

EMPOWERING NEXT GENERATION WIRELESS
NETWORKS

Corporate Headquarters:

NextG Networks, Inc.
2216 O'Toole Ave.
San José, California 95131

Tel: (408) 954-1580
Fax: (408) 383-5397

Web: www.nextgnetworks.net

Writer's Address:

Joshua S. Trauner
NextG Networks of NY, Inc.
131-05 14th Avenue
College Point, NY 11356

Tel: (718) 463-3591
Fax: (718) 463-3595

Email: jtrauner@nextgnetworks.net

May 21, 2010

VIA USPS PRIORITY MAIL WITH SIGNATURE CONFIRMATION

Hon. Douglas H. French, Mayor
City of Rye
1051 Boston Post Road
Rye, NY 10580

Re: Application for License Agreement between the City of Rye and
NextG Networks for Use of the Public Rights-of-Way

Dear Mayor French:

Please accept this letter as the formal application of NextG Networks of NY, Inc. ("NextG"), for a license agreement or other appropriate form of authorization from the City of Rye (the "City") to conduct business as a telecommunications company operating with infrastructure located in the City's public ways. This information is submitted to the City in accordance with Section 253 of the Federal Telecommunications Act of 1996 and the relevant New York statutes governing the use of the public way by telecommunications carriers for the provision of their services.

A. Agreement Form and Purpose

Although an agreement or license is not required for access to the public right-of-way unless such requirement is published in your local laws (see Section I, below), NextG is nonetheless willing to offer an agreement and for this reason, files this letter with you to request a non-exclusive license agreement, franchise, or other appropriate form of authorization from the City in order to install, operate, and maintain fiber optic cable and associated equipment, including optical repeaters and antennas (each equipment location is referred to by the industry as a "node"), on, over and under the public way in the City in connection with the provision of telecommunications provided by NextG as a "carrier's carrier" for its wireless carrier customers. In order to expedite its application and processing, NextG proposes to enter into an agreement with the City substantially in the form attached hereto that includes an offer of annual

compensation to the City in the form of a percentage of NextG's gross revenues and also rent for attachment rights to any municipally-owned infrastructure utilized by NextG.

B. Information about NextG

Information about NextG and its technology and services is contained in a separate document entitled "A Local Official's Guide" enclosed with this letter. Additional information can be supplied to the City upon request.

C. NextG's Business Model

NextG is a facilities-based provider of protocol-agnostic, fiber-based RF transport services. NextG is not a wireless service provider, rather a transport services company, i.e. a "carrier's carrier". NextG's services extend any wireless carrier's RF signal in difficult coverage areas without the need for new cell towers. Although NextG's equipment includes small antennas, we are not considered wireless communication facilities by the New York State Public Service Commission (the "PSC") or the Federal Communications Commission. In the greater New Jersey-New York-Philadelphia market, NextG has successfully deployed more than 2,000 of its nodes, connected by hundreds of miles fiber in many jurisdictions, including: New York City, Philadelphia, Trenton, and nearly 30 additional villages and communities in the greater New York-Philadelphia-New Jersey area and more than 5,000 nationwide.

D. Regulatory Status

NextG has been issued a Certificate of Public Convenience and Necessity ("CPCN") by the PSC. A copy of the CPCN is attached. Our services and equipment are defined and regulated by the PSC as that of a facilities-based provider and reseller of local exchange and interexchange telecommunications services.

E. Proposed Location and Number of Attachments

NextG proposes that its right-of-way use agreement authorize the installation and operation of its equipment and network in, under, and over the public ways of the City on standard-design prefabricated steel poles, wooden distribution poles, newly installed poles and other available structures throughout the City. At this time, NextG has a preliminary map of six (6) locations and we are enclosing it for your review. Since we are still in the design phase, now would be the most appropriate time to engage with NextG on the finalization of the pole and site selection, since it will be difficult to accommodate changes after the initial design is finalized (which will happen in the next couple of months).

F. Use of Poles and Streets; Trenching

In addition to the possible placement of new poles in the right-of-way, NextG's model is, wherever possible, to use existing infrastructure. NextG prefers to attach to third-party utility infrastructure that is owned by Verizon or ConEd. However, NextG can also make its own applications for new utility poles in the public right-of-way, where necessary and on an equal basis with other certificated utility companies regulated by the PSC. Notwithstanding, installation of new poles is not NextG's preference, and we are sensitive to the communities' concerns about minimizing new utility infrastructure in the public ways where none previously existed. Therefore, NextG respectfully requests the City's consideration to avail certain City-owned utility poles, streetlight poles, traffic light poles and/or highway sign supports (collectively "poles") for the placement of telecommunications equipment (including associated cables, brackets and antennas) in accordance with any terms, conditions, and authorized purposes set forth in the proposed right-of-way use agreement. While the design is not yet finalized to the point where NextG can specify the exact City-owned poles that it would like to use, we are interested in working through the details on a framework level so that we can know if the City's infrastructure can be included in the design. Additionally, the entire system will be connected with fiber-optic cables, and to the greatest extent possible, NextG will utilize the existing conduit available for the distribution of fiber optic cable in the City. NextG will use every effort to minimize trenching and boring in the streets of the City by feeding fiber optic cabling directly from existing conduit, where available, to the poles on which optical repeater nodes and related equipment will be attached pursuant to the right-of-way use agreement.

G. Technical Specifications and Drawings

NextG will agree to observe all terms, conditions, limitations and design specifications set forth in the right-of-way use agreement in its installation, deployment and operation of the NextG fiber-fed optical repeater network in the City. Attached to the draft Agreement is an Exhibit A that includes the type of facilities that NextG is proposing. Additional specifications and technical drawings of representative types of equipment can be supplied upon request by the City.

H. Proposed Compensation to City

For use of the public ways and access to utility poles and streetlights (typically owned or controlled either by ConEd or Verizon), NextG proposes a compensation structure under its right-of-way use agreement of five percent (5%) of NextG's gross revenues from services provided in the City. In addition, NextG would compensate the City in the amount of Five Hundred Dollars (\$500.00) per City Owned pole utilized per annum. This is the same rate structure that NextG has offered in several other municipalities.

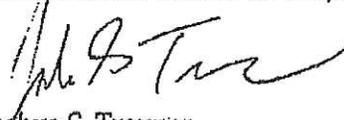
I. *Alternative if No Agreement is Reached*

NextG hopes to reach a mutually agreeable license with the City for use and occupation of the City's public ways. Our research of the City's code indicates that Chapter 167 of the city Code appears to regulate certificated providers of telecommunications services, such as NextG. Our permit submissions will be in accordance with such Chapter. Under federal law, local jurisdictions may "manage the right-of-way . . . on a competitively neutral and nondiscriminatory basis." 47 U.S.C. 253(c). Federal courts have upheld this statute to mean that a local government cannot impose certain requirements on new entrants (like NextG) without imposing those same requirements on the local incumbent local exchange carrier (the "ILEC"). *TCG New York, Inc. vs. City of White Plains*, 305 F.3d 67 (2nd Cir. 2002). Notwithstanding the state of the law, NextG is making this voluntary application to the City to establish the framework for its deployment, and to discuss the overall proposal in the City now, at a relatively early stage, when the benefits from the opportunity to collaborate can be optimized.

If the City wishes to collaborate with NextG in this effort (e.g., by entering into a form of license or agreement), we respectfully request that you indicate your interest to us within the next thirty (30) days so that we can proceed to negotiate the agreement. If we do not hear from you in that timeframe with an appropriate indication of interest, we will assume that the City does not wish to proceed with an agreement.

Thank you for your consideration and attention to this request. If you have any questions, please do not hesitate to call me at (718) 463-3591. I look forward to setting up a meeting at your convenience to discuss the City's response to this formal letter of application and the next steps required to move NextG's application forward to approval.

Very truly yours,
NEXTG NETWORKS OF NY, INC.


Joshua S. Trauer
Director of Government Relations

cc: Kevin J. Plunkett, Esq., Corporation Counsel
George Mottarella, P.E., City Engineer

Enclosures:

1. Copy of CPCN from NY State PSC
2. Local Official's Guide

3. Draft Right-of Way Use Agreement
4. Sample overview map of general areas of NextG's proposed installations
5. NextG's introductory Power Point presentation (with sample photographs)
6. Empowering Next Generation Wireless Networks

NextG Networks

Enclosure 1:

Certificate of Public Convenience and Necessity

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE
THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350

Internet Address: <http://www.dps.state.ny.us>

PUBLIC SERVICE COMMISSION

WILLIAM M. FLYNN
Chairman
THOMAS J. DUNLEAVY
JAMES D. BENNETT
LEONARD A. WEISS
NEAL N. GALVIN



DAWN JABLONSKI
General Counsel

JANET HAND DEIKLER
Secretary

April 4, 2003

Julie Kaminski Corsig
Davis Wright Tremaine LLP
1500 K Street, Suite 450
Washington, D.C. 20005

Re: Case No. 03-C-0027

Dear Ms. Corsig:

The application, by NextG Networks of NY, Inc. on January 7, 2003, for a Certificate of Public Convenience and Necessity to operate in New York State as a facilities-based provider and reseller of telephone service, without authority to provide local exchange service, is hereby approved. This approval is based upon the accuracy of the information provided in the company's application and may be revoked if the application is found to contain false or misleading information, for failure to file or maintain current tariffs, or for violation of Commission rules and regulations.

The company's tariff, P.S.C. No. 1 - Telephone, is also approved.

The company is not authorized to use its own operators to handle 0- (emergency or non-emergency) calls. Such calls must be routed to another telephone company or operator services provider authorized to handle such calls, until such time as an amended Certificate of Public Convenience and Necessity is obtained pursuant to Part 649.6 of the Commission's rules.

The company must obtain any required consents of municipal authorities before commencing construction of telephone lines. It must also comply with applicable federal laws, New York State Public Service Law and related statutes, and the Commission's rules and regulations.

The company is also required to file a Statement of Gross Intrastate Operating Revenues by March 31 each year. It will be notified in writing each year of the required content and format of this report.

Finally, please complete and return the enclosed, two-page questionnaire to Marla Le Boeuf of our staff within 30 days of receipt of this letter. This information will be added to the directory of telephone companies posted at our website, in order to help consumers search for companies available to meet their telecommunications needs. Any updates or changes should be promptly forwarded as well.

If you have any questions, please contact Marla Le Boeuf at (518) 474-1362.

By direction and delegation
of the Commission,

Allan H. Bausback

Allan H. Bausback
Director
Office of Communications

cc: Robert Delsman, Esq.
NextG Networks of NY, Inc.
2033 Gateway Place, Suite 500
San Jose, CA 95110-3709

Enclosure

NextG Networks

Enclosure 2:

Local Official's Guide

A Local Official's Guide:

RESPONDING TO A TELECOMMUNICATIONS APPLICATION
FROM NEXTG NETWORKS
(New York)

NextG Networks of NY, Inc ("NextG"), has submitted to you an application under the federal Communications Act for access to the public rights of way to construct facilities necessary to provide telecommunications services. In order to assist you in analyzing and responding to NextG's application, NextG sets forth below answers to common questions raised by local officials upon receipt of such an application.

Q. Who is NextG Networks?

A. NextG Networks is a next-generation communications company that provides managed RF transport and backhaul services to wireless communications service providers, including mobile network operators and public WLAN service providers. NextG's innovative and cost-effective RF-over-Fiber ("RFoF") transport solution enables wireless service providers to expand their coverage and/or capacity throughout metropolitan regions and in dense urban and isolated suburban areas. Founded in 2001, NextG Networks is headquartered in San Jose, California, and operates regional subsidiaries throughout the United States.

Q. What is the authority that NextG has from the State of NY?

A. NextG holds a Certificate of Public Convenience and Necessity ("CPCN") from the New York Public Service Commission ("PSC"), granting NextG the authority to deploy its facilities throughout the state "as a facilities-based provider and reseller of telephone service." PSC Case No. 03-C-0027 (April 4, 2003).

Q. What kind of service does NextG provide?

A. NextG provides Telecommunications Services. Specifically, it provides "RF Transport Services" that carry voice and data traffic handed off to it by wireless providers (such as cellular and PCS). It carries that traffic via its fiber optic lines from antennas located on utility and/or street light poles to a central switching-like location, and from there, either back to another antenna or out to the public switched telephone network or Internet. NextG has filed a tariff that has been accepted for filing with the PSC pursuant to Public Service Law, Art 5, § 92; 16 NYCRR Part 720.

Q. What is NextG asking of the Municipality?

A. NextG is applying for the right to construct, operate, manage, and maintain a telecommunications network in the public ways of the Municipality in compliance with the Municipality's ordinances and permitting requirements in order to serve its wireless customers and to improve wireless coverage and capacity in the Municipality. Although most municipalities have many different telecommunications providers in their public ways, many do not have a published requirement for an agreement or franchise to occupy the public way. Nonetheless, as a gesture of good faith, even though your municipality may not have published requirements, NextG has submitted a proposed form of right-of-way use agreement ("RUA") that asks for the following:

- ✦ the right to enter into the public way to provide telecommunications services consistent with NextG's CPCN and tariff on file with the PSC;
- ✦ the right to utilize Municipality-owned streetlight poles and traffic signal poles for an agreed annual fee for the collocation of NextG's facilities (this may avoid the need, in many cases, for NextG to install new utility infrastructure in the right-of-way);
- ✦ if applicable, the right to utilize any available Municipality-owned fiber or conduit for an agreed annual fee for the collocation of NextG's facilities; and

Q. How long do I have to respond to NextG's application?

A. Under federal law, local authorities must act on NextG's application, in writing, expeditiously. Unreasonable delay or a failure to act expeditiously has been held to constitute an unlawful barrier to entry under federal law.

Q. Why not work on the franchise or agreement at the time that the permit applications are ready instead of now?

A. The negotiation of an agreement or franchise can take several months and involves a public process requiring approval by the municipal council or board. Because of the time required for that process, NextG is requesting that the municipality let us know now if it is interested in an agreement so that the permitting process can conform to the terms of the agreement.

Q. What information can I require from NextG?

A. Local authorities may only request information directly related to NextG's physical construction in and occupation of the public rights of way. Local authorities are prohibited from inquiring into the "legal, technical, or financial" qualifications of NextG or other matters unnecessary for the local authority's ability to oversee NextG's construction and manage the public rights of way, since this is preempted by the PSC, which regulates these aspects of NextG's services.

Q. Am I permitted to impose restrictions on NextG's use of the public rights of way?

A. Local authorities are permitted only to "manage" NextG's construction and physical occupation of the public rights of way. This has been held to include matters such as requiring insurance or bonds and imposing standard construction permitting and safety regulations. This authority has also been described as extending to the "time and manner" of construction. The law is clear that no municipality may impose certain requirements on new entrants (like NextG) unless the same requirements for access to the public right-of-way are imposed on all users, including the Incumbent Local Exchange Provider (e.g., Verizon).¹

¹ See *TCG New York, Inc., v. City of White Plains*, 305 F.3d 67 (2nd Cir., 2002).

Q. Can the Municipality regulate NextG's activities as a telecommunications provider in the public rights-of-way?

A. No. Section 253 of the Communications Act prohibits local authorities from regulating the provision of telecommunications services.

Q. Am I required to treat NextG in the same way as the Municipality treats the incumbent local telephone company?

A. Yes. Local authorities must treat competitive providers, like NextG, in a competitively-neutral and non-discriminatory manner. As a result, local authorities cannot impose on NextG requirements or fees that are not imposed on the incumbent Bell Company.

Q. Who will own the equipment utilized in NextG's network and what impact does that have on NextG's rights?

A. NextG will own or manage the fiber, the optical repeaters, and the antenna by means of which it provides RF Transport Services in all cases. Under New York law, the term "telephone corporation" means "every corporation ... owning, operating or managing any telephone line or part of telephone line used in the conduct of the business of affording telephonic communication for hire...."² "Telephone line" includes all facilities "used, operated or owned by any telephone corporation to facilitate the business of affording telephonic communication...."³ Because under its tariff and agreements NextG will use, operate and manage all equipment incorporated into its network, including the optical repeaters and antennae, those facilities are part of NextG's network and accorded the same rights as the rest of NextG's network facilities. While this may appear to be a new model that NextG is pioneering and with which the Municipality may not be familiar, NextG has deployed more than 6,000 nodes and several thousand miles of fiber nationwide under the process (including more than 1,500 in New York).

Q. Is NextG a wireless provider?

A. No. NextG is not licensed to provide wireless services and does not control any wireless spectrum. NextG is a "carrier's carrier" whose customers are wireless providers. However, as previously described, NextG's services are regulated by the PSC under the terms of its CPCN. In order to promote activities of the type that NextG offers, pursuant to §214 of the Telecommunications Act, the FCC promulgated rules that do not require separate registration for NextG's services.⁴

Q. What facilities does NextG need to install to provide service in our community?

A. NextG provides its service with a combination of fiber optic lines connected to small wireless antennas, optical repeaters, and associated equipment. Thus, it must generally install a certain amount of fiber optic cable, either underground or on existing utility poles. In

² NY Public Service Law, Article 1, § 2 (emphasis added).

³ *Id.* (emphasis added).

⁴ *In re Implementation of Section 402(B)(2)(A) of the Telecommunications Act of 1996 and Petition for Forbearance of the Independent Telephone & Telecommunications Alliance, Report and Order and Second Memorandum Opinion and Order*, CC Dkt. No. 97-11 and AAD File No. 98-43, 14 FCC Red 11364 (1999).

addition, it must install small wireless antennas and associated equipment on utility poles and/or streetlight poles, typically located in the public rights of way. When possible and appropriate, NextG may lease capacity on existing fiber optic facilities owned by the Municipality or other providers, thus diminishing the physical impact of NextG's installation.

Q. Will NextG use existing utility poles?

A. NextG will generally seek to collocate its facilities on existing utility or streetlight poles, typically located in the public rights of way. To the extent that it will be using privately-owned utility poles, NextG has entered into (or is in the process of entering into) any necessary pole attachment agreement. New York statutes and regulations adopted by the New York Public Service Commission govern the rates, terms, and conditions that private utility pole owners may impose on NextG's access to such poles. See N.Y. C.L.S. PUB. SER. § 119-a. Additionally, the PSC has promulgated rules that regulate the safety issues associated with such attachments, and NextG will comply with all of the PSC's published rules.⁵

Q. Will NextG need to install any new poles of its own?

A. Generally, no; however, if there is no available infrastructure, or if the Municipality does not wish to allow NextG to attach to its streetlight or traffic poles, NextG may need to install its own utility poles. In such cases, NextG will comply with all lawful local regulations governing such installations.

Q. What are the benefits from NextG's entry into our community?

A. First, NextG's facilities and services are less burdensome or intrusive than traditional cell towers. Where wireless providers have traditionally relied on very large towers or monopoles, NextG's service uses fiber optics and small, unobtrusive antennas located on existing utility and/or streetlight poles.

Second, NextG's service allows the wireless carriers to expand the coverage of wireless services, with less intrusive facilities. Traditional wireless technologies have suffered from "dead spots" and bandwidth capacity limitations. NextG's combination of fiber optics and lower antennas helps wireless providers eliminate dead spots and increase bandwidth needed for emerging and future services.

Third, NextG introduces competition that will help provide more service choices and more competitive prices for consumers.

Fourth, NextG network operations will provide revenue to the Municipality under the proposed agreement.

Q. What are NextG's rights under Federal law?

A. Section 253 of the Communications Act grants NextG the right to provide telecommunications services and prohibits municipalities from imposing requirements that prevent NextG from providing telecommunications services or that "have the effect of prohibiting" NextG from providing telecommunications services. Recent court decisions

⁵ NY Public Service Law, Art. 6, § 119-a, and Order Adopting Policy Statement on Pole Attachments, State of New York Public Service Commission Case 03-M-0432 (August 6, 2004).

applying § 253 have held that any municipal requirement that "materially inhibits" NextG's ability to compete is preempted. This includes imposing on NextG requirements such as fees or franchises that are not imposed on the incumbent telephone company. Ultimately, municipalities may not exercise discretion over whether NextG can access the public rights of way and provide service.

Section 253 reserves for municipalities only the authority to "manage" NextG's physical occupation of the public rights of way (*i.e.*, construction permitting and safety issues). NextG complies with all applicable and lawful local permitting requirements concerning construction in the public rights of way.

Q. Are harmful radio-frequency emissions an issue with the equipment related to NextG's service?

A. No. The wireless antennas associated with NextG's service produce RF radiation at levels well below the FCC's permitted maximums for general-population, uncontrolled exposures, which are themselves conservatively low. Indeed, the facilities associated with NextG's services are "categorically excluded" from the FCC's requirement for routine environmental compliance testing for RF exposure.

NextG Networks

Enclosure 3:

Draft Right of Way Use Agreement
(RUA)

City of Rye

RIGHT-OF-WAY USE AGREEMENT

THIS RIGHT-OF-WAY USE AGREEMENT (this "Use Agreement") is dated as of _____, 2010 (the "Effective Date"), and entered into by and between the CITY OF RYE, a New York municipal corporation (the "City"), and NEXTG NETWORKS OF NY, INC. a Delaware corporation ("NextG").

RECITALS

A. NextG owns, maintains, operates and controls, in accordance with regulations promulgated by the Federal Communications Commission and the New York State Public Service Commission, a fiber-based telecommunications Network or Networks (as defined below) serving NextG's wireless carrier customers and utilizing microcellular optical repeater Equipment (as defined below) certified by the Federal Communications Commission.

B. For purpose of operating the Network, NextG wishes to locate, place, attach, install, operate, control, and maintain Equipment in the Public Way (as defined below) on facilities owned by the City, as well as on facilities owned by third parties therein.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree to the following covenants, terms, and conditions:

1 **DEFINITIONS.** The following definitions shall apply generally to the provisions of this Use Agreement:

1.1 **City.** ("City") shall mean the City of Rye, New York.

1.2 **Decorative Streetlight Pole.** "Decorative Streetlight Pole" shall mean any streetlight pole that incorporates artistic design elements not typically found in standard steel or aluminum streetlight poles.

1.3 **Equipment.** "Equipment" means the optical repeaters, DWDM and CWDM multiplexers, antennas, fiber optic cables, wires, and related equipment, whether referred to singly or collectively, to be installed and operated by NextG hereunder. Examples of typical Equipment types and installation configurations are shown in the drawings and photographs attached hereto as Exhibit A and incorporated herein by reference.

1.4 **Fee.** "Fee" means any assessment, license, charge, fee, imposition, tax, or levy of general application to entities doing business in the City lawfully imposed by any governmental body (but excluding any utility users' tax, franchise fees, communications tax, or similar tax or fee).

1.5 **Gross Revenue.** "Gross Revenue" shall mean and include any and all income and other consideration collected, received, or in any manner gained or derived by NextG from or in connection with, the provision of RF telecommunication transport services, either directly by NextG or indirectly through a reseller, if any, to customers of such services wholly consummated within the

Right-of-Way Use Agreement
NextG Networks of NY, Inc.
page 1 of 11

City, including any imputed revenue derived from commercial trades and barter equivalent to the full retail value of goods and services provided by NextG. "Adjusted Gross Revenue" shall include offset for: (a) sales, ad valorem, or other types of "add-on" taxes, levies, or fees calculated by gross receipts or gross revenues which might have to be paid to or collected for federal, state, or local government (exclusive of the Municipal Facilities Annual Fee paid to the City provided herein); (b) retail discounts or other promotions; (c) non-collectable amounts due NextG or its customers; (d) refunds or rebates; and (e) non-operating revenues such as interest income or gain from the sale of an asset.

1.6 *ILEC*. "ILEC" means the Incumbent Local Exchange Carrier that provides basic telephone services, among other telecommunications services, to the residents of the City.

1.7 *Installation Date*. "Installation Date" shall mean the date that the first Equipment is installed by NextG pursuant to this Use Agreement.

1.8 *Laws*. "Laws" means any and all statutes, constitutions, ordinances, resolutions, regulations, judicial decisions, rules, tariffs, administrative orders, certificates, orders, or other requirements of the City or other governmental agency having joint or several jurisdiction over the parties to this Use Agreement.

1.9 *Municipal Facilities*. "Municipal Facilities" means City-owned Streetlight Poles, Decorative Streetlight Poles, lighting fixtures, electroliers, or other City-owned structures located within the Public Way and may refer to such facilities in the singular or plural, as appropriate to the context in which used.

1.10 *Network*. "Network" or collectively "Networks" means one or more of the neutral-host, protocol-agnostic, fiber-based optical repeater networks operated by NextG to serve its wireless carrier customers in the City.

1.11 *NextG*. "NextG" means NextG Networks of NY, Inc., a corporation duly organized and existing under the laws of the State of Delaware, and its lawful successors, assigns, and transferees.

1.12 *Public Way*. "Public Way" means the space in, upon, above, along, across, and over the public streets, roads, highways, lanes, courts, ways, alleys, boulevards, sidewalks, bicycle lanes, and places, including all public utility easements and public service easements as the same now or may hereafter exist, that are under the jurisdiction of the City. This term shall not include county, state, or federal rights of way or any property owned by any person or entity other than the City, except as provided by applicable Laws or pursuant to an agreement between the City and any such person or entity.

1.13 *PSC*. "PSC" means the New York State Public Service Commission.

1.14 *Services*. "Services" means the RF transport and other telecommunications services provided through the Network by NextG to its wireless carrier customers pursuant to one or more tariffs filed with and regulated by the PSC.

1.15 *Streetlight Pole*. "Streetlight Pole" shall mean any standard-design concrete, fiberglass, metal, or wooden pole used for streetlighting purposes.

2 **TERM**. This Use Agreement shall be effective as of the Effective Date and shall extend for a term of ten (10) years commencing on the Installation Date, unless it is earlier terminated by either party in accordance with the provisions herein. The term of this Use Agreement shall be renewed automatically

for three (3) successive terms of five (5) years each on the same terms and conditions as set forth herein, unless NextG notifies the City of its intention not to renew not less than thirty (30) calendar days prior to commencement of the relevant renewal term.

3 SCOPE OF USE AGREEMENT. Any and all rights expressly granted to NextG under this Use Agreement, which shall be exercised at NextG's sole cost and expense, shall be subject to the prior and continuing right of the City under applicable Laws to use any and all parts of the Public Way exclusively or concurrently with any other person or entity and shall be further subject to all deeds, easements, dedications, conditions, covenants, restrictions, encumbrances, and claims of title of record which may affect the Public Way. Nothing in this Use Agreement shall be deemed to grant, convey, create, or vest in NextG a real property interest in land, including any fee, leasehold interest, or easement. Any work performed pursuant to the rights granted under this Use Agreement shall be subject to the reasonable prior review and approval of the City except that it is agreed that no zoning or planning board permit, variance, conditional use permit or site plan permit, or the equivalent under the City's ordinances, codes or laws, shall be required for the installation of NextG's Equipment installed in the Public Way and/or on Municipal Facilities, unless such a process has been required for the placement of all communications facilities and equipment in the Public Way by all other telecommunications providers, including but not limited to the ILEC and local cable provider(s).

3.1 Attachment to Municipal Facilities. The City hereby authorizes and permits NextG to enter upon the Public Way and to locate, place, attach, install, operate, maintain, control, remove, reattach, reinstall, relocate, and replace Equipment in or on Municipal Facilities for the purposes of operating the Network and providing Services. In addition, subject to the provisions of § 4.5 below, NextG shall have the right to draw electricity for the operation of the Equipment from the power source associated with each such attachment to Municipal Facilities. A denial of an application for the attachment of Equipment to Municipal Facilities shall not be based upon the size, quantity, shape, color, weight, configuration, or other physical properties of NextG's Equipment if the Equipment proposed for such application substantially conforms to one of the approved configurations and the Equipment specifications set forth in Exhibit A.

3.2 Attachment to Third-Party Property. Subject to obtaining the permission of the owner(s) of the affected property, the City hereby authorizes and permits NextG to enter upon the Public Way and to attach, install, operate, maintain, remove, reattach, reinstall, relocate, and replace such number of Equipment in or on poles or other structures owned by public utility companies or other property owners located within the Public Way as may be permitted by the public utility company or property owner, as the case may be. Upon request, NextG shall furnish to the City evidence that NextG has entered into the appropriate pole-attachment agreement required pursuant to N.Y. C.L.S. Pub. Ser. § 119-a. A denial of an application for the attachment of Equipment to third-party-owned poles or structures in the Public Way shall not be based upon the size, quantity, shape, color, weight, configuration, or other physical properties of NextG's Equipment if the Equipment proposed for such application substantially conforms to one of the approved configurations and the Equipment specifications set forth in Exhibit A. Where third-party property is not available for attachment of Equipment, NextG may install its own utility poles in the Public Way, consistent with the requirements that the City imposes on similar installations made by other utilities that use and occupy the Public Way.

3.3 Preference for Municipal Facilities. In any situation where NextG has a choice of attaching its Equipment to either Municipal Facilities or third-party-owned property in the Public Way, NextG agrees to attach to the Municipal Facilities, provided that (i) such Municipal Facilities are at least equally suitable functionally for the operation of the Network and (ii) the rental fee and installation

costs associated with such attachment over the length of the term are equal to or less than the fee or cost to NextG of attaching to the alternative third-party-owned property.

3.4 No Interference. NextG in the performance and exercise of its rights and obligations under this Use Agreement shall not interfere in any manner with the existence and operation of any and all public and private rights of way, sanitary sewers, water mains, storm drains, gas mains, poles, aerial and underground electrical and telephone wires, electroliers, cable television, and other telecommunications, utility, or municipal property, without the express written approval of the owner or owners of the affected property or properties, except as permitted by applicable Laws or this Use Agreement. The City agrees to require the inclusion of the same or a similar prohibition on interference as that stated above in all agreements and franchises the City may enter into after the Effective Date with other information or communications providers and carriers.

3.5 Compliance with Laws. NextG shall comply with all applicable Laws in the exercise and performance of its rights and obligations under this Use Agreement.

4 COMPENSATION; UTILITY CHARGES. NextG shall be solely responsible for the payment of all lawful Fees in connection with NextG's performance under this Use Agreement, including those set forth below.

4.1 Annual Fee. In order to compensate the City for NextG's entry upon and deployment within the Public Way and as compensation for the use of Municipal Facilities, NextG shall pay to the City an annual fee (the "Annual Fee") in the amount of Five Hundred Dollars (\$500.00) for the use of each Municipal Facility, if any, upon which a Equipment has been installed pursuant to this Use Agreement. The aggregate Annual Fee with respect to each year of the term shall be an amount equal to the number of Equipment installed on Municipal Facilities during the preceding twelve (12) months multiplied by the Annual Fee, prorated as appropriate, and shall be due and payable not later than forty-five (45) days after each anniversary of the Installation Date. The City represents and covenants that the City owns all Municipal Facilities for the use of which it is collecting from NextG the Annual Fee pursuant to this § 4.1.

4.1.1 CPI Adjustment. Effective commencing on the fifth (5th) anniversary of the Installation Date and continuing on each fifth (5th) anniversary thereafter during the term, the Annual Fee with respect to the ensuing five-year period shall be adjusted by a percentage amount equal to the percentage change in the U.S. Department of Labor, Bureau of Labor Statistics Consumer Price Index (All Items, All Urban Consumers, 1982-1984=100) which occurred during the previous five-year period for the New York-Northern New Jersey-Long Island, NY-NJ-PA Metropolitan Statistical Area (MSA).

4.2 Right-of-Way Use Fee. In order to compensate the City for NextG's entry upon and deployment of Equipment within the Public Way, NextG shall pay to the City, on an annual basis, an amount equal to five percent (5%) of Adjusted Gross Revenues (the "Right-of-Way Fee") payable within thirty (30) days of the Effective Date and on each anniversary thereafter. The Right-of-Way Fee shall be payable for the period commencing with the Effective Date and ending on the date of termination of this Use Agreement. NextG shall make any payment of the Right-of-Way Fee that may be due and owing within forty-five (45) days after the first anniversary of the Effective Date and within the same period after each subsequent anniversary of the Effective Date. Within forty-five (45) days after the termination of this Use Agreement, the Right-of-Way Fee shall be paid for the period elapsing since the end of the last calendar year for which the Right-of-Way Fee has been paid. NextG shall furnish to the City with each payment of the Right-of-Way Fee a statement, executed by an authorized officer of NextG or his or her designee, showing the amount of Adjusted Gross Revenues for the

period covered by the payment. If NextG discovers any error in the amount of compensation due, the City shall be paid within thirty (30) days of discovery of the error or determination of the correct amount. Any overpayment to the City through error or otherwise shall be refunded or offset against the next payment due. Acceptance by the City of any payment of the Right-of-Way Fee shall not be deemed to be a waiver by the City of any breach of this Use Agreement occurring prior thereto, nor shall the acceptance by the City of any such payments preclude the City from later establishing that a larger amount was actually due or from collecting any balance due to the City.

4.3 Accounting Matters. NextG shall keep accurate books of account at its principal office in San Jose, CA or such other location of its choosing for the purpose of determining the amounts due to the City under §§ 4.1 and 4.2 above. The City may inspect NextG's books of account relative to the City at any time during regular business hours on thirty (30) days' prior written notice and may audit the books from time to time at the City's sole expense, but in each case only to the extent necessary to confirm the accuracy of payments due under § 4.1 above. The City agrees to hold in confidence any non-public information it learns from NextG to the fullest extent permitted by Law.

4.4 Most-Favored Municipality. Should NextG after the parties' execution and delivery of this Agreement enter into an attachment or franchise agreement with another municipality of the same size or smaller than the City in the same County (excluding New York City), which agreement contains financial benefits for such municipality which, taken as a whole and balanced with the other terms of such agreement, are in the City's opinion substantially superior to those in this Agreement, the City shall have the right to require that NextG modify this Use Agreement to incorporate the same or substantially similar superior benefits and such other terms and burdens by substitution, *mutatis mutandis*, of such other agreement or otherwise.

4.5 Electricity Charges. NextG shall be solely responsible for the payment of all electrical utility charges to the applicable utility company based upon the Equipment' usage of electricity and applicable tariffs.

5 CONSTRUCTION. NextG shall comply with all applicable federal, State, and City codes, specifications, and requirements, if any, related to the construction, installation, operation, maintenance, and control of NextG's Equipment installed in the Public Way and on Municipal Facilities in the City. NextG shall not attach, install, maintain, or operate any Equipment in or on the Public Way and/or on Municipal Facilities without the prior approval of the City for each location.

5.1 Obtaining Required Permits. If the attachment, installation, operation, maintenance, or location of the Equipment in the Public Way shall require any permits, NextG shall, if required under applicable City ordinances, apply for the appropriate permits and pay any standard and customary permit fees, so long as the permit fees and process that the City requests of NextG are functionally equivalent to the fees and the process that are applied to the ILEC and/or the cable provider(s). In the case of Third Party attachments (to existing utility infrastructure), NextG agrees to provide the City with a list of proposed attachments in advance of its deployment to the City and, the City agrees to use reasonable efforts to review and approve NextG's list of proposed attachments to Third Party utility infrastructure within thirty (30) days of submission, and if no comment is received within thirty (30) days, the application will be presumed to be acceptable and no further action will be required prior to NextG's installation.

5.2 Location of Equipment. The proposed locations of NextG's planned initial installation of Equipment shall be provided to the City promptly after NextG's review of available street light maps (if applicable) and prior to deployment of the Equipment. Upon the completion of installation,

NextG promptly shall furnish to the City a pole list showing the exact location of the Equipment in the Public Way.

5.3 Relocation and Displacement of Equipment. NextG understands and acknowledges that the City may require NextG to relocate one or more of its Equipment installations. NextG shall at City's direction relocate such Equipment at NextG's sole cost and expense, whenever the City reasonably determines that the relocation is needed for any of the following purposes: (a) if required for the construction, completion, repair, relocation, or maintenance of a City project; (b) because the Equipment is interfering with or adversely affecting proper operation of City-owned light poles, traffic signals, or other Municipal Facilities; or (c) to protect or preserve the public health or safety. In any such case, the City shall use its best efforts to afford NextG a reasonably equivalent alternate location. If NextG shall fail to relocate any Equipment as requested by the City within a reasonable time under the circumstances in accordance with the foregoing provision, the City shall be entitled to relocate the Equipment at NextG's sole cost and expense, without further notice to NextG. To the extent the City has actual knowledge thereof, the City will attempt promptly to inform NextG of the displacement or removal of any pole on which any Equipment is located.

5.4 Relocations at NextG's Request. In the event NextG desires to relocate any Equipment from one Municipal Facility to another, NextG shall so advise the City. The City will use its best efforts to accommodate NextG by making another reasonably equivalent Municipal Facility available for use in accordance with and subject to the terms and conditions of this Use Agreement.

5.5 Damage to Public Way. Whenever the removal or relocation of Equipment is required or permitted under this Use Agreement, and such removal or relocation shall cause the Public Way to be damaged, NextG, at its sole cost and expense, shall promptly repair and return the Public Way in which the Equipment are located to a safe and satisfactory condition in accordance with applicable Laws, normal wear and tear excepted. If NextG does not repair the site as just described, then the City shall have the option, upon fifteen (15) days' prior written notice to NextG, to perform or cause to be performed such reasonable and necessary work on behalf of NextG and to charge NextG for the proposed costs to be incurred or the actual costs incurred by the City at the City's standard rates. Upon the receipt of a demand for payment by the City, NextG shall promptly reimburse the City for such costs.

6 INDEMNIFICATION AND WAIVER. NextG agrees to indemnify, defend, protect, and hold harmless the City, its council members, officers, and employees from and against any and all claims, demands, losses, damages, liabilities, fines, charges, penalties, administrative and judicial proceedings and orders, judgments, and all costs and expenses incurred in connection therewith, including reasonable attorney's fees and costs of defense (collectively, the "Losses") directly or proximately resulting from NextG's activities undertaken pursuant to this Use Agreement, except to the extent arising from or caused by the negligence or willful misconduct of the City, its council or board members, officers, elected trustees, employees, agents, or contractors.

6.1 Waiver of Claims. NextG waives any and all claims, demands, causes of action, and rights it may assert against the City on account of any loss, damage, or injury to any Equipment or any loss or degradation of the Services as a result of any event or occurrence which is beyond the reasonable control of the City.

6.2 Limitation of City's Liability. The City shall be liable only for the cost of repair to damaged Equipment arising from the negligence or willful misconduct of the City, its employees, agents, or contractors and shall in no event be liable to indirect or consequential damages.

7 INSURANCE. NextG shall obtain and maintain at all times during the term of this Use Agreement Commercial General Liability Insurance and Commercial Automobile Liability Insurance protecting NextG in an amount not less than One Million Dollars (\$1,000,000) per occurrence (combined single limit), including bodily injury and property damage, and in an amount not less than Two Million Dollars (\$2,000,000) annual aggregate for each personal injury liability and products-completed operations. The Commercial General Liability insurance policy shall name the City, its elected officials, officers, and employees as additional insureds as respects any covered liability arising out of NextG's performance of work under this Use Agreement. Coverage shall be in an occurrence form and in accordance with the limits and provisions specified herein. Claims-made policies are not acceptable. Such insurance shall not be canceled, nor shall the occurrence or aggregate limits set forth above be reduced, until the City has received at least thirty (30) days' advance written notice of such cancellation or change. NextG shall be responsible for notifying the City of such change or cancellation.

7.1 Filing of Certificates and Endorsements. Prior to the commencement of any work pursuant to this Use Agreement, NextG shall file with the City the required original certificate(s) of insurance with endorsements, which shall state the following:

(a) the policy number; name of insurance company; name and address of the agent or authorized representative; name and address of insured; project name; policy expiration date; and specific coverage amounts;

(b) that the City shall receive thirty (30) days' prior notice of cancellation;

(c) that NextG's Commercial General Liability insurance policy is primary as respects any other valid or collectible insurance that the City may possess, including any self-insured retentions the City may have; and any other insurance the City does possess shall be considered excess insurance only and shall not be required to contribute with this insurance; and

(d) that NextG's Commercial General Liability insurance policy waives any right of recovery the insurance company may have against the City.

The certificate(s) of insurance with endorsements and notices shall be mailed to the City at the address specified in § 8 below.

7.2 Workers' Compensation Insurance. NextG shall obtain and maintain at all times during the term of this Use Agreement statutory workers' compensation and employer's liability insurance in an amount not less than One Million Dollars (\$1,000,000) and shall furnish the City with a certificate showing proof of such coverage.

7.3 Insurer Criteria. Any insurance provider of NextG shall be admitted and authorized to do business in the State of New York and shall carry a minimum rating assigned by *A.M. Best & Company's Key Rating Guide* of "A" Overall and a Financial Size Category of "X" (i.e., a size of \$500,000,000 to \$750,000,000 based on capital, surplus, and conditional reserves). Insurance policies and certificates issued by non-admitted insurance companies are not acceptable.

7.4 Severability of Interest. Any deductibles or self-insured retentions must be stated on the certificate(s) of insurance, which shall be sent to and approved by the City. "Severability of interest" or "separation of insureds" clauses shall be made a part of the Commercial General Liability and Commercial Automobile Liability policies.

8 NOTICES. All notices which shall or may be given pursuant to this Use Agreement shall be in writing and delivered personally or transmitted (a) through the United States mail, by registered or certified mail, postage prepaid; (b) by means of prepaid overnight delivery service; or (c) by facsimile or email transmission, if a hard copy of the same is followed by delivery through the U. S. mail or by overnight delivery service as just described, addressed as follows:

if to the City:

CITY OF RYE
Attn: Mayor
Rye City Hall
1051 Boston Post Road
Rye, New York 10580

if to NextG:

NEXTG NETWORKS OF NY, INC.
Attn: Contracts Administration
2216 O'Toole Ave
San Jose, CA 95131

8.1 *Date of Notices; Changing Notice Address.* Notices shall be deemed given upon receipt in the case of personal delivery, three (3) days after deposit in the mail, or the next business day in the case of facsimile, email, or overnight delivery. Either party may from time to time designate any other address for this purpose by written notice to the other party delivered in the manner set forth above.

9 **TERMINATION.** This Use Agreement may be terminated by either party upon forty five (45) days' prior written notice to the other party upon a default of any material covenant or term hereof by the other party, which default is not cured within forty-five (45) days of receipt of written notice of default (or, if such default is not curable within forty-five (45) days, if the defaulting party fails to commence such cure within forty-five (45) days or fails thereafter diligently to prosecute such cure to completion), provided that the grace period for any monetary default shall be ten (10) days from receipt of notice. Except as expressly provided herein, the rights granted under this Use Agreement are irrevocable during the term.

10 **ASSIGNMENT.** This Use Agreement shall not be assigned by NextG without the express written consent of the City, which consent shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, the transfer of the rights and obligations of NextG to a parent, subsidiary, or other affiliate of NextG or to any successor in interest or entity acquiring fifty-one percent (51%) or more of NextG's stock or assets (collectively "Exempted Transfers") shall not be deemed an assignment for the purposes of this Agreement and therefore shall not require the consent of the City, provided that NextG reasonably demonstrates to the City's lawfully empowered designee the following criteria (collectively the "Exempted Transfer Criteria"): (i) such transferee will have a financial strength after the proposed transfer at least equal to that of NextG immediately prior to the transfer; (ii) any such transferee assumes all of NextG's obligations hereunder; and (iii) the experience and technical qualifications of the proposed transferee, either alone or together with NextG's management team, in the provision of telecommunications or similar services, evidences an ability to operate the NextG Network. NextG shall give at least thirty (30) days' prior written notice (the "Exempted Transfer Notice") to the City of any such proposed Exempted Transfer and shall set forth with specificity in such Exempted Transfer Notice the reasons why NextG believes the Exempted Transfer Criteria have been satisfied. The City Council of City shall have a period of thirty (30) days (the "Exempted Transfer Evaluation Period") from the date that NextG gives the City its Exempted Transfer Notice to object in writing to the adequacy of the evidence

*Right-of-Way Use Agreement
NextG Networks of NY, Inc.
page 8 of 11*

contained therein. Notwithstanding the foregoing, the Exempted Transfer Evaluation Period shall not be deemed to have commenced until the City has received from NextG any and all additional information the City may reasonably require in connection with its evaluation of the Exempted Transfer Criteria as set forth in the Exempted Transfer Notice, so long as the City gives NextG notice in writing of the additional information the City requires within fifteen (15) days after the City's receipt of the original Exempted Transfer Notice. If the Council of the City fails to act upon NextG's Exempted Transfer Notice within the Exempted Transfer Evaluation Period (as the same may be extended in accordance with the foregoing provisions), such failure shall be deemed an affirmation by the City Council that NextG has in fact established compliance with the Exempted Transfer Criteria to the City's satisfaction.

11 MISCELLANEOUS PROVISIONS. The provisions which follow shall apply generally to the obligations of the parties under this Use Agreement.

11.1 Environmental Review. NextG's facilities are "unlisted" but functionally equivalent to Type II actions under 6 N.Y.C.R.R. 617.5(c)(11). NextG agrees to comply with any rules pertaining to State Environmental Quality Review and to submit any required environmental forms for the City's review and approval, so long as the review that the City requires is the same that the City requires of all other telecommunications providers, including but not limited to the ILEC and the cable provider(s), for their installation of any facilities or equipment in the Public Way.

11.2 Nonexclusive Use. NextG understands that this Use Agreement does not provide NextG with exclusive use of the Public Way or any Municipal Facility and that the City shall have the right to permit other providers of communications services to install equipment or devices in the Public Way and on Municipal Facilities. The City agrees promptly to notify NextG of the receipt of a proposal for the installation of communications equipment or devices in the Public Way or on Municipal Facilities. In addition, the City agrees to advise other providers of communications services of the presence or planned deployment of the Equipment in the Public Way and/or on Municipal Facilities.

11.3 Waiver of Breach. The waiver by either party of any breach or violation of any provision of this Use Agreement shall not be deemed to be a waiver or a continuing waiver of any subsequent breach or violation of the same or any other provision of this Use Agreement.

11.4 Severability of Provisions. If any one or more of the provisions of this Use Agreement shall be held by court of competent jurisdiction in a final judicial action to be void, voidable, or unenforceable, such provision(s) shall be deemed severable from the remaining provisions of this Use Agreement and shall not affect the legality, validity, or constitutionality of the remaining portions of this Use Agreement. Each party hereby declares that it would have entered into this Use Agreement and each provision hereof regardless of whether any one or more provisions may be declared illegal, invalid, or unconstitutional.

11.5 Contacting NextG. NextG shall be available to the staff employees of any City department having jurisdiction over NextG's activities twenty-four (24) hours a day, seven (7) days a week, regarding problems or complaints resulting from the attachment, installation, operation, maintenance, or removal of the Equipment. The City may contact by telephone the network control center operator at telephone number 1-866-44-NEXTG (446-3984) regarding such problems or complaints.

11.6 Governing Law; Jurisdiction. This Use Agreement shall be governed and construed by and in accordance with the laws of the State of New York, without reference to its conflicts of law principles. If suit is brought by a party to this Use Agreement, the parties agree that trial of such

action shall be vested exclusively in the state courts of New York, in the County where the City is incorporated or in the United States District Court for the Eastern District of New York.

11.7 Consent Criteria. In any case where the approval or consent of one party hereto is required, requested or otherwise to be given under this Use Agreement, such party shall not unreasonably delay, condition, or withhold its approval or consent.

11.8 Representations and Warranties. Each of the parties to this Agreement represents and warrants that it has the full right, power, legal capacity, and authority to enter into and perform the parties' respective obligations hereunder and that such obligations shall be binding upon such party without the requirement of the approval or consent of any other person or entity in connection herewith, except as provided in § 3.2 above.

11.9 Amendment of Use Agreement. This Use Agreement may not be amended except pursuant to a written instrument signed by both parties.

11.10 Entire Agreement. This Use Agreement contains the entire understanding between the parties with respect to the subject matter herein. There are no representations, agreements, or understandings (whether oral or written) between or among the parties relating to the subject matter of this Use Agreement which are not fully expressed herein.

In witness whereof, and in order to bind themselves legally to the terms and conditions of this Use Agreement, the duly authorized representatives of the parties have executed this Use Agreement as of the Effective Date.

City: CITY OF RYE, a New York municipal corporation

By: _____

[name typed]

Its: _____

Date: _____, 2010

NextG: NEXTG NETWORKS OF NY, INC., a Delaware Corporation

By: _____

[name typed]

Its: _____

Date: _____, 2010

I HEREBY APPROVE the form and legality of the foregoing Use Agreement this _____, day of _____, 2010.

_____, Corporation Counsel

By _____

_____, Deputy City Attorney

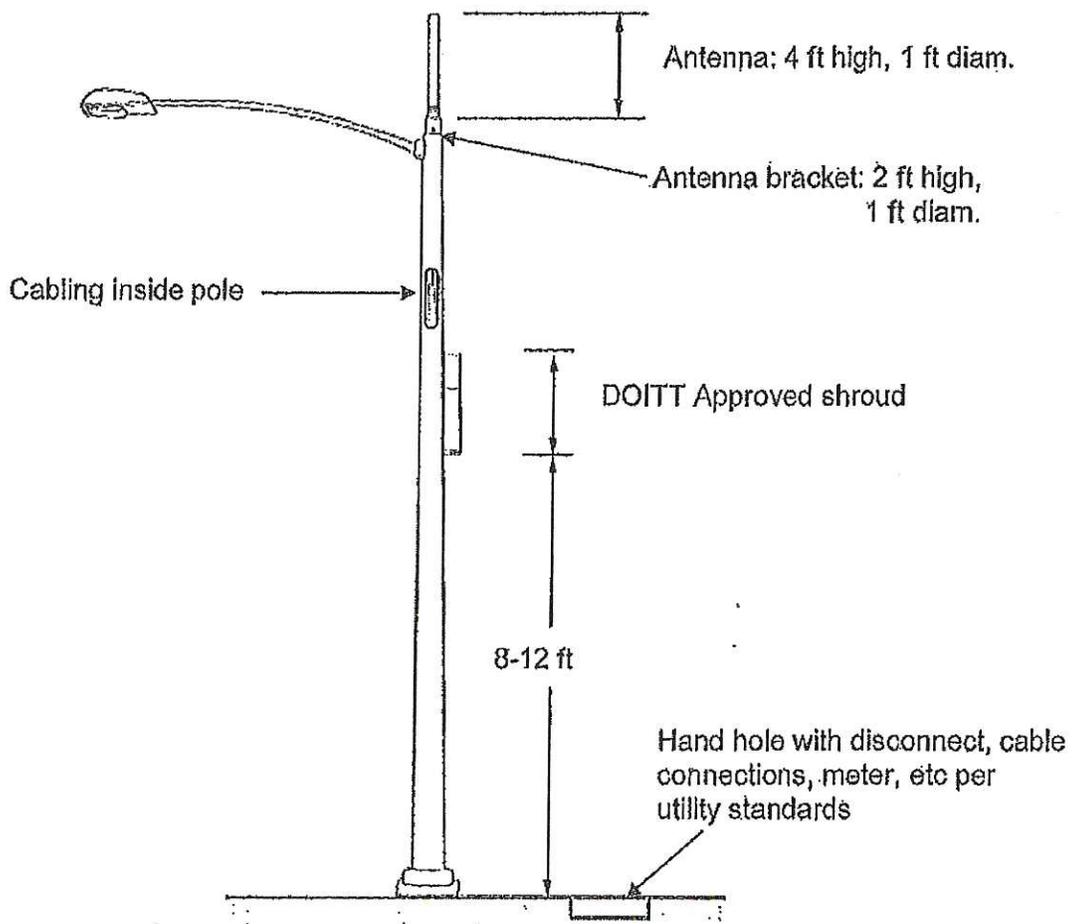
Exhibits:

Exhibit A -- Equipment

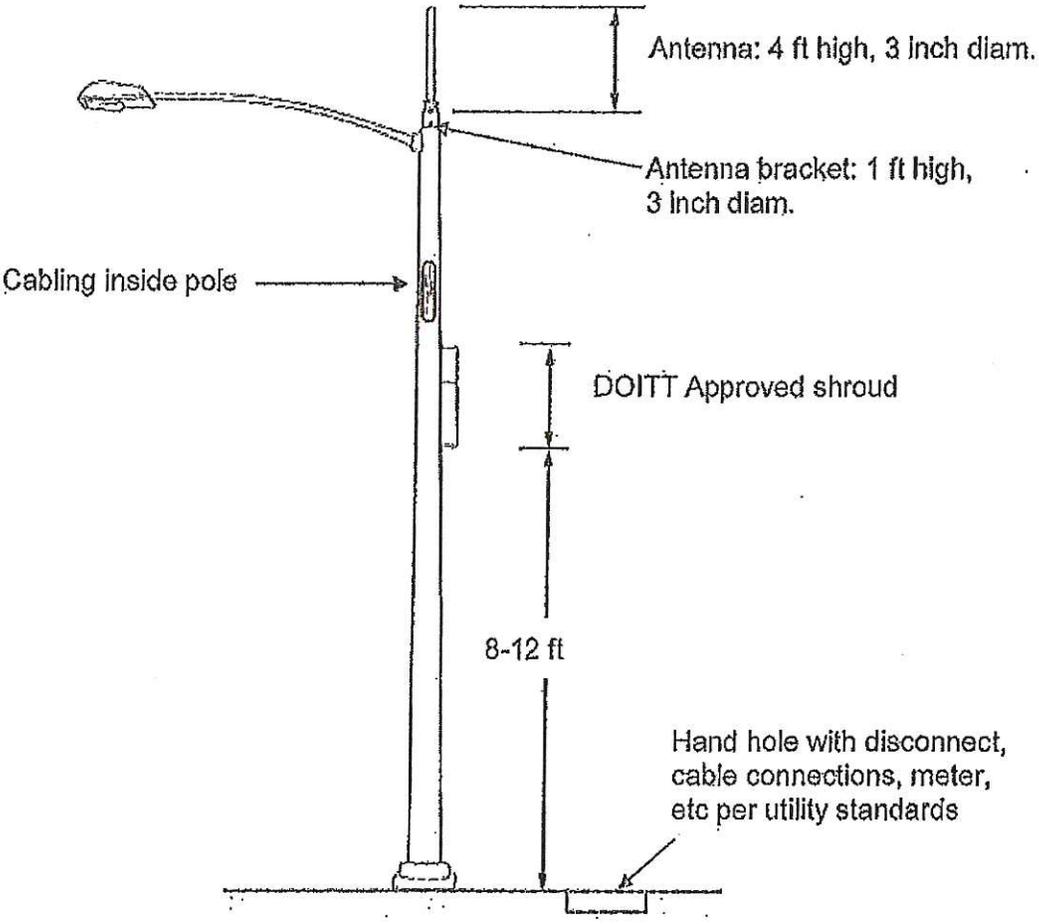
Exhibit A

Westchester, NY
Rev 01-19-2010

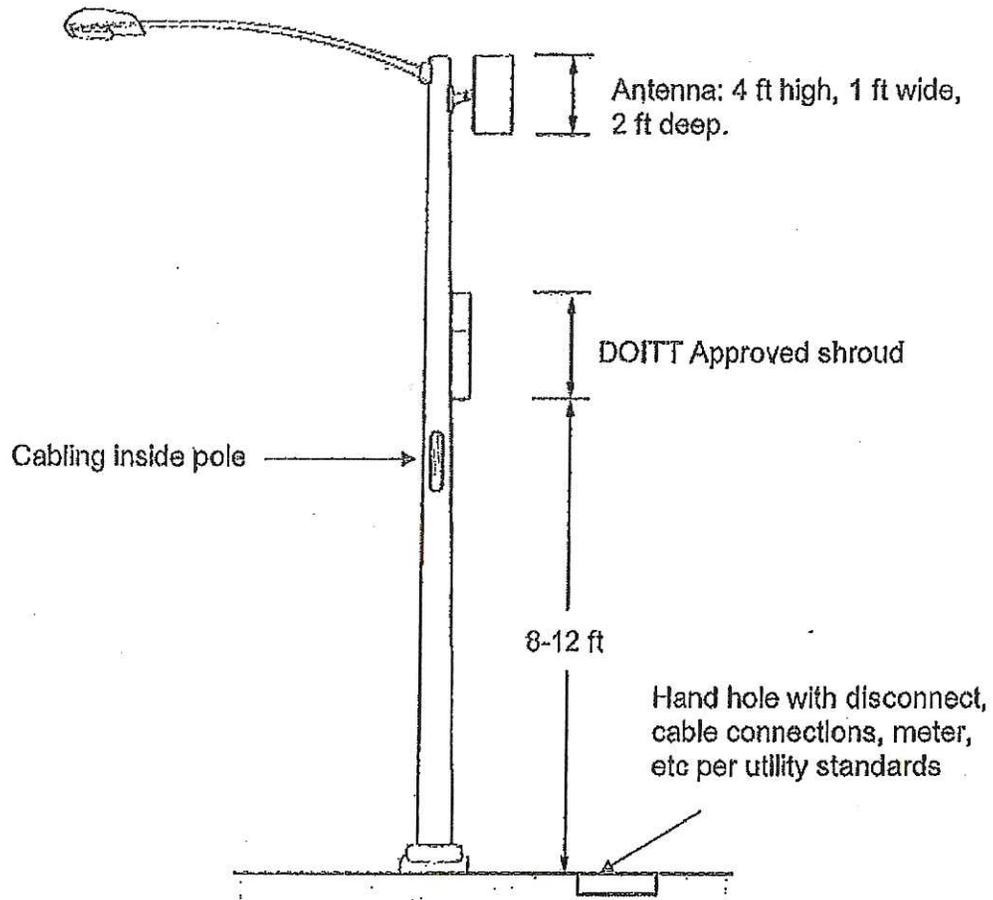
Street Light Pole



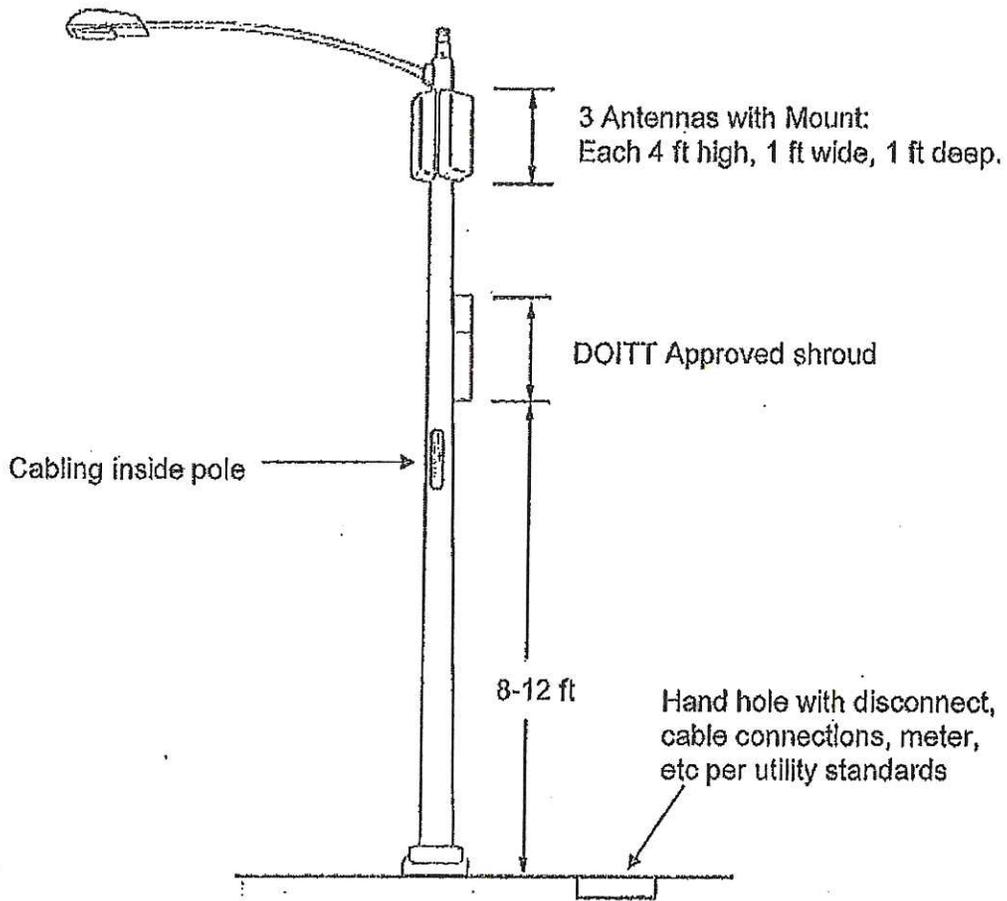
Street Light Pole



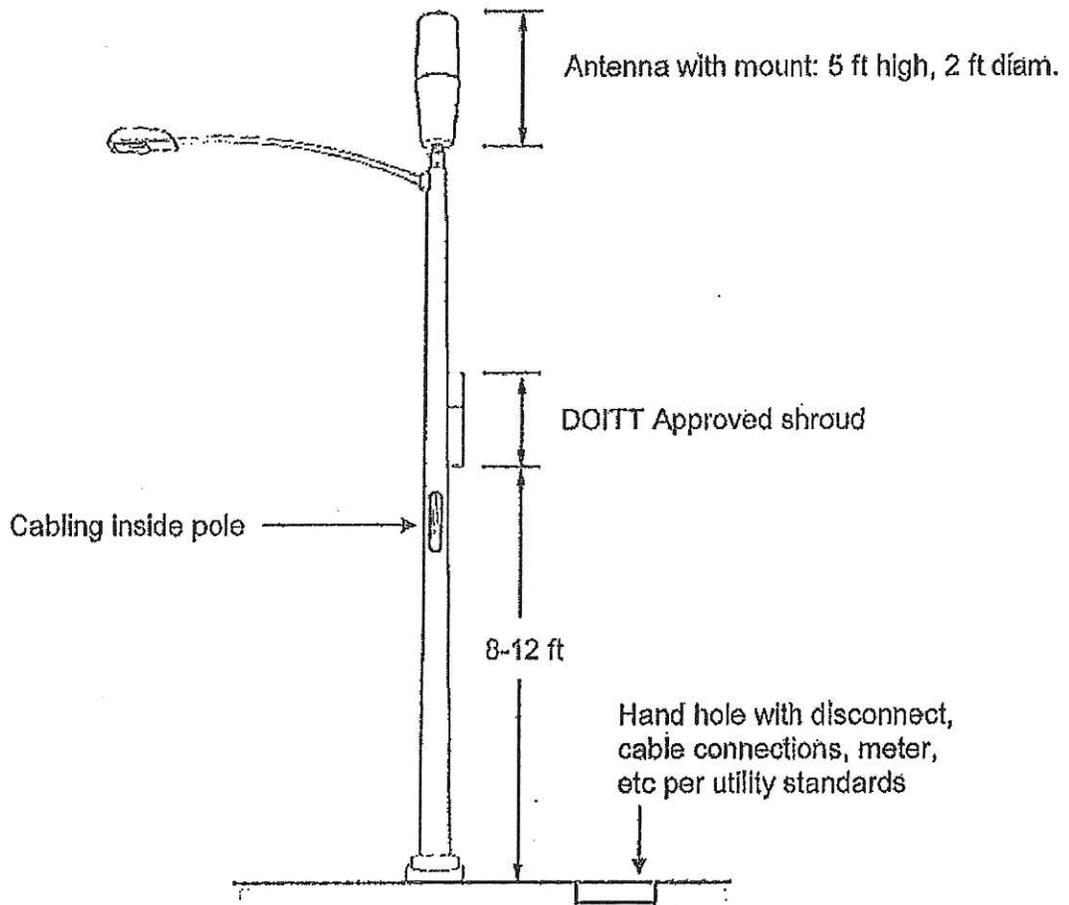
Street Light Pole



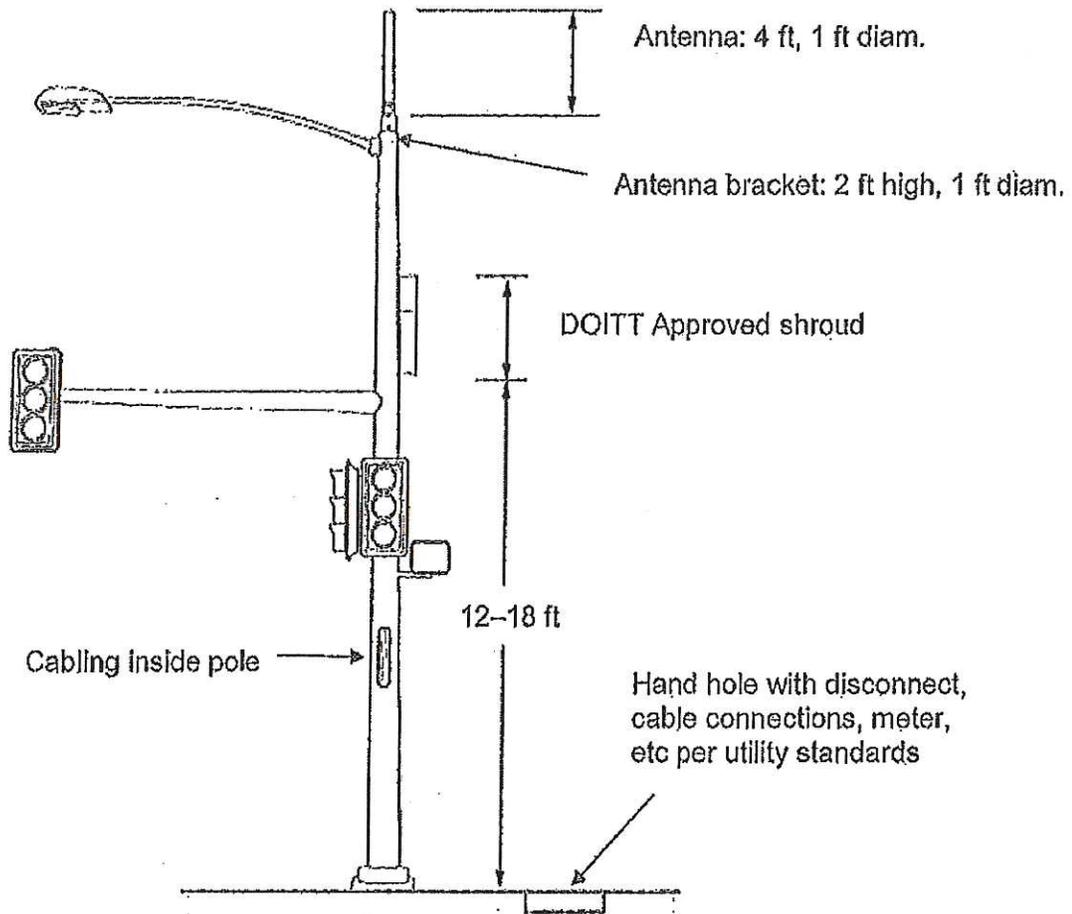
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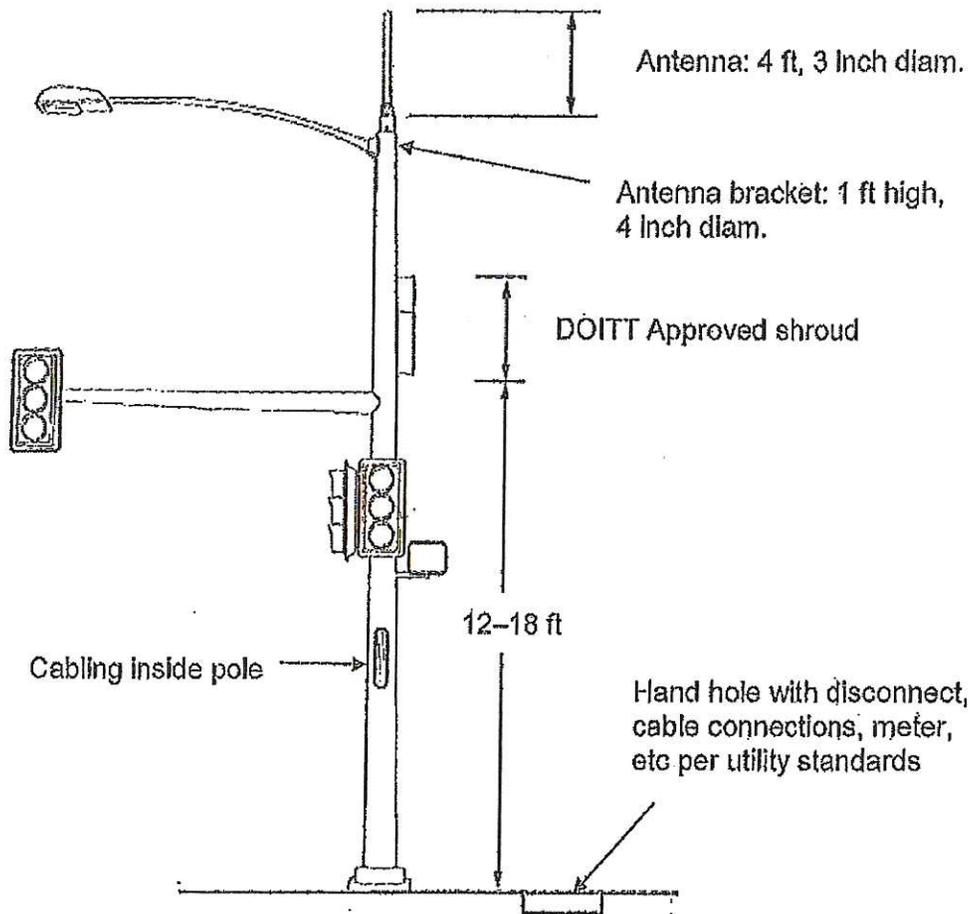
Street Light Pole



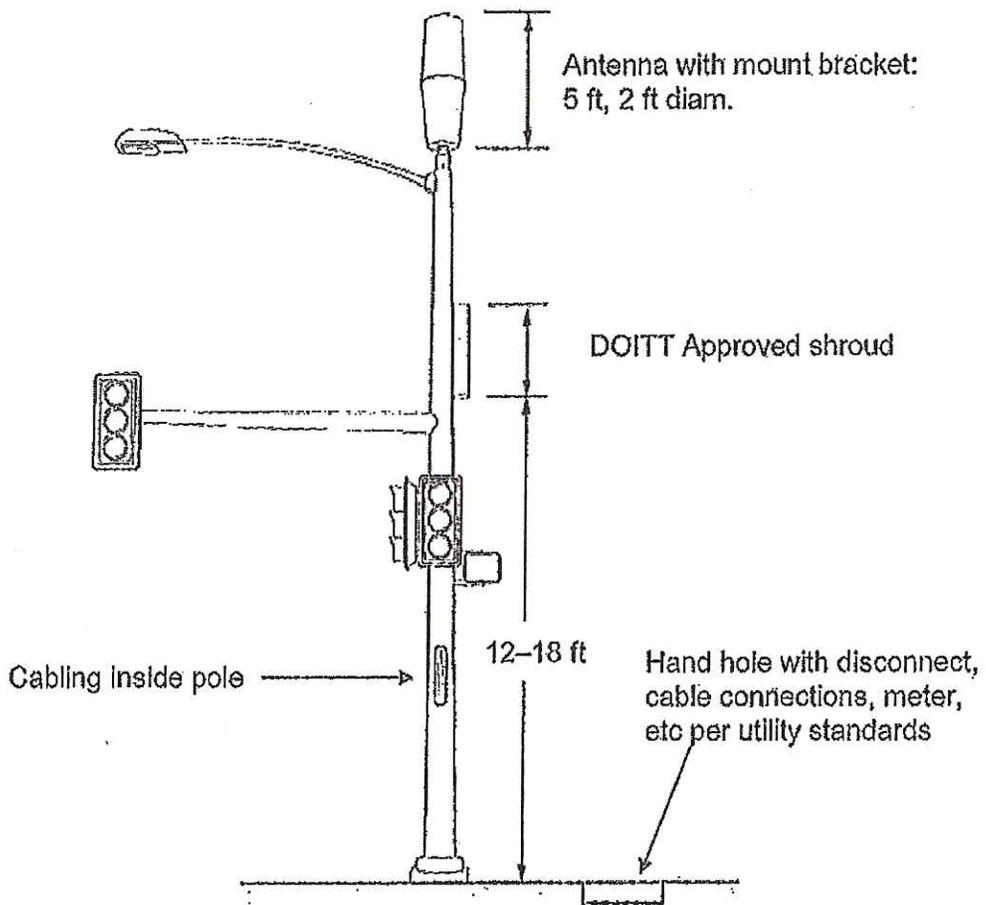
Traffic Light Pole



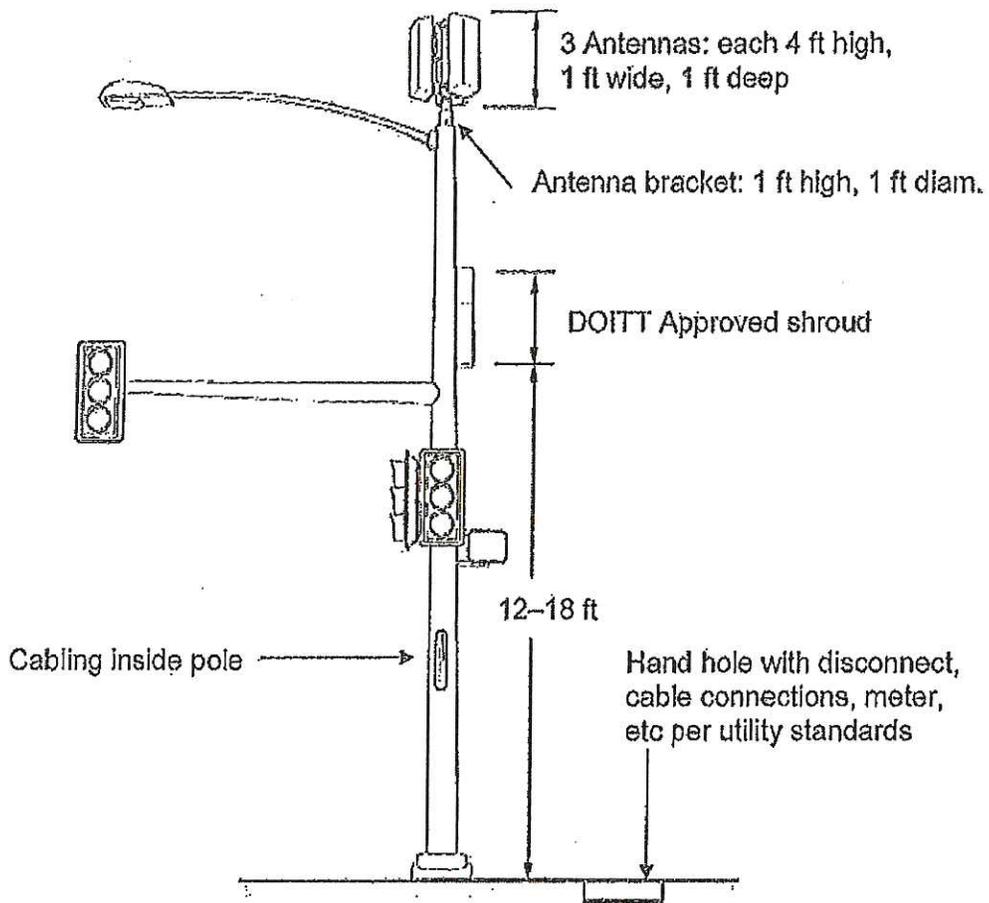
Traffic Light Pole



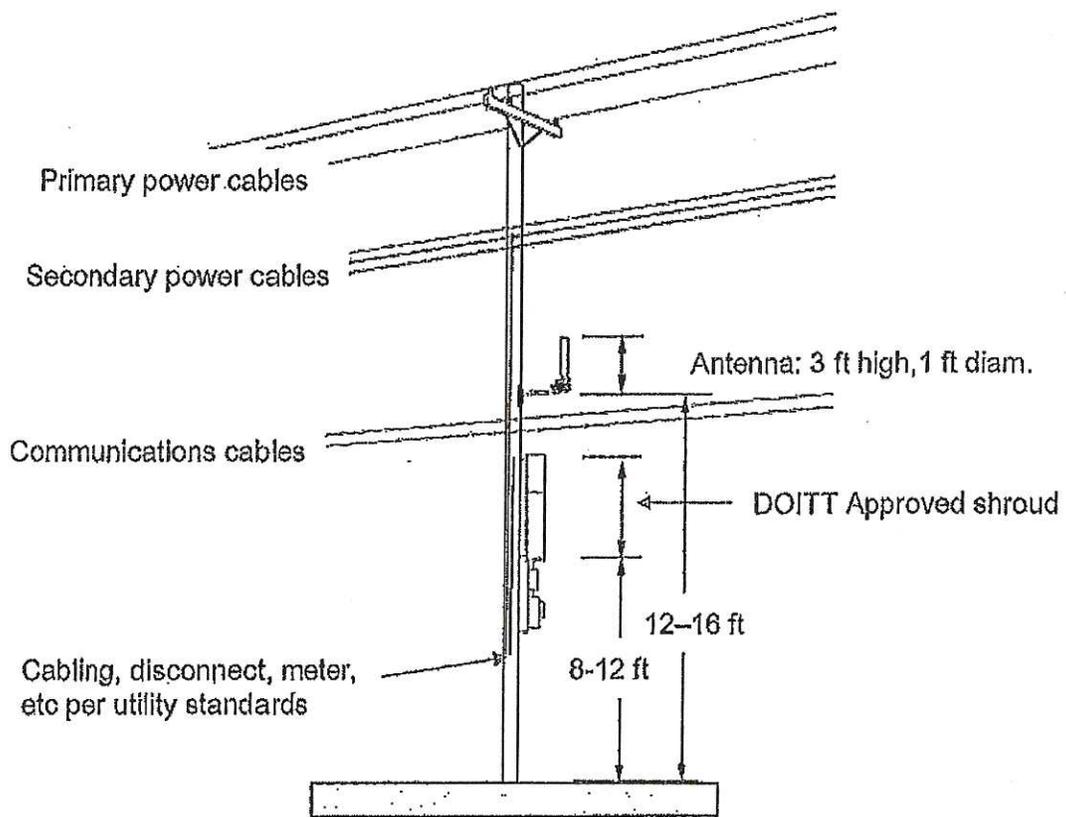
Traffic Light Pole



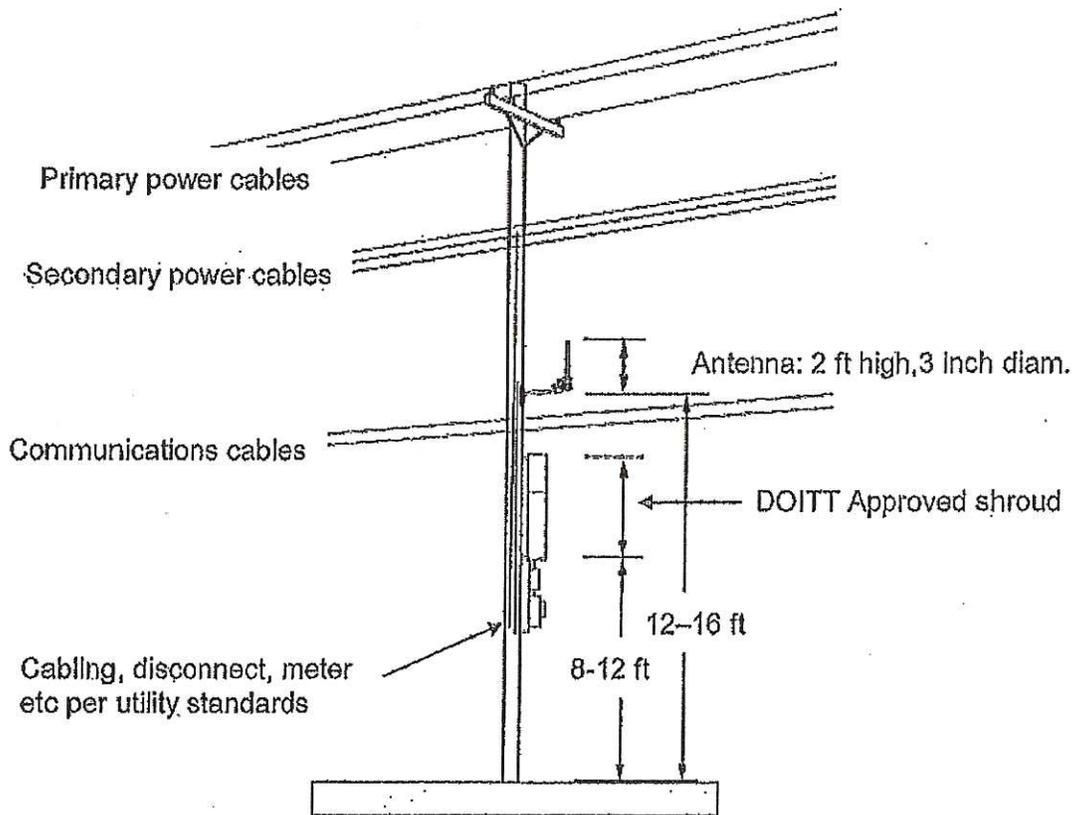
Traffic Light Pole



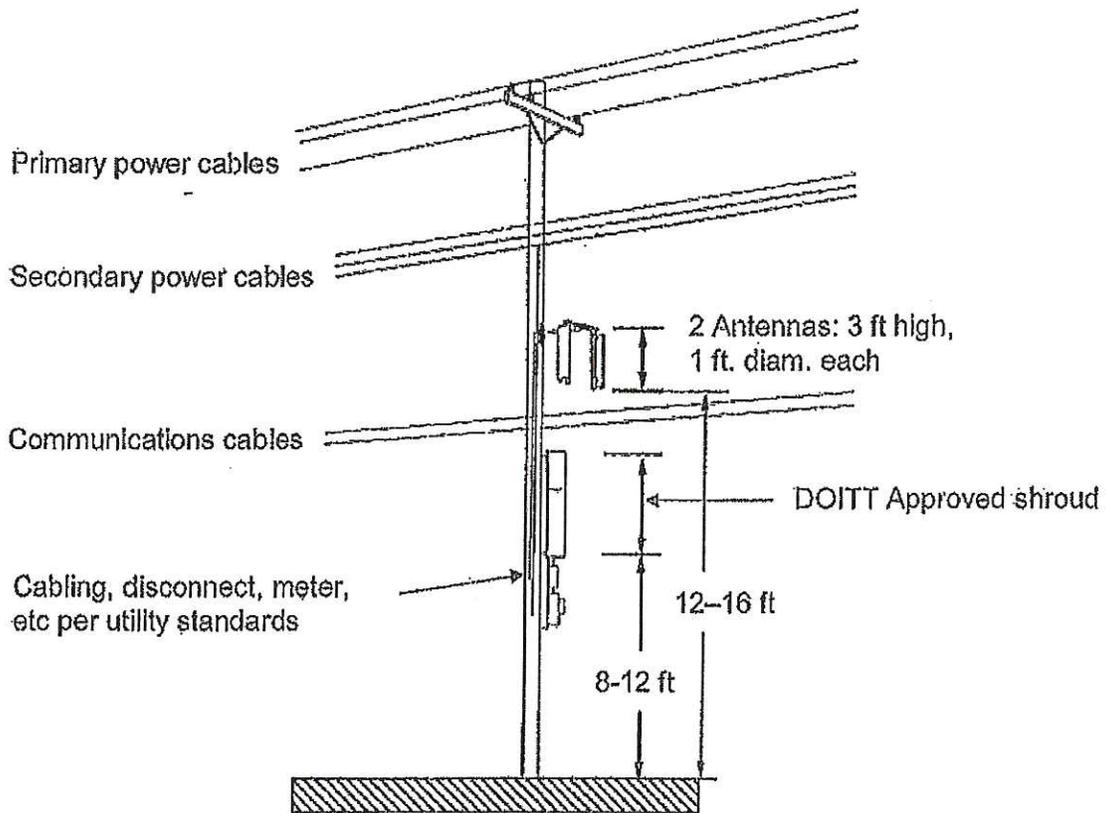
Antenna in Communications Space on Power Pole



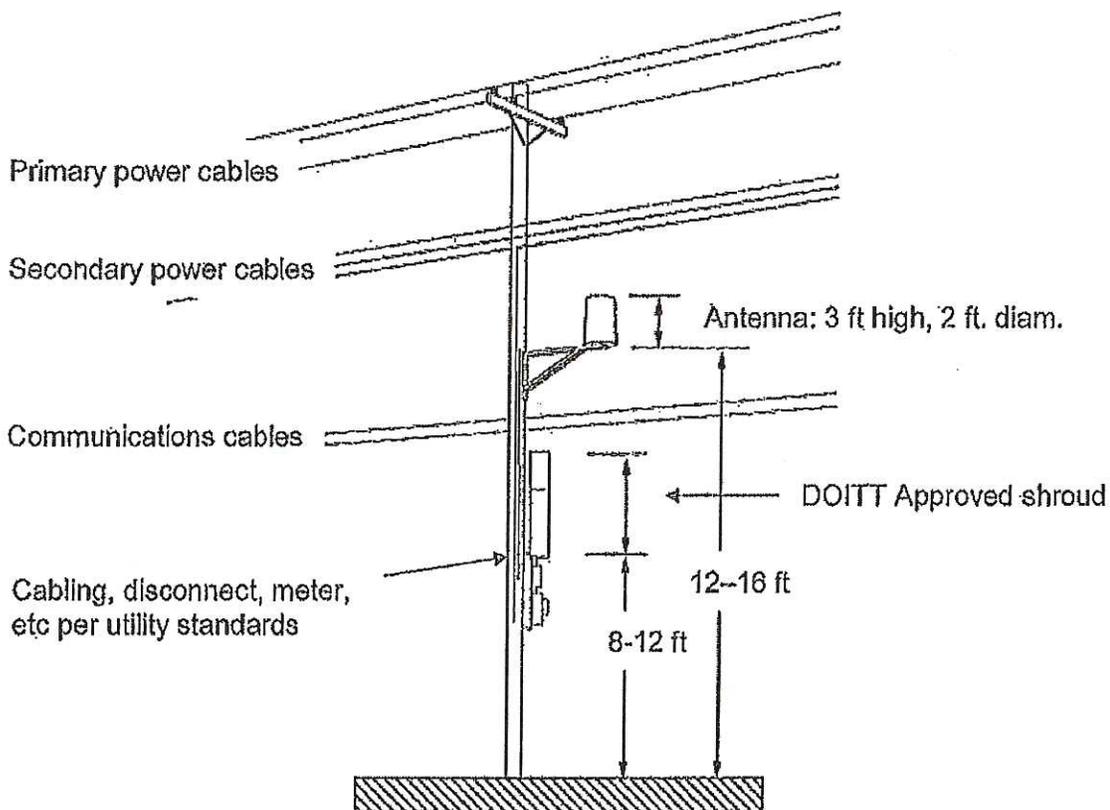
Antenna in Communications Space on Power Pole



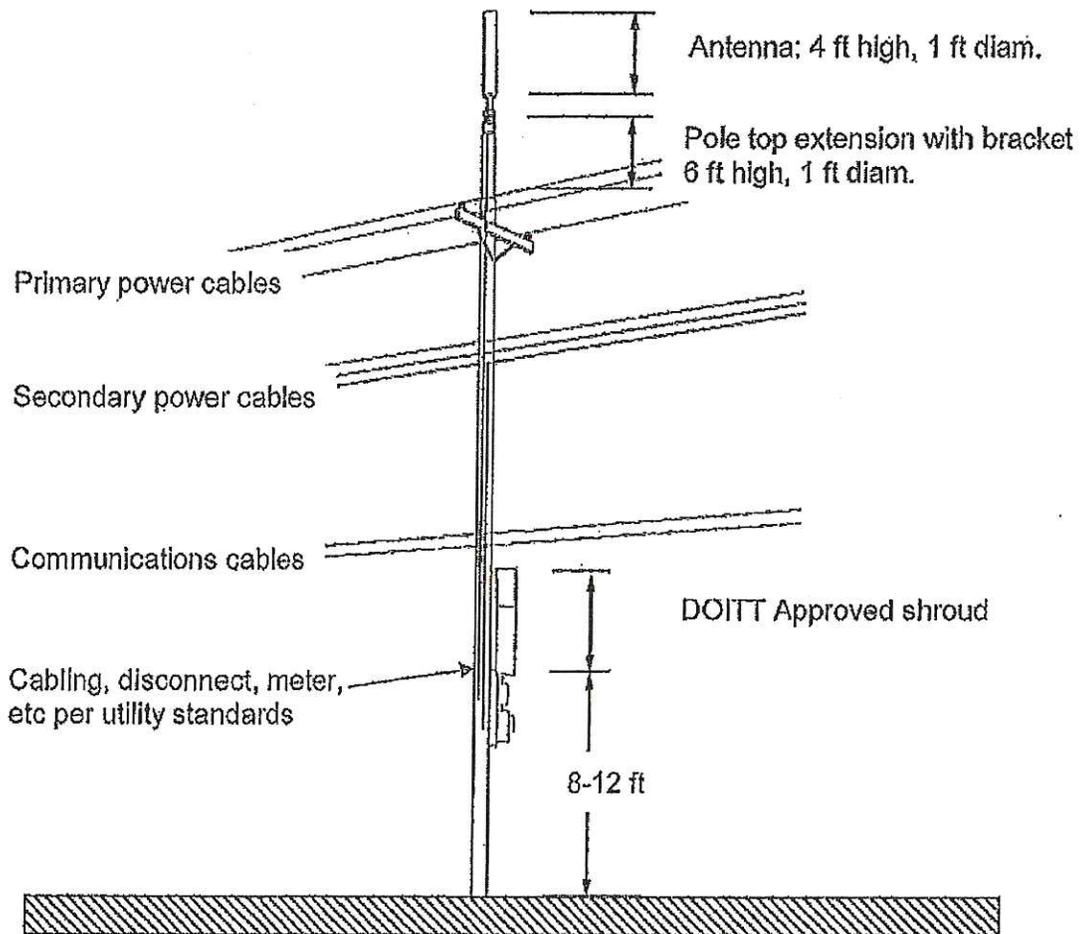
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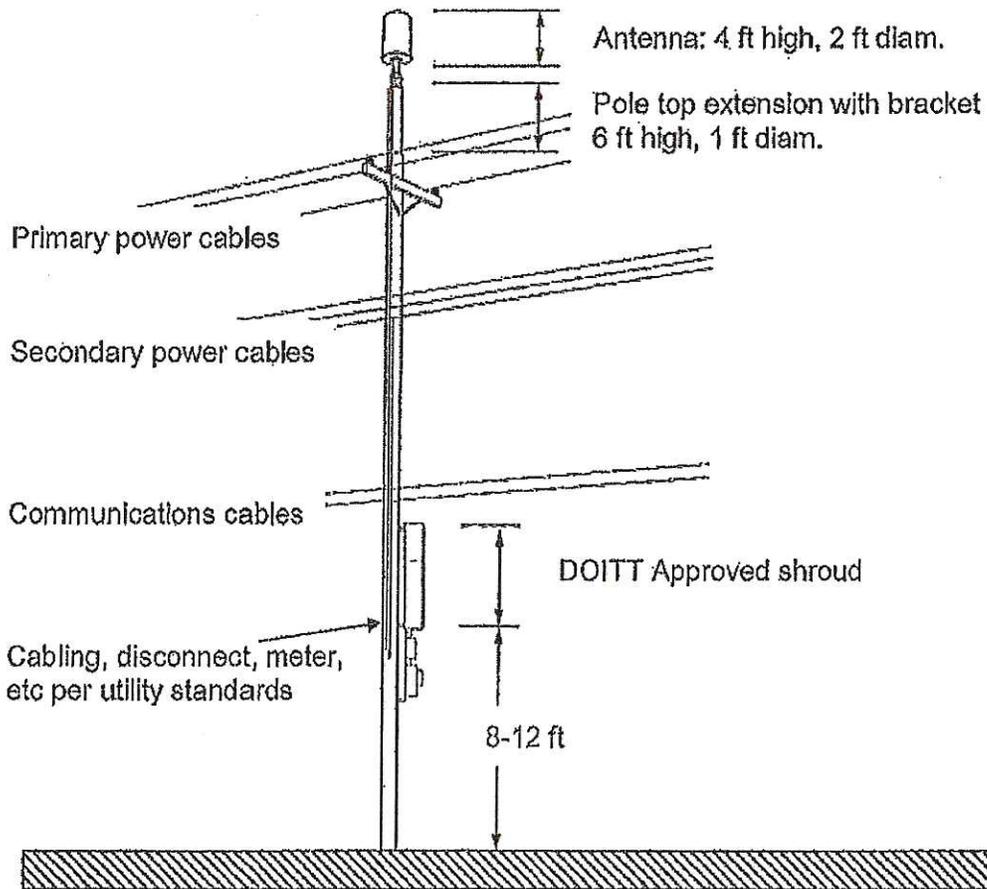
Antenna in Communications Space on Power Pole



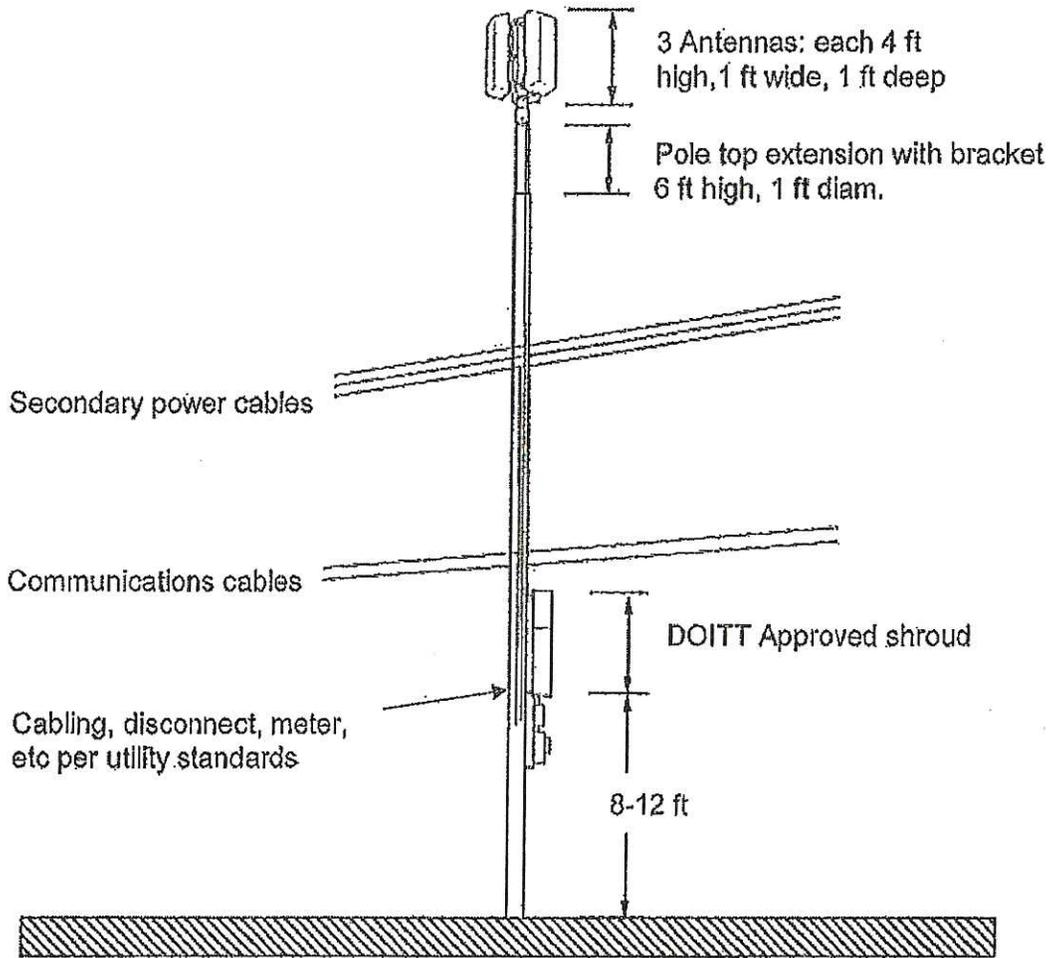
Antenna Pole Top Extension over Primary



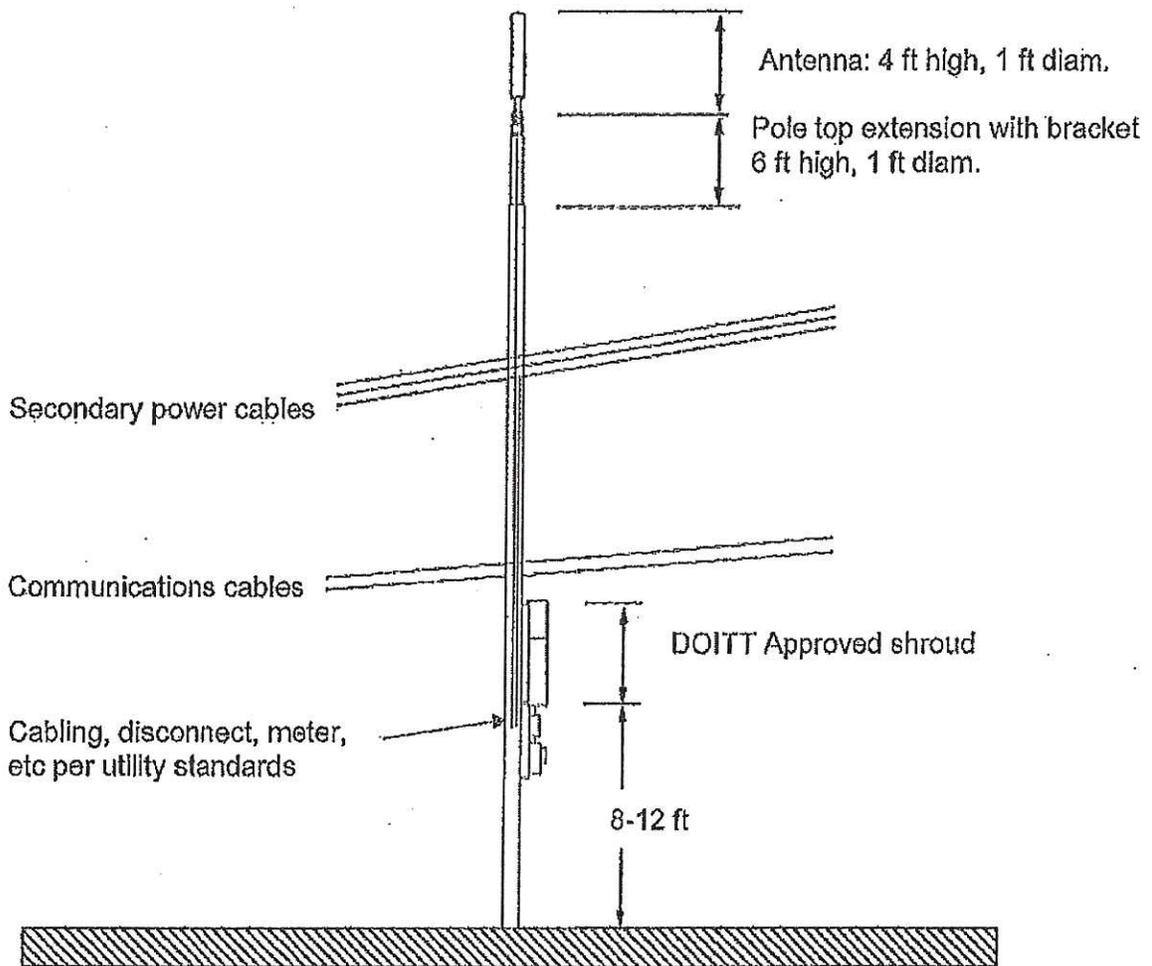
Antenna Pole Top Extension over Primary



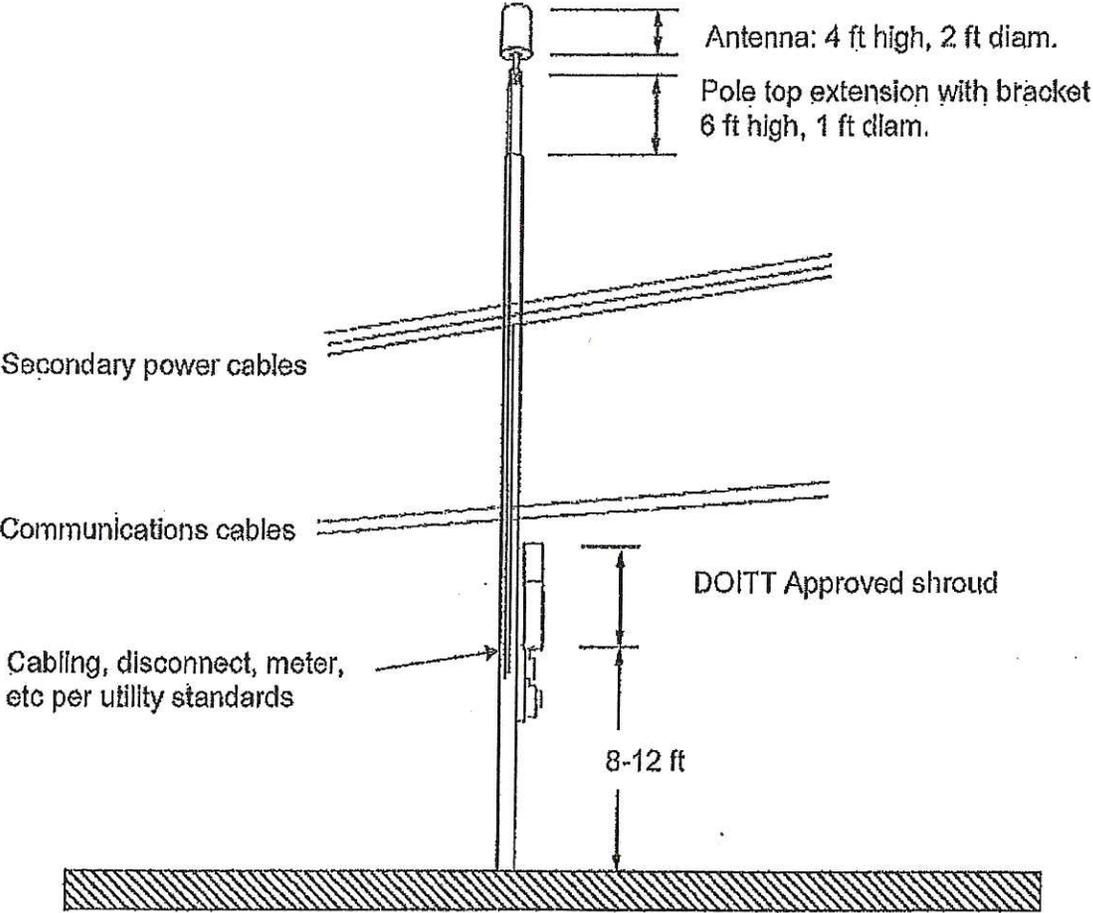
Antenna Pole Top Extension over Secondary



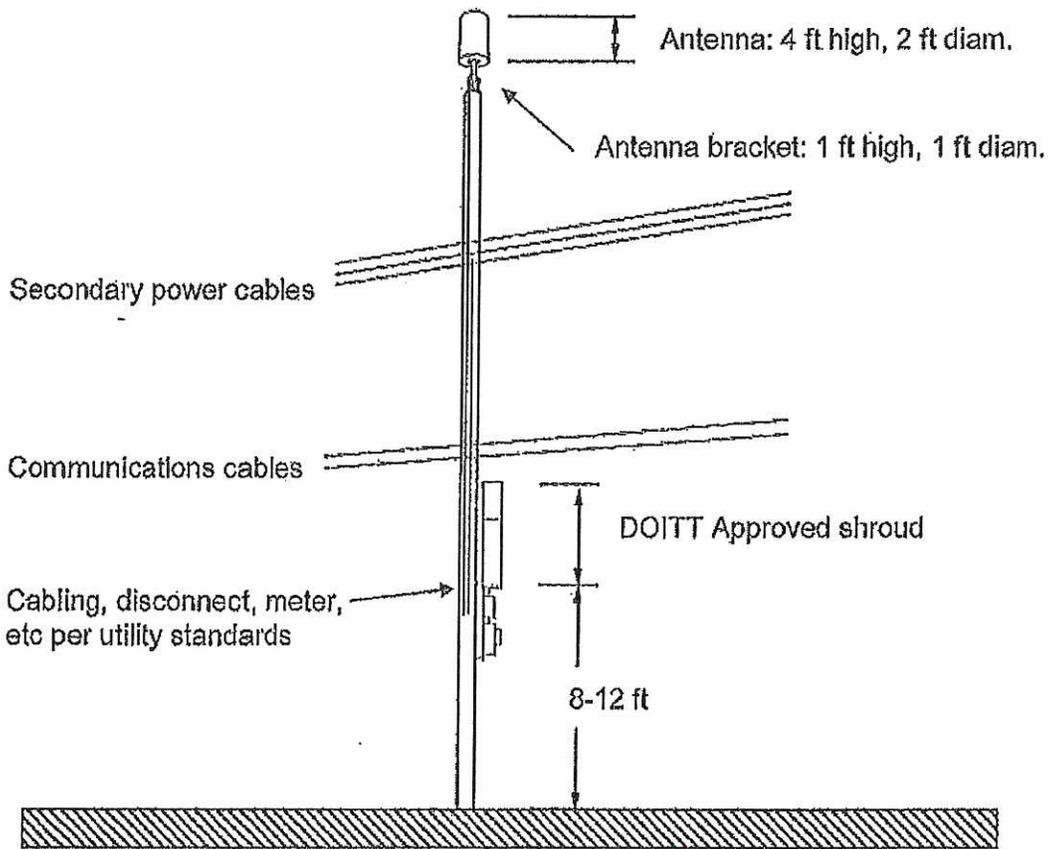
Antenna Pole Top Extension over Secondary



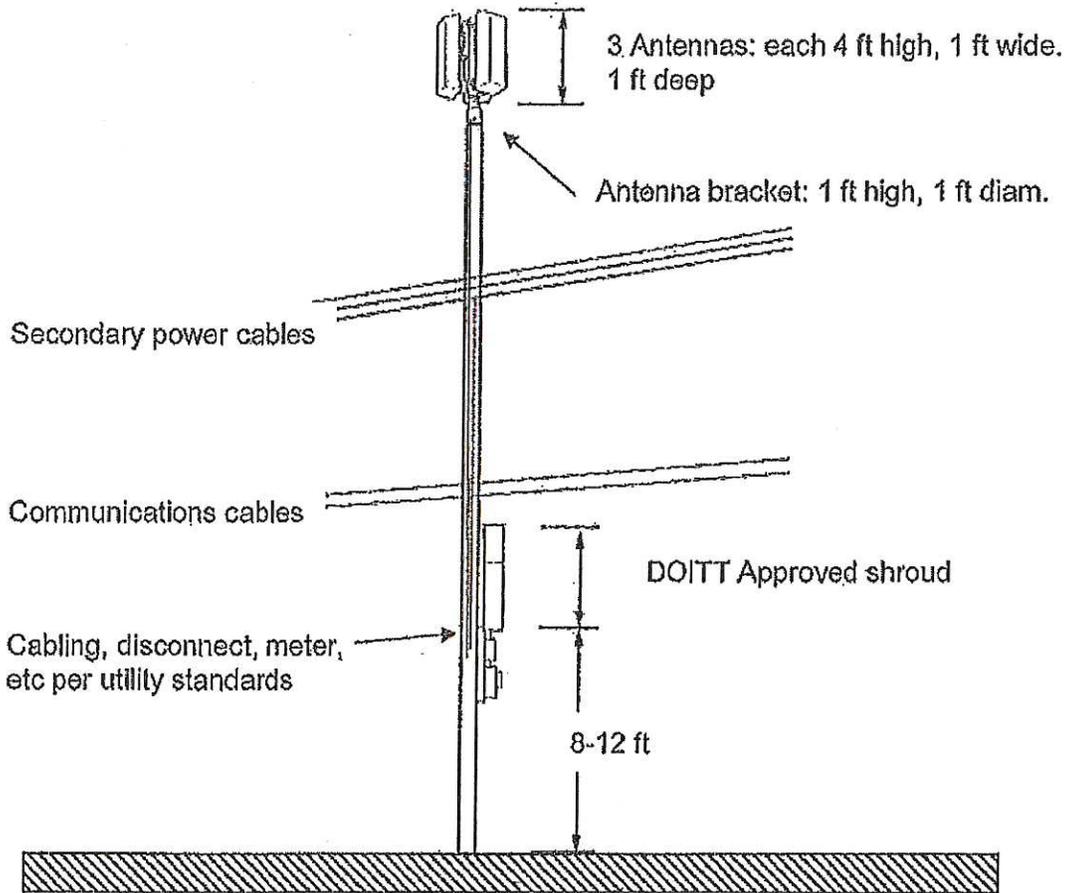
Antenna Pole Top Extension over Secondary



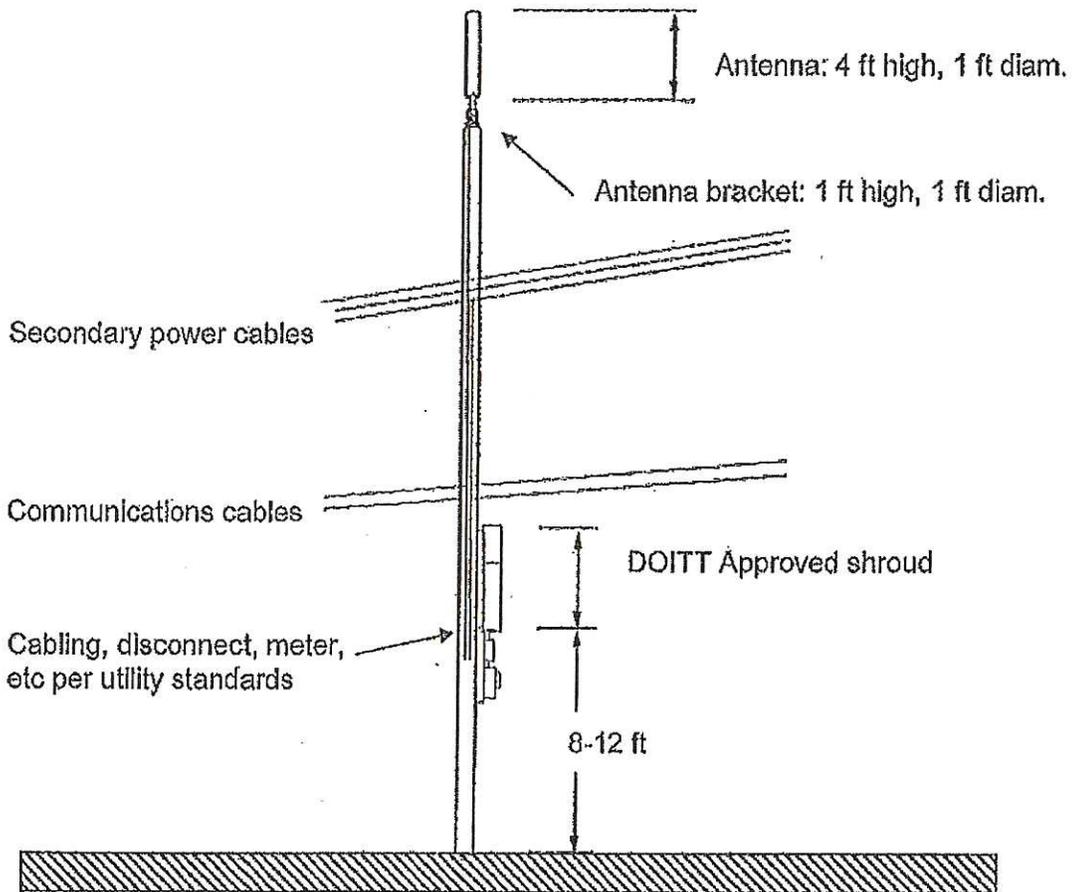
Antenna at Top of Power Pole



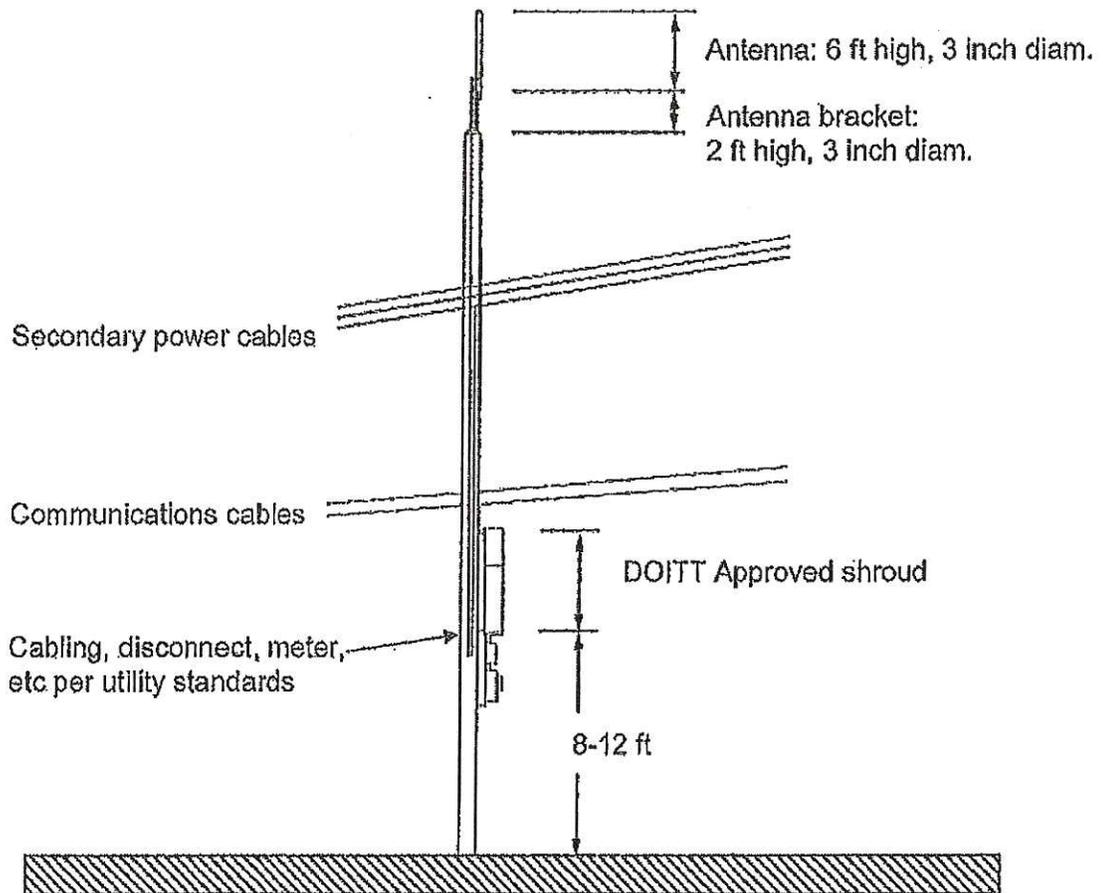
Antenna at Top of Power Pole



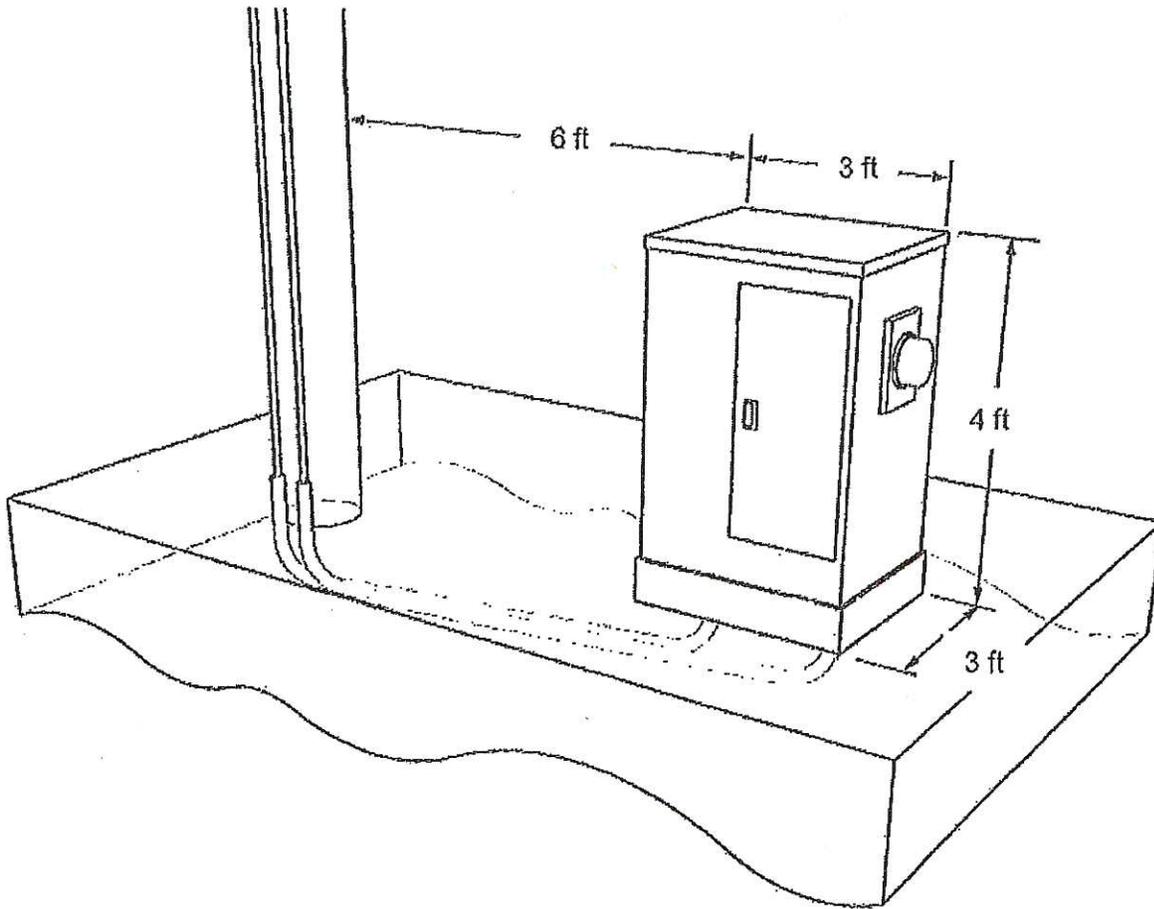
Antenna at Top of Power Pole



Antenna at Top of Power Pole



Equipment in Pedestal



NextG Networks

Enclosure 4:

Sample Overview Map



Node Type



Wood Pole Top

NYD6380

NYD6381

NYD6382

NYD6383

NYD6384

NYD6385

North St

Theodore Rand Ave

Oxborn Rd

Milton Rd

Pleasant Blvd

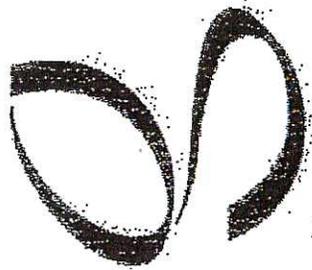
Forest Ave

Golden Beach Ave

NextG Networks

Enclosure 5:

Introductory Power Point



NextG Networks

City of Rye, New York

NextG – the solution for improved wireless coverage in your community

About NextG Networks

NextG Networks is a competitive local exchange carrier – a utility with the same regulatory rights and responsibilities as the telephone company.

- NextG Networks is a regulated, facilities-based, carrier's carrier that designs and installs fiber-optic based networks to improve wireless coverage and capacity in municipalities and universities throughout the United States.
- We are the oldest Distributed Antenna System network provider in the United States with the largest number of operational networks. We have the most experience and success installing and maintaining these networks. In the New York metropolitan area alone, for example, NextG has deployed over 1,276 equipment locations and over 570 miles of fiber optic cable to date.



NextG Networks

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Page 2, May 21, 2010

NextG Services

NextG transports wireless signals without installing towers or traditional cell sites.

- Wireless signals are transported through a Distributed Antenna System (DAS) network that connects to existing wireless facilities.
- DAS is a neutral-host, protocol-agnostic fiber-fed antenna network on existing infrastructure in the right-of-way. NextG's patented technology allows a single network to support multiple operators, multiple frequencies, and multiple wireless formats.
- Our service augments mobile phone coverage and capacity (fills in holes in service and prevents dropped calls.)
- Our customers include wireless carriers and wi-fi providers. We do not have end-user customers.

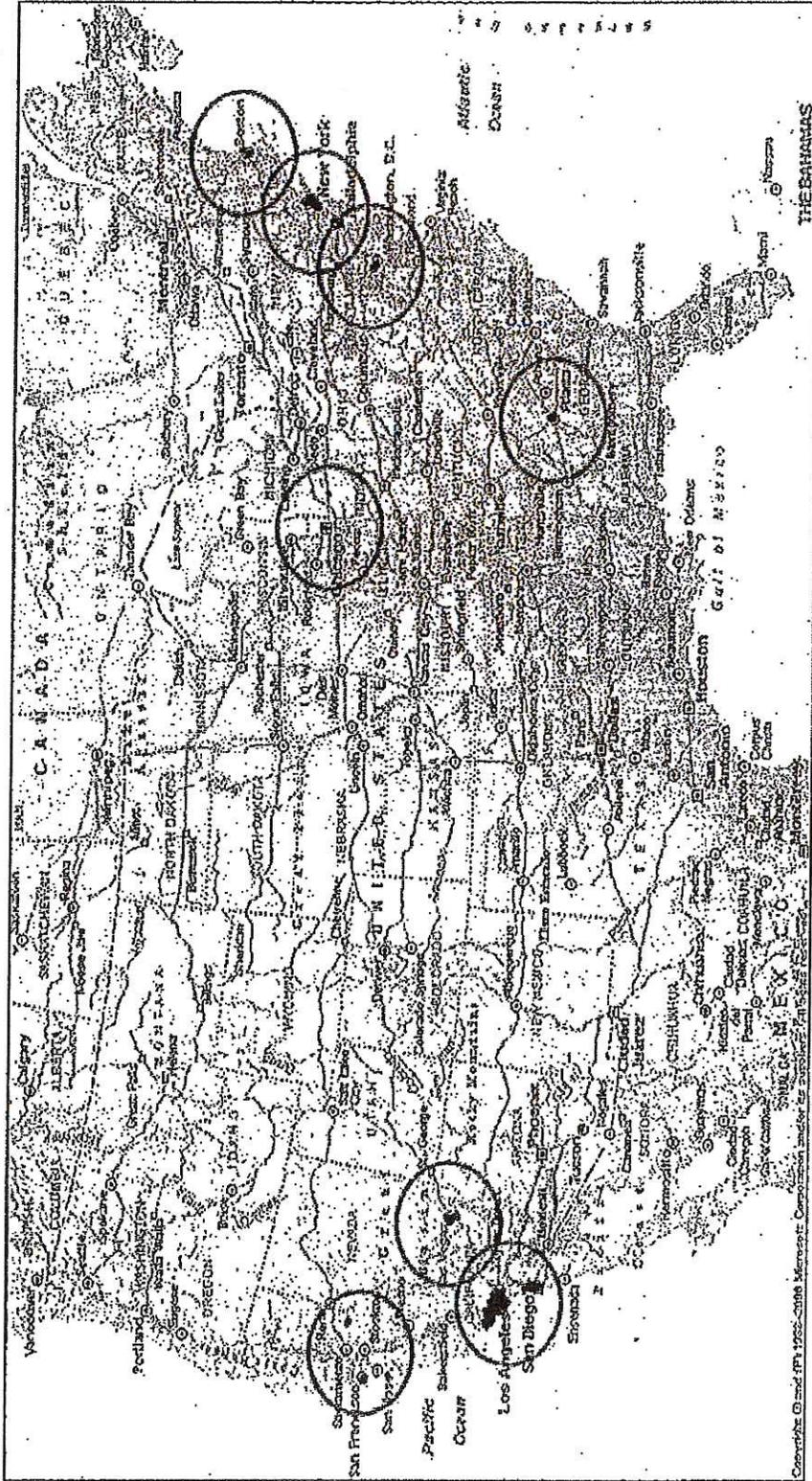


NextG Networks

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Page 3, May 21, 2010

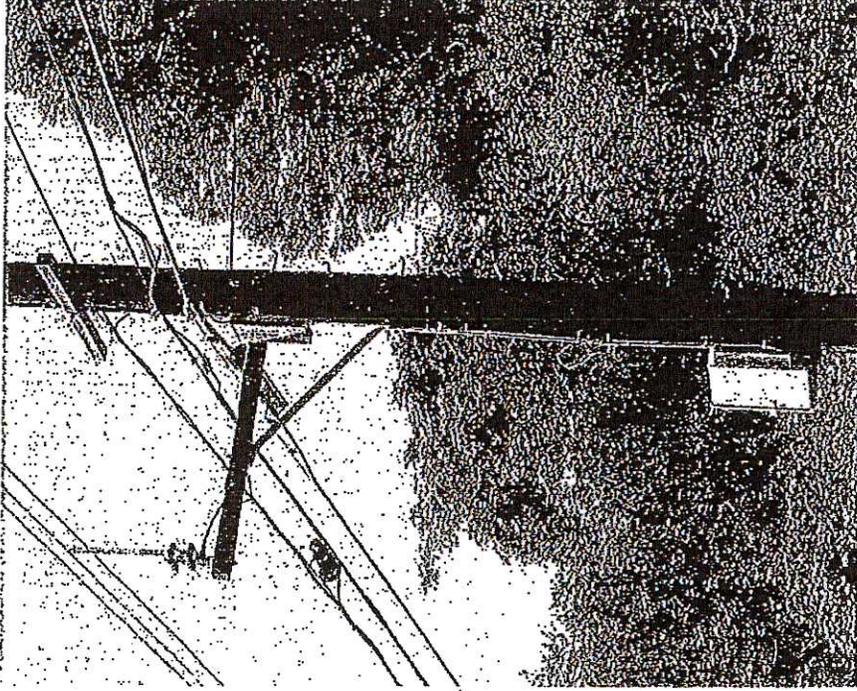
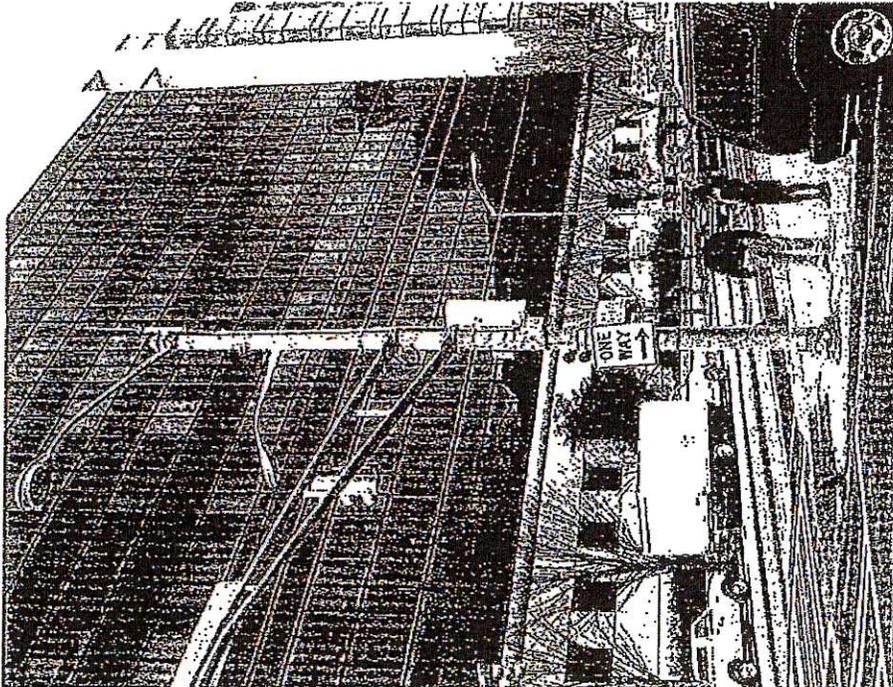
NextG Networks Across the United States



NextG Networks

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Photos of NextG Installations in the Right of Way



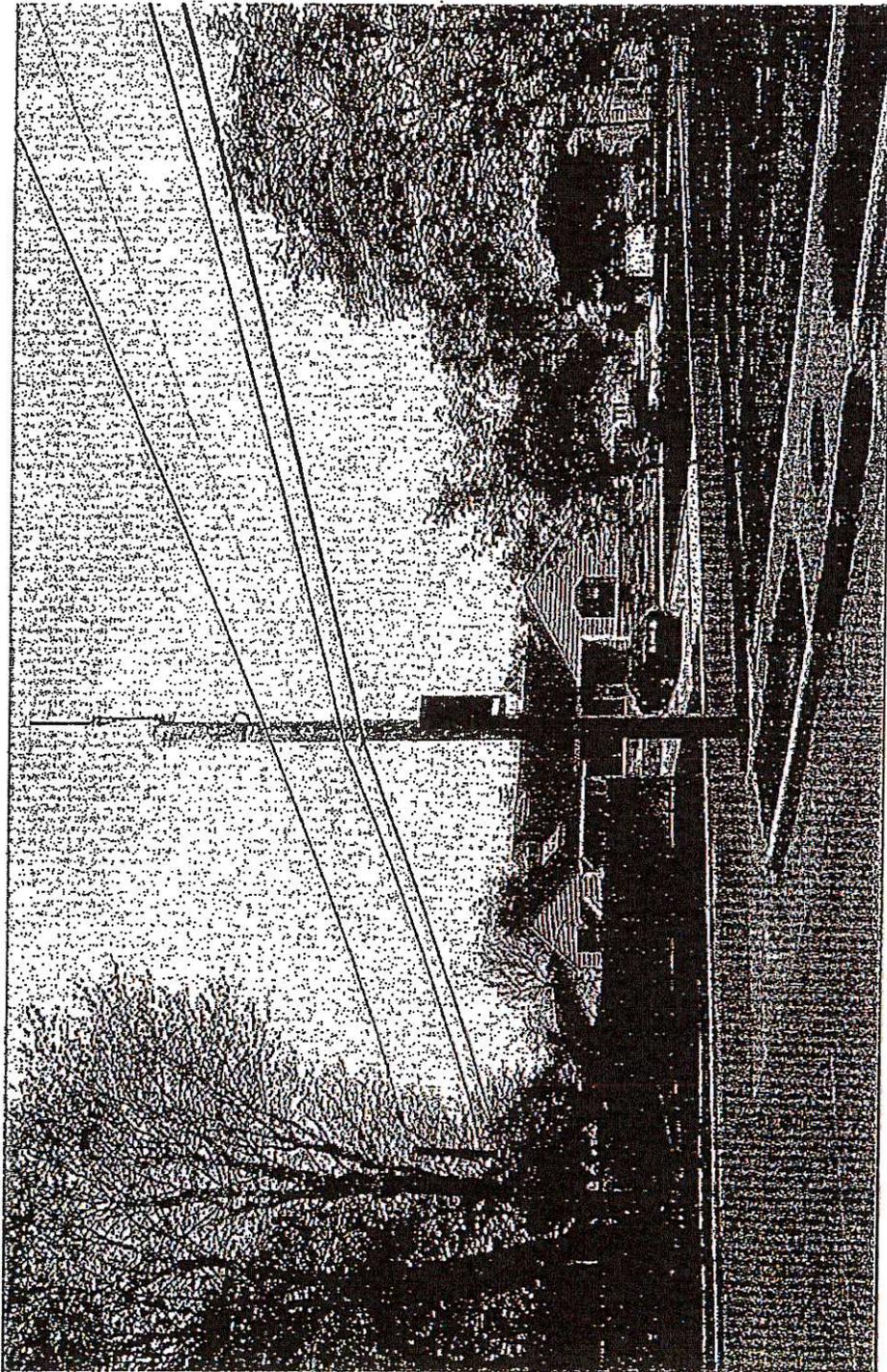
NextG Networks

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Page 6, May 21, 2010

and [unclear]

NextG Installations in the Right of Way continued



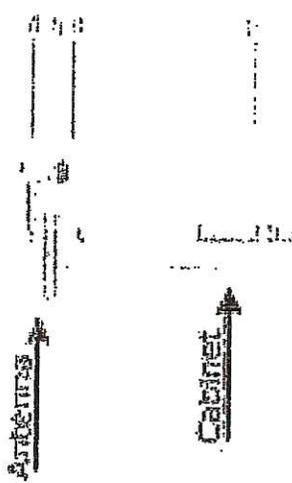
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Page 7, May 21, 2010

NextG Installations

- NextG uses fiber optic cable to connect small, wireless antennas.
- The antennas are connected by coax cable to an RF-to-lightwave converter box on the pole. The box converts RF captured by the antenna into light wave signals which are then transported via fiber optic cable.
- These antennas are typically located inconspicuously on lampposts and utility poles in the right of way and utility easements.
- Installations do not interfere with lighting facilities or municipal safety systems.

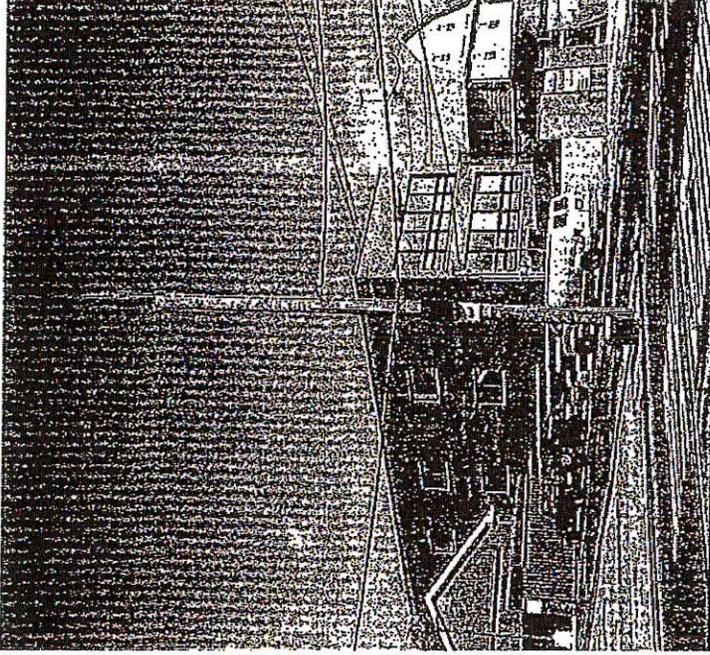


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NextG Equipment

This is the most typical type of Node that NextG Networks will install. This installation consists of one antenna located at the top of the pole together with a small Equipment Cabinet attached to the pole below the power, telephone and cable utility lines.



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Page 9, May 21, 2010

Arrangements with other Utilities

Because NextG is a regulated utility, NextG has access to utility infrastructure through USC Title 47, Ch. 5, Subch. II, Part I, Section 224 (the Pole Attachment Act).

NextG has secured necessary agreements with other utility companies to attach to utility poles and streetlights not owned by the municipality.



NextG Networks

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Page 10, May 21, 2010

Benefits to your Community

NextG's networks allow communities to balance consumer and business demands for improved wireless coverage with community concerns about aesthetics.

- Provides an alternative to traditional cell sites
- Increases capacity and capability for advanced wireless voice, data, hotspot and hotzone services from any service provider
- Minimizes future construction via advanced fiber optic technology
- Utilizes equipment that is often less obtrusive than other utilities who have similar rights to install equipment on poles within existing utility corridors.
- Offers to share revenue with the community and pole rental fees for attachments to available municipal infrastructure.



NextG Networks

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Page 11, May 21, 2010

NextG Networks

Enclosure 6:

Empowering Next Generation Wireless Networks



NextG Networks®

NextG Networks, Inc. is a leading provider of innovative wireless infrastructure solutions that enhance network coverage, capacity, and performance for wireless carriers in the United States. NextG provides these wireless solutions by designing, permitting, building, operating, and managing distributed antenna systems, or DAS systems. NextG deploys its DAS systems by attaching discrete radio-frequency equipment to existing public-right-of-way infrastructure, such as utility poles and street lights. NextG connects its DAS sites to a wireless carrier's network using high-capacity fiber-optic cables. NextG has legally-enforceable rights under the Telecommunications Act of 1996 to attach fiber and equipment to its DAS sites on fair, reasonable, and non-discriminatory terms in 34 states. NextG effectively deploys DAS systems in areas where zoning restrictions, space constraints, local community resistance, or topographic barriers might otherwise delay, restrict, or prevent building or expanding traditional wireless sites, such as towers and rooftop sites.

Market

NextG works with wireless carriers to build DAS systems in metropolitan areas and other locations throughout the United States. Through the use of NextG's DAS systems, carriers can achieve faster time-to-market and uniform and precise coverage in areas that cannot be accessed through traditional wireless sites. NextG can precisely, quickly, and uniformly deploy DAS sites to improve network coverage, capacity, and performance for its wireless carrier customers, and thereby provide a more compelling solution than traditional wireless sites.

Services

As part of its carrier-class services, NextG Networks:

- Designs RF coverage schemes using computer tools and on-site measurements
- Obtains permits to build and deploy fiber and RF networks
- Constructs aerial poles, underground ducts, base station hotels, etc.
- Operates DAS systems via 24x7x365 operations centers
- Manages DAS systems for multiple carriers

Advantages

Carriers using NextG Networks® DAS systems can benefit from NextG's:

- Widespread availability of coverage in areas that cannot be accessed by traditional wireless sites
- Faster time-to-market network deployment
- More efficient utilization of spectrum assets
- Uniform coverage of entire areas with no coverage gaps and precise targeting of areas within a carrier's network that is currently experiencing coverage gaps
- Ability to consolidate all required backhaul traffic into a single high-bandwidth backhaul connection
- Ability to obtain public right-of-way access to allow DAS sites to overcome zoning restrictions

Corporate Status

NextG conducts its operations through regulated wholly-owned subsidiaries throughout the United States.

Corporate Management

David Cutrer, PhD, *CEO and Co-founder*
Randall I. Bambrough, *CFO*
Robert L. Delsman, Esq., *Senior VP, General Counsel*
Lawrence Doherty, *Senior VP, Business Development, Western Region*
Michael Hughes, *VP Engineering*
Bo Plekarski, *VP, Product Management and Marketing*
Patrick S. Ryan, *VP Government Relations & Regulatory Affairs*
Todd Schultz, *Senior VP, Implementation*

Headquarters

NextG Networks, Inc. 2216 O'Toole Ave, San Jose, CA 95131 USA
408.954.1580 tel • 408.383.5397 fax • info@nextgnetworks.net
Visit www.nextgnetworks.net to learn more about the Company.

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Empowering
Next Generation Wireless Networks

SIGNATURE CONFIRMATION NUMBER: 2305 1410 0000 0755 9429

Postage and Signature Confirmation Fees must be paid before mailing.

Postage and Signature Confirmation Fees must be paid before mailing.

Handwritten signature: *Hugh Douglas H. French*
Carmel, NY



POSTAL CUSTOMER

Keep this receipt. For inquiries, access internet web site at www.usps.com or call 1-800-222-1811

- Priority Mail Service
- First-Class Mail parcel
- Package Services parcel

For more information, see 3905



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Track & Confirm

Search Results

Label/Receipt Number: 2305 1810 0000 0755 9870
Class: Priority Mail®
Service(s): Signature Confirmation™
Status: Delivered

Track & Confirm

Enter Label/Receipt Number.

Your item was delivered at 9:28 AM on May 24, 2010 in RYE, NY 10580 to CITY HALL . The item was signed for by P WILLIAMS.

[Go >](#)

Detailed Results:

- Delivered, May 24, 2010, 9:28 am, RYE, NY 10580
- Sorting Complete, May 24, 2010, 8:14 am, RYE, NY 10580
- Arrival at Post Office, May 24, 2010, 7:14 am, RYE, NY 10580
- Processed through Sort Facility, May 22, 2010, 9:18 pm, KEARNY, NJ 07032
- Acceptance, May 22, 2010, 10:08 am, WALDWICK, NJ 07463

Notification Options

Track & Confirm by email

Get current event information or updates for your item sent to you or others by email. [Go >](#)

Proof of Delivery

Verify who signed for your item by email, fax, or mail. [Go >](#)

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U.S. Postal Service
Customer Service



U.S. Postal Service
Business Customer Gateway

SIGNATURE CONFIRMATION NUMBER: 2304 2320 0000 3090 2444

U.S. Postal Service Signature Confirmation Confirmation of Receipt

Postage and Signature Confirmation fees must be paid before mailing.

Mr Kevin Aunkett
Camp Day - Esq



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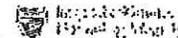
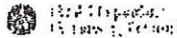


EXHIBIT E

TARANTELLO & ASSOCIATES

3520 Cadillac Avenue, Suite M, Costa Mesa, California 92626
Phone: 949.833.2650 - Fax: 714.427.0876

December 20, 2012

Mr. Robert L. Ritter
Senior Manager, DAS Land Use & External Affairs
Crown Castle
2000 Corporate Drive
Canonsburg, PA 15317

RE: Long Island Triangle Project - Muttontown DAS

Dear Mr. Ritter:

At your request and authorization, Tarantello & Associates has analyzed the features of the proposed Crown Castle distributed antenna system for the Village of Muttontown with the objective of assessing concerns of potential negative property value implications caused by the installation of three DAS antennae within the village along Muttontown Road. We have reviewed the specifications and photo-simulations provided within the Long Island Triangle DAS Network, Phase 2, presentation.

Although we have not conducted a specific statistical study of the proposal, we are confident that our previous reports and analysis of other installations are reflective of the conditions also present in this case.

Concern over the potential impact on real estate values in the immediate area of the proposed antennae is certainly understandable. But notwithstanding the location and desirability of the neighborhood and community, every neighborhood is almost entirely dominated by, and not immune to, the macro and micro economic influences that determine property values and economic trends. For over 25 years, our firm has been involved in a vast array of valuation questions as they pertain to property value impacts. We have analyzed the potential impacts of jails and prisons for both the County of Orange and the California Department of Corrections. The U.S. Department of the Navy engaged our services to evaluate the possible impact on property values below a proposed shift in flight path to an existing naval air facility. Numerous lenders, investors and developers have requested that we opine on possible value impacts stemming from damage caused by earthquakes, view obstructions, water or sewer line extensions and many other influences perceived to have the potential to cause value diminution. In the last fifteen years, or so, our value impact analyses have been more concentrated in the wireless communications industry as wireless providers have expanded their network coverage in response to the explosive growth in the use of cellular phones. While each assignment is unique

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as to location and circumstance, we have learned a great deal about the general conditions affecting the regional real estate market and the manner in which these conditions commonly apply to the valuation of property. Hence, while the potential causation may differ, all our results appear to be very highly correlated. This has been particularly true in the case of cellular phone installations.

Although our firm has been involved in the value analysis of numerous wireless antennae installations, we have never found any statistically observable property value impacts through our own research. In a comprehensive statistical study involving installations in the City of Thousand Oaks, we compiled sales price data within the same market area where similarly designed wireless installations had already taken place. This approach allowed us to draw conclusions on the potential value impact of the proposed site. This particular study detailed single-family residential sales data for seven existing wireless antennae locations, currently on air, and within close proximity to the proposed new antenna site. We compared the rate of change in the median price per square foot of single-family homes within one half mile of the antenna to the same index of median price change outside the half mile radius. We included every recorded single-family sale beginning one year prior to the date of installation through the date of our study. Hundreds of sales were used in the analysis lending a high degree of statistical significance to our results.

The findings of the study were conclusive. Not a single example was found to support the test hypothesis that property values decline after the installation of a wireless antenna. Moreover, although the study was not designed to study or suggest that wireless antennae created value to the homeowners, we nonetheless found that homes located within proximity to some sites actually experienced somewhat greater price appreciation. Most importantly, our research showed that property values located near and far from the antenna sites behaved in exactly the same manner and in a manner consistent with the general real estate market. While it is impossible to know for certain why this result was observed, the overwhelming implication is that proximity to a cellular antenna site is not only relatively insignificant on the eyes of a homebuyer, but that it is possible that cellular reception is considered to be a community asset, if not a necessity.

In addition to the Thousand Oaks study, we have also reviewed, analyzed and opined to property value impacts in numerous communities. In each and every case, we have never found a single example of measurable value diminution. In communities as disparate as Pomona and Newport Beach, the results have been consistently benign. In real estate economic terms, we strongly suspect that the reason for this phenomenon lies in the strength of the regional growth in population, employment and regional product. Taken in concert, these factors grossly overshadow small changes in neighborhood infrastructure or modest physical changes to the neighborhood, particularly in the eyes of a new prospective owner who may never have seen the neighborhood prior to any changes.

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Finally, despite a thorough review of the current literature, including the articles by Sandy Bond and Ko-Kang Wang and substantial experience conducting primary research regarding property value impacts caused by wireless installations in communities as diverse as Newport Beach, Beverly Hills, Dana Point and Rolling Hills Estates, we find no evidence or empirical foundation of any statistical significance supporting negative impacts.

It has been a pleasure to be of service to you on this project and look forward to any questions you may have.

Sincerely,

/s/

Dr. R. Tarantello

President

TARANTELLO & ASSOCIATES

Cc:

David E. Bronston
437 Madison Avenue
34th Floor
New York, NY 10022

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DR. R. TARANTELO, CRE

EDUCATION:

Doctor of Business Administration - Real Estate and Urban Land Economics, 1976; University of Southern California

Master of Business Administration - Financial Management and Business Economics, 1971; University of Southern California

Bachelor of Science - Real Estate and Finance, 1970
California State University - Los Angeles

**PROFESSIONAL
AFFILIATIONS:**

The Royal Institution of Chartered Surveyors, (Fellow of the Royal Institute FRICS)

Counselors of Real Estate, CRE #909

Lambda Alpha Land Economics Honorary Society

National and California Association of Realtors

**BUSINESS
EXPERIENCE:**

President, Tarantello & Associates, a New York based real estate investment, finance and transactional service company specializing in real estate research, investment, development feasibility, transactional consulting, finance, capital markets, bankruptcy and litigation support services.

Since 1978, has participated as a partner, principal or consultant in hundreds of projects throughout the United States. Owned, managed and developed single-family residential developments, multi-family rental projects, shopping centers, office buildings and health care facilities.

As a real estate debt and bankruptcy reorganization specialist, has participated in several of the largest debt restructures in California, as well as projects in New York and Tennessee. A leading expert in real estate capital markets and interest rates having participated in debt and equity real estate transactions in excess of several billion dollars.

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**BUSINESS
EXPERIENCE:**

Served as Principal and Chief Economist for Real Estate Research Corporation (RERC) from 2001 until 2005. Has served as a charter member of the board of directors of one of the largest non-profit rental housing providers in the nation, Southern California Housing Development Corporation and also as the senior Vice President for the congressionally funded National Housing Development Corporation.

**TEACHING
EXPERIENCE:**

Visiting Assistant Professor; St. John Fisher College, 2011-present

Lecturer in Finance and Accounting; St. John Fisher College; 2010-2011

Associate Professor of Clinical Real Estate and Urban Land Economics; University of Southern California, 1979 to 2000.

Assistant Professor of Real Estate and Urban Land Economics; University of Southern California, 1976 to 1979.

Assistant Professor of Real Estate, Finance, and Urban Land Development; California State Polytechnic University, Pomona, 1971 to 1976.

**HONORS,
DISTINCTIONS
AND AWARDS:**

J.C. Felts Creative Counseling Award, 1997
Lambda Alpha, National Honorary Land Economics Society,
1998 and 1997 President, Orange County Chapter
University of Southern California "Outstanding Faculty Member,"
1978-1979
Beta Gamma Sigma, National Honorary Fraternity
Wittenberg Fellowship for Doctoral Studies, 1976
Wall Street Journal Achievement Award, 1971

ARBITRATIONS:

Marina Cove, Ltd. and City of Redondo Beach, Rent Arbitration, Redondo Beach, California, September, 1997.

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Jimsair Aviation Services, Inc. and San Diego Unified Port District, Rent Arbitration, San Diego, California, June, 1994.

Bazaar del Mundo and California State Department of Parks and Recreation, Rent Arbitration, San Diego, California, California, December, 1992.

EXPERT WITNESS TESTIMONIES:

Global Naps Realty, Inc. v. Falcon Investment Group, LLC, et al., Los Angeles Superior Court, Case No. BC 245254, February 2002

Laurel Homes Associates-II v. Fidelity National Title Insurance Co., Riverside County Superior Court, Case No. 225236, March 29, 1999.

Santa Paula Rent Control Commission, Santa Paula, California, "Fair and Just Investment Returns," Mobile Home Park Rent, April 21, 1997.

Rancho Mirage Associates (Debtor), U.S. Bankruptcy Court, Central District of California, July, 1995.

Commonwealth Equity Trust (Debtor), U.S. Bankruptcy Court, Eastern District of California, Case No. 93-26727-C-11, July, 1994.

Armstrong Garden Centers, Inc. v. P/A Chino Town Center Investors, et. al., San Bernardino Superior Court, Case No. RCV 058108, July, 1994.

Jimsair Aviation Services, Inc. and San Diego Unified Port District, Rent Arbitration, San Diego, California, June, 1994.

Law Office of Ginsburg & Hlywa v. David Liscom, Orange County Superior Court, Case No. 705 191, February, 1994.

Sequoia Management (Debtor), U.S. Bankruptcy Court, Central District of California, Case No. SA 93-18024 JW, January, 1994.

Allen, et al., v. Lake Cadena, et al., San Bernardino Superior Court, November, 1993.

Hanover Anaheim Properties (Debtor), U.S. Bankruptcy Court, Central District of California, Case No. SA 92-13697 JR, November, 1992.

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Moreno Industrial Development (Debtor), U.S. Bankruptcy Court, Central District of California, Case No. SB 91-15098 DN, November, 1992.

Okura & Co. vs. The Careau Group et.al., U.S. District Court, Central District of California, Case No. 90-0542 (SVW), November 1990.

EXPERT WITNESS

TESTIMONIES:

(Cont'd)

Karcher vs. Kavanaugh, Adele., Los Angeles Superior Court, Case No. C-586004, June 1990.

Santa Paula Rent Control Board, Mobile Home Park Rent Control Ordinance, February 13, 1989.

UWC-Canoga Ltd. vs. Irvel, Inc., L.A. Superior Court, Case No. C-433052, May, 1988.

Burkes, et. al., Orange County Superior Court, Case No. 396755, February 1988.

Beverly Hills Savings vs. The Financial Center, U.S. Bankruptcy Court, Case No. LA 86-24591 -LF, December, 1987.

Lloyds of London vs. Ansell, U.S. District Court, Case No. CV-85 4356 KN, November, 1987.

Kilroy vs. Kilroy, L.A. Superior Court, Case No. D141-898, December, 1986.

Olive Davis, et al, vs. City of Newport Beach, Orange County Superior Court, Case No. 32-95-85, July, 1986.

Juan Segundo Jr., et al vs. City of Rancho Mirage and C/W Kapp vs. City of Cathedral City, Federal District Court, Case Nos. CV 82-4338 AAH and CV 84-3678, June-July 1985.

Oceanside City Council, Mobile Home Park Rent Control Ordinance - October 22, 1985.

San Jose City Council, Mobile Home Park Rent Control Ordinance - May 28, 1985.

City of Orange City Council, Commercial Development Potential -February 19, 1985.

San Jose Rent Stabilization Board, The Economic Impact of Rent Control on Investor Returns - September 24-25, 1984.

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President's Commission on Housing - presentation on October 28, 1981.

Los Angeles County Rent Control Advisory Board, Fair and Just Return in Rent Controlled Units - April 9, 1980.

EXPERT WITNESS

TESTIMONIES:

(Cont'd)

Los Angeles City Council, Rent Control - July 25, 1978.

California Assembly, Committee on Housing and Community Development - May 3, 1978.

U.S. House of Representatives, Committee on Banking, Finance and Urban Affairs - January 17, 1978.

SELECTED

PUBLICATIONS:

Books:

Real Estate Issues in the Health Care Industry, Kluwer Academic Publishers, 1996.

Tarantello, Rocky A.; Findlay III, Chapman M; and Messner, Stephen D. Real Estate Portfolio Analysis. Lexington, Massachusetts: Lexington Books published by D.C. Health and Company, 1983.

A Multi-Period Real Estate Investment Simulation Model: A Financial Management Rate of Return (FMRR) Approach, with M. C. Findlay and S. D. Messner, Center for Real Estate and Urban Land Studies, University of Connecticut, 1981.

The Future of the Real Estate Industry, Center for Futures Research, University of Southern California, 1974.

Refereed Journal Articles:

"Real Estate Experts: Some Further Observations," Real Estate Issues, Vol. 24, Number 3, Fall 1999.

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"Affordable Housing Through Non-Profit/Private-Public Partnerships," with Sen. John Seymour Real Estate Issues, Vol. 23, Number 3, Fall 1998.

"Expert v. Advocate: The Ethical Dilemma of Expert Testimony," Real Estate Issues, Fall/Winter 1994.

**SELECTED
PUBLICATIONS:
(Con't)**

Refereed Journal Articles: (Con't)

"Determining the Appropriate Interest Rate in Mortgage Loan Cram-Downs," with Jess Bressi, Real Estate Issues, Vol. 18, Number 2, Fall/Winter 1993.

"Determining the Appropriate Discount Rate for Calculating The Present Value of Deferred Plan Payments: Historical Experience and Theoretical Underpinnings," with Jess Bressi, California Bankruptcy Journal, Summer, 1989.

"The Inflation Dependency of Leveraged Investment," Real Estate Issues, Vol. 10, Number 2, Fall/Winter 1985.

"FMRR: A Programmable Calculator Implementation," with G. Tenzer, The Real Estate Appraiser and Analyst, 1981.

"Risk Analysis in Real Estate, Part I: Is There Even an Old IRR Literature under Risk," with M. C. Findlay and S. Messner, The Real Estate Appraiser and Analyst, July-August, 1979.

"An MBA Program in Real Estate With a Financial Emphasis," with M. C. Findlay, Journal of Financial Education, Vol.6, (pp. 17-18), 1977.

"Real Estate Education at U.S.C.", Journal of Financial Education, January, 1978.

Abstract: "A CAPM View of VRMs", with R. V. Eastin and M.C. Findlay, Journal of Financial and Quantitative Analysis, November, 1976.

"California Real Estate: It's the Morning After", USC Business, Winter/Spring 1991.

"Continuation of Single Digit Rates Likely", Building Orange County, June/July, 1986.

"Mortgage Lending: Buying the Assumptions", Building Orange County, June/July 1985.

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"1985 Outlook for Real Estate and the Economy", Building Orange County, December/January 1985.

"Post Election Interest Rates: What to Expect", Building Orange County, October/November 1984.

**SELECTED
PUBLICATIONS:
(Con't)**

Refereed Journal Articles: (Con't)

"Presidential Elections and Housing Economics", Building Orange County, March/April 1984.

"The Plight of the Thrifts", Executive Magazine, Vol. 8, No. 2, February 1982.

"The Plight of the Thrift Industry", A.B. Laffer Associates, August 17, 1981.

"Free Market System Solution to Housing Problem", BIA/Orange County; October 1980.

"Rent Control and the Housing Crisis in Southern California", Parts I and II, with M. C. Findlay, Real Estate Illustrated, Vol. I, Nos. 9 and 10, March 1980.

"Why Firms Leave Los Angeles", Local Governments' Decisions and the Local Tax Base, The Lincoln Institute for Land Policy, October, 1979.

"Faulty Vision: The Economic Shortsightedness of Rent Control", California Real Estate, December 1978.

"Los Angeles Housing Costs, Economics and Public Policy", Southern California Business, February, 1978.

DBA Dissertation, Variable-Rate vs. Fixed-Rate Mortgage Instruments: A Theoretic Approach, March 1976.

**PROFESSIONAL
AND ACADEMIC:**

Guest Lecturer, Cornell University Graduate School of Business, "Real Estate

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Investments, Risks and Returns," April 29, 2010.

Guest Speaker, Global Alternative Investment Management Conference, "State of the Real Estate Industry," Palm Beach, Florida, January 27, 2003.

Guest Speaker, Institute for Real Estate Management, "2003 Real Estate Forecast," Irvine, California, January 8, 2003.

Guest Speaker, Institute for Real Estate Management, "2003 Economic Forecast," San Diego, California, December 6, 2002.

**PROFESSIONAL
AND ACADEMIC:
(Con't)**

Guest Speaker, National Association of Realtors National Convention, "2003 Commercial/Industrial Forecast," New Orleans, Louisiana, November 8, 2002.

Guest Speaker, InvestCredit Bank AG, "Real Estate Investment, Finance and Project Development," Prague, Czech Republic, June 27, 2002.

Guest Speaker, Institute for Real Estate Management, Orange County Annual Conference, "The State of the Economy," Anaheim, California, June 4, 2002.

Guest Speaker, University of California, Irvine, Graduate School of Management, "2002 Real Estate Conference," Irvine, California, May 7, 2002.

Guest Speaker, Institute for Real Estate Management, "2002 Real Estate Forecast," Newport Beach, California, January 9, 2002.

Guest Speaker, Institute for Real Estate Management, "2002 Economic Forecast," San Diego, California, December 7, 2001.

Guest Speaker, Young President's Organization, "Real Estate Capital Markets and Investment Strategy," Beverly Hills, California, November 14, 2001.

Guest Speaker, National Association of Realtors National Convention, "2002 Commercial/Industrial Forecast," Chicago, Illinois, November 2, 2001.

Guest Speaker, University of California, Irvine/NAIOP, "Current Trends in Real Estate Investment," Irvine, California, October 30, 2001.

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Guest Speaker, San Diego Union Tribune Annual Investment Conference, "Real Estate Market Outlook," San Diego, California, May 12, 2001.

Guest Interview, KABC Radio, "Real Estate Today," San Diego, California, May 12, 2001

Guest Speaker, California State University, Fullerton, "Economic Forecast," Fullerton, California, February, 20, 2001.

Guest Speaker, Institute for Real Estate Management, "2001 Economic Forecast," Irvine, California, January 11, 2001.

**PROFESSIONAL
AND ACADEMIC:
(Con't)**

Guest Speaker, Institute for Real Estate Management, "Real Estate Market Forecast," San Diego, California, December 5, 2000.

Guest Speaker, Institute for Real Estate Management, "Investment Market Trends," Anaheim, California, June 1, 2000.

Guest Speaker, California State University, Fullerton, "Affordable Housing," Fullerton, California, March, 29, 2000.

Guest Speaker, Commercial Investment Real Estate Management "Real Estate Capital Markets and Investment," Los Angeles, California, January 19, 2000.

Guest Speaker, Institute for Real Estate Management, "Economic Forecast," Irvine, California, January 19, 2000.

Guest Speaker, Ohio State University and the Ohio State Appraisal Institute, "U.S. Affordable Housing Programs," Columbus, Ohio, December 10, 1999.

Guest Speaker, Institute for Real Estate Management, "2000 Real Estate Forecast," San Diego, California, December 3, 1999.

Guest Speaker, National Association of Realtors/Counselors of Real Estate, "Joint Economic Forecast," Orlando, Florida, November 12, 1999.

Guest Speaker, Institute for Real Estate Management, "2000 Real Estate Forecast," Lake Buena Vista, Florida, November 11, 1999.

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Guest Speaker, Bank Austria Creditanstalt, "Real Estate Project Finance, Risk Analysis and Investment," Prague, Czech Republic, June 24, 1999.

Guest Speaker, Institute for Real Estate Management, "1999 Real Estate Forecast," San Diego, California, December 4, 1998.

Guest Speaker, National Association of Realtors, "1999 Global Economic Forecast," Anaheim, California, November 6, 1998.

Guest Speaker, Counselors of Real Estate, "1999 Real Estate Forecast," Newport Beach, California, November 3, 1998.

**PROFESSIONAL
AND ACADEMIC:
(Con't)**

Guest Speaker, National Association of Corporate Real Estate Executives (NACORE), "Commercial Rental Markets and Negotiating Tactics," Costa Mesa, California, February 17, 1998.

Guest Interview, "Real Estate Today," KFMB Radio, CBS Affiliate, San Diego, California, January 10, 1998.

Guest Speaker, Institute for Real Estate Management, "1998 Economic Forecast," San Diego, California, December 5, 1997.

Guest Speaker, National Association of Realtors, "1998 Economic Forecast," New Orleans, Louisiana, November 14, 1997.

Guest Speaker, Institute for Real Estate Management, "1998 Real Estate and Economic Forecast," New Orleans, Louisiana, November 13, 1997.

Guest Speaker, Employee Relocation Location Council, "U.S. Housing Markets and the Economy," Dallas, Texas, May 16, 1997.

Guest Speaker, National Association of Realtors, "1997 Commercial Property Forecast," San Francisco, California, November 15, 1996.

Guest Speaker, Real Estate Owned Managers Association of California, "California Real Estate Market Update," Palm Springs, California, March 11, 1996.

Guest Speaker, Commercial Investment Real Estate Institute, "1996 Industrial Property Market Forecast," Orange County, California, March 6, 1996.

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Guest Interview, Real Estate Today, KFMB Radio, CBS Affiliate, San Diego, California, December 2, 1995.

Guest Speaker, Institute for Real Estate Management, "1996 California Real Estate Forecast," San Diego, California, December 1, 1995.

Guest Speaker, Lambda Alpha Land Economics Society, "Curriculum Building in Real Estate Education," Long Beach, California, June 21, 1995.

**PROFESSIONAL
AND ACADEMIC:
(Con't)**

Guest Speaker, Apartment Association of Orange County, "Residential Investment Property Forecast," Anaheim, California, May 18, 1995.

Guest Speaker, Institute for Canadian Real Estate Investment Managers, "American Real Estate Investments and Real Estate Investment Trusts," Toronto, Canada, February 16-17, 1995.

Guest Speaker, University of Southern California Health Care Symposium, "The Health Care Facilities Audit," Los Angeles, California, February 9, 1995.

Guest Speaker, Commercial Investment Real Estate Institute, "1995 Industrial Property Forecast," Orange County, California, January 31, 1995.

Guest Interview, The Morning Show, KFMB TV, CBS Affiliate, San Diego, California, January 4, 1995.

Guest Speaker, Counselors of Real Estate, "1995 Economic Forecast," Anaheim, California, November 4, 1994.

Guest Speaker, National Association of Realtors, "Regional Trends and Their Effects on Commercial Real Estate," Anaheim, California, November 4, 1994.

Guest Speaker, Institute for Real Estate Management, "1994 California Real Estate Forecast," San Diego, California, December 3, 1993.

Guest Speaker, American Society of Real Estate Counselors, "1994 Real Estate Forecast," Miami, Florida, November 12, 1993.

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Guest Speaker, Vista, California Economic Development Council, "1993 Regional Economic Overview," Vista, California, April 24, 1993.

Guest Speaker, American Society of Real Estate Counselors, "1993 Real Estate Forecast," Honolulu, Hawaii, November 13, 1992.

Guest Speaker, University of Judaism Moriah Society, "The California Real Estate Market," Beverly Hills, California, November 4, 1992.

**PROFESSIONAL
AND ACADEMIC:
(Cont'd)**

Guest Speaker, The Appraisal Institute, "1993 Real Estate Forecast," Orange County, California, October 21, 1992.

Guest Speaker, Medical Group Management Association, "Analyzing Health Care Facility Costs," San Diego, California, June 15, 1992

Guest Speaker, Cushman & Wakefield Western Region, "1992 Real Estate Forecast," Los Angeles, California, March 5, 1992

Guest Speaker, Institute of Real Estate Management, "State and Regional Economic Forecast," Orange County, California, February 12, 1992.

Guest Speaker, Commercial Industrial Real Estate Investment Council CIREIC, "1992 Real Estate Forecast," Newport Beach, California, November 19, 1991.

Guest Speaker, National Association of Realtors, "Case Study in Real Estate Consulting," Las Vegas, Nevada, November 5, 1991.

Guest Speaker, Real Estate Investment Association of California, "Opportunities for the 90's," Buena Park, California, July 23, 1991.

Guest Speaker, Society of Industrial and Office Realtors, "Real Estate Counseling," Newport Beach, California, May 16, 1991.

Guest Speaker, Building Industry Association, "California Real Estate Investment Forecast," Los Angeles, California, May 14, 1991, Anaheim, California, May 16, 1991.

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Guest Speaker, USC Commerce Associates, "Southern California Market Forecast," Los Angeles, California, April 24, 1991.

Guest Speaker, Orange County Apartment Association, "Residential Income Property Economics," Anaheim, California, March 21, 1991.

Guest Speaker, Commercial, Industrial Development Association, "The Orange County Real Estate Market," Irvine, California, February 21, 1991.

Guest Speaker, Harvard College Alumni Association, "Real Estate Forum," Los Angeles, California, February 6, 1991.

PROFESSIONAL AND ACADEMIC: (Cont'd)

Guest Speaker, Century City Chamber of Commerce, "California Real Estate Forecast," Los Angeles, California, December 11, 1990.

Guest Speaker, Building Owners and Managers Association, "The Los Angeles Office Market," Los Angeles, California, January 17, 1990.

Guest Speaker, California Community College Association, "Outlook for California Real Estate," Irvine, California, May 5, 1989.

Guest Speaker, International Council of Shopping Centers, "An Economic Look into the 1990's," Anaheim, California, February 24, 1989.

Guest Speaker, California Society of CPA's, "California Market Overview," Newport Beach, California, October 19, 1988.

Guest Speaker, Wharton Alumni Association, "California Office Trends," Beverly Hills, California, June 14, 1988.

Guest Speaker, American Institute of Architects, "The Orange County Slow Growth Initiative," Irvine, California, May 19, 1988.

Guest Speaker, National Association of Industrial and Office Parks, "Orange County Office and Industrial Trends", Newport Beach, California, February 5, 1987.

Guest Lecturer, Stanford University Graduate School of Business, "Real Estate Development Strategies," Palo Alto, California, January 26, 1987.

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Guest Lecturer, Dept. of Interior, Bureau of Indian Affairs, "Ground Lease Provisions for Indian Allottees," Palm Springs, California, April 16, 1986.

Guest Lecturer, University of Chicago, "Real Estate Research and The Development Process," Chicago, Illinois, November 15, 1985.

Guest Lecturer, University of Chicago Graduate School of Business, "The Business of Real Estate Consulting," Chicago, Illinois, April 25, 1985.

Guest Speaker, Union Oil Corporation, "The Impact of Real Estate Economics on Timing and Location Choice," Rancho Santa Fe, California, September 17, 1984.

**PROFESSIONAL
AND ACADEMIC:
(Cont'd)**

Guest Speaker, Touche Ross & Co., "Real Estate Economics," Scottsdale, Arizona, May 17, 1982.

Guest Speaker, County Planning Commissioners Conference, "SB 200 and the Peripheral Canal," Newport Beach, California, March 18, 1981.

BIOGRAPHICAL SKETCH

Dr. R. Tarantello

Dr. Tarantello is a well known national speaker and has spoken both nationally and internationally on such topics as the national economy, real estate market conditions, investment markets, capital markets and industry trends. He has over 30 years of extensive experience in real estate development, investment, market research, commercial/industrial acquisitions, and litigation counseling throughout the United States.

Dr. Tarantello is President of Tarantello & Associates, a New York based real estate investment, finance and transactional service company specializing in real estate research, investment, development feasibility, transactional consulting, finance, capital markets, damage and lost profit analysis, complex valuations, bankruptcy plan feasibility, debt restructuring and interest rate determinations. Dr. Tarantello joined Real Estate Research Corporation (RERC) as a principal and chief economist in 2001 as served in this position until August 2005. He has served as a charter member of the board of directors of one of the largest non-profit rental housing providers in the United States, Southern California Housing Development Corporation and as Vice President of Acquisitions for National Housing Development Corporation.

Dr. Tarantello has been a Professor of Real Estate and Land Economics at the University of Southern California from 1976 to 2000. He received his Doctor of Business Administration and Master of Business Administration degrees from U.S.C. and a Bachelor of Science in Business Administration from California State University at Los Angeles.

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Professional credentials include the Royal Institution of Chartered Surveyors (FRICS), Fellow of the Royal Institute, London, England; and the CRE designation of the Counselors of Real Estate, Lambda Alpha National Honorary Land Economics Society, and the National and California Associations of Realtors. Dr. Tarantello received the prestigious James Felt award from the Counselors of Real Estate in 1997 for his pro bono contributions to numerous non profit affordable housing projects.

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