

**CITY OF RYE**

**NOTICE**

There will be a regular meeting of the City Council of the City of Rye on Wednesday, October 19, 2016, at 7:30 p.m. in Council Chambers at City Hall. *The Council will convene at 6:30 p.m. and it is expected they will adjourn into Executive Session at 6:31 p.m. to discuss litigation.*

**AMENDED AGENDA**

1. Pledge of Allegiance.
2. Roll Call.
3. General Announcements.
4. Draft unapproved minutes of the regular meetings of the City Council held October 5, 2016.
5. Issues Update/Old Business.
  - Update from the City Manager on the Water Emergency
6. Continuation of the Public Hearing regarding the request submitted by Crown Castle to amend their agreement with the City and for the installation of additional locations to their existing wireless telecommunications located in the City of Rye.
7. Residents may be heard on matters for Council consideration that do not appear on the agenda.
8. Authorization for the City Manager to enter into an Intermunicipal Agreement with the County of Westchester Department of Public Works and Transportation for Bus Passenger Shelters.
- 8A. Resolution to amend the 2016 Adopted Fees and Charges for the Rye Boat Basin Enterprise Fund.  
Roll Call.
9. Acceptance of donation to the Rye Police Department from the Potter family in the amount of One Thousand (\$1,000.00) Dollars.  
Roll Call.
10. Miscellaneous communications and reports.
11. New Business.
12. Adjournment.

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The next regular meeting of the City Council will be held on Wednesday, November 2, 2016 at 7:30 p.m.

\*\* City Council meetings are available live on Cablevision Channel 75, Verizon Channel 39, and on the City Website, indexed by Agenda item, at [www.ryeny.gov](http://www.ryeny.gov) under "RyeTV Live".

\* Office Hours of the Mayor by appointment by emailing [jsack@ryeny.gov](mailto:jsack@ryeny.gov) or contacting the City Manager's Office at (914) 967-7404.



# CITY COUNCIL AGENDA

NO. 4

DEPT.: City Clerk

DATE: October 19, 2016

CONTACT: Carolyn D'Andrea, City Clerk

**AGENDA ITEM** Draft unapproved minutes of the regular meeting of the City Council held October 5, 2016.

**FOR THE MEETING OF:**

October 19, 2016

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That the Council approve the draft minutes.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:** Approve the minutes of the regular meeting of the City Council held October 5, 2016, as attached.

***DRAFT UNAPPROVED MINUTES*** of  
the Regular Meeting of the City Council of the  
City of Rye held in City Hall on October 5, 2016  
at 7:30 P.M.

PRESENT:

JOSEPH A. SACK Mayor  
KIRSTIN BUCCI  
EMILY HURD  
JULIE KILLIAN  
RICHARD MECCA  
DANIELLE TAGGER-EPSTEIN  
Councilmembers

ABSENT:

TERRENCE McCARTNEY  
Councilmember

The Council convened at 6:30 P.M. Councilman Mecca made a motion, seconded by Councilwoman Bucci and unanimously carried to immediately adjourn into Executive Session to discuss litigation and personnel matters. Councilman Mecca made a motion, seconded by Councilwoman Bucci and unanimously carried, to adjourn the Executive Session at 7:00 P.M. There was a short presentation at 7:00 P.M. to the Council and the public regarding progress on the New York Rising program grant. The regular meeting convened at 7:44 P.M.

1. Pledge of Allegiance.

Mayor Sack called the meeting to order and invited the Council to join in the Pledge of Allegiance.

2. Roll Call.

Mayor Sack asked the City Clerk to call the roll; a quorum was present to conduct official City business.

5. Presentation from representatives of the Suez and Aquarion Water Companies.

This agenda item was taken out of order. Robert Idoni, Superintendent of Operations at Suez Westchester, addressed the Council. He stated that Suez is asking that the Council enact City ordinances as they pertain to a drought. Mr. Idoni explained that there is currently a water supply emergency. He further stated that Suez has purchased water from Westchester Joint and Aquarion Water to replenish the supply. He explained that since the Aquarion Water reservoirs are at 23% of capacity, Suez has now maximized the water being taken from Westchester Joint.

City Manager Serrano recommended the adoption of a water emergency and the amendment of the current City code regulating water emergencies.

7. Resolution to declare a Water Emergency in the City of Rye regarding current water supply conditions as recommended by the Suez and Aquarion Water Companies.

This agenda item was taken out of order. To continue the conversation regarding water emergencies, Corporation Counsel Wilson stated that an amendment to the current code would include specific watering restrictions during a declared water emergency. Chapter 194 would require that upon notification from a water company of an emergency, an emergency must be declared by the City, and:

1. Any outside watering is prohibited from sprinklers;
2. The Golf Club is permitted to only watering greens, tees or fairways; and
3. Hand-held hose water is permitted.

Mayor Sack asked if there would be any other major entity besides the Golf Course that would use as much water. Mr. Idoni responded that the Golf Club is the biggest user of water within the City.

In terms of enforcement, Corporation Counsel Wilson explained that the Police Department would have the ability under this legislation to enforce the watering restrictions. Mr. Idoni stated that the emergency would remain for the foreseeable future.

There was general discussion of the Council concerning the future of the drought, enforcement, and forward-looking situations due to drought.

Councilwoman Hurd made a motion, seconded by Councilwoman Tagger-Epstein, to adopt the following resolution:

**WHEREAS**, portions of the City of Rye receive water from Suez of Westchester; and

**WHEREAS**, under City Code Chapter 194, “Water Conservation”, the City Council has the authority to declare an emergency when it is notified by a water company that water use restrictions must be put in place; and

**WHEREAS**, the City has been informed by Suez of Westchester that the local reservoir that supplies our community’s drinking water is down by about 60% capacity, due to the lack of rain and increased water usage demand;

**NOW, THEREFORE, BE IT RESOLVED**, the following water use restrictions for Suez of Westchester County customers only, are in place until further notice:

1. Any outside watering is prohibited by use of sprinkling systems or other commercial watering systems;
2. All Golf Clubs in the City of Rye shall not water any of the rough but is permitted to continue watering the fairways, greens and tees; and
3. Hand-held hose watering is permitted.

ROLL CALL

AYES: Mayor Sack, Councilmembers Bucci, Hurd, Killian, Mecca and Tagger-Epstein  
NAYS: None  
ABSENT: Councilman McCartney

6. Consideration to set a Public Hearing to amend local law Chapter 194, "Water", of the Rye City Code by amending Section §194-1, "Conservation in times of emergency", to give the City Manager the authority to declare conservation in times of water emergency.

This agenda item was taken out of order. Bob Zahn, 7 Ridgewood Drive, stated that amending a local law seems rushed and very last minute. He stated that he is concerned that it is going to be a bad law, and expressed reservations about enforcement.

Mayor Sack made a motion, seconded by Councilwoman Bucci and unanimously carried, to set a Public Hearing on December 7, 2016, to amend local law Chapter 194, "Water", of the Rye City Code by amending Section §194-1, "Conservation in times of emergency", to give the City Manager the authority to declare conservation in times of water emergency.

17. Consideration of a request by the New York Rangers for use of city streets on Saturday, November 19, 2016 from 6:00 a.m. to 1:00 p.m. for a 5K Race to benefit the Garden of Dreams Foundation and Northwell Health.

This agenda item was taken out of order. Claire Dorfman, Government Affairs for Madison Square Garden, presented to the Council on behalf of the New York Rangers. She stated that the race will take place on November 19, 2016 and expect 1,200 participants in the Rye Playland area. All proceeds will go to the charities Garden of Dreams Foundation and Northwell Health. She further explained that runners would only be on City streets between 10:00 A.M. and 1:00 P.M.

Mayor Sack thanked Ms. Dorfman for her presentation. Ms. Dorfman confirmed that alumni players of the New York Rangers would be present for the event.

Councilwoman Killian made a motion, seconded by Councilwoman Hurd and unanimously carried, to approve the request by the New York Rangers for use of city streets

on Saturday, November 19, 2016 from 6:00 a.m. to 1:00 p.m. for a 5K Race to benefit the Garden of Dreams Foundation and Northwell Health.

3. General Announcements.

Councilwoman Tagger-Epstein announced that the Rye Sustainability is waiting for residents to fill out their online survey and encouraged everyone to do so. She also encouraged families to enter the Healthy Lawn Sign Design project, which will help residents to understand pesticides and what can help a healthy lawn.

Councilman Mecca announced that on October 6, 2016, the Rye Fire Department will hold its annual inspection and dinner at 6:00 at the American Yacht Club. The annual inspection is a Rye tradition that the Department is very proud of.

Councilwoman Killian announced that October 6, 2016 is Rye's "Back to School Night." She also stated that on October 1, 2016, there was Rye City Council Coffee at the Rye Free Reading Room. The event happens often and gives members of the community to voice any issues with the Council on an informal basis. She thanked the member of the community who asked the Council to speak clearly into the microphone at Council meetings. Councilwoman Killian was excited to announce that the NYU Capstone Project will be taking a comprehensive look at Rye Town Park to develop a plan for its future. She thanked Helen Gates for applying for that grant. Ms. Gates has worked with NYU and the Capstone project previously. Councilwoman Killian also stated that there was a recent Rye Town Park Commission meeting, which focused on the Seaside Johnny's license agreement, which has expired. Residents would like to see the Commission issue a new RFP to gauge more interest for the site. Councilwoman Killian stated that she recommended that a restaurant consultant be brought in. Concerning the Council Coffee issues, she also reported that there had been a complaint that the off-leash dog hours are not long enough.

Councilwoman Killian also stated that lastly, over the past few months, many have expressed serious concerns over Crown Castle and their application within the City of Rye. She said that the role of the Council is to deal with issues that come before them by representing the best interests of the City. Councilwoman Killian asked that people keep an open mind as the entire Council takes this job very seriously. She finds the position of Councilmember and public servant to be incredibly rewarding, and she will continue to work for the best interests of Rye.

Councilwoman Bucci stated that next week is Fire Prevention week, and the Fire Department will be visiting 1900 children to explain fire prevention and fire safety. As a reminder, she asked all residents to check that their smoke detectors were in proper working order. Secondly, she reminded everyone that the Rye Free Reading Room's Novel Night is Saturday, November 5, 2016. This will be an important fundraiser for the Library.

Councilwoman Hurd thanked the City for putting together the presentation on New York Rising. She also thanked County Legislator Catherine Parker who is working to amend the Long Island Sound Coastal Reconnaissance Plan. She is hopeful that the City will be

eligible and was happy to report that the City has completed its questionnaire on the issue, which may result in matching funds for the project. Councilwoman Hurd then issued a public apology for her comments toward Corporation Counsel Wilson.

4. Draft unapproved minutes of the regular meeting of the City Council held September 14, 2016.

Councilman Mecca made a motion, seconded by Councilwoman Hurd and unanimously carried, to adopt the minutes of the regular meeting of the City Council, held September 14, 2016.

8. Issues Update/Old Business.

Mayor Sack discussed the Thruway property. He stated that the City continues to have discussions with potential partner Rye Country Day School. The City is working with engineering firm Woodward and Curran who is looking at the issue of feasibility.

Mayor Sack then updated the community on the development at the United Hospital site. He stated that the Port Chester Village traffic consultant is still reviewing the FEIS that has been submitted by the applicant. With regard to Playland, the Article 78 recently filed by the City has been fully submitted against the County for failure to comply with SEQRA, among other issues. Mayor Sack stated that the City continues to hope that there can be some positive resolution with the County prior to the court's action.

Mayor Sack stated that the City Council had a public meeting on Saturday morning concerning Benjamin Franklin Mile Marker 25 near the intersection of Boston Post Road and Parkway Drive. There is a proposal to either keep the mile marker in its current location, or move it to an alternate location. Mayor Sack recommended including this issue on a Council agenda to discuss all of the aspects. He asked for the issue to be put on the agenda for November 2, 2016.

Mayor Sack acknowledged the Fire Department's annual inspection and dinner event on October 6, 2016, which has been a long and proud tradition that dates back over 100 years. Without the volunteers, the City of Rye could not have a Fire Department. It is a hybrid department, but the City relies on the volunteers heavily. Times are changing, and there are not as many volunteers as there once was, which poses problems for staffing and management. Mayor Sack stated that there is a strong need for management and direction, which is why the issue of a Public Safety Commissioner will be on the ballot for referendum vote on Election Day.

9. Continuation of the Public Hearing to amend local law Article 21, "Financial Procedures", Section §C21-9, "Bond Resolutions", of the Charter of the Rye City Code, to revise the City's discretionary debt limit.



Councilwoman Killian made a motion, seconded by Councilman Mecca and unanimously carried, to adjourn the public hearing until November 2, 2016.

10. Continuation of the Public Hearing to amend local law Chapter 191, Vehicles and Traffic, of the Rye City Code, Section 191-19, "No parking any time", to prohibit parking on the east side of Hewlett Avenue and the north side of Osborn Road.

Brian Dempsey, Rye Resident and Chair of the Traffic and Pedestrian Safety Committee, addressed the Council. He stated that regarding Hewlett Avenue, one resident came to the Traffic and Pedestrian Safety Committee to ask that something be done with parking, as she cannot safely egress from her driveway during peak school hours. The Committee confirmed this and met with representatives of the school. Mr. Dempsey stated that the Committee asked the school to send out various notices to parents to have consideration for the neighborhood, which did not have much effect. Despite the signs, the Committee observed the area and continually observed the difficulty for vehicles to travel down Hewlett Avenue. The committee's main concern is safety. Mr. Dempsey stated that they observed that a fire truck had great difficulty moving through the neighborhood. He stated that this has become an all-day issue, not just a pick-up time issue.

Councilwoman Tagger-Epstein added that the Committee looked at the issue from a safety aspect. She stated that this is an elementary school in a residential neighborhood, and there will always be an issue with vehicles. However, the City needed to ensure that in the case of an emergency, there would be a path and ability to traverse through. She stated that the Committee would like to see a culture change with more walking to school, but they need to consider the affects and take a comprehensive approach to parking.

Julie Marino, Rye Resident, stated that she resides on Oakland Beach Avenue and has been very concerned about safety. She felt that it was not a good idea to close down one side of Hewlett, as it would cause her to park on a road with no sidewalks. She felt that this decision was impulsive and that the City has not taken a close enough look.

Brian Dempsey stated that this has been looked at over the last 15 to 20 years and has been studied by the Traffic and Pedestrian Safety Committee over that time period. There was general discussion about the number of cars which may be permitted to park on Hewlett, and pedestrian safety.

Councilwoman Tagger-Epstein stated that the largest issue was that in the case of an emergency, emergency vehicles are unable to pass.

Deirdra Mikelopolas stated that her children attend Milton School. She stated that there cannot always be walking to school. She asked the City to consider an alternate solution.

Councilwoman Tagger-Epstein stated that she understands that not everyone can walk to school. She said she has been asking parents at Milton to abide by traffic rules. The Police Department has issued tickets and the conversation has been ongoing. She said that at

the end of the day, the objective is safety. Councilwoman Tagger-Epstein then said that she had a conversation with the PTO presidents as to how we can work together for a solution that helps parents.

Eva Males, Rye resident, stated that she lives on the corner of Forest and Hewlett, with her driveway facing Hewlett Avenue. She stated that she has also been trapped in her driveway. She said that sometimes the passage is so narrow that she has to fold in her side view mirrors. She felt that drivers are distracted, texting, etc. and suspected that if someone in law enforcement was there enforcing daily, it would help.

City Manager Serrano stated that Commissioner Corcoran is in full support of limiting the parking on Hewlett.

Mr. Dempsey recommended observing the changes for one month.

Julie Marino asked why there was no outside consultant hired to study the issue. Councilwoman Tagger-Epstein responded that Mr. Dempsey is a professional traffic engineer.

Concerning Osborn Road, Mr. Dempsey stated that many options have been considered over the years. There are several issues; one being that there is a five-lot subdivision with a driveway on Osborn Road. Pedestrians have safety issues there and so possible sidewalks or other issues are being considered. What is being proposed now is to prohibit parking to the entrance of Osborn School. It eliminates one lane of vehicles parked, which helps in an emergency situation.

Mayor Sack said that the benefit would be great, as the parking changes would help pedestrians, prevent backup on Boston Post Road, and help in an emergency situation.

Dan Chorost, 9 Osborn Road, stated that each day, the children in his cul-de-sac cannot safely get to the crossing guard on Boston Post Road. He urged the Council to approve this issue. He thanked the Council for their consideration.

Councilwoman Tagger-Epstein made a motion, seconded by Councilman Mecca and unanimously carried, to close the public hearing.

Councilwoman Tagger-Epstein made a motion, seconded by Councilwoman Hurd, to adopt the following changes to the City Code:

§ 191-19.1. Parking prohibited certain hours.

No person shall park a vehicle between the hours listed upon any of the following described streets or parts of streets:

<b>Name of Street</b>	<b>Side</b>	<b>Hours</b>	<b>Location</b>
Boston Post Road	East	When school is in session, from 7:30 a.m. to 8:30 a.m. and 2:00 p.m. to 4:00 p.m.	Along the frontage of the Resurrection Middle School 936-946 Boston Post Road
Fairway Avenue	West	When school is in session, from 8:00 a.m. to 9:00 a.m. and 2:30 p.m. to 3:30 p.m.	From Hewlett Avenue to Green Avenue
Hewlett Avenue	West	When school is in session, from 8:00 a.m. to 9:00 a.m. and 2:30 p.m. to 3:30 p.m.	Between the crosswalks extending from Robert Crisfield Place to the fire lane driveway entrance to the driveway exit
Parsons Street	South	When school is in session, from 7:30 a.m. to 8:30 a.m. and 2:00 p.m. to 4:00 p.m.	Between the middle school and high school driveways

**§ 191-19 No parking any time.**

The parking of vehicles is hereby prohibited in all of the following locations:

**Name of Street Side Location**

***\*Promulgated by City Manager with approval of City Council.***

Hewlett Avenue	East	From the crosswalk opposite the southerly entrance of the driveway which runs along the easterly side of Milton School for a distance of 50 feet northerly
Hewlett Avenue	East	From Forest Avenue to a point 50 feet north of the southerly cross walk to Milton School at the exit of their driveway
Osborn Road	North	Between Theall Road and the Harrison line
Osborn Road	South	Between Boston Post Road and the Harrison line
Osborn Road	North	From Boston Post Road to the entrance driveway to the Osborn School

**ROLL CALL**

**AYES:** Mayor Sack, Councilmembers Bucci, Hurd, Killian, Mecca and Tagger-Epstein

**NAYS:** None

**ABSENT:** Councilman McCartney

- 10A. Consideration of request to amend local law Chapter 191, Vehicles and Traffic, of the Rye City Code, Section 191-19.1, "Parking prohibited certain hours", to prohibit parking on the west side of Fairway Avenue from Hewlett Avenue to Green Avenue when school is in session from 8:00 a.m. to 9:00 a.m. and 2:30 p.m. to 3:30 p.m.
- 11. Continuation of the Public Hearing regarding the request submitted by Crown Castle to amend their agreement with the City and for the installation of additional locations to their existing wireless telecommunications located in the City of Rye.

Mayor Sack stated that there is a SEQRA review that will take place in connection with this application. Under SEQRA, there must be a declared lead agency. The City of Rye is prepared to declare itself lead agency for these purposes.

Corporation Counsel Wilson stated that declaring lead agency is the first step under SEQRA. Following that step, there will be a positive or negative declaration made. To make a positive declaration is a finding by lead agency of a finding that there is at least one issue that could be a significant environmental impact of the proposed impact. A negative declaration is a finding that there are no adverse environmental impacts.

Councilwoman Tagger-Epstein made a motion, seconded by Councilwoman Hurd, to adopt the following resolution:

**SEQRA NOTICE OF INTENT TO SERVE AS LEAD AGENCY FOR CROWN CASTLE'S REQUEST TO AMEND THE RIGHT OF WAY USE AGREEMENT**

On Motion of Councilwoman Tagger-Epstein, seconded by Councilwoman Hurd, the following resolution was adopted by the City Council of the City of Rye, New York:

WHEREAS, Crown Castle has requested amendments to the current Right of Way Use Agreement ("RUA") to allow the installation of approximately 64 additional nodes, new/additional accessory equipment and two new pole sets (the "Request"); and

WHEREAS, the City Council is continuing to review the above Request and is seeking additional documentation from Crown Castle; and

WHEREAS, pursuant to the Notice annexed hereto, in accordance with the provisions of 6 NYCRR Part 617, the City Council intends to serve as Lead Agency for the SEQRA review of this Request and, in this capacity, will determine if the proposed action will have a significant effect on the environment;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Rye declares its intent to serve as lead agency and will circulate the Notice to all Interested Agencies (there being no other Involved Agencies).

**ROLL CALL**

- AYES: Mayor Sack, Councilmembers Bucci, Hurd, Killian, Mecca and Tagger-Epstein
- NAYS: None

ABSENT: Councilman McCartney

Mayor Sack stated that as has been stated at prior meetings, there has been discussion that Crown Castle's "shot clock" would end November 2, 2016, at which time the City would need to make a determination. Mayor Sack also mentioned that there was letter recently sent from the City Manager to the applicant's attorney that Chapter 196 applies, at least in part, and that there has not been compliance. The letter also mentions that a possible breach of the right-of-way use agreement has taken place, by not considering municipal facilities for node placement. There has also been a notation of possible breach by Crown Castle which has entered into a contract with Verizon without compensation to the City.

Chris Fisher, Cuddy & Feder, stated that in 2011, Crown Castle obtained a right-of-way use agreement by asserting their Certificate of Public Convenience. At this point in time, the applicant is seeking to amend their right-of-way use agreement and add nodes throughout the City. There have been objections from the public concerning safety, the volume of such nodes, aesthetics, locations, a claim of property value impact, and overall process. In July 2016, Crown Castle asked for the City to take action, and the City deferred action in order to retain an expert. The parties have agreed on November 2, 2016 to take action. Mr. Fisher stated that he asked the City to provide municipal alternatives, but was not provided with any. He stated that Crown Castle would work with the City on the node size to move the project forward. However, Mr. Fisher also mentioned that there is language within the right-of-way use agreement that suggests that the City would not be involved in the aesthetics of the boxes.

Mayor Sack stated that there has been an agreement to extend to November 2, 2016. His understanding was that both parties were amenable to the exchange of information.

Ben Stack, 20 Sonn Drive, addressed the Council and asked if the SEQRA process would apply to the existing nodes. Corporation Counsel Wilson responded that the original nodes would not be the subject of the SEQRA, just those under the amendments to the right-of-way use agreement.

Matt Fahey, 36 Franklin Avenue, addressed the Council. He stated has been watching the debate over Crown Castle for the last few weeks. He felt that the Council did not have the public's interest at heart and urged the Council to listen to residents on this issue.

Dan Richmond, Zarin and Steinmetz, counsel retained by Rye Residents, made a statement to the Council. He stated that their clients wished to work toward a resolution with the City. He stated that the nodes must all comply with chapter 196 of the City Code. He stated that he does not feel that the shot clock would be applicable, due to the lack of a full submission by Crown Castle. He looks forward to working with the City.

Joshua Cohn, 24 Green Avenue, made a statement to the Council. He encouraged the City to deny the request by Crown Castle. He stated that the City must develop an overall

plan for wireless telecommunications. He expressed concern over the future of the wireless carriers in the right-of-way, in that while currently there is an application from Crown Castle and Verizon, there could be others in the future who may want their own poles within the right-of-way. He also expressed concern over proximity to homes and property values.

Rich Pell, 30 Grace Church Street, stated that the Post Road in Rye has been preserved. It is the result of many Councils supporting the community. He talked about the value of the community and properties. He was concerned about the possible reduction in property values. He stated that newer young families would want to move to Rye, but be dissuaded by nodes. He asked the Council to preserve Rye's neighborhoods and support the residents.

Owen Knee, 701 Forest Avenue, commented on the 2010 agreement. He felt that the original agreement is probably void, as the City does not own the telephone poles.

Bjorn Tuypens, 717 Forest Avenue, addressed the Council. He stated he wanted to answer Councilman Mecca's question about the current eight cell nodes and home value. He said that after studying price data from Zillow, he found that those homes within the vicinity of the nodes lost value of 6 to 8 percent. He cited the CATO institute's handbook for policy makers.

Councilman Mecca asked Mr. Tuypens to provide a more accurate, factually-based presentation with backup. Using facts in this situation could help the City to make a case, but the backup needs to be strong.

Carolyn Cunningham, 18 Soundview Avenue, made a statement to the Council. She was upset to hear that Chapter 196 had not yet been applied. She stated that she was happy to hear of the letter from the City urging Crown Castle to comply with parts of Chapter 196 and for breach of contract notices.

Gibb Cain, Stuyvesant Avenue, stated that he had a home that would be impacted by proposed nodes. He asked why the center of Rye did not have any proposed nodes.

Mr. Fisher responded that there was already a cell tower on top of Blind Brook Lodge where coverage exists. There was general discussion over gaps in coverage. He also urged the Council to reference certain cases and FCC regulations.

Leah Marino, real estate broker, stated that she was in shock to see this occurring.

Trish Agosta addressed the Council and asked that Crown Castle is treated the same as the residents.

Mayor Sack adjourned the public hearing until October 19, 2016.

~~12. Authorization for the City Manager to enter into an agreement with Woodard & Curran for field investigations and site characterization to support property~~

~~acquisition and future development plans for the New York Thruway property.~~  
**Withdrawn**

- 12A. Authorization of an additional City Council Meeting on November 9, 2016 for the Presentation of the Budget.

Councilman Mecca made a motion, seconded by Councilwoman Bucci and unanimously carried, to authorize the addition of a City Council meeting to be held on November 9, 2016 for the Presentation of the 2017 Budget.

13. Summary of the 2017 Budget Process and Consideration of setting the 2017 Budget Workshop schedule.

City Manager Serrano stated that the budget will be presented at the additional Council meeting on November 9, 2016. Further, the budget workshops will be held on November 14, 2016 and November 16, 2016. The public hearing on the budget will be held on December 7, 2016 and placed on the agenda for Council vote on December 21, 2016.

Councilman Mecca made a motion, seconded by Councilwoman Bucci and unanimously carried, to adopt the Budget Workshop schedule as set forth by the City Manager.

14. Residents may be heard on matters for Council consideration that do not appear on the agenda.

There was no discussion under this agenda item.

15. Resolution to amend the Boat Basin Commission By-Laws to allow permitting to commercial boats subject to the approval of the Boat Basin Supervisor and the Boat Basin Commission.

Councilman Mecca stated that allowing commercial boats may help the City with the funding to dredge.

Mayor Sack made a motion, seconded by Councilwoman Hurd, to adopt the following Boat Basin Commission By-Law Amendments:

## **SECTION 1 REGULATIONS REGARDING DOCKING/MOORING VESSELS**

**1.1 INSURANCE** – All Owners shall maintain year round liability insurance of no less than a **\$300,000** of coverage for all vessels. Each certificate shall state that such insurance coverage is primary over any insurance held by the City of Rye and provide the

Boat Basin Supervisor with a copy of said insurance certificate. Proof of insurance due at time of application.

**1.2 OWNERSHIP –** No permit will be issued to an applicant unless he/she owns in whole title to vessel in application. Proof of such ownership must be furnished by presentation of a valid boat registration card, driver's licenses.

**1.3 RESIDENTIAL RATES –** To qualify for the residential rate, at least two (2) proofs of residency is required. Any two of the following may be provided at the time of application: Driver's license, credit card bill, utility bill or cable bill.

**1.4 LAUNCHING & HAULING -** Boats that utilize the Boat Basin for winter storage must be in the water and at its assigned slip no later than June 15<sup>th</sup>. All boats remaining in the Boat Basin lot after June 15<sup>th</sup> will be assessed a **daily fee of \$20.00**. Boat Basin closing date is Nov. 1<sup>st</sup>, no services provided after November 30<sup>th</sup>.

**1.5 SLIP ASSIGNMENTS -** Boat Basin reserves the right to reassign dock slip assignments as the need may arise. Summer dockage contract does not guarantee any particular slip assignment.

**1.6 DOCKING -** The Boat Basin assumes no responsibility for improperly docked boats or improperly tied lines. Owners shall properly secure their vessels at all times so that no damage occurs to Owner's boat, other boats or the Boat Basin. The Boat Basin reserves the right to replace defective lines or correct defective mooring when necessary and to charge Owner for the cost of such replacement or correction.

**1.7 SLIP MODIFICATIONS -** No padding, hose, rug or other material shall be attached to the tops or sides of the slips; only materials authorized by Boat Basin in writing shall be used. All other material attached to the slips will be removed. Boat owners shall make no material change in slip.

**1.7.1 DAMAGE –** Owner shall be responsible for all damage to docks, slips or other Boat Basin property while docking vessels.

**1.8 BOAT CONDITION –** Boats docked at the Boat Basin must be seaworthy and capable of moving under their own power. No boat shall create a fire hazard, sinking hazard or unsightly condition. The Boat Basin may withhold or withdraw slip space for any occupant whose vessel is considered in the opinion of the Supervisor and the Commission to be unsound, a hazard to the Boat Basin or to other boats.

**1.9 EMERGENCY MOVES –** The Boat Basin shall not be responsible to move Owner's boat at any time. However, Owner authorizes the Boat Basin to move Owners boat as may be required in the event of an emergency or to avoid loss or damage to Boat Basin property. Owner further agrees that the Boat Basin shall not be liable for any damage to the boat caused by moving said boat.



1.9.1 This contract authorizes the City of Rye Boat Basin to remove/haul/recover a vessel at any time when such vessel poses a threat or danger to Boat Basin, its property or its clients. It also authorizes Boat Basin to remove/haul/recover/lockdown a vessel, at owner's expense for late/non-payment or if vessel is still in lot after June 15<sup>th</sup> deadline.

**1.10 SEVERE WEATHER** – Owners shall be responsible for properly securing their vessels in the event of severe weather so that no damage occurs to the Owner's boat, other boats or the Boat Basin. If, in the sole opinion of the Boat Basin Supervisor, Owner has not taken necessary and appropriate precautions, Boat Basin personnel may, but shall not be obligated to, appropriately secure vessels or prepare vessels for foul weather.

## **SECTION 2: GENERAL REGULATIONS OF THE BOAT BASIN**

**2.1 REPAIRS & MAINTAINANCE** – All maintenance and or repairs can be owner performed. Any mechanics hired to work on Owner's boat must provide all necessary insurance and workers compensation requirements to the Boat Basin Supervisor before starting work. Owner is responsible for making sure all rules and regulations pertaining to the use of fuel, oil, solvents and paints are adhered to.

**2.2 DAMAGE TO BOAT BASIN PROPERTY** – Owners and operators of vessels shall immediately reimburse the Boat Basin for any damage or defacement that they, their vessel, guests, employees or agents may cause to Boat Basin property.

**2.3 LIVE ABOARD** – Owner may not live on or use their boat as a place of residency in the City of Rye Boat Basin. Overnight on board camp-outs are allowed to a maximum of two (2) nights. Open flame cooking and barbecue fires are strictly forbidden at all times.

**2.4 SUB-LEASING** – Owners are not allowed to sub-lease or rent their slip.

**2.5 SLIP TRANSFER** – Slip may go with the sale of the boat per approval from Boat Basin Supervisor. No refund or pro-rata refund of slip payment will be made.

**2.5.1 SELLING BOAT** - Owners who sell their boat during the boating season must make notification of the sale with 10 days to the Boat Basin Supervisor. Boat owner must also notify Boat Basin Supervisor if they are replacing the boat and if so, does it fall in the same size category.

**2.6 NOISE** - The operation of any radio, phonograph or television or the use of any musical instrument or other sound-making instrument or device on any boat in such a manner as to disturb the peace is prohibited, except that the transmission of audible signals that are necessary for normal navigation or for emergency purposes is permitted.

**2.7 SWIMMING, FISHING AND MISCELLANEOUS ACTIVITIES** – Swimming, diving and fishing are prohibited within the Boat Basin. Fish cleaning is prohibited within the Boat Basin. The discharging of firearms or fireworks is prohibited within the Boat Basin. The flying of kites, remote controlled airplanes, boats, and cars is

also prohibited. Bicycle riding, skateboarding, and roller skating are prohibited on the docks.

**2.8 CLAIMS -** In consideration of the granting of this permit, Permit Holder hereby releases the City of Rye, it's Officers and members, of any liability for personal injuries to Permit Holder, their Guests or Invitees and for property damage to or loss or theft of Permit Holders boat, automobile, trailer or related equipment, suffered or sustained during the use of the Boat Basin or storage areas.

**2.9 OVERNIGHT PARKING –** Overnight parking is only allowed in the back parking lot.

**2.10 LIFE JACKETS –** All children 12 years of age or under must wear a Coast Guard approved Personal Floatation Device while on the docks.

**2.11 UPGRADING –** There will be no upgrading in size of boat without prior notification to the Boat Basin supervisor. No upgrading will be allowed if it constitutes a change of category or slip assignment.

**2.12 COMMERCIAL VESSELS –** Permits and slip assignments for commercial vessels will be handled on an individual basis and are subject to the approval of the City Manager, the Boat Basin Supervisor and the Boat Basin Commission.

ROLL CALL

AYES: Mayor Sack, Councilmembers Bucci, Hurd, Killian, Mecca and Tagger-  
Epstein  
NAYS: None  
ABSENT: Councilman McCartney

16. Resolution to declare certain City of Rye equipment as surplus.  
Roll Call.

Councilwoman Bucci made a motion, seconded by Councilman Mecca, to adopt the following resolution:

**WHEREAS**, the City has been provided with a list of City equipment identified as being obsolete or will become obsolete during 2016, and,

**WHEREAS**, Rye TV has recommended that said equipment be declared surplus, now, therefore, be it

**RESOLVED**, that said equipment are declared surplus, and, be it further

**RESOLVED**, that authorization is given to the City Comptroller to sell or dispose of said equipment in a manner that will serve in the best interests of the City.

ROLL CALL

AYES: Mayor Sack, Councilmembers Bucci, Hurd, Killian, Mecca and Tagger-  
Epstein  
NAYS: None  
ABSENT: Councilman McCartney

18. Consideration of a request by the Recreation Department to hold their 40<sup>th</sup> annual Turkey Run on Saturday, November 26, 2016 during Thanksgiving Weekend.

Councilwoman Killian made a motion, seconded by Councilwoman Hurd and unanimously carried, to approve the request by the Recreation Department to hold their 40<sup>th</sup> annual *Turkey Run* on Saturday, November 26, 2016 during Thanksgiving Weekend.

19. Consideration of a request by the Rye Merchants Association to close a portion of Purchase Street on Sunday, November 27, 2016 from 10:00 a.m. to 3:00 p.m. for the Mistletoe Magic event.

Councilwoman Tagger-Epstein made a motion, seconded by Councilwoman Hurd and unanimously carried, to approve the request by the Rye Merchants Association to close a portion of Purchase Street on Sunday, November 27, 2016 from 10:00 a.m. to 3:00 p.m. for the *Mistletoe Magic* event.

20. Miscellaneous communications and reports.

There was nothing discussed under this agenda item.

21. New Business.

There was nothing discussed under this agenda item.

22. Adjournment.

There being no further business to discuss, Councilman Mecca made a motion, seconded by Councilwoman Hurd and unanimously carried, to adjourn the regular meeting of the City Council.

Respectfully submitted,

Carolyn E. D'Andrea  
City Clerk



# CITY COUNCIL AGENDA

NO. 5

DEPT.: City Council

DATE: October 19, 2016

CONTACT: Mayor Joseph A. Sack

**AGENDA ITEM:** Issues Update/Old Business

**FOR THE MEETING OF:**

October 19, 2016

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That an update be provided on outstanding issues or Old Business.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:**

- Update from the City Manager on the Water Emergency



# CITY COUNCIL AGENDA

NO. 6

DEPT.: City Manager

DATE: October 19, 2016

CONTACT: Marcus Serrano, City Manager

**AGENDA ITEM:** Continuation of the Public Hearing regarding the request by Crown Castle to amend their agreement with the City regarding existing wireless telecommunications specifications and referral to the Board of Architectural Review for additional attachment locations.

**FOR THE MEETING OF:**

October 19, 2016

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That the City Council continue the Public Hearing regarding Crown Castle's request regarding an agreement amendment and the placement of additional attachments.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:** The City Council approved an agreement with NextG Networks, Inc. at their January 12, 2011 City Council Meeting to conduct business as a telecommunications company operating with infrastructure located in the City's public ways. Crown Castle purchased NextG in December 2011. Crown Castle is seeking an amendment to the agreement with the City to change the language to "Con Edison approved shroud," as Con Edison is the local utility who owns most of the poles in the right-of-way in the City.

Crown Castle currently has nine (9) facilities in the City of Rye. They are seeking to add approximately fifty (50) additional locations within the City's right-of-way.

The City Council referred the application for additional locations to the Board of Architectural Review (BAR) at their April 13, 2016 meeting. The BAR approved the application at their May 9, 2016 meeting.

See attached documentation from Crown Castle:

Documents provided regarding the request

- Letter from Christopher B. Fisher, Esq. regarding the pole attachment specification and node locations with attached EAF
- Noise Emission Report
- Report commissioned by Crown Castle in 2012 that compares RF energy and compliance of antennas on utility poles with other sources of RF energy

Regarding Requested Changes to the Agreement with the City of Rye

- Letter from Esme A. Lombard, Crown Castle National Real Estate – Contractor
- Existing Right-of-Way (RUA) Use Agreement with the City of Rye
- Amendment to Right-of-Way (RUA) Use Agreement
- State Level Regulatory Overview information

Regarding the Request for additional locations in the City of Rye

- Table of Proposed locations
- Map of Proposed locations
- Table of existing locations
- Photos of existing attachments in the City of Rye



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Christopher B. Fisher, Esq.  
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June 24, 2016

**BY ELECTRONIC MAIL**

Kristen Wilson, Esq.  
Corporation Counsel  
City of Rye  
City Hall  
1051 Boston Post Road  
Rye, NY 10580  
(914) 967-7404

Re: Crown Castle  
February 2011 City Right-of-Way Use Agreement  
Crown Pole Attachment Specification & Node Locations

Dear Ms. Wilson:

I am writing as a follow up to our June 17, 2016 letter regarding the above referenced matter on behalf of Crown Castle and its affiliate Crown Castle NG East LLC (f/k/a NextG Networks of NY, Inc.)("Crown").

**Crown Submissions to the City**

It is our understanding that Crown has filed various materials with the City as part of its request for administrative permits under the RUA and an additional equipment box specification, including but not limited to:

- a. An existing and proposed photosimulation of the new equipment box;
- b. A map of existing (9) and proposed (73) pole locations in Rye;
- c. A spreadsheet list of proposed pole locations in Rye (73) that included information on the installation type;
- d. A copy of Crown's NYS PSC CPCN;
- e. A copy of the exiting City RUA and a draft proposed amendment;
- f. Two third party MPE power density safety reports for the antenna configurations proposed for use by Crown on utility poles in the right-of-way;
- g. Baseline coverage and maps with the original 73 node locations in Rye identified;
- h. A spreadsheet list of the revised 56 pole locations in Rye; and
- i. A powerpoint presentation prepared by Crown;

Further, I'm advised that the dimensions of the larger equipment cabinet are approximately 7" taller, 3" deeper and 8.5" wider than the existing cabinets (i.e. a volume difference of approximately .1 cubic feet).



### **City Administrative Approvals for SEQRA Purposes are Type II Exempt**

As noted in our prior correspondence, Crown's request is for administrative permits issued by the City under Sections 3 and 5 of the RUA as previously approved by the City Council in 2011 (i.e. City Manager sign off of the list of new node locations and any City Engineer approval issued in the normal course for other similarly situated telecommunications and utility companies like Cablevision, Verizon Fios, Fiber Companies and Consolidated Edison). These are clearly Type II actions for SEQRA purposes. See 6 NYCRR 617.5(c)(11), (19) and (7) and the NYS DEC SEQRA Handbook. We also believe that the City Council's review in this matter involves matters exempt as Type II under 6 NYCRR 617.5(c)(19), (26) and/or (31) as related to interpreting the RUA on the new equipment box specification as substantially conforming to the Exhibit A specifications.

### **Even if "unlisted", an Environmental Impact Statement Could Not be Reasonably Required under SEQRA**

Notwithstanding the foregoing and to avoid any procedural questions, we enclose in the alternative a Short EAF with Part 1 filled out and signed by Crown. This only to the extent someone might procedurally argue City Council action is an "unlisted" action for SEQRA purposes. Moreover, because this project is limited to equipment attached to utility company distribution poles in the right-of-way with no visual impacts different in degree or kind than existing poles, Crown installations or other utility installations such as Con Ed transformers, Verizon FIOS boxes, Cablevision wires and WiFi nodes or other equipment routinely installed for utility services in Rye, we submit that even if not Type II, a negative declaration would be required based on the questions listed in Part 2 of the Short EAF and the criteria for significance in 6 NYCRR § 617.7(c)(1-3). Clearly an Environmental Impact Statement could not be required under SEQRA prior to issuance of administrative approvals under the RUA and any amendment to the RUA for the additional equipment box specification.

### **July 13<sup>th</sup> City Council Meeting**

We would ask that you advise the City Council regarding SEQRA and to the extent you deem appropriate have them address the Short EAF and SEQRA criteria for determinations of significance at its July 13, 2016 continued hearing. Thank you for your consideration of this letter on behalf of our client.

Very truly yours,

  
Christopher B. Fisher

cc: Mayor Joe Sack and Members of the City Council  
Crown Castle



## Short Environmental Assessment Form

### Part 1 - Project Information

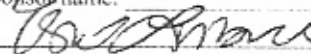
#### Instructions for Completing

**Part 1 - Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

<b>Part 1 - Project and Sponsor Information</b>			
Name of Action or Project: <b>Crown Additional Equipment Specification &amp; Additional Utility Pole/Attachment Locations</b>			
Project Location (describe, and attach a location map): All City Rights-of-Way - Existing and Additional Pole/Attachment Location Map 4/8/16 and 6/09/16 Revised Pole Location and Installation List			
Brief Description of Proposed Action: Crown and the City entered into a Right-of-Way Use Agreement in 2011 as authorized by the City Council. Sections 3 and 5.1 provide for City administrative review and approval of Crown's third party pole attachments and any new pole locations and equipment installations. Crown has proposed an additional equipment specification and a current list of additional utility pole locations and where it plans to install equipment.			
Name of Applicant or Sponsor: Crown Castle NG East LLC (f/k/a NextG Networks of NY, Inc.)("Crown")		Telephone: 203-919-0896	
Address: 131-05 14th Avenue		E-Mail: Esme.Lombard.Vendor@crowncastle.com	
City/PO: College Point	State: NY	Zip Code: 11356	
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.		NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:		NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
3.a. Total acreage of the site of the proposed action? _____ acres		N/A - All work in City ROW which is previously disturbed	
b. Total acreage to be physically disturbed? _____ acres			
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ acres			
4. Check all land uses that occur on, adjoining and near the proposed action. <input checked="" type="checkbox"/> Urban <input checked="" type="checkbox"/> Rural (non-agriculture) <input checked="" type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban) <input checked="" type="checkbox"/> Forest <input checked="" type="checkbox"/> Agriculture <input checked="" type="checkbox"/> Aquatic <input checked="" type="checkbox"/> Other (specify): _____ <input checked="" type="checkbox"/> Parkland    The project is confined to City ROW. Due to the nature of the project, it necessarily is near all types of land uses in the City of Rye and as such all boxes have been checked.			

5. Is the proposed action, a. A permitted use under the zoning regulations? <u>New poles and pole attachments in City ROW not subject to zoning</u>	NO	YES	N/A
	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Consistent with the adopted comprehensive plan? <u>Telecommunications use of ROW not in 1985 plan</u>	NO	YES	N/A
	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape? <u>New poles and pole attachments consistent with other utility infrastructure (transformers, wifi antennas, Fios boxes, etc)</u>	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: <u>The project is not located in any CEA. City of Rye streets do adjoin CEA's in some areas per the DEC Environmental Mapper. There is no at grade construction in any CEA.</u>	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Are public transportation service(s) available at or near the site of the proposed action? <u>Yes, but N/A - project has no occupancy</u>	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action? <u>same</u>	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: <u>Project does not involve any habitable or occupiable structures for purposes of the state energy code. All construction is done in accordance with utility company tariffs and electrical code standards</u>	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply?  <u>If No, describe method for providing potable water: N/A - no water supply required</u>	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities?  <u>If No, describe method for providing wastewater treatment: N/A - no wastewater supply required</u>	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places? <u>No utility pole location is known to be listed on the State or National Register of Historic Places</u>	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Is the proposed action located in an archeological sensitive area? <u>No utility pole location is known to be in an archeological sensitive area</u>	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? <u>City streets may adjoin areas of wetlands or waterbodies as shown on the DEC Environmental Mapper</u>	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: <u>All improvements are proposed on utility poles with no at grade encroachment into any adjacent wetland or waterbody.</u>	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input checked="" type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban <u>City streets</u>			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered? <u>City streets</u>	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
16. Is the project site located in the 100 year flood plain? <u>All improvements are above grade on utility poles</u>	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? <input type="checkbox"/> NO <input type="checkbox"/> YES	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: <input type="checkbox"/> NO <input type="checkbox"/> YES			

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____ _____ _____	NO   <input checked="" type="checkbox"/>	YES   <input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____ _____	NO   <input checked="" type="checkbox"/>	YES   <input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ _____ _____	NO   <input checked="" type="checkbox"/>	YES   <input type="checkbox"/>
<b>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b>		
Applicant/sponsor name: <u>Crown - by Esme Lombard</u> Date: <u>June 23, 2016</u>		
Signature: <u></u>		

Project:

Date:

***Short Environmental Assessment Form  
Part 2 - Impact Assessment***

**Part 2 is to be completed by the Lead Agency.**

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:	<input type="checkbox"/>	<input type="checkbox"/>
a. public / private water supplies?	<input type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input type="checkbox"/>	<input type="checkbox"/>

Project:

Date:

**Short Environmental Assessment Form  
Part 3 Determination of Significance**

For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

- Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
- Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

\_\_\_\_\_  
Name of Lead Agency

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print or Type Name of Responsible Officer in Lead Agency

\_\_\_\_\_  
Title of Responsible Officer

\_\_\_\_\_  
Signature of Responsible Officer in Lead Agency

\_\_\_\_\_  
Signature of Preparer (if different from Responsible Officer)

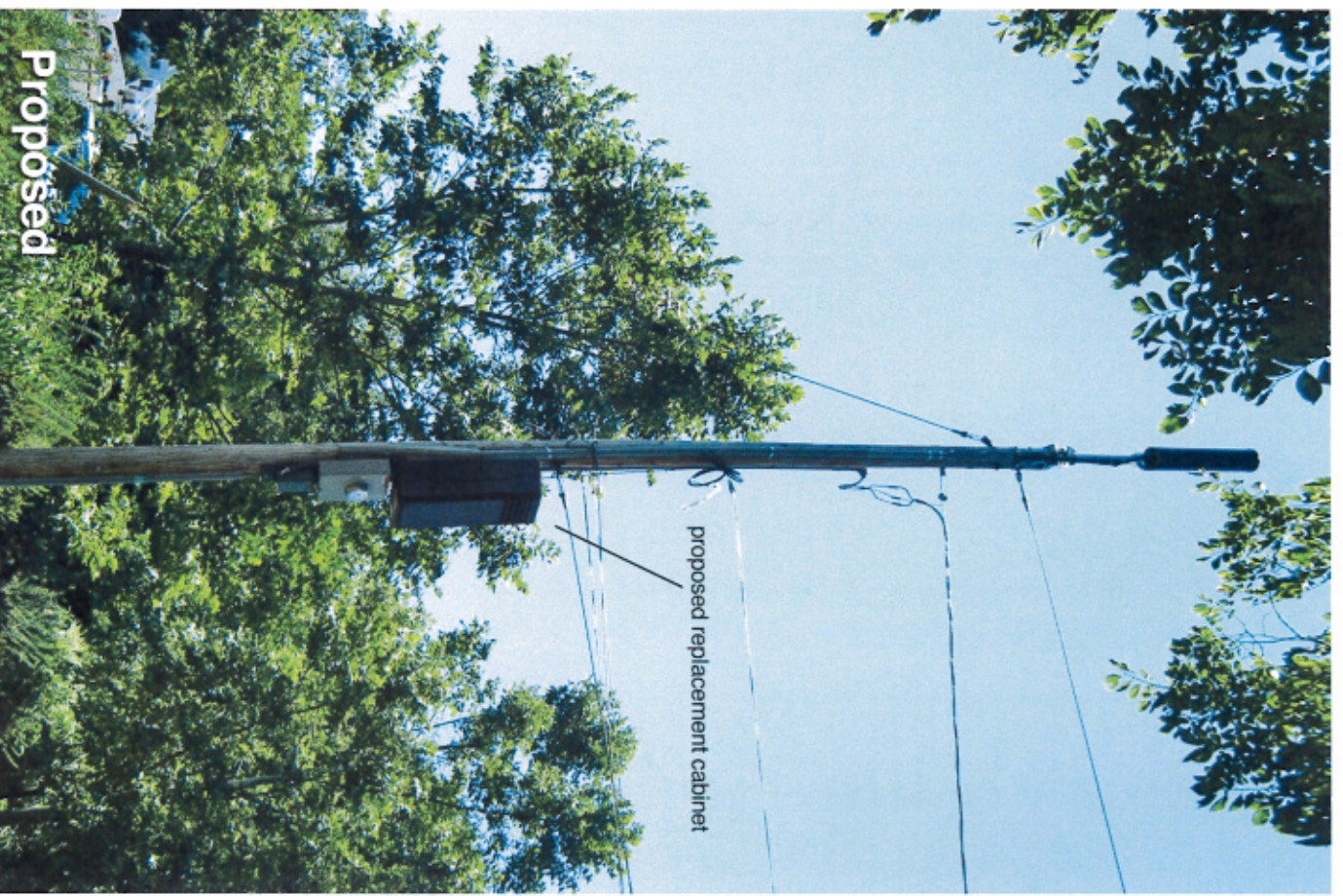
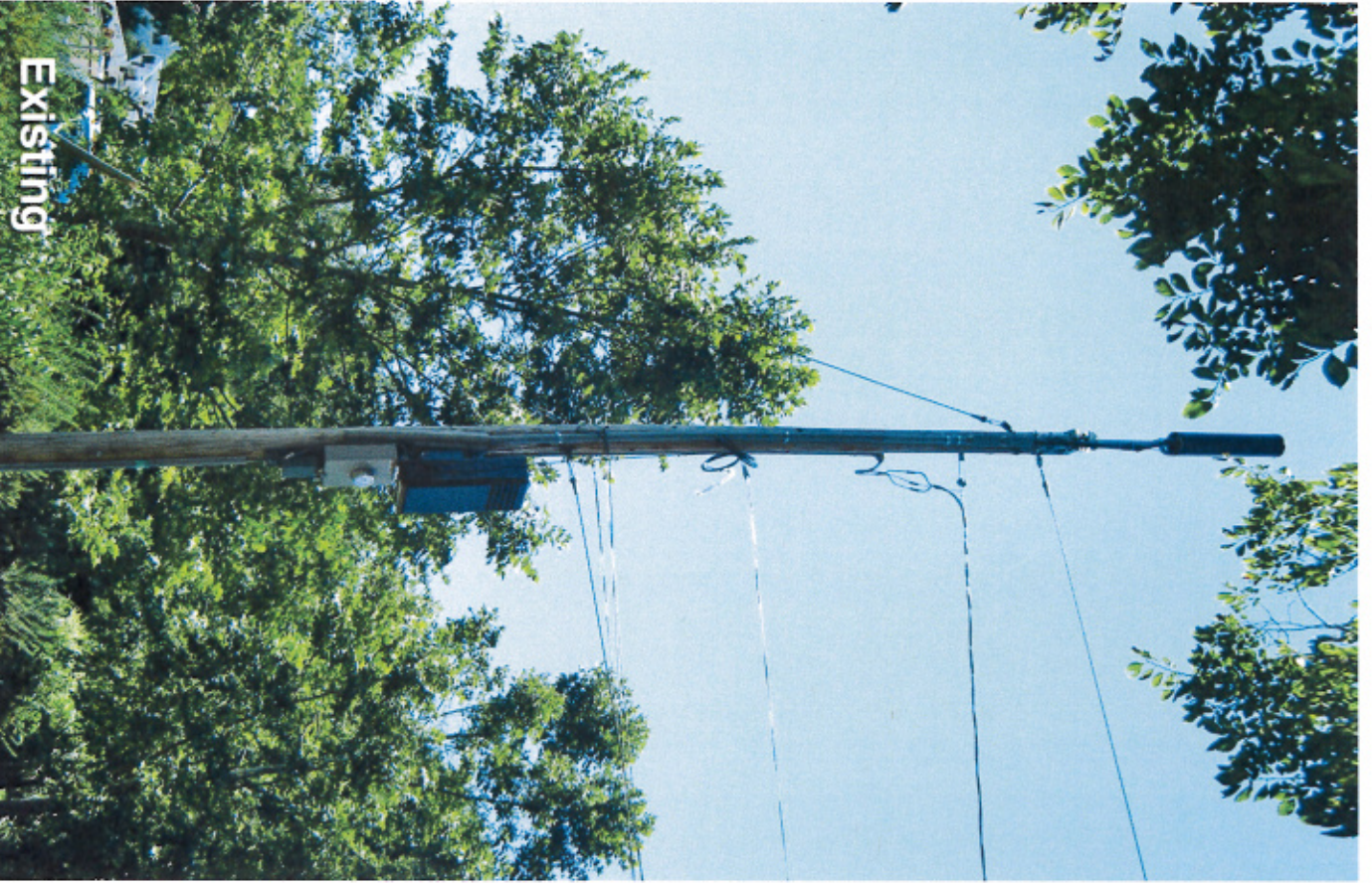
**PRINT FORM**

4/6/2016

### Crown Castle Proposed and Existing Locations in City of Rye

- Existing Crown Castle Locations
- Proposed Locations
- Existing Metal Street Light
- New Wood Pole
- Existing Wood Pole





proposed replacement cabinet

Existing

Proposed

Pole Top 3

Polygon	Customer Node ID	Crown Node ID	Pole ID	Pole Type	Node Latitude	Node Longitude	Node Street Address
Rye_1	ODAS_WEST_N192	Rye_1_001	W29	Commzone	40.979977	-73.699977	290 North st
Rye_1	ODAS_WEST_N193	Rye_1_002	W11S	Wood Pole Top	40.976517	-73.693379	95 North st
Rye_1	ODAS_WEST_N194	Rye_1_003	W1	Commzone	40.974761	-73.694671	12 Sharon Ln
Rye_1	ODAS_WEST_N195	Rye_1_004	W18	Wood Pole Top	40.973615	-73.693455	11 North st
Rye_1	ODAS_WEST_N196	Rye_1_005	T47 S	Wood Pole Top	40.978064	-73.692768	2 Hammond Rd
Rye_1	ODAS_WEST_N198	Rye_1_007	29	Wood Pole Top	40.982784	-73.696418	255 Central ave
Rye_1	ODAS_WEST_N199	Rye_1_008	VZ4	Commzone	40.979682	-73.697097	124 Maple ave
Rye_1	ODAS_WEST_N203	Rye_1_012	NYT21	Wood Pole Top	40.984000	-73.693498	190 Locust ave
Rye_1	ODAS_WEST_N206	Rye_1_015	T610	Commzone	40.980935	-73.681797	44 Grace Church St
Rye_1	ODAS_WEST_N207	Rye_1_016	NYT 9	Commzone	40.982891	-73.679760	8 Holly Ln
Rye_1	ODAS_WEST_N208	Rye_1_017_B		Wood Pole Top	40.984595	-73.680535	7 Thistle Ln
Rye_1	ODAS_WEST_N211	Rye_1_020	W5	Wood Pole Top	40.984591	-73.683514	17 Purdy ave
Rye_1	ODAS_WEST_N216	Rye_1_025	T16	Commzone	40.983397	-73.690144	151 Locust ave
Rye_1	ODAS_WEST_N218	Rye_1_027	N/A	Wood Pole Top	40.986494	-73.677473	17 Peck ave
Rye_1	ODAS_WEST_N219	Rye_1_028	17990	Wood Pole Top	40.987004	-73.682348	33 Cedar st
Rye_1	ODAS_WEST_N221	Rye_1_030	P5	Wood Pole Top	40.984812	-73.688870	14 Ridgewood Dr
Rye_1	ODAS_WEST_N222	Rye_1_031	W12	Wood Pole Top	40.985742	-73.686616	4 Ridgewood Dr
Rye_1	ODAS_WEST_N223	Rye_1_032	NYT1	Wood Pole Top	40.987111	-73.687746	64 Highland Rd
Rye_2	ODAS_WEST_N226	Rye_2_001	T23	Commzone	40.973723	-73.699185	401 Theodore Fremd Ave
Rye_2	ODAS_WEST_N228	Rye_2_003	T6	Commzone	40.969580	-73.702641	555 Theodore Fremd Ave
Rye_2	ODAS_WEST_N229	Rye_2_004	NYT 1	Wood Pole Top	40.969450	-73.697551	37 Colby Ave
Rye_2	ODAS_WEST_N231	Rye_2_006	W18	Commzone	40.968234	-73.703793	330 Theall Rd
Rye_2	ODAS_WEST_N234	Rye_2_009	3701	Wood Pole Top	40.968870	-73.692753	80 Claremont Ave
Rye_2	ODAS_WEST_N237	Rye_2_012	NYT16	Wood Pole Top	40.966170	-73.706003	110 Glen Oaks Dr
Rye_2	ODAS_WEST_N240	Rye_2_015	NYT 1	Wood Pole Top	40.966355	-73.703546	12 Harding Dr
Rye_2	ODAS_WEST_N242	Rye_2_017	T4	Wood Pole Top	40.965906	-73.693184	112 Sonn Dr
Rye_2	ODAS_WEST_N248	Rye_2_023	W10	Commzone	40.960297	-73.698198	98 Soundview Ave
Rye_2	ODAS_WEST_N250	Rye_2_025	NYT 2	Wood Pole Top	40.967361	-73.697316	51 Franklin Ave
Rye_2	ODAS_WEST_N252	Rye_2_027	W006624	MSL	40.967448	-73.687004	4 Ellsworth St



On Street	Cross Street 1	Cross Street 2	Pole Location Relative to Cross Street 1
North St	Summit Ave	Glendale Rd	4th Pole West of Summit Ave, on the North Side of North St\West of private road entrance
North St	Hammond Rd	Theodore Fremd Ave	First pole east of Hammond Rd, on the South side of North St
Sharon Ln	Marlene Ct	Pondview Rd	SW corner of Marlene Ct and Pondview Rd
North St	Old Post Rd	Hammond Rd	First pole on the median at the split of Old Post Rd and North St
Theodore Fremd Ave	Hammond Rd	North St	SW corner of Theodore Fremd Ave and Hammond Rd
Central Ave	Summit Ave	Maple Ave	2nd pole East of Summit ave on the South side of Central ave
Maple Ave	North St	Nursery Ln	West side of Maple ave, 4th pole south of Nursery Ln
Locust Ave	Maple Ave	Club Rd	North side of Locust ave, 1st pole West of Club Rd
Grace Church St	Ralston St	Cross St	East side of Grace Church st, and 1st pole south of Ralston st
Holly Ln	Larkspur Ln	Thistle Ln	SE corner of Holly Ln and Larkspur Ln
Thistle Ln	Mistletoe Ln	Larkspur Ln	North side of Thistle Ln, 1 Pole north of Mistletoe Ln
Purdy Ave	School St	2nd St	NW corner of Purdy ave and School st
Locust Ave	Ridgewood Dr	Club Rd	South side of Locust ave, 1st pole west of Ridgewood Dr
Peck Ave	Midland Ave	Boston Post Rd	North side of Peck ave, 3rd pole west of Midland ave
Cedar St	New St	Grandview Ave	South side of Cedar st, 1st pole west of New st
Ridgewood Dr	Iroquois St	Locust Ave	West side of Ridgewood Dr, 6 poles north of Locust ave
Iroquois St	Ridgewood Dr	Dead End	SE corner of Iroquois st and Ridgewood Dr
Highland Rd	Club Rd	Seneca St	NW corner of Highland Rd and Club Rd
Theall Rd	Playland Access Dr	Garver Dr	9th pole south of Playland Acces Dr on the west side of Theall Rd
Theall Rd	Osborne Rd	Garver Dr	West side of Theall Rd, 6th pole north of Osborne Rd
Old Post Rd	Boston Post Rd	Packard Ct	NW corner of Old Post Rd/ Boston Post Rd
Osborne Rd	Coolidge ave	Theall Rd	NW corner of Osborne Rd and Theall Rd
Claremont Ave	Parkway Dr	Parkway Dr	SE corner of Claremont Ave/ Parkway Dr
Glen Oaks Dr	Coolidge Ave	Dead End	NW corner of Glen Oaks Dr and Coolidge Ave
Harding Dr	Hughes Ave	Lasalle Ave	NE corner of Harding Dr and Hughes Ave
Sonn Dr	Crescent Ave	Claremont Ave	1st wooden pole South side of Sonn Dr/ West of Crescent Ave
Soundview Ave	Boston Post Rd	Dead End	11th Wooden pole North side of Soundview Ave/ East of Boston Post Rd
Franklin Ave	Fraydun Pl	Sonn Dr	3rd wooden pole south of Fraydun on west side of Franklin Ave
Playland Pkwy	Milton Rd	Charlotte	SW corner of Playland Pkwy and Milton Rd

Rye_2	ODAS_WEST_N253	Rye_2_028	NYT 58S	Wood Pole Top	40.9665131	-73.686488	444 Milton Rd
Rye_2	ODAS_WEST_N254	Rye_2_029	8	Wood Pole Top	40.9665159	-73.684331	78 Elmwood Ave
Rye_2	ODAS_WEST_N255	Rye_2_030	11	Commzone	40.963749	-73.682672	339 Rye Beach Ave
Rye_2	ODAS_WEST_N256	Rye_2_031	W57	Wood Pole Top	40.964766	-73.681298	511 Forest Ave
Rye_2	ODAS_WEST_N258	Rye_2_033	N/A	Wood Pole Top	40.963471	-73.695140	110 Oakland Beach Ave
Rye_2	ODAS_WEST_N260	Rye_2_035	W4	Wood Pole Top	40.959633	-73.693772	12 Byrd St
Rye_2	ODAS_WEST_N261	Rye_2_036	NYT 8	Commzone	40.960694	-73.691962	19 Hix Ave
Rye_2	ODAS_WEST_N262	Rye_2_037	N/A	Wood Pole Top	40.962217	-73.688585	530 Milton Rd
Rye_2	ODAS_WEST_N264	Rye_2_039	7	Wood Pole Top	40.961629	-73.683708	387 Oakland Beach Ave
Rye_2	ODAS_WEST_N265	Rye_2_040	W13	Commzone	40.959945	-73.683144	630 Forest Ave
Rye_2	ODAS_WEST_N266	Rye_2_041	26A	Wood Pole Top	40.962348	-73.691238	1 Rose St
Rye_2	ODAS_WEST_N267	Rye_2_042	6	Commzone	40.960442	-73.685816	53 Dearborn Ave
Rye_2	ODAS_WEST_N269	Rye_2_044	T78	Commzone	40.959940	-73.688288	2 Garden Dr
Rye_2	ODAS_WEST_N270	Rye_2_045	8	Wood Pole Top	40.958612	-73.685862	4 Fairlawn Ct
Rye_2	ODAS_WEST_N271	Rye_2_046	N/A	New	40.957462	-73.684092	717 Forest Ave
Rye_2	ODAS_WEST_N275	Rye_2_050	4	Wood Pole Top	40.954555	-73.687069	21 Green Ave
Rye_2	ODAS_WEST_N276	Rye_2_051	N/A	Wood Pole Top	40.955742	-73.685681	15 Valleyview Ave
Rye_2	ODAS_WEST_N278	Rye_2_053	6	Wood Pole Top	40.952667	-73.687736	11 Halls Ln
Rye_2	ODAS_WEST_N279	Rye_2_054	NYT 8	Commzone	40.951041	-73.684584	5 Pine Island Rd
Rye_2	ODAS_WEST_N280	Rye_2_055	5	Wood Pole Top	40.961833	-73.693775	10 White Birch Dr
Rye_2	ODAS_WEST_N281	Rye_2_056	T86	Commzone	40.957526	-73.689085	650 Milton Rd
Rye_2	ODAS_WEST_N282	Rye_2_057	N/A	New	40.941949	-73.696417	499 Stuyvesant Ave
Rye_2	ODAS_WEST_N284	Rye_2_059	W14 L330	Wood Pole Top	40.948151	-73.692038	230 Stuyvesant Ave
Rye_2	ODAS_WEST_N285	Rye_2_060	NYT 16	Commzone	40.950422	-73.691306	150 Stuyvesant Ave
Rye_2	ODAS_WEST_N287	Rye_2_062	T118	Commzone	40.948508	-73.688398	999 Forest Ave
Rye_2	ODAS_WEST_N288	Rye_2_063	31	Commzone	40.946246	-73.693019	290 Stuyvesant Ave
Rye_2	ODAS_WEST_N289	Rye_2_064	T 97	Commzone	40.955003	-73.690219	740 Old Milton Rd

Milton Rd	Rye Beach Ave	Mayfield St	1st wooden pole East side of Milton Rd/ North of Rye Beach Ave
Elmwood Ave	Oakwood Ave	Forest Ave	2nd wooden pole West side of Elmwood Ave/ North of Oakwood Ave
Rye Beach Ave	Halstead Pl	Forest Ave	2nd wooden pole North side of Rye Beach Ave/ East of Halstead Pl
Forest Ave	Elmwood Ave	Ridgeland Terrace	NE corner of Forest Ave and Elmwood Ave
Oakland Beach Ave	Griffon Pl	Allendale Dr	South Side of Oakland Beach Ave, 1st Pole East of Griffon Pl
Byrd St	Helen Ave	Lindbergh Ave	1st wooden pole East side of Byrd St/ North of Helen Ave
Hix Ave	Dalphin Dr	Westbank Rd	2nd wooden pole East side of Hix Ave/ North of Dalphin Dr
Oakland Beach Ave	Riverside View Ln	Milton Rd	SE corner of Oakland Beach Ave and Riverside View Ln
Halsted Pl	Oakland Beach Ave	Ormond Pl	NE corner of Halsted Pl and Oakland Beach Ave
Dearborn Ave	Forest Ave	Rickbern St	NW corner of Dearborn Ave and Forest Ave
Oakland Beach Ave	Rose St	Red Oak Dr	SW corner of Oakland Beach Ave and Rose St
Dearborn Ave	Everett St	Newberry Pl	NW corner of Dearborn Ave and Everett St
Garden Dr	Milton Rd	Orchard Dr	South side of Garden Dr, 1st pole in from Milton Dr
Fairlawn Ct	Dead End	Everett St	South Side of Fairlawn Ct, 2nd Pole East of Everett St
Forest Ave	Phillips Ln	Stanley Keyes Ct	Drop a new pole in front of 717 Forest Ave, across from existing pole
Green Ave	Fairway Ave	Forest Ave	South Side of Green Ave, 1st Pole of East of Fairway Ave
Valleyview Ave	Forest Ave	Fairway Ave	South Side of Valleyview Ave, 1st Pole West of Forest Ave
Halls Ln	Forest Ave	Stuyvesant Ave	North Side of Halls Ln, 1st Pole West of Forest Ave
Pine Island Rd	Forest Ave	Dead End	South Side of Pine Island Rd, 7th Pole East from Forest Ave
White Birch Dr	Hickory Dr	Oakland Beach Ave	NW corner of White Birch Dr and Hickory Dr
Milton Rd	Hewlett Ave	Stuyvesant Ave	3rd wooden pole West side of Milton Rd and South of Hewlett Ave
Stuyvesant Ave	Dead End	Van Wagenen Ave	East Side of Stuyvesant Ave, 2nd Pole North of Dead End, propose to replace pole on pri
Stuyvesant Ave	Van Wagenen Ave	Dead End	SW corner of Stuyvesant Ave and Van Wagenen Ave
Stuyvesant Ave	Van Wagenen Ave	Barron Pl	West Side of Stuyvesant Ave, 4th Pole North of Van Wagenen Ave
Forest Ave	Magnolia Pl	Van Wagenen Ave	4th Pole South of Magnolia Pl/ East Side of Forest Ave
Stuyvesant Ave	Van Wagenen Ave	Dead End	West Side of Stuyvesant Ave, 8th Pole South of Van Wagenen Ave
Old Milton Rd	Stuyvesant Ave	Dead End	West Side of Old Milton Rd, 4th Pole south of Stuyvesant Ave

Title:	Noise Emission From ION-M 17P/19P	Doc-No.:	
File:	Noise Emission ION-M_RevA.doc	Rev.:	A
Distribution:	NextG	Security:	confidential
Author:	Arndt Pischke	Date:	2010-03-22
Responsible:		Department:	AMBG – R&D

# Noise Emission From ION-M 17P/19P

## 1 General

This report summarizes results from noise measurements of ION-M 17P/19P remote units. The units were also placed in a shroud. The report compares the noise emission of a single remote unit with the emission of 2 remote units.

## 2 Test Setup

Measurements were done first outside of the Andrew building and later indoor. The outdoor noise floor was too high for measuring distances larger than 5m. Indoor measurements confirmed the noise levels in a small range 1-5 m. Larger distances could not be measured because of the size of the room.

For larger distances the measured values were extrapolated according to standard acoustic calculations. The **sound pressure level (SPL)** decreases with doubling of distance by (-)6 dB. The sound pressure decreases with the ratio  $1/r$  to the distance.

Measurement device: CHAUVIN ARNOUX Sonometre CDA 830 No. \*8662\*

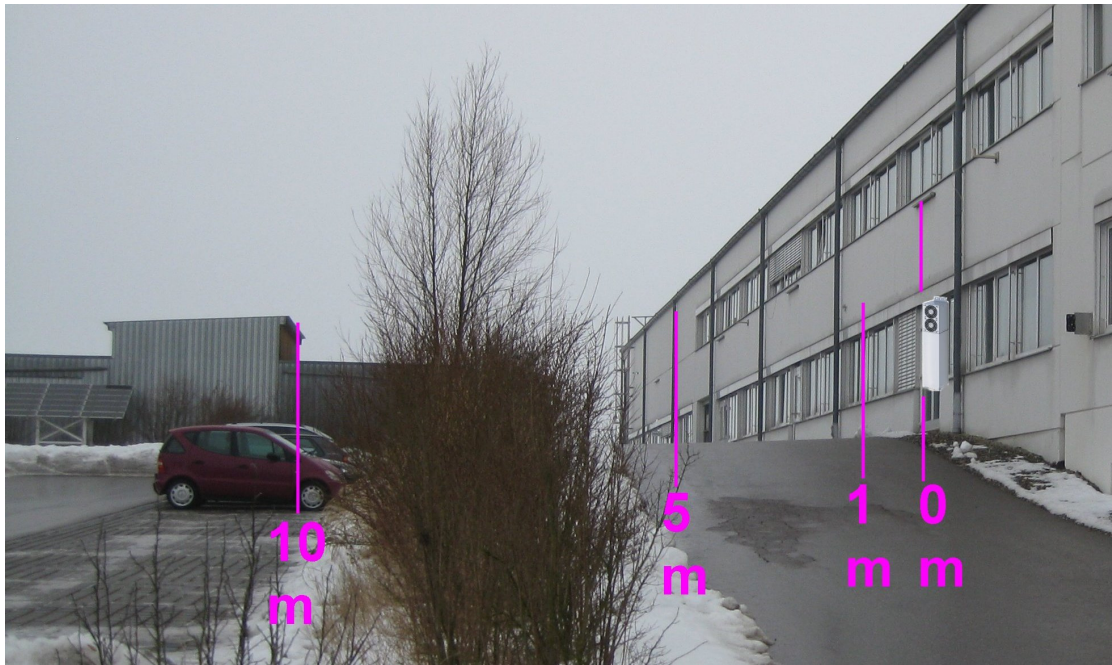
Settings: Lo = 35 - 100dB, Response: Fast, Funct: A

Measurement tolerance  $\pm 2$  dB.



Indoor measurement setup.

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Outdoor measurement setup.

### 3 Measurement Results

The differences between measurements with a shroud and without is +0.8 / -0.3 dBA and are in the same region as the measurement uncertainty of the noise measurement device. Therefore data from measurements without shroud are good approximations for measurements with shroud and vice versa.

The following graph shows the sound pressure level versus distance from the ION-M 17P/19P remote unit for different parameter variations. In the tests at 35°C ambient temperature and 43dBm output power (upper curve) the fans were running on 100%, i.e. that curve is the upper limit of noise emission from one ION remote unit.

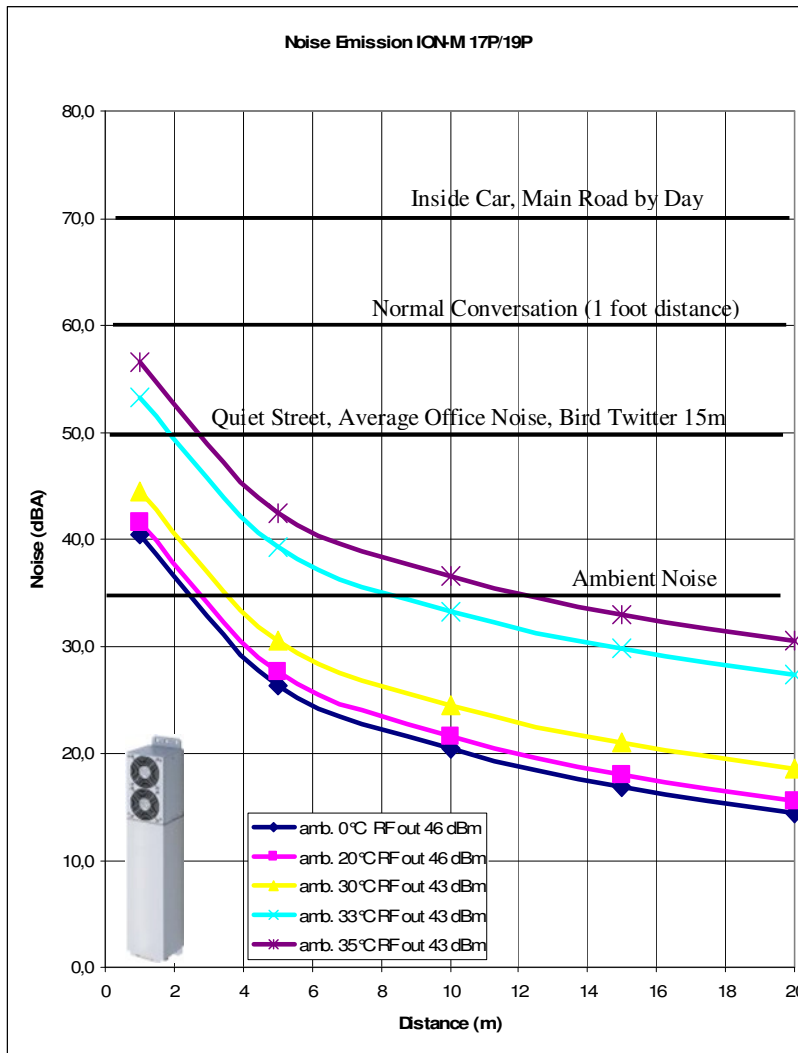
The lower curve (0°C and 46dBm output power) represents the noise emission for the lowest fan speed, i.e. it represents the lowest possible noise from the remote unit.

The ambient noise floor is at around 35 dBA. Measurements were possible only to this limit. Values below the ambient noise were calculated according to standard acoustic calculations (<http://www.sengpielaudio.com/calculator-distance.htm>). 35dBA corresponds to a “very quiet room fan at low speed at 1 m distance.

From the graph it can be seen that the crossing of the upper curve (fan runs on 100% speed) with the ambient noise floor is at 12m distance. At that point the noise of an ION remote unit should not be detectable for a person. That should be the same for a remote unit in a shroud.

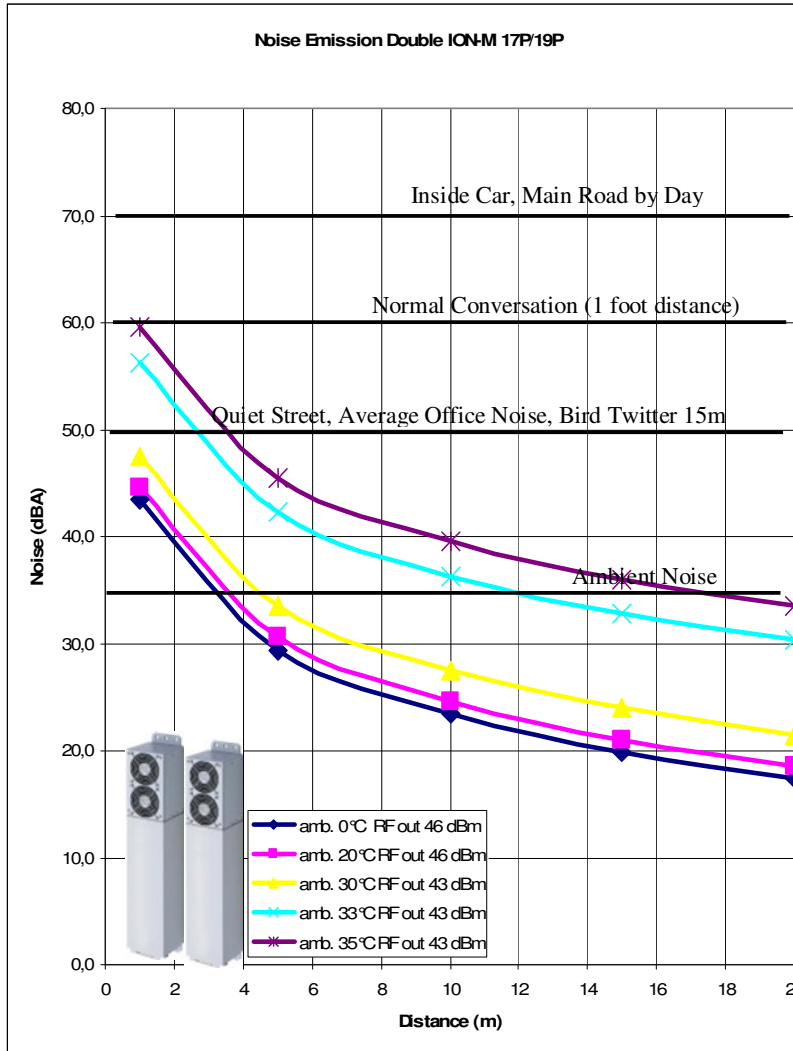
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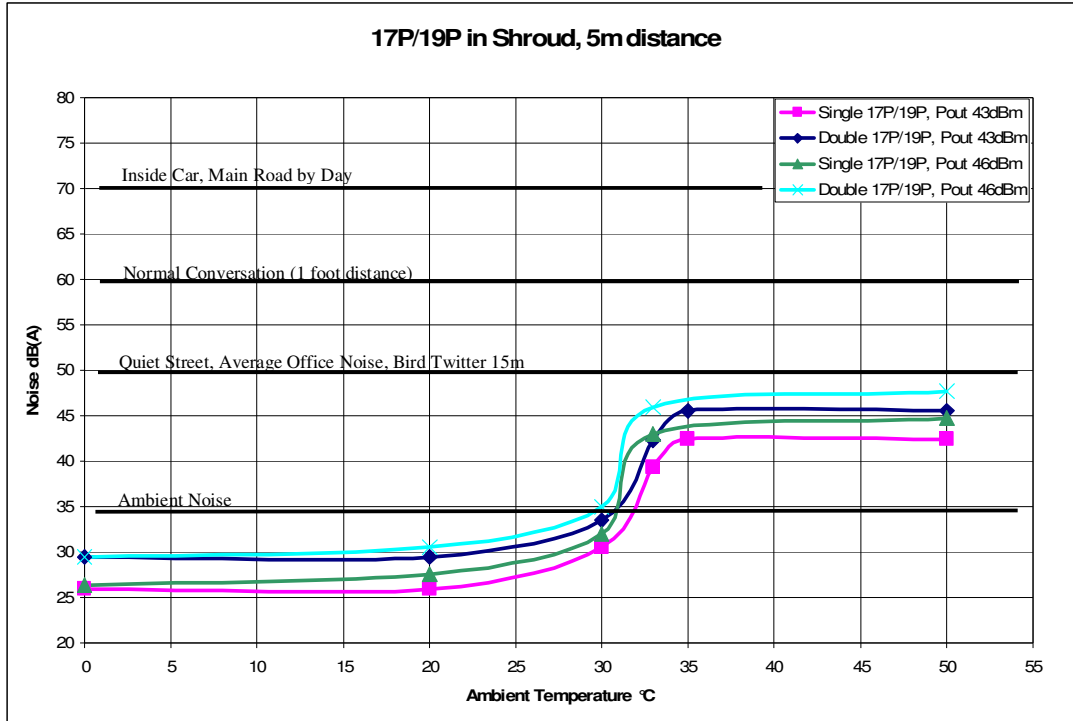
The following graph shows the sound pressure level of *two* ION-M 17P/19P remote units. Also here the difference between measurement with and without shroud are neglectable.  
 The crossing of the worst case noise from the 2 ION remotes with the noise floor is at 17 meters. At that distance the ION noise is not longer hearable by a person.  
 The lowest curve represents the noise emission at the slowest fan speed. I.e. at a distance of 3 meters the 2 ION remote units are not hearable.





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The following graph displays the noise measurements of one or two remote units in a shroud at a distance of 5 meters.  
 At that distance the IONs become hearable by a person at around 30°C (hot summer day).





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## 4 References

<b>How loud is dangerous? Typical dbA levels</b>	
190 dBA	Heavy weapons, 10 m behind the weapon (maximum level)
180 dBA	Toy pistol fired close to ear (maximum level)
170 dBA	Slap on the ear, fire cracker explodes on shoulder, small arms at a distance of 50 cm (maximum level)
160 dBA	Hammer stroke on brass tubing or steel plate at 1 m distance, airbag deployment very close at a distance of 30 cm (maximum level)
150 dBA	Hammer stroke in a smithy at 5 m distance (maximum level)
130 dBA	Loud hand clapping at 1 m distance (maximum level)
120 dBA	Whistle at 1 m distance, test run of a jet at 15 m distance
	<b>Threshold of pain, above this fast-acting hearing damage in short action is possible</b>
115 dBA	Take-off sound of planes at 10 m distance
110 dBA	Siren at 10 m distance, frequent sound level in discotheques and close to loudspeakers at rock concerts, violin close to the ear of an orchestra musicians (maximum level)
105 dBA	Chain saw at 1 m distance, banging car door at 1 m distance (maximum level), racing car at 40 m distance, possible level with music head phones
100 dBA	Frequent level with music via head phones, jack hammer at 10 m distance
95 dBA	Loud crying, hand circular saw at 1 m distance
90 dBA	Angle grinder outside at 1 m distance
	<b>Over a duration of 40 hours a week hearing damage is possible</b>
85 dBA	2-stroke chain-saw at 10 m distance, loud WC flush at 1 m distance
80 dBA	Very loud traffic noise of passing lorries at 7.5 m distance, high traffic on an expressway at 25 m distance
75 dBA	Passing car at 7.5 m distance, un-silenced wood shredder at 10 m distance
70 dBA	Level close to a main road by day, quiet hair dryer at 1 m distance to ear
65 dBA	<b>Bad risk of heart circulation disease at constant impact is possible</b>
60 dBA	Noisy lawn mower at 10 m distance
55 dBA	Low volume of radio or TV at 1 m distance, noisy vacuum cleaner at 10 m distance
50 dBA	Refrigerator at 1 m distance, bird twitter outside at 15 m distance
45 dBA	Noise of normal living; talking, or radio in the background
40 dBA	<b>Distraction when learning or concentration is possible</b>
35 dBA	Very quiet room fan at low speed at 1 m distance
25 dBA	Sound of breathing at 1 m distance
0 dBA	Auditory threshold

<http://www.sengpielaudio.com/TableOfSoundPressureLevels.htm>

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Important thresholds on the decibel scale:

0 dBA

Threshold of hearing

20 dBA

Rustling leaves, quiet living room

30 dBA

Quiet office

40 dBA

Quiet conversation

45 dBA

Threshold of distraction, according to EPA

50 dBA

Quiet street, average office noise

60 dBA

Normal conversation (1 foot distance)

70 dBA

Inside car

75 dBA

Loud singing (3 feet)

80 dBA

Typical home-stereo listening level

— <http://tldp.org/HOWTO/Unix-Hardware-Buyer-HOWTO/index.html>

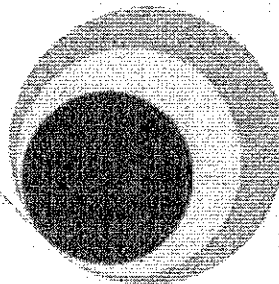
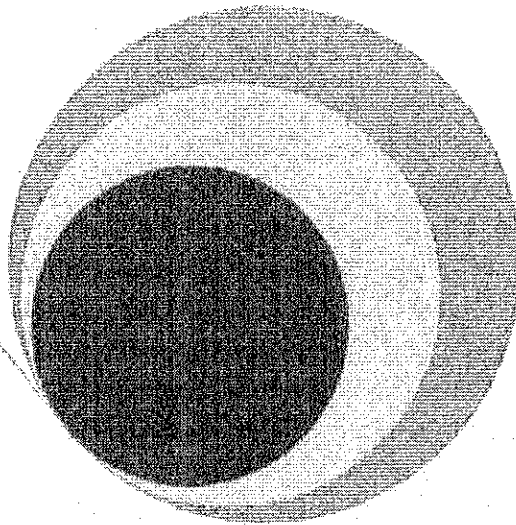




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In [http://www.engineeringtoolbox.com/decibel-dba-levels-d\\_728.html](http://www.engineeringtoolbox.com/decibel-dba-levels-d_728.html) is also a list of “Acceptable Noise – dBA Levels.

Location	Effects	$L_{eq}$ (dBA)	Time (hours)	Time of day
Bedroom	sleep disturbance, annoyance	> 30	8	night
Living area	annoyance, speech interference	> 50	16	day
Outdoor living area	moderate annoyance	> 50	16	day
Outdoor living area	serious annoyance	> 55	16	day
Outdoor living area	sleep disturbance, with open windows	> 45	8	night
School classroom	speech interference, communication disturbance	> 35	8	day
Hospitals patient rooms	sleep disturbance, communication interference	> 30-35	8	day and night

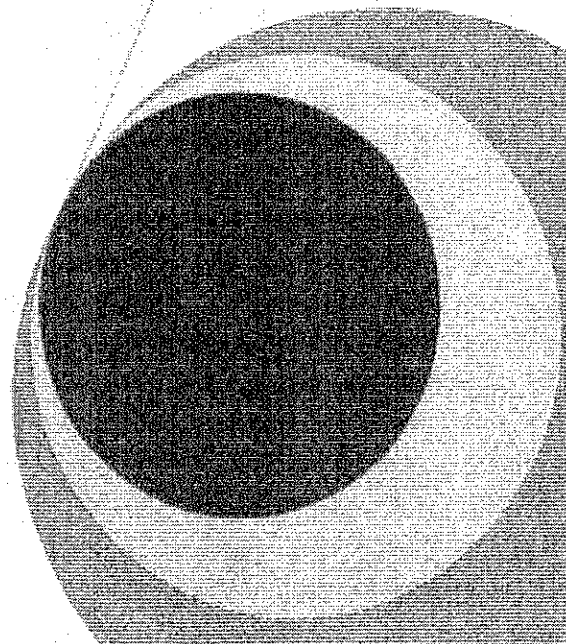


# RF Radiation Comparison

Between a Typical DAS Node and Typical Household Appliances

February 6, 2012

Prepared by: Crown Castle USA



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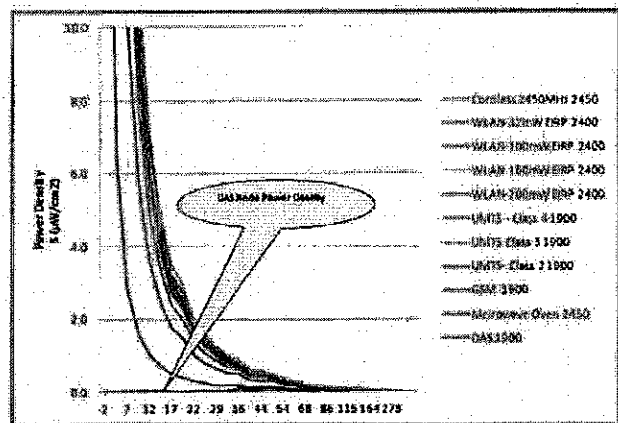
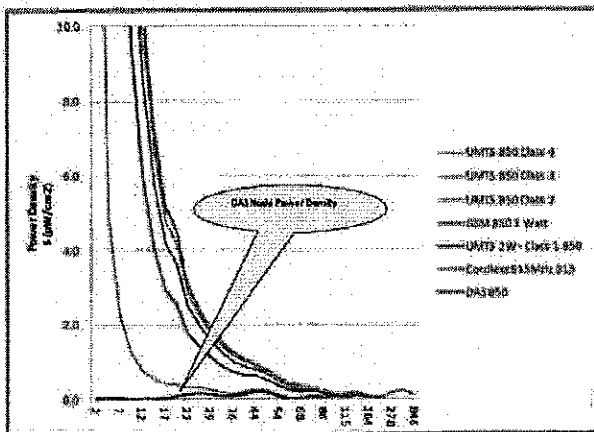
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## I. Executive Summary

The power density calculations for DAS nodes as calculated in this report represent the absolute maximum power. In the real world, the power density produced by DAS node are substantially lower than the levels show in Exhibits 3.2 and 3.3. The reason for lower levels is that other factors, such as foliage, other manmade or natural obstacles attenuate RF energy and therefore lower the power density level; however for sake of simplicity they were not considered in the power density calculations. Notwithstanding that as demonstrated in the preceding sections, the RF energy emitted by a DAS node:

- (a) meets the FCC's maximum permissible exposure,
- (b) is substantially below the maximum power density levels indicated in FCC Bulletin 65; and
- (c) is substantially lower than the RF energy found in the home from common household appliances.

**Exhibit I.1 Power Density Comparison between DAS Node and Other Home Appliances Operating in Bands 4 and 5 as a Function of Distance**



## 1. Introduction

In recent years there has been considerable discussion and concern about the possible hazards of electromagnetic radiation (EMR)<sup>1</sup>, including both radio frequency (RF)<sup>2</sup> energy and power frequency (50-60 Hz) electromagnetic fields.

The electromagnetic spectrum includes all the various forms of electromagnetic energy from low frequency energy (non-ionizing)<sup>3</sup> to X-rays and gamma rays, which have very high frequencies and correspondingly short wavelengths (ionizing<sup>4</sup>). In between these extremes are radio waves, microwaves, infrared radiation, visible light, and ultraviolet radiation, in that order. The RF part of the electromagnetic spectrum is generally defined as that part of the spectrum where electromagnetic waves have frequencies in the range of about 3 KHz to 300 GHz.

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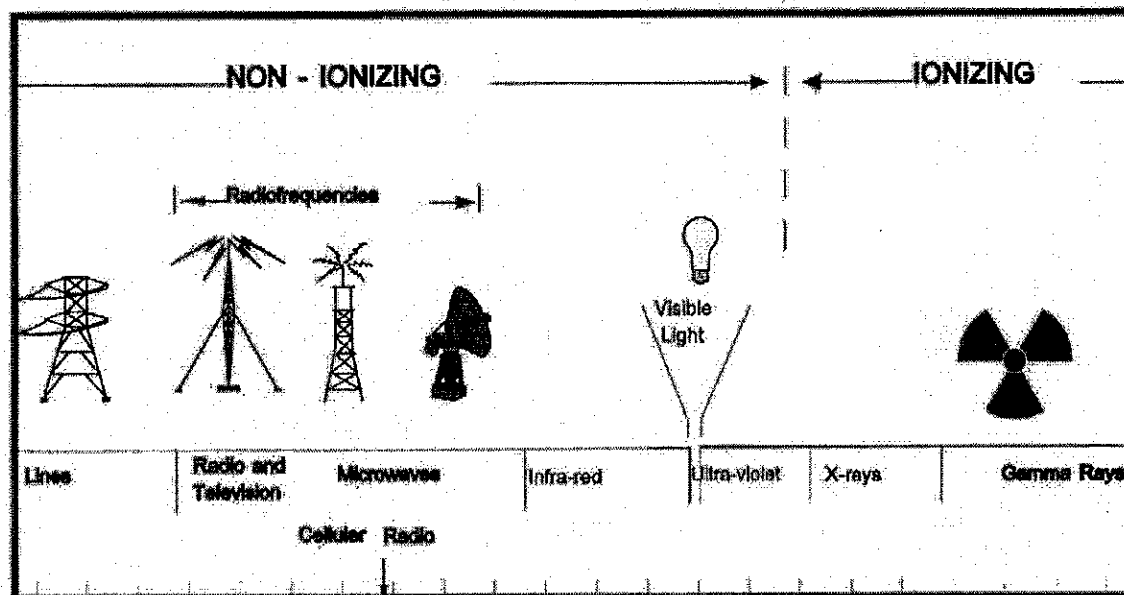
<sup>1</sup> - Electromagnetic Radiation (EMR) is defined as the propagation of energy through space in the form of waves or particles.

<sup>2</sup> - Radio waves and microwaves are forms of electromagnetic energy that are collectively described by the term "radiofrequency" or "RF."

<sup>3</sup> - Non-ionizing radiation ranges from extremely low frequency radiation, through the audible, microwave and visible portions of the spectrum into the ultraviolet range.

<sup>4</sup> - Ionizing radiation is higher frequency ultraviolet radiation, which begins to have enough energy to break chemical bonds.

## Exhibit 1.1 - The Electromagnetic Spectrum



As can be seen from Exhibit 1.1, the RF field is classified as non-ionizing radiation because the frequency is too low for there to be enough photon energy to ionize atoms. However, at sufficiently high power densities<sup>5</sup>, EMR poses certain health hazards.

The intent of this report is to compare the EMR from RF sources in a typical house with the RF levels produced and/or caused by a distributed antenna system (DAS) node located in the close proximity of the closest house. As stated above, EMR produced by an RF source can be expressed in terms of power density; therefore, the basis for comparing the EMR levels produced by different household appliances (such as wireless LANs, cordless phones, cellular mobile phones, etc.) and DAS node will be the power density level.

## 2. Background

In 1985, the Federal Communications Commission (FCC) adopted the 1982 American National Standards Institute (ANSI) guidelines for purposes of evaluating exposure due to RF

<sup>5</sup> - Power density is the amount of power (time rate of energy transfer) per unit volume.



transmitters licensed and authorized by the FCC. In 1992, ANSI adopted the 1991 Institute of Electrical and Electronics Engineers (IEEE) standard as an ANSI (a revision of its 1982 standard) and designated it ANSI/IEEE C95.1-1992. In 1996, the FCC adopted a modified version of its original proposal. The FCC's action also fulfilled requirements of the Telecommunications Act of 1996 for adopting new RF exposure guidelines. The FCC considered comments submitted by the Environmental Protection Agency (EPA), Food and Drug Administration (FDA), National Institute for Occupational Safety and Health (NIOSH) and Occupational Safety and Health Administration (OSHA), the regulating agencies that have primary responsibility for consumer health and safety within the Federal government.

The FCC's guidelines are based on the recommended exposure criteria issued by the National Council on Radiation Protection & Measurements (NCRP) and ANSI/IEEE and are similar to the ANSI/IEEE 1992 guidelines except for differences in recommended exposure levels at lower frequencies and higher frequencies, and for occupational (controlled)<sup>6</sup> and general population (uncontrolled)<sup>7</sup> access areas. Over a broad range of frequencies, the NCRP exposure limits for the public are generally one-fifth that for workers in terms of power density.

The NCRP and ANSI/IEEE exposure criteria are frequency dependent since the whole-body human absorption of RF energy varies with the frequency of the RF signal. The most restrictive limits on exposure are in the frequency range of 30-300 MHz where the human body absorbs RF energy most efficiently when exposed in the far field of an RF transmitting source (The most common use of this band includes FM radio and the VHF television channels 2-13). The Maximum Permissible Exposure (MPE)<sup>8</sup> limits adopted by the FCC in 1996<sup>9</sup> are shown in Exhibits 2.1 and 2.2.

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<sup>6</sup>- Occupational/Controlled Exposure limits are applicable to situations in which persons are exposed as a consequence of their employment, who have been made fully aware of the potential for exposure and can exercise control over their exposure.

<sup>7</sup> - General Population/Uncontrolled Exposure limits are applicable to situations in which the general public may be exposed or in which persons who are exposed as a consequence of their employment may not be made fully aware of the potential for exposure or cannot exercise control over their exposure.

<sup>8</sup> - MPE is defined by the plane-wave equivalent power density to which a person may be exposed without harmful effect and with an acceptable safety factor

<sup>9</sup> - FCC Bulletin 65 has had several revised editions; the New Edition 01-01 of Supplement C supersedes the previous Edition 97-01.

**Exhibit 2.1 - FCC Limits for Maximum Permissible Exposure (MPE) Limits for Occupational (Controlled) Exposure**

Band	Frequency Range (MHz)	Electric Field Strength (E) (V/m)	Magnetic Field Strength (H) (A/m)	Power Density (S) (mW/cm <sup>2</sup> )	Averaging Time  E ,  H  or S (minutes)
1	0.3-3.0	614	1.63	(100)*	6
2	3.0-30	1842/f	4.89/f	(900/f <sup>2</sup> )*	6
3	30-300	61.4	0.163	1	6
4	300-1500	--	--	f/300	6
5	1500-100,000	--	--	5	6

f = frequency in MHz \*Plane-wave equivalent power density

**Exhibit 2.2 - FCC Limits for Maximum Permissible Exposure (MPE) Limits for General Population (Uncontrolled) Exposure**

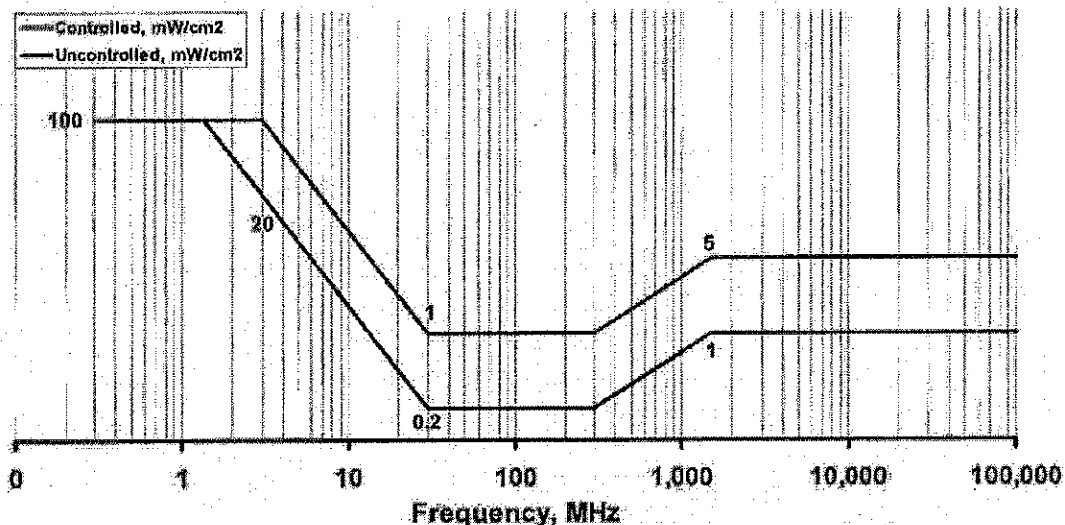
Band	Frequency Range (MHz)	Electric Field Strength (E) (V/m)	Magnetic Field Strength (H) (A/m)	Power Density (S) (mW/cm <sup>2</sup> )	Averaging Time  E ,  H  or S (minutes)
1	0.3-1.34	614	1.63	(100)*	30
2	1.34-30	824/f	2.19/f	(180/f <sup>2</sup> )*	30
3	30-300	27.5	0.073	0.2	30
4	300-1500	--	--	f/1500	30
5	1500-100,000	--	--	1	30

f = frequency in MHz \*Plane-wave equivalent power density

The NCRP and ANSI/IEEE exposure criteria and most other standards also specify "time-averaged" MPE limits. This means that it is permissible to exceed the recommended limits for short periods of time as long as the average exposure (over the appropriate period specified) does not exceed the limit. For example, Exhibit 2.2 shows that for a frequency of 100 MHz, the recommended power density limit is 0.2 mW/cm<sup>2</sup> with an averaging time of thirty (30) minutes (any thirty-minute period) for general public (uncontrolled) exposure.

The absolute MPE limits for different frequencies for occupational (controlled) and general public (uncontrolled) is graphically illustrated in Exhibit 2.3

**Exhibit 2.3 - Absolute MPE Limits for Different Frequencies**



RF waves and RF fields have both electrical and magnetic components. It is often convenient to express the strength of the RF field in terms of each component. For example, the unit "volts per meter" (V/m) is used to measure the electric field strength, and the unit "amperes per meter" (A/m) is used to express the magnetic field strength. Another common way to characterize an RF field is by means of the power density. Power density is defined as power per unit area. For example, power density can be expressed in terms of milliwatts (one thousandth of a watt) per square centimeter ( $\text{mW}/\text{cm}^2$ ) or microwatts (one millionth of a watt) per square centimeter ( $\mu\text{W}/\text{cm}^2$ ).

### 3. Theoretical RF Field Calculations for DAS Node

The calculations are based on "worst-case" estimates. That is the estimates assume 100% use of all transmitters simultaneously, and aimed in the same direction. Additionally, the calculations make the assumptions that the surrounding area is a flat plain. The resultant values are conservative in that they over predict actual power densities.

The calculations are based on the following information:

- i. Effective Radiated Power (ERP) in Watts

- ii. Antenna height above ground level (AGL) in meters
- iii. Antenna vertical radiation pattern<sup>10</sup> (G) in dBs

As stated before, power density (S) calculations are used to determine the magnitude of the RF field. The procedure to calculate the power density has been described in FCC Bulletin 65 (referenced above). Based on FCC Bulletin 65, the power density of an RF source is calculated by using equation 9:

$$S = \frac{33.4 \text{ ERP}}{R^2}$$

Where: S = Power Density in  $\mu\text{W}/\text{cm}^2$   
 ERP = Power in Watts  
 R = Distance in Meters

The theoretical power density calculations for DAS node are listed in Exhibit 3.1 and 3.2 for each three degree increment of depression angle (90° being straight down at the base of the DAS node and 0° being straight out from the antenna). All values have been calculated from the height of six feet above ground level (typical human height).

To calculate the percent MPE (%MPE), the following formula is used:

$$\%MPE = \frac{S}{MPE} 100$$

---

<sup>10</sup> - Directional antennas are designed to focus the RF signal, resulting in "patterns" of signal loss and gain. Antenna vertical radiation patterns display the loss of signal relative to the direction of propagation due to elevation angle change.

**Exhibit 3.1 - Theoretical RF Field Calculations for DAS Node Operating in Cellular Frequency Band**

ERP = 200 Watts (max./Sector) @ F = 860 - 890 MHz				
Decibel HDB856DG65EXY Antenna (typical), DAS Node Height 50 feet AGL				
General Population MPE = 590 $\mu\text{W}/\text{cm}^2$				
Depression Angle (Degree)	Gain (dB)	Horizontal Distance (ft)	Power Density S ( $\mu\text{W}/\text{cm}^2$ )	% MPE @ 6' AGL
-90	-28.85	0	0.048	0.82%
-87	-29.77	2	0.039	0.66%
-84	-31.03	5	0.029	0.49%
-81	-33.03	7	0.018	0.31%
-78	-36.84	9	0.007	0.12%
-75	-40.00	12	0.003	0.06%
-72	-36.11	14	0.008	0.14%
-69	-29.95	17	0.033	0.55%
-66	-26.03	18	0.079	1.34%
-63	-23.70	22	0.126	2.13%
-60	-22.81	25	0.146	2.47%
-57	-23.26	29	0.123	2.09%
-54	-24.57	32	0.085	1.44%
-51	-24.46	36	0.080	1.36%
-48	-21.86	40	0.134	2.26%
-45	-19.79	44	0.195	3.30%
-42	-19.59	49	0.182	3.09%
-39	-22.41	54	0.084	1.43%
-36	-30.88	61	0.010	0.18%
-33	-24.26	68	0.041	0.70%
-30	-20.31	76	0.086	1.46%
-27	-22.34	86	0.045	0.75%
-24	-40.00	99	0.001	0.01%
-21	-19.23	115	0.057	0.96%
-18	-15.31	135	0.104	1.77%
-15	-18.57	164	0.035	0.59%
-12	-18.83	207	0.021	0.36%
-9	-7.51	278	0.160	2.72%
-6	-2.53	419	0.226	3.83%
-3	-0.25	846	0.094	1.60%
0	0.00	∞	<0.001	<0.001%

**Exhibit 3.3- Theoretical RF Field Calculations for DAS Node Operating in PCS Frequency Band**

ERP = 200 Watts (max./Sector) @ F = 1920 - 1970 MHz  
 Decibel HBV-6517DS-TOM Antenna (typical), DAS Node Height 50 feet AGL  
 General Population MPE = 1000  $\mu\text{W}/\text{cm}^2$

Depression Angle (Degree)	Gain (dB)	Horizontal Distance (ft)	Power Density S ( $\mu\text{W}/\text{cm}^2$ )	% MPE @ 6' AGL
-90	-36.06	0	0.009	0.09%
-87	-36.24	2	0.009	0.09%
-84	-35.20	5	0.011	0.11%
-81	-34.47	7	0.013	0.13%
-78	-32.84	9	0.018	0.18%
-75	-31.05	12	0.027	0.27%
-72	-30.89	14	0.027	0.27%
-69	-33.46	17	0.015	0.15%
-66	-46.29	18	0.001	0.01%
-63	-33.81	22	0.012	0.12%
-60	-30.27	25	0.026	0.26%
-57	-35.84	29	0.007	0.07%
-54	-29.20	32	0.029	0.29%
-51	-24.08	36	0.088	0.88%
-48	-30.61	40	0.018	0.18%
-45	-25.04	44	0.058	0.58%
-42	-22.70	49	0.089	0.89%
-39	-25.13	54	0.045	0.45%
-36	-26.67	61	0.028	0.28%
-33	-35.42	68	0.003	0.03%
-30	-34.40	76	0.003	0.03%
-27	-30.09	86	0.007	0.07%
-24	-28.47	99	0.009	0.09%
-21	-21.79	115	0.032	0.32%
-18	-17.92	135	0.057	0.57%
-15	-23.64	164	0.011	0.11%
-12	-18.06	207	0.025	0.25%
-9	-18.59	278	0.012	0.12%
-6	-23.52	419	0.002	0.02%
-3	-3.49	846	0.045	0.45%
0	0.00	oo	<.001	<.001%

The theoretical percent MPE calculations for DAS node are listed in Exhibit 3.1 and 3.2 for the same angle and height conditions. The theoretical cumulative % MPE calculations for a DAS node are shown in Exhibit 3.3.

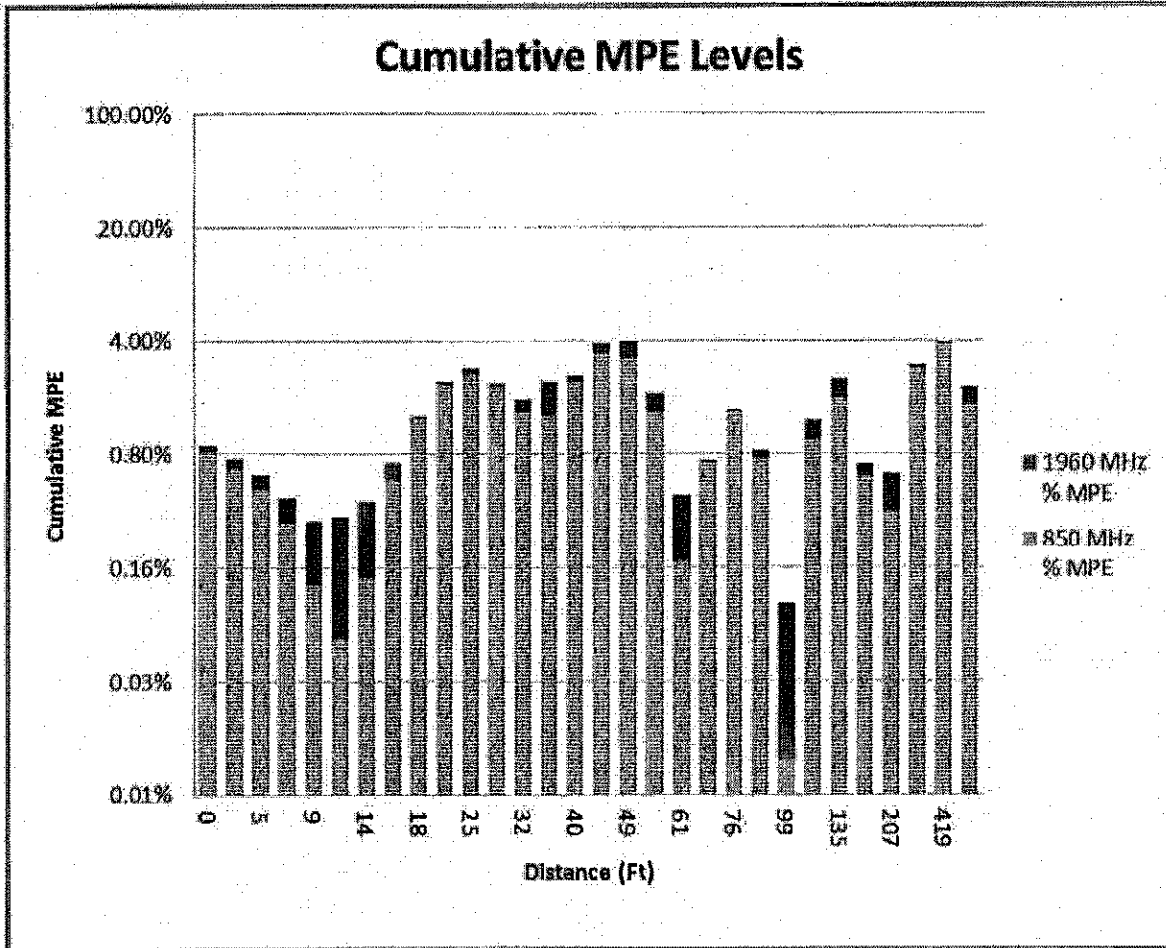
**Exhibit 3.3 - Theoretical Cumulative %MPE Calculation for a DAS Node**

Horizontal Distance (ft)	850 MHz % MPE	1960 MHz % MPE	Cumulative MPE 850 + 1960
0	0.82%	0.09%	0.91%
2	0.66%	0.09%	0.75%
5	0.49%	0.11%	0.60%
7	0.31%	0.13%	0.43%
9	0.12%	0.18%	0.31%
12	0.06%	0.27%	0.33%
14	0.14%	0.27%	0.41%
17	0.55%	0.15%	0.70%
18	1.34%	0.01%	1.34%
22	2.13%	0.12%	2.25%
25	2.47%	0.26%	2.73%
29	2.09%	0.07%	2.16%
32	1.44%	0.29%	1.73%
36	1.36%	0.88%	2.24%
40	2.26%	0.18%	2.44%
44	3.30%	0.58%	3.88%
49	3.09%	0.89%	3.98%
54	1.43%	0.45%	1.88%
61	0.18%	0.28%	0.45%
68	0.70%	0.03%	0.73%
76	1.46%	0.03%	1.50%
86	0.75%	0.07%	0.83%
99	0.01%	0.09%	0.10%
115	0.96%	0.32%	1.28%
135	1.77%	0.57%	2.34%
164	0.59%	0.11%	0.69%
207	0.36%	0.25%	0.61%
278	2.72%	0.12%	2.84%
419	3.83%	0.02%	3.85%
846	1.60%	0.45%	2.05%

Exhibit 3.4 is a graph showing the worst case %MPE generated by the DAS node against linear distance from the base of the DAS node. Note that a logarithmic scale is used to plot the

calculated theoretical %MPE values in order to compare with the MPE of 100%, which is so much larger that it would be off the page in a linear plot. This means that someone 846 feet away from the DAS node would be exposed to RF energy equal to 2.05% of the maximum permissible limits.

Exhibit 3.4 - Cumulative % MPE Graph





#### 4. Theoretical RF Field Calculations for Typical Household Appliances

Typical households contain many devices that emit RF waves. Some of the devices found in almost all households are:

- Microwave Ovens,
- Cellular Phones,
- Wireless LAN
- Laptop Wi-Fi, and
- Cordless Phones.

The following sections provide a brief description about each device along with the typical power emitted by each one.

##### 4.1 Microwave Oven

A microwave oven passes (non-ionizing) microwave radiation (at a frequency near 2.45 GHz) through food, causing dielectric heating primarily by absorption of the energy in water. Microwave ovens became common kitchen appliances in Western countries in the late 1970s, following the development of inexpensive cavity magnetrons.

For the safe exposure limits for microwave ovens, the Occupational Safety & Health Administration (OSHA) refers to the Canadian Centre for Occupational Health and Safety (CCOCS) limits, described as Safety Code 6 and are as follows:

Part III (Microwave Ovens) of the Radiation Emitting Devices Regulation (C.R.C., C. 1370) specifies the following limits for the leakage radiation at 5 cm from the surface of the microwave oven:

- 1.0 mW/cm<sup>2</sup> with test load, and
- 5.0 mW/cm<sup>2</sup> without test load.

Moreover, the U.S. Food and Drug Administration (FDA)<sup>11</sup> states that a Federal standard limits the amount of microwaves that can leak from an oven throughout its lifetime to 5 milliwatts of microwave radiation per square centimeter (mW/cm<sup>2</sup>) at approximately 2 inches from the oven surface. This limit is far below the level known to harm people. Microwave energy also decreases dramatically as you move away from the source of radiation. A measurement made 20 inches from an oven would be approximately one one-hundredth of the value measured at 2 inches. Exhibit 4.1.1 provides the typical power for RF radiated from a microwave oven.

#### Exhibit 4.1.1 - Typical RF Radiated from Microwave Oven

Household Appliance	Power	dBm Level
Typical combined radiated RF power of microwave oven elements	1000 W	60 dBm
Typical RF Leakage based on FDA approved 5.0 mW/cm <sup>2</sup>	0.39	25.9 dBm

The US Food and Drug Administration (FDA) also has a regulation on microwave oven leakage. In Title 21 it states that the power density limit from an operating microwave oven "shall not exceed 1 milliwatt per square centimeter at any point 5 centimeters or more from the external surface of the oven, measured prior to acquisition by a purchaser, and, thereafter, 5 milliwatts per square centimeter at any such point."

The power leakage from the microwave oven will be even lower once an individual is a foot (12 inches) or more away from the oven, since the power is inversely proportional to the square of distance.

Using the power density calculations referenced in Section 3, the power density for microwave ovens is found in Exhibits 4.1.2 below.

#### Exhibit 4.1.2 - Power Density Calculations for Microwave Ovens

<sup>11</sup> - By authority of the Radiation Control for Health and Safety Act of 1968, the Center for Devices and Radiological Health (CDRH) of the FDA develops performance standards for the emission of radiation from electronic products including X-ray equipment, other medical devices, television sets, microwave ovens, laser products and sunlamps.

ERP = 0.39 Watts @ Frequency = 2450 MHz	
Horizontal Distance (ft)	Power Density S ( $\mu\text{W}/\text{cm}^2$ )
0	13870.680
2	26.085
5	6.485
7	2.855
9	1.585
12	0.998
14	0.679
17	0.486
18	0.415
22	0.276
25	0.215
29	0.170
32	0.136
36	0.109
40	0.088
44	0.072
49	0.058
54	0.047
61	0.038
68	0.030
76	0.024
86	0.019
99	0.014
115	0.011
135	0.008
164	0.005
207	0.003
278	0.002
419	0.001
846	0.000

## 4.2 Cellular Phones

Cellular (cell) phones first became widely available in the United States in the early 1980s but their use has increased dramatically since then. The CTIA – The Cellular Telecommunications & Internet Association (CTIA) has released survey data that shows in 2011, the number of wireless subscriber connections now outnumbers the U.S. population, adding up to a wireless penetration rate of 103.9%. Other highlights from the survey, monitoring wireless industry activity from January through June, indicate that wireless subscriber connections were at 327.6 million, up 9% from mid-year 2010.

Cell phones give off RF waves and based on the large and still growing number of cell phone users (both adults and children), it is therefore safe to assume that there are at least a minimum of two cell phones within each household. Exhibit 4.2.1 provides the listing of the maximum output power for cell phones typically used by subscribers.

**Exhibit 4.2.1 - Typical Cell Phone Type and RF Output Power**

Cell Phone Type	Power	dBm level
Max. output from a GSM, UMTS/3G cell phone (Power class 1 mobiles)	2 W	33 dBm
Max. output power from GSM 1900 MHz cell phone	1 W	30 dBm
Max. output from a UMTS/3G cell phone (Power class 2 mobiles)	500 mW	27 dBm
Max. output from a UMTS/3G cell phone (Power class 3 mobiles)	250 mW	24 dBm
Max. output from a UMTS/3G cell phone (Power class 4 mobiles)	125 mW	21 dBm

Using the power density calculations referenced in Section 3, the power density for each handset type is found in Exhibits 4.2.2 to 4.2.7.

**Exhibit 4.2.2 - Power Density Calculations for GSM/UMTS Class 1 Cell Phones**

ERP = 2 Watts @ Frequency = 850 & 1900 MHz	
Horizontal Distance (ft)	Power Density S ( $\mu\text{W}/\text{cm}^2$ )
0	71808.654
2	135.044
5	33.574
7	14.782
9	8.207
12	5.166
14	3.514
17	2.517
18	2.147
22	1.429
25	1.113
29	0.880
32	0.702
36	0.566
40	0.458
44	0.371
49	0.300
54	0.243
61	0.195
68	0.156
76	0.123
86	0.096
99	0.073
115	0.055
135	0.039
164	0.027
207	0.017
278	0.009
419	0.004
846	0.001

**Exhibit 4.2.3 - Power Density Calculations for GSM/UMTS Class 1 Cell Phones**

ERP = 2 Watts @ Frequency = 850 & 1900 MHz	
Horizontal Distance (ft)	Power Density S ( $\mu\text{W}/\text{cm}^2$ )
0	71808.654
2	135.044
5	33.574
7	14.782
9	8.207
12	5.166
14	3.514
17	2.517
18	2.147
22	1.429
25	1.113
29	0.880
32	0.702
36	0.566
40	0.458
44	0.371
49	0.300
54	0.243
61	0.195
68	0.156
76	0.123
86	0.096
99	0.073
115	0.055
135	0.039
164	0.027
207	0.017
278	0.009
419	0.004
846	0.001

**Exhibit 4.2.4 - Power Density Calculations for GSM 1 Watt Cell Phones**

ERP = 1 Watts @ Frequency = 850 & 1900 MHz	
Horizontal Distance (ft)	Power Density S ( $\mu\text{W}/\text{cm}^2$ )
0	35904.327
2	67.522
5	16.787
7	7.391
9	4.104
12	2.583
14	1.757
17	1.259
18	1.074
22	0.715
25	0.556
29	0.440
32	0.351
36	0.283
40	0.229
44	0.185
49	0.150
54	0.122
61	0.098
68	0.078
76	0.062
86	0.048
99	0.037
115	0.027
135	0.020
164	0.013
207	0.008
278	0.005
419	0.002
846	0.001

**Exhibit 4.2.5 - Power Density Calculations for UMTS Class 2 Cell Phones**

ERP = 0.50 Watts @ Frequency = 850 & 1900 MHz	
Horizontal Distance (ft)	Power Density S ( $\mu\text{W}/\text{cm}^2$ )
0	17952.163
2	33.761
5	8.393
7	3.696
9	2.052
12	1.292
14	0.879
17	0.629
18	0.537
22	0.357
25	0.278
29	0.220
32	0.176
36	0.141
40	0.114
44	0.093
49	0.075
54	0.061
61	0.049
68	0.039
76	0.031
86	0.024
99	0.018
115	0.014
135	0.010
164	0.007
207	0.004
278	0.002
419	0.001
846	0.000



**Exhibit 4.2.6 - Power Density Calculations for UMTS Class 3 Cell Phones**

ERP = 0.250 Watts @ Frequency = 850 & 1900 MHz	
Horizontal Distance (ft)	Power Density S ( $\mu\text{W}/\text{cm}^2$ )
0	8976.082
2	16.880
5	4.197
7	1.848
9	1.026
12	0.646
14	0.439
17	0.315
18	0.268
22	0.179
25	0.139
29	0.110
32	0.088
36	0.071
40	0.057
44	0.046
49	0.038
54	0.030
61	0.024
68	0.020
76	0.015
86	0.012
99	0.009
115	0.007
135	0.005
164	0.003
207	0.002
278	0.001
419	0.001
846	0.000

**Exhibit 4.2.7 - Power Density Calculations for UMTS Class 4 Cell Phones**

ERP = 1/8 Watts @ Frequency = 850 & 1900 MHz	
Horizontal Distance (ft)	Power Density S ( $\mu\text{W}/\text{cm}^2$ )
0	4488.041
2	8.440
5	2.098
7	0.924
9	0.513
12	0.323
14	0.220
17	0.157
18	0.134
22	0.089
25	0.070
29	0.055
32	0.044
36	0.035
40	0.029
44	0.023
49	0.019
54	0.015
61	0.012
68	0.010
76	0.008
86	0.006
99	0.005
115	0.003
135	0.002
164	0.002
207	0.001
278	0.001
419	0.000
846	0.000

### 4.3 Wireless LAN

A wireless local area network (WLAN) links two or more devices using some wireless distribution method (typically spread-spectrum or OFDM radio), and usually provides a connection through an access point to the wider internet. This gives users the mobility to move around within a local coverage area and still be connected to the network. Most modern WLANs are based on IEEE 802.11 standards, marketed under the Wi-Fi brand name.

Wireless LANs have become popular in the home due to ease of installation. The survey, by research firm Parks Associates, found that 52 percent of U.S. households with a home network were using wireless technology, compared with 50 percent for Ethernet and about 5 percent for power line networking via electrical wires. (This does not add up to 100 due to some homes usage of a combination of technologies.)

Exhibit 4.3.1 provides the listing of the maximum output power for WLAN typically used in households in the US.

**Exhibit 4.3.1 - Typical WLAN Output RF Power**

Household Wireless Electronics	Power	dBm Level
EIRP for IEEE 802.11n Wireless LAN 40MHz-wide (5mW per MHz) channels in 5GHz sub-band 4 (5735-5835 MHz).	200 mW	23 dBm
	160 mW	22 dBm
EIRP for IEEE 802.11b/g Wireless LAN 20 MHz-wide channels in the 2.4 GHz ISM band (5mW per MHz)	100 mW	20 dBm
Typical Wireless LAN transmission power in laptops.	32.0 mW	15 dBm
	10.0 mW	10 dBm
	4.0 mW	6 dBm
	3.2 mW	5 dBm

Using the power density calculations referenced in Section 3, the power density for each handset type is found in Exhibits 4.3.2 to 4.2.5.

**Exhibit 4.3.2 - Power Density Calculations for WLAN with 200 mW EIRP**

ERP = 125 mWatts @ Frequency = 2400, 3700, 5000 MHz

Horizontal Distance (ft)	Power Density S ( $\mu\text{W}/\text{cm}^2$ )
0	4488.041
2	8.440
5	2.098
7	0.924
9	0.513
12	0.323
14	0.220
17	0.157
18	0.134
22	0.089
25	0.070
29	0.055
32	0.044
36	0.035
40	0.029
44	0.023
49	0.019
54	0.015
61	0.012
68	0.010
76	0.008
86	0.006
99	0.005
115	0.003
135	0.002
164	0.002
207	0.001
278	0.001
419	0.000
846	0.000

**Exhibit 4.3.3 - Power Density Calculations for WLAN with 160 mW EIRP**

ERP = 100 mWatts @ Frequency = 2400, 3700, 5000 MHz	
Horizontal Distance (ft)	Power Density S ( $\mu\text{W}/\text{cm}^2$ )
0	3590.433
2	6.752
5	1.679
7	0.739
9	0.410
12	0.258
14	0.176
17	0.126
18	0.107
22	0.071
25	0.056
29	0.044
32	0.035
36	0.028
40	0.023
44	0.019
49	0.015
54	0.012
61	0.010
68	0.008
76	0.006
86	0.005
99	0.004
115	0.003
135	0.002
164	0.001
207	0.001
278	0.000
419	0.000
846	0.000

**Exhibit 4.3.4- Power Density Calculations for WLAN with 100 mW EIRP**

ERP = 62.5 mWatts @ Frequency = 2400, 3700, 5000 MHz	
Horizontal Distance (ft)	Power Density S ( $\mu\text{W}/\text{cm}^2$ )
0	2244.020
2	4.220
5	1.049
7	0.462
9	0.256
12	0.161
14	0.110
17	0.079
18	0.067
22	0.045
25	0.035
29	0.027
32	0.022
36	0.018
40	0.014
44	0.012
49	0.009
54	0.008
61	0.006
68	0.005
76	0.004
86	0.003
99	0.002
115	0.002
135	0.001
164	0.001
207	0.001
278	0.000
419	0.000
846	0.000

**Exhibit 4.3.4- Power Density Calculations for Typical Wireless LAN Transmission Power in Laptops**

ERP = 20 mWatts @ Frequency = 2400, 3700, 5000 MHz

Horizontal Distance (ft)	Power Density S ( $\mu\text{W}/\text{cm}^2$ )
0	718.087
2	1.350
5	0.336
7	0.148
9	0.082
12	0.052
14	0.035
17	0.025
18	0.021
22	0.014
25	0.011
29	0.009
32	0.007
36	0.006
40	0.005
44	0.004
49	0.003
54	0.002
61	0.002
68	0.002
76	0.001
86	0.001
99	0.001
115	0.001
135	0.000
164	0.000
207	0.000
278	0.000
419	0.000
846	0.000

#### 4.4 Cordless Phones

Virtually all telephones sold in the U.S. today use the 900 MHz, 1.9 GHz, 2.4-GHz, or 5.8 GHz bands, though legacy phones may remain in use on the older bands. There is no specific requirement for any particular transmission mode on 900, 1.9, 2.4, and 5.8, but in practice, virtually all newer 900 MHz phones are inexpensive analog models with digital features generally available only on the higher frequencies. Exhibit 4.4.1 provides the typical power authorized by the FCC for cordless phones.

Exhibit 4.4.1 provides the listing of the maximum output power for cordless phones typically used in households in the U.S.

**Exhibit 4.4.1 - Typical Output Power for Cordless Phones**

Device Type	Power	Level dBm
Cordless Phone	> 0.3 W at 915 MHz	>24.8 dBm
	> 0.2 W at 2450 MHz	>23.0 dBm

Using the power density calculations referenced in Section 3, the power density for each handset type is found in Exhibits 4.4.2 to 4.2.3.



**Exhibit 4.4.2- Power Density Calculations for Typical 900 MHz Cordless Phones**

ERP = 0.3 Watts Frequency = 915 MHz	
Horizontal Distance (ft)	Power Density S ( $\mu\text{W}/\text{cm}^2$ )
0	10771.298
2	20.257
5	5.036
7	2.217
9	1.231
12	0.775
14	0.527
17	0.378
18	0.322
22	0.214
25	0.167
29	0.132
32	0.105
36	0.085
40	0.069
44	0.056
49	0.045
54	0.037
61	0.029
68	0.023
76	0.019
86	0.014
99	0.011
115	0.008
135	0.006
164	0.004
207	0.003
278	0.001
419	0.001
846	0.000

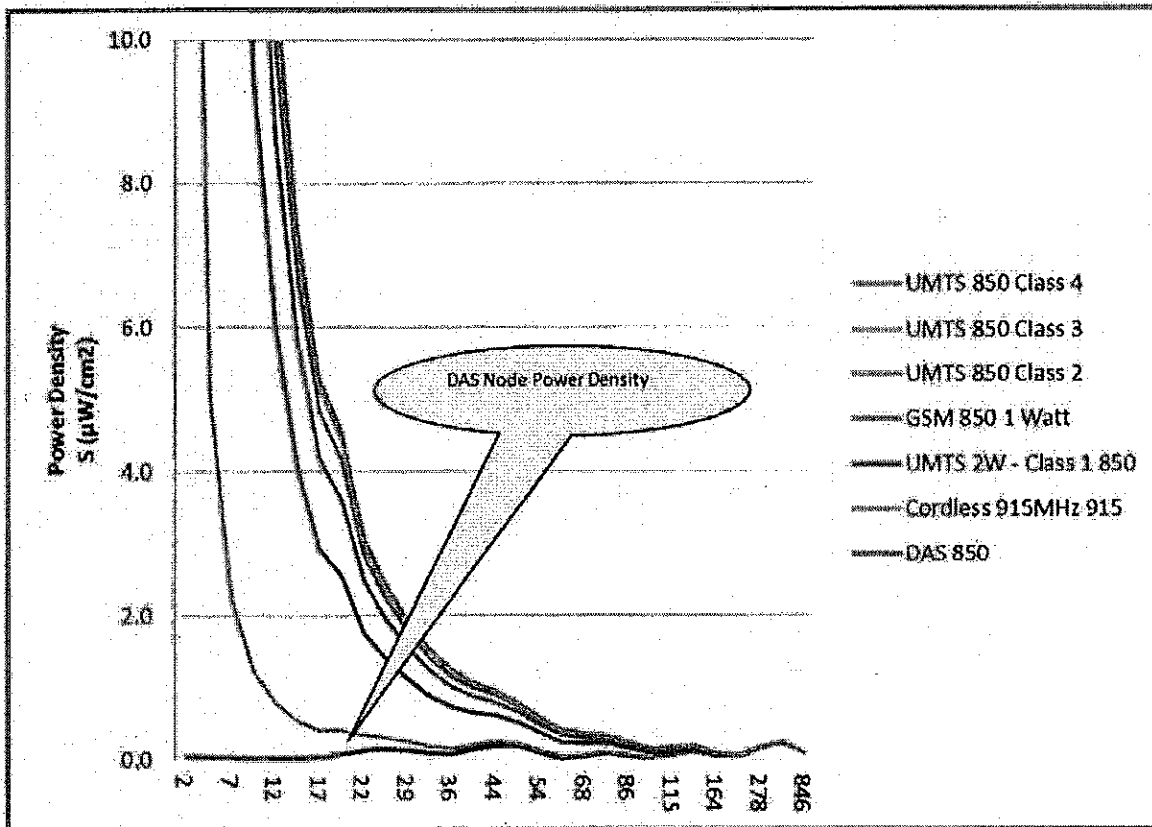
**Exhibit 4.4.3- Power Density Calculations for Typical 2100 MHz Cordless Phones**

ERP = 0.2 Watts @ F = 2459 MHz	
Horizontal Distance (ft)	Power Density S ( $\mu\text{W}/\text{cm}^2$ )
0	7180.865
2	13.504
5	3.357
7	1.478
9	0.821
12	0.517
14	0.351
17	0.252
18	0.215
22	0.143
25	0.111
29	0.088
32	0.070
36	0.057
40	0.046
44	0.037
49	0.030
54	0.024
61	0.020
68	0.016
76	0.012
86	0.010
99	0.007
115	0.005
135	0.004
164	0.003
207	0.002
278	0.001
419	0.000
846	0.000

## 5. Power Density Comparison between a DAS Node and Typical Household Electronics

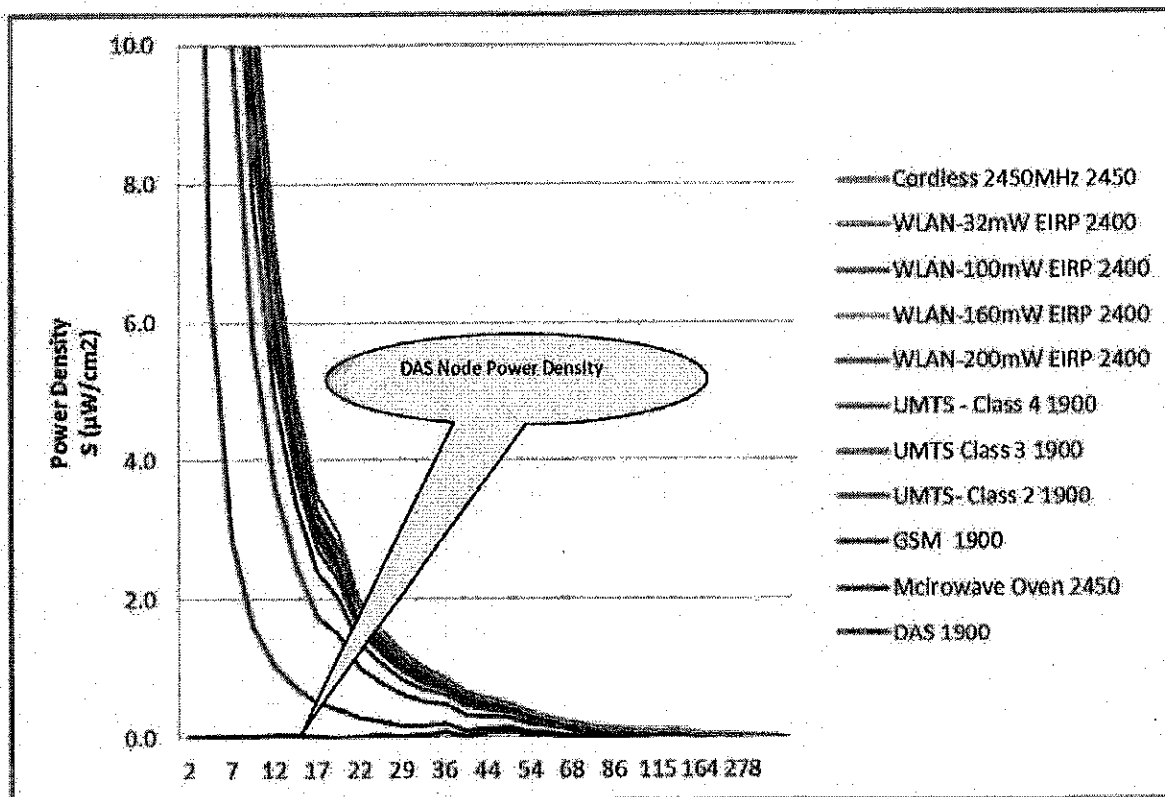
DAS node and typical household electronics emitting RF energy operate in two distant frequency bands, 300-1500 MHz and 1500-100000 MHz<sup>12</sup>. The power density comparison between each of the household devices and the DAS node is shown in Exhibits 5.1 and 5.2

**Exhibit 5.1 Power Density Comparison between DAS Node and Other Home Appliances Operating in Band 4 as a Function of Distance**



<sup>12</sup> - Refer to Exhibit 2.2 for specific frequencies within each band.

**Exhibit 5.2 Power Density Comparison between DAS Node and Other Home Appliances Operating in Band 5 as a Function of Distance**



As can be seen from Exhibits 5.1 & 5.2, in comparison with other household appliances that emit RF waves, DAS node has substantially lower power density than that of typical household appliances.

## Attachment A - Writer's Bio

### Mehran Nazari

Mr. Nazari is the founder and managing director of AdGen Telecom Group, Inc. Mr. Nazari has a wealth of domestic and international wireless telecommunications experience encompassing radio frequency (RF) and network design, technical planning, strategic planning/management and operationally focused consulting organizations. He has more than 25 years of experience in the design, build-out and operations of large to medium wireless networks. He has designed varying technologies from GSM, CDMA, UMTS and LTE to WiFi/WiMax - as a result, he has been involved in strategic planning and implementation of many different generations of telecommunications technologies and infrastructure vendors. In addition to defining technology roadmaps for start-up operations, he has assisted incumbent operators review and refine existing product and service portfolios and well as enabling platform landscapes. He has extensive background and expertise in topology, signaling and interconnect plans between fixed networks in domestic US and international markets. He has served as the lead consultant and acting chief technical officer for several wireless carriers using all air interface technologies and negotiated several large wireless infrastructure contracts with Lucent, Nortel, Ericsson, Siemens, Alcatel and Motorola as well as interconnect agreements with a number of local exchange carriers. Mr. Nazari has extensive knowledge and background in FCC licensing, regulatory compliance and has developed several software programs for automating interference calculations, microwave link reliability and database analysis/manipulation. Mehran received his Bachelor of Science degree from George Washington University in electrical engineering, and is pursuing a master's degree in telecommunications and computer science.



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

**VIA EMAIL AND US MAIL**

April 8, 2016

Mayor Sack and Rye City Council  
Rye City Hall  
1051 Boston Post Road  
Rye, New York 10580

***RE: City of Rye Crown Castle Right of Way Use Agreement Amendment and Expansion Project***

Dear Mayor Sack and Rye City Council:

I am Esmé Lombard for Crown Castle NG East LLC (“Crown Castle”). On Tuesday, March 15<sup>th</sup>, I and other members of the Crown Castle team, met with Corporation Counsel, Kristen Wilson, City Manager, Marcus Serrano, Assistant City Manager, Eleanor Militana and City Engineer, Ryan Coyne to: (a) initiate a minor amendment to an existing Right of Way Use Agreement (“RUA”) that the City of Rye (“City”) has had in place with Crown Castle since February 17, 2001; and (b) discuss Crown Castle’s plans to expand its existing equipment in the City in the upcoming months.

As you may know, Crown Castle provides telecommunications services to its customers, specifically, radio frequency (“RF”) transport services. It does so via telecommunications networks installed in the public rights-of-way (“Networks”), which integrates elements including fiber optic cables as well as personal wireless services facilities, such as antennas and related equipment (collectively, “Equipment”). Crown Castle’s Networks are sometimes referred to as Small Cell Networks, or more specifically, Distributed Antenna Systems (“DAS”).

**Background: Existing RUA Between the City & Crown Castle**

By way of background, the City and Crown Castle executed an RUA, dated February 17, 2011, that is still in effect. The term of the RUA is ten (10) years with three (3) successive terms of five (5) years.

The RUA enables Crown Castle to locate Equipment for its Networks on the existing incumbent infrastructure located within the public right-of-way for the purposes of a Distributed Antenna System for our clients – in this case Verizon Wireless.

For use of the public right-of-way the City receives five percent (5%) of Crown Castle’s adjusted gross revenues

from services provided in the City for each Equipment location, regardless of the ownership of the infrastructure (utility poles are typically owned by the telephone or electric provider). In addition, Crown Castle compensates the City five hundred dollars (\$500.00) annually for each City-owned pole upon which equipment is attached to, with annual increases. This is the same rate structure that Crown Castle has in place with other municipalities throughout the region.

Crown Castle is seeking a minor amendment to Exhibit A of the existing RUA. Exhibit A provides specs of the proposed Equipment. Throughout Exhibit A, certain Equipment is referred to as “DoITT approved shroud.” Crown Castle would like to change the language throughout the RUA to “Con Edison approved shroud,” as Con Edison is in fact the local utility who owns most of the poles in the right-of-way in the City. It should be noted that the Con Edison approved shroud is slightly larger than the DoITT approved shroud. However, it is the relevant shroud, as DoITT does not own or control any of the poles contemplated in the RUA, or, to my knowledge, any poles within the City.

The existing RUA, including the original Exhibit A, as well as the proposed draft amendment to Exhibit A, are enclosed for your review as Attachment 1. Photos of the existing Equipment types and a location map were provided in a package sent to you, dated April 1, 2016, enabling you to visit the subject sites prior to the April 13, 2016 Board Meeting.

### **Existing & Proposed Location of Crown Castle’s Equipment**

In addition to the existing nine (9) Equipment locations that have been operational in the City since February 2011, Crown Castle has been commissioned by our client to attach its Equipment to approximately seventy-three (73) additional locations within the City’s right-of-way. All but two (2) of those locations are on existing wooden poles. Two (2) locations will require the placement of a new pole.

The existing RUA authorizes the installation and operation of Crown Castle’s 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. Crown Castle has complied with and will continue to do so for the new installations with all relevant provisions of the City Code as such provisions are applied to the incumbent telecommunications provider (the “ILEC”).

For the two (2) new poles that will be placed within the right-of-way the RUA covers this in Section 3.2, “Where third-party property is not available for attachment of Equipment, NextG (Crown) 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.”

A map identifying the location of the existing and proposed locations within the City is enclosed as Attachment 2.

## **Crown Castle's Public Utility Status**

Pursuant to the laws of the State of New York, Crown Castle is a public utility and, as such, has been granted a Certificate of Public Convenience and Necessity ("CPCN") (Case No. 03-C-0027, April 4, 2003) by the Public Service Commission of the State of New York ("PSC"). [1] As a result, Crown Castle must be granted access to the public rights of way in the same manner and on the same terms applicable to other certificated telecommunications providers and utilities, as had been the case with the existing RUA.

A copy of Crown's CPCN granted by New York State is enclosed as Attachment 3.

Should you require any additional information prior to the April 13<sup>th</sup> meeting, please do not hesitate to reach out to me at 914-935-1235 or via email – [Esmé.Lombard@crowncastle.com](mailto:Esmé.Lombard@crowncastle.com). We look forward to presenting this project to you on the 13<sup>th</sup> and answering any questions you may have.

Kind Regards,

*Esmé Lombard*

Esmé A. Lombard  
National Real Estate – Contractor  
Crown Castle

Cc: City Manager – Marcus Serrano  
Assistant City Manager – Eleanor Militana  
City Attorney – Kristen Wilson  
City Engineer – Ryan Coyne  
Peter Heimdahl – Regional Director, Government Relations, Crown Castle  
Eli Elbaum – Government Relations Council, Crown Castle  
John Cavaliere – Government Relations Manager, Crown Castle  
Joseph Klem – Government Relations Specialist, Crown Castle



## RIGHT-OF-WAY USE AGREEMENT

**T**HIS RIGHT-OF-WAY USE AGREEMENT (this "Use Agreement") is dated as of February 17, 2011 (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

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 (5<sup>th</sup>) anniversary of the Installation Date and continuing on each fifth (5<sup>th</sup>) 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  
890 Tasman Drive  
Milpitas, CA 95035-7439

**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 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: Scott Pickup  
(name typed)

Its: City Manager

Date: February 8, 2011

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

By: Robert L. Delsman  
(name typed)

Its: SVP & General Counsel

Date: February 17, 2011

I HEREBY APPROVE the form and legality of the foregoing Use Agreement this 7<sup>th</sup> day of February 2011.

Kristen Wilson Corporation Counsel

By Kristen Wilson  
Deputy City Attorney

**Exhibits:**

Exhibit A -- Equipment

Approved as to Form  
and Legal Sufficiency:

[Signature]  
Signature/Initials

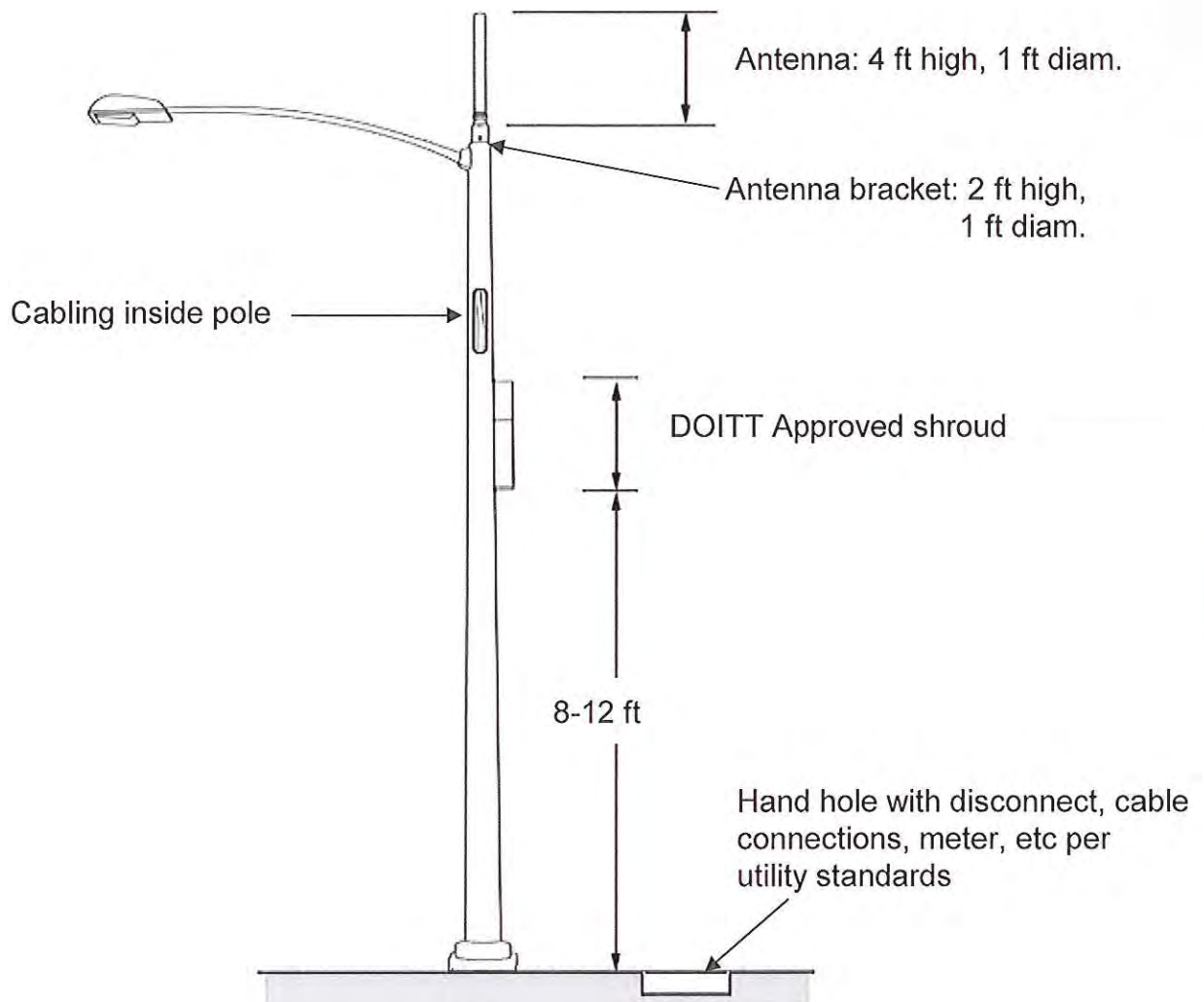
Date: 2 / 11 / 20 11

# Exhibit A

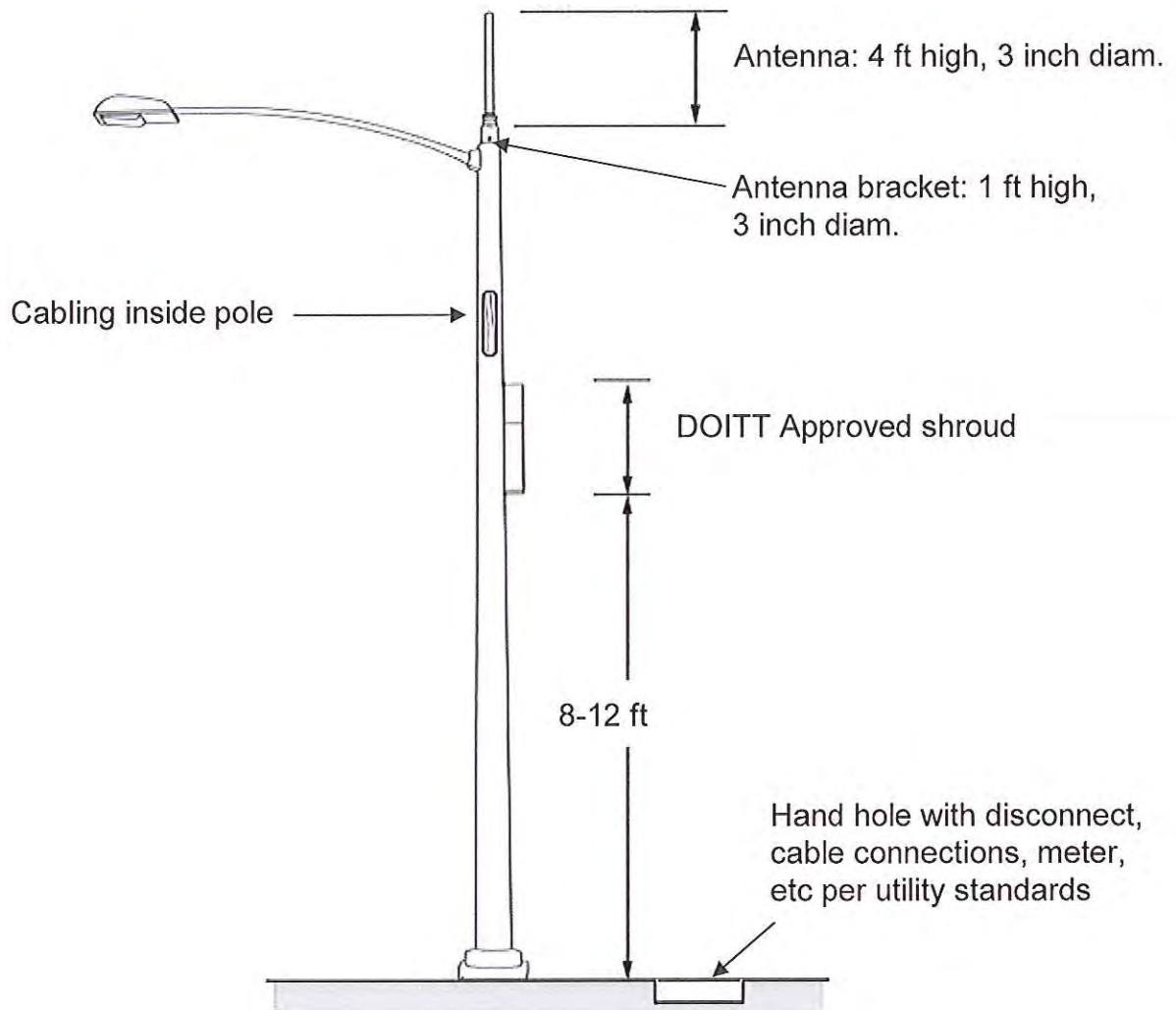
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Rev 01-19-2010



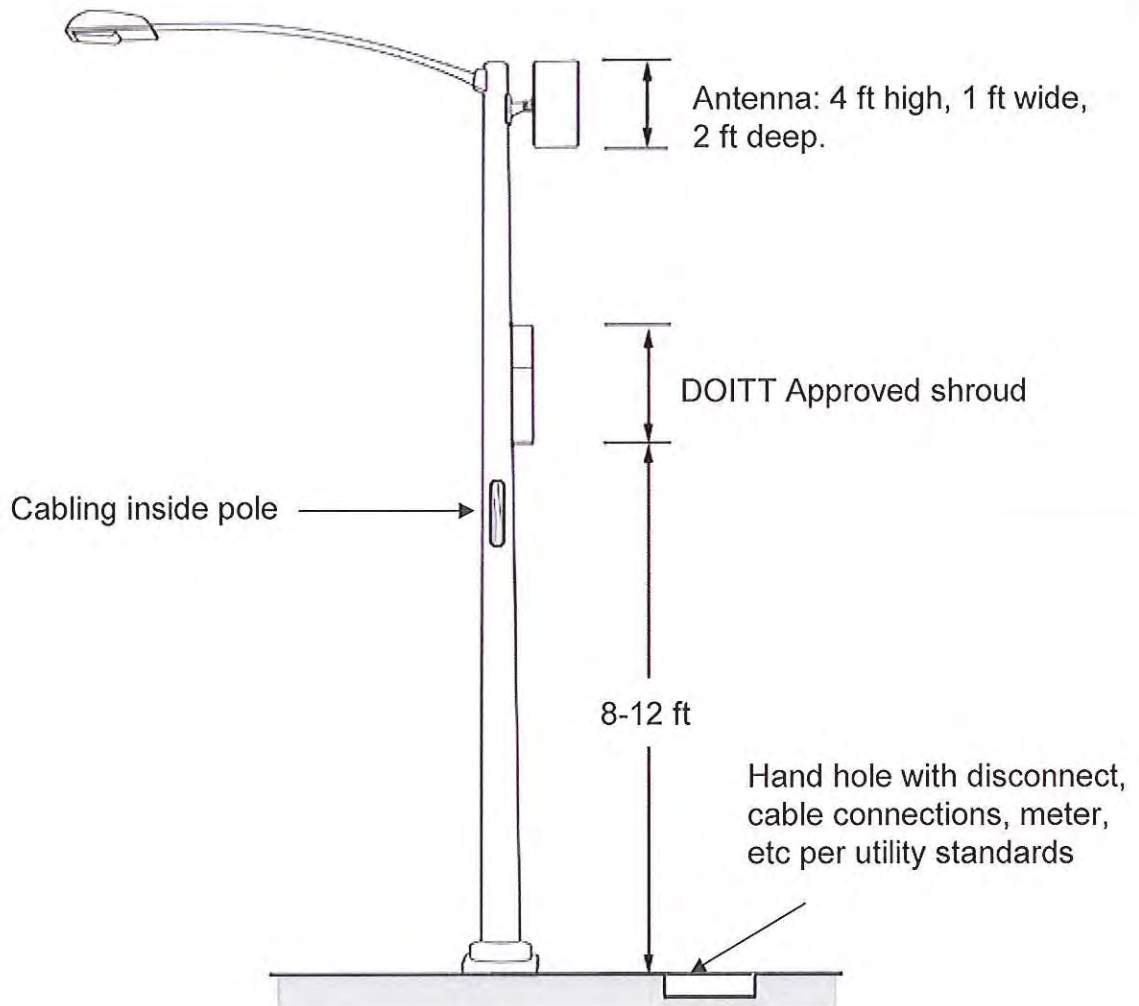
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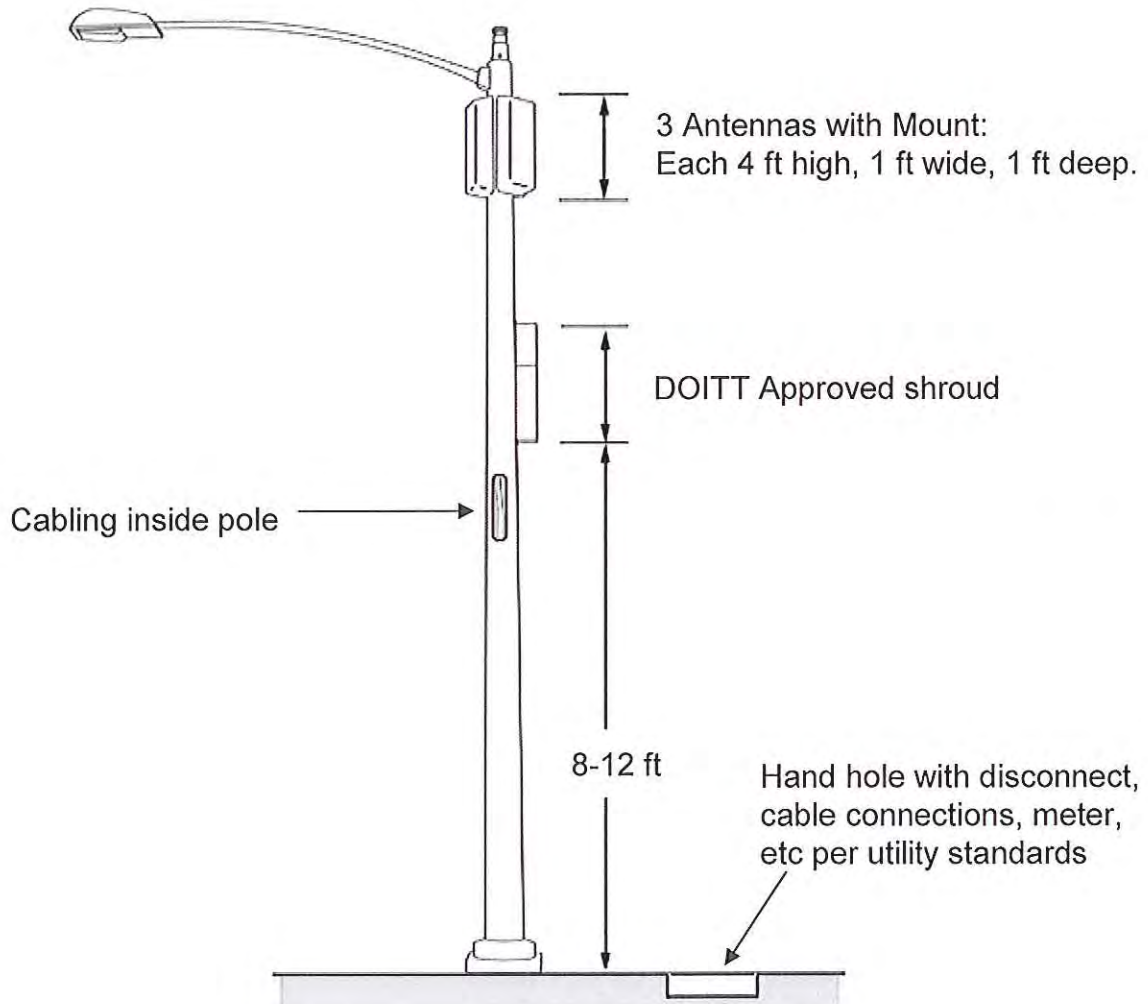
# Street Light Pole



# Street Light Pole

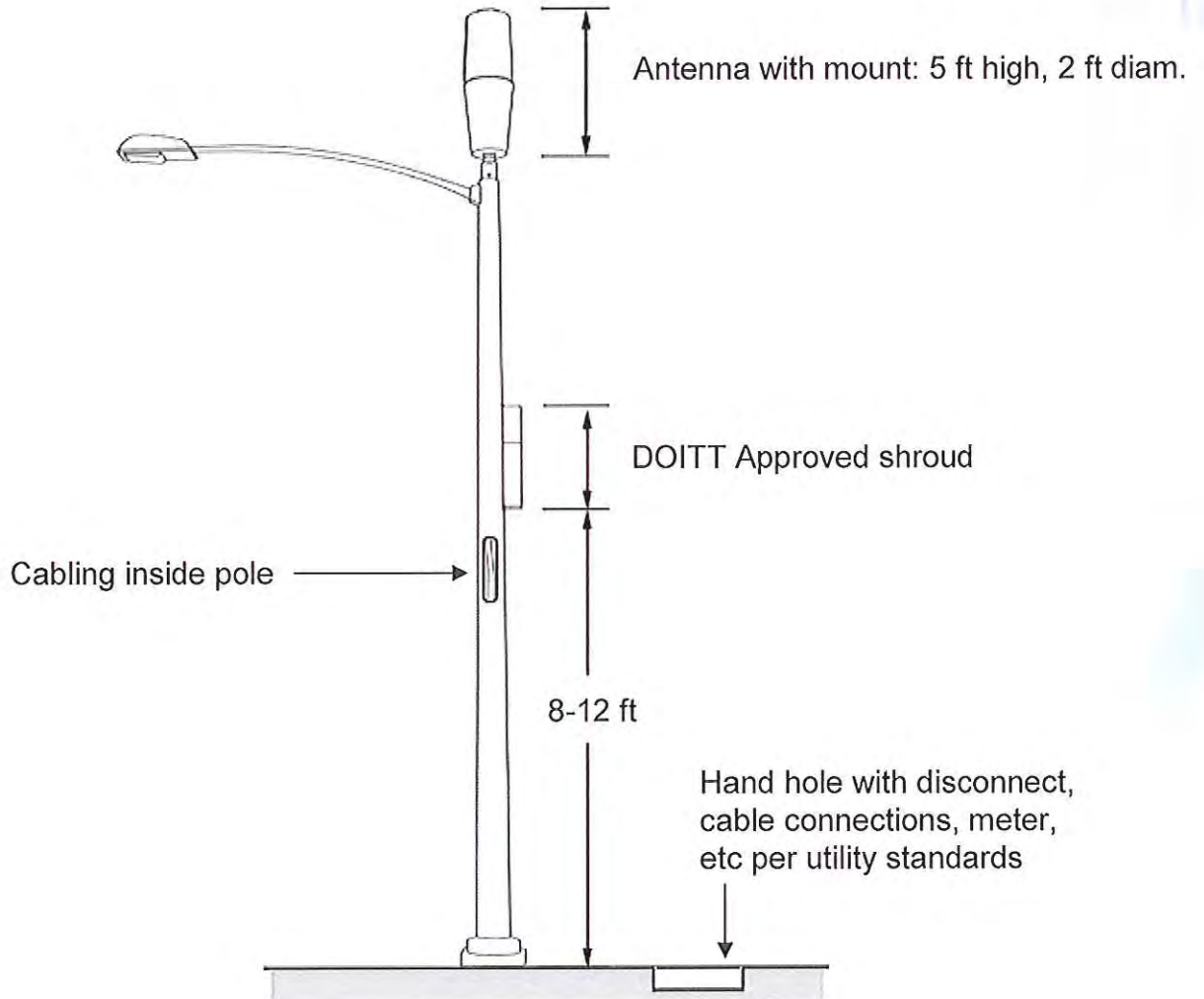


# Street Light Pole

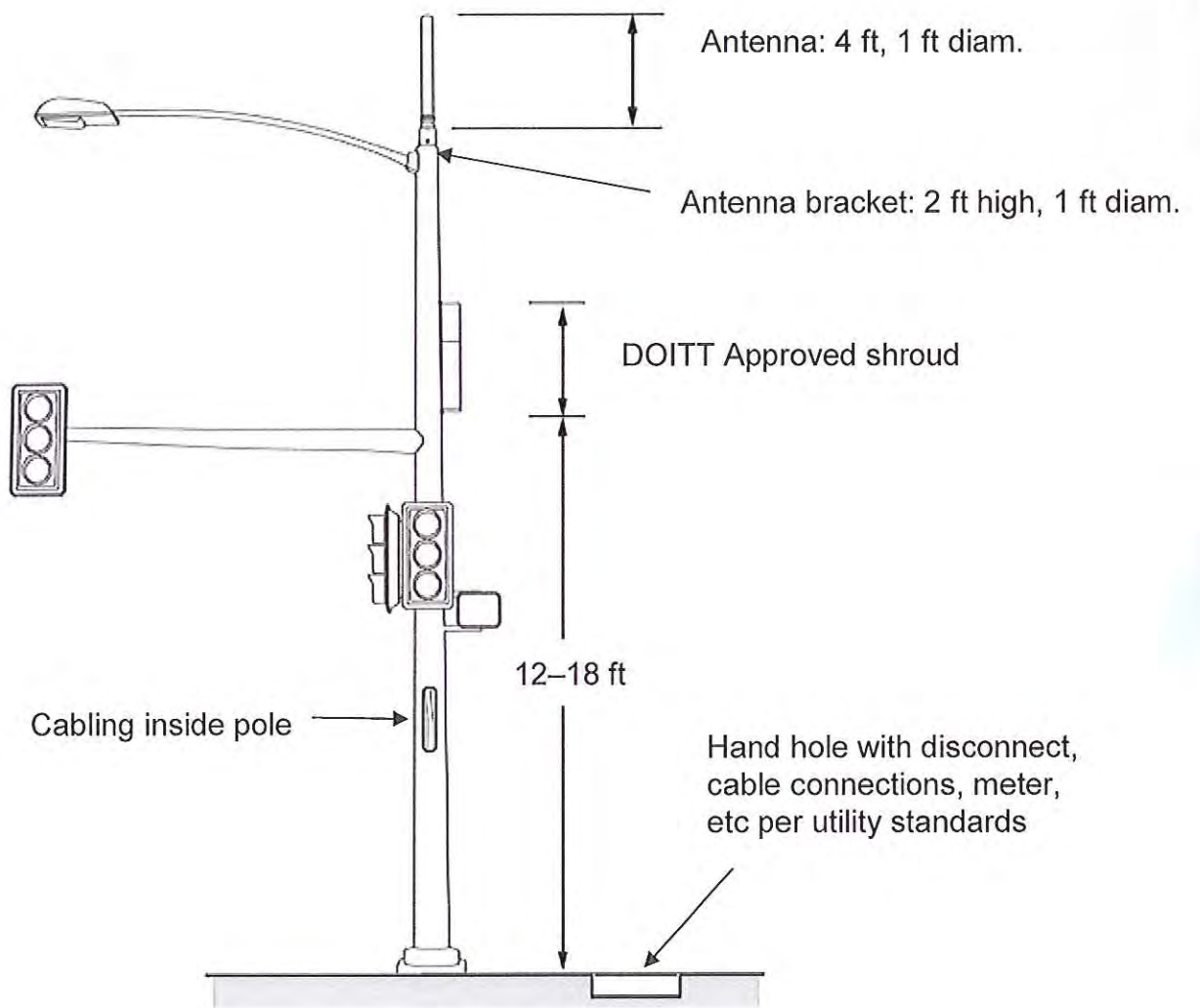




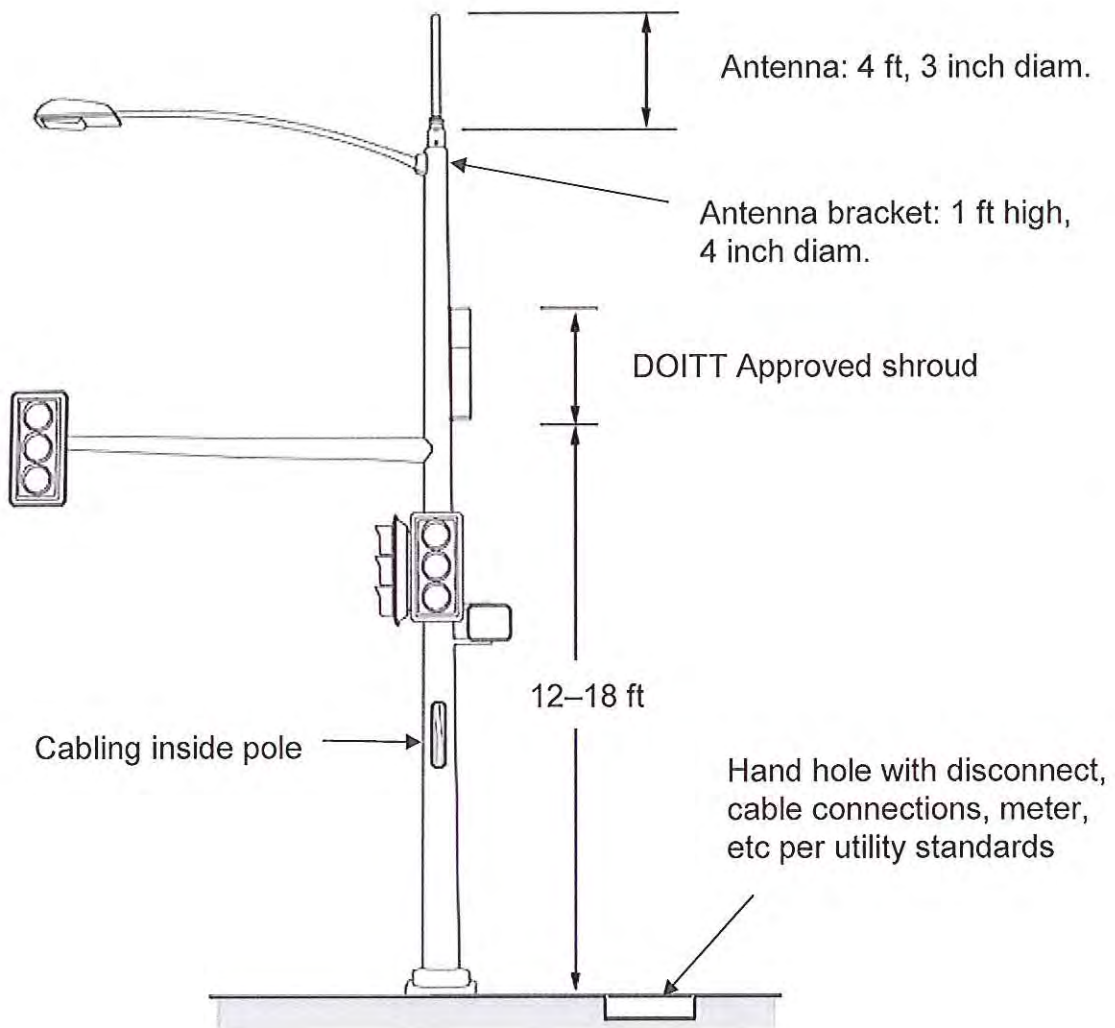
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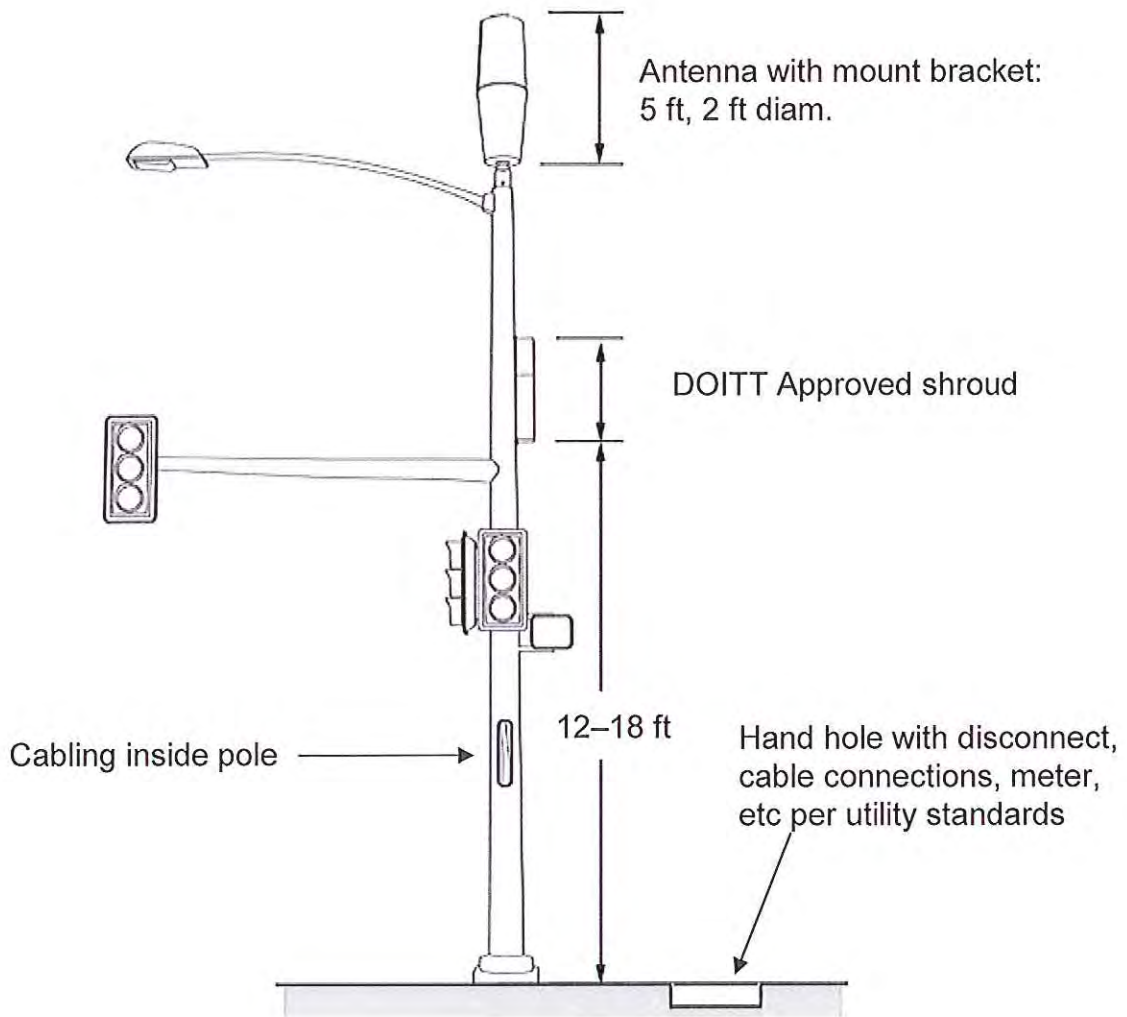
# Traffic Light Pole



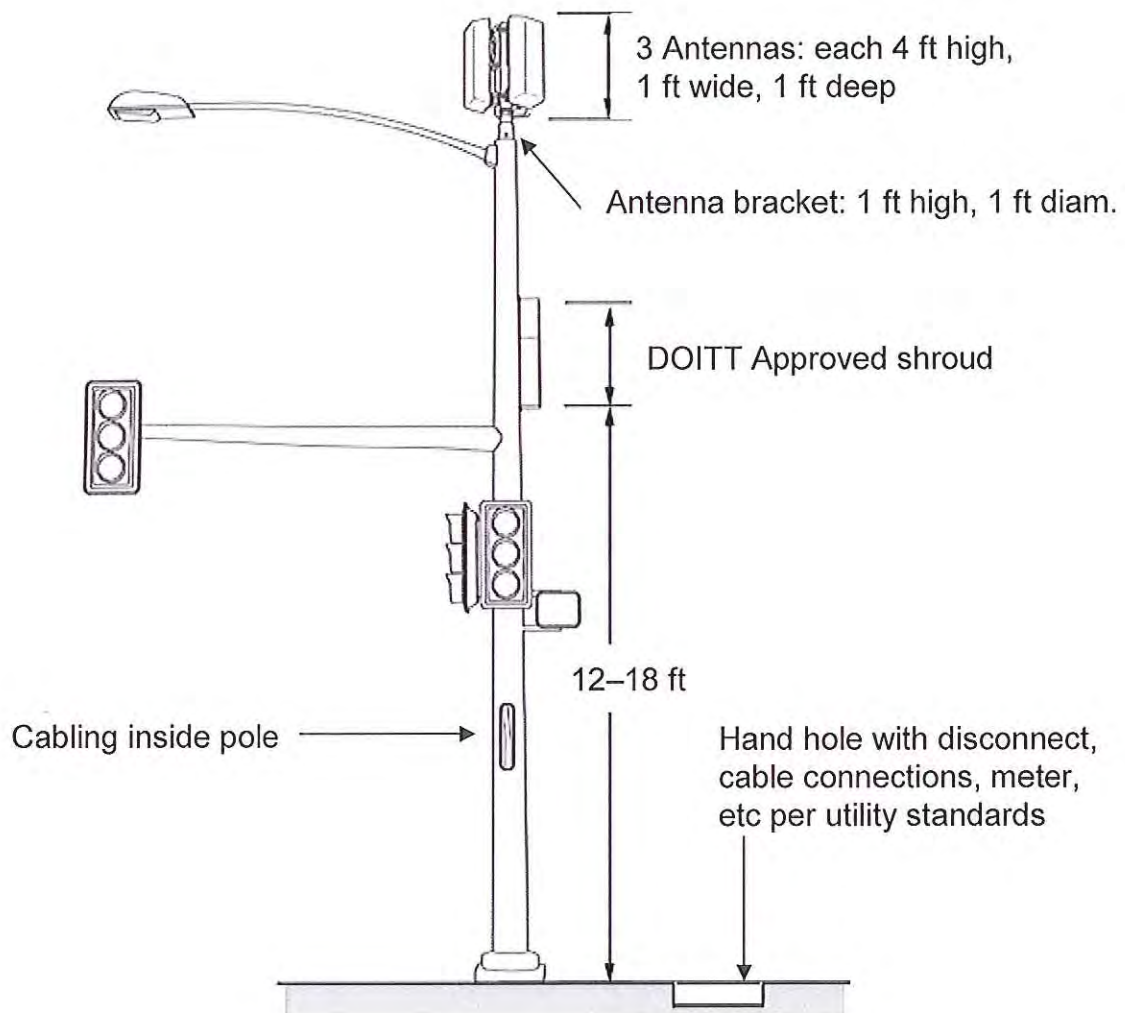
# Traffic Light Pole



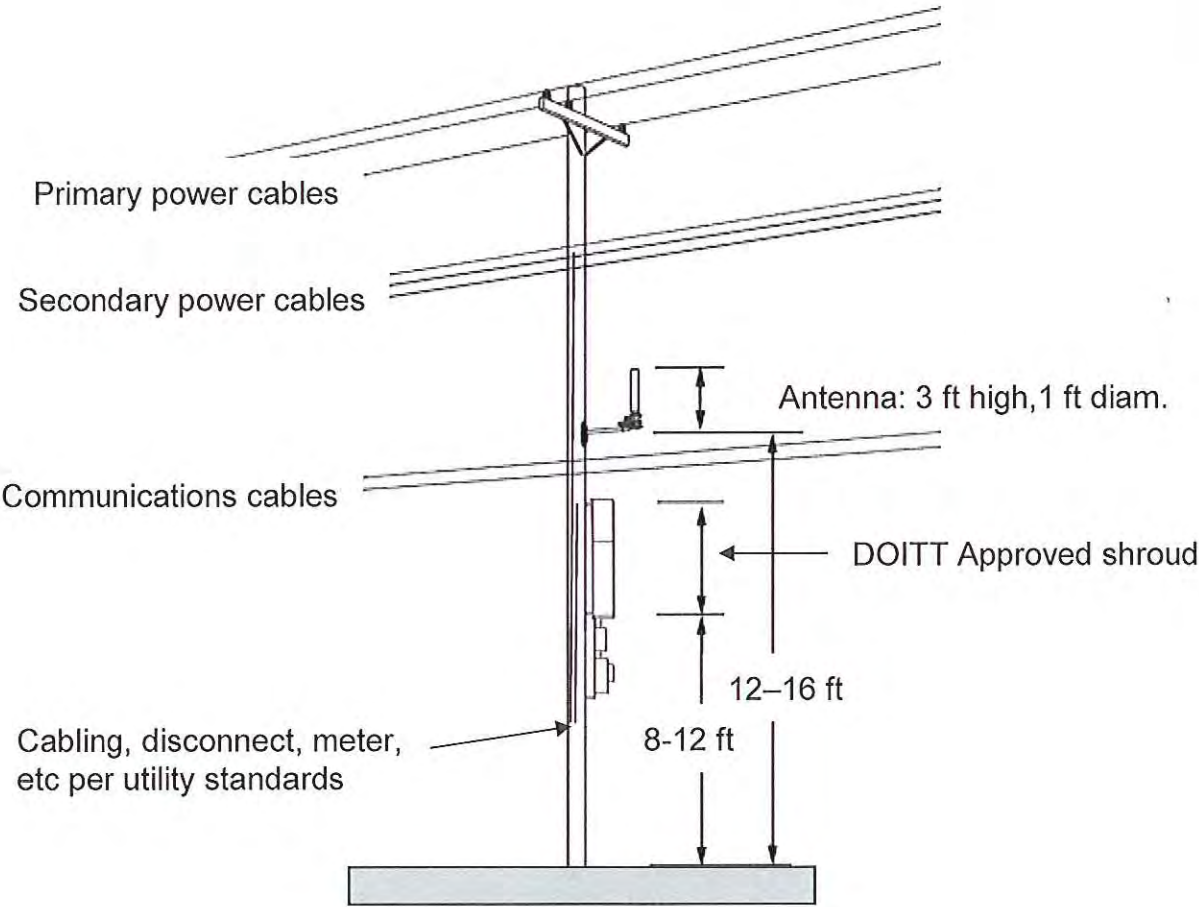
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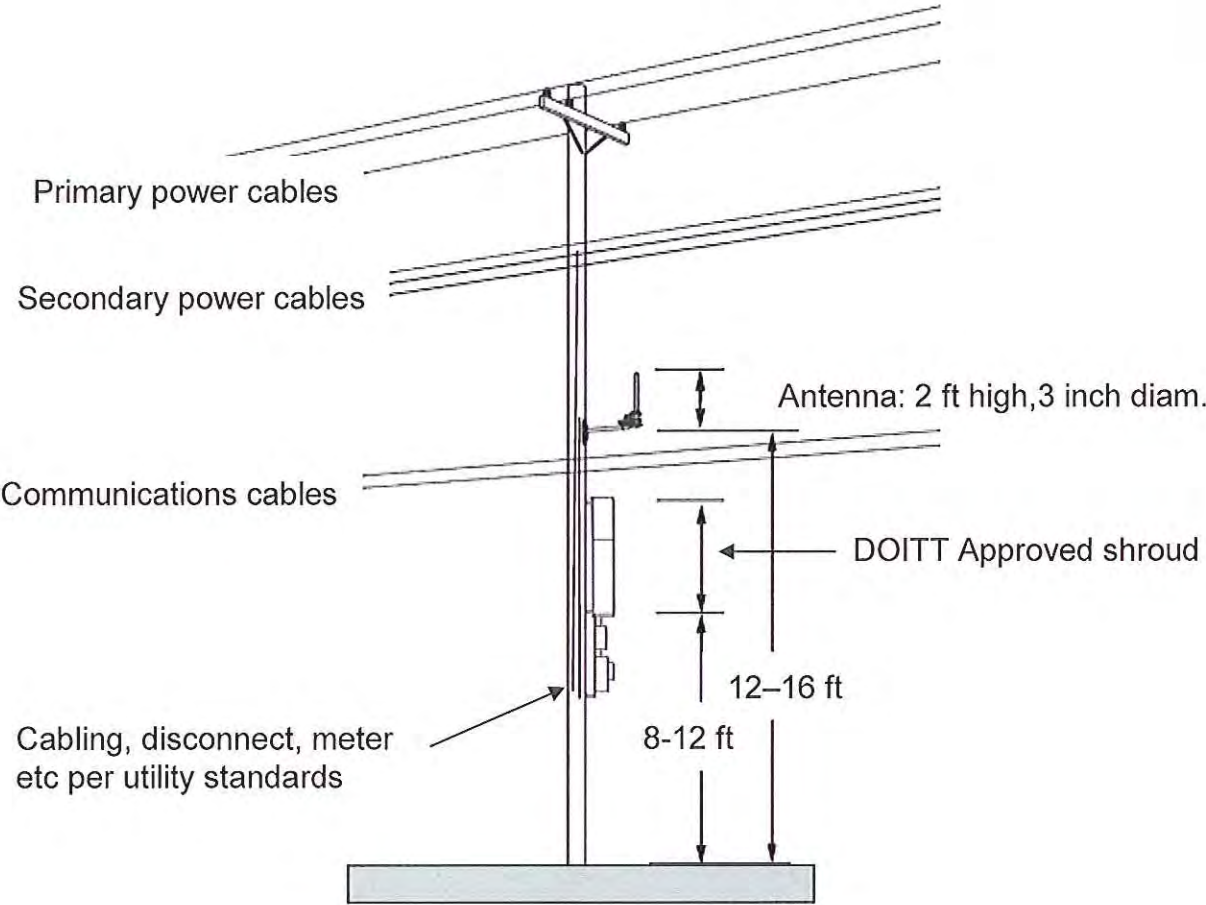
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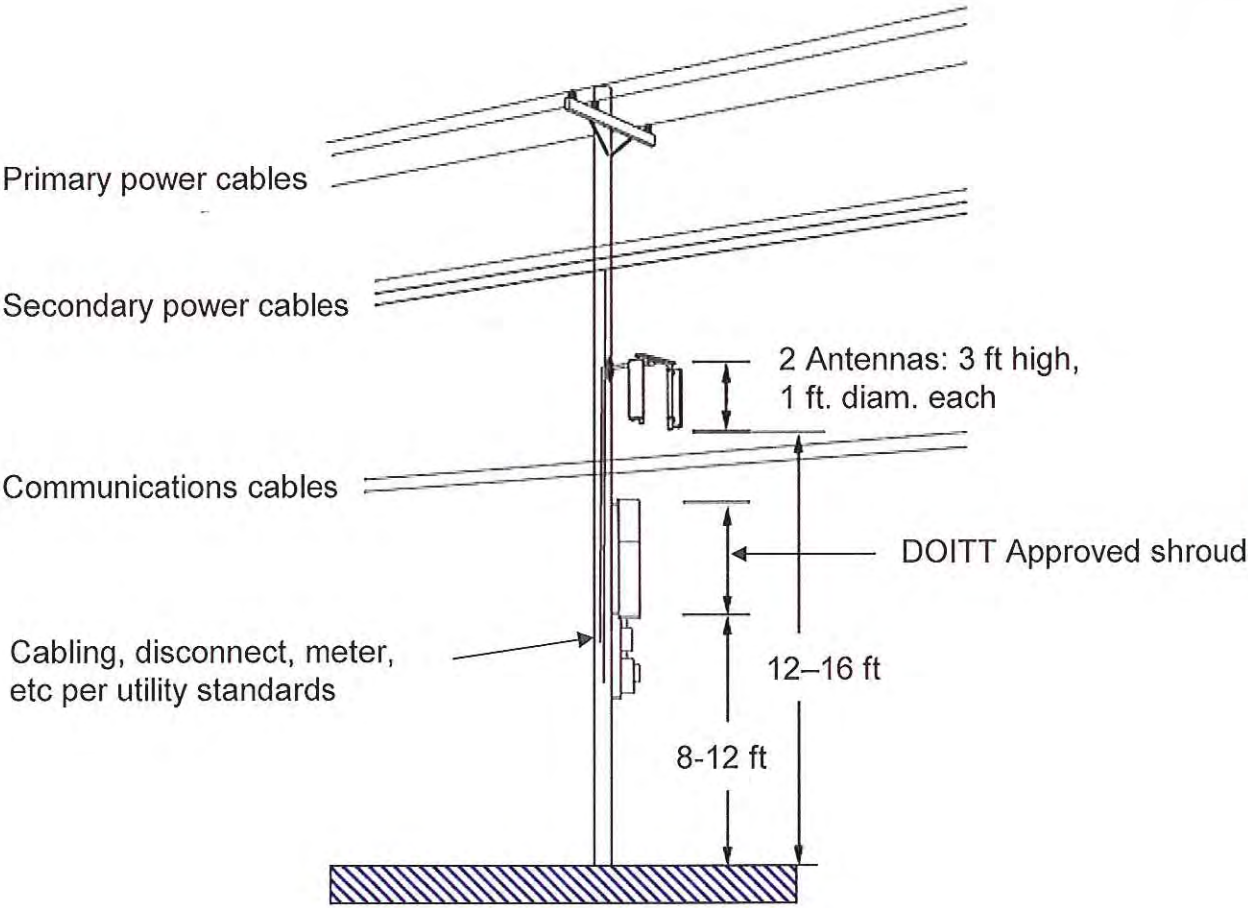
# Antenna in Communications Space on Power Pole



# Antenna in Communications Space on Power Pole

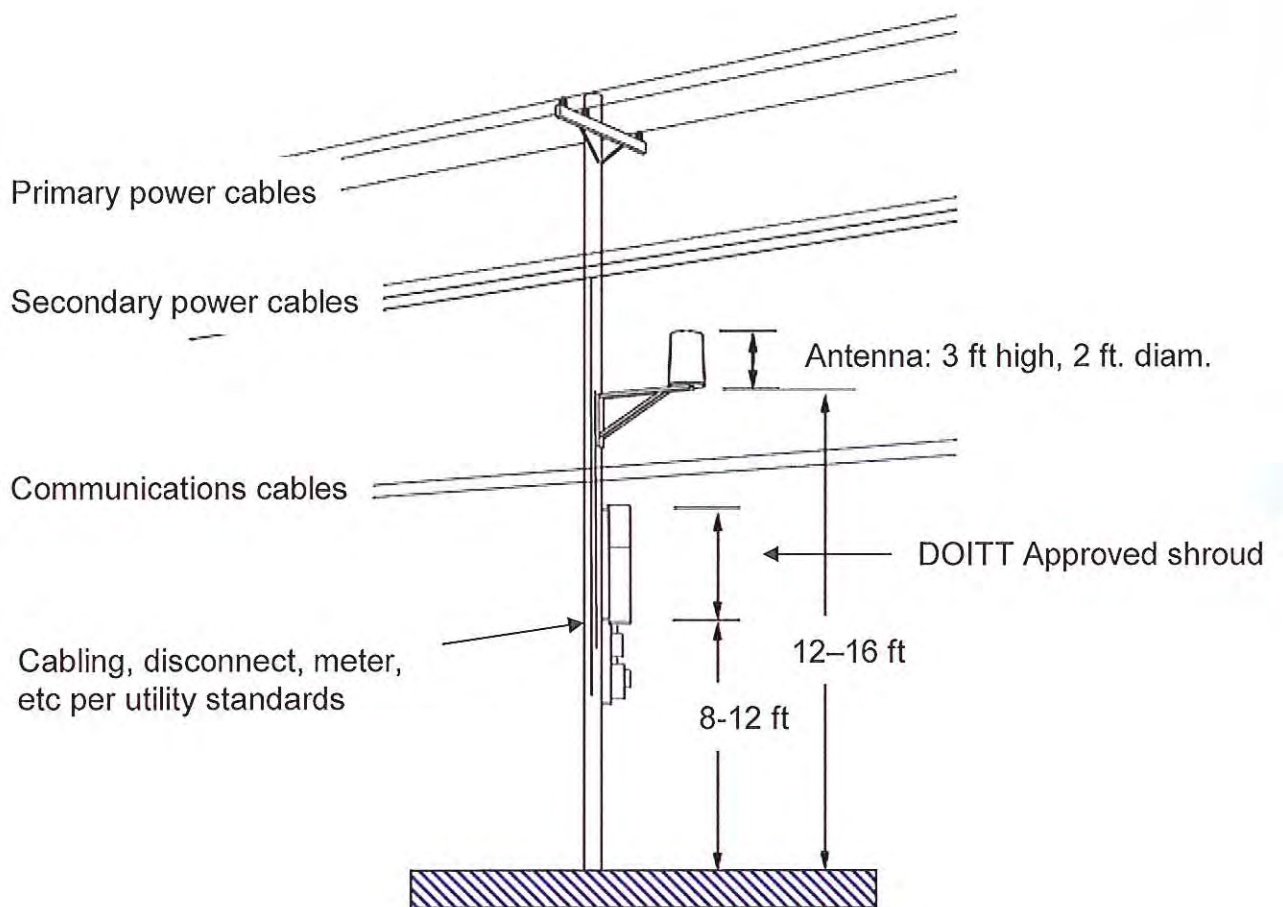


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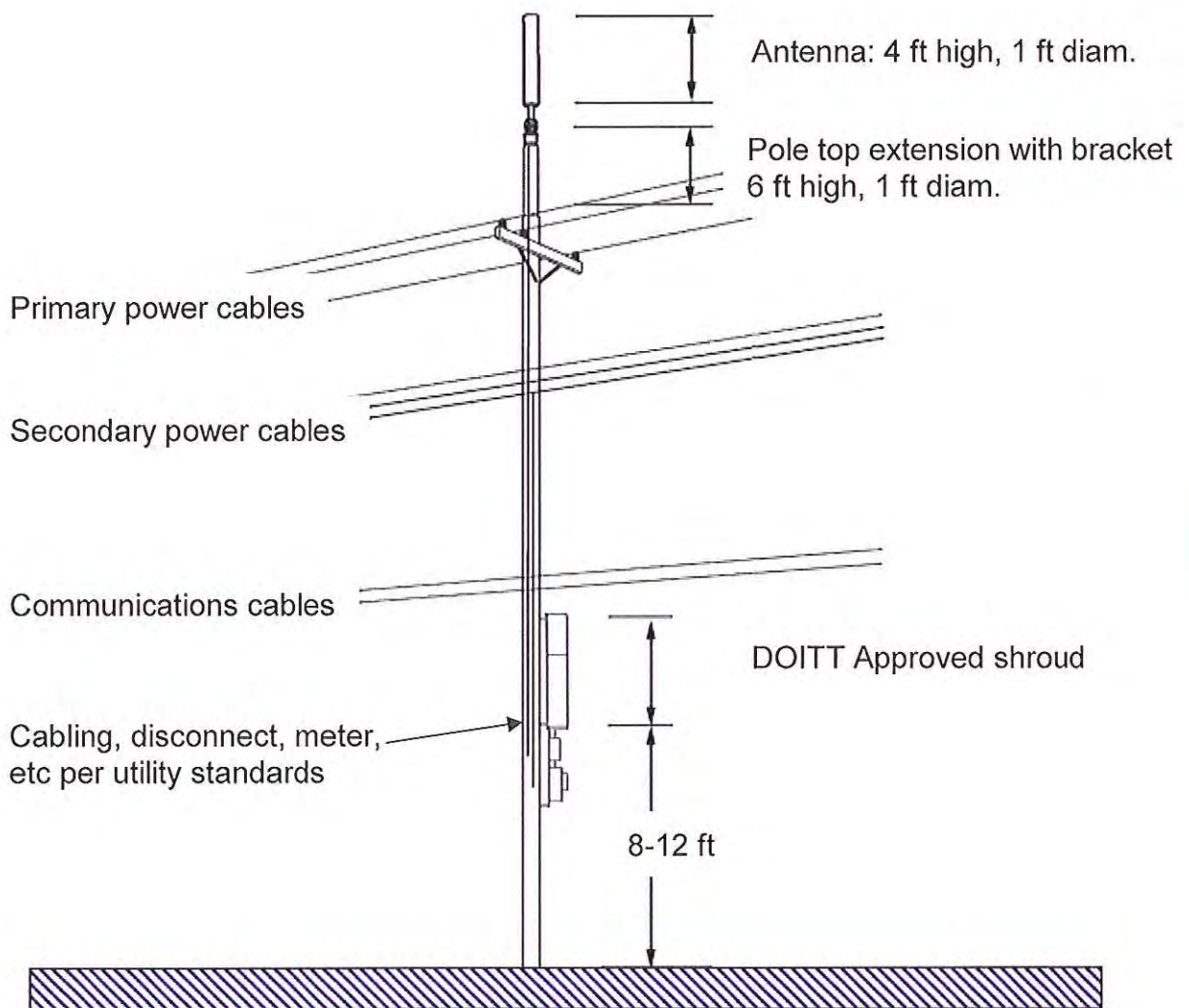




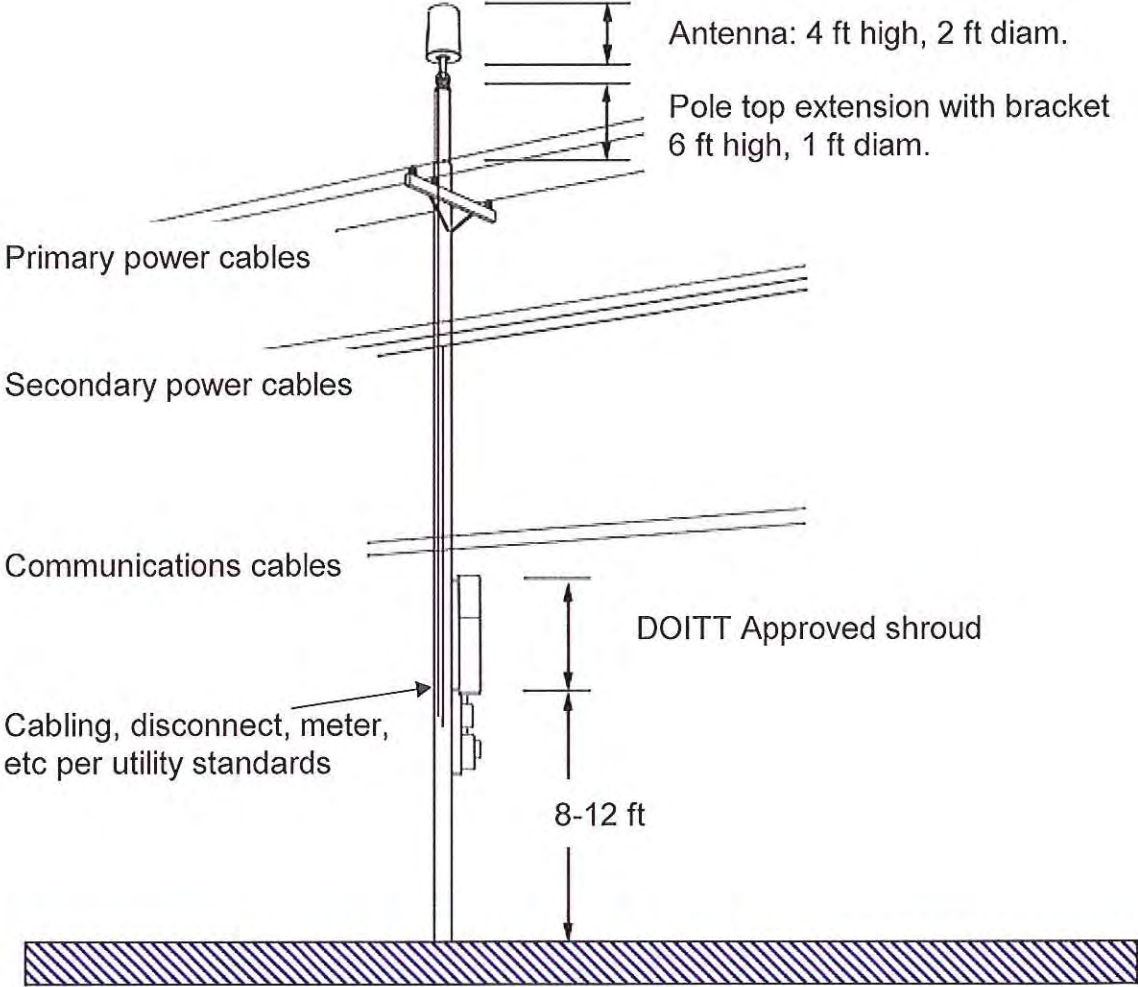
# Antenna in Communications Space on Power Pole



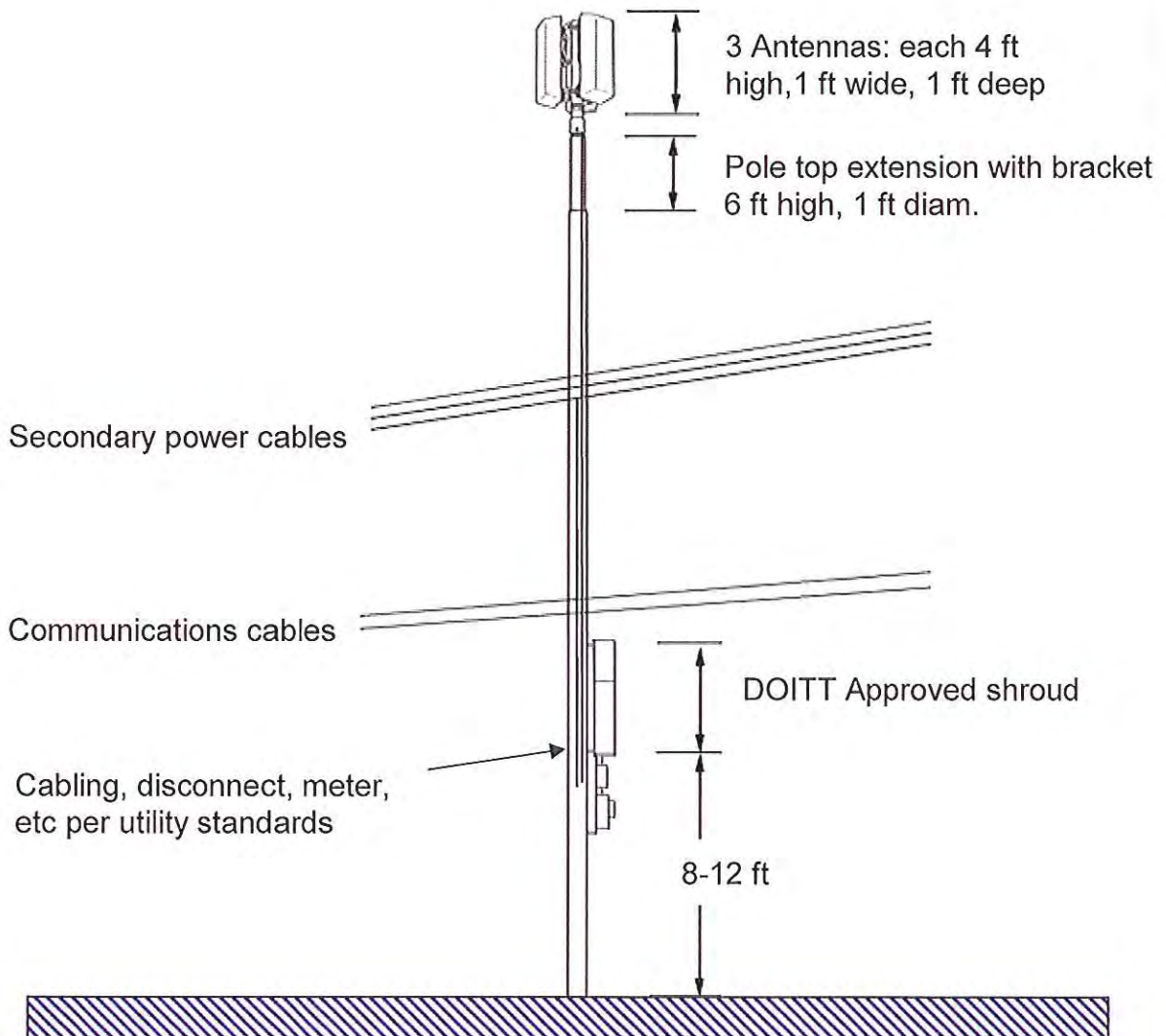
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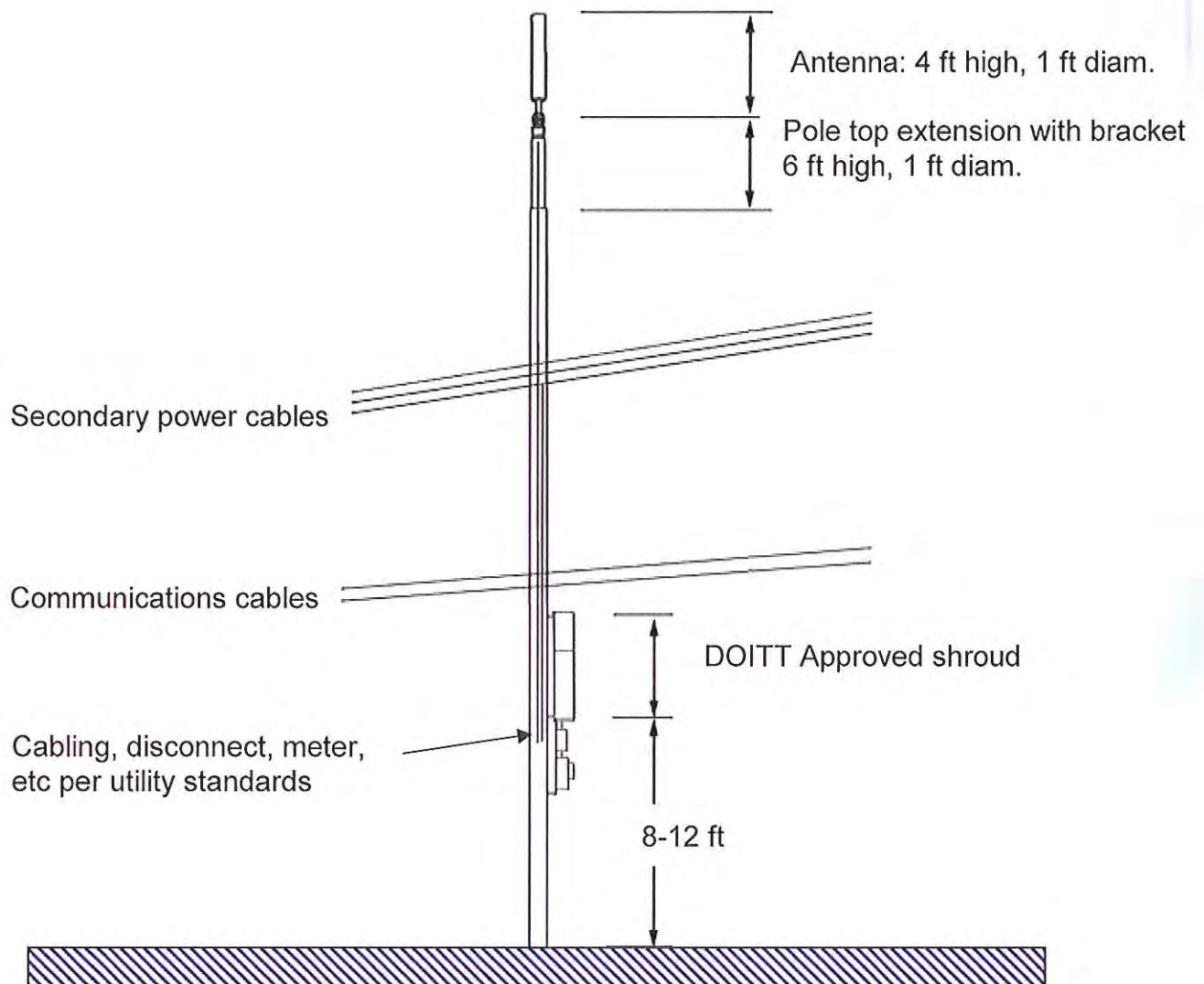
# Antenna Pole Top Extension over Primary



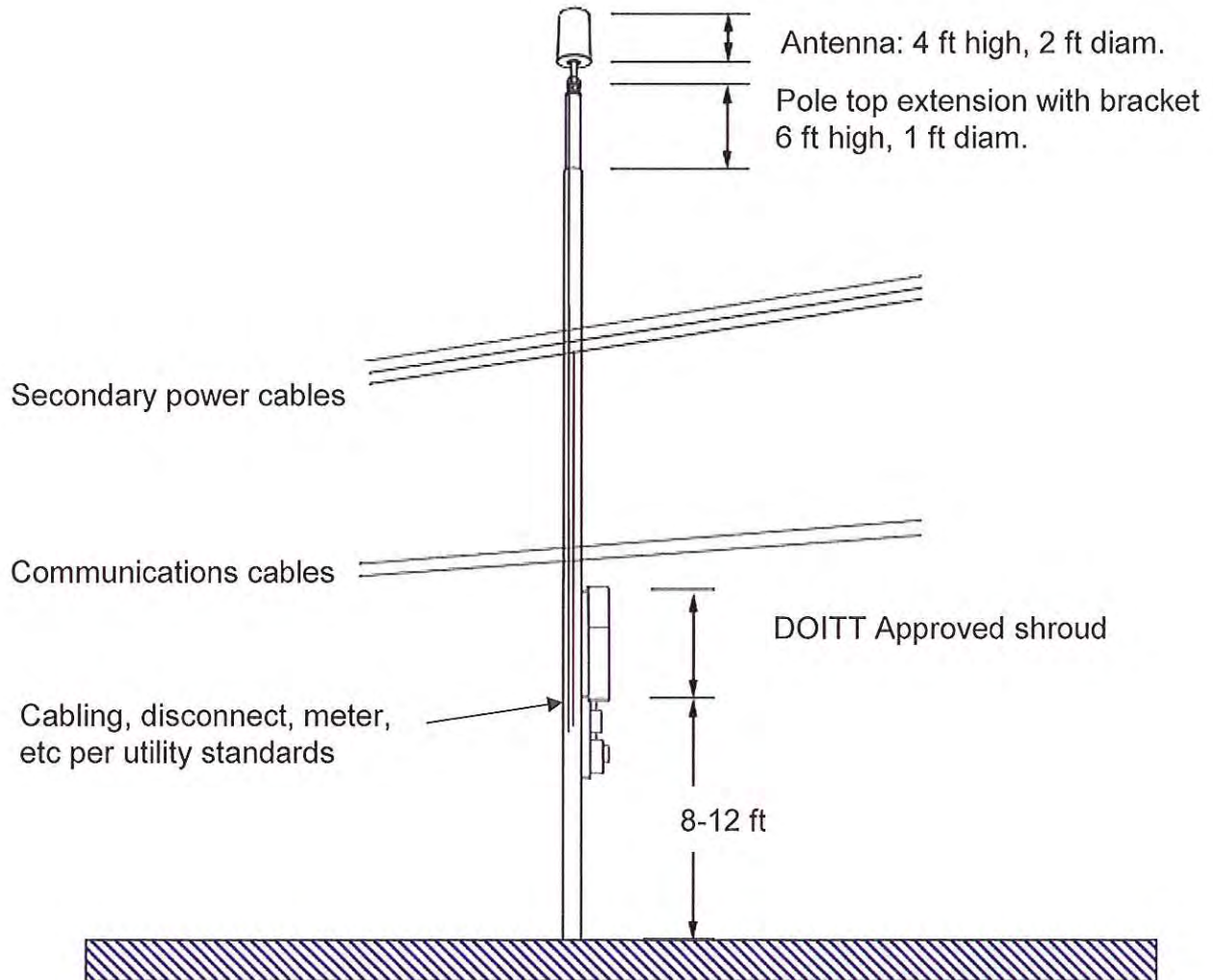
# Antenna Pole Top Extension over Secondary



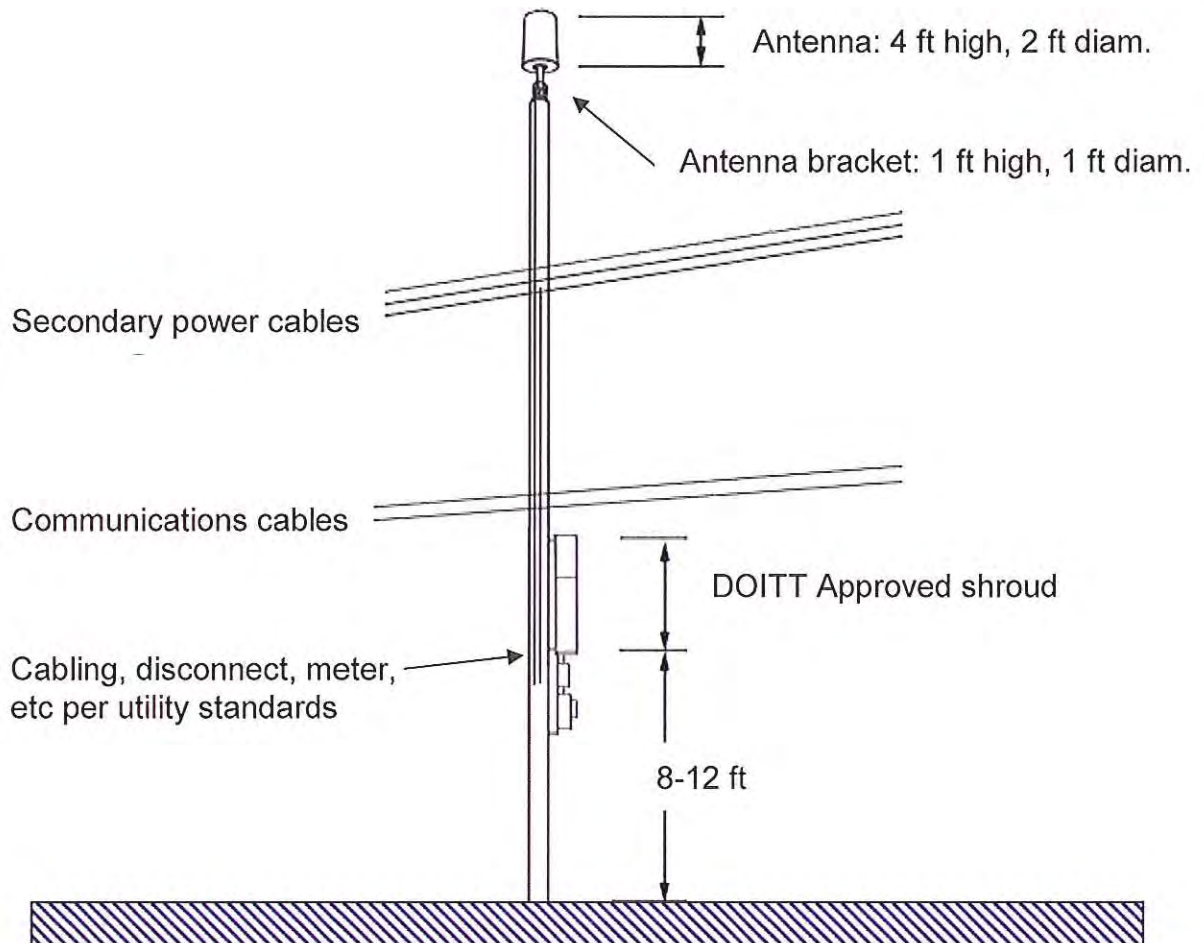
# Antenna Pole Top Extension over Secondary



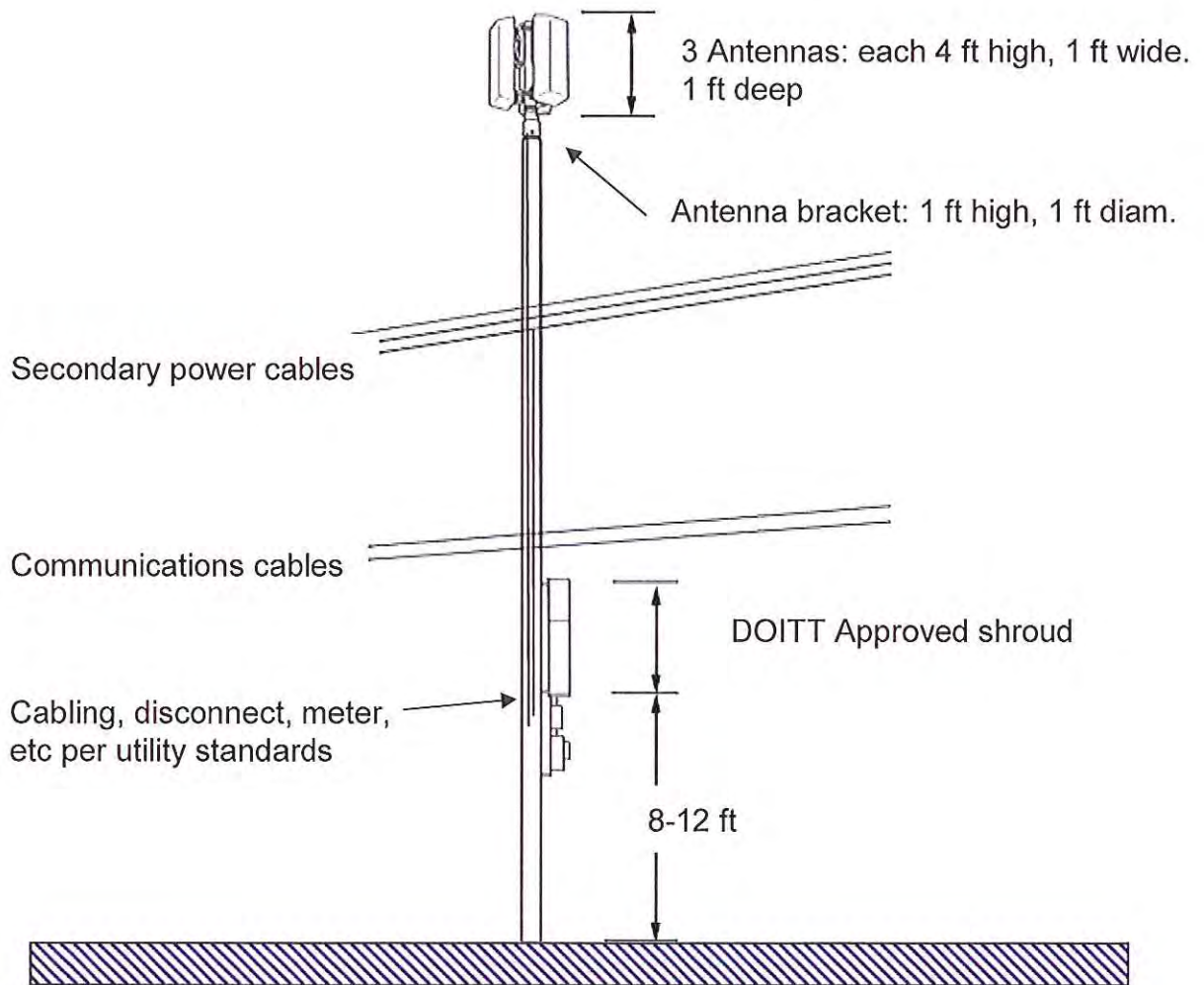
# Antenna Pole Top Extension over Secondary



# Antenna at Top of Power Pole

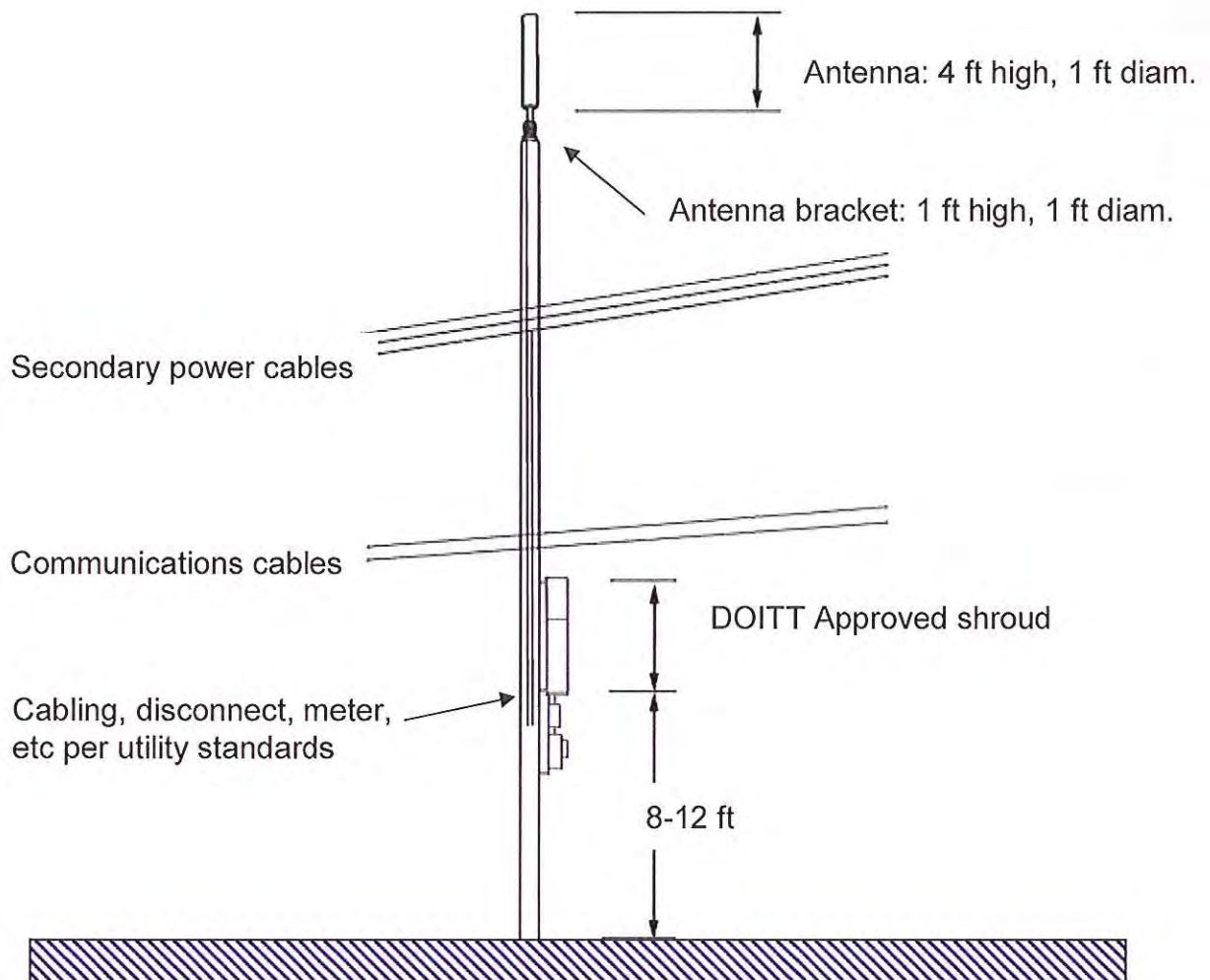


# Antenna at Top of Power Pole

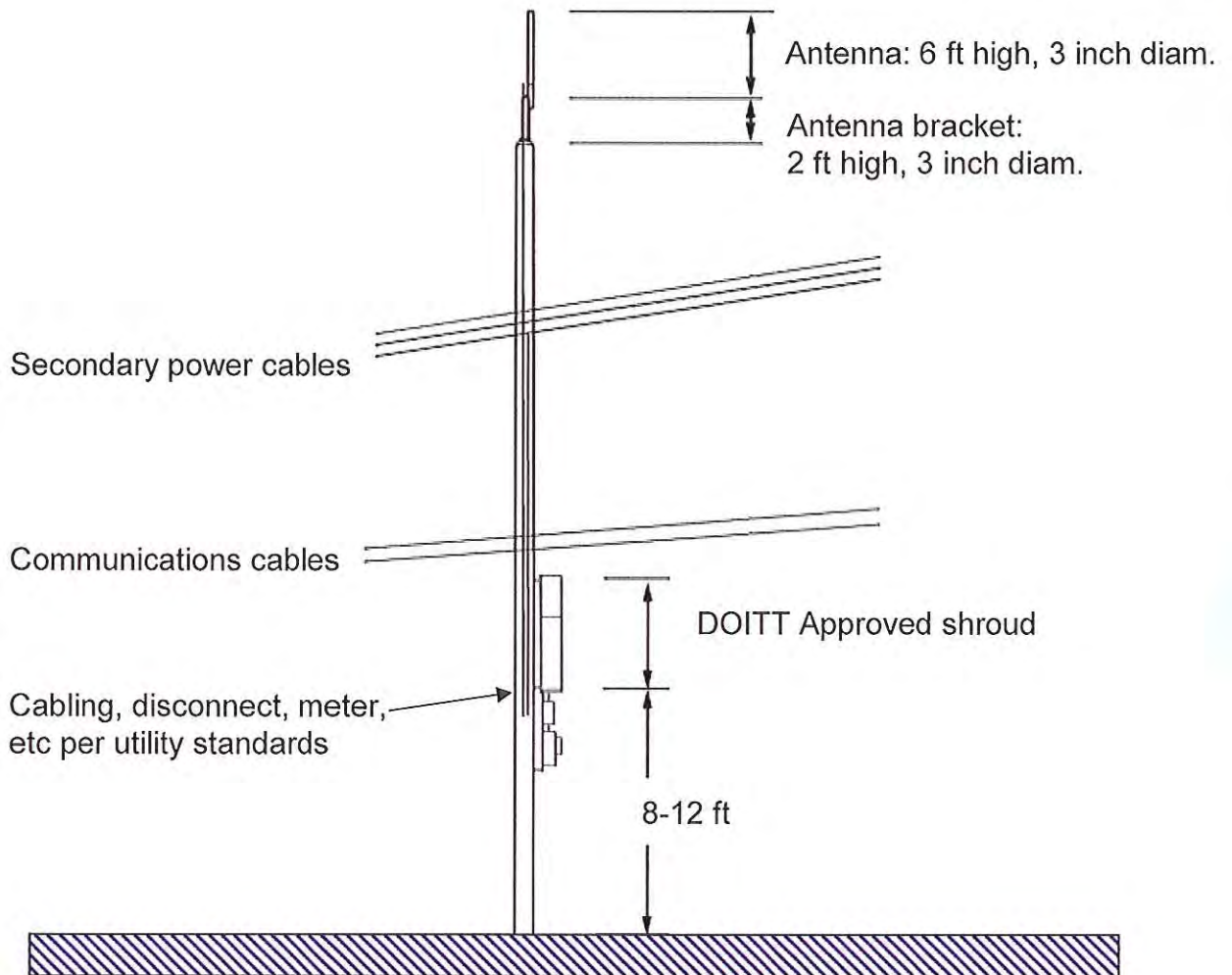




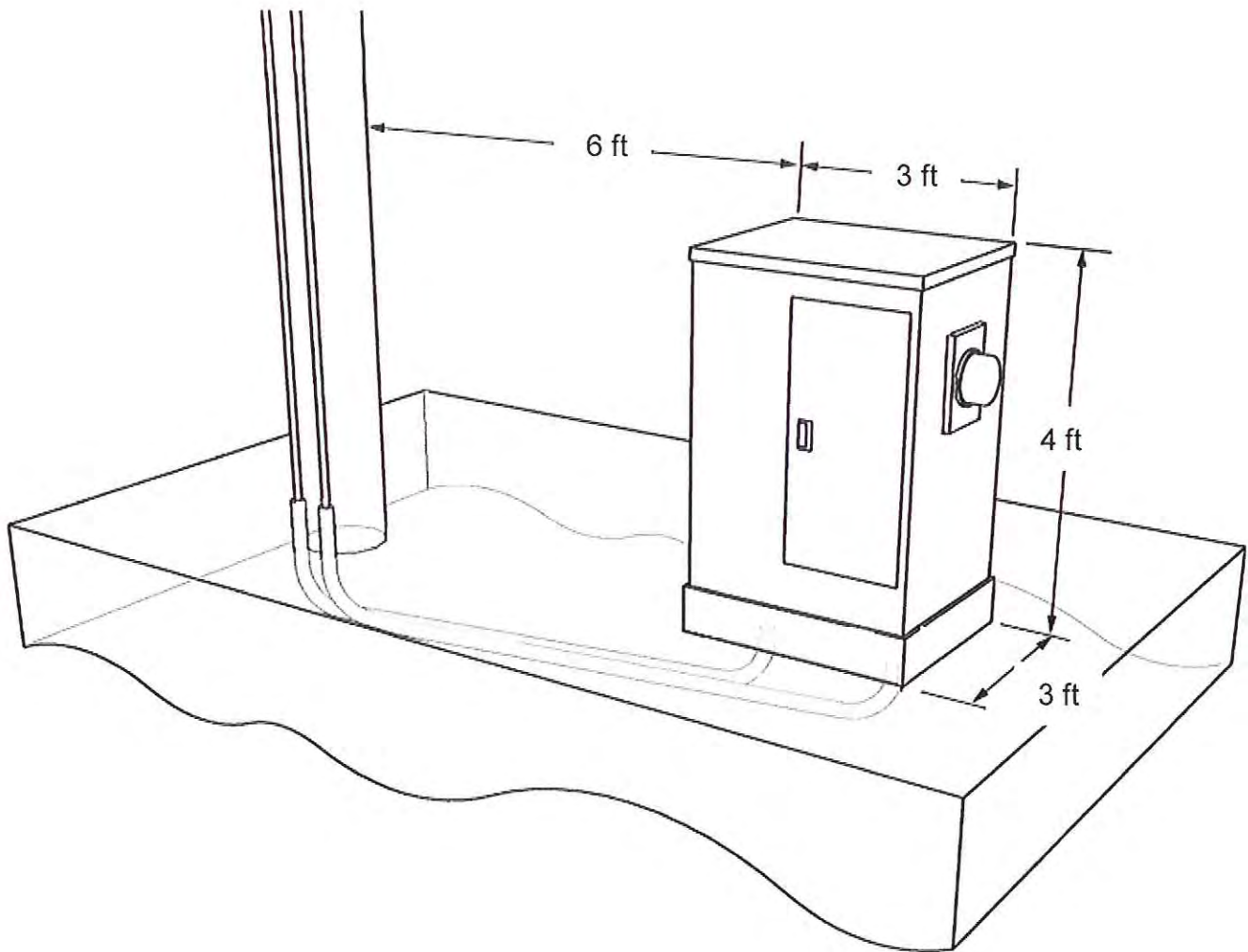
# Antenna at Top of Power Pole



# Antenna at Top of Power Pole



# Equipment in Pedestal



**FIRST AMENDMENT TO RIGHT-OF-WAY USE AGREEMENT**

**THIS FIRST AMENDMENT TO RIGHT-OF-WAY USE AGREEMENT** (this “First Amendment”) made as of the Effective Date below, is entered into by and between the **CITY OF RYE** (the “City”), a municipal corporation duly organized and validly existing under the laws of the State of New York (the “State”), and **CROWN CASTLE NG EAST LLC (F/K/A NEXTG NETWORKS OF NY, INC.)** (“Crown Castle”), a Delaware limited liability company.

**WITNESSETH:**

**WHEREAS**, the City has previously entered into a Right-of-Way Use Agreement with Crown Castle to permit Crown Castle to utilize certain facilities within the City’s rights-of-way to maintain a fiber-based telecommunications network (“Network”) for a term commencing February 17, 2011 and ending February 17, 2021, with three (3) five (5) year renewal terms (the “Use Agreement”);

**WHEREAS**, pages 2-23 of Exhibit A to the Use Agreement repeatedly refers to a certain component of Crown Castle’s equipment as “DoITT Approved shroud;”

**WHEREAS**, DoITT is the New York City Department of Information Technology and Telecommunications;

**WHEREAS**, the City does not fall under DoITT’s jurisdiction and DoITT does not own or control any of the poles contemplated in the Use Agreement;

**WHEREAS**, Consolidated Edison and/or its affiliates (“Con-Ed”) does own or control all of the poles contemplated in the Use Agreement;

**WHEREAS**, the City and Crown Castle desire to amend the Use Agreement to reflect that Con-Ed owns or controls the poles contemplated in the Use Agreement and that any equipment used by Crown Castle is approved by Con-Ed; and

**WHEREAS**, pursuant to a resolution duly adopted at its meeting held on April \_\_, 2016, the City Council authorized the execution of an amendment to the Use Agreement to replace Exhibit A attached to the Use Agreement with a new Exhibit A, thereby permitting Crown Castle to utilize certain equipment that is approved by Con-Ed.

**NOW THEREFORE**, pursuant to the terms, provisions, covenants and conditions more fully set forth below, the Parties hereto agree as follows:

**1. Replacement of Exhibit A**

Exhibit A attached to the First Amendment hereby replaces and nullifies the Exhibit A attached to the Use Agreement.

**2. Effective Date**

The effective date of this First Amendment shall be April \_\_, 2016.

3. **Full Force and Effect**

Except as amended by this First Amendment, the terms and conditions of the Use Agreement shall remain in full force and effect.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

**IN WITNESS WHEREOF**, the Parties have set their hands as of the day and year first above written.

**CITY OF RYE**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**CROWN CASTLE NG EAST LLC  
(F/K/A NEXTG NETWORKS OF NY, INC.)**

By: \_\_\_\_\_

Name: Lewis Kessler

Title: Vice President, DAS and Small Cell Networks

**ACKNOWLEDGEMENTS**

State of New York    )  
                                  )ss.:  
County of Nassau    )

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2016, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

State of New York    )  
                                  )ss.:  
County of Nassau    )

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2016, before me, the undersigned, personally appeared Lewis Kessler personally, known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

# State Level Regulatory Overview

Crown Castle is classified by the New York Public Service Commission (NY PSC) as, “telephone corporation which owns, operates or manages any radio-telephone facility used in providing for hire one-way or two-way radio communication of any form whatsoever between points in New York State.”

- A telephone corporation is required to obtain a Certificate of Public Convenience and Necessity (CPCN) from the NY PSC in order to access the public rights-of-way for the purpose of installing telecommunications facilities.

— Crown Castle, under its subsidiary Crown Castle NG East Inc., has been granted a CPCN by the NY PSC (4/4/2003).



# State of New York CPCN

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 DEINLER  
*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 Maria 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 Maria Le Boeuf at (518) 474-1362.

By direction and delegation  
of the Commission,

Handwritten signature of Allan H. Bausback in cursive.

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

## Proposed Locations in the City Of Rye

Customer Node ID	Latitude	Longitude	Closest Street Address	On Street
ODAS_WEST_N192	40.979977	-73.699977	290 North st	North St
ODAS_WEST_N194	40.974761	-73.694671	12 Sharon Ln	Sharon Ln
ODAS_WEST_N199	40.979682	-73.697097	124 Maple ave	Maple Ave
ODAS_WEST_N206	40.980935	-73.681797	44 Grace Church St	Grace Church St
ODAS_WEST_N207	40.982891	-73.67976	8 Holly Ln	Holly Ln
ODAS_WEST_N216	40.983397	-73.690144	151 Locust ave	Locust Ave
ODAS_WEST_N226	40.973723	-73.699185	401 Theodore Fremd Ave	Theall Rd
ODAS_WEST_N227	40.972115	-73.700646	411 Theodore Fremd Ave	Theall Rd
ODAS_WEST_N228	40.96958	-73.702641	555 Theodore Fremd Ave	Theall Rd
ODAS_WEST_N231	40.968234	-73.703793	330 Theall Rd	Osborne Rd
ODAS_WEST_N233	40.966302	-73.701183	57 Osborne Rd	Osborne Rd
ODAS_WEST_N239	40.964291	-73.703176	42 Lasalle Ave	Glen Oaks Dr
ODAS_WEST_N247	40.961636	-73.69968	47 Soundview Ave	Soundview Ave
ODAS_WEST_N248	40.960297	-73.698198	98 Soundview Ave	Soundview Ave
ODAS_WEST_N249	40.958368	-73.69581	170 Soundview Ave	Soundview Ave
ODAS_WEST_N255	40.963749	-73.682672	339 Rye Beach Ave	Rye Beach Ave
ODAS_WEST_N261	40.960694	-73.691962	19 Hix Ave	Hix Ave
ODAS_WEST_N265	40.959945	-73.683144	630 Forest Ave	Dearborn Ave
ODAS_WEST_N267	40.960442	-73.685816	53 Dearborn Ave	Dearborn Ave
ODAS_WEST_N268	40.962438	-73.68231	578 Forest Ave	Forest Ave
ODAS_WEST_N269	40.95994	-73.688288	2 Garden Dr	Garden Dr
ODAS_WEST_N272	40.961302	-73.686952	10 Van Buren St	Van Buren St
ODAS_WEST_N274	40.957782	-73.687341	51 Hewlett Ave	Hewlett Ave
ODAS_WEST_N279	40.951041	-73.684584	5 Pine Island Rd	Pine Island Rd
ODAS_WEST_N281	40.957526	-73.689085	650 Milton Rd	Milton Rd
ODAS_WEST_N283	40.944423	-73.695083	350 Stuyvesant Ave	Stuyvesant Ave
ODAS_WEST_N285	40.950422	-73.691306	150 Stuyvesant Ave	Stuyvesant Ave
ODAS_WEST_N286	40.962681	-73.705331	421 Park Ave	Park Ave
ODAS_WEST_N287	40.948598	-73.688398	999 Forest Ave	Forest Ave
ODAS_WEST_N288	40.946246	-73.693019	290 Stuyvesant Ave	Stuyvesant Ave
ODAS_WEST_N289	40.955003	-73.690219	740 Old Milton Rd	Old Milton Rd
ODAS_WEST_N252	40.967448	-73.687004	4 Ellsworth St	Playland Pkwy
ODAS_WEST_N271	40.957462	-73.684092	717 Forest Ave	Forest Ave
ODAS_WEST_N282	40.941949	-73.696417	499 Stuyvesant Ave	Stuyvesant Ave
ODAS_WEST_N193	40.976517	-73.693379	95 North st	North St
ODAS_WEST_N195	40.973615	-73.693455	11 North st	North St
ODAS_WEST_N196	40.978064	-73.692768	2 Hammond Rd	Theodore Fremd Ave
ODAS_WEST_N197	40.987699	-73.686586	19 Seneca st	Seneca St
ODAS_WEST_N198	40.982784	-73.696418	255 Central ave	Central Ave
ODAS_WEST_N203	40.984	-73.693498	190 Locust ave	Locust Ave
ODAS_WEST_N208	40.984595	-73.680535	" " Thistle Ln	Thistle Ln
ODAS_WEST_N211	40.984591	-73.683514	17 Purdy ave	Purdy Ave
ODAS_WEST_N218	40.986494	-73.677473	17 Peck ave	Peck Ave

ODAS_WEST_N219	40.987004	-73.682348	33 Cedar st	Cedar St
ODAS_WEST_N221	40.984812	-73.68887	14 Ridgewood Dr	Ridgewood Dr
ODAS_WEST_N222	40.985742	-73.686616	4 Ridgewood Dr	Iroquois St
ODAS_WEST_N223	40.987111	-73.687746	64 Highland Rd	Highland Rd
ODAS_WEST_N229	40.96945	-73.697551	37 Colby Ave	Old Post Rd
ODAS_WEST_N234	40.96887	-73.692753	80 Claremont Ave	Claremont Ave
ODAS_WEST_N235	40.968316	-73.694972	45 Fulton Ave	Fulton Ave
ODAS_WEST_N236	40.96659	-73.694493	4 Reymont Ave	Reymont Ave
ODAS_WEST_N237	40.96617	-73.706003	110 Glen Oaks Dr	Glen Oaks Dr
ODAS_WEST_N240	40.966355	-73.703546	12 Harding Dr	Harding Dr
ODAS_WEST_N242	40.965906	-73.693184	112 Sonn Dr	Sonn Dr
ODAS_WEST_N250	40.967361	-73.697316	51 Franklin Ave	Franklin Ave
ODAS_WEST_N253	40.965131	-73.686488	444 Milton Rd	Milton Rd
ODAS_WEST_N254	40.965159	-73.684331	78 Elmwood Ave	Elmwood Ave
ODAS_WEST_N256	40.964766	-73.681298	511 Forest Ave	Forest Ave
ODAS_WEST_N257	40.963197	-73.697396	31 Allendale Dr	Allendale Dr
ODAS_WEST_N258	40.963471	-73.69514	110 Oakland Beach Ave	Oakland Beach Ave
ODAS_WEST_N259	40.960655	-73.695406	20 Chamberlain St	Chamberlain St
ODAS_WEST_N260	40.959633	-73.693772	12 Byrd St	Byrd St
ODAS_WEST_N262	40.962217	-73.688585	530 Milton Rd	Oakland Beach Ave
ODAS_WEST_N263	40.96304	-73.686006	46 Hill St	Hill St
ODAS_WEST_N264	40.961629	-73.683708	387 Oakland Beach Ave	Halsted Pl
ODAS_WEST_N266	40.962348	-73.691238	1 Rose St	Oakland Beach Ave
ODAS_WEST_N270	40.958612	-73.685862	4 Fairlawn Ct	Fairlawn Ct
ODAS_WEST_N275	40.954555	-73.687069	21 Green Ave	Green Ave
ODAS_WEST_N276	40.955742	-73.685681	15 Valleyview Ave	Valleyview Ave
ODAS_WEST_N277	40.953674	-73.688754	31 Overhill Ave	Overhill Ave
ODAS_WEST_N278	40.952667	-73.687736	11 Halls Ln	Halls Ln
ODAS_WEST_N280	40.961833	-73.693775	10 White Birch Dr	White Birch Dr
ODAS_WEST_N284	40.948151	-73.692038	230 Stuyvesant Ave	Stuyvesant Ave

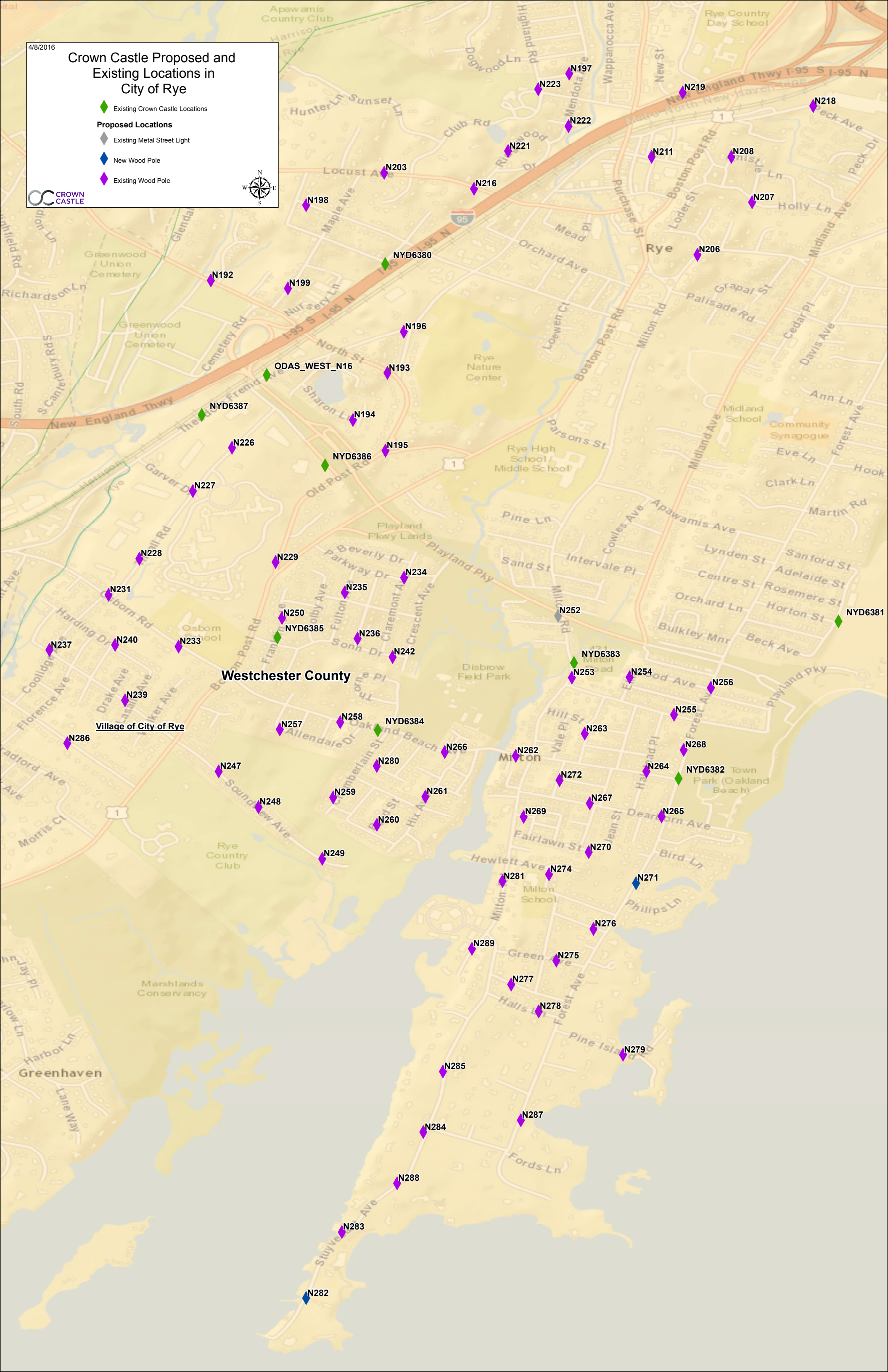
Cross Street 1	Pole ID	Pole Type	Antenna Type
Summit Ave	W29	Wood Comm Zone	BRSAWS360D-698/1710-2-T0-D
Marlene Ct	W1	Wood Comm Zone	BRSAWS360D-698/1710-2-T0-D
North St	VZ4	Wood Comm Zone	BRSAWS360D-698/1710-2-T0-D
Ralston St	T610	Wood Comm Zone	BRSAWS360D-698/1710-2-T0-D
Larkspur Ln	NYT 9	Wood Comm Zone	BRSAWS360D-698/1710-2-T0-D
Ridgewood Dr	T16	Wood Comm Zone	BRSAWS360D-698/1710-2-T0-D
Playland Access Dr	T23	Wood Comm Zone	BRSAWS360D-698/1710-2-T0-D
Garver Dr	T168	Wood Comm Zone	BRSAWS360D-698/1710-2-T0-D
Osborne Rd	T6	Wood Comm Zone	BRSAWS360D-698/1710-2-T0-D
Coolidge ave	W18	Wood Comm Zone	BRSAWS360D-698/1710-2-T0-D
Boston Post Rd	T 7	Wood Comm Zone	BRSAWS360D-698/1710-2-T0-D
Lasalle Ave	NYT 7	Wood Comm Zone	BRSAWS360D-698/1710-2-T0-D
Boston Post Rd	NYT 5	Wood Comm Zone	BRSAWS360D-698/1710-2-T0-D
Boston Post Rd	W10	Wood Comm Zone	BRSAWS360D-698/1710-2-T0-D
Boston Post Rd	18	Wood Comm Zone	BRSAWS360D-698/1710-2-T0-D
Halstead Pl	11	Wood Comm Zone	BRSAWS360D-698/1710-2-T0-D
Dalphin Dr	NYT 8	Wood Comm Zone	BRSAWS360D-698/1710-2-T0-D
Forest Ave	W13	Wood Comm Zone	BRSAWS360D-698/1710-2-T0-D
Everett St	6	Wood Comm Zone	BRSAWS360D-698/1710-2-T0-D
Rye Beach Ave	T67	Wood Comm Zone	BRSAWS360D-698/1710-2-T0-D
Milton Rd	T78	Wood Comm Zone	BRSAWS360D-698/1710-2-T0-D
Newberry Pl	10707	Wood Comm Zone	BRSAWS360D-698/1710-2-T0-D
Robert Crisfield Pl	W 9	Wood Comm Zone	BRSAWS360D-698/1710-2-T0-D
Forest Ave	NYT 8	Wood Comm Zone	BRSAWS360D-698/1710-2-T0-D
Hewlett Ave	T86	Wood Comm Zone	BRSAWS360D-698/1710-2-T0-D
Dead End	4	Wood Comm Zone	BRSAWS360D-698/1710-2-T0-D
Van Wagenen Ave	NYT 16	Wood Comm Zone	BRSAWS360D-698/1710-2-T0-D
Florence Ave	NYT 8	Wood Comm Zone	BRSAWS360D-698/1710-2-T0-D
Magnolia Pl	T118	Wood Comm Zone	BRSAWS360D-698/1710-2-T0-D
Van Wagenen Ave	31	Wood Comm Zone	BRSAWS360D-698/1710-2-T0-D
Stuyvesant Ave	T 97	Wood Comm Zone	BRSAWS360D-698/1710-2-T0-D
Milton Rd	W006624	MSL	Galtronics 14.5" X 24" (P5622)
Philips Ln	N/A	New	dbSpectra 48 x 8
Dead End	N/A	New	dbSpectra 48 x 8
Hammond Rd	W11S	Wood Pole Top	dbSpectra 48 x 8
Old Post Rd	W18	Wood Pole Top	dbSpectra 48 x 8
Hammond Rd	T47 S	Wood Pole Top	dbSpectra 48 x 8
Mendota Ave	NYT3	Wood Pole Top	dbSpectra 48 x 8
Summit Ave	29	Wood Pole Top	dbSpectra 48 x 8
Maple Ave	NYT21	Wood Pole Top	dbSpectra 48 x 8
Mistletoe Ln		Wood Pole Top	dbSpectra 48 x 8
School St	W5	Wood Pole Top	dbSpectra 48 x 8
Midland Ave	N/A	Wood Pole Top	dbSpectra 48 x 8

New St	17990	Wood Pole Top	dbSpectra 48 x 8
Iroquois St	P5	Wood Pole Top	dbSpectra 48 x 8
Ridgewood Dr	W12	Wood Pole Top	dbSpectra 48 x 8
Club Rd	NYT1	Wood Pole Top	dbSpectra 48 x 8
Boston Post Rd	NYT 1	Wood Pole Top	dbSpectra 48 x 8
Parkway Dr	3701	Wood Pole Top	dbSpectra 48 x 8
Morehead Dr	NYT 6	Wood Pole Top	dbSpectra 48 x 8
Sonn Dr	NYT 1	Wood Pole Top	dbSpectra 48 x 8
Coolidge Ave	NYT16	Wood Pole Top	dbSpectra 48 x 8
Hughes Ave	NYT 1	Wood Pole Top	dbSpectra 48 x 8
Crescent Ave	T4	Wood Pole Top	dbSpectra 48 x 8
Fraydun Pl	NYT 2	Wood Pole Top	dbSpectra 48 x 8
Rye Beach Ave	NYT 58S	Wood Pole Top	dbSpectra 48 x 8
Oakwood Ave	8	Wood Pole Top	dbSpectra 48 x 8
Elmwood Ave	W57	Wood Pole Top	dbSpectra 48 x 8
Fullerton Pl	4	Wood Pole Top	dbSpectra 48 x 8
Griffon Pl	N/A	Wood Pole Top	dbSpectra 48 x 8
Mildred Ave	9	Wood Pole Top	dbSpectra 48 x 8
Helen Ave	W4	Wood Pole Top	dbSpectra 48 x 8
Riverside View Ln	N/A	Wood Pole Top	dbSpectra 48 x 8
Hillside Pl	NYT 3	Wood Pole Top	dbSpectra 48 x 8
Oakland Beach Ave	7	Wood Pole Top	dbSpectra 48 x 8
Rose St	26A	Wood Pole Top	dbSpectra 48 x 8
Dead End	8	Wood Pole Top	dbSpectra 48 x 8
Fairway Ave	4	Wood Pole Top	dbSpectra 48 x 8
Forest Ave	N/A	Wood Pole Top	dbSpectra 48 x 8
Stuyvesant Ave	4	Wood Pole Top	dbSpectra 48 x 8
Forest Ave	6	Wood Pole Top	dbSpectra 48 x 8
Hickory Dr	5	Wood Pole Top	dbSpectra 48 x 8
Van Wagenen Ave	W14 L330	Wood Pole Top	dbSpectra 48 x 8

4/8/2016

### Crown Castle Proposed and Existing Locations in City of Rye

- Existing Crown Castle Locations
- Proposed Locations
- Existing Metal Street Light
- New Wood Pole
- Existing Wood Pole



## Existing Crown Castle Locations in the City of Rye

Location ID	Latitude	Longitude	Location Address	Installation Type
NYD6382	40.961369	-73.682507	Across from 594 Forest Ave	Pole Top
NYD6384	40.963170	-73.693739	138 Oakland Beach Ave	Pole Top
NYD6383	40.965694	-73.686414	Side of 411 Milton Rd (50ft South)	Pole Top
NYD6385	40.966648	-73.697485	36 Franklin Ave	Pole Top
NYD6381	40.967238	-73.676533	Across from 52 Roosevelt Ave	Pole Top
NYD6386	40.973074	-73.695710	120 Old Post Rd	Pole Top
NYD6387	40.974950	-73.700310	Across from 401 Theodore Fremd Ave	Comm Zone
NYD6380	40.980584	-73.693459	2 Clinton Ave	Pole Top

Existing Crown Castle  
Deployments in the City of  
Rye



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





# CITY COUNCIL AGENDA

NO. 8

DEPT.: City Manager

DATE: October 19, 2016

CONTACT: Marcus Serrano, City Manager

**AGENDA ITEM:** Authorization for the City Manager to enter into an Intermunicipal Agreement with the County of Westchester Department of Public Works and Transportation for Bus Passenger Shelters.

**FOR THE MEETING OF:**

October 19, 2016

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That the Mayor and Council authorize the City Manager to enter into the agreement with Westchester County.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:** Westchester County provides and maintains bus passenger shelters at various locations within the County pursuant to a License Agreement between the County and Clear Channel Outdoor Inc. The County requires the City enter into an IMA with the County for the bus passenger shelter located at the Rye Train Station. The Agreements are as follows:

- 1) An extension of the current agreement for the five year period of April 1, 2011 through March 31, 2016 for three months from April 1, 2016 through June 30, 2016
- 2) A new agreement for the five-year period commencing July 1, 2016 through June 30, 2021

See attached.

ROBERT P. ASTORINO  
County Executive

DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION

VINCENT F. KOPICKI, PE  
Commissioner

October 6, 2016

Ms. Eleanor M. Militana  
Assistant City Manager  
City of Rye  
1051 Boston Post Road  
Rye, New York 10580

Re: **County Wide Bus Shelter Program Intermunicipal Agreement**

- (1) **First Amendment to Agreement No. 11-915**  
Extend the IMA for Three (3) Months from April 1, 2016 through June 30, 2016
- (2) **Agreement No. DOTOP12-16**  
Five (5) Year IMA from July 1, 2016 through June 30, 2021

Dear Ms. Militana:

Enclosed for execution please find two (2) First Amendment documents to Intermunicipal Agreement No. 11-915 as referenced above. Kindly have the amendments signed by the appropriate official, and have the Acknowledgment forms notarized for that official's signature. In addition, please have an official other than the official signing the amendments complete and sign the top half of the Certificate of Authority forms. The bottom half of the Certificate of Authority forms must be notarized for the other official's signature. All forms shall contain original signatures and be notarized where applicable.

Also enclosed for execution please find two (2) agreement documents for Intermunicipal Agreement No. DOTOP12-16 referenced above. Kindly have the agreements signed by the appropriate official, and have the Acknowledgment forms notarized for that official's signature. In addition, please have an official other than the official signing the agreements complete and sign the top half of the Certificate of Authority forms. The bottom half of the Certificate of Authority forms must be notarized for the other official's signature. All forms shall contain original signatures and be notarized where applicable.

Please return the above to my attention, Westchester County Department of Public Works and Transportation, 148 Martine Avenue, Room 522, White Plains, New York 10601, within fourteen (14) days from the date of this letter.

Upon receipt of the above, the amendment and agreement will be processed and a fully executed copy of each will be mailed to you for your files.

Should you have any questions, please call me at (914) 995-2594.

Very truly yours,

*Michael R. Dispenza*  
Michael R. Dispenza  
Contract Administrator *KU*

MRD/ku  
Encl.

cc: V. Kopicki  
J. Nicoletti  
J. Antonaccio  
N. Klein  
R. Essick  
D. Infield, Dept. of Law  
File



**INTERMUNICIPAL AGREEMENT NO. 11-915**

**THIS FIRST AMENDMENT AGREEMENT** entered into this \_\_\_ day of \_\_\_\_\_, 20\_\_ by and between:

**THE COUNTY OF WESTCHESTER**, a municipal corporation of the State of New York, having an office and place of business in the Michaelian Office Building, 148 Martine Avenue, White Plains, New York 10601 (the "County")

and

**THE CITY OF RYE**, a municipal corporation of the State of New York, having an office and place of business at 1051 Boston Post Road, Rye, New York 10580 (the "Cooperating Municipality")

**W I T N E S S E T H:**

WHEREAS, the County extended for an additional three months, its License Agreement with a private franchisee to construct, operate and maintain bus passenger shelters at various locations within the County as well as provide advertising on bus shelters; and

WHEREAS, the Cooperating Municipality and the County entered into an Intermunicipal Agreement whereby the County provides bus passenger shelters within the Cooperating Municipality pursuant to said License Agreement for the comfort and benefit of its citizens and the Municipality desires to extend the Intermunicipal agreement an additional three months through June 30, 2016.

NOW, THEREFORE, in consideration of the terms and conditions herein contained, the parties agree as follows:

FIRST: The Intermunicipal Agreement between the County and the Cooperating Municipality dated August 11, 2011, for the provision of bus passenger shelters pursuant to a License Agreement and First Amendment Agreement dated March 31, 2016 between the County and Clear Channel Outdoor, Inc., at locations within the Cooperating Municipality for the term April 1, 2011 through March 31, 2016 (the "Intermunicipal Agreement") , is hereby amended to

extend the term an additional three months. The first sentence of Paragraph "SECOND" of the Intermunicipal Agreement therefore, is hereby deleted in its entirety and replaced with the following:

"SECOND: The term of this Agreement shall be for the term commencing on April 1, 2011 and expiring on June 30, 2016, which term coincides with the expiration of the License Agreement and First Amendment Agreement with Clear Channel Outdoor, Inc."

SECOND: For the extended term of this First Amendment Agreement, the Cooperating Municipality shall receive its pro-rated share of revenue from the County at the rates detailed in the Intermunicipal Agreement by September 30, 2016.

THIRD: All other terms and conditions of the Intermunicipal Agreement shall remain in full force and effect.

{REMAINING PAGE INTENTIONALLY LEFT BLANK}

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment.

**THE COUNTY OF WESTCHESTER**

By: \_\_\_\_\_  
Vincent F. Kopicki, P.E.  
Commissioner of Public Works and Transportation

**COOPERATING MUNICIPALITY**

By: \_\_\_\_\_  
(Name & Title)

Authorized by the Board of Legislators of the County of Westchester pursuant to Act No. 241-2016 adopted on the 18th day of July, 2016.

Authorized by the Board of Acquisition and Contract of the County of Westchester on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Authorized by the governing board of the Cooperating Municipality on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Approved as to form  
and manner of execution:

\_\_\_\_\_  
Assistant County Attorney  
County of Westchester  
S/I/DTR/Bus Shelter IMA First Amendment

**MUNICIPALITY'S ACKNOWLEDGMENT**

STATE OF NEW YORK            )  
  ss.:  
COUNTY OF WESTCHESTER)

On this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_, before me personally came \_\_\_\_\_, to me known, who being by me duly sworn, did depose and say that he/she resides at \_\_\_\_\_ and that he/she is the \_\_\_\_\_ of \_\_\_\_\_, the municipal corporation described in and which executed the above instrument; that he/she knows the seal of said municipal corporation; that the seal affixed to said instrument is such municipal corporate seal that it was so affixed by Act of the governing body of said municipal corporation; and that he/she signed his/her name thereto by like Act.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
County



**INTERMUNICIPAL AGREEMENT NO. DOTOP12-16**

**THIS AGREEMENT** entered into this \_\_\_ day of \_\_\_\_\_, 20\_\_ by and between

**THE COUNTY OF WESTCHESTER**, a municipal corporation of the State of New York, having an office and place of business in the Michaelian Office Building, 148 Martine-Avenue, White Plains, New York 10601 (the "County")

and

**THE CITY OF RYE**, a municipal corporation of the State of New York, having an office and place of business at 1051 Boston Post Road, Rye, New York 10580 (the "Cooperating Municipality")

**W I T N E S S E T H:**

WHEREAS, the County has entered into a License Agreement with a private franchisee to construct, operate and maintain bus passenger shelters at various locations within the County as well as provide advertising on bus shelters; and

WHEREAS, the Cooperating Municipality is desirous of having the County provide bus passenger shelters within the Cooperating Municipality pursuant to said License Agreement for the comfort and benefit of its citizens.

NOW, THEREFORE, in consideration of the terms and conditions herein contained, the parties agree as follows:

**FIRST**: The County is hereby authorized to provide and maintain shelters pursuant to a License Agreement between the County and Signal Outdoor Advertising, LLC, or its successors at locations within the Cooperating Municipality, all as shown on Attachment "A" attached hereto and made a part hereof. The Cooperating Municipality warrants and guarantees to the County and its Licensee that all sites shown on Attachment "A" have been reviewed by the Cooperating Municipality and that each and every site conforms with traffic and safety standards, with all local, state and federal laws, rules and regulations, and that it is either wholly contained on a public right-of-way or the appropriate easement has been requested and granted, and a private property release is on file with the Westchester County Department of Public

Works and Transportation. The Cooperating Municipality further certifies and guarantees that the sites designated on Attachment "A" are legally designated bus stop locations or that the sites will be so designated prior to installation of new bus passenger shelters. If such designation is the responsibility of a governmental agency other than the Cooperating Municipality, the Cooperating Municipality will use its best efforts to obtain such designation.

Attachment "A" shall consist of:

1. A list of all bus shelters built under the County Bus Shelter Program located in the Cooperating Municipality.
2. A list of all necessary permits and the name of the municipal official who should be contacted. As the bus shelters are going to be provided as a municipal service, all permit fees shall be waived.

The Cooperating Municipality shall have the opportunity to request additional bus passenger shelters other than those in Attachment A. Requests shall be made to the Westchester County Department of Public Works and Transportation. The County will provide shelters to cooperating municipalities, as they are available based upon the terms of License Agreement. They will be installed according to site suitability and passenger usage.

SECOND: The term of this Agreement shall be for five (5) years commencing on July 1, 2016 and expiring on June 30, 2021, which term coincides with the expiration of the License Agreement with Signal Outdoor Advertising, LLC. A copy of the License Agreement is on file with the Westchester County Department of Public Works and Transportation ("WCDPWT") and may be examined by an authorized representative of the Cooperating Municipality upon reasonable notice to the County. This Agreement shall encompass presently existing bus passenger shelters and those constructed pursuant to the License Agreement.

THIRD: The design and installation of any bus passenger, shelters to be erected within the Cooperating Municipality shall be similar to, but may vary in details from the design drawings entitled "Westchester County Bus Shelter Detail" and dated August 5, 2010, copies of which are on file with the Cooperating Municipality and the County (hereinafter the "Design Drawings"). In no event, however, shall the size and illumination of the advertising signs vary

from those shown in the Design Drawings without prior approval of the Cooperating Municipality.

FOURTH: After the County has deducted \$100,000 annually, for administrative expenses, the remaining revenue received by the County from the Licensee shall be divided between the County and the Cooperating Municipalities on a 50/50 ratio. The share of the revenue due the Cooperating Municipality will be determined by the ratio of that number of shelters operated by the Licensee and producing revenue in the Cooperating Municipality to the total County-wide number of shelters operated under the License Agreement during one annual payment period. Payment will be made by the County to the Cooperating Municipality on August 1st of each year of this Agreement, beginning on August 1, 2017.

FIFTH: The Licensee of the County shall be required to hold harmless and defend the Cooperating Municipality and its employees, officers and agents from all claims, suits and actions arising from the construction and maintenance of the shelters.

SIXTH: All advertising to be displayed on the bus passenger shelters will be submitted to the County Commissioner of Department of Public Works and Transportation for approval. The Cooperating Municipality agrees that this approval shall be sufficient approval for the display of such advertising within the Cooperating Municipality. The County agrees that no political or religious advertising shall be allowed. The County further agrees that no advertising for tobacco products will be allowed, nor shall the County accept any advertising which does not meet reasonable standards of good taste.

SEVENTH: The Licensee of the County shall be required to maintain all shelters in good condition. They shall clean each shelter on a regular basis, and shall be required to repair any damaged shelter.

EIGHTH: The Cooperating Municipality shall not enter into bus shelter advertising programs on its own. The Cooperating Municipality shall waive all municipal fees for the bus shelters.



NINTH: If during the term of this Agreement any bus passenger shelter is required to be removed or relocated for any reason at the request of the Cooperating Municipality, said removal or relocation shall be done only by the County's Licensee, at the sole cost and expense of the Cooperating Municipality.

TENTH: This Agreement and its attachments constitute the entire Agreement between the parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments and writings. It shall not be released, discharged, changed or modified except by an instrument in writing signed by a duly authorized representative of each of the parties.

ELEVENTH: This Agreement shall not be enforceable until signed by both parties and approved by the Office of the County Attorney.

TWELFTH: This Agreement may be executed simultaneously in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. This Agreement shall be construed and enforced in accordance with the laws of the State of New York.

{REMAINING PAGE INTENTIONALLY LEFT BLANK}

THIRTEENTH: In the event of any conflict between the terms of this Agreement and those of its attachments, the terms of the Agreement shall control.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement.

**THE COUNTY OF WESTCHESTER**

By: \_\_\_\_\_  
Vincent F. Kopicki, P.E.  
Commissioner of Public Works and Transportation

**COOPERATING MUNICIPALITY**

By: \_\_\_\_\_  
(Name & Title)

Authorized by the Board of Legislators of the County of Westchester pursuant to Act No. 142-2016 adopted on the 18<sup>th</sup> day of July, 2016.

Authorized by the Board of Acquisition and Contract of the County of Westchester on the 6<sup>th</sup> day of October, 2016.

Authorized by the governing board of the Cooperating Municipality on the \_\_\_ day of \_\_\_\_\_, 20\_\_.

Approved as to form  
and manner of execution:

\_\_\_\_\_  
Assistant County Attorney  
County of Westchester  
S/I/DTR/Bus Shelter IMA2016

**MUNICIPALITY'S ACKNOWLEDGMENT**

STATE OF NEW YORK            )  
  ss.:  
COUNTY OF WESTCHESTER)

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, before me personally came  
\_\_\_\_\_, to me known, who being by me duly sworn, did  
depose and say that he/she resides at \_\_\_\_\_  
and that he/she is the \_\_\_\_\_  
of \_\_\_\_\_, the municipal corporation described in and which  
executed the above instrument; that he/she knows the seal of said municipal corporation; that  
the seal affixed to said instrument is such municipal corporate seal that it was so affixed by Act  
of the governing body of said municipal corporation; and that he/she signed his/her name thereto  
by like Act.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
County

**CERTIFICATE OF AUTHORITY**

**(Municipality)**

I, \_\_\_\_\_

*(Officer other than Officer signing agreement)*

certify that I am the \_\_\_\_\_ of the \_\_\_\_\_  
*(Title)* *(Name of Municipality)*

(the "Municipality"), a corporation duly organized and in good standing under the

\_\_\_\_\_  
*(Law under which organized, e.g., the New York Village Law, Town Law, General Municipal Law)*

named in the foregoing agreement that \_\_\_\_\_  
*(Person executing agreement)*

who signed said agreement on behalf of the Municipality was, at the time of execution

\_\_\_\_\_  
*(Title of Person Executing Agreement)*

was duly signed for on behalf of said Municipality by authority of its

\_\_\_\_\_ thereunto duly  
*(Town Board, Village Board, Town Council)*

authorized, and that such authority is in full force and effect at the date hereof.

\_\_\_\_\_  
*(Signature)*

STATE OF NEW YORK          )  
  ss.:  
COUNTY OF WESTCHESTER)

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned, personally appeared  
\_\_\_\_\_, personally known to me or proved to me on the basis of  
satisfactory evidence to be the individual whose name is subscribed to the above certificate and  
acknowledged to me that he/she executed the above certificate in his/her capacity as  
\_\_\_\_\_ of \_\_\_\_\_,  
*(Title)* *(Municipality)*  
the municipal corporation described in and which executed the within instrument.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
County

**ATTACHMENT A**

<b><u>COMMUNITY</u></b>	<b><u>#</u></b>	<b><u>Installation Date</u></b>	<b><u>LOCATION</u></b>	<b><u>DESCRIPTION</u></b>
Rye	R01	Pre- 4/1/2011	Rye Railroad Station	Southbound

List of all permits required:

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Name of Contact and title for permit application:

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# CITY COUNCIL AGENDA

NO. 8A

DEPT.: City Manager

DATE: October 19, 2016

CONTACT: Marcus Serrano, City Manager

**AGENDA ITEM:** Resolution to amend the 2016 Adopted Fees and Charges for the Rye Boat Basin Enterprise Fund.

**FOR THE MEETING OF:**

October 19, 2016

**RYE CITY CODE:**

CHAPTER  
SECTION

**RECOMMENDATION:** That the Council amend the 2016 Adopted Fees and Charges for the Rye Boat Basin Enterprise Fund.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:** The Boat Basin Commission is requesting that the City Council amend the 2016 Adopted Fees and Charges by delaying incurring the late charge for pulling boats out of the water from November 1st to December 1st. Currently boats must be pulled from the water by November 1<sup>st</sup> and late fees would be incurred. The Commission is asking for an extension of one month on the removal of boats due mainly to a shortage of contractors able to haul boats out of the water.



# CITY COUNCIL AGENDA

NO. 9 DEPT.: Police Department DATE: October 19, 2016  
CONTACT: Michael C. Corcoran, Jr., Police Commissioner

**AGENDA ITEM:** Acceptance of donation to the Rye Police Department from the Potter family in the amount of One Thousand (\$1,000.00) Dollars.

**FOR THE MEETING OF:**

October 19, 2016

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That the Council adopt the following resolution:

Whereas, the Potter family desires to donate One Thousand (\$1000) Dollars to the Rye Police Department; and

Whereas, the fiscal 2016 General Fund budget did not anticipate these donations; now, therefore be it

Resolved, that the City Council of the City of Rye accepts the aforementioned donations; and be it further

Resolved that the City Comptroller is authorized to amend the fiscal 2016 General Fund budget as follows:

Increase Deferred Revenues - Police Donations \$1,000.00

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:**

The Potter family, by letter dated September 30, 2016, advised the Police Department that they would like to make a donation of \$1,000.00 in recognition of the Police Department's dedication to the Rye community. The Police Commissioner recommends acceptance of this donation.