

EXECUTION VERSION

POLE ATTACHMENT AGREEMENT

THIS POLE ATTACHMENT AGREEMENT (the "Agreement") made on this the 23rd day of February, 2016 between the Huntsville Utilities Electric Board, a municipal public utility board created by the City of Huntsville, Alabama (the "Licensor") and Google Fiber Inc., a Delaware corporation with its principal place of business at 1600 Amphitheatre Parkway, Mountain View, California 94043 (the "Licensee").

WITNESSETH

WHEREAS, Licensee proposes to erect, attach, and install aerial cables, wires, and/or associated appliances to utility poles owned by Licensor in Huntsville and Madison County, Alabama, and vicinity; and,

WHEREAS, Licensor is willing to grant a license to Licensee to permit the erection, attachment, and installation of said cables, wires and/or appliances to Licensor's utility poles where, in Licensor's judgment, such joint use will not interfere with Licensor's own service requirements, including considerations of economy and safety;

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions herein contained, the parties hereto do hereby mutually covenant and agree as follows:

1. **Licensee Information Statement.** Upon execution of this Agreement, Licensee shall complete the licensee information statement attached hereto and incorporated by reference herein as Exhibit A (the "Licensee Information Statement"). Licensee shall promptly inform Licensor in writing of any changes or revisions to the information supplied by Licensee on the Licensee Information Statement, and failure to do so shall result in termination of this Agreement. The Licensee shall notify Licensor in writing within thirty (30) days of the following events: (1) the merger, consolidation or other transfer of all or substantially all of the assets of Licensee or the line of business of Licensee which is served by the Licensor; (2) change of the legal name of the Licensee; or (3) change of address of Licensee.

2. **Grant of License.** Licensor hereby grants Licensee a non-exclusive license to erect, attach, and install the cables, wires, and/or appliances described in the Licensee Information Statement (the "Attachments"), at Licensee's own expense, to the Licensee's Assigned Space (as hereinafter defined) on Licensor's utility poles (the "License").

3. **Assigned Space.** As used herein, "Assigned Space" shall mean an allocation of space on the Licensor's utility pole requested by Licensee in order for Licensee to erect, attach, install, maintain, service and repair the Attachments, which such space is more particularly described, if applicable, in the Licensee Information Statement.

4. **Term.** The initial term of the License shall be for five (5) years from the date of this Agreement (the "Initial Term") unless earlier terminated in accordance with the terms of this Agreement. Upon termination of this Agreement, Licensee, at its own expense, shall promptly



EXECUTION VERSION

remove the Attachments from the poles of Licensor. In the event Licensor must remove any Attachments from its poles for any reason, the Licensee shall bear the cost of such removal.

5. **Rental Rate; Payment.** Licensee shall pay to Licensor for the license granted under this Agreement a rent at the rate set forth in the attached Exhibit B (the "Rent"). Rent shall be payable annually on the last day of December each year during which this Agreement remains in effect. Annual per pole rental payments shall be calculated based upon the number of poles on which there are Attachments on the first day of December each year during which this Agreement remains in effect. As set forth in Exhibit B, Licensor shall have the right to adjust the Rent on October 1st of each calendar year. Invoices for rent, expenses and any other charges under this Agreement shall be payable by the Licensee within forty-five (45) days of receipt of notice as defined in Section 19 hereof, such invoice by Licensee. Non-payment of bills shall constitute a default of this Agreement. A cash deposit or other suitable guarantee, as determined by mutual agreement of the parties, equal to the estimated annual rental rate, shall be required of Licensee upon Licensee's execution of this Agreement, provided however, that Licensor agrees that a surety bond in the amount of \$500,000 in a form reasonably acceptable to Licensor will satisfy the deposit requirement set forth in this sentence.

6. **Inventory of Attachments.** At Licensor's sole discretion, and at intervals no less than five (5) years, an actual inventory of Attachments shall be made by representatives of the parties or by a third-party. If there is any difference in the number of Attachments found by the inventory and the number of Attachments which is the basis for the calculation of the Pole Attachment Rental Rate hereunder, correction will be made by retroactive billing and the Pole Attachment Rental Rate shall be adjusted accordingly. Each party shall share equally the cost of making such inventory of Attachments.

7. **No Conflict.** Licensor shall at its own expense attach, erect, install, maintain, and repair the Attachments in a manner suitable to Licensor in its sole discretion, provided, however, that Licensee may install Drop Attachments, at its own expense, without filing a work order with Licensor. A "Drop Attachment" is fiber span directly connecting a utility pole to a customer's point of connection with no utility pole in between. Licensee shall provide written notification to Licensor of all Drop Attachments installed no later than thirty (30) days following the end of the calendar month in which such Drop Attachments are installed. The Attachments shall not conflict with the use of the utility poles by Licensor, with the use of the utility poles by third parties, or with the working use of the other attachments and facilities on the utility poles. The Attachments shall not extend outside the Licensee's Assigned Space on each pole. In the event of a conflict between Licensee's use and the use of the utility pole by a third party or by Licensor, Licensor shall have the sole right to resolve the conflict in its sole discretion.

8. **Maintenance of Attachments.** Licensor shall have the right to inspect the Attachments at any time. Licensee shall at its own expense maintain the Attachments in a safe condition, in thorough repair, and in a manner suitable to Licensor in its sole discretion. Licensee shall be solely responsible to clear any trees, limbs, and/or vegetation or like matter which interferes with Licensee's use of the Licensee's Assigned Space. Licensee shall exercise its best efforts to avoid damage to Licensor's utility poles and facilities, and the facilities and attachments of third parties. Unused Drop Attachments shall be removed completely from the pole and not

EXECUTION VERSION

left dangling. Unused cables shall be removed and not used as a support for additional cables. All Licensee Attachments shall be on the same side of the pole. Upon notice from Licensor, Licensee shall promptly and at its own expense, relocate, replace, repair or otherwise renew the Attachments, and transfer them, if required by Licensor, to substituted poles, or perform any other work, maintenance and/or repair in connection with the Attachments that may be required by Licensor; provided, however, that in case of an emergency, as determined in the sole discretion of Licensor, Licensor may relocate, replace, repair or otherwise renew the Attachments, transfer them to substituted poles or perform any other work, maintenance, and/or repair in connection with the Attachments, and Licensee shall, on demand, reimburse Licensor for the expense thereby incurred by Licensor. Where applicable, reimbursement for such work shall be at the rate set forth in Exhibit B.

9. **Notice to Licensor; Compliance.** In the event Licensee must work on a pole in an area within two (2) feet of Licensor's attachments, Licensee shall give written notice to Licensor prior to commencing the work. Licensee's Attachments, in each and every location, shall be erected and maintained in accordance with the requirements and specifications of the National Electrical Safety Code, 1997 Edition, or any amendments or revisions of said Code (the "NESC"), and in compliance with any other rules or orders now in effect or that hereafter may be issued by any authority having jurisdiction. Licensee acknowledges responsibility for safe conduct of its employees, contractors, and agents in erecting, attaching, installing, maintaining, servicing, repairing or in any other way working in, around, or on the Attachments and Licensor's utility poles. Licensor expressly grants Licensee the right to access the area in and around Licensor's pole attachments and other pole facilities for the purpose of complying with the NESC and the terms of this Agreement.

10. **Replacement or Alteration of Poles.** In the event Licensee believes that the Licensor's existing poles are inadequate to support or otherwise accommodate the Attachments, Licensee may request that Licensor make alterations to Licensor's poles or other accommodations by supplying the relevant information on the Licensee Information Statement or by written request to the Licensor. Licensee agrees that if Licensor determines, with sole discretion, that replacement or other alteration of the poles is required in order to accommodate the Licensee's Attachments, Licensee shall pay the cost of such replacement or other alteration within forty-five (45) days of receipt of notice of such costs by Licensor. Licensee further recognizes that certain poles may be deemed unsuitable for attachment because of location, existing equipment on the poles, or for other reasons. In the event that Licensor determines that any certain pole or poles are unsuitable for the Attachments requested by Licensee, Licensee shall be required to choose an alternate pole route which shall include suitable poles or shall place its requested attachments underground. Licensee agrees to bear the full expense of such alternative arrangements and shall reimburse Licensor for any and all costs and expenses incurred by Licensor in making such alternative arrangements within forty-five (45) days of receipt of notice of all costs and expenses by Licensor. Any strengthening of poles (guying) required to accommodate the Attachments of Licensee shall be provided by and at the expense of Licensee and to the satisfaction of Licensor. Licensee shall provide anchors for its own use and shall not attach to anchors owned by Licensor.

11. **Work Orders.** Licensee recognizes that requests for work to be completed by Licensor pursuant to this Agreement shall be addressed, if appropriate, in accordance with

EXECUTION VERSION

procedures established by Licensor as to priority and order of work to be performed. Licensor shall determine in its sole discretion, whether to undertake to perform the works requested and in what order the work requests are to be performed.

12. **Interruption of Service.** Licensor reserves to itself, its successors and assigns, the right to maintain its poles and to operate its facilities thereon in such manner as will best enable it to fulfill its own service requirements. Licensor shall not be liable to Licensee for any interruption to service of Licensee or for interference with the operation of the cables, fibers, wires, appliances, or Attachments of Licensee arising in any manner out of the use of Licensor's poles hereunder.

13. **Licensee's Authority.** Licensee shall, upon request of Licensor, submit to Licensor written evidence, satisfactory to Licensor, of its authority to erect and maintain its facilities within public streets, highways and other thoroughfares and shall secure any necessary consent from state or municipal authorities or from the owners of property to erect, attach, install, repair, service, and maintain the Attachments.

14. **Report of Damage.** Licensee shall exercise special precautions to avoid damage to the facilities of Licensor and of others supported on Licensor's poles and hereby assumes all responsibility for any and all loss of such damage. Licensee shall make an immediate report to Licensor of any damages to Licensor's poles or surrounding property. Licensee shall reimburse Licensor for all expense incurred in making repairs due to damage caused by Licensee.

15. **Indemnification; Insurance.** Licensee shall indemnify, defend, protect and save harmless Licensor or any other third party claiming through the Licensor from and against any and all claims and demands for damages to property and injury or death to persons, including without limitation payments made under any workers' compensation law or under any plan for employee disability and death benefits, which may arise out of or be caused by the erection, attachment, installation, maintenance, servicing, repair, presence, use or removal of the Attachments or by the proximity to the Licensee's Attachments of the Licensor's cables, wire apparatus, appliances, utility poles, or other facilities, or by any act of Licensee on or in the vicinity of Licensor's poles. Licensee acknowledges and agrees that Licensee's obligations shall include, but are not limited to, indemnity by the Licensee from and against any claim or demand against Licensor which alleges negligence or breach of any duty owed by Licensor to any claimant. In addition to the foregoing Licensee shall carry insurance to protect the parties hereto from and against any and all claims, demands, actions, judgments, costs, expenses and liabilities of every name and nature which may arise or result, directly or indirectly, from or by reason of such loss, injury or damage. The minimum amounts of such insurance against liability due to damage to property shall be at least Two Hundred Fifty Thousand Dollars and No/100 (\$250,000.00) as to any one incident, and against liability due to injury or death of one person at least in the amount of Five Hundred Thousand Dollars and No/100 (\$500,000.00), and as to any one occurrence at least in the amount of One Million Dollars and No/100 (\$1,000,000.00). Licensee shall also carry such insurance as will protect it from all claims under any workers' compensation laws in effect that may be applicable to it. All insurance required shall remain in force for the entire life of this Agreement and the company or companies issuing such insurance shall be licensed to provide such insurance within the State of Alabama. Licensor shall be named as additional insured on all insurance



EXECUTION VERSION

policies required hereunder (except workers' compensation insurance). Licensee shall submit to Licensor certificates by each company insuring Licensee to the effect that each company has insured Licensee. Each such certificate shall state that written notice to Licensor of any cancellation or change in insurance is required. The terms and provisions of this Section 15 shall survive this Agreement.

16. **Non-Exclusive License.** Licensee recognizes that it holds a non-exclusive license to install, erect, attach, maintain, service and repair attachments and other facilities to Licensor's utility poles in Huntsville and Madison County, Alabama, and vicinity, and that other licensors may seek to install attachments on the same poles desired by Licensee. Licensee agrees that Licensor shall be the sole judge of which entity desiring attachments to poles of the Licensor shall bear the cost of any necessary adjustments in the height of poles or otherwise necessary to accommodate the desired Attachments. Licensee further agrees to indemnify, protect and save harmless the Licensor from and against any and all third-party claims and demands arising out of disputes as to the costs associated with adjustments of height of poles, placement of poles, or other adjustments, including any reasonable expenses and attorneys' fees incurred in defense of or in resolution of any such claims. No use, however extended, of Licensor's poles, under this Agreement, shall create or vest in Licensee any ownership or property rights in said poles, and Licensee's rights therein shall not be construed to compel Licensor to maintain any of Licensor's poles for a period longer than demanded by its own service requirements.

17. **Removal of Attachments.** Licensee may at any time remove its Attachments from any pole or poles of Licensor, but shall promptly give Licensor written notice of such removal. No refund of any rental or other charges shall be due on account of such removal.

18. **Termination.**

a. Upon notice from Licensor to Licensee that the use of any pole or poles is in contravention with any law or regulatory authority, and if Licensee fails within thirty (30) days of such notice to bring its use of any such pole or poles within compliance, the license covering the use of such pole or poles shall immediately terminate and the cables, wires, appliances and Attachments of Licensee shall be removed immediately from the affected pole or poles at Licensee's expense.

b. If Licensee shall fail to comply with any of the provisions of this Agreement, or shall default in any of its obligations under this Agreement and shall fail within thirty (30) days written notice from Licensor to correct such default or non-compliance, Licensor may, at its option, forthwith terminate this Agreement and/or the entire license or any part thereof, granted to Licensee hereunder. In case of such termination, a proportionate refund of all prepaid rentals shall be made, less any costs incurred by Licensor for removal of the Licensee's attachments. In case of a default and termination of this Agreement, the Licensee shall have six (6) months to remove all of the Licensee's Attachments from the Licensor's poles after which six-month period, the Licensor shall become the owner of the attachments unless other arrangements are made which are acceptable in the sole determination of the Licensor. The terms and provisions of this Section 18 shall survive this Agreement.



EXECUTION VERSION

c. In the event of default of any of the terms or provisions contained herein the party found to have been in default hereby agrees to pay to the other the reasonable attorneys' fees and costs in connection therewith.

19. **Notices.** The National Joint Utility Notification System shall be used by both Licensee and Licensor to manage requests to transfer or to maintain facilities or attachments once the initial attachment has been made. All other notices or reports required or permitted hereunder shall be delivered personally or by U.S. Mail, registered or certified mail, postage prepaid, or by facsimile, in all events to the following addresses of the respective parties:

To Licensor: Huntsville Utilities
112 Spragins Street
Huntsville, Alabama 35801
Facsimile: 256-535-1445
Attn: Stacy Cantrell

To Licensee: See Exhibit A attached hereto.

Notices shall be effective upon receipt (or refusal of delivery or return unfound) if personally delivered, on the third business day following the date of mailing, if sent by U.S. mail, or upon sending, if sent by facsimile with written confirmation of receipt from the database of the facsimile equipment from which such notice is sent. Any change of address of a party shall be promptly communicated in writing to the other party.

20. **Assignment.** Licensee may not transfer or assign, voluntarily or by operation of law, its rights and obligations under this Agreement (or the licenses granted hereunder) without the prior written consent of Licensor (such consent not to be unreasonably withheld, conditioned, or delayed); provided, however, that Licensee may assign its obligations and rights under this Agreement (and the licenses granted hereunder) upon notice and without Licensor's consent to: (a) an entity that directly or indirectly controls, is controlled with or by, or is under common control with Licensee; (b) an entity resulting from any merger, consolidation or other reorganization involving Licensee, or (c) the purchaser of all or substantially all of Licensee's assets. Without limiting Licensee's rights under Section 20(a), Licensee may also assign its rights and obligations under this Agreement (and the licenses granted hereunder) to Licensee's assignee under that certain Dark Fiber Lease Agreement entered into between the Licensor and Licensee dated February 23, 2016 (the "Lease Agreement").

21. **No Waiver.** Failure to enforce or to insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions but the same shall be and remain at all times in full force and effect. Nothing herein contained shall be construed as affecting the rights or privileges previously conferred by Licensor, by contract or otherwise, to others, not parties to this Agreement, to use any poles covered by this Agreement; and Licensor shall have the right to continue and extend such rights or privileges. The attachment privileges herein granted shall at all times be subject to such existing contracts and arrangements.

EXECUTION VERSION

21. **Successors and Assigns.** Subject to Section 18 hereof, this Agreement shall inure to the benefit of and be binding upon the respective legal representatives, successors and assigns of the parties hereto.

22. **Headings; Captions.** The headings and captions used in this Agreement are for convenience only and shall not be construed to limit or expand the terms of this Agreement.

IN WITNESS WHEREOF, the parties have caused these presents to be duly executed the day and year first above written.

LICENSOR: Huntsville Electric Utility Board

ATTEST:

By J.C. Stone JAY C. STONE
Its PRESIDENT/CEO

LICENSEE: Google Fiber Inc.

ATTEST:

By [Signature]
Print name: _____
As Its: _____



EXHIBIT A
LICENSEE INFORMATION STATEMENT

Name of Licensee: Google Fiber Inc.

Type of Entity (corporation, partnership, individual, etc.): Corporation

State of incorporation / formation, if applicable: DE

Contact name: _____

Billing address: 1600 Amphitheatre Parkway, Mountain View, CA 94043

Phone: _____ Fax: _____

Description of Attachments: _____

Color of Tag to be placed on Attachments by Licensees: _____

Requested Pole Accommodation, if any: _____

TO BE FILLED OUT BY HUNTSVILLE UTILITIES ONLY:

Assigned _____ Space:

Additional Requirements of Licensee: _____

Initials of Licensee's Authorized Representative: _____ Date: _____

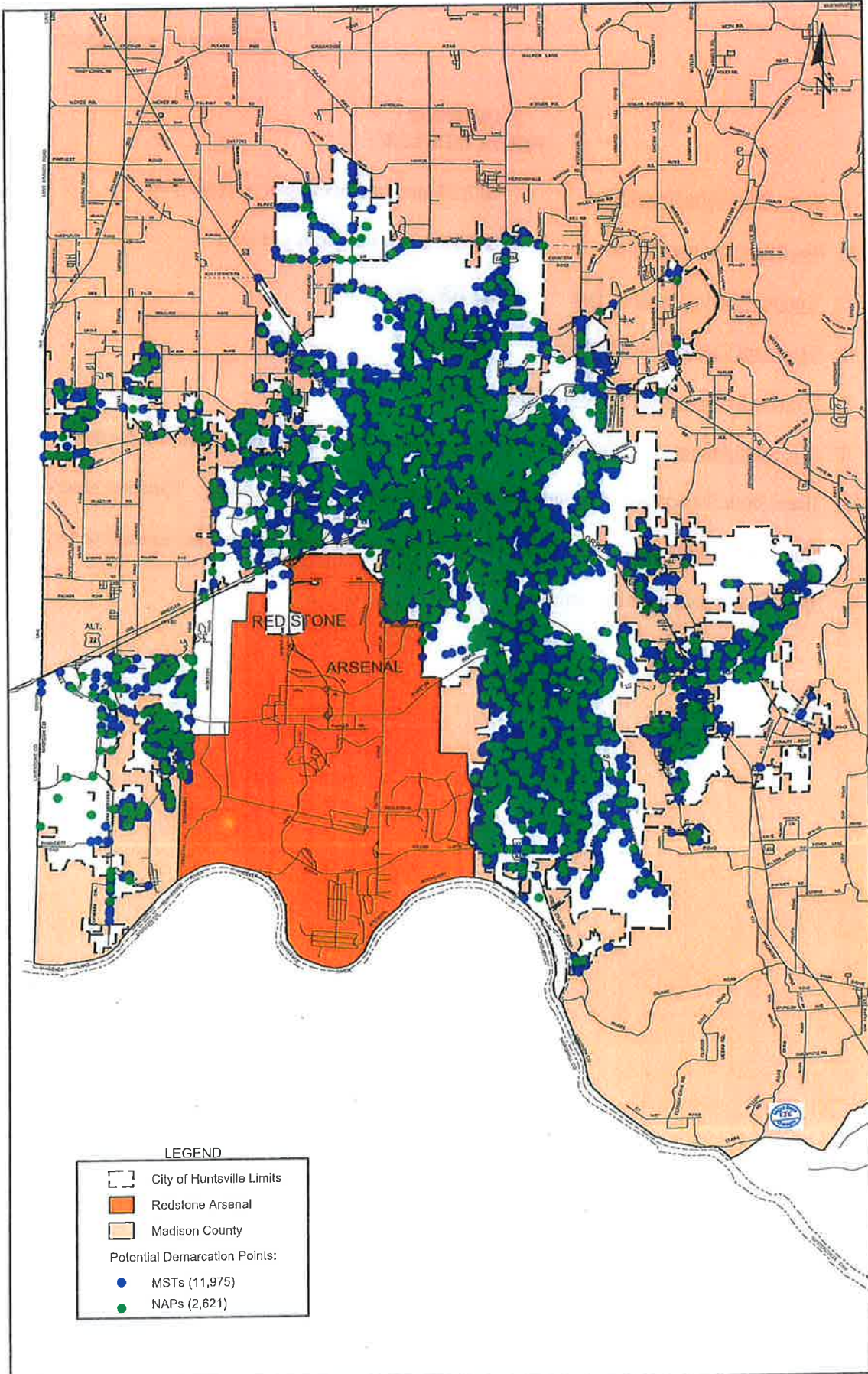


EXECUTION VERSION






**EXHIBIT B
FEE SCHEDULE**

- A. Basic Pole Attachment Fee: \$17.24 per attachment/per pole/per year
- B. Facility Attachment Fee: \$60.00 per square foot/per year
- C. Tangent Cable Transfer Fee: \$20.00
- D. Dead-end Cable Transfer Fee: \$20.00
- E. Removal of Hanging Drop or Cable: \$50.00
- F. Fee Adjustment: On October 1st of each calendar year the annual rental rate for the Basic Pole Attachment Fee shall be subject to change by the Licensor. Licensor reserves the right to adjust any of the fees on Exhibit B and add fees for services required under this Pole Attachment Agreement.





LEGEND

-  City of Huntsville Limits
-  Redstone Arsenal
-  Madison County
- Potential Demarcation Points:
 -  MSTs (11,975)
 -  NAPs (2,621)