

AMENDMENT
CONDUIT OCCUPANCY LICENSE AGREEMENT
(Electric Service)

This Amendment to the Conduit Occupancy License Agreement between the City of Milwaukee and Everstream GLC Holding Company LLC (“Amendment”) is made as of the _____ day of _____, 2020 (“Effective Date”).

Whereas, The City of Milwaukee, a municipal corporation, having its principal place of business at 200 East Wells Street, Milwaukee, Wisconsin 53202 ("City") and Everstream GLC Holding Company LLC, having its principal place of business at 1228 Euclid Avenue, Suite 250, Cleveland, Ohio 44115 ("Everstream") entered into a certain Conduit Occupancy License Agreement dated November 1, 2019 (“COLA”);

Whereas, City owns and operates a conduit system located in the City of Milwaukee, County of Milwaukee, State of Wisconsin (“Conduit System”); and

Whereas, pursuant to the COLA, City has permitted Everstream, on a license basis, to place Everstream's facilities within the portions of the Conduit System designated in Everstream's facilities conduit maps on file in the office of the City Engineer and the Department of Public Works; and

Whereas, pursuant to Rule 102.5(k) (Resale of Energy) of the Wisconsin Electric Power Company (“WEPCO”) Rules and Regulations, authorized by the Public Service Commission of Wisconsin (“PSC”) in PSC Docket No. 6630-TE-2017, the City may furnish Everstream with electric service from the City’s service/meter pedestals connected to the City’s traffic signals; and

Whereas, Everstream desires to receive electric service from the City’s service/meter pedestals under the terms of Rule 102.5; and

Whereas, the City is willing to provide electric service to Everstream, where available, provided that the City incur no costs to provide such service; and

Whereas, the City of Milwaukee Common Council has authorized the Commissioner of Public Works to execute this Amendment pursuant to Common Council Resolution No. 200007.

Now, Therefore, in consideration of the foregoing and of the mutual covenants provided herein, the parties agree as follows:

A. Electric Service. Subject to the provisions of the COLA, City hereby agrees to provide electrical power, where available and subject to City's approval, and associated access to City streetlight and traffic signal conduit for Everstream's small cell wireless telecommunications facilities ("Small Cell"), pursuant to the following terms:

1. Electric Application.

a. Everstream shall submit to the City Engineer a detailed request for electric service ("Electric Application"). City shall review the Electric Application and determine the feasibility of the request. If the City determines that the Electric Application is preliminarily feasible, the City shall notify Everstream of its determination.

2. Design, Make-Ready, and Other Construction Costs.

a. Everstream shall pay City for City's actual design, make-ready work, and other construction costs to provide electric service pursuant to this Amendment.

b. Upon application or request for electric service by Everstream, City shall provide an estimate of the costs to perform all design and make-ready work, including but not limited to design of the power route, components, inline fuses, pull boxes, hand holes, breakers, and the corresponding disconnect points. City shall not commence design and make-ready work until Everstream agrees to the estimate in writing.

- c. Upon City approval of Everstream's application or request, all construction will be completed by City or City's contractor, provided that City may authorize Everstream to have the construction performed by Everstream's contractor.
 - d. If additional work is required to bring electric service to Everstream's Small Cell pole, City or its contractors will provide a cost estimate to Everstream before performing such additional work. Everstream shall reimburse City for City's actual costs to perform such additional work.
3. Fees and Charges.
- a. City shall invoice Everstream a flat fee set by the City for providing electric service as set forth in Rule 102.5 and as authorized by the PSC. Everstream acknowledges that the flat fee may vary for each City service/meter pedestal.
 - b. Everstream shall pay City for any usage of the Conduit System according to the terms of the COLA and City shall invoice Everstream for the usage of Conduit System pursuant to the COLA.
4. Operations.
- a. City shall use reasonable diligence to provide or restore electric service approved under this Amendment. Uninterrupted electric service is not guaranteed and City shall not be liable for any damage caused by its employees, agents or contractors arising out the performance of this Amendment, including but not limited to interruption, deficiencies or imperfections in the electric service.
 - b. City shall endeavor to notify Everstream of any upcoming City public works projects that may affect a Small Cell pole location. City shall not be liable for any costs associated with any relocation required.

- c. Prior to performing any work related to the Small Cell facilities, Everstream shall obtain all permits required under the COLA; the Small Cell Master License Agreement between the City and Everstream; and federal, state or local law.
- d. Everstream’s Network Operations Center (“NOC”) shall be available twenty four (24) hours a day. The NOC information is provided below:
 - Phone: (866) 624-8624
 - Electronic Mail: support@everstream.net
- e. Everstream’s on-site response time shall not exceed two (2) hours from the initial contact by City.
- f. In the event of an emergency, Everstream shall immediately notify City at the Department of Public Works, Electrical Services Dispatch at: (414) 286- 5944.
- g. Everstream understands under normal operating conditions, a neutral to earth current or voltage may exist on the grounded or grounding conductors or any other conductive objects within the premises. Everstream shall, at its own cost, make any and all required efforts at Everstream’s own cost in order to manage such situations.

B. COLA. All other terms of the COLA remain unchanged and in full force and effect.

[Signature page follows]

In Witness Whereof, the parties hereto have executed this Amendment as of the Effective Date.

CITY OF MILWAUKEE

EVERSTREAM GLC HOLDING COMPANY LLC

By: _____
Commissioner of Public Works

By: _____
Joseph Pellegrini
Executive Vice President, Operations

Date: _____

Date: _____

COUNTERSIGNED:

Aycha Sawa, Comptroller

Date: _____

Approved as to form and execution this ___ day of _____, 2020.

Assistant City Attorney