

## ESCROW AGREEMENT

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THIS ESCROW AGREEMENT (this “Agreement”) is made and entered into as of this 15<sup>th</sup> day of March, 2022, by and among the Village of Allouez (“Village”); TDS Telecommunications, LLC, a foreign limited liability company (“TDS”); and Dominion Title & Exchange Services, LLC (“Escrow Agent”).

### WITNESSETH:

WHEREAS, TDS desires to complete large scale fiber optic installation, which is estimated to be 71.28 miles in length, within the Village of Allouez, State of Wisconsin in 2022 and 2023 (the “Project”); and

WHEREAS, TDS acknowledges staffing and resource challenges and desires to partner with the Village to retain the services of Multimedia Communications & Engineering, Inc. (“MCE”) and Excel Underground, LLC (“Excel”) to assist in the Project; and

WHEREAS, the Village will retain MCE and Excel to provide the following functions for the Village: ~~location~~locating, permitting, ~~inspections~~inspecting, field monitoring, ~~and field consultations~~consulting, and closing out, for the Project (collectively, the “Project Services”); and

WHEREAS, TDS will bear financial responsibility for the actual cost of such Project Services ~~and project close-out costs~~ incurred by the Village up to the amount of the Escrow Funds (as hereafter defined) pursuant to the terms of this Agreement; and

WHEREAS, TDS also will bear all construction costs for the Project; and

WHEREAS, the parties hereto desire to establish an escrow account for deposit of the Escrow Funds to ensure the payment by TDS of actual costs incurred by the Village as related to the Project Services ~~and project close-out costs; and,~~

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Appointment of Escrow Agent. The parties hereby appoint the Escrow Agent to act as an escrow agent and the Escrow Agent hereby agrees to serve as an escrow agent upon the terms and conditions set forth herein.

2. Escrow Funds. In order to secure the obligations of TDS for the payment of the Project Services, TDS is depositing with Escrow Agent the sum of One Hundred Sixty-Five Thousand Five Hundred Sixty-Seven and 04/100 Dollars (\$165,567.04) (the “Escrow Funds”), which shall be held and disbursed by Escrow Agent in accordance with the terms,

covenants and conditions herein set forth. In addition, TDS shall also deposit ~~the~~ a one-time sum of Seven Hundred Fifty and no/100 Dollars (\$750.00) for payment of Escrow Agent's services- for the Term of the Agreement. On or before November 1<sup>st</sup> of 2022 and 2023, TDS and the Village shall mutually determine the status of completion of the Project and whether this Agreement needs to be amended to provide sufficient time and/or funds to complete the Project. The parties shall provide joint notice of such determination to the Escrow Agent.

3. Escrow Account. The Escrow Funds shall be deposited into a separate account (the "Escrow Account"). The Escrow Account shall bear TDS's federal identification number and TDS shall pay and discharge all income tax obligations related to the Escrow Account. TDS shall provide Escrow Agent with a Form W-9.

4. Investment of Escrow Account. Escrow Agent shall invest the Escrow Account in an interest-bearing money market account or similar bank-account, with all interest thereon to be added to and considered a part of the Escrow Account. All investments of the Escrow Account shall mature or be redeemable or be subject to liquidation by sale or otherwise at the option of the Escrow Agent at such time as may be necessary to make timely disbursements from the Escrow Account.

5. Disbursement of Escrow Funds. Escrow Agent is hereby authorized and instructed to disburse the Escrow Funds as follows:

(a) Upon the completion of each permit application submitted by TDS for the Project and approved by the Village, the Village may submit for payment an invoice to the Escrow Agent which reflects the amount of footage approved by such permit application. The Escrow Agent shall provide Village and TDS with written notice of any disbursement of funds at least ten (10) days prior to disbursement. The Village shall be entitled to receive \$0.44 per foot for Project Services costs for each approved permit application in 2022 and 2023. Upon Escrow Agent's receipt of an invoice for an approved permit and timely notice thereof pursuant to this paragraph, Escrow Agent will remit payment for the invoice to the Village.

(b) Upon receipt of written notice from the Village and TDS that TDS has completed the Project, the Escrow Agent is authorized and instructed to disburse the remaining Escrow Funds to TDS, along with any interest that has accrued on the Escrow Funds.

(c) In the event TDS does not complete the Project on or before November 1, 2023, the parties shall provide joint written notice to the Escrow Agent that the Project was not completed and that the Escrow Agent shall either (i) distribute the remaining balance of Escrow Funds to TDS if the remainder of the Project is not to be completed, or (ii) shall retain the remaining balance of Escrow Funds and TDS will deposit such additional funds as are agreed upon between the Village and TDS to complete the Project in 2024, as well as advise as to the price per foot to be reimbursed to the Village in 2024.

6. Objection Notice. Notwithstanding the foregoing sections, however, Escrow Agent

shall not disburse any Escrow Funds if it receives, within five (5) business days of delivering notice of disbursement of funds pursuant to paragraph 5(a) herein, an objection to such request (an "Objection Notice").

7. Resolution of Disputes. In the event of a dispute between the Village and TDS over whether or not the Escrow Funds should be released pursuant to this Agreement, Escrow Agent shall be entitled to make no distribution and to hold the Escrow Funds pending a written agreement between the parties (Village and TDS) or an order from a court of competent jurisdiction.

8. Limitation of Escrow Agent's Liability. The Escrow Agent shall be bound only by the terms of this Agreement and shall not be bound by or have any responsibility or incur liability with respect to the Project. The Escrow Agent shall not be liable to the Village or TDS for any losses, costs, claims, damages, liabilities or expenses which they may suffer or incur by reason of any one or more of the following: (i) The failure of the Escrow Account; or (ii) any action taken or omitted to be taken in accordance with the terms hereof; or (iii) any action taken or omitted to be taken in reliance upon any document, including any written notice of authorization to disburse as provided for herein, all of which writings the Escrow Agent may rely upon as to due execution, validity, effectiveness, and also as to the truth and accuracy of the information contained therein. The Escrow Agent's liability hereunder shall be limited to any actions taken or omitted to be taken which are found by a court of law to be willful misconduct or negligence.

9. Notices. All notices and other communications required or permitted hereunder shall be in writing and shall be delivered by hand, or sent by electronic email (with a hard copy ~~of~~ to follow), or sent postage prepaid by registered or certified United States Mail, return receipt requested, or via nationally recognized overnight delivery service and shall be deemed given when so delivered by hand, or if so sent, when received, if addressed as follows:

**Comment [A1]:** TDS uses express overnight courier and this is just an option.

If to the Village, then to:

Village of Allouez  
1900 Libal Street  
Green Bay, WI 54301  
Attn: Brad Lange, Village Administrator

With a copy to:

Hanaway Ross, S.C.  
345 South Jefferson Street  
Green Bay, Wisconsin 54301  
Attn: Christina Peterson, Village Attorney

If to TDS, then to:

TDS Telecommunications, LLC  
525 Junction Road  
Madison, WI 53717  
Attn: Joshua Worrell, Manager—Business Development

If to Escrow Agent, then to:

Dominion Title & Exchange Services, LLC  
3000 Riverside Drive, Suite 130  
Green Bay, WI 54301  
Attn: Jennifer Fass—Senior Commercial Closer

or to such other address or addresses as the Village, TDS, or Escrow Agent may hereafter designate by like notice.

10. Miscellaneous.

(a) Assignment. Except as otherwise provided herein, no party to this Agreement shall convey, assign or otherwise transfer any of its rights or obligations under this Agreement without the express written consent of the Village and TDS, as the case may be.

(b) Successors and Assigns. This Agreement will be binding upon, inure to the benefit of, and be enforceable by the parties hereto and their respective successors and permitted assigns.

(c) Modification. This Agreement may be amended only by a written instrument duly executed by all the parties hereto.

(d) Escrow Period. This Agreement shall remain in full force and effect until the Escrow Agent has delivered all of the Escrow Funds in its possession in accordance with the terms hereof.

(e) Severability. If any term, covenant or condition of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable under applicable law, then the remainder hereof and the application of such term, covenant or condition to persons or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby.

(f) Headings. The headings of the paragraphs of this Agreement are for convenience only and shall in no way affect the construction of or effect of any of the terms, covenants or conditions hereof.

(g) Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Wisconsin without reference to conflicts

of law principles.

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the day and year first above set forth.

VILLAGE OF ALLOUEZ:

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

James F. Rafter, Village President

TDS TELECOMMUNICATIONS, LLC.:

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

Wad Soczka, Director—Network Construction

ESCROW AGENT:

DOMINION TITLE & EXCHANGE SERVICE,  
LLC

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

Jennifer Fass, Senior Commercial Closer