

MASTER LICENSE AGREEMENT FOR THE INSTALLATION OF SMALL WIRELESS COMMUNICATIONS FACILITIES IN THE CITY RIGHT-OF-WAY

This MASTER LICENSE AGREEMENT FOR THE INSTALLATION OF SMALL WIRELESS COMMUNICATIONS FACILITIES IN THE CITY RIGHT-OF-WAY (“Agreement”) is made by and between the CITY OF SPARKS, NEVADA (“City” or “Licensor”), a municipal corporation of the State of Nevada, and NEW CINGULAR WIRELESS PCS, LLC (“Licensee”), a Delaware limited liability company, duly organized and authorized to conduct business in the State of Nevada. The City and Licensee may be referred to individually as a “Party” or collectively as the “Parties.”

RECITALS

WHEREAS, the City manages and controls public Right-of-Way (“ROW”) to promote public health, safety, and welfare, and accordingly, the City regulates use of the ROW to ensure structural, engineering, and other safety requirements are met, as well as to ensure appropriate regulatory requirements of all structures occupying the ROW; and

WHEREAS, the City owns and controls certain structures and facilities located within the public ROW;

WHEREAS, Licensee is duly authorized under federal and state law to provide wireless communications services in Sparks, Nevada; and

WHEREAS, Licensee desires to attach, install, operate, and maintain communications sites consisting of Small Wireless Facilities to be located in the City’s ROW and/or on City-owned poles or other vertical structures located within the City’s ROW in order to provide improved telecommunications coverage in the region; and

WHEREAS, Section 253 of the Federal Communications Act of 1934, as amended, including 47 U.S.C. § 253(c), reserves with the City the authority to control access to and use of the ROW within the City limits; and

WHEREAS, the City desires from time to time to allow Licensee to construct Licensee Poles and/or place Small Wireless Facilities in the City’s ROW on City-owned structures located within the ROW, provided that such activity complies with the terms and conditions of this Agreement; and

WHEREAS, Licensee is willing to compensate the City for the grant of permission to use and physically occupy portions of City ROW and/or City-owned facilities located in the ROW at approved locations; and

WHEREAS, the Parties desire to enter into this Agreement to define the terms and conditions that will govern their relationship with regard to the construction, installation, operation, and maintenance of Licensee’s Small Wireless Facilities and/or Licensee Poles located within the City ROW; and

NOW THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth in this Agreement, City and Licensee hereby agree as follows:

ARTICLE 1. DEFINITIONS

- 1.1. As used in this Agreement, the following terms have the meanings set out below:
- 1.1.1. “Abandon” and its derivatives means the Small Wireless Facility, Licensee Pole, or portion thereof that has been left by Licensee in an unused or non-functioning condition for more than 180 consecutive days, unless, after notice to Licensee, Licensee establishes to the reasonable satisfaction of the City that the Small Wireless Facility, Licensee Pole, or portion thereof has the ability to provide communications and that Licensee intends to operate the Small Wireless Facility, Licensee Pole, or portion thereof within the next year.
 - 1.1.2. “Affiliate” means (a) any entity who (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with the Licensee; (b) any entity acquiring substantially all of the assets of Licensee in the market defined by the Federal Communications Commission in which the Licensed Locations are located; or (c) any successor entity in a merger, acquisition, or other business reorganization involving Licensee.
 - 1.1.3. “Agreement” means this contract between the Parties for the use of City property in connection with the operation of a wireless network, including any exhibits and any written amendments, as may be entered into between the Parties from time to time, as authorized by this Agreement.
 - 1.1.4. “City Code” or “Code” means the Sparks Municipal Code.
 - 1.1.5. “Effective Date” means the date this Agreement is signed by all Parties as reflected on the signature page of this Agreement.
 - 1.1.6. “Fiscal Year” means July 1 to June 30 of any given year.
 - 1.1.7. “Ground Equipment” means part of a Small Wireless Facility or Licensee Pole that is located on the ground surface of the ROW.
 - 1.1.8. “Licensed Location” means the location in the ROW, as listed in each Site Supplement, in which Licensee is authorized to place its Small Wireless Facilities and/or Licensee Poles, provided that it has obtained all necessary Permits.
 - 1.1.9. “Licensee Pole” or “Licensee Poles” means pole(s) or similar vertical structure(s) owned and installed by Licensee for the sole purpose of supporting Small Wireless Facilities but does not include an incidental structure or Ground Equipment for supporting any related metering or support devices.
 - 1.1.10. “Modification” or “Modify” means any addition, removal, or alteration of any kind,

to the Small Wireless Facilities, or Licensee Pole(s), including altering their camouflaging or appearance; provided, however that routine maintenance or replacement of Small Wireless Facilities with equipment that has substantially similar or smaller dimensions and appearance is not a modification.

- 1.1.11. “Municipal Facility” or “Municipal Facilities” means City-owned poles, facilities, or other structures located within the ROW, including, without limitation, City-owned poles, replacement poles installed by Licensee as allowed by this Agreement, streetlight poles and traffic poles that are owned by the City—and are designated or approved by the City as being suitable for placement of Small Wireless Facilities.
- 1.1.12. “Permit” means a document issued by the City which is used to regulate, monitor, and control improvement, excavation, or construction activities, or other work or activity occurring upon or otherwise affecting the City ROW, including, but not limited to, building permits, encroachment permits, and street cut permits.
- 1.1.13. “Right-of-Way” or “ROW” means the ground level, air space above, and space below a public street, road, alley, and/or sidewalk located in the City’s jurisdiction, including the entire area between the boundary lines of every ROW, and public utility easements, whether acquired by purchase, grant or dedication and acceptance by the City or by the public, that has been dedicated or designated for or opened to the use of the public for purposes of vehicular and pedestrian travel now or hereafter located and existing within the Sparks City limits whether or not improved; and shall include any designated state or federal highway or road or any designated county road under the administrative control of the City for maintenance, repair, or vehicular traffic control purposes.
- 1.1.14. “Site Supplement” means the form of the license granted by this Agreement, described in Sections 2 and 3 below, and shown within Exhibit A of this Agreement.
- 1.1.15. “Wireless Services” means only ‘personal wireless services’ as that term is defined in 47 U.S.C. § 322(c)(7)(C), now or hereafter in effect, including commercial mobile services now or hereafter in effect, provided through or by Small Wireless Facilities located wholly or partially in the ROW.
- 1.1.16. “Term” means the Initial Term and any Renewal Terms, collectively, during which this Agreement is in effect.
- 1.1.17. “Wireless Facility” or “Small Wireless Facility” has the meaning ascribed in 47 CFR Part 1, Subpart U, § 1.6002(l).

ARTICLE 2. AUTHORIZATION TO USE RIGHT-OF-WAY

2.1. GRANT OF PERMISSION

- 2.1.1. The City hereby grants Licensee a non-exclusive license to enter and use the ROW and/or Municipal Facilities located in the ROW identified and approved in each Site Supplement. Such license grants Licensee the authority to attach, install, construct, operate, maintain, repair, replace, upgrade, reattach, reinstall, and remove Licensee Poles and/or Small Wireless Facilities, subject to the terms of this Agreement.
- 2.1.2. This Agreement does not confer any other rights not described herein nor does it permit Licensee or any third parties to use the ROW for purposes not specified in this Agreement.
- 2.1.3. This Agreement only grants authority to enter and use the ROW for the development and maintenance of Licensee's small cell network, which encompasses the deployment of communications sites within the small cell network but provides a smaller coverage area than traditional macrocells. This Agreement does not grant any approvals or authorize Licensee or any entity to install equipment and facilities associated with macro wireless towers.

2.2 TERM

This Agreement is effective on the Effective Date and, unless sooner terminated under other provisions of this Agreement, will remain in effect for a period of ten (10) years ("Initial Term"). The Initial Term and all extensions and renewals as provided for under this Agreement shall be collectively referred to as the "Term."

2.3. RENEWALS

Upon expiration of the Initial Term, this Agreement will automatically renew for up to four (4) successive ten (10) year terms (each a "Renewal Term") on the same terms and conditions, unless Licensee chooses not to renew the Agreement for any Renewal Term. If Licensee chooses not to renew this Agreement, Licensee shall notify the City of non-renewal at least ninety (90) days before the expiration of the then-current term. If Licensee decides not to renew this Agreement, Licensee agrees to meet and confer in good faith for the purpose of negotiating a successor agreement. If the Parties do not reach agreement within the ninety (90) day notice period, termination will be effective on the anniversary date of the then-current term.

2.4. SITE SUPPLEMENT TERM

Each Site Supplement shall be in effect commencing on the first day of the month following issuance and receipt of all City approvals, finalized by approval and electronic issuance and delivery of a building permit, for a Licensed Location under a Site Supplement ("Commencement Date") as determined in accordance with each Site Supplement and shall remain in full effect until the expiration of this Agreement. Provided that Licensee is not in material breach of the Site

Supplement, each Site Supplement will automatically be extended to coincide with the renewal of this Agreement as provided for in Section 2.3.

ARTICLE 3. SCOPE AND NATURE OF AGREEMENT

3.1. SCOPE OF AGREEMENT

- 3.1.1. This Agreement is not exclusive. The City reserves the right to grant permission to use its ROW for the same or similar purposes to other wireless services providers or neutral host providers.
- 3.1.2. Except as expressly provided herein, this Agreement does not grant Licensee the authority to grant or assign any rights under this Agreement to any other entity without the express written consent of the City.
- 3.1.3 Nothing in this Agreement grants Licensee the right to install any Licensee Pole or Small Wireless Facilities or to install or construct any other facilities or equipment that do not conform with the terms of this Agreement.
- 3.1.4. This Agreement only grants Licensee permission to enter the ROW and (1) install Licensee Poles within the ROW, or (2) install Small Wireless Facilities on Municipal Facilities located in the ROW. This Agreement does not confer any rights or permission to install Licensee Poles in areas outside of the ROW or to install Small Wireless Facilities on any facilities or structures that are (a) located outside of the ROW, or (b) that are not owned by the City, unless Licensee provides the City with written owner approval in the form required by the City. Licensee must obtain written permission from the owner of any facility or structure that is not owned by the City prior to submitting proposed plans to the City for approval and for Permits to install Small Wireless Facilities to any facilities or structures within the ROW that are not owned by the City.
- 3.1.5 In the event adequate Municipal Facilities do not exist for the attachment of Small Wireless Facilities, Licensee may seek to install its Small Wireless Facilities on other poles located in the ROW that are lawfully owned and operated by third parties, such as public utility companies or other property owners. Subject to Licensee obtaining the written permission of the owner(s) of the third-party-owned pole or structure, approval of a Site Supplement for the new site (however, annual fees pursuant to Section 5.2 shall not be owed or paid), and the obtaining of any required Permits (and payment of any standard Permit fees), the City hereby authorizes and permits Licensee to enter upon the ROW to attach, install, operate, maintain, remove, reattach, reinstall, relocate, and replace Small Wireless Facilities in or on poles or other structures lawfully owned and operated by such third parties, as may be allowed and permitted by such third parties. Licensee shall furnish to the City documentation in a form accepted by the City of such permission from the third-party owner. Granting of an application for the attachment of Small Wireless Facilities to third-party-owned poles or structure is subject to structural load review

by the City and compliance with applicable sections of City Code and the terms of this Agreement.

3.1.6. This Agreement does not grant Licensee any interest in any property.

3.2. APPLICATION PROCESS AND LIST OF LICENSED LOCATIONS

3.2.1. Licensee shall install its Licensee Poles or Small Wireless Facilities only in the Licensed Locations as approved by the City. Licensee shall initiate the application process by submitting to the City an application for a specific location in the form of the attached Site Supplement, as set forth in Exhibit A, and building permit application, along with any other information as reasonably required by the City. Licensee and the City agree that all applications for Licensee Poles or Small Wireless Facilities shall be submitted to the City electronically via the City's online permitting platform Accela Citizen Access ("Accela") or any successor platform. No paper or email applications will be accepted.

3.2.2. The City shall review the application, as outlined in Section 4.2 of this Agreement, to determine completeness, availability of the requested location, compliance with this Agreement, public safety impact, aesthetics, and other applicable considerations related to the requested location. If the City determines that the application is incomplete within ten (10) days after submittal, it may toll any deadline or shot clock requiring City approval or denial of the application by notifying Licensee in writing that the application is incomplete.

3.2.3. The City may terminate a Licensee's permission to use a Licensed Location listed in a Site Supplement for that Licensee's non-compliance with a term or terms of this Agreement or the applicable Site Supplement, subject to the notice and right to cure procedures for a default within Article 12 of this Agreement. The City may amend or supplement the Site Supplement or applicable building permit application form as needed during the Term of this Agreement without approval from City Council.

3.3. UNAUTHORIZED SMALL WIRELESS FACILITIES AND LICENSEE POLES

Any type of Small Wireless Facility or Licensee Pole not listed in, described, or approved under a Site Supplement shall be deemed unauthorized. Licensee shall immediately remove any unauthorized Small Wireless Facilities or Licensee Poles. The City may, upon thirty (30) days' written notice, take steps to remove unauthorized Small Wireless Facilities or Licensee Poles at Licensee's expense without any liability to the City. In the event the City removes any unauthorized Small Wireless Facilities or Licensee Poles, the City will invoice and Licensee shall reimburse the City within forty-five (45) days of receipt of the invoice for the City's cost of removal.

3.4. LICENSEE POLES

- 3.4.1. Licensee shall not install Licensee Poles in the ROW unless there are no other existing Municipal Facilities or other structures in the area that are available and capable of supporting Licensee's Small Wireless Facilities.
- 3.4.2. If there is a Municipal Facility in the area of the requested Licensed Location that is available (as solely determined by the City) and capable of supporting Licensee's Small Wireless Facilities, Licensee shall use the available Municipal Facility instead of installing a new Licensee Pole.
- 3.4.3. References to Licensee Poles throughout this Agreement shall not be construed as permission to install Licensee Poles in the ROW absent Licensee obtaining other necessary Permit(s).
- 3.4.4 Licensee shall not install new wooden poles unless the wooden poles are consistent with the design of other poles in the surrounding area as solely determined by, and approved by, the City.

3.5. SUBLICENSING

Licensee may sublicense or otherwise allow for the use of its Small Wireless Facilities and/or Licensee Poles to other Carrier(s) for the provision of wireless services only if such use strictly complies with this Agreement. In no event may Licensee purport to grant a sublicensee or other third party any interest in the City ROW or any rights or privileges that are greater than those granted to Licensee.

No later than ninety (90) days from the Effective Date, Licensee shall notify the City, in writing, regarding each of its Licensed Locations that is, or is planned to be, sublicensed or otherwise used by more than one Carrier, and shall notify the City within ninety (90) days of any subsequent changes in sublicensed Licensed Locations.

ARTICLE 4. PERMITS AND PERMISSION

4.1 PERMITS REQUIRED

Prior to installation or modification of a Small Wireless Facility or Licensee Pole, Licensee or its contractor or sublicensee, if any, will be required to apply for and obtain all necessary Permits issued by the City for work performed within the ROW, and the ROW will be accessed and used in accordance with plans submitted by Licensee and approved by the City in issuing a Permit. Execution of this Agreement or any Site Supplement does not constitute the issuance of a Permit.

Licensee shall give notice to the City of any revocation or denial of any Permit or other approval affecting its performance hereunder within 30 days of such revocation or the day upon which the Licensee received actual or constructive notice of denial of such Permit.

4.2. LOCATION REVIEW PROCESS

- 4.2.1 The Parties agree to work in good faith prior to any submittal of an application when practical to discuss the requested location, availability of the requested location, whether the requested pole or structure can structurally support Small Wireless Facilities, physical specifications, and other identified issues in order to streamline the review process.
- 4.2.2. The City shall review an application for completeness and notify the Licensee in writing within 10 days of receipt of the application if Licensee needs to submit additional or missing information. Any such notice shall include a brief description of the missing information that must be submitted to the City and will pause any applicable shot clock until Licensee submits the requested supplemental information. If Licensee does not submit the missing or additional information within 180 days of the notice, then the Licensee's application shall be deemed withdrawn.
- 4.2.3. The City shall review the application to determine:
 - 4.2.3.1. If the requested site has already been approved as a Licensed Location;
 - 4.2.3.2. If the requested site is in the ROW and if any requested structures or facilities are owned by the City;
 - 4.2.3.3. If the requested site complies with the terms of this Agreement;
 - 4.2.3.4. That written permission has been obtained by any applicable third parties as required by this Agreement, including the owner of the structure or facility at issue if not owned by the City; and
 - 4.2.3.5. Compliance with applicable construction, engineering, aesthetics, design specifications, separation and other applicable requirements, including, but not limited to, Title 12 of the Sparks Municipal Code and the Americans with Disabilities Act.
- 4.2.4 For any requested new construction of Licensee Poles or Small Wireless Facilities, the City shall provide written notice of the approval or denial of the application and reasons for denial, if applicable, within ninety (90) days of receipt of the Application. For collocation of Small Wireless Facilities to existing structures, the City shall provide written notice of the approval or denial of the application and reasons for denial, if applicable, within sixty (60) days of receipt of the application. In the event Licensee submits multiple batched applications on the same day and at least one of the applications is for new construction, then the City shall provide written notice of the approval or denial of each of the various applications and reasons for denial, if applicable, within ninety (90) days of receipt of the

applications. All deadlines or “shot clocks” may be extended by mutual agreement of the Parties.

4.2.5. The City shall deny a requested location in the application if the Licensee’s application is not in compliance with the terms of this Agreement or any provision of Sparks Municipal Code and City shall provide Licensee with a written explanation of the basis for the denial.

4.3 INVENTORY AND FIBER MAP

Licensee shall maintain a list and map of its Small Wireless Facilities and Licensee Poles, as well as a map of its fiber network infrastructure throughout the Term of this Agreement. Licensee shall provide to the City its inventory list and maps upon receiving written request from the City.

City shall maintain an accounting of all fees owed from, invoiced to, and received from Licensee under this Agreement. The City shall provide such accounting to the Licensee upon receiving written request from Licensee.

ARTICLE 5. FEES AND CHARGES

5.1 APPLICATION FEE

Licensee shall include with each Site Supplement application for the installation, attachment and operation of Small Wireless Facilities an up-front, non-refundable application fee of \$500.00 that may include requests for approval of up to five (5) Small Wireless Facilities, with an additional \$100.00 fee for each Small Wireless Facility beyond the initial five locations. Licensee shall include with each Site Supplement application for the construction, installation, and operation of a Licensee Pole an up-front, non-refundable application fee of \$1,000.00.

5.2. ANNUAL FEE

As of the Commencement Date for each Site Supplement, Licensee shall pay to the City an annual fee for the ability to access and use each Licensed Location for which Licensee has obtained Permit(s). The annual fee payable to the City in exchange for the right to use and occupy space within the ROW for each Licensed Location shall be the higher of:

(i) Two Hundred Seventy Dollars (\$270.00), or

(ii) City’s cost, which is City’s cost set in accordance with the requirements of the Federal Communications Commission’s (“FCC”) Declaratory Ruling and Third Report and Order, FCC 18-133, Released September 27, 2018 (“FCC 2018 Order”), or any future Order issued by the FCC or a court of competent jurisdiction that addresses the permissible scope of fees that a municipality may charge for small cell deployments in the ROW, calculated pursuant to a cost study which has been reviewed, adopted and approved by the Sparks City Council and is not subject to further appeals or subject to a complaint before a competent regulatory agency or court (“Cost Approval”). After City’s Cost Approval is final as described in the preceding sentence, City shall provide notice to Licensee of the annual fee

in accordance with the notice requirements of this Agreement. The annual fee payable under this Agreement will adjust to City's cost starting with annual fee payments that are due at least ninety (90) days after the date of such notice. City shall deliver to Licensee a copy of City's cost study no less than ninety (90) days before the cost study is presented to the Sparks City Council for adoption or approval.

The initial annual fee owed by Licensee for each Licensed Location must be paid to the City within sixty (60) days of the initial Commencement Date of each Site Supplement and must be paid subsequently on or before each Fiscal Year end throughout the term of the Site Supplement (or until such earlier time as such Site Supplement is terminated). The first payment of the annual fee shall be prorated based on the period of time from the Commencement Date for each Supplement to the expiration of the then-current Fiscal Year. Licensee shall be solely responsible for the payment of all fees and charges in connection with Licensee's performance under this Agreement. Except as provided for in this Agreement, the annual fee is non-refundable. Licensee may pay the annual fee by electronic funds transfer and, in such event, the City agrees to provide to Licensee bank routing information and any additional information necessary to facilitate an electronic funds transfer.

5.3. PERIODIC FEE ADJUSTMENT

All annual recurring fees owed pursuant to Section 5.2 of this Agreement shall automatically increase by two-and-one-half percent (2.5%) annually on each Fiscal Year end throughout the Term, resulting in a compound rate of increase. The Parties Acknowledge that the 2.5% annual increase represents a reasonable representation of the City's rate of cost increase in connection with the Agreement.

5.4. OTHER PAYMENTS AND TAXES

No payment is collected under this Agreement for any Permit issued in connection with the installation of Small Wireless Facilities or Licensee Poles or for any city, county, or state taxes. Permit requirements, fees and charges are solely governed by the requirements imposed by City Code. For the avoidance of doubt, the annual fee payable hereunder shall be exclusive of, and in addition to any other applicable taxes, Permit fees, business licensing fees, special assessments, and other lawful obligations of the Licensee to the City.

5.5. LATE PAYMENT CHARGE

If any payment is not received by the City within the applicable payment period set forth in the Agreement, Licensee shall incur 8 percent annual interest, accruing on a non-compounding basis, from the due date until payment is received on the amount due.

5.6. HOLD OVER CHARGE

The annual fee for any Hold Over Period, as described in Section 12.4, shall be 100% of the total annual fee due, as adjusted annually. Payment of a Hold Over Charge pursuant to this subsection does not extend or renew this Agreement.

5.7. NON-FUNCTIONING SMALL WIRELESS FACILITIES OR LICENSEE POLES

Licensee shall continue to pay annual fees, or a Hold Over Charge as applicable, for Small Wireless Facilities or Licensee Poles that are Abandoned or are otherwise no longer in service or operational if the Small Wireless Facilities or Licensee Poles continue to occupy the ROW.

5.8. PAYMENT

Any annual fee and all other payments due shall be payable in lawful money of the United States of America and shall be made within forty-five (45) days of Licensee's receipt of the invoice. Payments may be made by ACH, wire transfer, or check payable to the City of Sparks and sent to the City at the address provided for within the invoice.

5.9. ELECTRIC METER

Licensee shall be responsible for paying all charges for any electricity supplied to its Small Wireless Facilities or Licensee Poles which is not included in the annual fee under Section 5.2. Notwithstanding the foregoing, the City agrees, if physically and legally feasible, to allow access to any City-owned circuits to allow Licensee to obtain electricity for the operation of Licensee's Small Wireless Facilities or Licensee Poles, and in such an event Licensee shall be responsible for installing or causing to be installed a separate electric meter for the operation of its Small Wireless Facilities or Licensee Poles. The Parties acknowledge that any such access to City-owned circuits described above will be subject to the design and approval of Sierra Pacific Power Company dba NV Energy or its successor entity.

5.10. PAYMENT LIMITS

Upon Licensee's termination of any Site Supplement in accordance with the terms of this Agreement, Licensee removing any Small Wireless Facilities or Licensee Poles, and peaceably surrendering the Licensed Location to the City in the same condition the Licensed Location was in on the date the Permit(s) was granted excepting casualty and ordinary wear and tear, there will be no compensation due to the City for such Licensed Location, nor shall the City be required to issue any refunds for any annual fee already paid by Licensee.

Notwithstanding the foregoing, if Licensee is required by the City to remove a Small Wireless Facility or Licensee Pole and such removal is not the result of Licensee's failure to comply with this Agreement, City will reimburse Licensee the annual fee for the Licensed Location used by such Small Wireless Facility or Licensee Pole pro-rated monthly starting on the month after the removal is completed and for the remainder of the fiscal year.

5.11. COMPLIANCE REVIEW

The City may, at its discretion but not more often than once per calendar year, upon at least sixty (60) days prior written notice, require that the Licensee produce its inventory and accounts payable records related to this Agreement for review by City personnel to ascertain the correctness of the information provided under Article 5 of this Agreement. If the City identifies, based on a review of the information provided pursuant to Article 5 of this Agreement, that Licensee owes annual fees

or other payments from prior periods, the Licensee shall immediately pay the balance due and pay a late penalty of 8 percent per annum on the amount identified.

**ARTICLE 6. SMALL WIRELESS FACILITIES AND LICENSEE POLES
REQUIREMENTS**

6.1. DESIGN REQUIREMENTS

- 6.1.1. The design of the Small Wireless Facilities and/or Licensee Pole(s) will be described in detail within each Site Supplement. Overall design concepts are discussed below; however, Licensee shall also ensure that its proposals follow aesthetics, design, and other requirements within Titles 12 and 20 of the Sparks Municipal Code. All work done in connection with the installation, operation, maintenance, repair, modification, and/or replacement of Small Wireless Facilities or Licensee Poles shall be in compliance with all applicable laws, ordinances, codes, rules and regulations of the City, Washoe County, the State of Nevada, the American Association of State Highway and Transportation Officials (“ASHTO”), and the United States (“Laws”). Changes to such ordinances, codes, regulations and rules shall not apply retroactively unless required by Laws.
- 6.1.2 To the extent feasible, all fiber optic cables, wiring, conduits, and other connections within or required for Licensee Poles or connected to Small Wireless Facilities shall be placed inside the pole. All Licensee cables, wiring, and other connections shall be housed in a conduit that is separate from any existing City or third-party cables, wiring, or other connections within the structure.
- 6.1.3 If Licensee is proposing to attach Small Wireless Facilities to a Municipal Facility, the Licensee shall demonstrate that the Municipal Facility can safely and adequately support such Small Wireless Facilities. If an identified Municipal Facility cannot support Small Wireless Facilities, then the Municipal Facility may be upgraded or replaced pursuant to Sections 6.2.2 and 6.2.3 of this Agreement.
- 6.1.4 Small Wireless Facilities installed on Municipal Facilities which will be visible to the general public shall be designed and constructed such that it is camouflaged, shielded, and blends into the surrounding structure to which it is attached to the extent technically feasible. Pole replacements which allow for fully integrated equipment will be considered by the City. Unless determined to be feasible by the City, no more than one installation of Small Wireless Facilities (each such installation may consist of multiple pieces of equipment) will be approved for any single Municipal Facility. All installations may be reviewed and inspected by the City and will be subject to aesthetic, noise, structural, and engineering review.

6.2 INSTALLATION/CONSTRUCTION

- 6.2.1 All of Licensee’s engineering, design, construction, installation, and modification work for its Small Wireless Facilities or Licensee Poles shall be performed at

Licensee's sole cost and expense, and shall be performed in a good and workmanlike manner and promptly completed.

- 6.2.2 If Licensee damages or disturbs the surface or subsurface of the ROW or any adjoining property, pole, streetlight fixture, traffic signal equipment, intelligent transportation system, sidewalk, or other public improvement in the exercise of the rights granted through this Agreement, Licensee agrees that it will promptly, at its own expense, and in a manner reasonably acceptable to the City, repair the damage or disturbance.
- 6.2.3 In the event that a requested Municipal Facility is not suitable to accommodate Licensee's Small Wireless Facilities, Licensee may propose to perform make-ready work as part of its application materials to the City, provided, however that the City shall retain the first option to perform any make ready work on any Municipal Facilities, and, accordingly, may, in its sole discretion, decide to perform work on the applicable Municipal Facility in order to make the pole or structure available for Licensee's Small Wireless Facilities. If the City elects to perform such make-ready work, then the City will provide Licensee with a written estimate of such make-ready work costs and the estimated time to complete the make-ready work within thirty (30) days of approval of the Site Supplement. Licensee must indicate whether it accepts the City's cost estimate in writing within thirty (30) days of receipt. If Licensee accepts the cost estimate, then the City will perform or cause to be performed the agreed-upon make-ready work and Licensee shall reimburse the City for the entire expense actually incurred up to the amount of the cost estimate. Full reimbursement shall be paid to the City within forty-five (45) days of receipt of the invoice for the make-ready work accompanied by reasonable substantiation. The City shall complete such make-ready work within the time frame as indicated in the City's written estimate, or as otherwise agreed by the Parties. When the nature of make-ready work takes longer than anticipated in the City's written estimate, then the Parties will negotiate a mutually satisfactory longer period to complete the make-ready work. Nothing in this Section obligates the City to offer to perform, or actually perform, any make-ready work on its Municipal Facilities. If the City does not elect to perform make-ready work on applicable Municipal Facilities, Licensee may propose to perform make-ready work as part of its application materials to the City.
- 6.2.4 If the Parties have agreed that a certain Municipal Facility is in a suitable location for Licensee's Small Wireless Facilities, but the existing Municipal Facility is structurally, aesthetically, or otherwise unable to accommodate Licensee's Small Wireless Facilities, then Licensee may elect to have the existing Municipal Facility replaced. Licensee shall pay for such replacement, at its sole cost and expense, including, but not limited to, the entire cost of: (1) removal and salvage of the existing Municipal Facility, (2) installation of the replacement pole or other structure, and (3) the transfer of: (i) streetlight fixtures (ii) traffic signal equipment, (iii) intelligent transportation systems and related equipment, and (iv) other items, appurtenances or other systems attached to or appurtenant to the existing Municipal Facility to the replacement pole or structure. The Parties will work in good faith to

negotiate the design specifications for such a replacement pole; however, the City shall retain final power of approval regarding all replacement pole design specifications in order to ensure structural, engineering, and general public health and safety requirements are met. The City will be deemed to own the original Municipal Facility and the replacement pole. The installation, attachment or re-attachment of Licensee's Small Wireless Facilities to a replacement pole shall also be at Licensee's sole cost and expense.

6.3 ACCESS/EMERGENCY REPAIR

- 6.3.1. The City may perform visual inspections of any Small Wireless Facilities or Licensee Poles located in the ROW as the City deems appropriate without notice. If the inspection requires physical contact with the Small Wireless Facilities, the City shall provide written notice to the Licensee within five (5) business days of the planned inspection. Licensee may have a representative present during such inspection.
- 6.3.2. In the event of an emergency situation such as, but not limited to, an emergency repair due to a traffic collision or deterioration of a Municipal Facility, Licensee Pole or other supporting structure, or to protect the public health or safety from an imminent threat of injury to person or property, the City may, but is not required to, notify Licensee of the need for an emergency inspection and/or repair. In such an emergency situation, Licensee's network operations center should be contacted at (800) 832-6662. The City will make every reasonable effort to coordinate its emergency response with Licensee, but may take immediate action necessary to remediate the emergency situation and the City shall notify Licensee as soon as practically possible. In an emergency situation in which there is an imminent threat of injury to person or property, Licensee will endeavor to respond within one hour of notification by the City in order to deactivate and salvage the Licensee Pole and/or Small Wireless Facilities. If the emergency situation involves a Municipal Facility, then the City shall pay all costs associated with repairing the Municipal Facility itself; provided, however, that Licensee shall bear all costs and expenses associated with re-installing its Small Wireless Facilities. If the emergency situation involves a Licensee Pole or pole owned by a third party located in the ROW, then Licensee (or the third-party owner) shall be responsible for paying all costs and expenses associated with repairing the Licensee Pole or third-party pole and re-installing its Small Wireless Facilities.
- 6.3.3. Prior to the City accessing or performing any work on a Municipal Facility on which Licensee has installed Small Wireless Facilities, the City may require Licensee to deactivate or power down such Small Wireless Facilities if any of the City's employees or agents must come into physical contact with the Small Wireless Facilities. In such case, the City will contact Licensee to request deactivation. If a Municipal Facility needs replacement or repair due to a traffic collision, deterioration, or similar reasons, Licensee shall have the right to replace any Small Wireless Facilities upon completion of the replacement, subject to Licensee obtaining any necessary Permits. The City shall cooperate with Licensee to

temporarily relocate its Small Wireless Facilities while the Municipal Facility is being replaced, if feasible. Upon completion of the replacement, the City shall notify Licensee in order to allow Licensee to re-install its Small Wireless Facilities. The City shall not be responsible to protect, preserve, or store Licensee's Small Wireless Facilities in the event Licensee fails to respond to emergency notification.

6.4 REMOVAL OR RELOCATION

- 6.4.1. By the City. Licensee understands and acknowledges that the City reserves the right to abandon, relocate, or remove any Municipal Facilities, even if Licensee is using such a pole or structure under this Agreement. Licensee further understands and acknowledges that the City may require Licensee to permanently relocate one or more of its Licensee Poles and/or Small Wireless Facilities; provided, however, City shall use reasonable efforts to fully accommodate Licensee's continuing use of the Municipal Facilities, as the case may be, without relocation if it is reasonably possible to do so. If the City reasonably determines that the removal or relocation of one or more Municipal Facilities, Licensee Poles and/or Small Wireless Facilities is needed (1) for the construction, modification, completion, or relocation of a City construction or maintenance project or other public agency project; or (2) because the Licensee Poles or Small Wireless Facilities are interfering with or adversely affecting the proper operation of Municipal Facilities or other City operations, including the operation of traffic signals, intelligent transportation systems, lighting, communications, or other City facilities or operations, and such interference cannot be mitigated or cured by Licensee, then Licensee shall, at the City's direction and upon ninety (90) days' prior written notice to Licensee, either (a) relocate such Licensee Poles or Small Wireless Facilities to a location and/or Municipal Facility with substantially similar signal coverage as that of the previous location, or (b) terminate the applicable Site Supplement and remove such Licensee Poles or Small Wireless Facilities, in each case at Licensee's sole cost and expense. The City shall provide ninety (90) days written notice to the Licensee before removing a Small Wireless Facility or Licensee Pole under this Section, unless there is imminent danger to the public health, safety, and welfare. Licensee shall reimburse City for the City's actual cost of removal of the Small Wireless Facilities or Licensee Poles in accordance with this Agreement within 90 days of receiving the invoice from the City.
- 6.4.2 Removal or Relocation Costs Paid by Licensee. In the event of a permanent removal or relocation as described above, the City shall not deny Licensee access to a reasonably equivalent alternate location, if one is available. If Licensee fails to relocate any Licensee Poles or Small Wireless Facilities as directed by the City in accordance with this Section, then the City shall be entitled, upon thirty (30) days' written notice, to physically remove or relocate the applicable Licensee Poles or Small Wireless Facilities at Licensee's sole cost and expense; provided, however that the City shall not be required to provide advance notice if there is imminent danger to the public health, safety, and welfare. Licensee shall pay to the City actual costs and expenses incurred by the City in performing any removal work and any storage costs associated with removal of Licensee's property after removal.

Licensee shall pay such costs within forty-five (45) days after receipt of a written demand or invoice for such costs associated with removal. The City agrees that it will only request removal or relocation of Small Wireless Facilities at each specific Licensed Location one time per calendar year

- 6.4.3 By the Licensee. In the event Licensee desires, in its own discretion, to relocate any Small Wireless Facilities from one Municipal Facility to another, Licensee shall notify the City of such a request, and the City will consider an equivalent Municipal Facility that is available for use in accordance with the terms of this Agreement. Licensee shall be required to obtain all necessary approvals and Permits required for relocation to the requested location prior to removal and relocation.
- 6.4.4 Abandonment. Licensee shall remove Small Wireless Facilities or Licensee Poles when such facilities are Abandoned regardless of whether or not it receives notice from the City to remove such Abandoned Small Wireless Facilities or Licensee Poles. Unless the City sends notice that removal must be completed immediately to ensure public health, safety, and welfare, the removal must be completed within the earlier of ninety (90) days of the Licensee Pole or Small Wireless Facility being Abandoned or within ninety (90) days of receipt of written notice from the City, whichever occurs first. When Licensee removes or Abandons permanent structures in the ROW, the Licensee shall notify the City in writing of such removal or Abandonment and shall file with the City the location and description of each Small Wireless Facility or Licensee Pole removed or Abandoned. The City may require the Licensee to complete additional reasonable remedial measures necessary for public safety and the integrity of the ROW.
- 6.4.5 Removal after Termination or Expiration of License. Within 180 days after termination or expiration of this Agreement, Licensee shall remove all of Licensee's Small Wireless Facilities and/or Licensee Poles from the Licensed Location(s) and peaceably surrender the Licensed Location(s) to City in the same condition the ROW was in on the date the Permit was granted for that Licensed Location(s), excepting casualty and ordinary wear and tear, unless the City allows Licensee, in writing, additional time. If Licensee fails to complete removal within 180 days, the City may take direct action to physically remove, store, or dispose of any remaining portion of the Small Wireless Facilities or Licensee Poles in any manner the City deems appropriate, and all costs and expenses associated with the City's removal, storage, or disposal shall be reimbursed by Licensee. In such an event, Licensee shall, within 45 days after receipt of the City's written request and invoice, reimburse the City for all costs incurred by the City in connection with removing Licensee's Small Wireless Facilities and/or Licensee Poles (including any reasonable overhead and storage expenses).
- 6.4.6 Removal After Cancellation or Termination of Site Supplement. Within 90 days after the date of the notice of cancellation or termination of a specific Site Supplement, Licensee shall commence removal of the Small Wireless Facility or Licensee Pole from the ROW and peaceably surrender the Licensed Location to City in the same condition the ROW was in on the date the Permit was granted for

that Licensed Location, excepting casualty and ordinary wear and tear. If Licensee fails to complete removal within 90 days, or a longer period of time as allowed by the City in writing, the City may take action to physically remove, store, or dispose of any remaining portion of the Small Wireless Facilities or Licensee Poles in any manner the City deems appropriate. In such an event, Licensee shall, within 30 days after receipt of the City's written request and invoice, reimburse the City for all costs incurred by the City in connection with removing Licensee's Small Wireless Facilities or Licensee Pole (including any reasonable overhead and storage expenses).

- 6.4.7. Replacement or Modification of Small Wireless Facilities. In the event of a Licensee Modification to Small Wireless Facilities that have already been approved by the City, then Licensee shall first obtain written City approval for such a Modification, which approval shall not be unreasonably withheld or delayed. Licensee, when seeking to Modify its equipment will be required to meet applicable then-existing City Code provisions, any amendments to this Agreement or the Site Supplement, and other standards that exist at the time of such Modification or replacement, including the need to obtain other ancillary Permits needed to conduct such work, including, but not limited to, encroachment permits necessary to perform work in or near the ROW. In addition to any other submittal requirements, if requested by the City, Licensee shall provide structural weight or "load" calculations for all Municipal Facilities upon which it intends to modify Small Wireless Facilities in the ROW. The Site Supplement shall be amended to reflect the replacement or modification of Small Wireless Facilities.

Notwithstanding the foregoing, Licensee is exempt from being required to obtain a formal permit from the City or amending the applicable Site Supplement for routine maintenance work or emergency repairs, including equipment outage and/or failure, on its Small Wireless Facilities, provided Licensee meets the following requirements:

- i. Licensee shall provide the City's street-cut coordinator with two (2) working days' notice prior to performing any such routine maintenance or emergency repair work, with information regarding the nature of the work to be performed and planned traffic control operations to ensure the work can be performed in a safe manner. The City may, in its discretion, allow for a shorter notice period.
- ii. Notice shall be provided for each occurrence of Licensee's routine maintenance or emergency repair work.
- iii. No pavement shall be cut or otherwise disturbed during any work without obtaining a formal Permit from the City.
- iv. Any equipment that is replaced or modified during routine maintenance work or emergency repairs must have substantially similar dimensions, appearance, and weight or smaller/lighter dimensions, appearance, and weight; (2) meet requirements within all then-existing City Code provisions,

any amendments to this Agreement and the approved Site Supplement and other laws; and (3) not increase the load or utilization on the applicable Municipal Facility beyond the loading or utilization, if any, that was established in the original Site Supplement.

- v. Maintenance or emergency repair operations shall not exceed two hours and shall always be performed in a manner that maintains two-way traffic in the applicable section of ROW, unless otherwise agreed to by the City.
- vi. All traffic control necessary for the safe performance of such routine maintenance work or emergency repairs shall conform with the Manual on Uniform Traffic Control Devices for short term traffic control and any applicable state and local requirements.
- vii. All traffic control devices are subject to being rated by the City for conformance with the American Traffic Safety Services Association publication "Quality Standards for Work Zone Traffic Control Devices." If the City determines that any device does not meet these quality standards, then all work shall cease immediately until the traffic control device can be replaced with an acceptable device.
- viii. All routine maintenance or emergency repair work performed pursuant to this section shall be performed in accordance with the current editions of the National Electrical Safety Code and AASHTO's "A Guide for Accommodating Utilities within Highway Right-of-Way."
- ix. It shall be Licensee's responsibility to ensure that proper and adequate traffic and public safety controls are provided and maintained during all operations in the ROW. If Licensee has concerns about any planned operation, then all work should be delayed and Licensee should contact the City for clarification and guidance.
- x. Work within the ROW will not be permitted on weekends, holidays, or during major community events, or on the day preceding and the day following holiday weekends, holidays, or major community events, unless otherwise agreed to by the City.
- xi. Licensee shall not store equipment or materials in the ROW outside of the noticed time of work.
- xii. This section shall not affect or alter Licensee's obligation to respond to an emergency as outlined in Section 6.3 of this Agreement.

6.5 RESTORATION OF ROW

Licensee shall repair any damage to the ROW, and the property of any third party resulting from Licensee's construction, attachment, installation, operation, maintenance, removal, or relocation activities (or any other of Licensee's activities hereunder) within 30 days following the date of

such damage, at Licensee's sole cost and expense, including restoration of the ROW and such property to substantially the same condition as it was immediately before the date Licensee was granted a Permit for the applicable Licensed Location, including restoration or replacement of any damaged trees, shrubs or other vegetation.

6.6. ELECTRICAL SUPPLY

Licensee shall be responsible for obtaining any required electrical power service to its Small Wireless Facilities and Licensee Poles. The City shall not be liable to the Licensee for any stoppages or shortages of electrical power furnished to the Small Wireless Facilities or Licensee Poles, including without limitation, stoppages or shortages caused by any act, omission, or requirement of the public utility serving the structure or the act or omission of any other tenant or Licensee of the structure, or for any other cause beyond the control of the City. Licensee shall not be entitled to any abatement of the annual fee for any stoppage or shortage of electrical power.

6.7. FIBER CONNECTION

Licensee shall be responsible for obtaining access and connection to fiber optic lines or other backhaul solutions that may be required for its Small Wireless Facilities or Licensee Poles.

6.8. NO GENERATORS

Licensee shall not install or allow to be installed any generators or back-up generators associated with the installation or operation of any Small Wireless Facility or Licensee Pole.

6.9. TREE MAINTENANCE

Licensee, its contractors, agents and sublicensees, if any, shall obtain written permission from the City before trimming trees hanging over or near its Licensee Poles or Small Wireless Facilities. When directed by the City, Licensee shall trim under the supervision and direction of the applicable City personnel. The City shall not be liable for any damages, injuries, or claims arising from Licensee trimming trees.

6.10. NON-INTERFERENCE

6.10.1 Licensee shall ensure that its Licensee Poles and/or Small Wireless Facilities will not cause radio frequency interference with existing wireless communication facilities or devices, cable television, broadcast radio or television systems, satellite broadcast systems, or the City's or other public entities' traffic, public safety or other communication signal equipment existing at the time of installation of Licensee's Poles and/or Small Wireless Facilities. Following installation or modification of a Small Wireless Facility, the City may require Licensee to test the Small Wireless Facility's radio frequency and other functions to confirm it does not interfere with the City's operations or other existing uses within City property and the ROW.

- 6.10.2 Licensee shall not interfere in any manner with the existing uses of or within City property, including the ROW, including other telecommunications equipment used by other wireless services providers or neutral host providers with permission from the City to use the ROW, sanitary sewer systems, water mains and associated distribution networks, storm drain systems, gas mains and associated distribution networks, poles, aerial and underground electric, telephone and other wires, streetlight fixtures, cable television and other telecommunications systems, utility systems, and City property without the express written approval of the owner of the affected property or system.
- 6.10.3 Licensee shall not interfere in any manner with current or future City public safety communication or operations, nor shall Licensee interfere with future uses of City property, including the use of ROW by the City for legitimate public purposes, except for intermittent testing to be coordinated with the City as part of the remedial process until Licensee has eliminated the interference. In the event Licensee causes such interference, Licensee will work in good faith with the City to minimize and resolve interference issues in accordance with applicable FCC abatement procedures set forth in applicable federal law. If, after notice, Licensee continues to operate Small Wireless Facilities or Licensee Poles that cause interference with the City operations in violation of this Agreement, such operation may be deemed unauthorized and the City may remove the Small Wireless Facilities or Licensee Poles at Licensee's sole cost and expense.
- 6.10.4 The City will include in any other similar agreement an obligation of other wireless services providers or neutral host providers with permission from the City to use the ROW to comply with the provisions of Section 6.10.1 to 6.10.3, inclusive, of this Agreement to avoid, correct, and/or eliminate harmful interference with Licensee's then-existing Small Wireless Facilities and/or Licensee Poles.
- 6.10.5 The Parties agree that Licensee and/or any other sublicensees or users of the ROW will be permitted to install only such equipment that is of the type and frequency which will not cause harmful interference which is measurable in accordance with FCC standards to the then-existing Small Wireless Facilities.
- 6.10.6 If Licensee reasonably believes that the City is causing radio frequency interference with Licensee's Small Wireless Facilities, then City and Licensee will meet and confer within five (5) days of City's receipt of notice from Licensee, and City and Licensee will use best efforts to develop workable solution(s) in accordance with this Agreement and City Code to avoid the interference with Licensee's Small Wireless Facilities in a mutually acceptable manner.

6.11. GRAFFITI ABATEMENT

As soon as practical, but not later than ten (10) days from the date Licensee receives notice thereof, Licensee shall remove all graffiti on any of its Small Wireless Facilities or Licensee Poles. The foregoing shall not replace or otherwise relieve the Licensee from complying with any City graffiti or visual blight ordinance or regulation.

ARTICLE 7. PRIVILEGE LIMITATIONS

7.1. PRIVILEGE LIMITATIONS

Any privilege claimed under this Agreement by Licensee shall be subordinate to any prior or subsequent occupancy or use by the City or by any other governmental entity and shall be subordinate to any prior lawful occupancy or use by any other person, and shall be subordinate to any prior easements or other interests in land. Nothing in this Agreement shall extinguish or otherwise interfere with property rights established independently of this Agreement.

ARTICLE 8. TITLE AND OWNERSHIP

8.1. TITLE

The Parties agree that no part of a Small Wireless Facility or Licensee Pole constructed, erected, placed, or modified within the ROW will become, or be considered by either Party as being affixed to, or a part of, the ROW or any Municipal Facilities. All portions of Licensee's Small Wireless Facilities and Licensee Poles (including any ground mounted equipment associated with Licensee's Small Wireless Facilities and Licensee Poles) will be and remain the property of Licensee or its sublicensees, as applicable.

8.2 NO OWNERSHIP OR TITLE IN CITY PROPERTY

Neither this Agreement, nor any license issued herein or pursuant to a Site Supplement, nor any Permit separately issued for installation of any Small Wireless Facilities or Licensee Poles, regardless of the payment of any fees or charges, shall create or vest in Licensee any ownership or property rights in any portion or element of any Municipal Facilities, the underlying real property on which the Municipal Facilities are located, or any portion of the ROW. Nothing in the Agreement constitutes or creates a leasehold interest or any right to the benefit of any City property.

8.3 "AS IS" CONDITION

The City reserves the right, but not the obligation to maintain and operate its ROW in such reasonable manner as will best enable the City to fulfill its own service obligations. Licensee accepts the ROW and all Municipal Facilities identified in a Site Supplement, or any replacement pole, in its condition "AS IS," without representation or warranty of any kind by the City, and subject to all applicable laws, rules and ordinances governing the use of Municipal Facilities for Licensee's intended purpose. Notwithstanding the foregoing, the City agrees, at its sole cost and expense, to keep any Municipal Facilities containing or supporting Licensee's Small Wireless Facilities in good condition and in accordance with the City's standard maintenance requirements.

8.4. LICENSEE RESPONSIBLE

Licensee shall be responsible and liable for the acts and omissions of Licensee's employees, temporary employees, officers, directors, consultants, agents, Affiliates, subsidiaries,

subcontractors, and sublicensees in connection with the performance of this Agreement, as if such acts or omissions were Licensee's own acts or omissions.

8.5 LIMIT OF CITY'S LIABILITY

The City shall be liable only for the cost of repair to damaged components of Licensee's Small Wireless Facilities only to the extent caused by the negligence or willful misconduct of the City, its employees, agents, or contractors.

ARTICLE 9. ENVIRONMENTAL LAWS

9.1. ENVIRONMENTAL LAWS

Licensee, its employees, contractors, subcontractors, agents, and sublicensees shall comply with all rules, regulations, statutes, or orders of the Environmental Protection Agency, the Nevada Division of Environmental Protection, and any other governmental agency with the authority to promulgate environmental rules and regulations applicable to Licensee's use of any Licensed Location under this Agreement ("Environmental Laws"). Licensee shall not possess, use, generate, release, discharge, store, dispose of, or transport any Hazardous Materials on, under, in, above, to, or from the site except in compliance with the Environmental Laws. "Hazardous Materials" mean any substances, materials, or wastes that are or become regulated as hazardous or toxic substances under any applicable federal, state, or local laws, regulations, ordinances, or orders. Without limiting the foregoing, Licensee and its employees, contractors, subcontractors, agents, and sublicensees, if any, shall not discharge or otherwise allow any substances in the City's sewer or stormwater system or elsewhere on Licensed Locations in violation of the Environmental Laws.

Except to the extent of the negligence or willful misconduct of the City, Licensee shall pay, indemnify, defend, and hold the City harmless against and to the extent of any loss or liability incurred by reason of any Hazardous Material produced, disposed of, or used by Licensee pursuant to this Agreement, and must promptly notify the City of any Hazardous Materials at any time discovered or existing upon the ROW. Licensee will ensure that any on-site or off-site storage, treatment, transportation, disposal, or other handling of any Hazardous Materials will be performed by persons who are properly trained, authorized, licensed and otherwise permitted to perform those activities. The Parties recognize that Licensee is anticipated to use only a small portion of the ROW and that Licensee shall not be responsible for any environmental condition or issue except to the extent resulting from Licensee's own activities and responsibilities (or activities carried out on Licensee's behalf), and Licensee shall not be liable for any environmental condition or Hazardous Materials existing prior to the Effective Date.

ARTICLE 10. SURETY BOND

Before the commencement of any work, Licensee shall maintain and furnish to the City an executed performance bond or other form of security acceptable to the City (the "Security") for the purpose of protecting the City from the costs and expenses associated with Licensee's failure to comply with its material obligations under and throughout the life of this Agreement, including but

not limited to, (a) the City's restoration of the ROW; (b) the City's removal of any of Licensee's Small Wireless Facilities or Licensee Poles that are Abandoned or not properly maintained or that need to be removed after expiration or termination of this Agreement or to protect public health, safety, welfare, or City property; (c) the City's remediation of environmental and hazardous waste issues caused by Licensee; or (d) the City's recoupment of Rental Fees that have not been paid by Licensee in over 12 months, after Licensee receives reasonable notice from the City of any of the non-compliance listed above and an opportunity to cure as described within this Agreement. The amount of the Security shall be no less than \$25,000 for the first ten (10) Site Supplements and an additional \$25,000 for each set of ten (10) Site Supplements thereafter (i.e. additional \$25,000 for Site Supplements 11 to 20, additional \$25,000 for Site Supplements 21 to 30, etc.). Each \$25,000 increment shall be maintained and furnished at the beginning of each set of ten (10) Site Supplements (i.e. Licensee shall maintain and furnish a \$25,000 Security before commencement of work on the first Site Supplement, and an additional \$25,000 Security before commencement of work on the eleventh Site Supplement).

The Security must be in a form approved by the City and issued by a corporate surety authorized and admitted to write surety bonds in Nevada. Any acceptable Security instrument having an expiration date earlier than the expiration of the Term of this Agreement shall be automatically renewable.

In the event the surety or party issuing the Security cancels or decides not to renew or extend the Security, Licensee shall obtain, and provide to the City for approval, a replacement Security with another surety within 30 days of the date of receipt of the notice that the existing surety intends to cancel or not renew. If Licensee fails to provide the replacement Security within the 30-day period, the City may immediately suspend Licensee from any further performance under this Agreement and begin procedures to terminate for default.

ARTICLE 11. INDEMNIFICATION AND INSURANCE

11.1. INDEMNIFICATION

11.1.1. Licensee agrees to and shall defend, indemnify, and hold harmless the City, its officers, officials, employees, agents, and legal representatives from and against any and all demands, claims, proceedings, suits, actions, losses, penalties and fines, judgements, obligations, damages, environmental damages, or expenses (including, but not limited to, reasonable attorney fees, court costs, claim adjusting and handling expenses, and other defense costs) (collectively, "Claims") for injury, death, damage, or loss to persons or property which may be imposed upon or incurred by or asserted against the City in connection with Licensee's construction, operation, or use of City ROW or any Licensee Pole or Small Wireless Facility under this Agreement, including, without limitation losses related to Licensee's actual or alleged negligence or intentional actions, acts, errors, mistakes, or omissions, to the extent caused in whole or in part by Licensee or any of its contractors, subcontractors, lessees, licensees, or anyone directly or indirectly employed by or working for any of them or anyone for whose acts any of them may be liable. Notwithstanding the foregoing, Licensee shall not be required to

indemnify the City for any Claims that are the result of the negligence or intentional misconduct of the City or any of its officers, employees, agents, or contractors.

11.1.2. Licensee shall require all of its subcontractors, agents, and sublicensees (and their subcontractors and agents) to indemnify the City to the same extent and in substantially the same form as is required of Licensee in this Agreement.

11.1.3. Licensee's indemnification obligations under this Agreement will survive for six months after the Agreement expires or terminates.

11.1.4 Notwithstanding any provision of this Agreement to the contrary, in no event shall either Party be liable for consequential, incidental, punitive, exemplary or indirect damages suffered by the other Party or by any customer or purchaser of such Party or any other person, for lost profits or other business interruption damages.

11.2. INSURANCE

11.2.1. Prior to performing any construction, installation or other work under this Agreement, Licensee shall provide the City with a certificate of insurance for the types of coverage, limits of insurance and other terms specified herein. All insurance coverage shall be from a company eligible to transact business in the State of Nevada and the City of Sparks and shall meet the following specifications. Licensee shall maintain all required insurance coverage and endorsements in full force and effect at all times during the Term of this Agreement and any Renewal Terms or extensions thereto.

Coverage shall be at least as broad as the Insurance Services Office (ISO) Commercial General Liability (CGL) "Occurrence" form CG 00 01 or substitute form providing equivalent coverage and shall cover liability caused, in whole or in part, from premises, operations, independent contractors, products-completed operations, personal and advertising injury, and contractual.

City, its officers, agents, employees, and volunteers are to be included as insureds using the applicable ISO additional insured endorsement(s) or substitute forms providing equivalent coverage, in respects to damages and defense arising from activities performed by or on behalf of Licensee, including equipment, products and completed operations of Licensee, and premises owned, occupied, or used by Licensee. City's additional insured status shall (i) be limited to bodily injury, property damage or personal and advertising injury caused, in whole or in part, by Licensee, its employees, agents or independent contractors; (ii) not extend to claims for punitive or exemplary damages arising out of the acts or omissions of City, its employees, agents or independent contractors or where such coverage is prohibited by law or to claims arising out of the gross negligence of City, its employees, agents or independent contractors; and, (iii) not exceed Licensee's indemnification obligation under this Agreement, if any.

- 11.2.2 Licensee shall, in addition to maintaining the required insurance coverage required under this Agreement, require subcontractors that may perform work on this project to maintain reasonable and prudent insurance coverage and limits in accordance with the work to be performed and in line with industry custom and practice.
- 11.2.3 Licensee shall obtain and maintain the following insurance coverage throughout the Term of this Agreement as described below:
- 11.2.3.1. **Commercial General Liability.** Licensee must maintain Commercial General Liability insurance on a CG 00 01 or equivalent form with a limit of \$2,000,000 per occurrence for bodily injury and property damage and \$4,000,000 general aggregate including premises-operations, products and completed operations, independent contractor, contractual liability, personal injury, and advertising injury. An updated certificate will be issued at each renewal evidencing completed operations for one (1) year following expiration of the contract.
 - 11.2.3.2. **Commercial Automobile Liability.** Licensee must maintain Commercial Automobile Liability insurance in the amount of \$1,000,000 combined single limit each accident for bodily injury and property damage covering all of Licensee owner, hired, and/or non-owned vehicles assigned to or used in the performance of Licensee's work or activities under this Agreement.
 - 11.2.3.3. **Workers' Compensation.** Licensee must maintain Workers' Compensation insurance in compliance with the statutory requirements of the State of Nevada. It is understood and agreed that there shall be no coverage provided for Licensee or any Subcontractor of Licensee by the City.
 - 11.2.3.4. **Employer's Liability.** Licensee must maintain Employer's Liability insurance with a limit of \$1,000,000 for each accident, \$1,000,000 disease for each employee, and \$1,000,000 disease-policy limit.

11.2.4. General Insurance Provisions

- 11.2.4.1. The City and its officers, officials, agents, and employees shall be included as an additional insured as their interest may appear under this Agreement for all required commercial general liability and automobile liability policies. City's additional insured status shall (i) be limited to bodily injury, property damage or personal and advertising injury caused, in whole or in part, by Licensee, its employees, agents or independent contractors; (ii) not extend to claims for punitive or exemplary damages arising out of the acts or omissions of City, its employees, agents or independent contractors or where such coverage is prohibited by law or to claims arising out

of the gross negligence of City, its employees, agents or independent contractors; and, (iii) not exceed Licensee's indemnification obligation under this Agreement, if any.

- 11.2.4.2. Licensee's insurance coverage, except for Workers' Compensation and Employer's Liability, shall be primary and non-contributory in regards to any insurance or program of self-insurance maintained by the City. Any insurance or self-insurance maintained by the City, its officers, officials, agents, or employees shall be excess of Licensee's coverage and shall not contribute in any way.
- 11.2.4.3. Licensee shall pay all insurance premiums, and the City shall not be obligated to pay any premiums.
- 11.2.4.4. Licensee shall be responsible for and pay any claims or losses to the extent of any self-insured retention amounts and waives any claim it may have for the same against the City, its officers, agents, or employees.
- 11.2.4.5. Licensee waives any claim or right of subrogation to recover against the City, its officers, agents, or employees and each of Licensee's insurance policies must on its face or by endorsement state that the issuer waives any claim or right of subrogation to recover against the City, its officers, agents, or employees.
- 11.2.4.6. Licensee's insurance must apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- 11.2.4.7. The insurance requirements set forth herein support the indemnity covenants contained in this Agreement.
- 11.2.4.8. Licensor in no way warrants that the insurance limits required herein will be sufficient to protect Licensee from all liabilities that might be caused, in whole or in part, by the performance of this Agreement by Licensee and its contractors, and Licensee is free and able to purchase any additional insurance as Licensee determines is necessary.
- 11.2.4.9. Licensee shall provide the City at least 30 days' written notice of any cancellation or non-renewal that is not replaced. If Licensee does not comply with this requirement, the City may immediately suspend Licensee from any further performance under this Agreement and begin procedures to terminate this Agreement for default.
- 11.2.4.10. At the time this Agreement is signed and as long as this Agreement continues, Licensee must furnish to the City certificates of insurance,

including any blanket additional insured endorsements that meet the requirements of this Agreement. These certificates must bear the City's name. Licensee shall provide updated certificates of insurance to the City upon reasonable request. Failure to demand evidence of full compliance with the insurance requirements in this Agreement or failure to identify any insurance deficiency will not relieve Licensee from, nor will it be considered a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

- 11.2.4.11 Notwithstanding the forgoing, Licensee may, in its sole discretion, self-insure any of the required insurance under the same terms as required by this Agreement. In the event Licensee elects to self-insure its obligation under this Agreement to include City as an additional insured, the following conditions apply: (i) City shall promptly and no later than thirty (30) days after notice thereof provide Licensee with written notice of any claim, demand, lawsuit, or the like for which it seeks coverage pursuant to this Section and provide Licensee with copies of any demands, notices, summonses, or legal papers received in connection with such claim, demand, lawsuit, or the like; (ii) City shall not settle any such claim, demand, lawsuit, or the like without the prior written consent of Licensee; and (iii) City shall fully cooperate with Licensee in the defense of the claim, demand, lawsuit, or the like.

ARTICLE 12. CANCELLATION AND TERMINATION

12.1. CANCELLATION

Either Party may cancel any Site Supplement before the date of expiration by providing the other Party with ninety (90) days' express written notice of cancellation; provided, however, that the City may only cancel a specific Site Supplement without cause as provided below.

12.1.1 Cancellation by Licensee. Cancellation by Licensee shall not be effective until (1) Licensee provides the City with ninety (90) days' written notice; (2) Licensee has removed, as applicable, all Small Wireless Facilities and Licensee Poles from Municipal Facilities or other structures within the ROW; and (3) has satisfied all provisions of this Agreement. After Licensee has complied with the requirements for cancellation of a Licensed Location, the Site Supplement for that Licensed Location shall be of no further force or effect and Licensee shall have no further obligation for the payment of the annual fee for that Licensed Location. If cancelled by Licensee, any prepaid annual fee shall be retained by the City.

12.1.2 Cancellation by the City. The City may cancel a specific Site Supplement if it vacates or abandons the applicable ROW, or if it is determined that the City did not own or control the subject ROW or Municipal Facility. Otherwise, the City may

only terminate this Agreement or a Site Supplement in accordance with Section 12.2 below.

12.2 TERMINATION FOR CAUSE BY CITY

12.2.1. If Licensee defaults under this Agreement, the City may terminate this Agreement if the default materially affects the City's rights with respect to all Site Supplements or the Agreement as a whole, subject to Licensee's ability to cure such defaults below. Otherwise, the City may terminate the Site Supplement(s) pertaining to the default subject to Licensee's ability to cure such defaults below. The City's right to terminate this Agreement or a Site Supplement for Licensee's default is cumulative of all its rights and remedies which exist at present or in the future. Default by Licensee includes, but is not limited to:

12.2.1.1. Failure of the Licensee to comply with any material term of this Agreement;

12.2.1.2. Licensee becoming insolvent;

12.2.1.3. Licensee's failure to obtain all licenses, Permits, and certification required by the City under this Agreement (to the extent not unreasonably withheld by the City) or pay all fees associated with Licensee's Poles or Small Wireless Facilities;

12.2.1.4. All or a substantial part of Licensee's assets are assigned for the benefit of its creditors; or

12.2.1.5. A receiver or trustee is appointed for Licensee;

12.2.2. In the event of a default, the City shall deliver written notice to Licensee describing the default and the proposed termination date. Upon sending a default notice, the Licensee shall have 60 days from the receipt of such notice to cure the default (unless the nature of the event takes longer to cure and the Licensee commences a cure within such 60 day period and thereafter diligently pursues it but will not exceed 120 days unless agreed to by the City which agreement will not be unreasonably withheld). If Licensee cures the default before the proposed termination date, the proposed termination is ineffective.

12.2.3. If the default is not cured in the time and manner set out above then the City may immediately terminate this Agreement or the specific Site Supplement(s), as applicable, by notifying Licensee in writing of such termination. After receiving the notice, Licensee shall, promptly cease operations and remove the applicable Small Wireless Facilities and Licensee Poles from the ROW in accordance with Section 6.4.5 or 6.4.6 of this Agreement, and all remaining payment due shall be remitted by Licensee to the City within 45 days of the receipt of the notice.

12.3. TERMINATION BY LICENSEE

12.3.1. The Licensee may terminate this Agreement or terminate a Site Supplement for any Licensed Location at any time by providing ninety (90) days' advance written notice to the City.

12.3.2. If the Licensee does not remove all Small Wireless Facilities and Licensee Poles from the ROW within the time period required by Section 6.4.5 or 6.4.6 of this Agreement, the Small Wireless Facilities and/or Licensee Poles shall be deemed to be in a Hold Over Period subject to the payment obligations in Section 12.4 and Article 5 of this Agreement.

12.4. HOLDING OVER

If Licensee's Licensee Poles or Small Wireless Facilities continue to occupy the ROW after (i) cancellation, termination, or expiration of this Agreement, and (ii) all applicable time periods have lapsed for the removal of Licensee Poles or Small Wireless Facilities, such occupancy shall not be deemed to be a renewal or extension of this Agreement, but shall instead be a month to month use of the ROW (known as the "Hold Over Period") in which Licensee agrees to (a) pay the Hold Over Period fee and other payments required in Article 5 of this Agreement, and (b) continue to comply with the terms of this Agreement.

ARTICLE 13. ASSIGNMENT AND SUBLICENSING

13.1. This Agreement and each license granted herein is personal to Licensee and is for Licensee's use only. Except as allowed under Section 13.5 of this Agreement, Licensee may not assign, delegate, transfer, or sell all or any portion of its rights, privileges and obligations under this Agreement without prior written consent of the City. Any purported assignment shall not become effective until the assignee has filed with the City an instrument, duly executed, reciting the fact of such assignment, the terms thereof, and denoting that the assignee agrees to comply with all of the provisions this Agreement. Any violation of this subsection will be grounds for termination of this Agreement.

13.2 The Parties agree and acknowledge that, notwithstanding anything in this Agreement to the contrary, certain Small Wireless Facilities deployed by Licensee in the ROW pursuant to this Agreement may be owned and/or operated by Licensee's third-party wireless carrier customers ("Carriers") and installed and maintained by Licensee pursuant to separate license agreements or similar arrangements between Licensee and such Carriers. In no event shall Licensee purport to grant a Carrier interest in City property or the ROW or any rights or privileges that are greater than those granted to Licensee. Such Carrier Small Wireless Facilities shall be treated as Licensee's own Small Wireless Facilities for all purposes under this Agreement such that (1) Licensee remains responsible and liable for all performance obligations under this Agreement with respect to such Small Wireless Facilities owned or operated by third-party Carriers; and (2) the City's sole point of contact regarding such Small Wireless Facilities shall be

Licensee. Except as contemplated by the Parties' understanding that certain Small Wireless Facilities may be owned and/or operated by third-party Carriers, Licensee shall not assign, lease, sublicense, share with, convey, or resell to others any rights or privileges granted to Licensee under this Agreement. Any violation of this subsection will be grounds for termination of this Agreement.

- 13.3 Any assignment agreement entered into pursuant to this Section shall place the assignee into the same position of the assignor, such that all obligations and duties stemming from this Agreement and any amendments to this Agreement as may be agreed to from time to time, will remain in full effect against the assignee, as if the assignee were the original party to this Agreement.
- 13.4 Any non-permitted transfer or assignment of the right to install Licensee Poles or Small Wireless Facilities to Municipal Facilities shall be void and not merely voidable. City may, in its sole discretion and in addition to all other lawful remedies available to the City under this Agreement or at law or equity, continue to collect any fees owed from Licensee for any Licensed Locations throughout the terms of this Agreement. No cure or grace periods shall apply to any transfers or assignments consummated in violation of this Agreement or to the enforcement of any provisions of this Agreement against a non-permitted transferee or assignee.
- 13.5 Notwithstanding anything to the contrary contained in this Agreement, Licensee may, without obtaining the consent of City, assign this Agreement to (a) any Affiliate as long as such an Affiliate has expertise in the operation of Small Wireless Facilities, Licensee Poles, and the provision of Wireless Services; or (b) any entity acquiring all or substantially all of the assets of Licensee by way of merger, acquisition, or other business reorganization. Licensee shall give written notice to the City thirty (30) days after any assignment pursuant to this Section 13.5.

ARTICLE 14. RECORDS AND AUDITS

14.1. RECORDS

- 14.1.1. Licensee shall keep, in accordance with its typical business practice, complete and accurate GIS location information and maps related to Licensee's Small Wireless Facilities and Licensee Poles.
- 14.1.2. The City may, upon reasonable advance written notice to Licensee, examine, review, or verify any non-confidential records described in 14.1.1.

14.2. INSPECTIONS AND AUDITS

- 14.2.1. City representatives shall have the right to perform, or to have performed, (1) inspections or audits of the non-confidential records described in 14.1.1 and (2) inspections of all places in the ROW where work is undertaken in connection with this Agreement. Licensee shall keep its non-confidential books and records available for this purpose for at least one year after this Agreement terminates or

expires. The inspection or audit may be performed by City staff or third-party representatives engaged by the City. This provision does not affect any applicable statute of limitations.

14.2.2. In addition to other records or filings required hereunder or by law, the Licensee shall maintain and provide access to a current map by either paper or electronic means, upon request by the City, showing the approximate locations of the Small Wireless Facilities and Licensee Poles in the ROW.

ARTICLE 15. MISCELLANEOUS

15.1. FORCE MAJEURE

Other than the Licensee's failure to pay amounts due and payable under this Agreement and Licensee's duty to respond to emergencies as outlined in Section 6.3 of this Agreement, neither Party shall be in default or subject to sanction under any provision of this Agreement when its performance is prevented by Force Majeure. Force Majeure means an event caused by epidemic; act of God; fire, flood, hurricanes, tornadoes, or other natural disasters; explosions; terrorist acts against the City or Licensee; act of military or superior governmental authority that the Party claiming Force Majeure is unable to prevent by exercise of reasonable diligence; war; strikes; riots or civil disorder; provided, however, that such causes must be beyond the reasonable control and without the willful act, fault, failure or negligence of the Party claiming Force Majeure. The term does not include any changes in general economic conditions such as inflation, interest rates, economic downturn or other factors of general application; or an event that merely makes performance more difficult, expensive or impractical. Performance is not excused under this section following the end of the applicable event of Force Majeure. Force Majeure does not entitle Licensee to reimbursement of payments.

This relief is not applicable unless the affected Party does the following:

15.1.1. Uses due diligence to remove or mitigate the effects of the Force Majeure as quickly as possible and to continue performance notwithstanding the Force Majeure; and

15.1.2. Provides the other party with prompt written notice of the cause and its anticipated effect.

15.2. DISPUTE RESOLUTION

15.2.1. In the event of a dispute between the Parties that arises during the Term of this Agreement, the Parties shall attempt to expeditiously and amicably resolve any dispute through good faith discussions in the ordinary course of business at the level at which the dispute originates.

15.2.2. If the Parties are not able to resolve the dispute in the ordinary course of business, the City and representatives of other City departments that are involved in the

dispute will meet with Licensee's authorized representative in an attempt to resolve the dispute.

15.2.3. If the Parties are unable to resolve the dispute pursuant to Article 15.2.2 of this Agreement and if either of the Parties intends to file suit, the Parties may refer the matter to non-binding mediation before a mutually-agreed upon neutral, third-party mediator and to diligently pursue a mediated settlement. Mediation shall begin within thirty (30) days of choosing a mediator, unless the Parties otherwise mutually agree, in writing, to a later date.

15.2.3.1. The Parties shall initiate mediation by providing written notice to the other Party stating a desire to mediate the dispute and describing the disputed issues.

15.2.3.2. Mediation shall occur in Washoe County, Nevada and each party shall bear its own costs incurred in connection with the mediation, including any travel expenses. The parties shall equally share the costs of the mediator's fees.

15.2.3.3. The resolution of any dispute during mediation will be in writing and made available to both Parties by the mediator. In the event that such dispute is not resolved within ninety (90) calendar days following the first day of mediation, either Party may initiate litigation.

15.2.3.4. If a party receiving a mediation request refuses to mediate, participate in selecting a mediator, or attend mediation, this dispute resolution provision will be deemed to have been fulfilled by the aggrieved Party and the aggrieved party is permitted to pursue any other remedies it may have.

15.2.4. If the Parties agree to mediate, no lawsuit under or related to this Agreement by one Party against the other may be filed until mediation of the issue has ended as determined by the mediator or has ended in accordance with section 15.2.3.4. Before initiating litigation, the Party shall notify the other Party of its intent to sue.

15.2.5. Notwithstanding the existence of any dispute between the Parties, insofar as is possible under the terms of this Agreement, each Party shall continue to perform the obligations required of it during the continuation of any such dispute, unless enjoined or prohibited by a court of competent jurisdiction or unless this Agreement terminates or expires under the terms provided herein. Unless the Parties agree to mediate, nothing herein shall prevent either Party from pursuing remedies under applicable Law.

15.3. ACCEPTANCE AND APPROVAL

An approval by City, of any part of the Licensee's performance, shall not be construed to waive compliance with this Agreement or to establish a standard of performance other than required by this Agreement or by law.

15.4. REPRESENTATIONS AND WARRANTIES

In addition to the representations, warranties, and covenants of the Licensee to the City set forth elsewhere herein, the Licensee represents and warrants to the City and covenants and agrees (which representations, warranties, covenants and agreements shall not be affected or waived by any inspection or examination made by or on behalf of the City) that, as of the Effective Date and throughout the term of this Agreement:

15.4.1. *Organization, Standing and Power.* The Licensee is a neutral host provider or wireless services provider duly organized, validly existing and in good standing under the laws of the state of its organization and is duly authorized to do business in the State of Nevada and in the City. The Licensee has all requisite power and authority to own, operate, license, or lease its properties and assets, subject to the terms of this Agreement, to conduct its businesses as currently conducted and to execute, deliver and perform this Agreement and all other agreements entered into or delivered in connection with or as contemplated herein.

15.4.2. *Truthful Statements.* The Licensee warrants, to the best of its knowledge and belief, that information provided and statements made in connection with its application for this Agreement were true and correct when made and are true and correct upon execution hereof.

15.4.3. *Condition of Right-of-Way.* Licensee accepts the ROW where Small Wireless Facilities and Licensee Poles are authorized to be located "AS IS", without any express or implied warranties of any kind.

15.5. STATEMENT OF ACCEPTANCE

Licensee and City, for themselves, and their permitted successors and assigns, hereby accept and agrees to be bound by all terms, conditions and provisions of this Agreement.

15.6. RELATIONSHIP OF THE PARTIES

Licensee shall be responsible and liable for its contractors, subcontractors, agents, and sublicensees. The City has no control or supervisory powers over the manner or method of Licensees' contractors', subcontractors' and agents' performance under this Agreement. All personnel Licensee uses or provides are its employees, contractors, subcontractors, or agents, and not the City's employees, agents, or subcontractors for any purpose whatsoever.

15.7. SEVERABILITY

If any part of this Agreement is for any reason found to be unenforceable, all other parts remain enforceable unless the result materially prejudices either Party.

15.8. ENTIRE AGREEMENT

This Agreement merges the prior negotiations and understandings of the Parties and embodies the entire agreement of the Parties. No other agreements, assurances, conditions, covenants (express or implied), or other terms of any kind, exist between the Parties regarding this Agreement.

15.9. MODIFICATION OR AMENDMENT

Unless otherwise specified elsewhere in this Agreement, this Agreement may be amended only by written instrument executed on behalf of the City (by authority of an ordinance adopted by the City Council) and Licensee.

15.10. APPLICABLE LAWS AND VENUE

15.10.1. This Agreement is subject to the laws of the State of Nevada, the Sparks City Charter, Sparks City Ordinances and Municipal Code, the laws of the federal government of the United States, and all rules and regulations of any regulatory body or officer having jurisdiction (collectively “Law”), including any lawful court or administrative decisions, judgments or orders that have been fully and finally adjudicated.

15.10.2. Subject to the Parties’ obligation to submit to the dispute resolution process as described in this Agreement, the Parties shall submit any and all litigation and legal proceedings between them to the exclusive jurisdiction of the state or federal courts in the State of Nevada and waive any objections or right as to forum *non conveniens*, lack of personal jurisdiction, or similar grounds. Venue for any litigation relating to this Agreement must be in Washoe County, Nevada.

15.11 NOTICES

15.11.1. All notices to either party to the Agreement must be in writing and must be delivered by personal delivery, United States registered or certified mail, postage prepaid and return receipt requested, or any other national commercial air courier or express delivery service. The notice must be addressed to the party to whom the notice is given at its address set forth below in Section 15.11.2, or to another address the receiving party has designated previously by proper notice to the sending party. Postage or delivery charges must be paid by the party giving the notice. Any communication made by e-mail or similar method shall not constitute formal notice pursuant to this Agreement.

15.11.2 All notices must be provided to the other Party at the following addresses:

City:

City Engineer
City of Sparks
431 Prater Way
P.O. Box 831
Sparks, NV 89431

Licensee:

New Cingular Wireless PCS, LLC
Attn: Tower Asset Group – Lease Administration
Re: Wireless Installation on Public Structures
(City of ____)(__)
FA No.: _____
1025 Lenox Park Blvd NE
3rd Floor
Atlanta, GA 30319

With Copy To:

City Attorney
City of Sparks
431 Prater Way
P.O. Box 831
Sparks, NV 89431

With Copy To:

New Cingular Wireless PCS, LLC
Attn: AT&T Legal Dept. - Network Operations
Re: Wireless Installation on Public Structures
(City of ____)(__)
FA No: _____
208 S. Akard Street
Dallas, TX 75202-4206

15.12. CAPTIONS

Captions contained in this Agreement are for reference only, and, therefore, have no effect in construing this Agreement. The captions are not restrictive of the subject matter of any section in this Agreement.

15.13. NON-WAIVER

If either Party fails to require the other to perform a term of this Agreement, that failure does not prevent the Party from later enforcing that term and all other terms. If either Party elects to not seek remedies regarding the other Party's breach of a term, that election does not waive a later breach of this Agreement.

15.14. ENFORCEMENT

The City may enforce all legal rights and obligations under this Agreement without further authorization. Licensee agrees to provide to the City all nonconfidential documents and records pertaining to this Agreement that the City reasonably requests to assist in evaluating Licensee's compliance with this Agreement.

15.15. AMBIGUITIES

If any term of this Agreement is ambiguous, it shall not be construed for or against any Party on the basis that the Party did or did not write it.

15.16. SURVIVAL

Licensee and the City shall remain obligated to the other Party under all provisions of this Agreement that expressly or by their nature extend beyond the termination or expiration of this Agreement, including, but not limited to, the provisions regarding warranty, indemnification and confidentiality.

All representations and warranties contained in this Agreement shall survive the term of the Agreement.

15.18. NO THIRD-PARTY BENEFICIARIES

This Agreement does not bestow any rights upon any third party, but binds and benefits the City and Licensee only.

15.19. REMEDIES CUMULATIVE

Unless otherwise specified elsewhere in this Agreement, the rights and remedies contained in this Agreement are not exclusive, but are cumulative with all rights and remedies which exist now or in the future. Neither party may terminate its duties under this Agreement except in accordance with its provisions.

15.20. LIMITATION OF DAMAGES

Neither Licensee nor the City shall be liable for any indirect, incidental, special, consequential, or punitive damages, or any lost profits for any claim arising out of this Agreement. This Section shall survive the expiration or termination of this Agreement.

15.21. CONTROLLING PARTS

If a conflict between the sections of the Agreement and any of the exhibits arises, the sections of the Agreement control over the exhibits.

15.22. NEVADA PUBLIC RECORDS ACT

Licensee acknowledges that information submitted to the City may be subject to public disclosure pursuant to Chapter 239 of the Nevada Revised Statutes.

15.23. USA LOCATE

Licensee shall be responsible for the geographical locations and records of all underground facilities constructed. Licensee shall register and maintain membership of Underground Service Alert of Northern/Central California and Nevada (USA North 811) for the duration that any such facilities remain in place pursuant to Chapter 455 of the Nevada Revised Statutes.

15.24 CHANGE OF LAW

If, at any time during the Term of this Agreement, any federal or state law or regulation or any binding judicial or administrative interpretation thereof sets forth a new term, provision, or ruling applicable to the subject matter within this Agreement (“New Law”) that is inconsistent with or different than a term or provision of this Agreement, then the Parties agree to promptly meet and confer for the purpose of amending the Agreement to conform with the New Law. Any such amendment shall apply prospectively, on a going forward basis, for all future Small Wireless Facilities construction or installation, unless the New Law requires retroactive application to all existing Small Wireless Facilities, or unless agreed upon by the Parties.

15.24. AUTHORITY TO SIGN AND BIND

Each person executing this Agreement hereby warrants and represents that he or she has the power and authority to execute this Agreement, to bind such Party and consummate the transactions hereby contemplated, and to take all other actions required to be taken pursuant to this Agreement.

[Signature page to follow]

IN WITNESS WHEREOF, the Parties, through their duly authorized officers, have executed this Agreement in multiple counterparts, each of equal force and effect, effective as of the date signed by all Parties.

LICENSEE:

CITY:

NEW CINGULAR WIRELESS PCS, LLC

CITY OF SPARKS, NEVADA

By: AT&T Mobility Corporation
Its: Manager

Name:
Title:

Mayor

ATTEST/SEAL:

ATTEST/SEAL:

Name:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBITS

A. SITE SUPPLEMENT

Exhibit A

Site Supplement

This SITE SUPPLEMENT (“Supplement”) is made this _____ day of _____, 20 (“Effective Date”), by and between the CITY OF SPARKS, NEVADA (“City” or “Licensor”), a municipal corporation of the State of Nevada, and NEW CINGULAR WIRELESS PCS, LLC, a Delaware limited liability company, duly organized and authorized to conduct business in the State of Nevada (“Licensee”).

1. Supplement. This document constitutes a Site Supplement as referenced in that certain Master License Agreement for the Installation of Small Wireless Communications Facilities in the City Right-of-Way, between Licensor and Licensee dated _____, 2019 (“Agreement”). All of the terms and conditions of the Agreement are hereby incorporated herein by reference and made a part of this Supplement without the necessity of repeating or attaching the Agreement. In the event of a contradiction, modification, or inconsistency between the terms of the Agreement and this Supplement, the terms of the Agreement shall govern. Capitalized terms used in this Supplement shall have the same meaning described for them in the Agreement unless otherwise indicated herein.
2. Project Locations. Licensee shall, upon obtaining City approval, have the right to enter on the City ROW and install Licensee Poles, or Small Wireless Facilities on Municipal Facilities at the designated areas within the ROW as further described below in Section 8.
3. Licensee Poles and Small Wireless Facilities. The Licensee Poles or Small Wireless Facilities to be installed at the designated locations are described below in Section 9. The City acknowledges that Licensor may include third-party-owned equipment in its initial installation of Licensee Poles or Small Wireless Facilities and that such inclusion shall not be considered a sublicense to a third party.
4. Term. The term of this Supplement shall be the same as is set forth in Section 2.2 of the Agreement.
5. Fees. The initial annual fee for the term of this Supplement is the sum of \$270.00 or the City’s cost, as determined in accordance with Section 5.2 of the Agreement, and as adjusted annually by Section 5.3 of the Agreement; provided, however, no annual fee shall be due in connection with installation to a third-party structure or facility in accordance with Section 3.1.5 of the Agreement.
6. Commencement Date. This Site Supplement shall commence the first day of the month following receipt of all City approvals for the Licensed Location under this Site Supplement.
7. Approvals/Fiber. It is understood and agreed that Licensee’s ability to use the Licensed Location is contingent upon its obtaining all of the certificates, Permits,

and other approvals (collectively, “Governmental Approvals”) that may be required by any Federal, State, or Local authorities, as well as a satisfactory fiber and electrical connection which will permit Licensee to use the Licensed Location as set forth above. In the event that (i) any of such applications for such Governmental Approvals should be finally rejected; (ii) any Governmental Approval issued to Licensee is canceled, expires, lapses, or is otherwise withdrawn or terminated by a governmental authority; (iii) Licensee determines that such Governmental Approvals may not be obtained in a timely manner through no fault of the City; (iv) Licensee determines that it will be unable to obtain or maintain a fiber or power connection in a satisfactory manner; or (v) Licensee determines that the Licensed Location is no longer technically compatible for its use, Licensee shall have the right to terminate this Supplement. Notice of Licensee’s exercise of its right to terminate shall be given to the City in writing and shall be effective ninety (90) days from the date of such notice, or upon such later date as designated by Licensee. Upon such termination, this Supplement shall be of no further force or effect, except to the extent of the representations, warranties and indemnities made by each Party to the other in the Agreement or as otherwise provided for in the Agreement. Otherwise, Licensee shall have no further obligations for the payment of Attachment Fees to the City.

8. Licensed Location(s).

Licensee	Nearest Street Address	GIS or GPS Coordinates

9. Licensee Pole(s) and/or Small Wireless Facilities to be installed/constructed:

[Licensee to provide equipment plans for requested Licensee Pole(s) or Small Wireless Facilities]

[Signature page to follow]

EXECUTED to be effective as of the date shown above.

LICENSEE:

NEW CINGULAR WIRELESS PCS, LLC

By: AT&T Mobility Corporation
Its: Manager

CITY:

CITY OF SPARKS, NEVADA

By: _____
Name:
Title:

By: _____
Title:

APPROVED AS TO FORM:

City Attorney