

**SITE LICENSE AGREEMENT FOR TELECOMMUNICATION FACILITIES
MOUNTED ON CITY FACILITIES**

1. PARTIES AND DATE.

This TELECOMMUNICATIONS FACILITIES SITE LICENSE AGREEMENT (“Agreement”) is made as of _____, 201_, by and between the CITY OF ANAHEIM, a municipal corporation (“Licensor”), and a New Cingular Wireless PCS, LLC, a Delaware limited liability company (“Licensee”). The effective date of this Agreement is the latest date of execution hereinafter set forth for the names of the signatories (the “Effective Date”). Licensor and Licensee are sometimes individually referred to as a “Party” and collectively as the “Parties.” Except as indicated otherwise, all references to Licensor include its elected officials, officers, directors, employees, agents, and volunteers. Except as indicated otherwise, all references to Licensee include its personnel, employees, agents, and subcontractors.

2. RECITALS.

- 2.1. Licensor is the owner of a certain parcel of real property located at 800 West Katella Avenue in the City of Anaheim, County of Orange, State of California, and more particularly described in **Exhibit A**, attached hereto and incorporated herein by this reference (“Property”).
- 2.2. Licensee seeks to install, erect, operate, and maintain certain additional structures and equipment, including all support structures, devices, accessory equipment, and enclosures thereof, on the Property for receiving and/or transmitting voice, data, image, graphic, or video programming information by wire, cable, fiber optics, laser, microwave, antenna, radio, satellite transmission, or other similar mediums, with or without the benefit of any closed transmission medium (“Telecommunications Services”).
- 2.3. Subject to the terms of this Agreement, Licensee has and/or will locate its facilities in ACC-North in that portion of the Property which is depicted on **Exhibit B** attached hereto and incorporated herein by this reference (the “Premises”).

NOW, THEREFORE, for good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

3. DEFINITIONS.

- 3.1. “Accessory Structure” or “Accessory Structures” mean a facility used to house Licensee’s Facilities as depicted in the Site Plan as defined herein. Accessory Structures include those facilities constructed or to be constructed by Licensee or Licensor in

connection with this Agreement. Accessory Structure or Accessory Structures shall include Pre-existing Accessory Structure and Pre-existing Accessory Structures, and, unless expressly stated elsewhere within this Agreement, all terms and conditions of this Agreement which are applicable to Accessory Structure or Accessory Structures shall also be applicable to Pre-existing Accessory Structure and Pre-existing Accessory Structures.

- 3.2.** “Antenna” means the antenna cluster, attachment brackets and conduit installed or to be installed as part of Licensee’s Facilities. Antenna includes DAS Antennas except as expressly set forth herein. Unless approved by Licensor as set forth herein, no other type of Antenna shall be installed on the Premises except as identified in the Site Plan.
- 3.3.** “Business Day” or “Business Days” mean Monday through Friday, except City recognized holidays.
- 3.4.** “City” means the City of Anaheim, the Licensor.
- 3.5.** “City Facility” or “City Facilities” mean Licensor-owned structures and Licensor-constructed Accessory Structures including but not limited to underground vault, wiring, and electrical components as are necessary for the proper functioning of the City Facility as depicted in the Site Plan as defined herein. City Facility or City Facilities shall include Licensee-constructed Accessory Structures accepted by Licensor in accordance with Subsection 4.2.2. of this Agreement. All terms and conditions of this Agreement which are applicable to City Facility or City Facilities shall also be applicable to the Upgrade Work, as defined in Section 10.3.2 of this Agreement.
- 3.6.** "DAS Antenna" means an Antenna which is (i) part of Licensee's distributed antenna system on the Premises; and (ii) identified as a DAS Antenna on the Site Plan. No other type of DAS Antenna shall be installed on the Premises except as identified in the Site Plan.
- 3.7.** “Day” or “Days” mean calendar days unless otherwise indicated.
- 3.8.** “Department” means Convention, Sports and Entertainment Department of the City of Anaheim.
- 3.9.** “Director” means the Department's Executive Director or his or her designee.
- 3.10.** “Emergency Situation” or “Emergency Situations” mean any condition that Director, in his or her sole discretion, determines to constitute an unsafe condition or imminent threat to persons or property and/or adversely affects the integrity or operability of the City Facilities.

- 3.11.** “FCC” means the Federal Communications Commission or successor entity.
- 3.12.** “Integrated Facility” or “Integrated Facilities” mean those portions of Licensee’s Facilities which are integrated into the City Facilities and are required for the continuing functioning of City Facilities as determined by the Director in his or her sole discretion. Integrated Facilities include those facilities constructed in the future by Licensee in connection with Licensee’s Facility.
- 3.13.** “Law” or “Laws” mean any and all approvals, judicial decisions, statutes, constitutions, ordinances, resolutions, regulations, rules, tariffs, administrative orders, certificates, orders, permits, or other requirements of the City, the state, and the federal government, in effect either at the time of execution of this License or at any time after the Effective Date.
- 3.14.** “License” means the license granted by the Licensor pursuant to the Licensee by this Agreement.
- 3.15.** “Licensee’s Facility” or “Licensee’s Facilities” mean vaults, pull-boxes, conduits, cabinets, antenna(s), base radio equipment, apparatus and other structure installed, owned, operated, and maintained by Licensee or on behalf of Licensee on the Premises depicted in the Site Plan as defined herein. Licensee’s Facility or Licensee’s Facilities shall include those Licensee-constructed Accessory Structures which are not accepted by Licensor pursuant to Subsection 4.2.2. Licensee’s Facility or Licensee’s Facilities shall not include City Facilities and Integrated Facilities.
- 3.16.** “Notice to Proceed” means the notice issued by the Licensor to the Licensee upon Licensee successfully (i) obtaining all approvals identified in Subsection 4.6. of this Agreement; and (ii) completing all studies identified in Section 6 of this Agreement.
- 3.17.** “Pre-existing Accessory Structure” or “Pre-existing Accessory Structures” mean those Accessory Structures located within the "birdcage" that is located between Exhibit Halls A and B on the Property as depicted in the Site Plan. These Pre-Existing Accessory Structures will be used to serve both Licensee's Facilities and those Licensee's facilities subject to that license agreement dated January 29, 2013 between the City of Anaheim and New Cingular Wireless PCS, LLC.
- 3.18.** “Radio Frequency Emission Exposure Limits” or “RFES” means the General Population / Uncontrolled Exposure Limits set by the FCC.
- 3.19.** “Site Plan” mean drawings, sketches, and specifications submitted by Licensee for the Licensor’s approval that provide details about Licensee’s Facility), any Licensee-constructed Accessory Structures(including, Pre-existing Accessory Structures),

construction details, antenna mounting, vaults and conduits installation, power supply, vents, engineered traffic control plans, project schedule, site layout and other information deemed necessary by Licensor in its sole discretion. The Site Plan is attached hereto and incorporated herein by this reference as **Exhibit B** which may be amended by either an amendment to this Agreement or through Section 10.16 or 12.2.

3.20. “Tests and Inspections” mean (i) making necessary inspections, (ii) performing the studies set forth in Section 6 of this Agreement, (iii) making engineering surveys and soil tests, where applicable, and (iv) other reasonably necessary tests to determine the suitability of the Premises for Licensee’s Facilities and prepare for the construction of any of Licensee’s Facilities and the Accessory Structures, if applicable.

4. GRANT OF LICENSE.

4.1. Grant. Licensor hereby grants to Licensee, for the purposes set forth in this Agreement and subject to any limitations and restrictions described herein, a nonexclusive license to enter upon and use the Premises solely for the purposes set forth in Subsection 4.4. of this Agreement and a nonexclusive license in, over, and under those portions of the Property, as more particularly depicted in **Exhibit B**, to provide Licensee (i) physical access to the Premises by its personnel and equipment from the nearest public right-of-way, and (ii) utility connections from the nearest point of utility service to the Premises. This grant shall be subject and subordinated to all deeds, leases, easements, dedications, conditions, covenants, restrictions, encumbrances, and claims of title which may affect the Property. Licensee shall not infringe on any of the foregoing without the written approval of the affected party. In case of such infringement, Licensor may terminate this Agreement with five (5) Days notice. Nothing in this Agreement shall be deemed to grant, convey, create, or vest a perpetual real property interest in any portion of the Property in Licensee, including any fee or leasehold interest, easement, or any franchise rights. This Agreement shall not grant Licensee any present or future rights to the City Facilities or the Integrated Facilities. Licensor exclusively owns these facilities, including those constructed in connection with this Agreement.

4.2. Title to Licensee’s Facilities.

4.2.1. Licensee’s Facilities shall remain the exclusive property of the Licensee for the duration of this Agreement, unless otherwise stated in this Agreement. Licensee has the right to remove Licensee’s Facilities at its sole cost and expense on or before the termination of this Agreement. Integrated Facilities shall become the exclusive property of the Licensor upon Licensor’s written acceptance of these facilities by the Licensor. This acceptance may be withheld by Licensor if Licensor determines, in its sole discretion, that the Integrated Facilities fail to support the functioning of

the City Facilities or promote the purposes identified in Subsection 4.4. herein. Notwithstanding the acceptance of these facilities, Licensee shall be solely responsible for the cost and expense of maintaining these facilities during the Initial Term or any Renewal Term.

4.2.2. If applicable, Accessory Structures to be constructed by Licensee shall become the exclusive property of the Licensor upon Licensor's written acceptance of these facilities by the Licensor. This acceptance may be withheld by Licensor if Licensor determines, in its sole discretion, that these facilities (i) are not needed by Licensor; and/or (ii) fail to conform to the Site Plan and applicable Law.

4.2.3. Licensee shall remove any or all of Licensee's Facilities, at its sole costs and expense, in accordance with the provisions of this Agreement. The foregoing shall not extend to the removal of any City Facilities or Integrated Facilities. Without the written consent of Licensor, Licensee shall not remove or affect any Licensor Facilities, City Facilities or Integrated Facilities during the removal of Licensee's Facilities. Licensee shall be fully liable to Licensor for any damage caused to these facilities.

4.3. Nonexclusive License/User Priority.

4.3.1. Licensee acknowledges and understands that the Property, including the Premises, is a public property dedicated for public purposes and that these purposes have priority over any other use, including Licensee's use of the Premises. Licensee shall not interfere with Licensor's use of the Property or the City Facilities

4.3.2. This License is a non-exclusive license, and Licensor reserves the right to allow the Premises to be used by other parties, except that Licensor shall not allow any other party to physically occupy that portion of the Premises where the Antenna is located. Notwithstanding the foregoing, Licensor reserves the right to make additions, deletions, or modifications to its own facilities on the Premises.

4.3.3. Except as permitted by applicable Law, in the performance and exercise of its rights and obligations under this Agreement, Licensee shall not interfere in any manner with the existence and/or operation of any of the following without the prior written approval of the affected party: (i) sanitary sewers and facilities, (ii) water utility facilities; (iii) storm drain facilities; (iv) gas and electric facilities; (v) telecommunication facilities existing prior to the Effective Date; (vi) temporary non-telecommunication tenants or users of the Property, and (vii) government facilities. Except as stated in Section 14 or except for an Emergency Situation or other compliance period required by an affected party, if such interference is

uncorrected within five (5) Business Days of receiving written notice from Licensor, Licensor shall have the right to immediately terminate the Agreement.

4.4. Purpose. The Premises may be used by Licensee, at its sole cost and expense, for the purpose of installing, erecting, operating, and maintaining Licensee's Facilities solely for Telecommunication Services. The Premises may also be used by Licensee, at its sole cost and expense, for the purpose of installing, erecting, and maintaining the Integrated Facilities. Licensee agrees not to sublet any portion of Licensee's Facilities or Integrated Facilities.

4.5. Survey. If required by Licensor, Licensee agrees to survey the Premises with a surveyor licensed in the State of California at its sole cost and expense, and such survey shall supplement **Exhibit B**, become a part of this Agreement, and control the description of the Premises upon approval by Licensor.

4.6. Licensee Application.

4.6.1. This License is expressly made contingent upon Licensee obtaining all certificates, permits, entitlements, environmental review, studies, and other approvals that any federal, state, or local authority may require for the construction and operation of Licensee's Facilities, the Integrated Facilities, and Accessory Structures, if applicable. Licensee shall bear the sole cost and expense related to the procurement of these approvals. If Licensee fails to procure all required governmental approvals within a reasonable period of time, not to exceed one year from the Effective Date, Licensor shall have the right to terminate the Agreement with five (5) Days written notice.

4.6.2. In the event that any certificate, permit, license, or approval issued to Licensee is cancelled, expires, lapses, or is otherwise withdrawn or terminated by a governmental authority so that Licensee will be unable to use the Premises for the purposes set forth in Subsection 4.4., Licensor shall have the right to terminate this Agreement with five (5) Days written notice to Licensee. If Licensee has administrative remedies, Licensor shall not issue this notice of termination until the expiration of these remedies.

5. TERM.

The initial term of this Agreement shall be ten (10) years commencing upon the Effective Date of this Agreement, unless otherwise terminated in accordance with the provisions of this Agreement ("Initial Term"). This Agreement shall automatically extend for two (2) successive five (5) year periods (each a "Renewal Term") on the same terms and conditions as set forth in this Agreement unless either Licensor or Licensee notifies the other party in writing of its

intention not to extend this Agreement at least one hundred and eighty (180) Days prior to the expiration of the Initial Term or any Renewal Term, as applicable.

6. STUDIES.

6.1. Interference Study. Before obtaining a building permit in accordance with Subsection 10.5., Licensee shall pay for a radio frequency interference study carried out by an independent and qualified professional licensed radio frequency engineer. Licensee shall provide Licensor a copy of this study. This study shall guarantee that Licensee's Facilities will not interfere with any existing communications facilities on the Property. If this study fails to guarantee the foregoing and Licensee cannot reasonably remedy this interference, Licensor may immediately terminate this Agreement and release the Deposit (as defined in Subsection 7.1. herein) and refund any paid License Fee (as defined in Subsection 7.2. herein) to Licensee. Licensor shall have no obligation to pay any other costs and expense incurred by Licensee with respect to this Agreement.

6.2. Engineering Study. At the same time set forth above, Licensee shall also pay for a study carried out by a California licensed structural engineer to evaluate the structural integrity of Licensee's Facilities. Licensee shall provide Licensor with a copy this study. This study shall guarantee that Licensee's Facilities will not unsafely compromise the structural integrity of the City Facilities and/or the Integrated Facilities. If the study fails to guarantee that Licensee's Facilities will not unsafely compromise the structural integrity of the City Facilities and/or the Integrated Facilities and Licensee cannot reasonably remedy this problem, Licensor may immediately terminate this Agreement and release the Deposit (as defined in Subsection 7.1. herein) and refund any paid License Fee (as defined in Subsection 7.2. herein) to Licensee. Licensor shall have no obligation to pay any other costs and expense incurred by Licensee with respect to this Agreement.

6.3. RFES Study and Signage.

6.3.1. A preliminary RFES study is attached hereto and incorporated by reference as **Exhibit C**. After the completion of the Antenna attached to Licensee's Facilities but prior to their operation, Licensee shall measure the actual radio frequency exposure on the Premises. Thereafter, Licensee shall complete and submit to Licensor a final RFES. This final RFES shall replace **Exhibit C** and shall be performed at Licensee's sole cost and expense. The final RFES shall recommend the stand-off distance for Licensee's Facilities, and Licensee shall post signage on Licensee's Facilities, the City Facilities, and the Integrated Facilities in conformance with the study and applicable Laws. This signage shall be posted in the manner required by the Director. If Licensee's Facilities are mounted on City

Facilities, the Director shall require Licensee to post such additional notices on the City Facilities and the Integrated Facilities so that Licensor's employees and agents inspecting or maintaining these facilities will avoid coming within the standoff distance.

6.3.2. Licensee shall provide an updated RFES study with any equipment modifications which would affect the stand-off distance identified in the final RFES study. In such cases, Licensee shall post additional signage as required by the Director.

7. DEPOSIT, LICENSE FEE AND OTHER CONSIDERATION.

7.1. Deposit.

7.1.1. Within thirty (30) Days after the Effective Date, or prior to the Commencement Date (as defined in Subsection 7.2.1 below), whichever occurs first, Licensee shall deposit with Licensor a letter of credit, certificate of deposit, cash or a cashier's check in the amount of **Fifty Thousand Dollars (\$50,000.00)** (the "Deposit"). The letter of credit, the certificate of deposit, and the cashier's check shall name the City of Anaheim as the sole payee. The Deposit shall secure the performance of the terms of this Agreement, removal of Licensee's Facilities, and the restoration of the Premises. The Deposit does not limit Licensee's liability or obligations under this Agreement, including but not limited to, the full restoration of the Premises.

7.1.2. The Deposit may not be used for the payment of the last month's License Fee, except with the prior written approval of the Director.

7.1.3. If a letter of credit is utilized as the Deposit it shall be an irrevocable letter of credit drawn against a federally insured bank or savings and loan association, with an expiration date of not earlier than five (5) years from the date of delivery of such letter of credit, and which is a sight draft, payable upon submittal of the Director's signature. The letter of credit shall not be made contingent upon the occurrence of a default. Licensee shall renew or extend the letter of credit prior to its expiration. Failure of Licensee to renew or extend the letter of credit shall constitute a breach of this Agreement and shall constitute cause for the Licensor to terminate this Agreement.

7.2. License Fee; Amount and Adjustments.

7.2.1. As consideration for this Agreement, Licensee shall pay Licensor a monthly license fee in the amount of **THREE THOUSAND AND FIVE HUNDRED AND TWENTY-THREE DOLLARS AND EIGHTEEN CENTS (\$3,523.18)** (the "License Fee"), payable on the first Day of each month, commencing on the first

Day of the month after issuance of the Notice to Proceed (“Commencement Date”). The **THREE THOUSAND AND FIVE HUNDRED AND TWENTY-THREE DOLLARS AND EIGHTEEN CENTS (\$3,523.18)** monthly License Fee shall apply for the 2017/2018 fiscal year. Thereafter, this monthly License Fee shall be annually adjusted on July 1 of each fiscal year in accordance with Subsection 7.2.4. The License Fee for a partial month shall be prorated on a thirty (30) Day basis. Licensee shall not exceed **68** (“Base Antennas”) without compliance with Subsection 10.16. and other applicable sections of this Agreement. The License Fee shall not be reduced if Licensee reduces its number of total Antennas below the amount of the Base Antennas.

7.2.2. If Licensee adds a non-DAS Antenna(s) beyond the Base Antennas, the Licensee shall pay Licensor an additional **TWO HUNDRED AND THIRTY-TWO DOLLARS AND EIGHTY-EIGHT CENTS (\$232.88)** a month per Licensor-approved non-DAS Antenna (“Additional Antenna Fee”). If the Licensee adds DAS Antennas beyond the Base Antennas, the Licensee shall pay Licensor an additional amount equal to **FORTY-THREE DOLLARS AND SEVENTY-SIX CENTS (\$43.76)** a month for each additional Licensor-approved DAS Antenna (“Additional DAS Antenna Fee”). The above amounts for the Additional Antenna Fee and the Additional DAS Antenna Fee shall apply for the 2017/2018 year. Thereafter, these monthly fees shall be annually adjusted on July 1 of each fiscal year in accordance with Subsection 7.2.4. Licensee shall first begin to pay the Additional Antenna Fee on the first Day of the month following the installation of each Licensor-approved non-DAS Antenna. Licensee shall first begin to pay the Additional DAS Antenna Fee on the first Day of the month following the installation of each Licensor-approved DAS Antennas. Both fees shall be increased with the installation of each additional Licensor-approved non-DAS Antenna or each Licensor-approved DAS Antennas. The Additional Antenna Fee and the Additional DAS Antenna Fee shall be paid with the License Fee.

7.2.3. The License Fee shall not include the use of any Accessory Structures, except for those Accessory Structures included within the Site Plan on the Effective Date (“Excluded Accessory Structures”). If the Site Plan is amended after the Effective Date, Licensee shall pay Licensor an additional monthly amount of **FIFTY CENTS (\$.50)** per square foot (“Accessory Structure Use Fee”) for (i) any Accessory Structure which is not an Excluded Accessory Structure; or (ii) any additional area of any expanded Excluded Accessory Structure. This fee shall be paid with the License Fee. The Accessory Structure Use Fee shall be increased each year on July 1 in accordance with Subsection 7.2.4. Should Licensee wish to use additional City Facilities for any additional Accessory Structures, such use shall

require the written consent of the Director which he or she may withhold at his or her discretion. Licensee shall pay an Accessory Structure Use Fee for the area of the building or structure used by Licensee.

7.2.4. The License Fee, the Accessory Structure Use Fee, the Additional Antenna Fee, and the Additional DAS Antenna Fee shall be increased, by the greater of: (i) three percent (3%) of the previous fiscal year's fee amount, or (ii) by an amount equal to the increase in the Consumer Price Index ("CPI"). The CPI shall mean the Consumer Price Index (All Items, Base 1982-84 = 100) as published by the United States Department of Labor, Bureau of Labor Statistics for All Consumers for the Los Angeles-Riverside-Orange County Area, or if such index shall be discontinued, the successor index, or if there shall be no successor index, such comparable index as mutually agreed upon by the Parties. The CPI adjustment will be calculated on an average twelve (12) month time frame from April 1 of the preceding year to April 1 of the current year. Licensor shall communicate all License Fee increases to the Licensee in writing thirty (30) Days prior to the adjustment.

7.2.5. Licensee hereby acknowledges that late payment by Licensee to Licensor of the License Fee and other sums due hereunder will cause Licensor to incur costs not contemplated by this Agreement, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges. Accordingly, if any License Fee installment or any other sum due from Licensee shall not be received by Licensor within thirty (30) Days after such amount is due, Licensee shall pay to Licensor a late charge equal to five percent (5%) of such overdue amount as well as interest on the outstanding amount which shall accrue at the rate of five percent (5%) per annum. In addition to this remedy, Licensor may avail itself of all other rights and remedies under applicable Law.

8. RIGHT OF ENTRY

8.1. Access After Effective Date. Licensee shall only access the Premises for the following: Tests and Inspections and the construction, installation, operation, and maintenance of Licensee's Facilities and the Accessory Structure, if applicable ("Permitted Activities"). After the Effective Date, Licensee's employees or representative may access the Premises for the Permitted Activities on any Business Day between the hours of 7 am to 5 pm. If, to perform any of the Permitted Activities, Licensee requires access to the Premises outside of the foregoing dates and times, Licensee shall contact Licensor no later than twenty-four (24) hours before the desired additional access at **714-765-8975** (with less than twenty-four notice for Emergency Situations). Licensor may grant this access in its reasonable discretion. If Licensee requests additional access for a non-

Business Day or outside of the hours 7:00 a.m. to 5:00 p.m., Licensor may charge Licensee for any actual costs and expenses, including employee wages that Licensor may incur in providing non-business day or hour access to Licensee. Licensor will provide Licensee an invoice setting forth in detail Licensor's incurred costs and expenses. Licensor may grant this non-business hour access in its reasonable discretion. After Licensor's approval of any access, Licensee's employees or representative may access the Premises for the Permitted Activities during the approved time so long as Licensee's employees or representatives comply with any requests made by Licensor's agents or employees. Licensor may prevent access of any Licensee employee or representative who fails to produce proper credentials to Licensor.

8.2. Access Denial or Interference. Notwithstanding any access authorized under Subsections 8.1 and 17.1, Licensor may deny access to the Premises or interfere with that access at any time when Director determines in its sole discretion that such denial or interference is necessary (i) to prevent interference with any use of the Property by Licensor, its customers, or the general public; or (ii) prevent any threat to the public health or safety. In lieu of such denial or interference, the Licensor may impose any conditions on the access granted, when the Director determines in its sole discretion that such conditions are sufficient (i) to prevent interference with any use of the Property by Licensor, its customers, or the general public; or (ii) prevent any threat to the public health or safety.

9. ACCEPTANCE OF THE PREMISES.

Except for the Upgrade Work as defined in Section 10.3.2 of this Agreement, Licensee has conducted its own appropriate due diligence investigation of the Premises and the City Facilities prior to the execution of this Agreement. Licensee hereby accepts use of the Premises and the City Facilities in an "as-is" condition, with no warranty, express or implied from Licensor as to any latent, patent and unforeseeable condition of the Premises or City Facilities, including its suitability for use by Licensee. Further, Licensee has determined, among other things, that the Premises and City Facilities that are involved in or related to any of Licensee's work or performance under this Agreement are in full compliance with CalOSHA rules and regulations, to the extent such rules and regulations would have any application whatsoever to Licensee's work or performance under this Agreement, or, if they are not in such compliance, Licensee shall notify Licensor of such fact prior to commencing any work or performance involving or related to said Premises and City Facilities.

10. CONSTRUCTION.

10.1. Construction Schedule. Prior to accessing the Premises for the construction of any of Licensee's Facilities, Licensee shall submit a construction schedule to the Director for

his or her written approval ("Construction Schedule"). The Construction Schedule shall not be modified without the prior written approval of the Director.

10.2. Construction of City Facilities. Licensor has been performing installation of the City Facilities in accordance with its established construction schedule ("Licensor Construction Schedule"). Parties understand that Licensor Construction Schedule may be altered as deemed necessary by the Director, in his sole discretion. As time is of the essence, Licensee and its employees, contractors and agents shall not impede nor interfere with the Licensor Construction Schedule, Licensee shall conform, subordinate and defer its activities to the Licensor Construction Schedule or as otherwise required by Licensor. Licensee shall hold harmless Licensor for any damages associated with delays caused by Licensor's activities on the Property.

10.3. Cooperation; Delays. Licensee shall work closely and cooperate with Licensor to ensure that the construction of the City Facilities proceeds without delays.

10.3.1. If Licensee is unable to comply with the Construction Schedule, Licensee shall request an extension from the Director, who may grant or deny such extension in his or her sole discretion.

10.3.2. Licensee agrees to pay for all design and construction cost and expenses of the City Facilities which are needed to accommodate Licensee's Facilities. The design and construction work is described in Exhibit D ("Upgrade Work"), which is attached hereto and incorporated herein by reference. The Parties agree that the estimated costs to perform the Upgrade Work is **ONE HUNDRED AND EIGHTY-ONE THOUSAND AND ONE HUNDRED AND SIXTY DOLLARS (\$181,160.00)**. LICENSEE agrees to pay to Licensor this amount within thirty (30) Days of the Effective Date. In the event the actual Upgrade Work costs exceed the estimated costs above, Licensor shall submit the additional costs to Licensee for approval prior to incurring the additional costs. After Licensee approves of the additional costs in writing, Licensor shall invoice the Licensee for the additional cost and expense and Licensee shall pay to Licensor the full amount of the invoice within thirty (30) Days. If Licensee fails to pay any amounts under this Subsection 10.3.2, Licensor may terminate this Agreement pursuant to Section 22.1.1 and Licensee will forfeit the Deposit along with any paid License Fee. In addition to this remedy, Licensor may avail itself of all other applicable Law.

10.3.3. Upon their completion, Licensee hereby accepts use of the Upgrade Work in an "as-is" condition, with no warranty, express or implied from Licensor as to any latent, patent and unforeseeable condition of the Upgrade Work, including its suitability for use by Licensee.

10.4. Initial construction. Upon the issuance of the Notice to Proceed, Licensee shall cause to be constructed and installed, at Licensee's sole expense, Licensee's Facilities, the Integrated Facilities and any Accessory Structure, if applicable, by a licensed and qualified contractor selected by Licensee. Licensee shall construct and install these facilities in accordance with the Site Plan and the Construction Schedule. Licensee shall coordinate the construction of Licensee's Facilities, the Integrated Facilities and any Accessory Structures with Licensor's construction of the City Facilities, if applicable.

10.5. Building Permit. Within ninety (90) Days of the Effective Date, Licensee shall submit to Licensor its complete building permit application for Licensee's Facilities, Integrated Facilities, and any Accessory Structures, if applicable. In addition to other City Building Department requirements, this application shall contain at a minimum a completed soils reports, foundation design, and structural calculations. Licensee shall obtain the building permit within fourteen (14) Days from the date City Building Department notifies Licensee that the building permit is available. Within sixty (60) Business Days of receipt of its building permit, Licensee shall install Licensee's Facilities, Integrated Facilities, and any Accessory Structures unless Section 11 is applicable. Failure to meet the foregoing time frames shall constitute breach of this Agreement and shall subject the Agreement to termination under Section 22. The time periods set forth herein may be extended by the Director in his or her reasonable discretion.

10.6. Green Book. Unless stated otherwise in the Site Plan, all work performed by Licensee in the construction and installation of Licensee's Facilities, Integrated Facilities, and any Accessory Structures shall be governed by the most recent edition of the "Green Book," Standard Specifications for Public Works Construction, with the latest Supplements, prepared and promulgated by the Southern California Chapters of the American Public Works Association and the Associated General Contractors of America unless the provisions of the Green Book conflict with applicable Laws. In the event of an inconsistency or ambiguity between the provisions in the Green Book and this Agreement, the provisions of this Agreement shall prevail.

10.7. Compliance; Quality of work. Licensee shall comply with all applicable Laws, including, but not limited to, Licensor's construction rules and regulations. All of Licensee's construction and installation work shall be performed at Licensee's sole cost and expense and in a good and workmanlike manner.

10.8. Construction hours. Licensee shall only perform the construction and installation of the facilities in accordance with Section 8 of this Agreement.

10.9. Screening of work. During construction of Licensee's Facilities, Integrated Facilities, any Accessory Structures, if applicable, Licensee shall make a reasonable attempt to (i)

screen construction work from public view, and (ii) secure the Premises from public access.

10.10. Prevailing wage. If applicable, Licensee shall pay prevailing wages and to comply with applicable provisions of the Labor Code relating to public works projects. The prevailing wage determination is filed with the City Clerk and open to inspection.

10.11. Drawings. Within thirty (30) Days after the completion of the construction of Licensee's Facilities, Integrated Facilities, and any Accessory Structure, if applicable, Licensee shall provide Licensor with as-built drawings of these facilities. Notwithstanding the foregoing, within thirty (30) days of the Effective Date, Licensee shall provide Licensor with as-built drawings for any Pre-existing Accessory Structures, if applicable, unless the Director provides written confirmation that Licensor already possesses those as-built drawings. All of the as-built drawings shall show the actual location of Licensee's Facilities, Integrated Facilities, and any Accessory Structures including, but, not limited to, any vaults, pull-boxes, conduits, cabinets, and equipment. The as-built drawings shall also be accompanied by a complete and detailed inventory of Licensee's Facilities and related equipment and personal property located on the Premises. All as-built drawings shall show measurement of distances between and among the various installed equipment, improvements, utilities and facilities from a Licensor-designated point of reference.

10.12. Bond. Prior to the commencement of construction, Licensee shall post a Labor and Materials Bond in the amount of one hundred percent (100%) of the contracted cost of construction of Licensee's Facilities, the Integrated Facilities, and any Accessory Structures, if applicable, with such cost to be documented by Licensee to the Director in whatever manner is deemed reasonable by the Director. The bond will be released upon the later of (i) Licensee's submittal to the Director of the as-built drawings specified in Subsection 10.11. of this Agreement; or, if applicable, (ii) seven (7) months from the date of recordation of a notice of completion.

10.13. Dangerous/Hazardous Conditions. Prior to commencing work on the Premises, Licensee shall inspect and survey the Premises and make a determination that such work can be performed safely and in compliance with applicable Laws. Should Licensee determine that such work cannot be performed safely and in such compliance, Licensee shall not proceed with the work and shall immediately notify the Department at **714-765-8975** of (i) any such condition or situation preventing the work from being performed safely, or (ii) any lack of compliance. These same requirements shall also apply after Licensee has commenced work, however in this instance Licensee shall cease work and immediately notify the Department.

10.14. Operation. Licensee shall not operate Licensee's Facilities until Licensee complies with applicable Law and the terms and conditions of this Agreement.

10.15. Reserved.

10.16. Additional Antenna. After the submittal of the as-built drawings, Licensee shall not install additional antenna beyond the Base Antennas unless the Director agrees in his or her sole discretion to authorize the increase and finds that the additional Antenna(s) will not adversely affect aesthetics, the structural integrity of Licensee's Facilities, public safety, Licensor's operations, or other parties set forth in Subsection 4.3.3. If Licensor agrees to authorize additional antenna, Licensee shall comply with the following subsections:

10.16.1. Licensee shall pay for a radio frequency interference study carried out by an independent and qualified professional licensed radio frequency engineer. This study shall guarantee that the additional antenna will not interfere with any existing communications facilities on the Property. If this study fails to guarantee foregoing and Licensee cannot reasonably remedy this interference, Licensor shall deny Licensee's request.

10.16.2. Concurrently, Licensee shall also pay for a study carried out by a California licensed structural engineer when Licensor reasonably determines such a study is required. This study shall guarantee that the additional antenna will not unsafely compromise the structural integrity of the City Facilities or the Integrated Facilities. If the study fails to guarantee that Licensee's Facilities will not unsafely compromise the structural integrity of these facilities and Licensee cannot reasonably remedy this problem, Licensor shall deny Licensee's request.

10.16.3. Licensee shall comply with all applicable sections of this Agreement, including but not limited to, Subsection 4.6. and Section 10.

10.16.4. Licensee shall submit a supplemental Site Plan for the Director's review and approval. If and when the Director approves the supplemental Site Plan, the supplemental Site Plan shall become a part of the Site Plan so long as Licensee has successfully complied with all other subsections of this Subsection 10.16.

11. RESERVED.

12. OPERATION AND REPLACEMENT OF FACILITIES.

12.1. Operation. Licensee shall have the right, at its sole cost and expense, to operate and maintain Licensee's Facilities on the Premises in accordance with good engineering

practices, with all applicable FCC rules and regulations and with all other applicable Laws.

12.2. Update/Replacement. Licensee may not update or replace Licensee's Facilities without the prior written consent of the Director. The Director may withhold this consent if he or she reasonably finds that the replacement facilities will adversely affect aesthetics, the structural integrity of Licensee's Facilities, public safety, Licensor's operations, or other parties set forth in Subsection 4.3.3. With any request for an update or replacement of Licensee's Facilities, Licensee shall submit documents detailing the facilities to be updated or replaced along with any other information requested by the Director, including, but not limited to, the studies contained in Section 6 of this Agreement. The studies or additional information which is requested by the Director shall be at Licensee's sole costs and expense. If Director grants his or her consent, Licensee shall comply with all applicable sections of this Agreement, including but not limited to, Subsection 4.6. and Section 10. If the Director determines the update or replacement requires a supplemental Site Plan, Licensee shall prepare and submit a supplemental Site Plan for the Director's review and approval. If and when the Director approves the supplemental Site Plan, the supplemental Site Plan shall become a part of the Site Plan.

13. RISK OF LOSS AND MAINTENANCE.

13.1. Risk of Loss/Maintenance and Repair Obligations. Licensee acknowledges and agrees that Licensee bears all risk of loss or damage of Licensee's Facilities and the Integrated Facilities except as provided herein. Licensee, at its own sole cost and expense, shall operate, maintain, repair, and utilize Licensee's Facilities, Integrated Facilities, Accessory Structures, and the Premises in a manner which does not create a danger to the Property and the City Facilities or their use by Licensor, the public, or any other licensee or lessee. Licensee shall maintain Licensee's Facilities in state of good repair. For the Premises, License's Facilities, the Integrated Facilities, and the Accessory Structures, Licensee agrees to repair or replace to Licensor's reasonable satisfaction any facilities or property Licensor reasonably determines (i) is not in a state of good repair, (ii) is unsightly, (iii) has been damaged, destroyed, or defaced by Licensee or its agents, representatives, or contractors, or (iv) is otherwise injured as a result of work performed by Licensee or its agents, representatives, or contractors. If Licensee fails to make any required repairs or maintenance within ten (10) Business Days of receiving written notice from Licensor, Licensor may, at its option, terminate this Agreement upon ten (10) Days written notice to Licensee unless such repairs or maintenance is completed to the reasonable satisfaction of Licensor within such ten (10) Day period.

13.2. City Facilities Repair. For the City Facilities and Property, Licensee agrees to repair or replace to Licensor's reasonable satisfaction any facilities or property Licensor

reasonably determines (i) has been damaged, destroyed, or defaced by Licensee or its agents, representatives, or contractors, or (ii) is otherwise injured as a result of work performed by Licensee or its agents, representatives, or contractors. If Licensee fails to make any required repairs within ten (10) Business Days of receiving written notice from Licensor, Licensor may, at its option, terminate this Agreement upon ten (10) Days written notice to Licensee unless such repairs is completed to the reasonable satisfaction of Licensor within such ten (10) Day period.

13.3.Litter and Graffiti Removal.

13.3.1. Licensee shall not litter the Premises. In such event, Licensee shall remove the litter at its sole cost and expense no later than two (2) Business Days of receiving written notice from the Licensor. If Licensee fails to remove the litter within this time frame, Licensor shall have the right but not the obligation to remove the litter and invoice the Licensee for its costs. If Licensee fails to reimburse Licensor within thirty (30) Days of receiving the invoice, Licensor shall use the Deposit to pay its incurred cost and expense. In addition, Licensor may avail itself of any other legal remedies to obtain reimbursement from Licensee.

13.3.2. At its sole cost and expense, Licensee shall remove all graffiti on Licensee's Facilities and the Integrated Facilities no later than two (2) Business Days of receiving written notice from the Licensor. If Licensee fails to remove the graffiti within this time frame, Licensor shall have the right but not the obligation to remove the graffiti and invoice the Licensee for its costs. If Licensee fails to reimburse Licensor within thirty (30) Days of receiving the invoice, this Agreement may be terminated in Licensor's sole discretion and Licensor shall use the Deposit to pay its incurred cost and expense. In addition, Licensor may avail itself of any other legal remedies to obtain reimbursement from Licensee.

14. INTERFERENCE.

Licensee, at its own sole cost and expense, shall operate, maintain, repair, and utilize Licensee's Facilities and the Integrated Facilities in a manner which does not cause radio frequency interference with (i) Licensor's use of the Property or the City Facilities, (ii) the communications of other government entities, or (iii) any other telecommunication licensee or lessee on the Property.

14.1.Interference with City Facilities. If Licensor determines Licensee's Facilities or the Integrated Facilities causes radio frequency interference with either (i) Licensor's use of the Property or the City Facilities, or (ii) the communications of other entities, Licensee shall cease such interference or remedy the within three (3) Business Days of receiving written notice from the Licensor. If Licensee is unable to remedy the interference to a

level acceptable to Licensor or in accordance with the rules and regulations of the FCC, either party may terminate this Agreement at their sole discretion upon five (5) Days prior written notice to the other party.

14.2. Interference with other Licensees. Licensee agrees that its operation of its facilities shall not cause any direct or indirect radio frequency interference with any other telecommunication licensees or lessees on the Property. Any such interference shall be resolved by Licensee and the affected licensee in accordance with applicable Law, including, but not limited to, applicable FCC regulations.

15. UTILITIES.

In furtherance of Subsection 4.4. herein, Licensee may install utilities, at Licensee's expense, and improve the present utilities on the Premises. The location and installation of the utilities shall be subject to Licensor's review and approval; provided, however, that any such approval, or any reasonable disapproval, shall not in any manner (i) create liability for Licensor, (ii) increase any liability which may otherwise exist for Licensor under this Agreement, or (iii) decrease or diminish any liability, duties, responsibilities, or obligations of Licensee under this Agreement. Licensor will cause the installation of utility meters for Licensee Facilities. , and the License Fee is inclusive of any charges for the electric usage of Licensee's Facilities at the Premises. Licensor disclaims all warranties, express or implied, including, but not limited to, warranties or conditions of merchantability, or fitness for a particular purpose regarding the electric meters or utility service provided to Licensee's Facilities. Licensor is not responsible for any interruption of electric utility service to the Licensee's Facilities no matter the reason.

16. TAXES.

Licensor shall pay all real property taxes and general and special assessments levied against the Property which it has a duty to pay, and Licensee shall reimburse Licensor for any real property taxes directly attributable to the value of improvements placed on the Premises by Licensee. If personal property taxes or possessory interest taxes are assessed, Licensor shall forward any such tax bill to Licensee, and Licensee shall pay any portion of such taxes attributable to Licensee's Facilities directly to the appropriate taxing authority.

17. EMERGENCY FACILITIES.

17.1. Notification. Notwithstanding Section 8, Licensee shall have emergency access to the Premises to perform emergency maintenance or repairs of Licensee's Facilities. Prior to entering the Premises, Licensee shall contact the Department duty officer at **714-765-8975**, or such other number as may be provided by the Department to request the emergency access. As part of this notification, Licensee shall inform the Department contact of the need to access the Premises and a description of the emergency. Licensor

may prevent access of any Licensee employee or representative who fails to produce proper credentials to Licensor.

17.2. Additional Facilities. In the event of an Emergency Situation, the Director may authorize in his or her discretion the temporary installation of additional telecommunication facilities on the Premises by the Licensee; provided, (i) such installation is necessary to protect the health, welfare, and safety of the community; and (ii) Licensee installs these facilities pursuant to all applicable sections of this Agreement, including but not limited to, Sections 4, 6, 10, and 13. Licensee shall remove its emergency facilities within ninety (90) Days of their first operation unless Licensee obtains written approval from the Director. Licensee shall pay for any and all damages to the Premises resulting from the installation and operation of emergency facilities.

18. ADDITIONAL LICENSOR BUILDINGS OR STRUCTURES.

Licensor may construct additional buildings or structures on the Property. Licensor shall endeavor to provide the most compatible design and location to reduce interference with the uses and operations of Licensor and Licensee. Notwithstanding the foregoing, Licensee understands that Licensor must ensure that the primary use of the Property serve a public purpose. As such, Licensee's use will be subordinated to that of the Licensor whenever Licensor, in its sole discretion, determines a conflict exists. If Licensee determines interference from the additional buildings or structures on the Property causes undue interference with its facilities, Licensee may either (i) request accommodation of Licensee's Facilities pursuant to Subsection 21.1; or (ii) terminate this Agreement upon thirty (30) Days written notice to Licensor.

19. INDEMNIFICATION.

19.1. Indemnification. To the fullest extent permitted by applicable Laws, Licensee agrees to indemnify, defend (at Licensor's option), and hold harmless Licensor, its officials, officers, employees, agents, and representatives from and against any and all claims, losses, damages, defense costs, or liability, of any kind or nature (collectively referred to hereinafter as "Claims"), arising out of or in connection with Licensee's (or Licensee's contractors' or subcontractors', if any) (i) acts, errors, or omissions, (ii) performance or failure to perform, (iii) use and occupancy of Premises, or (iv) work performed by, or on behalf of, Licensee, relative to this Agreement; except for those Claims which arise out of the sole negligence of Licensor. The obligations set forth in this indemnification provision (i) shall be in effect without regard to whether or not Licensor, Licensee, or any other person maintains, or fails to maintain, insurance coverage, or a self-insurance program, for any such Claims; and (ii) shall survive the termination of this Agreement.

19.2. Hazardous Materials. Without limiting the scope of Subsection 19.1. above, or the duties and obligations set forth therein, Licensee will be solely responsible for and will

defend, indemnify, and hold Licensor, its agents, and employees harmless from and against any and all claims, costs, and liabilities, including attorney's fees and costs, arising out of or in connection with the cleanup, restoration of the Property, personal injury, property damage, bodily injury or other damages resulting from Licensee's use of Hazardous Materials on the Property. Licensor will be solely responsible for and will defend, indemnify, and hold Licensee, its agents, and employees harmless from and against any and all claims, costs, and liabilities, including attorney's fees and costs, arising out of or in connection with the cleanup, restoration of the Property, personal injury, property damage, bodily injury or other damages resulting from Licensor's use of Hazardous Materials or from any presence, handling or disposal of Hazardous Materials on the Property on or before the Commencement Date. For purposes of this Agreement, "Hazardous Materials" shall be interpreted broadly and specifically includes, without limitation, petroleum or any petroleum product, asbestos, fuel, batteries and/or any substance known by the State of California to cause cancer and/or reproductive toxicity, and/or any substance, chemical, waste, or other materials identified or defined as hazardous, toxic or dangerous in any applicable Law including, but not limited to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

20. INSURANCE.

Without limiting Anaheim's right to indemnification, it is agreed that Licensee shall secure, prior to commencing any activities under this Agreement, and maintain, during the term of this Agreement, insurance coverage as follows:

Workers' Compensation Insurance as required by California statutes and Employers Liability in an amount not less than One Million Dollars (\$1,000,000) per occurrence.

Commercial General Liability Insurance, including coverage for Premises and Operations, Contractual Liability, Personal Injury Liability, Products/Completed Operations Liability, and Independent Contractor's Liability (if applicable), in an amount not less than Ten Million Dollars (\$10,000,000) per occurrence, written on an occurrence form, provided this coverage may be maintained by Licensee combining primary and excess policies to meet these requirements.

Comprehensive Automobile Liability Coverage including – as applicable – owned non-owned and hired autos, in an amount not less than Three Million Dollars (\$3,000,000) per occurrence, combined single limit, provided this coverage may be maintained by Licensee combining primary and excess policies to meet these requirements.

Each insurance policy required by this Agreement shall contain the following clause or shall otherwise provide for the following condition:

“This insurance company shall not cancel this policy until after thirty (30) Days prior written notice has been given to the City Clerk, City of Anaheim, 200 S. Anaheim Blvd., Anaheim, CA 92805, except in the event of cancellation for non-payment of premium which shall endeavor to provide for not less than ten (10) Days notice.”

Each insurance policy required by this Agreement, except policies for Workers’ Compensation and Employers Liability, shall contain the following clauses or shall otherwise provide for the following conditions:

“It is agreed that any insurance maintained by Licensee pursuant to this Agreement shall be primary to, and not contribute with, any insurance or self-insurance maintained by the City of Anaheim.”

“The City of Anaheim, its officers, agents, employees, and representatives are added as additional insureds as respects the acts, omissions, operations, and activities of, or on behalf of, the named insured, in regard to products supplied, or work or services performed under an agreement with the City of Anaheim.”

Prior to commencing any work under this Agreement, Licensee shall deliver to Licensor insurance certificates confirming the existence of the insurance required under this Agreement, including the applicable clauses and/or provisions referenced above. Also, within thirty (30) Days of the execution date of this Agreement, Licensee shall provide Licensor (i) endorsements to the insurance policies which add to these policies the applicable clauses referenced above, or (ii) in lieu of said endorsements, documentation acceptable to Licensor evidencing that the coverage, terms, and conditions set forth in the above-referenced clauses are otherwise provided for in said insurance policies. Insurance required hereunder shall be placed with insurers (i) admitted to write insurance in the State of California and (ii) possessing an A. M. Best’s rating of A VII or higher, or (iii) otherwise acceptable to Licensor, with prior written permission from Licensor. Also, in the event that (i) a claim is filed against Licensor, or its officers, employees, agents, or representatives, for which Licensor believes, in good faith, there may be coverage under an insurance policy required by this Agreement, and (ii) Licensor has tendered such claim to the insurer that issued such policy, and (iii) such insurer has not agreed, within ninety (90) Days, to cover such claim, including defense and indemnity, without reservation, then (iv) Licensor has the right to demand of Licensee, and to receive within thirty (30) Days, a copy of such insurance policy.

In addition to other remedies Licensor may have if Licensee fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, Licensor may, at its sole option: Order Licensee to stop or cease work under this Agreement until Licensee demonstrates compliance with the requirements hereof; or terminate this Agreement.

Licensor's Risk Manager is hereby authorized to reduce the requirement set forth herein in the event he determines that such reduction is in Licensor's best interest.

Exercise of any of the above remedies, however, is an alternative to other remedies Licensor may have and is not the exclusive remedy for Licensee's failure to maintain insurance or secure appropriate endorsements.

21. RELOCATION.

If the Premises and/or City Facilities are destroyed or damaged, without contributory fault of the Licensee, so as, in Licensee's judgment, to hinder its effective use of Licensee's Facilities, Licensee shall have the option to restore the Premises and/or the City Facilities at its sole cost and expense and temporarily relocate Licensee's Facilities. In such case, Licensor and Licensee shall mutually agree in writing within ten (10) Business Days to provide a temporary site on Licensor's property ("Temporary Site"), which will be equally suitable for Licensee's use and not interfere with the use of the property by the Licensor, the public, other government entities, or third party property rights. Subject to all applicable provisions of this Agreement, including, but not limited to Sections 4, 6, 10 and 13, Licensee may construct, operate, and maintain its substitute facilities on the Temporary Site at its sole cost and expense until the earlier of (i) the expiration of the term of this Agreement; (ii) the termination of this Agreement; or (iii) the restoration and operation of Licensee's Facilities on the Premises and/or the City Facilities. Licensee shall continue to pay the License Fee during its use of the Temporary Site, except that the License Fee shall be abated between the time the Premises and/or City Facilities are destroyed or damaged and the substitute facilities become operational.

Alternatively, in the case of damage or destruction to the Premises and/or City Facilities, without contributory fault of the Licensee, Licensee may elect to terminate this Agreement upon thirty (30) Days' written notice to Licensor, which notice shall also be sent by Licensee to those who hold a financial interest in Licensee's Facilities. In the event Licensee elects to terminate the Agreement, Licensee shall be entitled to reimbursement of any prepaid License Fee covering the period subsequent to the date of damage to or destruction of the Premises and/or the City Facilities. Licensee shall remove Licensee's Facilities and all other personal property which it owns from the Premises in the manner set forth in Subsection 22.5.

22. TERMINATION.

22.1. Grounds for Termination. In addition to other provisions within this Agreement, this Agreement may be terminated as follows:

22.1.1. By either Party upon a default of any covenant or term hereof by the other party, which default is not cured within sixty (60) Days of receipt of written notice of

default to the other party (without, however, limiting any other rights of the Parties pursuant to any other provisions hereof);

22.1.2. By Licensee, upon sixty (60) Days prior written notice to Licensor, for cause if it is unable to obtain any license, permit or other governmental approval necessary for, the construction, installation and/or operation of the Licensee's Facilities or Licensee's business;

22.1.3. By Licensee, upon sixty (60) Days prior written notice to Licensor, for cause if Licensee determines, in its sole discretion, that the Premises are not appropriate for its operations for economic or technological reasons, including, without limitation, signal interference;

22.1.4. By Licensor, upon three hundred and sixty-five (365) Days prior written notice to Licensee and those entities identified in Subsection 22.6., if its City Council decides, for any reason, to develop the Premises in a manner it determines, in its sole discretion, to be inconsistent with the continued use of the Premises by Licensee;

22.1.5. By Licensor, upon three hundred and sixty-five (365) Days prior written notice to Licensee and those entities identified in Subsection 22.6., if its City Council decides, in its sole discretion, to discontinue the use of a Licensor-owned structure on which Licensee's Facilities are attached or affixed;

22.1.6. By Licensor, upon sixty (60) Days prior written notice to Licensee and those entities identified in Subsection 22.6., if Licensee shall make any assignment for benefit of creditors or file any petition under the Bankruptcy Code of the United States or any state, or have any such petition filed against it;

22.2. Notice of Termination. Each Party shall give Notice of Termination to the other party in writing by certified mail, return receipt to the address stated in Section 28. Such notice shall be effective upon receipt at the address stated in Section 28, as evidenced by the return receipt, or such later date as stated in the Notice. All License Fees which are paid prior to the termination date shall be retained by Licensor.

22.3. Early Termination. If Licensee terminates this Agreement for a reason other than that authorized by this Agreement, Licensee shall pay to Licensor as liquidated damages for early termination, an amount equal to six (6) months of License Fees. The Deposit may be applied to cover these liquidated damages.

22.4. Abandonment. Should Licensee fail at any time for a continuous period of six (6) months to use the Licensee's Facilities or the Premises or any part thereof for the

purposes contemplated by this Agreement, then Licensor may terminate this Agreement, upon sixty (60) Days' prior written notice to Licensee and those entities identified in Subsection 22.6., to the extent of the portion so abandoned or discontinued. In addition to any other rights or remedies, Licensor shall immediately be entitled to exclusive possession and ownership of the portion so abandoned or discontinued, without the encumbrance of this Agreement. Upon termination, Licensee shall have the restoration obligations set forth in Subsection 22.5.

22.5. Restoration. Except as otherwise provided herein, upon termination or expiration of the term of this Agreement, Licensee shall, at its sole cost and expense, promptly, safely, and carefully remove all Licensee's Facilities from the Premises and the City Facilities and restore the Premises and the City Facilities to the condition in which the Premises and the City Facilities existed immediately prior to installation of Licensee's Facilities, normal wear and tear excepted. If Licensee fails to commence performing the work required by this subsection within thirty (30) Days following expiration or the earlier termination of this Agreement, or if Licensee fails to diligently perform all work required by this subsection to its completion, then Licensor shall have the right to perform such work. In such event, Licensee shall reimburse Licensor for all costs and expenses reasonably incurred by Licensor in performing such work without risk, exposure, or liability and without further notice to Licensee, within thirty (30) Days of written notice. Upon receipt of payment, Licensor shall return Licensee's Facilities and other equipment removed by Licensor pursuant to this subsection. The provisions of this subsection shall survive the expiration or earlier termination of this Agreement. Licensor may use the Deposit for the purposes set forth herein. Except for facilities already abandoned under Subsection 22.4., the facilities shall be deemed abandoned if Licensee does not claim the facilities and pay within thirty (30) Days of written notice any: (i) outstanding restoration costs; (ii) storage fees; and (iii) other reasonable costs paid by Licensor. In addition to the remedies contained in this subsection, Licensor may avail itself of all other rights and remedies under applicable Law.

22.6. Additional entities. Licensee has notified Licensor that the following entity has an interest in the Licensee's Facilities and related equipment because of financing arrangements: NOT APPLICABLE. If Licensor removes the Licensee's Facilities or related equipment, Licensor must give written notice to the above entities at the addresses provided, informing them that Licensee's Facilities or related property have been removed. Except for facilities already abandoned under Subsection 22.4., Licensor shall also inform these entities that the facilities will be deemed abandoned if they are not claimed and the following are not paid within thirty (30) Business Days: (i) outstanding restoration costs; (ii) storage fees; and (iii) other reasonable costs paid by Licensor.

23. LIMITATIONS OF CITY'S LIABILITY.

If Licensor terminates this Agreement other than as authorized by this Agreement, or Licensor breaches this Agreement, the liability of Licensor for damages to Licensee, whether arising in contract, tort (including negligence) or otherwise, shall be limited to the actual and direct costs of equipment removal and shall specifically exclude any recovery for incidental, special, punitive, or consequential damages of any kind, including, without limitation, loss of income, loss of business, loss of profits, diminished value of the business as a going concern, future expectation of profits, or other pecuniary loss or related damage to Licensee.

24. INTERRUPTIONS OF SERVICE.

24.1. Maintenance. If maintenance of the City Facilities or the Property requires Licensor's employees or agents to come within the stand-off distance identified in the final RFES Study, Licensor shall notify Licensee forty-eight (48) hours in advance of this maintenance and request that Licensee temporarily shut off power to the Antennas. Licensee shall comply with this request; however, Licensor will attempt to conduct its activities according to Licensee's preferred schedule unless that schedule would unreasonably delay maintenance or increase costs. Upon completion of the maintenance, Licensor shall notify Licensee, and Licensee may then activate the power to its facility. Licensor shall not be liable to Licensee or any other party for any interruption in Licensee's service or interference with the operation of Licensee's Facilities.

24.2. Emergency Situations. Licensee understands that Licensee's Facilities are located on a public property and Emergency Situations may develop from time-to-time that requires power to the Antennas to be immediately shut off. Licensee agrees that if an Emergency Situation occurs, Licensor shall have the right to immediately shut off power to the Antennas for the duration of the Emergency Situation. If reasonably possible, Licensor shall immediately notify Licensee. Notwithstanding the foregoing, Licensor will not immediately shut off power to the Antennas provided the Director determines in his or her sole discretion that (i) the Emergency Situation does not require an immediate shut off of power to the Antennas; and (ii) Licensee's employee or agent will perform the shut off of power within a timeframe which will not exacerbate the Emergency Situation. Licensee agrees not to hold Licensor responsible or liable for and shall protect, defend, and indemnify and hold Licensor harmless for any damage, loss, claim, or liability of any nature suffered as a result of the loss of the use of Licensee's Facilities or other communication facilities. At its sole cost and expense, Licensee agrees to install a clearly marked and accessible Antenna power "cut-off" switch to be located on City Facilities. The Licensee Fee, prorated to a 365-Day year, shall be abated for any day, or part thereof, in which power to the Antennas is shut off pursuant to this Subsection 24.2.

If, on account of the shut off, Licensor interrupts Licensee's use of the Licensee's Facilities for a period greater than ten (10) consecutive Days, Licensee shall have the right to terminate this Agreement upon thirty (30) Days prior written notice to Licensor.

24.3. Non-emergency Situations. Except as provided elsewhere within this Agreement, and outside of Emergency Situations, if the Director determines in his or her sole discretion that continued operation of Licensee's Facilities would cause or contribute to an immediate threat to the public health, welfare and safety (except for conditions or threats associated with human exposure to radio frequency emissions which are in compliance with the stand-off distance identified in the final RFES Study unless otherwise indicated), the Director may order Licensee to discontinue its operation of these facilities. Licensee shall immediately comply with this order, and Licensee may not commence operations until the Director determines in his or her sole discretion that the facilities no longer cause or contribute to an immediate threat. Licensee agrees not to hold Licensor responsible or liable for and shall protect, defend, and indemnify and hold Licensor harmless for any damage, loss, claim, or liability of any nature suffered as a result of the loss of the use of Licensee's Facilities or other communication facilities. If, on account of a situation described in this Section, Licensor interrupts Licensee's use of the Licensee's Facilities for a period greater than ten (10) consecutive Days, Licensee shall have the right to terminate this Agreement upon thirty (30) Days prior written notice to Licensor.

25. ASSIGNMENT.

Licensee shall not assign or transfer this Agreement without the prior written consent of Licensor; provided, however, Licensee shall have the right to assign its rights under this Agreement, without Licensor's consent, to any of: (i) its subsidiaries; (ii) entities in which Licensee owns a majority interest; (iii) entities which own a majority interest in Licensee; (iv) entities in which a majority ownership interest is held by an entity owning a majority interest in Licensee; (v) successor legal entities; or (vi) any entity acquiring substantially all of the assets of Licensee, so long as such assignment does not result in an increase or substantial change of the type of facilities on the Premises. Any unauthorized assignment shall be void and shall immediately terminate this Agreement.

26. CONDEMNATION.

In the event the whole Premises is taken by eminent domain, this Agreement shall terminate as of the date title to the Premises vests in the condemning authority. In the event a portion of the Premises is taken by eminent domain, Licensee shall have the right to terminate this Agreement as of said date of transfer of possession, upon written notice to the Licensor. In the event of any taking under the power of eminent domain, Licensee shall not be entitled to any portion of the

reward paid for the taking of the fee title and Licensor shall receive the full amount of such award. Licensee hereby expressly waives any right or claim to any portion thereof. Although all damages, whether awarded as compensation for diminution in value of the license or to the fee of the Premises, shall belong to Licensor, Licensee shall have the right to claim and recover from the condemning authority, but not from Licensor, such compensation as may be separately awarded or recoverable by Licensee for all damages recoverable under condemnation law.

27. DISPUTES.

The Parties agree to make a diligent, good-faith attempt to resolve any claim, controversy or dispute arising out of this Agreement (“Disputes”). Authorized representative shall be selected by each party to resolve Disputes. If the Authorized Representatives of the Parties are unable to resolve a Dispute arising within thirty (30) Days after notice from one Party to the other, such Dispute will be submitted promptly to the senior executive officers of the Parties, who will meet, in person or by telephone, not later than ten (10) Days after the date such Dispute was submitted to them. In the event that the officers cannot resolve the Dispute within ten (10) Business Days after the matter is submitted to them, the Parties shall promptly submit the Dispute to mediation. Each Party shall bear its own costs of mediation. If mediation does not result in settlement within forty-five (45) Days after the matter is submitted to mediation, either Party may file legal action for a court determination of the Dispute. Nothing herein intended to prevent either party from filing for an injunction, declaratory judgment or other remedy in equity.

28. NOTICE.

Except as otherwise provided herein, any notices, bills, invoices, or reports required by this Agreement shall be deemed received on: (i) the day of delivery if delivered by hand, facsimile or overnight courier service during the addressee’s regular business hours; or (ii) on the third Business Day following deposit in the United States mail if delivered by mail, postage prepaid, to the addresses listed below (or to such other addresses as the Parties may, from time to time, designate in writing).

IF TO LICENSOR:

City of Anaheim
200 S, Anaheim Blvd, Suite 217
Anaheim, CA 92805
Attn: City Clerk

With a required copy concurrently delivered to

City of Anaheim
800 W. Katella Avenue
Anaheim, CA 92802

Attn: Deputy Director, Convention, Sports & Entertainment
Telephone: (714) 765-8985
Facsimile: (714)765-8986

IF TO LICENSEE:

New Cingular Wireless PCS, LLC
Attn: Network Real Estate Administration
Cell Site Name: Anaheim Convention Center North DAS
Fixed Asset No: 10087141
575 Morosgo Drive NE
Atlanta, GA 30324

With a required copy concurrently delivered to AT&T Legal Department:

New Cingular Wireless PCS, LLC
Attn: AT&T Legal Department
Cell Site Name: Anaheim Convention Center North DAS
Fixed Asset No: 10087141
208 S. Akard Street
Dallas, Texas, 75202-4206

29. GENERAL PROVISIONS.

29.1. Authority to Enter Agreement. Each of the persons executing this Agreement on behalf of a party hereto warrants that: (i) such party is duly organized and existing, (ii) the signer is duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this License Agreement, (iv) the parties entry into this Agreement does not violate any provision of any other agreement to which said party is bound, and (v) there is no litigation or legal proceeding that would prevent said party from entering into this Agreement.

29.2. Cooperation: Further Acts. The Parties shall fully cooperate with one another, and shall take any additional actions or sign any additional documents as may be reasonably necessary, appropriate, or convenient to attain the purposes of this Agreement.

29.3. Construction: Captions. It being agreed the Parties or their agents have participated in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party as a result of one Party having been the drafter. The captions of the various articles and sections are

for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

29.4. Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by the Parties. Any valid supplement, modification, or amendment of this Agreement shall have no effect on any other provision of this Agreement not so supplemented, modified or amended, including all indemnity requirements.

29.5. Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual right (not otherwise provided for herein) by custom, estoppel, or otherwise.

29.6. Binding Effect. Each and all of the covenants and conditions shall be binding on and shall inure to the benefit of the Parties, and their successors, heirs, personal representatives, and assigns. This subsection shall not be construed as an authorization for any Party to assign any right or obligation.

29.7. No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

29.8. Invalidity; Severability. If any one or more of the provisions of this Agreement shall be held by court of competent jurisdiction in a final judicial action to be void, voidable, or unenforceable, such provision(s) shall be deemed severable from the remaining provisions of this Agreement and shall in no way affect the validity of the remaining portions of this Agreement.

29.9. Governing Law. This Agreement shall be governed and construed by and in accordance with the laws of the State of California, the City Charter, and the Anaheim Municipal Code, excluding any choice of law provisions or conflict of law principals which would require reference to the laws of any other jurisdictions, but may be subject to superseding Federal Law. In the event that suit is brought by a Party, the Parties agree that trial of such action shall be vested exclusively in the State Court of California, County of Orange, or in the United States District Court, Central District of California, in the County of Orange regardless of choice of law or forum non convenience.

29.10. Memorandum. Upon request by either Party, the Parties agree to promptly execute and deliver a recordable Memorandum of this Agreement in a form acceptable to both Parties which may be recorded by the party requesting the Memorandum of Agreement.

- 29.11. Attorneys' Fees and Costs.** If any legal action or other proceeding is brought in connection with this Agreement, the successful or prevailing Party shall be entitled to recover reasonable attorneys' fees and other related costs, in addition to any other relief to which the Party is entitled.
- 29.12. Time is of the Essence.** Time is of the essence in this Agreement, and the Parties agree to execute all documents and proceed with due diligence to complete all covenants and conditions.
- 29.13. Counterparts.** This Agreement may be signed in counterparts, each of which shall constitute an original and which collectively shall constitute one instrument.
- 29.14. Entire Agreement.** This Agreement contains the entire agreement between the Parties and supersedes any prior oral or written statements or agreements between the Parties.
- 29.15. Smart City.** Licensee acknowledges and agrees that the rights granted under this Agreement are limited solely to permitting the provision of its wireless voice and data services to its regular wireless customers for use inside the Premises and for no other purpose. Licensee acknowledges the existence of an agreement dated September 23, 2014 (as amended from time to time, the "SCN Agreement") between the Licensor and Smart City Networks, Limited Partnership ("SCN") under which SCN has the exclusive right to provide certain telecommunication services on the Property. Licensee also acknowledges that Licensor may enter into another exclusive telecommunication services agreement with SCN or another company ("Successor Agreement") after the expiration of the SCN Agreement. Except as permitted by the first sentence of this Section 29.15, Licensee agrees that neither Licensee nor any affiliate of Licensee shall market that it will provide, nor will it provide, telecommunications or data services within the Premises that compete directly with the telecommunications services that may be provided by SCN under the SCN Agreement, or by SCN or a successor provider under the Successor Agreement, including (i) providing any telecommunications or data services to any exhibitors at the Premises, or (ii) providing wireless voice or data on a temporary or short term basis at the Premises. In addition, Licensee shall not advertise, including in any magazine, on any website, or with any trade association, that it is signing up new subscribers to its wireless or data service in the Premises, or is offering services in the Premises that are competitive to those services that may be provided by SCN under the SCN Agreement or by SCN or successor provider under the Successor Agreement. Notwithstanding the foregoing, nothing contained herein shall prevent Licensee from participating as an exhibitor at an event on the Premises and/or offering its wireless voice and data services to its customers so long as such wireless voice and data services are not promoted or sold for short-term use on the Premises

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on the dates hereinafter respectively set forth.

LICENSOR:

CITY OF ANAHEIM

By: _____

Acting City Manager

Date: _____

LICENSEE:

NEW CINGULAR WIRELESS PCS, LLC,
a Delaware limited liability company

**By: AT&T Mobility Corporation
Its: Manager**

By: _____

Jon Morris, Director

Date: _____

ATTEST:

By: _____

Acting City Clerk

Date: _____

APPROVED AS TO FORM:

ANAHEIM CITY ATTORNEY

By: _____

Daniel A. Ballin, Deputy City Attorney

CAO # 121583

EXHIBIT A
TO
TELECOMMUNICATIONS FACILITIES SITE LICENSE AGREEMENT

DESCRIPTION OF PROPERTY

[ATTACHED BEHIND THIS PAGE]

EXHIBIT B
TO
TELECOMMUNICATIONS FACILITIES SITE LICENSE AGREEMENT

PREMISES/SITE PLAN

[ATTACHED BEHIND THIS PAGE]

EXHIBIT C
TO
TELECOMMUNICATIONS FACILITIES SITE LICENSE AGREEMENT

RFES STUDY

[ATTACHED BEHIND THIS PAGE]

EXHIBIT D
TO
TELECOMMUNICATIONS FACILITIES SITE LICENSE AGREEMENT
UPGRADE WORK

[IF APPLICABLE, ATTACHED BEHIND THIS PAGE]