Repl #2

JUN 23 2016

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MEMORANDUM **Transportation & Development - Memo No. TDA16-082**

DATE: JUNE 23, 2016

TO: MAYOR AND COUNCIL

THRU: MARSHA REED, CITY MANAGER MR
NACHIE MARQUEZ, ASSISTANT CITY MANAGER NM
R.J. ZEDER, TRANSPORTATION & DEVELOPMENT DIRECTOR RJZ

FROM: MARGARET COULTER, REGULATORY AFFAIRS MANAGER MC

SUBJECT: WITHDRAWAL OF ITEM NO. 2 - INTRODUCTION AND TENTATIVE ADOPTION OF ORDINANCE NO. 4693 FOR A MASTER LICENSE AGREEMENT BETWEEN THE CITY OF CHANDLER AND VERIZON WIRELESS

RECOMMENDATION: Staff recommends City Council withdraw Item No. 2 of the June 23, 2016, City Council Meeting Agenda, Introduction of Ordinance No. 4693, Master License Agreement between Verizon Wireless (Verizon) and the City of Chandler for the use of City property. Staff is requesting the item be withdrawn in order to allow further discussion at a future Transportation and Development City Council subcommittee meeting.

PROPOSED MOTION: Move City Council withdraw Introduction of Ordinance No. 4693 for a Master License Agreement between the City of Chandler and Verizon Wireless for the use of City property in connection with the operation of a wireless network and authorizing the Mayor to execute the agreement; and authorizing the City Manager or designee to execute other implementing documents as are needed to give effect to the agreement, as recommended by City staff.

#2
JUN 23 2016

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MEMORANDUM **Transportation & Development - Memo No. TDA16-080**

DATE: JUNE 23, 2016

TO: MAYOR AND COUNCIL

THRU: MARSHA REED, CITY MANAGER mr
NACHIE MARQUEZ, ASSISTANT CITY MANAGER
R.J. ZEDER, TRANSPORTATION & DEVELOPMENT DIRECTOR RJZ

FROM: MARGARET COULTER, REGULATORY AFFAIRS MANAGER mc

SUBJECT: INTRODUCTION AND TENTATIVE ADOPTION OF ORDINANCE NO. 4693 FOR A MASTER LICENSE AGREEMENT BETWEEN THE CITY OF CHANDLER AND VERIZON WIRELESS FOR THE USE OF CITY PROPERTY IN CONNECTION WITH THE OPERATION OF A WIRELESS NETWORK AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT; AND AUTHORIZING THE CITY MANAGER OR DESIGNEE TO EXECUTE OTHER IMPLEMENTING DOCUMENTS AS ARE NEEDED TO GIVE EFFECT TO THE AGREEMENT

RECOMMENDATIONS: Staff recommends introduction and tentative adoption of Ordinance No. 4693 for a Master License Agreement between Verizon Wireless (Verizon) and the City of Chandler for the use of City property in connection with the operation of a wireless network and authorizing the Mayor to execute the agreement; and authorizing the City Manager or designee to execute other implementing documents as are needed to give effect to the agreement.

BACKGROUND: Verizon is requesting to install micro cells on existing City property in the right-of-way, primarily City streetlight poles, in order to supplement its existing cellular wireless communication network and boost capacity in high demand areas. Micro cell facilities consist of pole-mounted antennas and associate group equipment in cabinets. These facilities generally have a smaller impact on property than those for traditional cellular towers.

The Master License, when coupled with Department Site Agreements/Encroachment Permits for individual sites, will streamline the process of leasing individual sites to Verizon. In addition, the Master Agreement reflects and sets guidelines for the construction of the technology being deployed for micro cell facilities and sets a pricing schedule that is currently not in place. It also follows a standard being adopted by municipalities statewide. The term of the License is for 10 years, with the option of three, five year extensions.

Attached to the memo are some photo examples of possible site configurations based on actual locations Verizon has constructed in Phoenix. Since streetlight designs and surrounding ground facilities will vary by locations, the micro cell equipment used will vary accordingly, with color and screening appropriate for the individual site in order to meet the criteria based on Exhibit C.

FINANCIAL IMPLICATIONS: Verizon paid a $3,000 application fee for the processing of referenced license for the Master Agreement. The City will receive $3,368 per site annually for the typical micro cell configuration currently being proposed. The fee schedule in Exhibit D allows for different lease amounts based on the impact to the Right-of-Way. At this time, they are looking at four site locations but anticipate a considerable number of additional sites in the future as demand for improved wireless coverage grows. There is an escalator clause that increases the lease amount on an annual basis by 3 percent.

PROPOSED MOTION: Move City Council introduce and tentatively adopt Ordinance No. 4693 for a Master License Agreement between the City of Chandler and Verizon Wireless for the use of City property in connection with the operation of a wireless network and authorizing the Mayor to execute the agreement; and authorizing the City Manager or designee to execute other implementing documents as are needed to give effect to the agreement.

Attachments:

Ordinance No. 4693-Master License Agreement between the City of Chandler and Verizon Wireless and for the Use of City Property in Connection with the Operation of a Wireless Network.

Photo examples of possible facilities to be installed and site configurations.

ORDINANCE NO. 4693

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AUTHORIZING AND APPROVING A MASTER LICENSE AGREEMENT BETWEEN THE CITY OF CHANDLER AND VERIZON WIRELESS FOR THE USE OF CITY PROPERTY IN CONNECTION WITH THE OPERATION OF A WIRELESS NETWORK AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT; AND AUTHORIZING THE CITY MANAGER OR DESIGNEE TO EXECUTE OTHER IMPLEMENTING DOCUMENTS AS ARE NEEDED TO GIVE EFFECT TO THE AGREEMENT

WHEREAS, the City of Chandler ("City") is authorized to grant, renew, deny and terminate licenses and agreements for operation and maintenance of wireless communications within the City boundaries pursuant to the Charter and City Code of Chandler, and by virtue of federal and state statutes, by the City's police powers, by its authority over its public rights-of-way and highways as defined in Chandler 46 of the Chandler City Code, and by other City powers and authority; and

WHEREAS, Verizon Wireless ("Company") is a telecommunications provider authorized to conduct business in the State of Arizona which desires to utilize City streetlight poles within City public right-of-way for the support of Company's personal wireless service facilities to establish and operate a wireless grid system within Chandler, Arizona; and

WHEREAS, each such facility will utilize small cell technology so as to minimize adverse impacts;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Chandler, Arizona, as follows:

Section 1. That the City Council does authorize and approve a Master License Agreement between the City of Chandler and Verizon Wireless for the Use of City Property in Connection with the Operation of a Wireless Network, which shall be substantially in the form as presented herewith (the "Agreement").

Section 2. That the Mayor of the City of Chandler, Arizona, is authorized to execute the Agreement on behalf of the City.

Section 3. That the Chandler City Manager or the Manager's designee is authorized to execute other implementing documents as are needed to give effect to the Agreement.

ATTEST:

_____ _____

CITY CLERK MAYOR

PASSED AND ADOPTED by the City Council of the City of Chandler, Arizona, this _____ day of _____, 2016.

ATTEST:

_____ _____

CITY CLERK MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Ordinance No. 4693 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the _____ day of _____, 2016, and that a quorum was present thereat.

_____

CITY CLERK

PUBLISHED:

APPROVED AS TO FORM:

_____

CITY ATTORNEY GAB

AGREEMENT BETWEEN THE CITY OF CHANDLER AND VERIZON WIRELESS FOR THE USE OF CITY PROPERTY IN CONNECTION WITH THE OPERATION OF A WIRELESS NETWORK

This Agreement is made and entered into by and between the CITY OF CHANDLER, an Arizona municipal corporation ("City") and VERIZON WIRELESS (VAW) LLC, a Delaware limited liability company, d/b/a Verizon Wireless ("Company"). City and Company may be referred to herein individually as a "Party" or collectively as the "Parties."

RECITALS

This Agreement is made with reference to the following Recitals, each of which is deemed to be a material term and provision of this Agreement:

A. City is the owner of certain streetlight poles located in the public right-of-way situated within the city limits of the City of Chandler, Arizona ("ROW" or "City ROW").

B. Company represents that it is a telecommunications provider authorized to conduct business in the State of Arizona.

C. Company desires to establish and operate a wireless grid system ("Wireless Network") comprised of more than one personal wireless service facility ("PWS Facility"), each of which utilizes small cell technology, in order to provide personal wireless services within the City of Chandler, Arizona.

D. Company desires to construct, operate and maintain each PWS Facility from a City-owned streetlight pole situated in the City ROW and, for such purpose, desires to locate, place, attach, install, operate, control, and maintain small cell antennas and other related wireless communication equipment consistent with small cell technology ("Equipment") on City-owned streetlight poles in the ROW.

E. Company will agree to comply with City's ROW use requirements as provided herein.

F. Company will agree to provide and maintain accurate maps showing the location of each PWS Facility in Chandler, Arizona, and the location of the Equipment it will use in the City ROW, and comply with any other reasonable City mapping requirements.

AGREEMENT

1. **Definitions and Exhibits.**

1.1. Definitions. For the purposes of this Agreement and all Exhibits attached hereto, the following terms, phrases, words and derivations shall have the meaning given herein.

(a) *Agreement* means this Agreement for the Use of City Property in Connection with the Operation of a Wireless Network.

(b) *Attachment Fee* or *Pole Attachment Fee* means that fee described in Subsection 10.2 and Exhibit D of this Agreement.

(c) *Application Fee* or *License Application Fee* means the fee described in Subsection 10.1 of this Agreement.

(d) *City* means the City of Chandler, an Arizona municipal corporation.

(e) *Company* means Verizon Wireless (VAW) LLC, a Delaware limited liability company, d/b/a Verizon Wireless.

(f) *Day* means calendar day.

(g) *Encroachment Permit* means a permit issued and described in accordance with Chapter 46 of the Chandler City Code, which is used to regulate, monitor and control improvement, construction or excavation activities, or other work or activity, occurring upon or otherwise affecting the City ROW. For purposes of this Agreement, the Encroachment Permit is identified as a Class 4 telecommunications encroachment permit as discussed in Section 46-6 of the Chandler City Code.

(h) *Equipment* means small cell antennas and other wireless communications equipment utilizing small cell technology that is specifically identified and described in Exhibit 1 attached to each Site Supplement (as defined below).

(i) *Hazardous Substance* means any substance, chemical or waste that is identified as hazardous or toxic in any applicable federal, state or local law or regulation, including but not limited to petroleum products and asbestos.

(j) *Small cell* means compact wireless base stations containing their own transceiver equipment and that function like cells in a mobile network but provide a smaller coverage area than traditional macrocells.

(k) *Small cell technology* is wireless communication technology that uses small cell antennas and other equipment at wireless telecommunication facilities such as PWS Facilities.

(l) *Municipal Facilities* means those City-owned streetlight poles and streetlight fixtures located within the ROW that are designated or approved by City as being suitable for placement of Equipment.

(m) *Person* means any individual, sole proprietorship, partnership, association, corporation, or other legal entity or form of organization.

(n) *Personal wireless services* means any Federal Communication Commission (FCC) licensed commercial wireless telecommunications services including cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), as well as unlicensed wireless services, and common carrier wireless exchange access services.

(o) *Personal wireless service facility* or *PWS Facility* means a type of telecommunications facility owned and operated by Company exclusively for the provision of personal wireless services and which generally consists of (i) one or more of Company's antennae located upon a City streetlight pole; (ii) an equipment cabinet or power pedestal on a pad for Company's wireless communications equipment; (iii) connections, conduits and cables for transmitting signals between Company's antennae on a City streetlight pole and the equipment cabinet or power pedestal related to the City streetlight pole, and to/from points of utility connections; and (iv) such other components and designs as approved by City. This does not include the installation of a generator.

(p) *ROW* or *City ROW* means the surface of and the space above and below the public roads, streets and alley right-of-way, and public utility easements or other public ways of any type whatsoever, now or hereafter located and existing within the city limits of Chandler, Arizona, whether or not improved.

(q) *Site Supplement* means the form of the license granted by this Agreement, described in Section 2 below, and shown on Exhibit A.

(r) *Streetlight fixtures* means the streetlight brackets, luminaries and lamps, photo electric controls, external ballasts and other support elements attached, now or hereafter, to City-owned streetlight poles located within the ROW.

(s) *Streetlight pole* means a pole structure, located within the ROW, which supports streetlight fixtures used for the lighting of the ROW.

(t) *Term* means the period that this Agreement is in effect as described in Subsection 9.1 of this Agreement.

(u) *Telecommunications* means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

(v) *Telecommunications corporation* means a public service corporation to the extent that it provides telecommunications services in the State of Arizona.

(w) *Telecommunications License* means the license described in Subsection 3.1 of this Agreement.

(x) *Telecommunications provider* means a telecommunications corporation that constructs, installs, operates and maintains telecommunications facilities within the City of Chandler, Arizona.

(y) *Telecommunications services* means the offering of telecommunications for a fee directly to the public or to such users as to be effectively available directly to the public, regardless of the facilities used.

(z) *Wireless communications equipment* means actual electronic equipment, cabinets for such equipment, the antennas and/or dishes to be used to communicate with cell telephones and similar radiofrequency or cellular devices and/or any antennas used to relay signals off-site in bulk, and related connections, conduits and cabling.

(aa) *Wireless Network* means a wireless grid used by Company to provide personal wireless services within the City of Chandler, Arizona.

(bb) *Agreement Effective Date* means the first day of the month following the Agreement Execution Date (which date is stated in the unnumbered paragraph of this Agreement immediately preceding the signature blocks for the Parties).

(cc) *Commencement Date* means the date, under each individual Site Supplement, which is the first day of the month following the forty fifth (45th) day following the Supplement Effective Date (as defined in the Site Supplement).

(dd) *Supplement Term* means the period that an individual Site Supplement is in effect as described in Subsection 9.7 of this Agreement.

1.2. Exhibits. In addition to all applicable laws, regulations, rules, resolutions and ordinances, including the City's Charter and City Code, the following numbered documents, which are occasionally referred to in this Agreement, are formally incorporated and made part of this Agreement by this reference:

(a) Exhibit A: Site Supplement Form.

(b) Exhibit B: Minimum Limits of Insurance.

(c) Exhibit C: Additional Installation Criteria

(d) Exhibit D: Attachment Fee Schedule

In the event of any conflict or ambiguity between this Agreement, including the above-referenced exhibits (the "Exhibits"), and any other agreement between City and Company, this Agreement, together with the Exhibits, shall govern and prevail. In the event of any conflict or ambiguity between this Agreement, including the Exhibits, and any Site Supplement, the Site Supplement shall govern and prevail.

2. **Site Supplement Granted and Terms.**

2.1. Scope. City, acting in its proprietary capacity as the owner of streetlight poles in the ROW, does grant to Company a nonexclusive license to use the Municipal Facilities identified in Exhibit 1 to each Site Supplement to attach, install, operate, maintain, upgrade, remove, reattach, reinstall, relocate and replace the Equipment that may be required to operate a PWS Facility for the Wireless Network (the "Site Supplement"). This grant is subject to the terms, conditions and other provisions set forth in this Agreement; to applicable provisions of the City Charter and/or City Code, and any future amendments thereto; and all applicable laws and reasonable regulations of any regulatory agency having competent jurisdiction.

2.2. Use of City Property. The Site Supplement allows Company to access, occupy and use allocated available space on each of the streetlight poles identified as Municipal Facilities in Exhibit 1 to the Site Supplement to attach, install, operate, maintain, upgrade, remove, reattach, reinstall, relocate and replace the Equipment, as identified in such Exhibit 1, solely for the purpose of Company operating a PWS Facility as part of Company's Wireless Network. The Site Supplement also allows the installation, operation and maintenance of ground based, pad mounted equipment cabinets and/or power pedestals needed for the operation of Equipment attached to any of the Municipal Facilities, together with any related conduit, cable or wiring, with the location of any such cabinet or pedestal determined in connection with the issuance of an Encroachment Permit.

2.3. Limitations on Use. The Site Supplement does not authorize Company to:

(a) Access, occupy or use any streetlight poles other than those designated by City as Municipal Facilities shown in Exhibit 1 attached to a Site Supplement;

(b) Access, occupy or use any poles, improvements or structures of any kind, whether within or without the City ROW, other than the items identified as Municipal Facilities shown in Exhibit 1 attached to a Site Supplement;

(c) Enter upon public property and attach, install, operate, maintain, upgrade, remove, reattach, reinstall, relocate, and/or replace any item of Equipment in or on poles or other structures not owned by City and located within the ROW;

(d) Install or operate wireless telecommunications equipment for cable television signals or for the distribution of video programming directly to subscribers to a cable system as defined in the Federal Cable Act; and

(e) Use any poles, improvements or equipment owned by any third party, or use any City-owned streetlight poles not identified as being Municipal Facilities.

2.4. Subordinate Use. Any right or privilege claimed pursuant to this Agreement by Company for any use of any public street or other public property shall be subordinate to any prior or subsequent lawful occupancy or use thereof by City or any other governmental entity and shall be subordinate to any prior easement therein, provided however, that nothing herein shall extinguish or otherwise interfere with property rights established independently of this Agreement.

3. **Additional License and Permits Required by City Code.**

3.1. Telecommunications License. When fully executed, this Agreement also shall constitute a grant of a nonexclusive Telecommunications License that satisfies the telecommunications licensing requirements of Chapter 46 of the Chandler City Code. The license allows Company to use portions of the City ROW needed for purpose of providing personal wireless services through the installation, operation and maintenance of PWS Facilities as part of Company's Wireless Network utilizing the Equipment attached to the Municipal Facilities, all in accordance with the terms, conditions and provisions stated herein. The grant of the Telecommunications License pursuant to this Agreement is expressly made subject to Company satisfactorily completing any required written application and paying any required the application fee required under Chapter 46 of the Chandler City Code at the time of the execution of any Site Supplement, to the extent not in contravention of any applicable Federal or State law.

3.2. Encroachment Permit. All of the Equipment will be installed, operated and maintained by or on behalf of Company in accordance with applicable provisions of the Chandler City Code regulating wireless communications facilities as the same now exist or may be amended or adopted in the future, to the extent not in contravention of any applicable Federal or State law. Company or its designee will be required to apply and obtain an Encroachment Permit issued by the City for work performed within the ROW, and the ROW will be used according to the plans submitted by Company and approved by the City in issuing an Encroachment Permit. Execution of this Agreement does not constitute the issuance of an Encroachment Permit.

4. **Basic Design and Installation Requirements for PWS Facilities Using Municipal Facilities.**

4.1. Basic design requirements. The specific design requirements for the Equipment attached to any Municipal Facility or other Equipment installed for the operation a PWS Facility shall be established in writing during the review and approval of the Encroachment Permit for any Municipal Facility site. However, any such specific requirements shall be consistent with the following basic design requirements:

(a) The PWS Facility shall generally consist of an antenna attached to an existing City-owned streetlight pole; an equipment cabinet or pedestal on a pad for housing wireless communication equipment used in operating the PWS Facility; connections, conduits and/or fiber optic cables connecting the antenna with the equipment cabinet, and to or from points of utility connections; and other components as approved by City.

(b) The Equipment for the PWS Facility shall use small cell technology. The antenna or other Equipment shall be mounted at an approved location on the City-owned streetlight pole so that it does not interfere with the streetlight fixtures supported by the streetlight pole.

(c) The City-owned streetlight pole shall be used as the support element for the antenna and the PWS Facility generally. The City-owned streetlight pole may be replaced by a replacement pole pursuant to Subsection 4.2(c) of this Agreement.

(d) Any fiber optic cable or wiring connecting the antenna to the equipment cabinet or pedestal must run inside the City-owned streetlight pole and then underground to the equipment cabinet.

(e) All other conduit, cable and wiring shall be located underground.

(f) To the extent feasible, any antenna, equipment cabinet/pedestal, or Municipal Facility shall comply with color and screening requirements stated in Section 35-2209(6) of Chapter 35 of the Chandler City Code.

4.2. Basic installation requirements.

(a) All of Company's construction and installation work for its PWS Facility on one of the Municipal Facilities shall be performed at Company's sole cost and expense and in a good and workmanlike manner and promptly completed.

(b) When Company and City have agreed on an existing Municipal Facility location as a suitable site for a PWS Facility, but the existing City-owned streetlight pole needs to be replaced to accommodate the PWS Facility, then Company shall pay all costs related to replacing the City-owned streetlight pole, including but not limited to installation of the replacement pole, transfer of the streetlight fixtures and/or other items attached to the existing City-owned streetlight pole to the replacement pole, and removal and salvage of the existing City-owned streetlight pole to the City. Payment of the pole replacement costs does not provide Company with any ownership interest in the replacement pole.

(c) City will be deemed to own the original City-owned streetlight pole and the replacement pole.

(d) The re-installation or reattachment of the Equipment for the PWS Facility using the replacement pole shall be at Company's sole cost and expense.

4.3. Additional installation criteria. Additional installation design criteria for a PWS Facility attached to a Municipal Facility are set out in attached Exhibit C, however the actual approved design for the Equipment, which may vary from the design criteria, are shown on Exhibit 1 attached to a Site Supplement and may be approved by the Director of the Department of Transportation & Development on a case by case basis.

5. Common Conditions or Requirements Applicable to Site Supplements Issued Under this Agreement.

5.1. Equipment Locations. Company or its designee shall submit plans and specifications for City review and approval, if required, and, if applicable, pay all applicable

review and inspection fees prior to performing any work to construct or install Equipment on any Municipal Facility identified in Exhibit 1 attached to a Site Supplement. If Company desires to change or add new locations, Company will submit a proposed Site Supplement indicating the additional Municipal Facilities that it wishes to use. Approval of any Site Supplement will be subject to approval by the Director of the Department of Transportation & Development, which approval shall not be unreasonably withheld, conditioned or delayed, but which may take into account the impact of such approval on the residential neighborhood in which the proposed Municipal Facility is located. Where the location of the proposed Municipal Facility identified in the proposed Site Supplement is situated in a portion of ROW which is not identified by City as an arterial road and which is within a single-family, residential subdivision, the Director, in the Director's sole discretion, may cause written notice of the application to be provided to owners of those residences in the subdivision situated within 300 feet of the proposed Municipal Facility, together with the date, time and place of a meeting conducted by the Director at which such owners may express any issues or concerns they may have with the application, and, within five (5) days thereafter, Director shall issue a decision on the application. Company will keep accurate records of the location of all Equipment located on Municipal Facilities and will furnish such records to City upon City's request.

5.2. Damage to City Property. If Company damages or disturbs the surface or subsurface of any ROW or adjoining property, streetlight pole, streetlight fixture or other public improvement, in the exercise of the rights granted through this Agreement, Company will promptly, at its own expense, and in a manner reasonably acceptable to City, repair the damage or disturbance.

5.3. Public Emergency. City and Company shall notify each other of any emergency situations related to a PWS Facility or the streetlight pole on which it is located. If the emergency poses an immediate threat to public health, safety or welfare, City shall have the right, upon reasonable notice to Company if practicable under the circumstances, to sever, disrupt, or detach any Equipment. City shall, where reasonable, work with Company in responding to the emergency. Twenty-four (24) hour telephone notice will be considered reasonable in the event of an emergency. Company's telephone number for notice pursuant to this Section 5.3 shall be 800-264-6620.

5.4. Streetlight Replacement. If a Municipal Facility needs replacement or repair due to a traffic accident or deterioration, Company shall cooperate with City to temporarily relocate its Equipment, if necessary, to allow about three (3) weeks replacement time or as otherwise specified in a notice to Company.

(a) At all times while this Agreement is in effect, Company, at its cost, shall provide to City a least one (1) spare pole sufficient to serve as a replacement pole, which will be located at City's Public Works Yard (the "Yard"), and which will be available for use by City for the purpose stated in subsection 5.4 of this Agreement.

(b) As necessary, City will use the spare pole to replace a damaged existing pole, and shall deliver the damaged pole and any damaged equipment to the Yard.

(c) City will contact Company to pick up the damaged equipment and Company can reinstall its equipment once the replacement pole is installed and functioning as a Municipal Facility.

(d) Company shall have the right to temporarily use a Municipal Facility for its operation during the replacement period at a location reasonably acceptable to both City and Company

5.5. Relocation.

(a) Company understands and acknowledges that City may require Company to relocate one or more of its Equipment installations. Company shall at City's direction and upon one hundred eighty (180) days prior written notice to Company, relocate such Equipment at Company's sole cost and expense whenever City reasonably determines that the relocation is needed for any of the following purposes: (a) if required for the construction, modification, completion, repair, relocation, or maintenance of a City or other public agency project; (b) because the Equipment is interfering with or adversely affecting proper operation of City-owned Poles, traffic signals, communications, or other Municipal Facilities; or (c) to protect or preserve the public health or safety. In any such case, City shall use reasonable efforts to afford Company a reasonably equivalent alternate location. If Company shall fail to relocate any Equipment as requested by the City in accordance with the foregoing provision, City shall be entitled to remove or relocate the Equipment at Company's sole cost and expense, without further notice to Company. Company shall pay to the City actual costs and expenses incurred by the City in performing any removal work and any storage of Company's property after removal within thirty (30) days of the date of a written demand for this payment from the City.

(b) In the event Company desires to relocate any Equipment from one Municipal Facility to another, Company shall so advise City. City will use reasonable efforts to accommodate Company by making another reasonably equivalent Municipal Facility available for use in accordance with and subject to the terms and conditions of this Agreement.

5.6. Non-exclusiveness. Subject to Section 5.7(e), the rights and privileges granted to Company under this Agreement, and each license described herein, are nonexclusive.

5.7. Non-interference. The following provisions shall apply to ensure and/or avoid interference (both physical interference and radio frequency interference) resulting from Company's installation, operation and/or maintenance of its PWS Facilities, including, but not limited to, the Equipment that comprises each PWS Facility:

(a) RF Interference. Company shall ensure that the Equipment, the PWS Facility, and/or the Wireless Network will not cause radio frequency interference with existing wireless communication facilities or devices, cable television, broadcast radio or television systems, satellite broadcast systems, or City traffic, public safety or other communications signal equipment existing at the time of installation of the Equipment and/or the Wireless Network. "Radio frequency interference" means the radiation or conduction of radio frequency energy (or

electronic noise) produced by electrical and electronic devices at levels that interfere with the operation of adjacent equipment.

(b) Existing Uses. Company shall not interfere in any manner with the existing uses of City property including ROW, and including sanitary sewers, water mains, storm drains, gas mains, poles, aerial and underground electric and telephone wires, streetlight fixtures, cable television, and other telecommunications, utility, and municipal property without the express written approval of the owner(s) of the affected property or properties.

(c) City Communications. Company shall not interfere in any manner with current or future City communications outside of the unlicensed 2.4 Ghz/5.1 to 5.8 Ghz frequencies and in any frequency range if deemed for a public safety communication purpose, nor with future uses of City property including ROW by City for public purposes.

(d) Interference. The term 'interference' under this section means physical interference and radio frequency interference. Physical interference is where the Equipment causes reduced use of others' prior mounted equipment, or where the Equipment causes an obstruction in a necessary line-of-sign path. It is understood and agreed by the parties hereto the determination of 'interference' shall be reasonably made by City.

(e) City Interference. City agrees that City and/or any other tenants, licensees, or users of the ROW who in the future take possession of space within the ROW within three hundred feet (300') of any Company Equipment 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 then existing industry standards to the then existing equipment of Company.

(f) Breach. Any occurrence of interference as proscribed herein shall be deemed a material breach. In such event, each party shall take all reasonable steps necessary to eliminate such interference within in a reasonable time period.

(g) FCC. Company shall comply with all applicable FCC rules and regulations.

6. **Privilege Limitations.** Any privilege claimed under this Agreement by Company shall be subordinate to any prior or subsequent occupancy or use by City or 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; provided, however, that nothing in the Agreement shall extinguish or otherwise interfere with property rights established independently of the Agreement.

7. **Limit of City's Liability.** City shall be liable only for the cost of repair to damaged components of Company's Equipment arising from the negligence or willful misconduct of City, its employees, agents, or contractors.

8. **City's Reserved Rights.**

8.1. City Use of Municipal Facilities. City reserves the right, but not the obligation, to maintain and operate its Municipal Facilities in such reasonable manner as will best enable City to fulfill its own service requirements or obligations. Except as provided in this Agreement, City shall not be liable for any interference with the operation of Company's Equipment, PWS Facilities or Wireless Network that may arise in any manner out of Company's use of the Municipal Facilities.

8.2. INTENTIONALLY OMITTED.

8.3. Abandonment. City reserves the right to abandon, relocate or remove any City streetlight pole. If such pole is identified as a Municipal Facility and Company has Equipment attached to it, City shall give Company written notice of City's intent to abandon, relocate or remove the streetlight pole and Company shall have one hundred eighty (180) days (or such lesser period of time as required due to the circumstances provided such circumstances are not due to City's wrongful act or omission, including its failure to provide 180 days notice when it could have reasonably done so) thereafter to move or remove Company's Equipment.

9. Term of Supplements and Agreement; Cancellation; Termination; Removal or Abandonment at Expiration.

9.1. Term. This Agreement shall be in effect for a period of ten (10) years commencing on the Agreement Effective Date, and expiring on the tenth (10th) anniversary of the Agreement Effective Date unless sooner cancelled or terminated as provided in this section (the "Term").

9.2. Automatic Extension. Subject to early termination or cancellation under Subsections 9.3 and 9.4, and provided that Company is not in material breach of this Agreement, the Term will automatically be extended for up to three (3), successive, five (5) year periods, with the first five-year extension of the Term commencing immediately upon the expiration of the initial period of the Term, and each additional five-year extension of the Term commencing immediately upon the expiration of the preceding additional period of the Term. All of the provisions of this Agreement shall be in effect during the Term and any extension of the Term.

9.3. Company Cancellation. Company may cancel this Agreement or any Site Supplement before the date of expiration by providing City with ninety (90) days express written notice of cancellation. Such cancellation shall not be effective until Company has removed, as applicable, all Equipment from the Municipal Facility used under the Site Supplement, or each Municipal Facility subject to this Agreement, and otherwise complied with all provisions of this Agreement.

9.4. City's Cancellation. The City may revoke, alter, suspend, or cancel this Agreement before its date of expiration. The City may invoke this paragraph only if one of the following defaults has occurred and Company has been notified in writing of such default and given appropriate time to cure such default:

(a) Company has failed to comply with any material provisions of this Agreement or has, by act or omission violated any material term or condition of the Agreement, and such failure is not cured within thirty (30) days of written notice from City;

(b) Company has failed to comply with any lawful rule or regulation validly adopted by the City Council that is material to compliance with the Agreement, and such failure is not cured within thirty (30) days of written notice from City;

(c) Company has failed to maintain its Equipment and operations, subject to the terms of this Agreement, in the streets and public rights-of-ways to the standard prescribed by the City for safety, operation, maintenance, and general work in the streets and public rights-of-ways according to City requirements and codes, and such failure is not cured within thirty (30) days of written notice from City.

If the nature of the violation is such that it cannot be fully cured within thirty (30) days due to circumstances not under Company's control, the period of time in which Company must cure the violation shall be extended for such additional time reasonably necessary to complete the cure, provided that: (a) Company has promptly begun to cure; and (b) Company is diligently pursuing its efforts to cure. In the event any of the above violations is only specific to a particular Site Supplement, then Section 19.2 shall apply in lieu of this Section.

9.5. Mutual Cancellation. The Parties may mutually agree in writing to the cancellation of this Agreement and the Site Supplements.

9.6. Abandonment. If Company abandons the use of a Municipal Facilities location for a period of six (6) or more consecutive months, the Equipment shall be removed at the expense of Company. In the event Company is unable or refuses to remove such Equipment when requested by City, City may authorize removal and Company shall be responsible for all costs incurred for such removal.

9.7 Supplement Term. Each Site Supplement shall be in effect for a period of ten (10) years commencing on the "Commencement Date" determined in accordance with each Site Supplement, and expiring on the day before the tenth (10th) anniversary of the Commencement Date unless sooner cancelled or terminated as provided in this section (the "Supplement Term"). Subject to early termination or cancellation under Subsections 9.3 and 9.4, and provided that Company is not in material breach of the Site Supplement, the Supplement Term will automatically be extended for up to three (3), successive, five (5) year periods, with the first five-year extension of the Supplement Term commencing immediately upon the expiration of the initial period of the Supplement Term, and each additional five-year extension of the Supplement Term commencing immediately upon the expiration of the preceding additional period of the Term. All of the provisions of this Agreement shall be in effect during the Supplement Term and any extension of the Supplement Term. Notwithstanding anything herein, after the expiration of this Agreement, its terms and conditions shall survive and govern with respect to any remaining Site Supplement in effect until their expiration or termination.

10. **Fees and Charges.** Company shall be solely responsible for the payment of all fees and charges in connection with Company's performance under this Agreement, including those set forth as follows:

10.1. License Fee. Company shall pay to City, for the administrative costs of processing the application for this Agreement as a telecommunications license, an application fee in the amount of Three Thousand and No/100 Dollars ($3,000.00) prior to submittal for approval of this Agreement to the City Council.

10.2. Pole Attachment Fee. As of the Commencement Date for each Site Supplement, Company shall pay to City an annual fee in accordance with the fee schedule set out in attached Exhibit D for the Municipal Facilities used by Company pursuant to the Site Supplement, for permission to occupy and use space on the Municipal Facilities. The annual fee paid per Municipal Facility location is non-refundable and is payable in advance within sixty (60) days of the Commencement Date, but shall be prorated based on 365 days to the Agreement Effective Date if the Commencement Date is not identical to the Agreement Effective Date. The annual fee shall thereafter be paid on or before the Agreement Effective Date during the Supplement Term of any Site Supplement (however, if the Commencement Date is in November or December, Company shall have sixty (60) days from the Commencement Date to pay the 2nd year's annual fee).

10.3. Encroachment Permit. No payment is collected under this Agreement for any Encroachment Permit issued in connection with the installation of a PWS Facility or Equipment at any Municipal Facility. Encroachment Permit requirements, fees and charges are solely governed by the requirements imposed by Chapter 46 of the Chandler City Code. Fees and charges for any such Encroachment Permit usually are collected at the time such a permit is applied for and issued.

10.4. Annual Fee Increase. On each year anniversary of the Agreement Effective Date, the Annual Attachment Fee for all existing Site Supplements shall be increased by 3% over the rate previously in effect.

10.5. Taxes. Company shall pay all applicable city, county and state taxes levied, assessed, or imposed by reason of this Agreement or those related to any of Company's PWS Facilities and/or provided services. Such taxes are in addition to any non-tax amounts owed by Company to City pursuant to this Agreement.

10.6. Electric meter. Company shall install or cause to be installed a separate electric meter on a ground mounted pedestal or on Company's pad mounted equipment cabinet for the operation of its Equipment and shall be responsible for paying all charges for any electricity furnished by a utility company furnishing service to the PWS Facility.

10.7. Payments Made. All fees and/or additional payments shall be payable to Landlord at: **City of Chandler, Management Services, Mail Stop 702, P.O. Box 4008, Chandler, AZ 85244-4008, Attention: Accounting Manager**; or to such other persons or at such other places as City may designate in writing. All payments shall be in lawful money of the United States of America.

11. **Title and Ownership.**

11.1. Title to the PWS Facility. Title to the PWS Facility, exclusive of the streetlight pole (original or replacement) used for support, but including ground mounted equipment, shall remain with Company and shall constitute Company's personal property or equipment and not fixtures or improvements attached to the land. Company shall remove all of the PWS Facility, including all Equipment attached or ground mounted, at its sole expense within sixty (60) days of the expiration or earlier termination of this Site Supplement, shall repair any damage to the Municipal Facilities or the City ROW caused by such removal, and shall restore the Municipal Facilities to the condition in which they existed prior to the installation of the PWS Facility and any of its Equipment (whether attached or ground mounted), reasonable wear and tear and loss by casualty or other causes beyond Company's control excepted.

11.2. No Ownership in City Property. Neither this Agreement, nor any license issued herein, nor any Encroachment Permit separately issued for installation of a PWS Facility or any Equipment, regardless of the payment of any fees and charges, shall create or vest in Company any ownership or property rights in any portion or elements of the Municipal Facilities, the underlying real property on which any City-owned streetlight poles or any Equipment is located, or any portion of the City ROW. Additionally, Company acknowledges that this Agreement does not constitute or create a leasehold interest or right to the benefit of any City property or portion thereof. Company accepts the Municipal Facilities identified in any Site Supplement, or any replacement streetlight pole, in its "AS IS" condition, without representation or warranty of any kind by City, or any City officer, agent, or employee, and subject to all applicable laws, rules and ordinances governing the use of the City streetlight poles or City ROW for Company's intended purpose. Nothing contained in this Agreement shall be construed to compel Company to construct, retain, extend, place, or maintain any poles or other facilities for the benefit of City which are not needed for Company's own service requirements.

12. **Maintenance and Repair.** Company shall take good care of the PWS Facility and the Municipal Facility, keep the PWS Facility and other improvements on the Municipal Facility, if any, in good repair, and shall maintain and keep the Municipal Facility in good condition in accordance with City of Chandler standards.

13. **Hazardous Substances.** Company agrees that Company, its contractors, subcontractors and agents, will not use, generate, store, produce, transport or dispose any Hazardous Substance on, under, about or within the area of a Municipal Facility or the City ROW in which it is located in violation of the Arizona Hazardous Waste Management Act, A.R.S. §49-901 *et seq.*, the Resource Conservation and Recovery Act, 42 U.S.C. §6901 *et seq.*, or the Toxic Substances Control Act, 15 U.S.C. §2601 *et seq.*, or any other applicable federal, state, county, or local law or regulation. Company may not use the City ROW in a manner that would require a permit or approval related to a Hazardous Substance from the Arizona Department of Health Services or any governmental agency other than City. Except to the extent of the negligence or intentional misconduct of City, Company will pay, indemnify, defend and hold City harmless against and to the extent of any loss or liability incurred by reason of any Hazardous Substance produced, disposed of, or used by Company pursuant to this Agreement and must immediately notify City of any Hazardous Substance at any time discovered or existing upon the City ROW. Company will ensure that any on-site or off-site

storage, treatment, transportation, disposal or other handling of any Hazardous Substance will be performed by persons who are properly trained, authorized, licensed and otherwise permitted to perform those services.

14. **Surety Bond.** At or before the Agreement Effective Date, Company shall file with City a good and sufficient surety bond in accordance with the requirements of Arizona law. The form and terms of the surety bond and the identity of the surety shall be subject to the reasonable approval of the Chandler City Attorney and the surety shall guaranty the full performance of Company's obligations arising upon expiration, termination or abandonment of this Agreement. Any acceptable surety instrument having an expiration date earlier than the full lease term shall be automatically renewable. Any company issuing such a surety instrument must give City at least thirty (30) days advance written notice prior to the effective date of cancellation or expiration of such surety instrument. The amount of the surety bond shall be $15,000.00, which is based upon the estimated cost of removing Company's Equipment from the Municipal Facilities and the storing or disposing thereof.

15. **Indemnity.** To the fullest extent permitted by law, but except to the extent of the negligence or intentional misconduct of City or its agents, contractors or employees, Company, its successors, assigns and guarantors, shall indemnify, defend, save and hold harmless, City, and any of its elected or appointed officials, officers, directors, commissioners, board members, agents or employees, from and against any and all allegations, demands, claims, proceedings, suits, actions, damages, including, without limitation, property damage, environmental damages, personal injury and wrongful death claims, losses, expenses (including claim adjusting and handling expenses), penalties and fines (including, but not limited to, attorney fees, court costs, and the cost of appellate proceedings), judgments or obligations, which may be imposed upon or incurred by or asserted against City by reason of this Agreement or the services performed or permissions granted under it, or related to, arising from or out of, or resulting from any negligent or intentional actions, acts, errors, mistakes or omissions caused in whole or in part by Company, or any of its contractors or subcontractors, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, relating to the discharge of any duties or the exercise of any rights or privileges arising from or incidental to this Agreement, including but not limited to, any injury or damages claimed by any of Company's, contractor's or subcontractor's employees.

16. **Insurance Requirements.**

16.1. Insurance. Company shall procure and maintain insurance in the amounts and form specified in attached Exhibit B.

16.2. Certificates. If a Certificate of Insurance or Self-Insurance is submitted as verification of coverage, City will reasonably rely upon the Certificate as evidence of coverage but this acceptance and reliance will not waive or alter in any way the insurance requirements or obligations of this Agreement. If any of the required policies expire during the life of this Agreement, Company must forward renewal or replacement Certificates to City within ten (10) days after the renewal date containing all the necessary insurance provisions.

17. Transferability.

17.1. This Agreement and each license granted herein is personal to Company and for Company's use only. Company shall not lease, sublicense, share with, convey or resell to others any such space or rights granted hereunder. Violation of this subsection will be grounds for termination under Section 19.2 .

17.2. This Agreement and the related rights and privileges may not be assigned or otherwise transferred without the express written consent of City done by an ordinance or resolution passed by the Chandler City Council, which consent shall not be unreasonably withheld, conditioned or delayed. Any Agreement which is assigned or otherwise transferred pursuant to this Section shall be equally subject to all the obligations and privileges of this Agreement including any amendments, which will remain in effect, as if the assigned Agreement was the original Agreement. Violation of this subsection will be grounds for termination under Section 19.2.

17.3. After assignment, this Agreement, including any amendments, shall be binding on the assignee to the full extent that was binding upon Company.

17.4. Any non-permitted transfer or assignment of the right to attach a PWS Facility to a City-owned streetlight pole shall be void and not merely voidable. City may, in its sole discretion and in addition to all other lawful remedies available to City under this Agreement, may collect any fees owed from Company all without prejudicing any other right or remedy of City under this Agreement. No cure or grace periods shall apply to transfers or assignment prohibited by this Agreement or to the enforcement of any provisions of this Agreement against a transferee or assignee who did not receive City's consent.

17.5 Notwithstanding anything to the contrary in this Section 17, Company shall have the right to assign this Agreement to any parent, subsidiary, or affiliate entity or to any entity acquiring all or substantially all of the assets of Company, upon written notice to City, but without the consent or approval of City.

18. **Remedies for Violation of this Agreement.** City may pursue any remedy at law, including but not limited to injunctive relief, civil trespass, and withholding of other City permits and authorizations until Company fully complies with the terms of this Agreement. Such remedies are cumulative and may be pursued in the alternative.

19. **Termination/Revocation.**

19.1. Termination. City, in addition to seeking any other remedy available to it, may terminate this Agreement if Company neglects or refuses to comply with any provisions of this Agreement beyond all applicable cure periods and fails within sixty (60) days after a second written notice from City to correct such neglect, refusal or default; except that where City finds that the defect in performance is due to intentional misconduct, is a violation of criminal law, or is part of a pattern of violations where the licensee has already had notice and opportunity to cure, the applicable cure period shall be thirty (30) days after written notice from City.

19.2. Revocation. In addition to Subsection 19.1 above, the Site Supplement granted under this Agreement may be revoked, subject to notice and hearing as set forth herein, for the following reasons:

(a) Company fails to comply with the terms and conditions of the Site Supplement or other applicable law and such failure is not cured within thirty (30) days of written notice from City.

(b) Company fails to make the payments in the amounts and at the times specified in the Agreement for the Site Supplement and such failure is not cured within ten (10) business days of written notice from City.

(c) Company ceases to be a telecommunications services provider in the City of Chandler.

(d) Company fails to provide current, accurate as built plans and maps showing the location of all equipment and facilities installed or constructed in the City under the Agreement and such failure is not cured within thirty (30) days of written notice from City.

If the nature of the violation is such that it cannot be fully cured within thirty (30) days due to circumstances not under Company's control, the period of time in which Company must cure the violation shall be extended for such additional time reasonably necessary to complete the cure, provided that: (a) Company has promptly begun to cure; and (b) Company is diligently pursuing its efforts to cure, except where the City finds that the defect in performance is due to intentional misconduct, is a violation of criminal law, or is part of a pattern of violations where the licensee has already had notice and opportunity to cure.

19.3. Termination by Mutual Agreement. This Agreement may be cancelled prior to its date of expiration by Company providing City with ninety (90) days written notice and only upon making arrangements satisfactory with the City Engineer to remove all Company's PWS Facilities and related wireless communications equipment from the City ROW unless the City Engineer agrees in writing to allow Company to abandon its PWS Facilities and related wireless communications equipment in place. If the City Engineer agrees to allow Company to abandon its PWS Facilities and related wireless communications equipment in place, the ownership of such facilities and equipment shall be transferred to City and Company shall cooperate to execute any documents necessary to accomplish such transfer.

19.4. Surrender. Within sixty (60) days of the expiration or earlier termination of each Site Supplement (or if all Site Supplements have been terminated as provided herein, within sixty (60 days of the termination, Company shall peaceably and quietly leave, surrender, and yield up to City all of the Municipal Facilities, and shall repair all damage to the Municipal Facilities caused by or resulting from the removal of any of Company's PWS Facilities or any Equipment from any of the Municipal Facilities, normal wear and tear excepted.

20. **Notices.** Any notice, request, demand, statement, or consent herein required or permitted to be given by either party to the other hereunder, shall be in writing signed by or on behalf of the party giving the notice and addressed to the other at the address as set forth below:

Company	Verizon Wireless (VAW) LLC, d/b/a Verizon Wireless 180 Washington Valley Road Bedminster, New Jersey 07921 Attention: Network Real Estate
City	City of Chandler P. O. Box 4008, MS 403 Chandler, Arizona 85244-4008 Attn: Margaret Coulter
With copy to:	City of Chandler City Attorney's Office P.O. Box 4008, MS 602 Chandler, AZ 85244-4008

Each party may by notice in writing change its address for the purpose of this Agreement, which address shall thereafter be used in place of the former address. Each notice, demand, request, or communication which shall be mailed to any of the aforesaid shall be deemed sufficiently given, served, or sent for all purposes hereunder (i) two business days after it shall be mailed by United States registered or certified mail, postage prepaid and return receipt requested, in any post office or branch post office regularly maintained by the United States Postal Service, (ii) upon personal delivery, or (iii) one business day after deposit with any recognized commercial air courier or express service. **Any communication made by e-mail or similar method shall not constitute notice pursuant to this Agreement.**

21. **Miscellaneous.**

21.1. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the Parties, and supersedes all negotiations, understandings or agreements. Any amendments to this Agreement must be in writing and executed by both parties.

21.2. Severability. If any provision of this Agreement is invalid or unenforceable with respect to any Party, the remainder of this Agreement or the application of such provision to persons other than those as to whom it is held invalid or unenforceable, shall not be affected and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

21.3. Governing Law. This Agreement shall be governed by the laws of the State of Arizona without regard to choice of law rules. Any action at law, suit in equity or judicial proceeding for the enforcement of this Agreement shall be instituted only in the courts located within Maricopa County, Arizona.

21.4. Exhibits. All Exhibits attached referred to and attached to this Agreement are incorporated herein by reference.

21.5. Authority to Execute. Any individual executing this Agreement on behalf of or as representative for a corporation or other person, partnership or entity, represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of such party, and this Agreement is binding upon such party in accordance with its terms.

21.6. Cancellation of Agreement. Pursuant to A.R.S. Sec. 38-511, City may, within three (3) years after its execution, cancel this Agreement if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of City is, at any time while this Agreement is in effect, an employee or agent of Company or a consultant to Company with respect to the subject matter of this Agreement.

21.7. Modification and Waiver. No supplement, modification or amendment of any provision, term or condition of this Agreement shall be deemed binding or effective unless in writing and signed by the Parties. No waiver of any of the provisions of this Agreement shall be binding unless executed in writing by the Party making the waiver.

21.8. No Waiver. Company shall not be excused from complying with any of the terms and conditions of this Agreement by any failure of City upon any one or more occasions to insist upon or to seek compliance with any such terms or conditions.

21.9. Force Majeure. With respect to any provisions of this Agreement, the violation or non-compliance of any term of this Agreement which could result in the imposition of a financial penalty, liquidated damages, forfeiture or other sanction upon Company, such violation or non-compliance shall be excused where such violation or non-compliance is the result of acts of God, war, civil disturbance, strike or other labor unrest, or other events, the occurrence of which was not reasonably foreseeable by Company and is beyond Company's reasonable control.

IN WITNESS WHEREOF, the parties have executed this Agreement as of this ____ day of _____, 2016 (the "Agreement Execution Date").

CITY:

CITY OF CHANDLER, an Arizona municipal corporation

By: _____
Print Name: Jay Tibshraeny
Its: Mayor

APPROVED AS TO FORM:

_____
Chandler City Attorney GAB

COMPANY:

VERIZON WIRELESS (VAW) LLC, dba VERIZON WIRELESS, a Delaware limited liability company

By: _____
Print Name: _____
Its: _____

EXHIBIT A

Site Supplement Form

Site Supplement No. _____

This Site Supplement No. ____ ("Supplement"), made this _____ day of _____, 20____ ("Supplement Effective Date"), between the CITY OF CHANDLER, an Arizona municipal corporation, hereinafter designated "Licensor" and VERIZON WIRELESS (VAW) LLC, d/b/a Verizon Wireless, with its principal offices at c/o Verizon Wireless, 180 Washington Valley Road, Bedminster, New Jersey 07921, hereinafter designated "Licensee":

1. Supplement. This is a Site Supplement as referenced in that certain Agreement for the Use of City Property in Connection with the Operation of a Wireless Network, between Licensor and Licensee dated _____, 2016 ("Agreement"). All of the terms and conditions of the Agreement are incorporated hereby by reference and made a part hereof 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 this Supplement 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 Description and Locations. Licensee shall have the right to use the Municipal Facility for Equipment at the designated areas in the ROW as further described in Exhibit 1 attached hereto (the "Licensed Area").

3. Equipment. The Equipment to be installed at the Licensed Area is described in Exhibit 1 attached hereto.

4. Term. The term of this Supplement shall be as set forth in Section 9.7 of the Agreement.

5. Fees. The initial Annual Attachment Fee for the term of this Supplement shall be _____, as determined in accordance with the Agreement, as adjusted by Section 10.4.

6. Commencement Date. The first day of the month following the forty fifth (45th) day following the Supplement Effective Date.

7. Approvals/Fiber. It is understood and agreed that Licensee's ability to use the Licensed Area is contingent upon its obtaining all of the certificates, permits and other approvals (collectively the "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 use of the Licensed Area 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 governmental authority; (iii) Licensee determines that such Governmental Approvals may not be obtained in a timely manner; (iv) Licensee determines that it will be unable to obtain in a satisfactory manner,

or maintain any fiber or power connection; or (v) Licensee determines that the Licensed Area 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 Licensee in writing by certified mail, return receipt requested, and shall be effective upon the mailing of such notice by Licensee, or upon such later date as designated by Licensee. All rentals paid to said termination date shall be retained by Licensor. 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 hereunder. Otherwise, Licensee shall have no further obligations for the payment of Rent to Licensor.

8. Miscellaneous._____.

[Signature page follows]

EXECUTED to be effective as of the date shown above.

LICENSOR:

CITY OF CHANDLER

By: _____
Name: _____
Title: _____

ATTEST:

_____
_____, Clerk

APPROVED AS TO FORM

BY: _____
City Attorney

LICENSEE:

VERIZON WIRELESS (VAW) LLC,
D/B/A VERIZON WIRELESS

By: _____
Name: _____
Title: _____

EXHIBIT B

Minimum Limits of Insurance

1. General.

A. Prior to performing work under the Agreement, Company shall furnish to City a certificate of insurance on a standard insurance industry ACORD form. The insurance coverage required must be issued by an insurance company licensed, authorized or lawfully permitted to transact business in the State of Arizona, possessing a current A.M. Best, Inc. rating of A-VII or better, and coverage shall be reasonably satisfactory to City.

B. Company shall, and shall require any of its contractors to obtain and maintain substantially the same coverage as required of Company, procure and maintain, until all of their obligations have been discharged, the insurances set forth below.

C. The insurance requirements set forth herein in no way limit the indemnity covenants contained in the Agreement.

D. City in no way warrants that the insurance limits contained herein or elsewhere in this Agreement are sufficient to protect Company from liabilities that might arise out of the performance of this Agreement by Company and its contractors, and Company is free to purchase any additional insurance as may be determined necessary.

E. Failure to demand evidence of full compliance with the insurance requirements in this Agreement or failure to identify any insurance deficiency will not relieve Company from, nor will it be considered a waiver of, its obligation to maintain the required insurance at all times during the performance of the Agreement.

F. Use of Contractors: If any work is subcontracted in any way, Company shall execute a written agreement with its contractor containing the same Indemnification Clause and substantially the same Insurance Requirements as City requires of Company in this Agreement. Company is responsible for executing the agreement with its contractor and obtaining Certificates of Insurance and verifying the insurance requirements.

2. Scope and Limits of Insurance. Company shall provide coverage with limits of liability not less than those stated below.

A. Commercial General Liability-Occurrence Form. Company must maintain Commercial General Liability insurance with a limit of $2,000,000 per occurrence for bodily injury and property damage, and $4,000,000 general aggregate, including aggregate products and completed operations, independent contractor, personal injury and advertising injury.

B. Automobile Liability-Any Auto or Owned, Hired and Non-Owned Vehicles. Company 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 Company owned, hired, and/or non-owned vehicles assigned to or used in the performance of Company's work, activities, or obligations under the Agreement.

C. Workers Compensation and Employers Liability Insurance. Company must maintain Workers Compensation insurance in compliance with the statutory requirements of the state of operation and Employer's Liability insurance with a limit of $1,000,000 for each accident; $1,000,000 disease for each employee; $1,000,000 disease-policy limit.

D. Builders' Risk/Installation Floater. Builders' Risk/Installation Floater Insurance must be maintained until whichever of the following first occurs: (i) final payment has been made; or, (ii) until no person or entity, other than City, has an insurable interest in the property required to be covered.

(1) The Builders' Risk/Installation Floater insurance must be endorsed so that the insurance will not be canceled or lapse because of any partial use or occupancy by City.

(2) The Builders' Risk/Installation Floater insurance must include as named insureds, City, Company, and all tiers of contractors and others with an insurable interest in the Work.

(3) Company is responsible for payment of all deductibles under the Builders' Risk/Installation Floater insurance policy.

3. Additional Policy Provisions Required.

A. Self-Insured Retentions or Deductibles. Any self-insured retentions and deductibles must be declared and approved by City. If not approved, City may require that the insurer reduce or eliminate any deductible or self-insured retentions with respect to City, its officers, officials, and employees. Notwithstanding the foregoing, none of the requirements of this Section 3.A. shall apply to Verizon Wireless (VAW) LLC so long as it is the Company.

B. Miscellaneous Provisions.

(1) Company's commercial general liability insurance must contain broad form contractual liability coverage.

(2) Company's insurance coverage must be primary insurance with respect to City, its officers, officials, and employees. Any insurance or self-insurance maintained by City, its officers, officials, agents, and employees shall be in excess of the coverage provided by Company and must not contribute to it.

(3) Company's insurance must apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(4) The policies must contain a severability of interest clause and waiver of subrogation against City, its officers, officials, and employees, for losses arising from work performed by Company for City.

(5) Company, its successors and or assigns, are required to maintain Commercial General Liability insurance as specified in this Agreement for a minimum period of one (1) year following completion and acceptance of all work or activities performed or conducted by Company under this Agreement. Company must submit a Certificate of Insurance evidencing Commercial General Liability insurance during this period evidencing the insurance requirement and including the required Additional Insureds set forth herein.

(6) If a Certificate of Insurance is submitted as verification of coverage, City will reasonably rely upon the Certificate of Insurance as evidence of coverage but this acceptance and reliance will not waive or alter in any way the insurance requirements or obligations of this Agreement.

(7) Insurance Cancellation during Term of Contract.

(a) If any of the required policies expire during the life of this Agreement, Company must forward renewal or replacement Certificates to City within ten (10) days after the renewal date containing all the required insurance provisions.

(b) Upon receipt of notice from its insurer(s) Company shall provide the City with thirty (30) days prior written notice of cancellation. Such notice shall be sent directly to Chandler Law-Risk Management Department, Post Office Box 4008, Mailstop 628, Chandler, Arizona 85225.

C. City as Additional Insured. The above-referenced policies shall, excluding workers compensation and employer's liability, include City, its officers, officials, and employees as an additional insured as their interest may appear under the Agreement with respect to liability arising out of work or activities performed by Company.

EXHIBIT C

Additional Installation Criteria

for Small Cell and Ancillary Equipment Pole Attachments

The installation or attachment of an antenna or other wireless communications equipment utilizing small cell technology (the "wireless equipment") to streetlight poles in the City of Chandler shall be subject to the criteria set forth below. Where the City Engineer determines that the size, shape or weight of the proposed equipment is such that an existing standard City streetlight pole is not safe or adequate to function both as a streetlight pole and as a support for the equipment, the existing pole shall be replaced with a new combination streetlight pole that can accommodate the equipment proposed to be attached (the "replacement pole"). Although the criteria stated below are described in relation to a replacement pole, they shall also apply where the wireless equipment is attached to an existing streetlight pole to the extent possible.

A. Pole Criteria:

1. *General requirement:* A replacement pole shall match as close as possible the City of Chandler standard streetlight pole, subject to the more specific criteria below.

2. *Specific criteria:*

   a. The streetlight luminaire must always be the tallest feature on the streetlight pole. In other words, the wireless equipment is not permitted to protrude above the streetlight itself.

   b. The streetlight pole shall be no more than 35 feet to the height of the luminaire.

   c. The mast arm length of a replacement pole shall match the existing streetlight pole being replaced.

   d. The color and surface treatment of the pole shall match the surrounding poles.
      1) For painted or galvanized poles, replace with galvanized poles.
      2) For powder coated bronze/silver SL-6, SL-8 or SL-16 type poles, replace with same powder coated color or color combination.
      3) For defunct Park Green SL-10 style poles, replace with powder coated bronze/silver SL-8 type pole.

   e. Three-section poles may be permitted to replace existing two-section or square poles.

f. Install pole numbers on the each replacement pole (to match the number on existing streetlight poles being replaced) per Chandler Street Light Design Manual (Technical Manual #6).

g. No Company signs are permitted to be placed on a streetlight pole, including a replacement pole except to the extent required by local, state or federal law or regulations.

h. All pole attached wireless equipment must be a minimum 10 feet from the sidewalk elevation.

i. All ground based wireless equipment, including but not limited to equipment cabinets or power pedestals, shall be placed at the back of the right-of-way. To ensure proper sight distance, all City of Chandler Standard Details (C-246, C-247 and C-248) shall apply.

j. All pole mounted equipment shall match the color of the pole.

k. For each individual pole type or style used to support the wireless equipment, one spare replacement pole shall be provided by Company to City in advance so that the pole can be replaced promptly in case of a knockdown.

l. All plans shall be signed and sealed by a Professional Civil <u>and</u> Electrical Engineer.

m. All other details in the City of Chandler Street Light Design (Technical Manual #6) shall apply.

n. The replacement pole and the wireless equipment attached to the pole shall not increase the diameter of the existing pole that is replaced by more than sixty (60) percent, not to exceed eight (8) inches total, or increase the height of the existing pole by more than six (6) feet.

o. Antennas shall be limited to snug-mount, canister-mount, and concealed antennas and 6 inches off the pole.

p. All cables or wires for the attached wireless equipment shall be located inside the pole except where such cables or wires attach to the ports in the antenna.

q. Whether wireless equipment is attached to an existing streetlight pole or to a replacement pole, the primary purpose of the pole shall remain as a pole structure

supporting a streetlight luminaire and related streetlight fixtures used to provide lighting to the City right-of-way.

B. Equipment cabinets:

1. Will be reviewed by City for each location, and will be screened wherever the same can be screened in a commercially reasonable manner.

2. Equipment cabinet locations shall comply with the height and development standards of the underlying zoning district;

3. Equipment cabinets with air-conditioning shall be enclosed by walls and setback a minimum of fifteen (15) feet from lots where the existing or planned primary use is a single-family dwelling.

4. The associated equipment will be reviewed by City for each location, and will be screened wherever the same can be screened in a commercially reasonable manner.

5. No more than 1 equipment cabinet and/or power pedestal shall be located at and serve any one pole site.

C. Above-Ground Utility Structures: All permit applications to place or install an above ground structure greater than 24" must be accompanied by the following information:

1. Evidence or documentation that, where the above-ground structure is over 36" in height, given its proposed location, the structure will comply or be in compliance with applicable City of Chandler planning and zoning ordinance. Zoning ordinance can be found at http://udm.chandleraz.gov/index.php.

2. City will provide documentation that identifies a potential site for replacement within neighborhood. (The site will be selected on the basis of aesthetics and technical/engineering restrictions.)

3. Evidence that the structure shall be placed on the same side of the right-of-way as refuse containers or utility poles. (The applicant shall not block trash truck access and alley access.)

4. Verification of sight-triangle compliance.

5. Three (3) photographs of the proposed structure, one (1) at 90 degrees, the other two at 45 degrees on either side of the proposed location. (Identify the location of the proposed structure, mark the location with white tape, use an orange traffic cone, etc.)

6. Evidence or documentation of the dimension of the structure.

7. Evidence or documentation that the structure shall not exceed 36" in height in front of the front yard of a residential home.

8. Information as to the specifications of the structure, if available.

Exhibit D

Attachment Fee Schedule

City of Chandler
Annual Fees for Wireless Communication Facilities ("WCF") in the ROW-
(does not include cellular facilities)

Category 1 – WCF with antenna(s) mounted on an **EXISTING** vertical element or pole and any associated ground equipment. Each WCF site will have an Antenna Base Fee of $3,368 for a WCF site in the ROW, plus a Ground Equipment Fee (if applicable) for cubic feet of group equipment in the ROW, as set forth below:

	Antenna Base Fee	Equipment Fee	Total WCF Annual Fee
A. Total is 1cu. ft. up to 50 cu. ft.	Included	Included	$ 3,368
B. Total is 51 cu. ft. up to 200 cu. ft.	$3,368	$ 6,271	$ 9,639
C. Total is 201 cu. ft. up to 300 cu. ft.	$3,368	$ 9,390	$12,758
D. Total is 301 cu. ft. up to 400 cu. ft.	$3,368	$12,493	$15,861
E. Total is 401 cu. ft. or more	$3,368	$15,649	$19,017

Category 2 – WCF with antenna(s) mounted on a vertical element that is stealth or utilizes alternate concealment when existing vertical elements are not available, and any associated ground equipment. Each WCF site will have an Antenna Base Fee of $3,564 for a WCF site in the ROW, plus a Ground Equipment Fee (if applicable) for cubic feet of ground equipment in the ROW, as set forth below:

	Antenna Base Fee	Equipment Fee	Total WCF Annual Fee
A. Total is 1cu. ft. up to 50 cu. ft.	Included	Included	$ 3,564
B. Total is 51 cu. ft. up to 200 cu. ft.	$3,564	$ 6,271	$ 9,835
C. Total is 201 cu. ft. up to 300 cu. ft.	$3,564	$ 9,390	$12,954
D. Total is 301 cu. ft. up to 400 cu. ft.	$3,564	$12,493	$16,057
E. Total is 401 cu. ft. or more	$3,564	$15,649	$19,213

Category 3 – Fees for each WCF with antenna(s) on a new, (non-existing) vertical element or pole that is neither stealth nor concealed in appearance and any associated ground equipment. Each WCF site will have an Antenna Base Fee of $4,810 for a WCF site in the ROW, plus a Ground Equipment Fee (if applicable) for cubic feet of ground equipment in the ROW, as set forth below:

	Antenna Base Fee	Equipment Fee	Total WCF Annual Fee
A. Total is 1cu. ft. up to 50 cu. ft.	Included	Included	$ 4,810
B. Total is 51 cu. ft. up to 200 cu. ft.	$4,810	$ 6,271	$11,081
C. Total is 201 cu. ft. up to 300 cu. ft.	$4,810	$ 9,390	$14,200
D. Total is 301 cu. ft. up to 400 cu. ft.	$4,810	$12,493	$17,303
E. Total is 401 cu. ft. or more	$4,810	$15,649	$20,459

Note: This schedule is not all inclusive and other statutory fees may apply.

Notes regarding FEES:

1. **Annual Structure and Base Fee**-In cases where the existing vertical element is replaced for structural purposes with a pole designed to support the antennas and cabling, the WCF will be categorized as being installed on an existing vertical element. The Antenna Base Fee includes up to 50 cubic feet of ground equipment and any electrical conductors necessary to operate the WCF site. Company will be obtaining a fiber connection from a third party provider, who will have a separate agreement with the City to provide fiber in the ROW. As such, the space required for the fiber to connect the WCF to the point of connection is included in the Total WCF Annual Fee. In the event that at some point Company was to provide its own fiber, there may be a fee for fiber that runs outside the footprint, however, such fee would be pursuant to a separate fiber agreement.

2. **Ground Equipment Fee**-The ground equipment measurement is calculated by the size of a flat, four-sided "box" (parallel sides of equal length) with a top panel that is parallel to the ground so that the box will cover the ground equipment from the top of the equipment to the ground (non-improved dirt surface), and from side-to-side, including any foundation or pad for the equipment. For situations where there is more than one ground equipment fixture or cabinet (adjacent to each other or within the same use area), the equipment fixtures, cabinets and generators shall be deemed separate ground equipment space and will be measured separately, and with the separate cubic feet then added together. Electrical meters and telecom pedestals are not included in the ground equipment.

3. All WCF in the ROW must have a Site Supplement submitted to the City for each WCF site installed and operated in the ROW.

Photo examples of possible facilities to

be installed and site configurations

(See 6 pages as follows)

EXISTING VIEW

POLE TYPE 01

CITY OF CHANDLER

PROPOSED VIEW

verizon wireless

126 W. GEMINI DR., TEMPE, AZ. 85283

BK DESIGN INCORPORATED

3100 N. 3RD. AVE. PHOENIX, AZ. 85013
P: (480) 204-1412

EXISTING VIEW

POLE TYPE 02

CITY OF CHANDLER

PROPOSED VIEW

verizonwireless

BK DESIGN
INCORPORATED

EXISTING VIEW

POLE TYPE 03

CITY OF CHANDLER

PROPOSED VIEW

verizon wireless

BK DESIGN
INCORPORATED

EXISTING VIEW

POLE TYPE 04

CITY OF CHANDLER

PROPOSED VIEW

verizon wireless

BK DESIGN
INCORPORATED

EXISTING VIEW

POLE TYPE 05

CITY OF CHANDLER

PROPOSED VIEW

verizon wireless

BK DESIGN INCORPORATED

EXISTING VIEW

POLE TYPE 06

CITY OF CHANDLER

PROPOSED VIEW

verizonwireless

BK DESIGN
INCORPORATED