

Santa Margarita Water District



MEMORANDUM

TO: Board of Directors **DATE:** October 14, 2015

FROM: Rich Kissee

SUBJECT: Consideration and Action on Resolution No. 2015-XX-XX and Approval of Contract for Management Associated to the Telecommunications License Program

SUMMARY

Issue: The portfolio of cellular leases that the District currently possesses can be managed more effectively. By adopting a formal policy and having a consultant assist in the management of the portfolio, the program will provide a strong economic benefit to the District's ratepayers.

Recommendation: Adopt Resolution No. 2015-XX-XX and approve a contract with ATS Communications for the amount of \$60,000.

Fiscal Impact: Funding for the management of the Telecommunications Program was included in the Operating Budget for Fiscal Year 2015/2016.

Committee Status: The policy was formulated and has been reviewed by the Engineering/Operations committee over the past several months.

BACKGROUND

Currently, the District has 30+ cellular leases on 13 sites located throughout the District service area. These leases, as well as any modifications requested, are currently managed by staff when time permits.

Historically the District's management of the cellular sites has been focused on responding to carrier installation requests and safeguarding District property, rather than actively managing the leases or marketing/generating new leases. The lease portfolio grew in response to the demands of the carriers as staff responded to carrier requests. Given the small amount of staff time invested into this program, the lease revenue grew to an annual revenue over \$750,000.

However, there have been several issues that grew out of having the cellular program grow unchecked. The telecommunication companies have bought, sold, and merged with each other several times over the last 20 years so much that staff has had a difficult time maintaining an active contact for each lease. Recently, an 80-pound support fell off of a

FIRST DRAFT

cellular mount and struck the ground. There were no injuries to personnel or damage to the tank but this event reinforced the importance of having strict guidelines for installation and maintenance.

Since the District did not have an approved policies/procedures to refer to, staff has lacked a direction for this program. Working with the Engineering and Operations Standing Committee and a team of telecommunications experts, a policy and procedures handbook was created and refined over the past year.

DISCUSSION

Staff has brought a two-part recommendation to the Board: Adoption of Resolution No. 2015-XX-XX and Approval of a contract with ATS Communications.

Policy and Procedures

The policies and procedures were created to provide a baseline of standards for cellular tenants to adhere to in both installation and maintenance procedures.

- Stricter access protocol
- Installation standards
- Maintenance standards
- New lease structure (MLA/SLA)
 - o Allows easier management of several concurrent leases

Consultant Management

- Application fees to cover staff/consultant time
- Consultant recommended by several neighboring municipalities/agencies
 - o Familiar with local market values
- Hourly, as-needed rate
 - o District keeps 100% of lease revenue

FUNDING

The funding for the contract to manage the Telecommunications Program was budgeted in the Operating Budget for Fiscal Year 2015/2016. However, the fee schedule listed in the policy handbook was calculated to offset both staff time and consultant time. The cost of the contract will be significantly offset by the revenue brought in through the application fees.

Santa Margarita Water District
License Program

Policy and Procedures
For
Commercial Communications Facilities
Located on District Properties

Adopted on

Date: _____

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1. Introduction

SANTA MARGARITA Water District (“District” or “SMWD”) has a history dating back to 1964 as a landowner district by a group of ranchers who wanted to create a reliable source of water for their cattle. In 1965 SMWD’s board of Directors began to create the blueprint for what would become one of Orange County’s largest water districts. The introduction of advanced mobile wireless communications in the late 1980’s and early 1990’s saw wireless companies (“carriers”) approach the District seeking to allow the installation of wireless communication facilities on District properties. Over the ensuing years the SMWD fashioned a program or “process” to accommodate the carriers’ interest on placing their wireless communications facilities on District properties. However, the changing market place, new technologies and greater regulations have introduced increased complexities to the process.

In an effort to address these new challenges, SMWD has endeavored to create and/or update a standardized program of policies and procedures. These policies and procedures (“License Policy”) establishes the terms and process under which new wireless facilities will be permitted on SMWD property as well as providing a guide to carrier’s interested in modifying existing wireless facilities on the District property.

Under this License Policy, the District will balance its interest in maximizing additional revenues from wireless communication companies with due consideration for operational needs related to use of District’s facility properties, flexibility to allow changes-in-use of its facilities, and adequate protection against safety concerns related to use of the sites for communications facilities. The terms and requirements set forth in this License Policy shall apply to all existing communication facilities leases / licenses and arrangements and as existing communication facilities leases / licenses and arrangements expire or are amended, they will be expected to be executed under the new forms included in the License Policy.

This License Policy may be amended from time to time by the SMWD Board of Directors in its discretion

2. Communications Facility Development Guidelines and Requirements

All wireless communications facilities on District properties shall be installed, modified, or altered, according to this License Policy, and shall comply with the policies, procedures, guidelines and requirements outlined in this section and elsewhere in this License Policy. The License Policy guidelines and requirements apply to all sites and communications facilities installation, work and operations, whether under new licenses, or pursuant to existing lease arrangements.

2.1 Universal Work Requirements

The following requirements apply to all sites, and any reference to “license” or “licensee” shall also be deemed to mean “lease” and “lessee,” as applicable:

1. The term “work” shall mean any activity (e.g. construction, installation, maintenance, repair, replacement, addition of equipment) that touches the District’s properties or water tank facilities and/or requires entitlements from a jurisdiction with governing authority, and/or requires District approval pursuant to an existing license. All other activity including maintenance, repair, alteration, removal, installation of equipment within the Licensed equipment area not requiring jurisdiction or District approval shall be deemed “maintenance” operations and do not require District approval or consent.
2. Prior to any formal request for a new wireless communications facility, or to perform any work on an existing facility other than maintenance, the applicant must submit a site application for SMWD review and approval and the appropriate fees.
3. No work shall commence without a fully executed license or amendment, as applicable.
4. Licensee shall be responsible for obtaining any easements required from third parties to access the District Premises. If access to the Premises requires an easement affecting the property of a third party, no work shall commence prior to Licensee providing documentation relating to access to the Premises, , and demonstrating said easement(s) has/have been secured.
5. No work shall commence prior to delivery to the District of a certificate of insurance with the proper entity name for the licensee and also for any contractor to be engaged in the installation of the communications facility, along with additional insured endorsements and other insurance required under the license.
6. No work shall commence prior to the District receiving and approving a set of working drawings and/or plans for the proposed communications facility signed and stamped by a licensed professional engineer.
7. No work shall commence prior to the issuance of a consent letter by District. The District will issue a consent letter once all the requirements of this License Policy and the license have been met by the applicant and the District has determined that work may commence. The consent letter shall accompany the drawings and/or plans reviewed and approved by the District.
8. No work shall commence prior to a pre-construction site walk. A pre-construction conference to include a representative(s) of licensee, its contractor(s), the District’s inspector and the District’s coatings representative shall be held on site at least one (1) week prior to beginning any work activity at which time the work schedule and a 24-hour contact information shall be provided to the District’s inspector.
9. No work shall commence after issuance of a consent letter and approved plans by District without advance notice of the dates of the proposed work. The District’s inspector shall be notified at least two (2) working days prior to beginning any work.
10. The District reserves the right to withdraw its consent to work, at the sole discretion of the District, if the licensee or its contractor(s) have failed to satisfy the License Policy terms, or if the affected District’s facilities require maintenance work that may interfere with the Licensee’s proposed work.
11. No work shall be performed on the roof of any District reservoir. District staff reserves the right to determine any additional limitations on work at all District facilities and sites.
12. Any proposal for work upon a District facility must include stamped engineering structural analysis and a signed letter from a licensed engineer describing the work and all equipment proposed to be installed on District’s facilities and structural analysis that demonstrates to the

satisfaction of the District that any equipment mounted to a reservoir or other District facility will not compromise the structural integrity of those facilities.

13. , Licensee has one year from receipt of the District's consent letter and signed drawings to complete its work. Any extension to this time frame is at the sole discretion of the District and is only valid if provided in writing. If not complete within one year (or such extended period as permitted by the District in writing), Licensee will be required to re-file with the District for its proposed work including all fees necessary to review the proposed work.
14. Licensee's personnel, including contractors and subcontractors, must ensure that the District site and facility is accessible at all times to District personnel, in accordance with the requirements under Section 2.3 of the License Policy.
15. The licensee shall be responsible for any damage due to construction work or other activities to the existing site and District facilities and upon request by the District shall promptly return damaged facilities and/or sites to pre-existing condition, or better, at no cost to the District. Licensee shall ensure its contractors comply with the foregoing. In the event licensee does not respond in a timely manner, District may perform the necessary repairs and bill licensee which licensee shall pay within thirty (30) days of receipt.
16. All new and existing communications facilities and equipment owned by the licensee shall be properly tagged identifying the licensee's name, site name and/or number and 24-hour Emergency phone number.
17. The licensee and its contractors shall have a copy of the drawings and/or plans approved by the District's Director of Engineering (or designee) on-site at all times.
18. The licensee and its contractors are each responsible to ensure the District site and facilities cannot be accessed by the public at all times while work is occurring.
19. The licensee or its contractors shall provide the District with two (2) sets of District approved plans with field mark-ups, if any, prior to scheduling a final inspection. These plans will represent "Record Drawings" for the District to close-out the project upon completion of the work activity.
20. Trenching, as part of any work, must conform to the requirements of Section 2.6 Trench Details.
21. The licensee and its contractors shall comply with all applicable local, state, and federal laws, including but not limited to health and safety requirements pertaining to the construction, installation, operation and maintenance of the cell carrier facility, and requirements of the Occupational Safety and Health Administration (OSHA), including any safety and injury prevention program in place that is required under applicable laws and regulations. A copy of such program, if required by law or regulation, shall be on site at all times and employees and contractors of the licensee shall be trained accordingly. Further, Licensee is responsible for and shall adhere to any and all Environmental Site Assessments, limited asbestos & lead-based paint surveys, the Section 106 process, including: FCC Forms 620 & 621; Cultural Resource Assessments, Biological Assessments, and all other NEPA-related documentation for proposed cellular equipment installations. Licensee shall comply with all applicable local regulations, ordinances and permits.

2.1.1 Proposed Facilities (Additions / Modifications)

Documents, (including: applications, drawings, structural calculations, permits, reports, etc.), submitted to the District for review shall show only the facilities being installed and match the project's scope of work detailed on the application. No proposals for future equipment not proposed for immediate construction will be accepted on any application. Applications shall be submitted using the template in Appendix C. Application shall be accompanied by the appropriate fee(s) as described in Appendix D

2.2 Requirements for Proposed Drawings, Plans

Drawings and plans must be submitted for the purpose of evaluating the location and other aspects of the proposed work as it relates to the continued on-going operations of the District's facility. Any drawings and/or plans submitted for review to the District in conjunction with a proposed or existing communications facility must contain the following:

2.2.1 Signature Block

The title page of each drawing and/or plan set shall have a signature block for the District's Director of Engineering (or designee) with a date. Please see sample signature block in Appendix E.

2.2.2 Drawing/Plan Notes

Each drawing and/or plan set shall include SMWD notes on the drawing and/or plan set pursuant to Appendix F - Construction Notes, General Notes Plan Notes & Requirements. These notes shall appear on the title page, or general notes sheet(s) of the plan set.

2.2.2. SMWD Contact

The title page of each drawing and/or plan set shall have a District contact listed for engineering and inspection. The licensee shall obtain the current contact information from the District by calling 949-459-6420.

2.2.3 SMWD Facility Name

Each document submitted to the District for review Shall have the District's Facility Name listed prominently in addition to the licensee's designation for the site as well as the site's Assessor's Parcel Number(s).

2.3 District Personnel Access

Licensee and its contractors shall maintain access to the site at all times for District personnel. Open trenches shall be properly plated at the end of each working day to allow for 24-hour SMWD access to the site.

2.4 DIG ALERT

The licensee's contractors shall notify underground service alert (DIG ALERT) at least two (2) working days prior to beginning construction at 1-800-422-4133. Any SMWD facilities to be crossed shall be potholed to verify location prior to working in the vicinity of SMWD facilities.

2.5 Coating Requirements

For any work on a District reservoir, the licensee's contractors shall coordinate with the District's inspector and/or coatings representative for coating requirements and coating inspections prior to any work on a reservoir tank. The Licensee is responsible for any inspection fees associated with the District's coating inspector. All new wireless communications facilities are required to have magnetic mounts for all tank mounted equipment. All existing epoxy mounted antennas and tank mounted structures shall be removed and replaced with magnetic mounts when Licensee submits an application for modifying its facilities. Magnetic mount specifications will be determined and provided by the District.

2.6 Trench Detail

Trench details must show:

- a. Depth and width of the trench
- b. Backfill material list
 - (i.) Paved areas - one-sack cement slurry shall be used to within 1-inch of existing pavement
 - (ii.) In unpaved areas - suitable native material shall be used with 90% minimum compaction; a compaction report must be provided to the District
- c. All hardscape to be saw cut.
- d. Minimum 30- inch depth to top of conduit or as directed by District.
- e. AC replacement -1st lift 3/4 inch mix, relative compaction 95%, no more than 3- inch placed at any one time. 2nd lift, 1/2-inch fine, no more than 1- 1/2 inch lift.
- f. Slurry seal the entire work area for the full width of the access road / paved areas or as directed by District's inspector after work is completed.

2.7 Softscape Replacement

Drawings and/or plans must depict the replacement or repair of all landscaped areas. If work will be performed in unpaved areas, these notes must be present on the site plan (see, Appendix F):

1. Protect all landscaping in place.
2. Only remove trees and shrubs as marked on drawings and/or plans.
3. Any disturbed or damaged landscaping shall be replaced in-kind with 5-gallon minimum shrubs and is-gallon minimum trees, as directed by the District inspector.
4. Areas exposed or disturbed by the work or installation shall be covered with District-approved mulch to a depth of 2-inches.
5. Contact the District's landscape manager prior to installation for landscaping requirements.

2.8 Work Hours

The licensee may only work during approved work hours from the municipality which permitted the communications facility, in accordance with the permit terms. Such work hours are further subject to the District's approval. The District reserves the right to restrict work hours to 8:00 a.m. to 5:00 p.m. Any work activity allowed outside these hours will require express written permission from the District at the District's sole discretion. The use of night time flood lighting is strictly prohibited. In the event licensee determines that night time lighting is necessary, licensee may submit a lighting plan and schedule. District will review and determine at its sole discretion whether to allow the night time lighting and under what circumstances.

2.9 Site Restoration

Sites shall be repaved per Section 2.6 Trench Details or restored per 2.7 Softscape Replacement. Any other features disturbed, removed, or damaged by licensee or its contractors shall be replaced with new features, or repaired, as determined by the District inspector. The site shall be restored to a condition equal or better. For full site decommission requirements, see Section 7.

3. License Fee and Term

The following license fee and term/option term provisions of this License Policy will be incorporated in each communication facility license, as applicable:

1. All new licenses shall contain the terms as outlined in this License Policy, and shall be in substantially the form of the Communications Facility Master License Agreement (MLA) and the Site License Authorization (“SLA”) attached in Appendix A. The MLA establishes the basic terms for licensing but is not an agreement to license any particular District property or portion thereof, nor does it create any obligation on the District to grant any such license to the Licensee. Any such license may be granted by the District only pursuant to a SLA identifying the specific District property, setting forth the particular terms and conditions, and incorporating the terms of the MLA by reference.
2. The terms and procedures outlined in this License Policy shall also apply to any requests for amendments or changes to existing communications facility leases or agreements.
3. The license term shall be for five (5) years, and at the option of Licensee shall continue for five (5) additional 5-year periods provided Licensee is not currently in default under the license.
4. The license fee amount for the five (5) year license period shall be negotiated with the District and the licensee and is payable in annual payments by all licensees.
5. Annual license fees shall begin immediately payable upon execution of a license or amendment.
6. License fee amounts will be subject to an automatic yearly increase in an amount to be negotiated with the District during the five (5) year license period and during any option period, as applicable.
7. The Board of Directors may delegate authority individually to the General Manager or their designees, to review and approve all license applications and to enter into License Agreements in accordance with this License Policy, including determination of the negotiated annual license fee.
8. Any existing leases for communication facilities will be replaced with a license permitted under this License Policy and in accordance with the terms hereof upon the expiration of the term of the current agreement, as determined by the District; or, upon a Licensee's request for any modification, provided such Licensee is not in default under the terms of such existing communications facility arrangement and as determined by the District.
9. Licensee may make application at any time for a new MLA and SLA, with the understanding that the time remaining on its current agreement will not be added to the new agreement. It is recommended Licensee makes application for a new MLA/SLA at least six months prior to the end of the current agreement to ensure enough time to complete the District's review and approval process. Should the agreement lapse, the District shall charge a holdover rental rate of 150% of the then current rental rate on a pro-rata basis.

4. Communications Facility License Application Procedures

Applicants to the District seeking placement of communications facilities on District property must submit an application with the applicable fees by separate checks for each required fee. The application form is provided in Appendix C and the Appendix D contains the application fee schedule.

1. The application shall include the following information:

- a. licensee corporate entity name, state of incorporation, trade name if any;
 - b. licensee local address;
 - c. contact information for licensee personnel responsible for the application;
 - d. contact information for licensee representatives responsible for the application;
 - e. drawings and/or plans depicting the location and dimensions of the proposed communication facilities, equipment specifications, engineering calculations showing that equipment will not impact District facilities as applicable, geotechnical reports, and any other information as necessary to describe the full scope of the work;
 - f. map depicting the location of the proposed communications facility;
 - g. radio frequency analysis showing the current usage at the proposed site along with the new usage and providing detailed information regarding any precautions necessary for District employees to be aware of in the normal course of their business due to the placement of licensee's transmitters or equipment (for new site builds only);
 - h. check(s) payable to "SMWD" based on the application fee schedule in Appendix D;
 - i. description and listing of the various local, State of California and federal public agency approvals required;
 - j. any other information pertinent to the applicant, or as may be requested by District staff and/or District representative.
2. Applicants shall coordinate and comply with respective agencies of the County of Orange, adjacent cities or any similarly involved public agencies as required by the permitting public agencies.
 3. All land use approvals, parcel map requirements, permits or any other regulations and Conditions required by the County of Orange, the California Public Utilities Commission, the Federal Communications Commission or other municipalities and governmental agencies shall be satisfied by the applicant at its cost. Applicant shall provide the District with copies of any and all entitlement permits granted for the installation and any conditions of approval for the operation of the communications facilities.

5. Communications Facility Application Review

The following steps make up the Application Review process:

1. Staff shall verify the District's interest in the land proposed to be used in conjunction with the development of a communications facilities encompasses such intended use, that is, that the District's interest is not restricted to reservoir purposes only (or pump/lift station or other specified facility purposes, as the case may be), or that the language in any deed granting the site to the District may be construed to allow no other uses than those uses "incidental" to reservoir (pump/lift station) purposes. Access to District's property by third party easements shall be the responsibility of the applicant to verify and secure, if necessary, prior to the District's approval of any work activity.
2. Staff shall review the contents of applicant's submission and determine whether the application is complete. Staff shall endeavor to complete such initial review for completeness within thirty (30) calendar days.

3. Upon a determination by Staff that the application is incomplete, Staff shall advise the applicant in writing of the deficiencies in the application, or request such additional information which, in the sole discretion of the District, shall make the application complete. Applicants shall then have ninety (90) calendar days to complete the submission requirements. Should the applicant fail to submit the supplemental information within this time frame, the application shall be deemed withdrawn, unless an extension has been requested and granted. Re-submission shall require a new application and application fees.
4. Upon finding that the application is complete, Staff or its agent shall review the application to determine whether the application meets all policies and requirements outlined in this License Policy or as otherwise incorporated by reference herein..
5. Staff shall consider the safety of District employees and all invitees and authorized volunteers in evaluation of new communications facilities arrangements or major modifications to existing communications facilities.
6. If the application meets all policies and requirements, Staff will pursue negotiation and execution of a MLS/SLA with the applicant, consistent with the License Policy.
7. Entering into negotiations with the applicant does not obligate the District to continue negotiations or reach agreement with the applicant. If agreement cannot be reached within a reasonable period, as determined by the District, Staff may terminate negotiations and the application will be deemed denied without liability to the District. In no circumstances shall the applicant be entitled to a refund of the application fees.
8. [may want to add in approval process if agreement reached. Is board approval required?]

6. Site Access and Security- installation and subsequent maintenance operations

6.1 Obtaining Keys

Work on site, such as installation, maintenance, modifications and operation, will require use of a District issued cyber key. Licensee shall pay the District a Cyber Key Deposit in the amount of Five Hundred Dollars (\$500.00) per key. The key may be terminated at the sole discretion of the District in the event licensee or its employees, representatives, agents or contractors, or any of them, do not strictly adhere to all rules and requirements pertaining to the access of the site or safety at the site, including the requirements under this License Policy. Additional keys may be obtained at an additional cost of Five Hundred Dollars (\$500.00) per key.

The District may require a copy of licensee's safety rules and regulations and/or Policies for accessing any District facility for any purpose.

6.2 Security Measures & Access Regulations

The District is subject to local, State, and Federal law, including Homeland Security regulations. The District reserves the right to require additional security measures and impose access regulations to comply with applicable laws and District requirements including but not limited to:

1. Rules and guidelines for each District site are at the sole discretion of the District and must be adhered to by each licensee. Failure to follow the District's rules and guidelines are cause for revocation of the cyber keys and forfeiture of the deposit.
2. Rules and guidelines may be established for each District site based on the unique characteristics of the site.

3. Each licensee will be required to have a cyber key. The cyber key tracks access to each District site for the District; notwithstanding the foregoing, in all cases, a licensee will be responsible for the activities of all their employees, agents, representatives and contractors while at a District site.
4. Licensee may not make any other attempt to enter a District property other than through the use of the cyber key.
5. Licensee may not leave the property open and unattended for any reason.
6. In the event of vandalism, whether to the Licensee's facilities or District property, Licensee must report it to the District immediately.
7. It is the responsibility of the Licensee to ensure the District property is properly locked upon leaving for any reason.
8. If District personnel are at a facility when Licensee arrives, it is the responsibility of Licensee to announce their presence and to let them know when they leave.
9. Licensee agrees to monitor the use of the cyber keys and to keep them in a safe and secure place at all times. Excessive loss of cyber keys may result in forfeiture of the use of the keys and imposition of the requirement for chaperoned access.
10. In the event Licensee requires access to a District property without a cyber key, the District reserves the right, in its sole discretion, to charge an hourly fee for such access.
11. Wherever possible, each licensee shall design their equipment area to allow for private access without going through the main gate of the District facility site.

6.3 Ongoing Operations

1. Ongoing operations and maintenance of the licensee's facility shall comply with all applicable local, state, and federal laws and regulations, this License Policy, and the requirements of an executed license.
2. No unauthorized work is allowed. In the event Licensee installs any equipment outside the parameters of their license without the prior written authorization of District, the District may, at its sole discretion, determine to terminate the agreement with the Licensee, and/or charge an unauthorized facility fee in accordance with the license as additional compensation to the District.
3. Any equipment additions or modifications made to any communications facility beyond the original licensed equipment / area are subject to an increase to the current annual Rent, on a monthly pro-rata basis, and subject to the same annual Rent escalation.
4. No sublicensing is permitted. Any new carrier wishing to collocate on an existing approved telecommunication structure must acquire additional ground space from Licensor directly.

7. Decommission /Termination Process

Any Licensee (or Lessee) that decides to decommission its Wireless Communications Facility ("WCF") on any of District properties must follow the process described herein:

A. Licensee (and/or its agent) shall submit a letter to the District, by certified mail or equivalent, indicating Licensee's intention to decommission its WCF located on District property. The letter shall

include Licensee's site name & number, District facility name, site address, contact person, mailing address, e-mail address, phone and intended time-frame for the decommission activity.

B. The District shall provide Licensee (and/or its agent) a return letter acknowledging Licensee's intention to decommission its WCF and direct Licensee to contact the Licensor's agent to initiate the application process, and copy the Licensor's agent on the transmittal.

C. Upon Licensee's contact, the Licensor's agent shall provide Licensee a Site Application form with the fee schedule and a copy of the District's Site Decommission Process & Procedures. The step-by-step Site Decommission Process & Procedures are as follows:

1. Licensee contacts District via Certified Letter or equivalent of its intention to decommission its WCF on District property
2. District responds with a process letter and directs Licensee to contact the Licensor's agent to initiate the process and notifies the Licensor's agent
3. Licensee initiates contact with the Licensor's agent
4. The Licensor's agent provides Licensee with a Site Application form and a copy of the District's Policies & Procedures
5. Licensee completes the Site Application form and returns to the Licensor's agent with a check for the appropriate fees (as specified in the fee schedule) and provides a set of detailed "as-built" plans showing the WCF as it currently exists
6. Licensor's agent reviews Licensee's Application and plans for completeness and compares the application with the actual WCF constructed on District Property. Errors and omission will be redirected back to Licensee to make the appropriate corrections
7. Licensor's agent forwards Licensee's completed Site Application and "as-built" plans to the District for District's review
8. District reviews the "as-built" drawings to determine what equipment may remain on site, if any (at the District's sole discretion). District will have up to 30 days to review Licensee's "as-built" plans
9. District forwards their redline comments to the Licensor's agent. Agent provides Licensee a set of redlined "as-built" plans identifying what equipment may remain on site.
10. Licensee generates final drawing showing the equipment that is to be removed and what equipment may remain and forwards to the Licensor's agent.
11. The Licensor's agent generates and delivers a Consent Letter request package (including final drawings) to the District
12. District provides Licensee the Consent Letter and signed plans (with instructions to contact the District's Inspector prior to commencement of work)
13. Licensee contacts the District's Inspector to schedule a preliminary WCF Decommission site visit
14. Licensee and the District's Inspector meet at the subject property and review Licensee's existing WCF to identify the specific WCF infrastructure to be removed from District's property. Pre-demolition photographs / video shall be taken to document the current facilities condition and provide copies to the District

15. Licensee shall provide the District's Inspector a detailed scope of work and demolition schedule for the decommissioning activity (work)
16. Upon completion of work, Licensee will conduct a "punch-list" walk through with the District's Inspector to review Licensee's demolition activity and identify further action(s) or repairs required (if any) by the District
17. Licensee completes the punch-list items (if any)
18. Licensee and the District's Inspector conduct a final "walk-out" and sign-off on the plans (Record Drawings/Amendment Exhibits)

Appendix A
Communication Facility Master License
Agreement Template

(Currently separate document – to be added upon approval)

Appendix B
Communication Facility Site License
Agreement Template

(Currently separate document – to be added upon approval)

Appendix C
Application Form

SMWD

WIRELESS COMMUNICATION APPLICATION

Required for all New & Existing Wireless Communication Facilities

The purpose of this form is to ensure that the goals and objectives outlined in Communications Policies and Procedures will be met with each submitted project.

(Check all that apply)

- Application for New License - \$2,500
- Application for License Amendment - \$1,500
- Application for Consent Letter \$1,600.00
- Application for a Letter of Authorization to commence zoning and permitting \$ _____
- Specialty field inspection \$75 per hour (coating, welding, compaction, etc.).

Payments should be made payable to SMWD and accompany this application

Total Fee: _____ Check #: _____

SMWD Site Name: _____

Site Address: _____

APN#: _____

Wireless Service Provider Name (Carrier): _____

Local Address: _____

Carrier Site Number/Name: _____

____ New Build ____ Modification ____ Decommission

Antenna(s) (Y/N): ____ Number / Size: _____

Microwave dish (Y/N): ____ Number / Size: _____

RRH (Remote Radio Heads) (Y/N): ____ Number / Size: _____

Surge Suppressors (Y/N): ____ Number / Size: _____

TMA/LNA (Y/N): ____ Number / Size: _____

Trenching (Y/N): ____ Location/Length: _____

Brief description of project: _____

Equipment: _____

Interior/ Exterior: _____ Size: _____ Square Feet: _____

Enclosure material: _____

Proposed screening material: _____

Site access to equipment: _____

Aesthetic mitigation measures: _____

Correspondence regarding this application should be sent to:

Agent Name: _____

Agent Company: _____

Address: _____

Phone: _____

E-mail: _____

• X _____

Applicant Signature

Date

| | |
|--------------------------------|-------------|
| <u>SMWD only</u> | |
| Payment Received: _____ | Date: _____ |
| Original Submittal Date: _____ | |
| Re-submittal No.: _____ | Date: _____ |

Appendix D
Fee Schedule

Santa Margarita Water District Communication License Policy Fee Schedule¹

Checks for site applications fees should be made payable to the Santa Margarita Water District. All checks must be made specifically for each property and for each type of fee. Prior to cashing the checks, the District will review each application and determine if all the application fees are necessary. If a fee is not necessary, the District will return the check. Once submitted the fees are specific to that project and may not be reassigned to another project. In the event a project is cancelled or re-scoped the District, at its sole discretion, will determine if all, part or none of the fee(s) will be returned. Applications are valid for twelve (12) months from the date of receipt of payment. Failure to complete the application process may result in denial of the project and surrendering of the fees paid.

1. Application for a new license at a site - \$2,500, plus a \$_____ deposit for review costs
2. Application for license amendment - \$1,500.
3. Application for a consent letter \$1,600.
4. Application for a letter of authorization to commence zoning and permitting - included
5. Specialty field inspections - \$75 per hour (coating, welding, compaction, etc).
6. Application for decommissioning of a wireless communications facility - \$2,500.00
7. Application for assignment, change of ownership or entity - \$250.00, plus \$_____deposit for review costs
8. Application to review changes in insurance requirements - \$_____
9. Additional equipment, beyond the original licensed design, will be charged per additional piece of equipment on the Annual License Fee, pro-rata, subject to the same terms
 - Antenna(s): \$100
 - Microwave: \$100
 - Cabling: \$100 flat rate.
 - Cabinet \$50
 - RRU/TMA(s): \$8 per item

¹ These processing application fees are in addition to the “Annual License fee” required under the License Agreement and/or Amendment.

Appendix E
Signature Block and Equipment Table Sample

Signature Block and Equipment Table Sample - required on all title pages of drawings submitted to SMWD for approval for communication license holder's site improvements.

| | |
|---------------------------------------|------|
| Santa Margarita Water District | |
| Name & Title | Date |
| SMWD Site Name: _____ | |

| | APPROVED BY LICENSE | APPROVED BY ZONING | EXISTING ON SITE | PROPOSED NEW (TOTALS) |
|------------------------------|------------------------|-----------------------|---------------------|-----------------------------|
| # OF PANNEL ANTENNAS | | | | |
| SIZE OF PANNEL ANTENNAS | | | | |
| MICROWAVE ANTENNAS | | | | |
| EQUIPMENT CABINETS / SHELTER | | | | |
| RRU's/RRH's | | | | |
| Other | | | | |

Appendix F
Construction Notes, General Notes Plan Notes & Requirements

These construction notes must appear on the title page or notes sheet(s) for all Drawings submitted for District's review and approval:

SMWD Construction Notes:

1. The Santa Margarita Water District inspector shall be notified at least two (2) working days prior to beginning of construction. Call (949) 459-6420 to arrange for inspection.
2. A pre-construction conference to include the Carrier's representative(s), Contractor(s), District Inspector and Coatings representative shall be held on site at least one week prior to beginning construction at which time a construction schedule and 24-hour contact information shall be provided to SMWD.
3. Contractor shall maintain access to the site at all times for Santa Margarita Water District personnel. Open trenches shall be properly plated at the end of each working day to allow for 24-hour SMWD access to the site. The contractor is responsible for meeting OSHA compliance and for providing facilities for its workers for the duration of all scheduled work activity.
4. The Contractor and Cell Carrier shall be responsible for any damage due to Construction activities to the existing site and shall return damaged facilities to pre-existing condition or better at no cost to the District.
5. The Contractor shall notify underground service alert (DIG ALERT) at least two (2) working days prior to beginning construction at 1-800-422-4133. Any SMWD facilities to be crossed or paralleled within five feet shall be potholed to verify location prior to working in the vicinity of SMWD facilities.
6. The Contractor shall contact the District for coating requirements and inspections at (949) 459-6420 prior to any work on a steel tank. The Contractor is responsible for paying the District coating representative for their services.
7. All new and existing facilities owned by the represented cellular carrier shall be properly tagged identifying the Carrier's name and/or number and a 24-hour emergency phone number. The contractor shall ensure that RF and Emergency contact signage and placards are correct and meets the requirements from the City and FCC.
8. The Contractor shall have a copy of plans approved by the SMWD Chief Engineer and a copy of the Consent Letter on-site at all times.
9. The Contractor is responsible for ensuring the site is secure at all times, during both working and non-working hours, during the project's construction activity.
10. The Contractor shall provide the District with two (2) sets of approved construction plans prior to scheduling its final inspection, and submit record drawings to the District upon completion of the job.
11. The contractor shall saw cut all pavement. Backfill shall be one sack slurry or aggregate base to within 1" of existing AC.
12. The contractor shall provide a minimum cover of 30-inches on top of all conduits.
13. The contractor shall replace asphalt pavement with: 1st lift - 3/4" mix, relative compaction 95%, no more than 3" placed at any one time, 2nd lift - 1/2" fine, no more than 1-1/2" lift.
14. The contractor shall slurry seal the entire work area and any damaged areas curb to curb. The contractor may be required to slurry seal additional areas as required by District inspector.
 - 14B. If applicable, see, Section 2.7 Softscape replacement.

15. The contractor and license holder shall perform a final walkthrough to for release and provide the District a copy of the District signed plans with field mark-ups (record drawings).

General Plan Notes:

Notes to be included on site plan and elevation sheets:

CARRIER'S - TO BE REPLACED BY NAME OF CARRIER

1. SEE DETAIL X/A-0X FOR FULL ANTENNA AND EQUIPMENT SCHEDULE AND CONFIGURATION (This note is specific to Carrier's Construction Drawings)
2. ALL CARRIER WORK ON TANKS MUST BE INSPECTED BY DISTRICT'S COATINGS REPRESENTATIVE (XXX) XXX-XXXX, INCLUDING BUT NOT LIMITED TO THE INSTATION OR REPAIR OF ANTENNA SAFTEY CABLES AND TANK MOUNTS.
3. ALL ANTENNA MOUNTS SHALL HAVE SAFETY CABLES INSTALLED BY CARRIER'S CONTRACTOR.
4. PRIOR TO THE INSTALLATION OF PROPOSED EQUIPMENT CARRIER'S CONTRACTOR SHALL INSPECT THE CONDITION OF ALL RELEVANT MEMBERS AND CONNECTIONS. ANY SIGNS OF FAILURE MUST BE REPAIRED OR REPLACED BY CARRIER'S CONTRACTOR BEFORE PROPOSED EQUIPMENT IS INSTALLED.

If digging required: ADDED the following COMMENTS (6-10) TO SITE PLAN PAGE(S)

6. PRIOR TO COMMENCING WORK CARRIER'S CONTRACTOR SHALL STAKE OR MARK THE FOLLOWING: ADJACENT DISTRICT FACILITIES, ADJACENT PROPERTY LINES, AFFECTED EXISTING OTHER CARRIER FACILITIES AND PROPOSED CONDUIT RUNS.
7. CARRIER'S CONTRACTOR SHALL NOTIFY UNDERGROUND SERVICE ALERT (DIG ALERT: 1-800-422-4133) AT LEAST TWO (2) WORKING DAYS PRIOR TO BEGINNING ANY CONSTRUCTION ACTIVITY.
8. CARRIER'S CONTRACTOR TO VERIFY LOCATION OF EXISTING DISTRICT WATERLINES AND PIPES PRIOR TO ANY EXCAVATION WORK. ANY DISTRICT FACILITIES TO BE CROSSED OR PARALLELED WITHIN FIVE FEET SHALL BE POTHOLED – HAND DIGGING ONLY. DISTRICT PIPES MUST BE FULLY EXPOSED WHILE SMWD INSPECTOR IS PRESENT.
9. CARRIER'S CONTRACTOR SHALL SAW CUT ALL PAVEMENT AND BACKFILL WITH 1 SACK SLURRY OR AGGREGATE BASE TO WITHIN 1" OF EXISTING AC.

Add the following notes to the Antenna Mounting Detail(s):

1. ALL ANTENNA MOUNTS SHALL HAVE SAFETY CABLES INSTALLED BY THE CARRIER'S CONTRACTOR.

2. ALL CARRIER'S WORK ON TANKS MUST BE INSPECTED BY THE DISTRICT, INCLUDING BUT NOT LIMITED TO THE INSTALLATION OR REPAIR OF ANTENNA SAFTEY CABLES AND TANK MOUNTS.
3. PRIOR TO THE INSTALLATION OF PROPOSED EQUIPMENT CARRIER'S CONTRACTOR SHALL INSPECT THE CONDITION OF ALL RELEVANT MEMBERS AND CONNECTIONS. ANY SIGNS OF FAILURE MUST BE REPAIRED OR REPLACED BY CARRIER'S CONTRACTOR BEFORE PROPOSED EQUIPMENT IS INSTALLED.
4. ALL EPOXY MOUNTED EQUIPMENT SHALL BE REPLACED WITH MAGNETIC MOUNTS.

Other Requirements:

Provide a detail of the safety cable attachment and attachment detail referenced on appropriate sheets (site plan / elevations sheets).

All Construction Drawings submitted to the District for review and approval must accurately show all existing antennas and carrier equipment located on site.

All Construction Drawings submitted to the District for review and approval must accurately depict the equipment / shelter area dimensions (Leased Space dimensions & square footage)

All Construction Drawings submitted to the District for review and approval must accurately depict the correct site address and assessor's parcel number(s) (APN(s)).

All Construction Drawings submitted to the District for review and approval must accurately depict any third party easement(s) required for site access (if any).

SANTA MARGARITA WATER DISTRICT
COMMUNICATIONS FACILITY MASTER LICENSE AGREEMENT
(X ^{CARRIER NAME HERE (d/b/a)})

THIS Master License Agreement is made and entered into this _____ day of 20__ ("Execution Date") by and between SANTA MARGARITA WATER DISTRICT, California water district existing and operating pursuant to Division 13 of the California Water Code ("Licensor" or "District"), and _____, a _____ ("Licensee"). Licensor and Licensee are sometimes referred to in this Master License Agreement individually as "party" or jointly as "parties." The term "LICENSE" or "MLA" used in herein means this Master License Agreement and any amendments to this Master License Agreement as may be executed between the parties in accordance with the terms herein.

RECITAL

WHEREAS Licensee seeks to construct, install, operate and maintain radio transmitting and receiving antennas and/or other associated electronic equipment for wireless communications; and

WHEREAS Licensor has properties well suited for the antennas needed for wireless communications systems because they are located throughout the Licensees service area, and because often they are adjacent to populated areas but not located on residential zoned properties or properties with a residential use; and

WHEREAS Licensor desires to improve services available to the public, to enhance communications systems within the community, by making District properties available for wireless communications infrastructure consistent with other public utility uses of its property and for that purpose has established a licensing program entitled "Policy and Procedures for Commercial Communications Facilities Located on District Properties" dated _____, 20__(which may be amended from time to time by the District in its sole discretion) (the "License Policy") the current version of which is attached hereto as Exhibit 2; and

WHEREAS Licensee desires to use one or more of the District properties for the placement of wireless communications facilities ; and

WHEREAS, this Master License Agreement is entered into by Licensor and Licensee in accordance with the attached License Policy.

NOW THEREFORE, in consideration of the mutual covenants and benefits stated herein, and in further consideration of the obligations, terms and considerations hereinafter set forth and recited; Licensor and Licensee agree as follows:

MASTER LICENSE AGREEMENT

Section 1. Master License Agreement.

This Master License Agreement (hereinafter, "LICENSE" or "MLA") sets forth the basic terms and

conditions upon which each Communications Facility (defined in Section 3 below) can be licensed by Licensor to Licensee. This MLA is not an agreement to license any particular District property or portion thereof, nor does it create any obligation on the District to grant any such license to the Licensee. Any such license may be granted by the District only pursuant to a Site License Authorization ("SLA" or "Authorization") identifying the specific District property, setting forth the particular terms and conditions, and incorporating the terms of this MLA by reference. Upon agreement between the parties with respect to the particular terms and conditions, the parties shall execute a completed SLA in the form attached hereto as Exhibit 1. The SLA form in Exhibit 1 may be modified by the District in its sole discretion in the future subject to the District's then-current License Policy. In the event of a discrepancy or inconsistency between the terms and conditions of a particular SLA and this Agreement, the terms and conditions of the particular SLA shall govern and control.

Section 2. Licensed Interest.

(a) Licensor owns certain properties, including appurtenant airspace rights, fixture, buildings, yards, excess land, and other real property acquired for, or to support, water conveyance services. The particular Licensor property that is the subject of grant of a licensed interest to Licensee shall be described in the particular SLA and referred to as the "Premises". The particular portion of the Premises authorized for use by Licensee shall be referred to as a "Site" (or collectively described herein as "Sites").

(b) Subject to the terms and conditions contained in this LICENSE, and in the SLA relating to a particular Site, Licensor hereby licenses to Licensee and Licensee licenses from Licensor the Site(s) on the Premises owned or controlled by Licensor, as described in the particular SLA(s). Each SLA shall serve as a separate and independent agreement applicable only to the designated Site, the express intent of the parties being to use this LICENSE to establish the basic terms for each of the independent transactions described in each SLA.

(c) It is understood and agreed that the Licensee's license to place a Communications Facility (as defined in Section 3 below) on the Premises is non-exclusive, but that the Site shall be exclusive for Licensee's use, subject to the terms and conditions of this LICENSE and the SLA.

(d) The "Commencement Date" for each SLA shall be either the first day of the month following the date Licensee receives all permits and approvals necessary to construct and operate its Communications Facility at the Site (at which time Licensor will issue its consent allowing Licensee to construction/installation at the Site), or six (6) months from the SLA Execution Date (as defined in Section 4(b)), whichever occurs first. Licensor's approval of any construction/installation is not a representation that such construction/installation of the Communications Facility is in compliance with all applicable governmental laws, ordinances, rules and regulations or that such facilities will not cause interference with other communications systems, if any, then in operation on the Premises.

(e) The period between the SLA Execution Date and the Commencement Date shall be referred to herein as the "Permitting Period." If Licensee makes a written request, the Permitting Period may be extended by Licensor for an additional period of up to six (6) months, provided that Licensee has demonstrated a showing of good faith efforts to obtain all necessary permits and/or commence construction. Under special circumstances where the delay in obtaining permits and/or commencing construction is beyond the reasonable control of Licensee, Licensor may grant additional extensions to the Permitting Period, at its sole discretion.

(f) Licensee may terminate a SLA at any time prior to the Commencement Date. All payments made to Licensor prior to said termination date shall be retained by Licensor. Upon such termination, the SLA shall be of no further force or effect except to the extent of the representations, warranties and indemnities made by Licensee thereunder. Otherwise, the Licensee shall have no further obligations for the payment of rent to Licensor.

Section 3. Permitted Use.

(a) A Site shall be used by Licensee only for any lawful activity in connection with the provisions of an unmanned wireless communications services, the transmission and reception of radio communication signals on specified frequencies and the construction, maintenance, operation and removal of related communications facilities (collectively "Operations"), including antenna(s), antenna support structure(s) and required/necessary equipment, utilities and appurtenances thereto, as identified in the applicable SLA, , (the "Communications Facility") in accordance with the terms herein and subject to the SLA. The Communications Facility shall be configured by Licensee, subject to the SLA, and may be modified, added to and/or substituted from time to time provided that Licensee, at Licensee's sole expense, obtains all permits and approvals required by applicable jurisdictions and seeks and obtains Licensor's prior written consent for said modifications, additions or substitutions in accordance with the License Policy. All operations by Licensee on the Premises or Site shall be in compliance with all applicable Federal Communications Commission ("FCC") requirements and any governing agency with jurisdiction relating to the operations, use and/or entitlements thereof. Licensee shall, at its sole expense, comply with (and obtain and maintain such licenses, permits or other governmental approvals necessary to comply with) all laws, orders, ordinances, and regulations of federal, state, county, and municipal authorities applicable to its Operations or use of the Premises or Site.

(b) Unauthorized Facilities. If any antenna, equipment and/or related facility owned or controlled by Licensee is found on the Communications Facility or Premises which has not been authorized by the Licensor ("Unauthorized Facility"), Licensor, without prejudice to its other rights or remedies hereunder, including termination or otherwise, may impose a charge and require the Licensee to submit in writing, within ten (10) days after receipt of written notification of the Unauthorized Facility from the Licensor, an application as required by the License Policy. If such application is not received by Licensor within the specified time period or if Licensor does not consent to the application, Licensee will be required to remove the Unauthorized Facility within ten (10) days of the final date for submitting the required application or the date of notice that the submitted application was not approved. If the Unauthorized Facility is not timely removed, Licensor may remove the Unauthorized Facility without liability, and the cost of such removal shall be borne by Licensee. For the purpose of determining the applicable charge, the Unauthorized Facility shall be treated as having existed for a period of one (1) year prior to its discovery; and the charges as specified in Section 5(a) shall be due and payable forthwith whether or not the Unauthorized Facility is subsequently authorized by the Licensor.

Section 4. Term: License Term.

(a) The term of this License shall expire on _____, 20xx. Any individual SLAs in effect as of such date shall continue in force until they expire or are terminated by their own terms.

(b)The term of each SLA shall commence on the date the SLA is fully executed by both parties (the "SLA Execution Date") and shall continue for five (5) years from the Commencement Date, referred to as the "License Term," and according to the provisions in Section 2 above. Provided Licensee is not in default under this MLA and the SLA(s) and unless Licensee has provided written notice of its intent not to renew at least sixty (60) days prior to the end of the License Term or the applicable Renewal Term, each SLA shall automatically renew at the expiration of the License Term, for up to five (5) consecutive five-year (5-year) renewal periods (each a "Renewal Term") for a maximum total of up to thirty (30) years, subject to all terms and conditions of this MLA and the applicable SLA. The Initial Term and any Renewal Term(s) shall collectively be referred to as the "SLA Term". .

Section 5. Annual License Fees; Holdover Fees; Late Payments.

(a) Licensee shall pay an annual fee ("License Fee") for the use of each Site in the amount specified in the applicable SLA. The License Fee for the initial year of the Term shall be due and payable within thirty (30) days after the

Commencement Date. Thereafter, Licensee shall pay Licensor the License Fee for each SLA in advance on each anniversary of the Commencement date throughout the Term.

(b) The License Fee for each SLA shall be increased on each anniversary of the Commencement Date by the amount specified in the applicable SLA over and above the License Fee payable for the previous year.

(c) If Licensee remains on the Site or the Premises pursuant to a Holdover Period License under Section 6 below, Licensee shall pay to the District a monthly fee equal to one hundred fifty percent (150%) of the License Fee in effect at the expiration of the Term divided by twelve (12) ("Holdover Fee"). Such Holdover Fee shall be payable in advance and due on the first day of each month.

(d) If, at any time, Licensee fails to make timely payment of any amounts owed under the applicable SLA, interest shall accrue on the past due amount at the rate of eighteen percent (18%) per annum or the maximum allowable by law, whichever is less, until paid in full. This right is in addition to all rights of Licensor to terminate the applicable SLA.

Section 6. Holdover Period License Term.

If Licensee is still conducting any activities or Operations on the Premises, after the expiration of the Term, the Licensee shall be deemed to be on the Premises pursuant to a Holdover Period License for a period not to exceed six (6) months. The Holdover Period License may be terminated by either party at any time upon thirty (30) days written notice, or as otherwise provided for under this Agreement. Notwithstanding the payment of a Holdover Fee, Licensee shall cease all use of the Site and vacate the Premises within six (6) months from the expiration of the Term.

Section 7. Access to Communications Facility.

(a) Licensor shall allow Licensee and its agents and employees, ingress to and egress from the Site seven (7) days a week, twenty-four (24) hours a day, on foot or motor vehicle, including trucks, as described more particularly in the applicable SLA for the permitted use in Section 3(a), subject to the additional limitations set forth hereafter and any special access conditions or requirements set forth in the applicable SLA. Licensee assumes the risk of any challenge, claim, litigation or damage, and the like, asserted in connection with Licensee's use of the access to the Site and releases Licensor from any and all responsibility, claim, damage, etc., related to or in connection with Licensee's use of the access. Further, Licensee shall indemnify Licensor in connection with Licensee's use of the access as set forth in Section 13 of this Agreement.

(b) Work on Premises, such as installation, maintenance, modifications and operation, will require use of a Licensor's issued cyber key. Licensee shall pay the Licensor a Cyber Key Deposit in the amount specified in the License Policy per key issued. If a key is lost, the deposit will be forfeited and a new deposit will be required in advance for issuance of each additional key, or such fees as may be modified from time to time under the License Policy. The key may be terminated at the sole discretion of the Licensor in the event Licensee or its employees, representatives, agents or contractors, or any of them, fail to strictly adhere to all rules and requirements pertaining to the access of the Premises or safety at the Premises, including the requirements under the License Policy. Additional keys may be obtained as needed upon payment of the required deposit. The Licensor may require a copy of Licensee's safety rules and regulations and/or policies for accessing any Licensor's Premise for any purpose. Licensee shall comply with any and all security procedures required by Licensor, which may include provision for identification and verification of authorized personnel as shall be stipulated in the License Policy.

Section 8. Licensee's Ownership and Maintenance of Facilities.

(a) It is expressly understood and agreed that any and all fixtures and equipment of whatsoever nature at any time constructed or placed on the Premises by Licensee shall be and remain the property of Licensee.

(b) Licensee shall have the right at any time during Licensee's occupancy of the Site, or within a reasonable time thereafter not to exceed sixty (6) days, to remove any and all fixtures and equipment owned or placed by Licensee in, under, or upon the Site subject to Licensor's License Policy.

(c) Licensee shall, at its own cost, protect, replace, provide and maintain any landscaping for the Communications Facility on the Premises that Licensor shall reasonably require during the initial installation of such facilities and thereafter during Licensee's use of the Site.

(d) Licensee shall, at its own cost, repair and/or remove any graffiti or damage to Licensee's Site within 72 hours of written notice by Licensor.

(e) Licensee shall be solely responsible for installation of utilities within the Premises for its use. All utility routes must be approved by Licensor prior to construction. Licensee agrees to have a separate meter installed for Licensee's electrical power consumption, and Licensee shall be responsible for payment of the power utility directly for such usage

(f) Licensee shall be solely responsible for payment of applicable personal property and/or property taxes on the Site as well as any property tax or other tax, or fees of any kind on the interest being granted to Licensee attributable to Licensee's use or occupation of the Site.

(f) Licensee shall abide by the security protocols stipulated in the License Policy.

Section 8. Temporary Relocation.

Licensee acknowledges that the primary purpose of the Premises is to serve the water needs of the community, and therefore Licensee understands and agrees that from time to time during the License Term and/or the Renewal Terms(s), Licensor may require Licensee to remove the certain portions of Licensee's Communications Facility (e.g. antennas, mounts, vertical cable risers, cabling, etc.) installed on the Premises in order for Licensor to conduct repair and maintenance in connection with the Licensor's use of Premises. Licensee agrees to relocate the Communications Facility at its cost in such cases during the period of repair and/or maintenance to another temporary location. Licensor will use commercially reasonable efforts to provide temporary space on the Premises, or another mutually acceptable location of Licensor's, provided Licensee is in compliance with all laws, permits, and other applicable rules and regulations of any governing entity required for the relocation site and is not in default under the applicable SLA. Licensee will pay for all costs of such compliance. Except in case of emergency (as determined by Licensor in its sole discretion), Licensor will use commercially reasonable efforts to give Licensee no less than sixty (60) days prior written notice of the necessity to relocate the Communications Facility. Notwithstanding any relocation or any lack of prior notice, Licensee's obligation to pay License Fee shall continue unabated. Licensee shall have a right to abate License Fee to Licensor if any temporary relocation remains in effect after ninety (90) days, or upon Licensor requiring Licensee to relocate the Communications Facility more than one (1) time during the License Term, or more than one (1) time during any Renewal Term. Licensee may return its equipment to the original Site location licensed hereunder, or, at the reasonable discretion of Licensor, may remain in the temporary location, which shall be memorialized in an amendment to the SLA subject to Licensee's payment of the amendment fee described in the Licensed Policy.

Section 9A. Licensor's Termination.

In addition to other rights of termination and revocation the Licensor has under this MLA, Licensor may terminate and revoke the SLA prior to expiration of the License Term or Renewal Term(s), if applicable, on any one of the following conditions:

(a) If Licensor desires to sell the Premises. Licensor may terminate and revoke the applicable SLA by giving Licensee not less than eighteen (18) months prior written notice. Licensor shall make a commercially reasonable effort to relocate the Licensee's Communications Facility to another property of

Licensor upon termination or revocation of the SLA, provided Licensee fully complies with the License Policy as to such relocated premises and assumes all costs of any such relocation.

(b) If Licensor determines there are documented safety concerns as a result of the installation or operation of the Communications Facility at a Site, whether alone or in conjunction with other existing communications facilities on the Premises, Licensor may, after giving sixty (60) days prior written notice to Licensee terminate the affected SLA, unless Licensee within sixty (60) days from the date of Licensee's receipt of notice of default remedies said safety concerns.

(c) Notwithstanding subsection (b) above, Licensor may terminate and revoke the affected SLA immediately and without any prior notice in the case of an emergency, to be determined by Licensor in its sole discretion.

(d) If Licensee fails to pay the annual License Fee as agreed by the terms of the SLA Licensor may, after giving ten (10) days prior written notice to Licensee terminate the affected SLA and seek other remedies, as appropriate, under the law, unless Licensee within ten (10) days from the date of Licensee's receipt of notice of default remedies said default;

(d) If Licensee fails to perform or observe any of the other material covenants or conditions of this LICENSE and the affected SLA including, but are not limited to, compliance with the License Policy, insurance requirements, compliance with FCC requirements and all other laws and regulations, the non-interference covenant as to Prior Users, environmental covenant, and the installation and maintenance requirements for the Communications Facility and Licensee's use of the Site, Licensor may, after giving thirty (30) days prior written notice to Licensee terminate the applicable SLA(s) and seek other remedies, as appropriate, under the law; provided, however, should Licensee within thirty (30) days from the date of Licensee's receipt of notice of default(s) remedy said default or defaults, Licensor shall not be privileged to terminate any SLA for the defaults set forth in said notice.

(e) if Licensee causes damage to Licensor's property, and fails to repair damage to Licensor's satisfaction, Licensor may, after giving ten (10) days prior written notice to Licensee terminate the affected SLA and seek other remedies, as appropriate, under the law, unless Licensee within ten (10) days from the date of Licensee's receipt of notice of default remedies said default.

(f) The parties agree that upon Licensor's exercise of termination rights in this LICENSE and/or each SLA there is a presumption that the termination is in accordance with the terms thereof, and exercised in good faith, and in a fair and reasonable manner. In the event Licensee disputes Licensor's right to terminate a SLA in any proceeding, action, or otherwise, Licensee has the burden of proving Licensor has breached the terms hereof, or that Licensor has not exercised termination rights in good faith, fairly or in a reasonable manner.

Section 9B. Licensee's Limited Termination Right.

(a) It is understood and agreed that Licensee's ability to use a Site is contingent upon Licensee continually maintaining in full force and effect, after the execution of this LICENSE and the applicable SLA, all of the certificates, permits, and other approvals that are required by any federal, State, or local authorities having jurisdiction. In the event that any certificate, permit, license, or approval issued to Licensee is canceled, expires, lapses, or is otherwise withdrawn or terminated by any said governmental authority, so that Licensee is unable to use the Site for intended purposes, the particular SLA shall terminate upon ninety (90) days written notice to Licensor

(b) Licensee may also terminate a SLA in accordance with Sections 2(f), 4(b), and 10(c).

Section 9C. Obligations Upon Termination; Survival

(a) Upon termination of a SLA by expiration of the License Term, or a Renewal Term, or otherwise as permitted by the terms thereof, Licensee shall remove the Communications Facility including all fixtures

and equipment and shall restore the Site and the portion of the Premises used by Licensee to the condition existing prior to Licensee's use of the Site and Premises, at Licensee's sole cost, except for ordinary wear and tear, and in accordance with the License Policy.

(b) The provisions of the MLA and applicable SLA relating to indemnification from one party to the other party, and outstanding payment obligations shall survive any termination or expiration of the MLA or SLA. Additionally, any provisions which require performance subsequent to the termination or expiration of the MLA and/or applicable SLA (including but not limited to Licensee's obligations to remove the Communications Facility and restore the Site), shall also survive such termination or expiration.

Section 10. Prior Communications Facilities on Premises, Interference.

(a) Licensee's Operations shall not interfere with the operations of Licensor, or radio or electronic equipment of Licensor or of any other users existing on the site prior to the Commencement Date on the Premises ("Pre-existing Communications"). Licensor agrees to reasonably cooperate with Licensee, at Licensee's expense, in executing such documents or applications necessary or appropriate in order for Licensee to obtain and maintain, at Licensee's expense, such licenses, permits and other governmental approvals required for Licensee's Operations. Licensor shall, subject to the License Policy, authorize Licensee to make and process for execution applications for all such approvals.

(b) Licensee agrees to install, maintain, and operate its Communications Facility in accordance with the specific Site standards more particularly described in each SLA and any other applicable laws and regulations applicable to the Operation of its Communications Facility. In the event Licensee's installation, or Operation, in any way hinders, obstructs, or interferes with Pre-existing Communications, Licensee shall, at its sole cost and expense, upon receipt of written notification, forthwith cease the interfering operation within thirty (30) days, excepting an allowance for brief tests necessary for the elimination of the interference.

(c) If such hindrance, interference or obstruction is not eliminated or does not fully cease within thirty (30) days after written notice to Licensee by Licensor or any appropriate regulatory agency, Licensor shall have the right to order cessation of Licensee's Operations at the Site, as may be necessary to continuously eliminate said interference by giving ten (10) days prior written notice. In the event of Licensee's inability or refusal to eliminate such interference, Licensor may at its option terminate the affected SLA and evict Licensee.

Section 11. Hazardous Substances.

(a) For purposes of this LICENSE, the term "Hazardous Substances" means: (i) any substance, products, waste, or other material of any nature whatsoever which is or becomes listed, regulated, or addressed pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 United States Code Section 9601 et seq.; the Resources Conservation and Recovery Act, 42 United States Code Section 6901 et seq.; the Hazardous Materials Transportation Conservation and Recovery Act, 42 United States Code Section 1801 et seq.; the Clean Water Act, 33 United States Code Section 1251 et seq.; the Toxic Substances Control Act, 15 United States Code Section 2601 et seq.; the California Hazardous Waste Control Act, Health and Safety Code Section 25100 et seq.; the Hazardous Substance Account Act, Health and Safety Code Section 25330 et seq.; the California Safe Drinking Water and Toxic Enforcement Act, Health and Safety Code Section 25249.5 et seq.; California Health and Safety Code Section 25280 et seq. (Underground Storage of Hazardous Substances); the California Hazardous Waste Management Act, Health and Safety Code Section 25170.1 et seq.; California Health and Safety Code Section 25501 et seq. (Hazardous Materials Release Response Plans and Inventory); or the

California Porter-Cologne Water Quality Control Act, Water Code Section 13000 et seq., all as amended (the above cited California state statutes are hereinafter collectively referred to as the “State Toxic Substances Law”); or any other federal, state, or local statute, law, ordinance, resolution, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning any Hazardous Substance, now or at any time hereinafter in effect; (ii) any substance, product, waste or other material of any nature whatsoever which may give rise to liability under any of the above statutes or under any statutory or common law theory based on negligence, trespass, intentional tort, nuisance or strict liability or under any reported decisions of a state or federal court; (iii) petroleum or crude oil, other than petroleum and petroleum products which are contained within regularly operated motor vehicles; and (d) asbestos.

(b) Except as otherwise specifically permitted under the terms of a SLA, Licensee shall not use, create, generate, store, deposit, dispose of or allow any Hazardous Substances on, under, about or within the Premises or the Site in violation of any federal, state, or local law, rule, regulation, order, decree or other requirement listed in Section 11(a). Storage batteries for emergency power, fuel for temporary generators during power outages, and ordinary paints, solvents and similar substances commonly used in small quantities and necessary for maintenance of the Licensee’s Communications Facility are excepted from the preceding prohibition of use by Licensee of Hazardous Substances on the Site, so long as Licensee complies with all applicable federal, state and local laws rules and regulations governing the use of such items.

(c) No permanent underground or above ground storage tanks shall be installed on the Site.

(d) Licensor or its officers, employees, contractors, or agents shall at all times have the right to go upon and inspect the Site and the operations conducted thereon to assure compliance with the requirements herein stated. This inspection may include taking samples for chemical analysis of substances and materials present and/or testing soils on the Site and taking photographs.

(e) Licensee shall, within forty-eight (48) hours of the discovery by Licensee of the presence of, or believed presence of, a Hazardous Substance as defined herein, give written notice to Licensor in the event that Licensee knows or has reasonable cause to believe that any release of Hazardous Substance has come or will come to be located on, under, about or within Premises. The failure to disclose in a timely manner the release of a Hazardous Substance, including but not limited to, an amount which is required to be reported to a state or local agency pursuant to law (e.g., California’s Hazardous Materials Storage and Emergency Response Act, Health and Safety Code Section 25550 et seq.) shall be grounds for termination of this License by Licensor in addition to actual damages and other remedies provided by law. Licensee shall immediately clean up and completely remove all Hazardous Substances placed by Licensee on, under, about or within Premises, in a manner that is in all respects safe and in accordance with all applicable laws, rules and regulations.

(f) In the event Hazardous Substances are discovered, Licensee shall disclose to Licensor the specific information regarding Licensee’s discovery of any Hazardous Substances placed on, under, about or within Premises by Licensee, and provide written documentation of its safe and legal disposal.

(g) Breach of any of these covenants, terms, and conditions, and Licensee’s failure to cure within thirty (30) days of Licensee’s receipt of written notice from Licensor, shall give Licensor the authority to either immediately terminate the affected SLA or to shut down Licensee’s operations thereon, at the sole discretion of Licensor. In either case, Licensee will continue to be liable under this License to remove and mitigate all Hazardous Substances placed by Licensee on, under, about or within the Site or Licensor Premises. Licensee shall be responsible for, and bear the entire cost of removal and disposal of, all Hazardous Substances introduced to Premises by Licensee during Licensee’s period of use and possession of the Site. Upon termination of this License, Licensee shall, in accordance with all laws, remove from Premises any equipment or improvements placed on Premises by Licensee that may be contaminated by Hazardous Substances.

(h) Licensee shall defend, indemnify and hold Licensor and its officials, officers, employees, contractors and agents free and harmless from any and all claims, liability, injury, damage, costs, or expenses (including, without limitation, the cost of attorney's fees) arising as a result of the presence of use of any Hazardous Substances placed or caused to be placed by Licensee or its partners, affiliates, agents, officials, officers, contractors or employees on the Premises. Licensor shall defend, indemnify and hold Licensee and its officials, officers, employees, contractors and agents free and harmless from any and all claims, liability, injury, damage, costs, or expenses (including, without limitation, the cost of attorney's fees) arising as a result of the presence of use of any Hazardous Substances placed or caused to be placed by Licensor or its partners, affiliates, agents, officials, officers, contractors or employees on the Premises. The foregoing indemnity is intended to operate as an agreement pursuant to, among other requirements, Section 107, subdivision (e) of CERCLA, 42 United States Code Section 9607, subdivision (e), and California Health and Safety Code Section 25364, to insure, protect, hold harmless and indemnify each Party from any liability created by the other Party pursuant to such sections.

ii) The terms of this Section 11 shall survive the expiration or earlier termination of the MLA and any SLA.

Section 12. Insurance.

Licensee agrees to maintain in full force and effect a suitable policy or policies of Commercial General Liability insurance throughout the duration of each SLA. Such insurance shall be in amounts not less than \$2,000,000 per occurrence. If a general aggregate limit is used, either the general aggregate limit shall apply separately to the Communications Facility and Premises (with the ISO CG 2501 or insurer's equivalent endorsement provided to Licensor), or the general aggregate limit shall be twice the required occurrence limit of \$2,000,000. Coverage shall be broad enough to insure the indemnity obligation set forth in this LICENSE under Section 13. Licensee also agrees to maintain in full force and effect Automobile Liability coverage (equivalent in coverage to ISO form CA 00 01) of not less than \$1,000,000 combined single limit, each accident, covering all owned, hired and non-owned autos; and, workers' compensation insurance and employer's liability insurance with respect to all employees, if any, engaged in the performance of work on the Site. Coverage must include a waiver of subrogation endorsement in favor of Licensor. All insurance required under this section and each SLA shall be issued as a primary policy and contain an endorsement requiring thirty (30) days written notice from the insurer to both parties hereto before cancellation or change in coverage, scope or amount of any policy. Licensor, its directors, officers, agents, employees, volunteers and consultants, shall be designated as additional named insureds as their interest may appear. Concurrently with the execution of each SLA and prior to installing or occupation of the Communications Facility or any portion thereof on the Premises, Licensee shall provide Licensor with a certificate(s) verifying such insurance and the terms described herein, including the blanket additional insured and/or other specified endorsement(s) as well as the additional insured and/or other specified endorsement(s), and shall provide proof of continuing insurance as required herein on an annual basis thereafter in conjunction with payment of the annual license fee. Licensee shall ensure, in accordance with the License Policy, that its contractors performing any installation of the Communications Facility, including modifications to the facility as applicable or other work on the Site, will provide insurance that satisfies the same terms and conditions set forth in this Section 12, in accordance with the License Policy, and shall ensure that all insurance certificates and endorsements are provided by its contractors. Licensee, subject to the License Policy, shall pay a deposit to Licensor to cover the reasonable costs of administration expenses attorney's fees to review any changes to the original insurance required in this section 12. Any unused deposit moneys shall be returned to Licensee.

Section 13. Indemnification.

(a) Licensee shall be responsible, and Licensor shall not be answerable or accountable in any manner, for any loss or expense by reason of any damage or injury to person or property, or both, arising out of the acts of Licensee, its agents, officers, employees, or invitees (collectively with Licensee referred

to in this Section 13 as "Licensee") resulting from Licensee's activities on the Premises or on and over the non-exclusive license for access, the design or installation of the Communications Facility and any related equipment, the operation, maintenance or removal of its Communications Facility, any harmful interference caused by Licensee which interferes with Pre-existing Communications, and, any other use of and operations on the Premises by Licensee, or otherwise pursuant to this LICENSE and/or each SLA. To the fullest extent permitted by law, Licensee shall indemnify and defend Licensor and its directors, officers, agents, employees, volunteers, and invitees against and will hold and save them and each of them harmless from any and all actions, claims, damages to persons or property, penalties, attorneys fees, obligations or liabilities that may be asserted or claimed by any person, firm, association, entity, corporation, political subdivision, or other organization arising out of or in connection with:

- (i) Licensee's activities on the Premises and the Site;
- (ii) Any breach or default in the performance of any obligation on Licensee's part to be performed under this LICENSE and/or each SLA;
- (iii) The design or installation of the Communications Facility and any related equipment;
- (iv) The operation, maintenance, or removal of the Communications Facility;
- (v) any harmful interference caused by Licensee which interferes with Pre-existing Communications; and
- (vi) Any other use of and operations on the Premises, or pursuant to this LICENSE and/or each SLA, by Licensee, whether or not there is concurrent passive negligence on the part of Licensor, and in connection therewith.

(b) Licensee shall defend Licensor any action or actions filed in connection with any of said claims, damages, penalties, obligations or liabilities, and will pay all costs and expenses, including attorneys' fees incurred in connection therewith, using counsel satisfactory to Licensor.

(c) Licensee shall promptly pay any judgment rendered against Licensee or Licensor covering such claims, damages, penalties, obligations and liabilities arising out of or in connection with such use of and operations on the Premises by Licensee, and agrees to save and hold Licensor harmless therefrom.

(d) In the event Licensor is made a party to any action or proceeding filed or prosecuted against Licensee for such damages or other claims arising out of Licensee's use of and operations on the Premises, Licensee agrees to pay Licensor any and all costs and expenses incurred by Licensor in such action or proceeding together with reasonable attorneys' fees.

(e) Licensee's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the Licensee or Licensor. Licensee's indemnification obligation hereunder and the provisions of this Section 13 shall survive any termination, revocation, expiration, or assignment of this MLA or applicable SLA.

Section 14. Arbitration of Disputes.

The parties desire to quickly and cost-effectively resolve any disputes arising out of or relating to the interpretation or enforcement of this MLA and each SLA including, but not limited to the arbitrability of such disputes. Therefore, each party shall use its best efforts to resolve informally any such disputes. If not less than ten (10) calendar days after first making informal attempts to resolve any such dispute, the attempts have been unsuccessful, either party may thereafter initiate binding arbitration as specified below:

(a) All disputes pursuant to LICENSE and/or each SLA shall be resolved by binding arbitration conducted within the County of Orange ("Arbitration") and may be initiated by a party by providing written notice to the other party ("Arbitration Notice"). The Arbitration Notice must:

- i. Contain a description of the dispute;
- ii. Specify the disputed amount, if any; and
- iii. Specify the remedy sought.

(b) The dispute shall then be resolved by a mutually agreed upon retired judge of the Superior Court for the County of Orange "Arbitrator" in accordance with the provisions set forth in this License Agreement. If the parties are unable to agree on the Arbitrator within ten (10) days after receipt of the Arbitration Notice, they shall request that the presiding judge of the Superior Court for the County of Orange designate the Arbitrator. The parties shall, initially, equally bear the cost of any such Arbitration; however, the prevailing party shall be entitled to recover such initial costs, in addition to other costs as specified herein, as an item of damage and/or recoverable cost. In addition to any other damages, award, or other relief, such prevailing party shall be entitled to recover its reasonable costs and expenses, including, but not limited to attorneys' fees, disbursements, and court costs. Upon selection or designation of an Arbitrator, the parties shall execute a submission agreement in the form provided by the Arbitrator. The submission agreement shall set forth the rights and responsibilities of the parties with respect to the conduct of the Arbitration, as set forth herein, and shall contain the following elements in addition to any other rules and procedures for the Arbitration that are established by the Arbitrator:

- i. The Arbitration hearing shall commence no later than sixty (60) days from the effective date of the submission agreement.
- ii. Discovery in aid of Arbitration shall be allowed in accordance with Code of Civil Procedure ("CCP") Section 1283.05, which is hereby incorporated into, made a part of, and made applicable to this LICENSE and each SLA pursuant to CCP Section 1283.1. The Arbitrator's permission shall not be required to take any deposition(s) or propound any written discovery.
- iii. The Arbitrator shall follow and comply with all applicable substantive and procedural State case and statutory law in arriving at a decision.
- iv. The Arbitrator shall issue a written statement of decision, explaining the factual and legal basis for the decision with respect to each of the principal controverted issues, and shall deliver such statement of decision to the parties via registered or certified U.S. mail, return receipt requested.
- v. All applicable evidentiary privileges and the work-product doctrine shall be available for purposes of the Arbitration and Arbitration hearing, and shall not be deemed to have been waived by entering into this LICENSE and any applicable SLA or by any conduct or actions of the parties undertaken in connection with any subsequent Arbitration pursuant hereto.
- vi. Any petition by a party to confirm, correct or vacate a decision of the Arbitrator must be filed within forty-five (45) days following the receipt of the decision via registered or certified U.S. mail.
- vii. Not less than ten (10) calendar days prior to commencement of the Arbitration hearing each party must make a full disclosure to the other party of: (i) all documents to be presented by such party as evidence during the Arbitration hearing; and (ii) any witness to be called by such party during the Arbitration hearing. Except

for purposes of impeachment, only documents and witnesses so disclosed may be presented and called during the Arbitration hearing, or may be considered by the Arbitrator in reaching a decision.

- viii. Either party may apply to a court in the County of Orange having jurisdiction hereof and seek injunctive relief to maintain the status quo until the arbitration award is rendered or the dispute is otherwise resolved.
- ix. FINALITY OF AWARD: THE AWARD OF THE ARBITRATOR(S) SHALL BE FINAL AND BINDING UPON THE PARTIES WITHOUT APPEAL OR REVIEW EXCEPT AS PERMITTED BY CCP SECTION 1285 *et. seq.* EITHER PARTY MAY APPLY TO ANY COURT OF GENERAL JURISDICTION FOR ENTRY AND ENFORCEMENT OF JUDGMENT BASED ON SAID AWARD.
- x. Notwithstanding the foregoing, at Licensee's option, the following claims, disputes, and other matters in question need not be resolved by arbitration: any action by Licensee seeking an injunction or temporary restraining order against subsequent users under Section 10 of this Agreement.

Section 15. Administrative Fees.

In addition to License Fee and other fees described in this LICENSE and the applicable SLA, the Licensee will be responsible for paying non-refundable administrative fees, as applicable, and required by the License Policy. Licensor reserves the right to update the schedule of administrative fees in Appendix D of the License Policy in order to recover its costs of legal, technical and administrative expenses associated with review of applications and associated contract and oversight administration.

Section 16. Entire Agreement; Amendment.

This MLA constitutes the entire understanding between the parties with respect to the subject matter hereof, superseding all negotiations, prior discussions and preliminary agreements made prior to the date hereof. Each SLA constitutes the entire understanding between the parties with respect to the subject matter thereof, superseding all negotiations, prior discussions and preliminary agreements made prior to the SLA Execution Date. This LICENSE and/or each subsequent SLA may not be changed except in writing executed by both parties.

Section 17. Paragraph Heading and Construction.

The section headings contained in this MLA and SLA shall not be considered to be a part hereof for purposes of interpreting or affecting the terms of the MLA or any SLA, but are for convenience only.

Section 18. Governing Law/Venue.

This MLA and each SLA shall be governed by and construed in accordance with the laws of the State of California. Any lawsuit brought in connection therewith (as may be permitted hereunder) shall be brought in the appropriate court of the County of Orange, California. By execution of this Agreement, Licensee represents and warrants that it will comply with all applicable laws.

Section 19. Binding on Successors; No Third Party Beneficiaries.

This MLA and each SLA, and all of the provisions hereof, shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors, and assigns. No customer, other person or entity other than Parties shall be deemed to be a third party beneficiary hereof, and nothing in this LICENSE or each SLA, either express or implied, is intended to confer upon any customer or other person or entity,

other than the parties and their respective successors and assigns, any rights, remedies, obligations or liabilities under or by reason of this LICENSE and/or any SLA.

Section 20. Independent Contractors.

The Parties are independent contractors. Nothing in this Agreement shall be deemed to constitute a partnership or joint venture between the Parties or constitute any Party to be the agent of the other Party for any purpose. No Party shall have any authority to act for or bind the other Party in any way, or to represent that it has such authority. Licensee's contractors, agents and representatives are independent contractors to Licensee, and are not employees or independent contractors of the Licensor while on the Premises, or while engaged in any work on the Premises, including the construction, installation, maintenance or operation of the Communications Facility. Licensee is responsible for insuring, while on the Licensor's Premises, that all Licensee's contractors, agents, representatives are covered by Licensee's insurance and/or have the appropriate insurances prescribed in Section 12 above.

Section 21. Limited Assignment; Sublicense.

This MLA shall not be assigned in whole or in part without the prior written consent of Licensor, except as provided in (b) below. Any attempted assignment without such written consent shall void the MLA. No SLA may be assigned in whole or in part by Licensee voluntarily or by operation of law without the prior written consent of Licensor, which Licensor shall not unreasonably withhold, subject to the following:

(a) Any assignee must be an entity licensed by federal or state authorities and actively engaged in and providing wireless communications services of the same type, or similar to, those services provided using the Communications Facility as defined in this LICENSE or the applicable SLA. Any attempted assignment without such written consent shall be made void, and represents a material breach of the affected SLA for which Licensor may terminate the affected SLA.

(b) Licensee may, without Licensor's consent but upon at least sixty (60) days prior written notice to Licensor, from time to time assign this LICENSE or any SLA in its entirety

- (i) To any entity which has, directly or indirectly, a 51% or greater interest in Licensee (a "Parent"), or to any entity in which Licensee or a Parent has a 51% or greater interest (an "Affiliate");
- (ii) To any entity with which Licensee and/or any Affiliate may merge or consolidate;
- (iii) To a buyer of substantially all of the outstanding ownership units or assets of Licensee.

Any such assignment shall not be effective until the assignee executes and delivers to Licensor both (A) a representation that assignee is Licensee's successor under the Agreement pursuant to clause (i), (ii) or (iii) of this Section 21(b); and (B) evidence of assignee's written assumption of all Licensee's obligations under this Agreement arising from and after the effective date of assignment;

(c) Regardless of Licensor's consent, no assignment of Licensee's interests in a SLA (except for an assignment pursuant to subsection (b) above) shall release Licensee of Licensee's obligation or alter the primary liability of Licensee to pay License Fee and perform all other obligations to be performed by Licensee under the SLA. The acceptance of License Fees by Licensor from any other person or entity shall not be deemed to be a waiver by Licensor of any provision hereof. Consent to one assignment shall not be deemed consent to any subsequent assignment. In the event of default by any permitted assignee of Licensee or any successor of Licensee in the performance of any of the terms hereof, Licensor may proceed directly against Licensee without the necessity of exhausting remedies against said assignee or

successor. Licensor may consent to subsequent assignments of the SLA or amendments or modifications to the SLA with assignees of Licensee, without notifying Licensee, or any successor of Licensee, and without obtaining its or their consent thereto and such action shall not relieve Licensee of liability under the SLA.

(d) Licensee shall pay a deposit to Licensor in the amount prescribed by the License Policy to cover any legal, technical, and/or administrative cost to review any proposed assignment requested by Licensee. Any unused portion of said deposit shall be returned to Licensee within thirty (30) days from the final determination by Licensor of assignment and/or sublease.

(e) Licensee may not sublicense.

Section 22A. Waiver of Licensor's Lien.

Subject to Licensee's obligations otherwise set forth in this LICENSE and/or each SLA, Licensor (a) waives any lien rights it may have concerning the Communications Facility which are deemed Licensee's personal property and not fixtures, and Licensee has the right to remove the same at any time, subject to compliance with the License Policy, upon Licensor's consent; and, (b) Licensor acknowledges that Licensee has entered into or may enter into a financing arrangement including promissory notes and financial and security agreements for the financing of the Communications Facility(ies) (the "Collateral") with a third party financing entity (and may in the future enter into additional financing arrangements with other financing entities). In connection therewith, Licensor (i) disclaims any interest in the Collateral, as fixtures or otherwise; and (ii) agrees that the Collateral shall be exempt from execution, foreclosure, sale, levy, attachment, or distress for any License Fee due or to become due and that such Collateral may be removed at any time without recourse to arbitration or other legal proceedings.

Section 22 B. Mechanics Liens.

Licensor shall not suffer or permit any mechanic's, laborer's, or materialmen's lien to be filed against the Premises, including any part thereof by reason of work, labor, services, or materials requested and supplies claimed to have been requested by Licensee with respect thereto; and if any such lien shall at any time be so filed, Licensee shall cause it to be canceled and discharged of record (by bonding or otherwise), within thirty (30) business days after notice of the filing thereof, and Licensee shall indemnify and hold harmless Licensor from any loss incurred in connection therewith

Section 23. Attorney's Fees.

Should either party be compelled to institute arbitration or legal or other proceedings against the other for or on account of its failure or refusal to perform or fulfill any of the covenants or conditions of this LICENSE and/or each SLA on its part to be performed or fulfilled, then the prevailing party in such action or proceeding shall receive from the other party attorney's fees and costs as adjudged reasonable by the arbitrator, or court.

Section 24. Notice.

Any notice, request, information or other document to be given hereunder to any of the parties by any other parties shall be in writing and shall be deemed given and served upon delivery, if delivered personally, or three (3) days after mailing if sent by certified mail, postage prepaid, as follows:

If to Licensee:

[Legal Entity Name]

[d/b/a]

[Address]
[Phone]
Attn: _

If to Licensor:
Santa Margarita Water District
P.O. Box 7005
Mission Viejo, CA 92690
Attn: General Manager

With a copy to:
CONSULTANT
ADDRESS
ADDRESS
ATTN:

Either party may change the address or persons to which notices are to be sent to it by giving the written notice that such change of address or persons to the other party in the manner provided for giving notice.

Section 25. Counterparts.

This LICENSE and each SLA may be executed in counterparts, each of which shall be deemed to be an original.

Section 26. NO WARRANTYLICENSOR MAKES NO WARRANTY OR REPRESENTATION WHATSOEVER CONCERNING THE PREMISES OR THE SITE, INCLUDING WITHOUT LIMITATION, THE CONDITION, FITNESS OR UTILITY FOR ANY PURPOSE THEREOF, OF ANY IMPROVEMENTS THERETO WITH APPLICABLE LAWS, ORDINANCES OR GOVERNMENTAL REGULATIONS. LICENSEE'S RIGHT TO USE PREMISES AND SITE IS STRICTLY ON AN "AS IS" BASIS WITH ALL FAULTS. LICENSOR HEREBY DISCLAIMS ALL WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, THE CONDITION OF THE SOIL (OR WATER), GEOLOGY, AND ANY WARRANTY OF MERCHANTABILITY OR HABITABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

Section 27. Representations and Warranties of Licensee.

- (a) Licensee acknowledges it has received and read the License Policy and warrants it has fully complied with the License Policy and all conditions contained therein.
- (b) This Agreement constitutes a legal, valid and binding obligation of Licensee, and enforceable against Licensee.

Section 28. Time of Essence.

Time is of the essence of this MLA and any applicable SLA.

Section 29. No Relocation Assistance.

Licensee acknowledges that Licensee is not entitled to relocation assistance, or any other benefits under the Uniform Relocation Assistance Act, or any other applicable provision of law upon termination of any SLA.

Section 30. Execution.

Each person executing this License Agreement represents and warrants he/she has been duly authorized to execute the same.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Master License Agreement as of the day and year first written above.

"Licensor":
SANTA MARGARITA WATER DISTRICT

By: _____
General Manager

"Licensee":
[ENTITY NAME]

By: _____

Title: _____

EXHIBIT 1

SANTA MARGARITA WATER DISTRICT
SITE LICENSE AUTHORIZATION
(X PREMISES NAME HERE)

THIS Site License Authorization ("Authorization") is made and entered into this _____ day of 20____ ("SLA Execution Date") by and between SANTA MARGARITA WATER DISTRICT, California water district existing and operating pursuant to Division 13 of the California Water Code ("Licensor" or "District"), and _____, a _____ ("Licensee"). Licensor and Licensee are sometimes referred to in this Site License Authorization individually as "party" or jointly as "parties." The term "Authorization" used in herein means this Site License Authorization and any amendments to this Site License Authorization as may be executed between the parties in accordance with the terms herein.

RECITAL

WHEREAS Licensor and Licensee have entered into a certain Master License Agreement dated ___ day of _____, 20__, as may be amended from time to time ("LICENSE" or "MLA"); and

WHEREAS, Licensor owns that certain property located at _____, and having an APN# of: _____ as legally described in Exhibit "A" attached hereto and incorporated herein (the "Premises"); and

WHEREAS, Licensee has submitted an application for a Site License Authorization pursuant to the District's current License Policy and the LICENSE.

WHEREAS, Licensor intends to license to Licensee, and Licensee intends to license from Licensor, a portion of the Premises as described below, in accordance with the terms and conditions of this Authorization ("Site").

NOW THEREFORE, in consideration of the mutual covenants and benefits stated herein, and in further consideration of the obligations, terms and considerations hereinafter set forth and recited; Licensor and Licensee agree as follows:

Section 1. Site.

Subject to the terms and conditions hereinafter set forth, Licensor licenses to Licensee the Site as further described below and in the referenced exhibits for the Permitted Use:

(a) Space on Existing Licensor Structure: That certain space on Licensor's existing structure located on the Premises more particularly described on Exhibit "B" attached hereto to install the Communications Facility (or portions thereof) as depicted in Exhibit "B" and more particularly described in Exhibit "C"; and

(b) Land Space: Consisting of approximately _____ square feet of real property which is a part of the Premises as more particularly described on Exhibit "B" to install a Communications Facility (or portions thereof) as depicted in Exhibit "B" and more particularly described in Exhibit "C"; and

(c) Right of Way: non-exclusive space for ingress and egress over a ____ foot wide right of way to access the Space on Existing Licensor Structure and Land Space as more particularly described on Exhibit “B”; and

(d) Utilities Space: non-exclusive space for installation and maintenance of utility wires, poles, cables, conduits, and pipes over, under, or along a ____ foot wide right of way extending from the nearest public right of way, _____, to the Land Space.

Section 2. License Term.

This Agreement shall commence on the SLA Execution Date and continue for a term as specified in Section 4(b) of the LICENSE.

Section 3. Annual License Fee; Increases.

Licensee agrees to pay Licensor the total sum of XXXXXX Dollars and 00/100 (\$xx,xxx.00) per year as the annual license fee for this Agreement payable in advance and due upon the Commencement Date. The annual license fee shall be increased on each anniversary of the Commencement Date by the amount equal to ____ percent (___%) over and above the annual license fee payable during the previous year. The obligation to pay the annual license fee shall be due in advance on each anniversary of the Commencement Date during the License Term and/or during the Option Period.

Section 4. General Terms and Conditions

All of the terms and conditions of the LICENSE are incorporated hereby by reference and made a part hereof. In the event of a contradiction, modification or inconsistency between the terms of the LICENSE and this Authorization, the terms of this Authorization shall govern. Capitalized terms used in this Authorization shall have the same meaning described for them in the LICENSE unless otherwise indicated herein.

Section 5. Special Conditions.

This section pertains to special terms, conditions or other requirements specific to the Premises (e.g. limited access to only hours of operations).

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Site License Agreement as of the day and year first written above.

"Licensor":
SANTA MARGARITA WATER DISTRICT

By: _____
General Manager

"Licensee":
[ENTITY NAME]

By: _____

Title: _____

EXHIBIT A

Premises – Legal Description

EXHIBIT B

Description of the Site:

Site plan & Elevations (following page x of x pages)

Exhibit C

Description of Communications Facility

-list equipment to be installed