

**VILLAGE OF DOWNERS GROVE**  
**Report for the Village**  
**5/21/2019**

<b>SUBJECT:</b>	<b>SUBMITTED BY:</b>
Approval of Master Pole Attachment Agreement with Chicago SMSA Limited Partnership d/b/a Verizon Wireless	Enza Petrarca Village Attorney

**SYNOPSIS**

A resolution has been prepared to authorize execution of a Master Pole Attachment Agreement with Chicago SMSA Limited Partnership d/b/a Verizon Wireless (Licensee) which will allow it to install small cell wireless facilities on Village poles.

**STRATEGIC PLAN ALIGNMENT**

The goals for 2017-2019 include *Steward of Financial and Environmental Sustainability* and *Top Quality Infrastructure*.

**FISCAL IMPACT**

Licensee will be required to pay a permit application fee each time it submits one and \$200 per year for each small cell facility installed on a Village-owned pole.

**RECOMMENDATION**

Approval on the May 21, 2019 Consent Agenda.

**BACKGROUND**

As you may recall, in May 2018, the Illinois General Assembly enacted the Small Wireless Facilities Deployment Act (the Act), which became effective on June 1, 2018. The Act sets forth requirements and limitations for the collocation of small wireless facilities by local authorities. In July 2018, the Village approved an ordinance establishing provisions for the regulation of and application for small wireless facilities in the Village's rights-of-way.

Under the ordinance, if a wireless provider wishes to install a small cell facility on a Village-owned pole, then it must enter into a Master Pole Attachment Agreement. The provisions in the Agreement are akin to those in the Ordinance. Verizon is the second provider that has requested to install on Village poles. It will still be required to submit an application for a permit for each installation. Each permit has a term of five years with renewals for five-year periods.

**ATTACHMENTS**

Resolution  
Agreement

## RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION AUTHORIZING EXECUTION OF A  
MASTER POLE ATTACHMENT AGREEMENT BETWEEN CHICAGO SMSA LIMITED  
PARTNERSHIP D/B/A VERIZON WIRELESS  
AND THE VILLAGE OF DOWNERS GROVE  
FOR USE OF THE VILLAGE OWNED POLES IN RIGHTS-OF-WAY**

BE IT RESOLVED by the Village Council of the Village of Downers Grove, DuPage County, Illinois, as follows:

1. That the form and substance of a certain Master Pole Attachment Agreement (the "Agreement"), between the Village of Downers Grove ("Village") and Chicago SMSA Limited Partnership d/b/a Verizon Wireless ("Licensee"), to install small cell wireless facilities on Village owned poles, as set forth in the form of the Agreement submitted to this meeting with the recommendation of the Village Manager, is hereby approved.

2. That the Village Manager and Village Clerk are hereby respectively authorized and directed for and on behalf of the Village to execute, attest, seal and deliver the Agreement, substantially in the form approved in the foregoing paragraph of this Resolution, together with such changes as the Manager shall deem necessary.

3. That the proper officials, agents and employees of the Village are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform all obligations and commitments of the Village in accordance with the provisions of the Agreement.

4. That all resolutions or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed.

5. That this Resolution shall be in full force and effect from and after its passage as provided by law.

\_\_\_\_\_  
Mayor

Passed:

Attest:

\_\_\_\_\_  
Village Clerk

## MASTER POLE ATTACHMENT AGREEMENT

This Master Pole Attachment Agreement (Agreement) made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, between the Village of Downers Grove, with its principal offices located at 801 Burlington Avenue, Downers Grove, Illinois 60515, (hereinafter referred to as "LICENSOR") and Chicago SMSA Limited Partnership d/b/a Verizon Wireless, an Illinois limited partnership, whose principal place of business is One Verizon Way, Mail Stop 4AW100, Basking Ridge, NJ 07920, (hereinafter referred to as "LICENSEE"). LICENSOR and LICENSEE are at times collectively referred to hereinafter as the "Parties" or individually as the "Party."

### WITNESSETH

**WHEREAS**, LICENSOR is the owner, of certain utility poles, wireless support structures, and/or real property, which are located within the geographic area of a license to provide wireless services licensed by the Federal Communications Commission (FCC) to LICENSEE; and

**WHEREAS**, LICENSEE desires to install, maintain and operate small wireless facilities in and/or upon certain of LICENSOR's utility poles, wireless support structures and/or real property; and

**WHEREAS**, LICENSOR and LICENSEE acknowledge that any term used in this Agreement that is defined in Section 10 of the Small Wireless Facilities Deployment Act, as now or hereafter amended, shall have the meaning provided therein; and

**WHEREAS**, LICENSOR and LICENSEE acknowledge that the terms of this Agreement are nondiscriminatory, competitively neutral and commercially reasonable; and

**WHEREAS**, LICENSOR and LICENSEE desire to enter into this Agreement to define the general terms and conditions which will govern their relationship with respect to particular sites at which LICENSOR may wish to permit LICENSEE to install, maintain and operate small wireless facilities as hereinafter set forth; and

**WHEREAS**, the LICENSOR and LICENSEE intend to promote the expansion of communications services in a manner consistent with the Small Wireless Facilities Deployment Act, the Illinois Cable and Video Competition Act, the Illinois Telephone Company Act, the Telecommunications Act of 1996, the Middle Class Tax Relief and Job Creation Act of 2012, the Simplified Municipal Telecommunications Tax Act, 35 ILCS 636/5-1, *et. seq.* and Federal Communication Commission Regulations; and

**WHEREAS**, LICENSOR and LICENSEE acknowledge that they will enter into a License Supplement (Supplement), a copy of which is attached hereto as Exhibit A, with respect to any particular location or site which the Parties agree to license; and

**WHEREAS**, the Parties acknowledge that different related entities may operate or conduct the business of LICENSEE in different geographic areas and as a result, each Supplement may be

signed by LICENSEE affiliated entities as further described herein, as appropriate based upon the entity holding the FCC license in the subject geographic location.

**NOW THEREFORE**, in consideration of the mutual covenants contained herein and intending to be legally bound hereby, the Parties hereto agree as follows:

- 1) **PREMISES.** Pursuant to all of the terms and conditions of this Agreement and the applicable Supplement, LICENSOR agrees to license to LICENSEE that certain space on or upon LICENSOR's utility poles, and/or wireless support structures as more fully described in each Supplement to be executed by the Parties (hereinafter referred to as the "Premises"), for the installation, operation, maintenance, repair, modification and removal of small wireless facilities; together with the non-exclusive right of ingress and egress from a public right-of-way, seven (7) days a week, twenty four (24) hours a day, over the Property (as defined below) and to and from the Premises for the purpose of installation, operation, maintenance, repair, modification and removal of LICENSEE's small wireless facilities. The LICENSOR's utility poles, wireless support structures and other poles and towers are hereinafter referred to as "Pole" and the entirety of the LICENSOR's property is hereinafter referred to as "Property". In the event there are not sufficient electric and telephone cable or fiber utility sources located at the Premises or on the Property, LICENSOR agrees to grant LICENSEE the right to install such utilities on, over and/or under the Property and to the Premises as necessary for LICENSEE to operate its communications facility, but only from duly authorized providers of such utilities, provided the location of such utilities shall be designated by LICENSOR.
- 2) **PERMIT APPLICATION.** For each small wireless facility, LICENSEE shall submit an application to LICENSOR for a permit that includes:
  - a) Site specific structural integrity and, for LICENSOR'S utility pole or wireless support structure, make-ready analysis prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989;
  - b) The location where each proposed small wireless facility or utility pole would be installed and photographs, taken within six (6) months of application submission, of the location and its immediate surroundings depicting the utility poles or structures on which each proposed small wireless facility would be mounted or location where utility poles or structures would be installed. This should include a depiction of the completed facility;
  - c) Specifications and drawings prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989, for each proposed small wireless facility covered by the application as it is proposed to be installed;
  - d) The equipment type and model numbers for the antennas and all other wireless equipment associated with the small wireless facility;
  - e) A proposed schedule for the installation and completion of each small wireless facility covered by the application, if approved;

- f) Certification that the collocation complies with LICENSOR's Small Wireless Facilities Ordinance requirements, to the best of the applicant's knowledge; and
  - g) The application fee due.
- 3) APPLICATION FEES. Application fees are subject to the following requirements:
- a) LICENSEE shall pay an application fee that shall not exceed the maximum amount allowed under applicable law.
  - b) Notwithstanding any contrary provision of State law or local ordinance, applications pursuant to this Section must be accompanied by the required application fee, which is non-refundable.
  - c) LICENSOR shall not require an application, approval, or permit, or require any fees or other charges, from LICENSEE, for:
    - i) routine maintenance; or
    - ii) the replacement of wireless facilities with wireless facilities that are substantially similar, the same size, or smaller if LICENSEE notifies LICENSOR at least ten (10) days prior to the planned replacement and includes equipment specifications for the replacement of equipment consistent with the requirements of this Agreement; or
    - iii) the installation, placement, maintenance, operation, or replacement of small wireless facilities that are suspended on cables that are strung between existing utility poles in compliance with applicable safety codes, provided this provision does not authorize such facilities to be suspended from municipal electric lines, if any.
  - d) LICENSEE shall secure a permit from LICENSOR to work within rights-of-way for activities that affect traffic patterns or require lane closures.
- 4) REQUIREMENTS.
- a) LICENSEE's operation of the small wireless facilities shall not interfere with the frequencies used by a public safety agency for public safety communications. LICENSEE shall install small wireless facilities of the type and frequency that will not cause unacceptable interference with a public safety agency's communications equipment. Unacceptable interference will be determined by and measured in accordance with industry standards and the FCC's regulations addressing unacceptable interference to public safety spectrum or any other spectrum licensed by a public safety agency. If a small wireless facility causes such interference, and LICENSEE has been given written notice of the interference by the public safety agency, LICENSEE, at its own expense, shall take all reasonable steps necessary to correct and eliminate the interference, including, but not limited to, powering down the small wireless facility and later powering up the small wireless facility for intermittent testing, if necessary. The LICENSOR may terminate a permit for a small wireless facility based on such interference if LICENSEE is not making a good faith effort to remedy the problem in a manner consistent with the abatement and

resolution procedures for interference with public safety spectrum established by the FCC including 47 CFR 22.970 through 47 CFR 22.973 and 47 CFR 90.672 through 47 CFR 90.675.

- b) LICENSEE shall not install devices on the existing utility pole or wireless support structure that extend beyond ten (10) feet of the pole's existing height.
  - c) LICENSEE shall install pole mounted equipment at a minimum of ten (10) feet from the ground.
  - d) LICENSEE shall be limited to one (1) cabinet or other ground mounted device for ground mounted installations.
  - e) LICENSEE shall paint or otherwise camouflage antennas, mounting hardware, and other devices to match or complement the structure upon which they are being mounted.
  - f) LICENSEE shall install landscaping at the base of poles with respect to any ground equipment installed by LICENSEE.
  - g) LICENSEE shall comply with all the terms and conditions of LICENSOR's Ordinance providing for the Regulation of and Application for Small Wireless Facilities (hereinafter referred to as "Ordinance 5707).
  - h) LICENSEE shall comply with requirements that are imposed by a contract between the LICENSOR and a private property owner that concern design or construction standards applicable to utility poles and ground-mounted equipment located in the right-of-way.
  - i) LICENSEE shall not collocate small wireless facilities within the communication worker safety zone of the pole or the electric supply zone of the pole on LICENSOR utility poles that are part of an electric distribution or transmission system. However, the antenna and support equipment of the small wireless facility may be located in the communications space on the LICENSOR utility pole and on the top of the pole, if not otherwise unavailable, if LICENSEE complies with applicable codes, as now or hereafter amended, for work involving the top of the pole. For purposes of this subparagraph, the terms "communications space", "communication worker safety zone", and "electric supply zone" have the meanings given to those terms in the National Electric Safety Code as published by the Institute of Electrical and Electronics Engineers.
  - j) LICENSEE shall install, maintain, repair and modify its small wireless facilities in safe condition and good repair and in compliance with the requirements and conditions of this Agreement. LICENSEE shall ensure that its employees, agents or contractors that perform work in connection with its small wireless facilities are adequately trained and skilled in accordance with all applicable industry and governmental standards and regulations
  - k) LICENSEE shall provide the LICENSOR with accurate "as built" drawings of any underground infrastructure associated with the small wireless facility.
- 5) APPLICATION PROCESS. LICENSOR shall process applications as follows:

- a) An application to collocate a small wireless facility on an existing utility pole, replacement of an existing utility pole or wireless support structure owned or controlled by LICENSOR shall be processed by LICENSOR and deemed approved if LICENSOR fails to approve or deny the application within ninety (90) days. However, if LICENSEE intends to proceed with the permitted activity on a deemed approved basis, LICENSEE must notify LICENSOR in writing of its intention to invoke the deemed approved remedy no sooner than seventy-five (75) days after the submission of a completed application. The permit shall be deemed approved on the latter of the 90th day after submission of the complete application or the 10th day after the receipt of the deemed approved notice by LICENSOR. The receipt of the deemed approved notice shall not preclude LICENSOR's denial of the permit request within the time limits as provided under LICENSOR's Ordinance 5707.
- b) An application to collocate a small wireless facility that includes the installation of a new utility pole shall be processed and deemed approved if LICENSOR fails to approve or deny the application within one hundred twenty (120) days. However, if LICENSEE intends to proceed with the permitted activity on a deemed approved basis, LICENSEE must notify LICENSOR in writing of its intention to invoke the deemed approved remedy no sooner than one hundred five (105) days after the submission of a completed application. The permit shall be deemed approved on the latter of the 120th day after submission of the complete application or the 10th day after the receipt of the deemed approved notice by LICENSOR. The receipt of the deemed approved notice shall not preclude LICENSOR's denial of the permit request within the time limits as provided under Ordinance 5707, as now or hereafter amended.
- c) LICENSOR shall approve an application unless the application does not meet the requirements of Ordinance 5707, as now or hereafter amended.
- d) If LICENSOR determines that applicable codes, local code provisions or regulations that concern public safety, or the Requirements of Ordinance 5707 require that the utility pole or wireless support structure be replaced before the requested collocation, approval may be conditioned on the replacement of the utility pole or wireless support structure at the cost of LICENSEE. LICENSOR must document the basis for a denial, including the specific code provisions or application conditions on which the denial was based, and send the documentation to LICENSEE on or before the day LICENSOR denies an application. LICENSEE may cure the deficiencies identified by LICENSOR and resubmit the revised application once within thirty (30) days after notice of denial is sent to the applicant without paying an additional application fee. LICENSOR shall approve or deny the revised application within thirty (30) days after LICENSEE resubmits the application or it is deemed approved. However, LICENSEE must notify LICENSOR in writing of its intention to proceed with the permitted activity on a deemed approved basis, which may be submitted with the resubmitted application. Any subsequent review shall be limited to the deficiencies cited in the denial. However, this revised application cure does not apply if the cure requires the review of a new location, new or different structure to be collocated upon, new antennas, or other wireless equipment associated with the small wireless facility.

- e) COMPLETENESS OF APPLICATION. Within thirty (30) days after receiving an application, the LICENSOR shall determine whether the application is complete and notify the applicant. If an application is incomplete, the LICENSOR shall specifically identify the missing information. An application shall be deemed complete if the LICENSOR fails to provide notification to the applicant with thirty (30) days after all documents, information and fees specifically enumerated in the LICENSOR's permit application form are submitted by the application to the LICENSOR. Processing deadlines are tolled from the time the LICENSOR sends the notice of incompleteness to the time the applicant provides the missing information.
  - f) TOLLING. The time period for applications may be further tolled by the express agreement in writing by both LICENSOR and LICENSEE; or a local, State or federal disaster declaration or similar emergency that causes the delay.
  - g) CONSOLIDATED APPLICATIONS. A LICENSEE seeking to collocate small wireless facilities within the jurisdiction of LICENSOR shall be allowed, at LICENSEE's discretion, to file a consolidated application and receive a single permit for the collocation of up to twenty-five (25) small wireless facilities if the collocations each involve substantially the same type of small wireless facility and substantially the same type of structure. If an application includes multiple small wireless facilities, LICENSOR may remove small wireless facility collocations from the application and treat separately small wireless facility collocations for which incomplete information has been provided or that do not qualify for consolidated treatment or that are denied. LICENSOR may issue separate permits for each collocation that is approved in a consolidated application.
- 6) COLLOCATION COMPLETION DEADLINE. Collocation for which a permit is granted shall be completed within one hundred eighty (180) days after issuance of the permit, unless LICENSOR and LICENSEE agree to extend this period or a delay is caused by make-ready work for a LICENSOR utility pole or by the lack of commercial power or backhaul availability at the site, provided LICENSEE has made a timely request within sixty (60) days after the issuance of the permit for commercial power or backhaul services, and the additional time to complete installation does not exceed three hundred sixty (360) days after issuance of the permit. Otherwise, the permit shall be void unless LICENSOR grants an extension in writing to the LICENSEE.
- 7) DURATION OF PERMITS AND SUPPLEMENTS. The duration of a permit and the initial Supplement shall be for a period of not less than five (5) years, and the permit and Supplement shall be renewed for equivalent durations unless LICENSOR makes a finding that the small wireless facility or the new or modified utility pole do not comply with the applicable Village codes or regulations in Ordinance 5707, as now or hereafter amended. If P.A. 100-0585 is repealed as provided in Section 90 of the Act, renewals of permits shall be subject to the LICENSOR's code provisions or regulations in effect at the time of renewal.

- 8) EXTENSIONS. Each Supplement may be extended for additional five (5) year terms unless LICENSEE terminates it at the end of the then current term by giving LICENSOR written notice of the intent to terminate at least ninety (90) days prior to the end of the then current term. The initial term and all extensions under a Supplement shall be collectively referred to herein as the "Term". Notwithstanding anything herein, after the expiration of this Agreement, its terms and conditions shall survive and govern with respect to any remaining Supplements in effect until their expiration or termination.
- 9) RENTAL. Each Supplement shall be effective as of the date of execution by both Parties (the "Effective Date"), provided, however, the initial term of each Supplement shall be for five (5) years and shall commence on the first day of the month following the day that LICENSEE commences installation of the equipment on the Premises (the "Commencement Date") at which time rental payments shall commence and be due at a total annual rental as set forth in the Supplement, to be paid in advance annually on the Commencement Date and on each anniversary of it in advance, to the LICENSOR (unless LESSOR otherwise designates another payee and provides notice to LICENSEE). LICENSOR and LICENSEE acknowledge and agree that the initial rental payment for each Supplement shall not actually be sent by LICENSEE until thirty (30) days after the Commencement Date. LICENSOR and LICENSEE agree that they shall acknowledge in writing the Commencement Date of each Supplement. Rental for the use of any poles pursuant to this Agreement shall be an annual fee of \$200.00 per each wireless facility which LICENSEE attaches to LICENSOR's pole. Thereafter, rent will be due at each annual anniversary of the "Commencement Date" of the applicable Supplement. Upon agreement of the Parties, LICENSEE may pay rent by electronic funds transfer and in such event, LICENSOR agrees to provide to LICENSEE bank routing information for such purpose upon request of LICENSEE.
- 10) ABANDONMENT. A small wireless facility that is not operated for a continuous period of (twelve) 12 months shall be considered abandoned and the LICENSEE must remove the small wireless facility within ninety (90) days after receipt of written notice from LICENSOR notifying LICENSEE of the abandonment.
- The notice shall be sent by certified or registered mail, return receipt requested, by LICENSOR to the LICENSEE at the last known address of LICENSEE. If the small wireless facility is not removed within ninety (90) days of such notice, LICENSOR may remove or cause the removal of such facility and charge said costs to the LICENSEE.
- LICENSEE shall provide written notice to LICENSOR of any sale or transfer of small wireless facilities not less than thirty (30) days prior to such transfer and said notice shall include the name and contact information of the new wireless provider.
- 11) CONDITION OF PREMISES. Where the Premises includes one or more Poles, LICENSOR covenants that it will keep the Poles in good repair as required by all federal, state, county and local laws. If the LICENSOR fails to make such repairs including maintenance within sixty (60) days of any notification to LICENSOR, the LICENSEE shall have the right to cease

annual rental for the effected poles, but only if the poles are no longer capable of being used for the purpose originally contemplated in this Agreement or otherwise do not comply with existing law. If LICENSEE terminates, LICENSEE shall remove its small wireless facility. Termination of this Agreement shall be the LICENSEE's sole remedy.

- 12) MAKE READY TERMS. LICENSOR shall not require more make-ready work than required to meet applicable codes or industry standards. Make-ready work may include work needed to accommodate additional public safety communication needs that are identified in a documented and approved plan for the deployment of public safety equipment as specified and included in an existing or preliminary LICENSOR or public service agency plan. Fees for make-ready work, including any LICENSOR utility pole attachment, shall not exceed actual costs or the amount charged to communications service providers for similar work and shall not include any consultants' fees or expenses for LICENSOR utility poles that do not support aerial facilities used to provide communications services or electric service. Make-ready work, including any pole replacement, shall be completed within sixty (60) days of written acceptance of the good-faith estimate by the LICENSOR at the LICENSEE's sole cost and expense. Unless otherwise agreed by the parties, any make-ready work, including pole replacements, shall be performed by the LICENSEE or its qualified contractor.
- 13) AERIAL FACILITIES. For LICENSOR utility poles that support aerial facilities used to provide communications services or electric services, LICENSEE shall comply with the process for make-ready work under 47 U.S.C. 224 and its implementing regulations. LICENSOR shall follow a substantially similar process for such make-ready work except to the extent that the timing requirements are otherwise addressed in Ordinance 5707, as now or hereafter amended. The good-faith estimate of the person owning or controlling LICENSOR's utility pole for any make-ready work necessary to enable the pole to support the requested collocation shall include LICENSOR utility pole replacement, if necessary. Make-ready work for utility poles that support aerial facilities used to provide communications services or electric services may include reasonable consultants' fees and expenses.
- 14) NO AERIAL FACILITIES. For LICENSOR utility poles that do not support aerial facilities used to provide communications services or electric services, LICENSOR shall provide a good-faith estimate for any make-ready work necessary to enable the LICENSOR utility pole to support the requested collocation, including pole replacement, if necessary, within ninety (90) days after receipt of a complete application. Make-ready work, including any LICENSOR utility pole replacement, shall be completed within sixty (60) days of written acceptance of the good-faith estimate by LICENSEE at LICENSEE's sole cost and expense. Alternatively, if LICENSOR determines that applicable codes or public safety regulations require the LICENSOR's utility pole to be replaced to support the requested collocation, LICENSOR may require LICENSEE to replace LICENSOR's utility pole at LICENSEE's sole cost and expense.
- 15) GENERAL RESTRICTIONS. In the event LICENSOR, in its reasonable discretion deems it necessary to remove, relocate or replace a Pole, LICENSOR shall notify LICENSEE at least

one hundred eighty (180) days prior to the need to remove or relocate its small wireless facility. In such event, LICENSOR shall provide options for alternative locations for LICENSEE's relocation of equipment which shall be in a mutually agreeable location ("Alternative Premises"). LICENSEE shall be solely responsible for all costs related to the relocation of its small wireless facility to the Alternative Premises. In the event that a suitable Alternative Premises cannot be identified, LICENSEE may terminate the applicable Supplement. In the event of an emergency, which for purposes of this Agreement shall be considered any imminent threat to health, safety and welfare of the public, LICENSOR must provide as much notice as reasonably practical under the circumstances. LICENSEE may terminate this Agreement by giving written notice to the other party specifying the date of termination, such notice to be given not less than one hundred eighty (180) days prior to the date specified therein.

- 16) ELECTRICAL. LICENSEE shall be permitted to connect its equipment to necessary electrical and telephone service, at LICENSEE's expense. LICENSEE shall attempt to coordinate with utility companies to provide separate service to LICENSEE's equipment for LICENSEE use. In the event that LICENSEE can obtain separate electrical service with a separate meter measuring usage, the LICENSEE shall pay the utility directly for its power consumption, if billed directly by the utility. In the event that separate electrical service is not possible or practical under the circumstances, LICENSEE may use existing service, at LICENSEE's expense, upon the reasonable approval of LICENSOR. In the event that LICENSEE uses existing utility service at an individual Premises, the Parties agree to either: (i) attempt to have a sub-meter installed, at LICENSEE's expense, which shall monitor LICENSEE's utility usage (with a reading and subsequent bill for usage delivered to LICENSEE by either the applicable utility company or LICENSOR); or (ii) provide for an additional fee in the applicable Supplement which shall cover LICENSEE's utility usage. The Parties agree to reflect power usage and measurement issues in each applicable Supplement.
- 17) TEMPORARY POWER. LICENSEE shall be permitted at any time during the Term of each Supplement, to install, maintain and/or provide access to and use of, as necessary (during any power interruption at the Premises), a temporary power source, and all related equipment and appurtenances within the Premises, or elsewhere on the Property in such locations as reasonably approved by LICENSOR. LICENSEE shall be permitted to connect the temporary power source to its equipment on the Premises in areas and manner approved by LICENSOR.
- 18) USE; GOVERNMENTAL APPROVALS. LICENSEE shall use the Premises for the purpose of constructing, maintaining, repairing, operating and removing small wireless facilities and uses incidental thereto. LICENSEE shall have the right to replace, repair and modify equipment, antennas and/or conduits or any portion thereof and the frequencies over which the equipment operates, in conformance with the original Supplement. It is understood and agreed that LICENSEE's ability to use the Premises is contingent upon its obtaining, after the execution date of each Supplement, all of the certificates, permits and other approvals (collectively the "Governmental Approvals") that may be required by any Federal, State or

- 20) INDEMNIFICATION. LICENSEE shall indemnify and hold LICENSOR harmless against any and all liability or loss from personal injury or property damage resulting from or arising out of, in whole or in part, the use or occupancy of LICENSOR's improvements or right-of-way associated with such improvements by LICENSEE or its employees, agents, or contractors arising out of the rights and privileges granted under this Agreement and PA 100-0585. LICENSEE has no obligation to indemnify or hold harmless against any liabilities and losses as may be due to or caused by the sole negligence of LICENSOR or its employees or agents. LICENSEE hereby further waives any claims that LICENSEE may have against the LICENSOR with respect to consequential, incidental, or special damages, however caused, based on the theory of liability.
- 21) REMOVAL AT END OF TERM. LICENSEE shall, upon expiration of the Term, or within ninety (90) days after any earlier termination of a Supplement, remove its equipment, conduits, fixtures and all personal property and restore the Premises to its original condition, reasonable wear and tear and casualty damage not caused by LICENSEE excepted. LICENSOR agrees and acknowledges that all of the equipment, conduits, fixtures and personal property of LICENSEE shall remain the personal property of LICENSEE and LICENSEE shall have the right to remove the same at any time during the Term, whether or not said items are considered fixtures and attachments to real property under applicable laws. If such time for removal causes LICENSEE to remain on the Premises after termination of the Supplement, LICENSEE shall pay rent at the then existing monthly rate or on the existing monthly pro-rata basis if based upon a longer payment term, until such time as the removal of the antenna structure, fixtures and all personal property are completed.
- 22) RIGHTS UPON SALE. Should LICENSOR, at any time during the Term of any Supplement decide to sell or transfer all or any part of the Property such sale or grant of an easement or interest therein shall be under and subject to the Supplement and any such purchaser or transferee shall recognize LICENSEE's rights hereunder and under the terms of the Supplement.
- 23) NOTICES. All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested or by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, addressed as follows (or any other address that the Party to be notified may have designated to the sender by like notice):

LICENSOR:  
Village Manager  
801 Burlington Ave.  
Downers Grove, IL 60515

Copy to:  
Village Attorney

801 Burlington Ave.  
Downers Grove, IL 60515

LICENSEE:

Chicago SMSA Limited Partnership d/b/a Verizon Wireless  
180 Washington Valley Road  
Bedminster, NJ 07921  
Attention Network - Real Estate

with a copy sent to:

Chicago SMSA Limited Partnership d/b/a Verizon Wireless  
1515 E Woodfield Rd  
10th Floor  
Schaumburg, IL 60173  
Attn: Network Legal

Either Party may change the addressee and/or location for the giving of notice to it by providing a thirty (30) days' prior written notice to the other Party.

Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

- 24) CASUALTY. In the event of damage by fire or other casualty to the Pole or Premises that cannot reasonably be expected to be repaired within forty-five (45) days following same or, if the Pole or Property is damaged by fire or other casualty so that such damage may reasonably be expected to disrupt LICENSEE's operations at the Premises for more than forty-five (45) days, then LICENSEE may, at any time following such fire or other casualty, provided LICENSOR has not completed the restoration required to permit LICENSEE to resume its operation at the Premises, terminate the Supplement upon fifteen (15) days' prior written notice to LICENSOR. Any such notice of termination shall cause the Supplement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of the Supplement and the Parties shall make an appropriate adjustment, as of such termination date, with respect to payments due to the other under the Supplement. Notwithstanding the foregoing, the rent shall abate during the period of repair following such fire or other casualty in proportion to the degree to which LICENSEE's use of the Premises is impaired.
- 25) DEFAULT. In the event there is a breach by a Party with respect to any of the provisions of this Agreement or its obligations hereunder, the non-breaching Party shall give the breaching Party written notice of such breach. After receipt of such written notice, the breaching Party shall have thirty (30) days in which to cure any breach, provided the breaching Party shall have such extended period, not to exceed ninety (90) days, as may be required beyond the thirty (30) days if the breaching Party commences the cure within the 30-day period and thereafter continuously and diligently pursues to cure to completion. The non-breaching Party may

maintain any action or affect any remedies for default against the breaching Party subsequent to the 30-day cure period, as potentially extended to 90 days based on circumstances.

- 26) REMEDIES. In the event of a default by either Party with respect to a material provision of this Agreement, without limiting, other than by the specific terms of this Agreement, the non-defaulting Party in the exercise of any right or remedy which the non-defaulting Party may have by reason of such default, the non-defaulting Party may terminate the applicable Supplement and/or pursue any remedy now or hereafter available to the non-defaulting Party under the Laws or judicial decisions of the state of Illinois. Further, upon a default, the non-defaulting Party may at its option (but without obligation to do so), perform the defaulting Party's duty or obligation on the defaulting Party's behalf, including but not limited to the obtaining of reasonably required insurance policies. The costs and expenses of such performance by the non-defaulting Party shall be due and payable by the defaulting Party upon invoice therefor.
- 27) APPLICABLE LAWS. During the Term, LICENSOR shall maintain the Property and the Pole in compliance with all applicable laws, rules, regulations, ordinances, directives, covenants, easements, zoning and land use regulations, and restrictions of record, permits, building codes, (collectively "Laws"). LICENSEE shall, in respect to the condition of the Premises and at LICENSEE's sole cost and expense, comply with (a) all Laws relating solely to LICENSEE's specific and unique nature of use of the Premises; and (b) all building codes requiring modifications to the Premises due to the improvements being made by LICENSEE in the Premises. It shall be LICENSOR's obligation to comply with all Laws relating to the Pole in general, without regard to specific use (including, without limitation, modifications required to enable LICENSEE to obtain all necessary building permits).
- 28) RIGHTS UNDER EXISTING LAWS; CHANGE OF LAW. This Agreement is not intended to in any way limit or waive either Party's present or future rights under applicable state and federal law. If any law sets forth a term or provision that is inconsistent with or different than this Agreement, then the Parties agree to promptly amend the Agreement to effect the term or provision set forth under the law.
- 29) BOND. LICENSEE shall deposit with LICENSOR on one occasion prior to the commencement of the first Supplement a bond in a form reasonably acceptable to LICENSOR in the amount of \$10,000 per small wireless facility to guarantee the safe and efficient removal of any equipment from any Premises subject to this Agreement, which equipment remains more than thirty (30) days after rental payment has ceased and Licensee has failed to remove the equipment. The funds may also be used to restore the premises to original condition, if LICENSEE fails to do so.
- 30) MISCELLANEOUS. This Agreement and the Supplements that may be executed from time to time hereunder contain all agreements, promises and understandings between the LICENSOR and the LICENSEE regarding this transaction, and no oral agreement, promises

or understandings shall be binding upon either the LICENSOR or the LICENSEE in any dispute, controversy or proceeding. This Agreement may not be amended or varied except in a writing signed by all Parties. This Agreement shall extend to and bind the heirs, personal representatives, successors and assigns hereto. The failure of either party to insist upon strict performance of any of the terms or conditions of this Agreement or to exercise any of its rights hereunder shall not waive such rights and such party shall have the right to enforce such rights at any time. The performance of this Agreement via each Supplement shall be governed interpreted, construed and regulated by the laws of the state of Illinois.

31) EXECUTION IN COUNTERPARTS. This Agreement and any Supplements may be executed in multiple counterparts, including by counterpart facsimiles or scanned email counterpart signature, each of which shall be deemed an original, and all such counterparts once assembled together shall constitute one integrated instrument.

32) AUTHORIZATION. LICENSEE certifies and warrants that it has the authority to enter into this Agreement.

**IN WITNESS WHEREOF**, the Parties hereto have set their hands and affixed their respective seals the day and year first above written.

**LICENSOR:**

**Village of Downers Grove,  
an Illinois Municipal Corporation**

BY: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**LICENSEE:**

BY:  \_\_\_\_\_

Name: **James R. Martin**  
Director - Network Field Engineering

Title: \_\_\_\_\_

Date: 5/9/19



## EXHIBIT "A"

## LICENSE SUPPLEMENT

This License Supplement (Supplement), is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, between **the Village of Downers Grove**, whose principal place of business is 801 Burlington Avenue, Downers Grove, Illinois 60515 (hereinafter referred to as "LICENSOR"), and Chicago SMSA Limited Partnership d/b/a Verizon Wireless, an Illinois limited partnership, whose principal place of business is One Verizon Way, Mail Stop 4AW100, Basking Ridge, NJ 07920 (hereinafter referred to as "LICENSEE").

1. **Master License Agreement.** This Supplement is a Supplement as referenced in that certain Master License Agreement between the Village of Downers Grove and Chicago SMSA Limited Partnership, dated \_\_\_\_\_, 20\_\_, (the Agreement). All of the terms and conditions of the Agreement are incorporated herein by reference and made a part hereof without the necessity of repeating or attaching the Agreement. In the event of a contradiction, modification or inconsistency between the terms of the Agreement and this Supplement, the terms of this Supplement shall govern. Capitalized terms used in this Supplement shall have the same meaning described for them in the Agreement unless otherwise indicated herein.
2. **Premises.** The Property owned by LICENSOR is located at \_\_\_\_\_ . The Premises licensed by the LICENSOR to the LICENSEE hereunder is described on Exhibit "1" attached hereto and made a part hereof.
3. **Term.** The Commencement Date and the Term of this Supplement shall be as set forth in Paragraph 7 of the Agreement.
4. **Consideration.** Rent under this Supplement shall be \$200.00 per year, payable to LICENSOR at 801 Burlington Avenue, Downers Grove, Illinois 60515. Thereafter, rent will be due at each annual anniversary of the "Commencement Date" of this Supplement. LICENSEE shall obtain electrical service and provide for a separate meter and billing from the applicable utility provider.
5. **Site Specific Terms.** (Include any site-specific terms)

IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their respective seal the day and year first above written.

**LICENSOR:**

**Village of Downers Grove,  
an Illinois Municipal Corporation**

BY: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**LICENSEE:**

BY: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

EXHIBIT 1

**Premises**

(see attached site plans)