



CITY OF CHELSEA, MA
Department of Public Works

City Hall, 500 Broadway, Room 310 · Chelsea, MA 02150
Phone: 617.466.4200 · Fax: 617.466.4210

**Application for a Grant of Location and Request for
Authorization to Place, Construct or Modify Small
Wireless Facilities or Structures within the Right of Way**

Date _____

RESPECTFULLY REPRESENTS

_____ (name of Applicant), that it
desires to construct upon, along, under or across the public way(s) of the City of
Chelsea the following (check all that apply):

_____ Small Wireless Facility (as defined in 47 CFR 1.6002) Located in
Public Rights of Way

_____ Structure (as defined in 47 CFR 1.6002: pole, tower, base station,
etc.) Located in the Public Rights of Way

WHEREFORE, the APPLICANT prays that, after due notice and public hearing
as provided by law, the Department of Public Works may by ORDER grant to
the APPLICANT permission to construct, access, and/or modify in accordance
with plan(s) dated _____, the following (describe work):

*INSERT DESCRIPTION OF WORK HERE, IDENTIFYING WITH SPECIFICITY
THE EXACT LOCATION, TYPE, AND QUANTITY OF FACILITIES OR
STRUCTURES. ATTACH ADDITIONAL SHEETS AS NECESSARY:*



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Total Number of Facilities/Personal Wireless Services Facilities on this Petition

Total Number of Structures on this Petition

Check/Money Order Number_____, Check Amount_____

The APPLICANT understands and agrees that:

1. APPLICANT shall locate and complete all work as specified and approved by the City.
2. APPLICANT shall comply with the requirements of existing ordinances and such as may hereafter be adopted governing the construction.
3. APPLICANT shall perform all work to the requirements and satisfaction of the Department of Public Works or other such officer(s) as may be hereafter appointed by the City.
4. APPLICANT shall comply with all terms and conditions as stated in the Application Procedures and Licensing Agreement.

For the APPLICANT
Signature:

Name:

Title:

Mailing Address:

Telephone:

Date:

Email address:



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City Use Only

Date application submitted:

Receipt Abutter Notifications:

Number of wireless facilities x (\$100.00 each): \$ _____

Number of new wireless structures (like poles) (\$1,000.00 each)
\$ _____

Total Amount Paid: \$ _____

DPW has confirmed filing Building Permit with ISD:

Date filed with ISD: _____

Date confirmed: ____ **By (initials)** ____

Structures only -DPW has confirmed filing Special Permit with P & D:

Date filed with P&D: _____

Date confirmed: ____ **By (initials)** ____



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LICENSE AGREEMENT
BETWEEN
THE CITY OF CHELSEA
AND

(Small Wireless Facility Provider)

This License Agreement (“Agreement”) dated as of this _____ day of _____, is entered into by and between the city of Chelsea, Massachusetts, a municipal corporation (“City”), and _____, a provider of Small Wireless Facilities, (“_____”, or “Licensee”) and is made with reference to the following facts and circumstances:

WHEREAS, the City has made significant investments of time and money in the acquisition and maintenance of the Public Rights-of-Way and other City-owned Property, and such investment has enhanced the utility and value of these assets; and

WHEREAS, the City has a direct interest in encouraging the improvement of wireless and small wireless facility communications infrastructure in order to ensure that the City and its businesses, residents and visitors have the best opportunity to reliably access the highest quality wireless networks and make use of advanced wireless services and applications; and

WHEREAS, reliable and robust wireless communications enhance the City’s business climate and creates a desirable place generally to live, work and visit; and

WHEREAS, the City owns, controls and maintains within the Public Rights-of-Way and on other City-owned Property, certain structures including light poles, traffic signals, street furniture and other infrastructure, some of which is potentially suitable for the attachment of antennas and other equipment and cabling used in the provision of small wireless facilities and small wireless communications services and

WHEREAS, _____ (NAME OF WIRELESS PROVIDER) desires to make use of certain City-owned poles and other City-owned infrastructure within the Public Rights-of-Way and on other City-owned Property for the purpose of operating small wireless facilities in order to provide City residents, businesses and visitors with a more robust and reliable wireless experience and access to advance wireless services and applications; and

WHEREAS, the right to occupy such City-owned poles and other infrastructure for limited times, for the purpose of installing and operating wireless communications facilities, is a valuable economic privilege, the economic benefit of which should be shared with all the taxpayers of the City; and



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WHEREAS, the City can support beneficial competition between providers of communications services by offering rights to install wireless communications facilities on City-owned infrastructure on non-discriminatory and competitively neutral terms and conditions; and

WHEREAS, _____(NAME OF WIRELESS PROVIDER) is willing to compensate the City in exchange for a right to use and physically occupy City-owned poles and other City-owned infrastructure within the Public Rights-of-Way and on other City-owned Property.

NOW THEREFORE BE IT RESOLVED, in consideration of the terms and conditions contained in this Agreement, the City and _____(NAME OF WIRELESS PROVIDER) do hereby agree:

1.0 DEFINITIONS

Except as otherwise defined herein, the following terms shall have the meanings given below:

1.1 “Agency” means any governmental agency other than those of the City, including, but not limited to, the Federal Communications Commission (FCC), the Commonwealth of Massachusetts Department of Telecommunications and Cable and the Commonwealth of Massachusetts Department of Public Utilities.

1.2 “Approved Wireless Facility(ies)” means Small Wireless Facilities which have been approved for installation by the City pursuant to Section 3 of this Agreement.

1.3 “Approved Structures” means Structures which have been approved for installation by the City pursuant to Section 3 of this Agreement.

1.4 “Business Day” means any Day other than a Saturday, Sunday, or Day observed as an official holiday by the City.

1.5 “City Poles” means City-owned poles such as street light poles or traffic light poles, “structures” as defined in 47 CFR 1.6002 (m), and street furniture owned by the City and located in the Public Rights of Way and may refer to such facilities in the singular or plural, as appropriate to the context in which used. It is contemplated that City Poles used for the attachment of Small Wireless Facilities pursuant to this Agreement may, as appropriate given the existing pole’s condition and other circumstances, be installed by and at the expense of _____(NAME OF WIRELESS PROVIDER), as replacements for existing City Poles, or as new City Poles at locations where there is no suitable existing City Pole or Non-City Pole, with such replacement or new City Poles owned by the City. The location of any such new City Pole that is not a replacement of



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an existing City Pole shall be subject to the grant of location approval process set forth in Section 3. The attachment of a Small Wireless Facility shall not: (1) change the primary purposes of the City Pole, which shall remain the purpose for which the City originally installed the City Pole; (2) cause the City Pole to be a “wireless tower or base station,” within the meaning of Section 6409(1) of the Spectrum Act, 47 U.S.C. §1455; or (3) extend the jurisdiction of any Agency of such City Pole, which did not have such jurisdiction over such City Pole prior to the attachment of a Small Wireless Facility to the City Pole.

1.6 “City Property” means City-owned poles such as street light poles or traffic light poles; “structures” as defined in 47 CFR 1.6002 (m), and street furniture owned by the City and located outside the Public Rights-of-Way on property which is owned, or is otherwise controlled through easement or lease, by the City (“City-owned Property”), and may refer to such facilities in the singular or plural, as appropriate to the context in which used. It is contemplated that City Property Poles used for the attachment of Small Wireless Facilities pursuant to this Agreement may, as appropriate given the existing pole’s condition and other circumstances, be installed by and at the expense of

_____(NAME OF WIRELESS PROVIDER), as replacement or new City Property Poles owned by the City. The location of any such new City Property Pole that is not a replacement of an existing City Property Pole shall be subject to the approval of the City. The attachment of a Small Wireless Facility shall not: (1) change the primary purposes of the City Pole, which shall remain the purpose for which the City originally installed the City Pole; (2) cause the City Pole to be a “wireless tower or base station,” within the meaning of Section 6409(1) of the Spectrum Act, 47 U.S.C. §1455; or (3) extend the jurisdiction of any Agency of such City Pole, which did not have such jurisdiction over such City Pole prior to the attachment of a Small Wireless Facility to the City Pole.

1.7 “Commissioner” means the Commissioner of the Department of Public Works, or the Commissioner’s designee.

1.8 “Day” means any calendar day, unless a Business Day is specified. For the purpose hereof, if the time in which an act is to be performed falls on a Day other than a Business Day, the time for performance shall be extended to the following Business Day. For the purpose hereof, the time in which an act is to be performed shall be computed by excluding the first Day and including the last.

1.9 “FCC” means the Federal Communications Commission

1.10 “Hazardous Material” means any substance, waste or material which, because of its quantity, concentration or physical or chemical characteristics is deemed by any federal, state, or local governmental authority to pose a present or potential hazard to human health or safety or to the environment.



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1.11 “Interference” in the context of spectrum licensed by the Federal Communications Commission refers to material adverse effects resulting from transmitting outside of the licensed spectrum or otherwise in violation of the authority granted by the license of the party alleged to be causing the Interference. In the context of unlicensed spectrum it means the material adverse effect of unwanted energy due to one or a combination of emissions, radiations, or inductions upon reception in a pre-existing radio communication system, manifested by any material performance degradation, misinterpretation, or loss of information which could be extracted in the absence of such unwanted energy.

1.12 “Law” or “Laws” means any federal, state or local statute, ordinance, resolution, regulation, procedure, rule, tariff, administrative order, certificate, order or other requirement in effect either at the time of execution of this Licensing Agreement or at any time during the period of this Agreement, including, without limitation, any lawful regulation or order of an official entity or body, to the extent applicable to the circumstances of and to the parties to this Agreement.

1.13 “Person” means an individual, a corporation, a partnership, a sole proprietorship, a joint venture, a business trust, or any other form of business association or government agency.

1.14 “Non-City Poles” means new or existing poles owned by private parties located in the Public Rights-of-Way or on other City-owned Property and or “structures” as defined in 47 CFR 1.6002 (m), and may refer to such structures in the singular or plural, as appropriate to the context in which used. The attachment of a Small Wireless Facility to a non-City Pole shall not extend the jurisdiction of any Agency over such Non-City Pole, which did not have such jurisdiction over such non-City Pole prior to the attachment of a Small Wireless Facility to the Non-City Pole.

1.15 “Public Rights-of-Way” means the area in, upon, above, along, across, under and over the public streets, sidewalks, roads, lanes, courts, ways, alleys, boulevards, and places within the City as the same now or may hereafter exist and which are under the permitting jurisdiction of the Department of Public Works.

1.16 “Release” when used with respect to Hazardous Material means any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into or inside any existing improvements or any improvements constructed hereunder by or on behalf of
_____(NAME OF WIRELESS PROVIDER).

1.17 “Services” means small wireless services provided in the City by
_____(NAME OF WIRELESS PROVIDER)
to its customers, which may encompass, in
_____(NAME OF WIRELESS PROVIDER)'



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sole discretion, any and all small wireless services, of whatever nature, that _____(NAME OF WIRELESS PROVIDER) is authorized to provide under its FCC licenses for uses of the licensed electromagnetic spectrum, as well as wifi service provided using unlicensed spectrum. It also includes other services that _____(NAME OF WIRELESS PROVIDER) may provide using unlicensed spectrum, in accordance with Section 3.0 of this Agreement. This Agreement does not constitute a license to provide cable service as defined in Section 602 of the Communications Act of 1934, as amended, 47 U.S.C. §522(6), within the meaning of G.L. c. 166A.

1.18: “Structures” means poles and other things, all as defined in 47 CFR 1.6002 (m), to which small wireless facilities are or may be attached or “collocated.”

1.19 “Wireless Facility(ies)” means Small Wireless Facilities as defined in 47 CFR 1.6002(l) deployed or to be deployed by _____(NAME OF WIRELESS PROVIDER), and includes without limitation Approved Small Wireless Facilities.

2.0 TERM OF AGREEMENT

The term of this Agreement is a period of ten (10) years (the “Initial Term”), commencing on the date of execution by both parties (the “Term Commencement Date”). The Agreement shall automatically renew for an additional period of ten (10) years (a “Renewal Term”) commencing upon the expiration of the Initial Term unless both parties agree in writing not to renew this Agreement. The Renewal Term will be on the same terms and conditions as set for this Agreement, subject to the negotiation at the time of renewal of competitively neutral, mutually acceptable price terms and conditions, which may, if the parties agree, include further resets.

3.0 DESCRIPTION OF WORK

3.1 During the term of this Agreement, _____(NAME OF WIRELESS PROVIDER) is authorized, on a non-exclusive basis, subject to the terms of this Agreement, to install Approved Small Wireless Facilities for use in a distributed antenna system or systems (DAS), small cell facilities, and any and all other applications and configurations to deliver its services as follows

3.1.1 on City Poles or on City Property;



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3.1.2 on City-owned infrastructure (such as bridge abutments, retaining walls, overpasses, arcades, buildings) in the Public Rights-of-Way or on City-owned Property;

3.1.3 on Non-City Poles;

The right to install Approved Small Wireless Facilities shall include the right to reasonable access to such facilities including but not limited to on foot and by vehicle, to connect such facilities to power and telecommunications service, to maintain such facilities, and to upgrade and modify such facilities, in accordance with this Agreement. Prior to installation of a Small Wireless Facility on a Non-City Pole in the Public Rights-of-Way or on City-owned Property, _____ (NAME OF WIRELESS PROVIDER) shall obtain approval for such installation upon such specific Non-City Pole from the owner of the pole and provide the Commissioner with written evidence of such approval.

3.2 Location

3.2.1. The location and installation of any Approved Small Wireless Facility or Structure requires an Order of Grant of Location from the Department of Public Works as well as a Building Permit from the Building Inspector. Certain proposed Structures may also require an approved Special Permit.

3.2.2 In every case, and as to every structure and/or small wireless facility to be erected, collocated, modified, repaired, added to, subtracted from, improved or otherwise accessed, _____ (NAME OF WIRELESS PROVIDER) shall fully complete and submit an Application for a Grant of Location to the Commissioner of Public Works or his designee.

3.2.3 To the extent said Application as enumerated in paragraph 3.2.2 is deficient or lacking sufficient information as determined by the Commissioner or his designee, said Commissioner shall identify the missing information or deficiency with particularity, enabling _____ (NAME OF WIRELESS PROVIDER) additional time to furnish same and complete the Application with all pertinent, requested documentation.

3.2.4 The Commissioner shall not unreasonably withhold an Order for Grant of Location, provided all necessary information is supplied timely.

3.2.5 Each Order of Grant of Location executed by the Commissioner shall identify with particularity the location or other identifying information of the Approved Structure or Small Wireless Facility.

3.2.6 _____ (NAME OF WIRELESS PROVIDER), shall maintain a complete list identifying all such Approved Structures and or



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Approved Small Wireless Facilities and shall make it available for inspection from time to time as the City deems appropriate.

3.2.7 No proposed Structure or proposed Small Wireless Facility shall be considered an Approved Structure or Approved Small Wireless Facility unless and until a fully executed copy of this, or a substantially similar, License Agreement, together with an Order of Grant of Location affixed thereto, is received and time-stamped by the Licensing Department.

3.2.8 If the installation of a an Approved Structure results in the creation of a double pole, _____(NAME OF WIRELESS PROVIDER) agrees that it will cooperate in good faith with the City in efforts to get the utilities and other companies having attachments on the original pole to relocate the attachments to the new pole so that the double pole can be eliminated as soon as practicable.

3.3 Map and List of Small Wireless Facilities and Structures
_____(NAME OF WIRELESS PROVIDER) shall maintain, in a form reasonably acceptable to the City, a current map and list of the location of all of its Small Wireless Facilities and/or Structures installed prior to and pursuant to this Agreement. This map shall be available to the City via a password protected URL or secure FTP site. The map shall also link to PDF files containing as-built engineering/construction drawings for all such Small Wireless Facilities or Structures.

3.4 Changes to Small Wireless Facilities.
_____(NAME OF WIRELESS PROVIDER) may upgrade, modify or replace any Small Wireless Facility it installs pursuant to this Agreement provided that it obtains a Grant of Location from the Commissioner, who shall forthwith grant said approvals provided that _____(NAME OF WIRELESS PROVIDER) attests that, as to the proposed upgrade, modification or replacement:
3.4 (a): such changes will not impact the structural integrity of the pole or infrastructure on which the Wireless Facility is located and such changes will not interfere with the use of the pole or infrastructure; or 3.4(b): if the modification or replacement does not qualify under 3.4(a), it obtains other necessary approvals for such modification or replacement. All modifications and upgrades shall be reflected on the map as required to be maintained in conformity with this section.

3.5. Provision of Services. The Small Wireless Facilities installed pursuant to this Agreement may be used for any and all Services that
_____(NAME OF WIRELESS PROVIDER) chooses to provide, in its sole discretion. Upon request,
_____(NAME OF WIRELESS PROVIDER) will meet with the City to describe all Services it is providing through its Wireless Facilities within the City. If _____(NAME OF WIRELESS PROVIDER) intends to provide Services using unlicensed spectrum, other than wifi, it will notify the City in advance of deploying those Services and will work with the City to address any



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Interference issues before deploying those Services from any City Pole or any City Property Pole, provided that this shall not be interpreted to waive any right of _____(NAME OF WIRELESS PROVIDER) to operate in accordance with applicable FCC regulations or rulings concerning unlicensed spectrum. In agreeing to this process, _____(NAME OF WIRELESS PROVIDER)S is not conceding any right of the City to exercise regulatory authority over the unlicensed spectrum.

3.6 Utilities. _____(NAME OF WIRELESS PROVIDER) shall pay any charges to install and separately meter electrical, telecommunications or other utility services to _____(NAME OF WIRELESS PROVIDER)' Small Wireless Facilities and shall pay all charges imposed by such utility providers for utilities consumed by _____(NAME OF WIRELESS PROVIDER). The City shall cooperate with _____(NAME OF WIRELESS PROVIDER) in making arrangements with the electric utility company to have the utility service used by _____(NAME OF WIRELESS PROVIDER) separately metered or otherwise accounted for and billed to a separate account payable by _____(NAME OF WIRELESS PROVIDER). Only meters that are Approved Small Wireless Facilities, may be externally attached to any pole or infrastructure that are subject to this Agreement. Should the need arise, during an emergency, for the use of temporary, emergency power generators for Small Wireless Facilities installed pursuant to this Agreement,

_____(NAME OF WIRELESS PROVIDER) shall inform the City of the need to use such emergency power generators, and work with the City to determine the locations at which they will be placed.

3.7 Restoration of Work Site Areas. Upon the completion of each task or phase of work to be performed by _____(NAME OF WIRELESS PROVIDER)S under this Agreement, _____(NAME OF WIRELESS PROVIDER) shall promptly restore all work site areas to a condition reasonably satisfactory to the Commissioner and in accordance with construction standards as reasonably specified by the Commissioner, ordinary wear and tear not caused by _____(NAME OF WIRELESS PROVIDER) excepted. The provisions of this Section shall survive the expiration, completion or earlier termination of this Agreement.

3.8 Removal Upon Termination. Except as otherwise provided in this Agreement, upon one hundred and eighty (180) days' written notice by the City after the expiration of this Agreement or its earlier termination for cause, _____(NAME OF WIRELESS PROVIDER) shall promptly, safely and carefully remove its Small Wireless Facilities installed pursuant to this Agreement from all City Poles, City Property Poles, and City-owned infrastructure located on Public Rights-of-Way or other City-owned Property, except to the extent that



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_____(NAME OF WIRELESS PROVIDER) has other legal authorization, from the City, to maintain one or more such Small Wireless Facilities for a longer time. Such obligation of _____(NAME OF WIRELESS PROVIDER) shall survive the expiration or earlier termination of this Agreement. If _____(NAME OF WIRELESS PROVIDER) fails to complete this removal of work on or before one hundred eighty (180) Days subsequent to the issuance of notice pursuant to this Section 3.9, then the City, upon written notice to _____(NAME OF WIRELESS PROVIDER), shall have the right at the City's sole election, but not the obligation, to perform this removal work using qualified contractors and reasonable care in the removal and handling of the _____(NAME OF WIRELESS PROVIDER) equipment, and charge _____(NAME OF WIRELESS PROVIDER) for the actual costs and expenses, including, without limitation, reasonable administrative costs, provided that _____(NAME OF WIRELESS PROVIDER) shall be allowed to continue its removal work beyond 180 days as long as it is diligently pursuing such removal. _____(NAME OF WIRELESS PROVIDER) shall pay to the City the reasonable costs and expenses incurred by the City in performing any removal work and any storage of _____(NAME OF WIRELESS PROVIDER)' property after removal, within thirty (30) Business Days of the date of a written demand for this payment from the City. The City may, in its discretion, obtain reimbursement for the above by making a claim under _____(NAME OF WIRELESS PROVIDER)' performance bond. After the City receives the reimbursement payment from _____(NAME OF WIRELESS PROVIDER) for the removal work performed by the City, the City shall promptly return to _____(NAME OF WIRELESS PROVIDER) the property belonging to _____(NAME OF WIRELESS PROVIDER) and removed by the City pursuant to this Section 3.9, at no liability to the City. If the City does not receive the reimbursement payment from _____(NAME OF WIRELESS PROVIDER) within such thirty (30) Business Days, or if the City does not elect to remove such items at the City's cost after _____(NAME OF WIRELESS PROVIDER) fails to do so prior to one hundred eighty (180) Days subsequent to the issuance of notice pursuant to this Section 3.9, any _____(NAME OF WIRELESS PROVIDER)' property installed pursuant to this Agreement remaining on or about the Public Rights-of-Way or stored by the City after the City's removal thereof may, at the City's option, be deemed abandoned and the City may dispose of such property in any manner allowed by Law. Alternatively, the city may elect to take title to abandoned property, provided that _____(NAME OF WIRELESS PROVIDER) shall submit to the City an instrument satisfactory to the City transferring to the City ownership of such property. The provisions of this Section shall survive the expiration or earlier termination of this Agreement.



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3.9 Risk of Loss or Damage.

_____(NAME OF WIRELESS PROVIDER)
acknowledges and agrees that the City shall not be liable for any cost of repair to
_____(NAME OF WIRELESS PROVIDER)' equipment and materials installed in the Public Rights-of-Way pursuant to this Agreement, including, without limitation, damage caused by the City's removal of such pursuant to Section 3.9, except to the extent that such loss or damage was caused by the gross negligence or willful misconduct of the City, including without limitation, each of its commissions, departments, officers, agents, employees and contractors.

3.10 Removal or Relocation of Small Wireless Facilities at City's Request.

_____(NAME OF WIRELESS PROVIDER)
understands and acknowledges that the City, at any time and from time to time, may require
_____(NAME OF WIRELESS PROVIDER) to remove or relocate all or a portion of a Small Wireless Facility located on a City Pole, City Property Pole, or other City infrastructure, at
_____(NAME OF WIRELESS PROVIDER)' expense, on ninety (90) Days' notice upon a written request from the City, if the city determines, in its reasonable discretion, that the removal or relocation is needed to facilitate or accommodate the construction, completion, repair, or relocation or maintenance of a City project or a City facility, or because the particular Small Wireless Facility interferes with or adversely affects proper operation of the light poles, traffic signals, or City-owned communications systems in existence at the time of the Wireless Facility is first installed, or, because there is damage to the City Pole or City Property Pole or city-owned infrastructure on which the Small Wireless Facility is located, or because of a sale or vacation of the Right of Way, or a change in the City's use of the Right of Way that affects all licensees, or for other good cause to preserve public health and safety, provided, however, that the City may provide shorter advance notice if circumstances reasonably require expedited or emergency removal or relocation of a particular Small Wireless Facility. The City shall work with
_____(NAME OF WIRELESS PROVIDER) to accommodate the Small Wireless Facility at another reasonably equivalent location or locations on the same or another City Pole, City Property Pole, Non-City Pole or City-owned infrastructure nearby within the Public Rights-of-Way or on City-owned Property.
_____(NAME OF WIRELESS PROVIDER) shall at its own cost and expense remove and relocate the Small Wireless Facility, or any part thereof, to such other location or locations in such manner, as appropriate, as may be designated or approved, in writing and in advance, by the Commissioner. Such removal and relocation shall be completed within the time prescribed by the Commissioner at his written request and in accordance with the terms of this Agreement, provided that such time shall be extended by the time needed to obtain any regulatory approval required to relocate the Small Wireless Facility.

3.11 Removal or Relocation of Small Wireless Facilities No Longer in Use.

_____(NAME OF WIRELESS PROVIDER) shall



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remove any Small Wireless Facility, at _____(NAME OF WIRELESS PROVIDER)' sole expense, within one hundred and twenty (120) Days after _____(NAME OF WIRELESS PROVIDER) abandons the use of that Small Wireless Facility, provided that such time shall be extended by the time needed to obtain any regulatory approval required to remove the Small Wireless Facility.

3.12 Right to Remove a Small Wireless Facility.

_____(NAME OF WIRELESS PROVIDER) shall have the right, at any time, to remove any Small Wireless Facility it has installed pursuant to this Agreement, provided that it shall provide the Commissioner with notice of at least ten (10) Days in advance, and shall coordinate with the Commissioner and City staff regarding the timing and logistics of the removal.

4. PERMIT, LIMITATIONS AND RESTRICTIONS

4.1 Limited Authorization. Except as expressly provided, this Agreement does not authorize the placement of Small Wireless Facilities or any other equipment on City Poles, City Property Poles, Non-City Poles or City-owned infrastructure. The process that will apply to _____(NAME OF WIRELESS PROVIDER) and other parties seeking to use and/or replace City Poles, City Property Poles, and other City-owned infrastructure for the attachment of Small Wireless Facilities or Structures is set forth in Part 3 of this Agreement. This Agreement does not relieve _____(NAME OF WIRELESS PROVIDER) from seeking any necessary permission from other City departments or agencies which have jurisdiction over _____(NAME OF WIRELESS PROVIDER)' proposed Structures or Small Wireless Facilities. The City agrees to implement procedures and policies to expedite, streamline and coordinate the review process for obtaining such permission and reserves the right to change such procedures and policies when deemed an emergency or in the public interest.

4.2 All Permitted Activities and Fees at Provider's Sole Expense. The construction, operation, maintenance, removal and replacement of Small Wireless Facilities and all other activities permitted under this Agreement and all fees or obligations of _____(NAME OF WIRELESS PROVIDER) under this Agreement, shall be _____(NAME OF WIRELESS PROVIDER)'s sole responsibility and borne at its sole cost and expense.

4.3 No Real Property Interest Created. Neither _____(NAME OF WIRELESS PROVIDER)' use of the Public Rights-of-Way or other City-owned property, nor anything contained in this Agreement, shall be deemed to grant, convey, create or vest in _____(NAME OF WIRELESS PROVIDER) a real



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property interest in any portion of the Public Rights-of-Way or in any other City property, including but not limited to any fee, leasehold or easement interest in any land.

_____(NAME OF WIRELESS PROVIDER), on behalf of itself and any permitted successor, lessee, or assign, recognizes and understands that this Agreement may, subject to applicable Laws, create an interest subject to taxation and that _____(NAME OF WIRELESS PROVIDER), its successor, lessee, or assign may be subject to the payment of such taxes.

4.5 All Rights Nonexclusive. Notwithstanding any other provision of this Agreement, any and all rights expressly or impliedly granted to _____(NAME OF WIRELESS PROVIDER) under this Agreement shall be non-exclusive, and shall be subject and subordinate to (1) the continuing right of the City to use, and to allow any other Person or Persons to use, any and all parts of the Public Rights-of-Way, concurrently with any other Person or Persons entitled to do so, and (2) the public easement for streets and any and all other deeds, easements, dedications, conditions, covenants, restrictions, encumbrances and claims of title (collectively, “Encumbrances”) which may affect the Public Rights-of-Way now or at any time during the term of this Agreement, including without limitation any Encumbrances granted, created, or allowed by the City at any time, provided that any such Encumbrance granted after the date of this Agreement shall not interfere with Small Wireless Facilities installed pursuant to this Agreement, or with _____(NAME OF WIRELESS PROVIDER)’ rights to access, maintain, modify and use such Structures or Small Wireless Facilities in accordance with this Agreement.

5.0 WAIVERS, INDEMNIFICATION AND INTERFERENCE

5.1 Non-Liability of City Officials, Employees and Agents. No elective or appointive board, commission, member, officer, employee or other agent of the City shall be personally liable to _____(NAME OF WIRELESS PROVIDER), its successors and assigns, in the event of any default or breach by the City or for any amount which is or may become due to _____(NAME OF WIRELESS PROVIDER), its successors and assigns, or for any obligation of the City under this Agreement.

5.2 Obligation to Indemnify the City. Except to the extent that any of such Claims results from the gross negligence or willful misconduct of the City, including without limitation each of its commissioners, departments, officers, agents, employees and contractors, _____(NAME OF WIRELESS PROVIDER), its successors and assigns, shall hold harmless, defend, protect and indemnify the City, including, without limitation, each of its commissions, departments, officers, agents, employees and



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contractors, from and against any and all actions, losses, liabilities, expenses, claims, demands, injuries, damages, fines, penalties, costs, judgments or suits including, without limitation, reasonable attorneys' fees and costs (collectively, "Claims") of any kind arising directly or indirectly from: (i) any act by, omission by, or negligence of

_____(NAME OF WIRELESS PROVIDER) or its contractors or subcontractors, or the officers, agents, or employees of any of them, while engaged in the performance of the work or conduct of the activities authorized by this Agreement, or resulting directly from the construction, installation, maintenance, replacement, removal or repair of the Small Wireless Facilities, (ii) any accident, damage, death or injury to any _____(NAME OF WIRELESS PROVIDER)S contractor, subcontractor, or any officer, agent, or employee of either of them, while engaged in the performance of the work, or while conducting the activities authorized by this Agreement, or for any reason connected with the performance of the work or conduct of the activities authorized by this Agreement, or arising from liens or claims for services rendered or labor or materials furnished in or for the performance of the work authorized by this Agreement, (iii) any accident, damage, death or injury, to real or personal property and Person(s) that occurs in, upon or is in any way connected with the work or activities authorized or use of City property, by this Agreement to the extent caused by _____(NAME OF WIRELESS PROVIDER), (iv) any Release, or threatened Release, of any Hazardous Material occurring after the date of this Agreement, caused in whole or in part by

_____(NAME OF WIRELESS PROVIDER) in, under, on or about the property subject to this Agreement or into the environment, resulting directly or indirectly from the work or activities authorized by this Agreement but only to the extent that such Release or threatened Release was caused by

_____(NAME OF WIRELESS PROVIDER), and _____(NAME OF WIRELESS PROVIDER) shall have no obligation with respect to any environmental concerns or conditions as may now or at any time hereafter be in existence unless such conditions are caused by

_____(NAME OF WIRELESS PROVIDER) and (v) any violation by _____(NAME OF WIRELESS PROVIDER) of the terms and conditions hereof or any permit or approval issued by the Commissioner or any City department or Agency in connection with the Small Wireless Facilities or Services pursuant hereto, or any misrepresentation made by

_____(NAME OF WIRELESS PROVIDER) in this Agreement or in any document given by

_____(NAME OF WIRELESS PROVIDER) in connection with this Agreement; and (vi) any claims that any Small Wireless Facility infringes a patent, copyright, trade secret, or other property right of a third party.

_____(NAME OF WIRELESS PROVIDER) agrees that indemnification obligations assumed under this Section shall survive expiration or other termination of this Agreement.

5.3 No Liability for Damage, Death or Bodily Injury. Neither the City nor any of its commissions, departments, boards, officers, agents or employees shall be liable for any damage



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to the property of _____ (NAME OF WIRELESS PROVIDER), its officers, agents, employees, contractors or subcontractors, or their employees, or for any bodily injury or death to such Persons, resulting or arising from the Small Wireless Facilities or activities authorized by this Agreement, the condition of any City property subject to this Agreement or _____ (NAME OF WIRELESS PROVIDER)' use of any City property, except to the extent caused by the City's gross negligence or willful misconduct.

5.4 Waiver of Claims regarding Fitness of Poles Located on Public Ways.

_____, (NAME OF WIRELESS PROVIDER) acknowledges that the City has made no warranties or representations regarding the fitness, availability or suitability of any of poles or City-owned infrastructure for the installation of Small Wireless Facilities, or for any other activities permitted under this Agreement, and that, except as expressly provided in this Agreement, any performance of work or costs incurred by _____ (NAME OF WIRELESS PROVIDER) or provision of Services contemplated under this Agreement by _____ (NAME OF WIRELESS PROVIDER) is at _____ (NAME OF WIRELESS PROVIDER)' sole risk. Except as otherwise expressly provided in this Agreement, _____ (NAME OF WIRELESS PROVIDER) on behalf of itself and its successors and assigns, waives its right to recover from, and forever releases and discharges, the City and its agents, and their respective heirs, successors, administrators, personal representatives and assigns, from any and all Claims, whether direct or indirect, known or unknown, foreseen and unforeseen, that may arise on account of or in any way be connected with the physical or environmental condition of the poles located on Public Rights-of-Way, any City property affected by this Agreement, or any law or regulation applicable thereto. The City agrees: (i) to allow _____ (NAME OF WIRELESS PROVIDER) to investigate the location of a City Pole facility, and (ii) to work cooperatively with _____ (NAME OF WIRELESS PROVIDER) to facilitate the investigation of City-owned Property, under consideration for attachment of a Small Wireless Facility, for the possible presence of lead based paint, asbestos, or other hazardous substances (as that term may be defined under any applicable Laws), and the City shall facilitate such investigation as necessary.

5.5 Waiver of All Claims. _____ (NAME OF WIRELESS PROVIDER) acknowledges that the City may terminate this Agreement under certain limited circumstances, and in view of such fact _____ (NAME OF WIRELESS PROVIDER) expressly assumes the risk of making any expenditures in connection with this Agreement, even if such expenditures are substantial (over \$2,500.00), and _____ (NAME OF WIRELESS PROVIDER) expressly assumes the risk of selling its Services which may be affected by the termination of this Agreement. Without limiting any indemnification obligations of



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_____(NAME OF WIRELESS PROVIDER) or other
waivers contained in this Agreement, and as a material part of the consideration for this
Agreement, _____(NAME OF WIRELESS
PROVIDER) fully RELEASES, WAIVES AND DISCHARGES forever any and all claims,
demands, rights, and causes of actions against, and covenants not to sue the City, its departments,
commissions, officers, commissioners and employees, and all Persons acting by, through or
under each of them, under any present or future Laws, including, but not limited to, any claim for
inverse condemnation or the payment of just compensation under the law of eminent domain, or
otherwise at equity, in the event that the City lawfully and justifiably exercises its right to
terminate this Agreement for cause, in accordance with its terms. Notwithstanding anything to
the contrary contained in this Agreement,

_____(NAME OF WIRELESS PROVIDER) does not
intend to waive, and hereby specifically reserves, all rights at law or in equity to contest any
termination by the City.

5.6 No Liability for Consequential or Incidental Damages.

_____(NAME OF WIRELESS PROVIDER) and the
City each expressly acknowledges and agrees that neither of them will be liable for any
consequential or incidental damages incurred by the other, including, but not limited to, lost
profits and loss of good will, arising out of a lawful and justifiable termination of this Agreement
in accordance with its terms, or the construction or operation of, or disruption to, one or more
Small Wireless Facilities, or any other activities contemplated under this Agreement. Neither
party would be willing to enter into this Agreement in the absence of such waiver. Accordingly,
without limiting any indemnification obligation of

_____(NAME OF WIRELESS PROVIDER) or other
waivers contained in this Agreement, and as a material part of the consideration for this
Agreement, _____(NAME OF WIRELESS
PROVIDER) and the City each fully RELEASES, WAIVES AND DISCHARGES the other
forever from any and all claims, demands, rights, and causes of action for consequential and
incidental damages (including without limitation, lost profits and loss of good will), and
covenants not to sue the other party or any Persons acting by, through or under that party, for
consequential or incidental damages arising out of this Agreement or the work and activities
authorized hereunder regardless of the cause, and whether or not due to the negligence or gross
negligence of the other party or its agents.

5.7 No Disruption. _____(NAME OF
WIRELESS PROVIDER) shall not unreasonably disrupt in any manner any public or private
facilities existing now or in the future, including but not limited to sanitary sewers, water mains,
storm drains, gas mains, poles, aerial and underground electric and telephone wires, electroliners,
cable television, telecommunications facilities, utility, and municipal property, without the
express written approval of the owner or owners of the affected property or properties, except as
permitted by applicable Laws or this Agreement.

_____(NAME OF WIRELESS PROVIDER) shall be



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responsible for repair and restoration of any damage to facilities belonging to the City, to the extent that _____ (NAME OF WIRELESS PROVIDER) causes disruption resulting in such damages. The City agrees to include an equivalent provision in all similar agreements the City may enter into with others after the date of this Agreement.

5.8 Interference. _____ (NAME OF WIRELESS PROVIDER) agrees to install equipment and provides Services of the type and frequency which will not cause Interference to any equipment of the City which existed prior to the date of this Agreement is executed by the Parties. In the event that any after-installed _____ (NAME OF WIRELESS PROVIDER)'S equipment or Services causes Interference, and after the City has notified _____ (NAME OF WIRELESS PROVIDER) in writing of such Interference, _____ (NAME OF WIRELESS PROVIDER) will take all commercially reasonable steps necessary to correct and eliminate the Interference, including but not limited to, at _____ (NAME OF WIRELESS PROVIDER)' option, powering down such equipment and later powering up such equipment for intermittent testing. If the Interference issue is determined to be caused by _____ (NAME OF WIRELESS PROVIDER) and more than ninety (90) days have elapsed from the date the City gave notice if such Interference issue, the City may require _____ (NAME OF WIRELESS PROVIDER) to discontinue use of the equipment causing the Interference issue. In no event will the City be entitled to terminate this Agreement for reasons related to Interference.

5.9 The City agrees that it will install only such equipment that is of the type and frequency which will not cause Interference to the then existing equipment of _____ (NAME OF WIRELESS PROVIDER) unless required for public safety communications.

5.10 In the event that the City notifies _____ (NAME OF WIRELESS PROVIDER) of its belief that _____ (NAME OF WIRELESS PROVIDER)'s equipment or Services are creating Interference to new or existing public safety communications systems at one or more particular locations, _____ (NAME OF WIRELESS PROVIDER) shall work with the City to promptly investigate and resolve such Interference issue. If after investigation the City reasonably determines that the Interference is being caused by _____ (NAME OF WIRELESS PROVIDER)'s equipment, the City will make _____ (NAME OF WIRELESS PROVIDER) aware of the basis for that determination and _____ (NAME OF WIRELESS PROVIDER) will take such measures as are necessary to eliminate such Interference, up to and including the relocation or replacement of _____ (NAME OF WIRELESS PROVIDER)'s equipment or modification of its Services determined to cause such interference,



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with all costs and expenses related thereto to be borne by
_____(NAME OF WIRELESS PROVIDER).

5.11 Notwithstanding anything in this Agreement to the contrary, it is expressly agreed that, if any of _____(NAME OF WIRELESS PROVIDER)'s equipment causes Interference that the City reasonably believes could significantly interfere with the City's public safety communications, _____(NAME OF WIRELESS PROVIDER) shall, upon written request from the City, immediately suspend the operation of the particular equipment at the particular location(s) in question, and be responsible for coordinating and resolving the Interference within forty-eight (48) hours of receipt of notification from the City. If the Interference cannot be resolved within the 48-hour period, and if _____(NAME OF WIRELESS PROVIDER) cannot show that it is not the cause of the Interference, _____(NAME OF WIRELESS PROVIDER) shall power down or turn off any equipment causing the Interference, and cease the operations of its equipment until the Interference problems are fully resolved. In the event _____(NAME OF WIRELESS PROVIDER) fails to timely cease operations and/or eliminate the Interference within such 48-hour period, the City and _____(NAME OF WIRELESS PROVIDER) will promptly work together to temporarily discontinue the electricity supplied to such equipment, for the purpose of determining the source of the Interference.

5.12 Notwithstanding anything in this Agreement to the contrary, it is expressly agreed and understood that, if any of _____(NAME OF WIRELESS PROVIDER)'s equipment or Services causes Interference with any systems impacting the City's emergency preparedness, law enforcement activities or other urgent public safety obligations, the City may take any and all such steps as it is empowered to take under its police power authority, which may include immediately discontinuing the electricity supplied to such equipment, until such Interference problems are resolved. To the extent feasible, the City agrees to give _____(NAME OF WIRELESS PROVIDER) verbal notice prior to undertaking any action under this Section that will result in cutting off power to a _____(NAME OF WIRELESS PROVIDER) Small Wireless Facility or otherwise preventing _____(NAME OF WIRELESS PROVIDER) from operating any Services from one or more Small Wireless Facilities in the City.

5.13 _____(NAME OF WIRELESS PROVIDER) shall be responsible for the security of its Small Wireless Facilities and the protection of City assets and property. The City shall not be responsible for _____(NAME OF WIRELESS PROVIDER)' property, or the property of its contractors, agents, representatives, employees, permittees, licensees, guests, or invitees.

5.14 _____(NAME OF WIRELESS PROVIDER) shall waive any and all claims for compensation for any and all loss or damage



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sustained by reason of any interference by any public agency or official in the operation of this Agreement.

5.15 The indemnification provisions of this Agreement are independent of and shall not in any way be limited by the insurance requirements contained in this Agreement. The City's approval of insurance contracts required hereunder does not in any way relieve

_____ (NAME OF WIRELESS PROVIDER) from liability. The obligations of _____ (NAME OF WIRELESS PROVIDER) under Section 5 shall survive the expiration or termination of this Agreement.

5.16 The Parties acknowledge that there will not be an adequate remedy at law for noncompliance with the provisions of Sections 5.8 through 5.16 and therefore, either party shall have the right to equitable remedies, such as, without limitation, injunctive relief and specific performance.

6.0 INSURANCE

6.1 Amounts and Coverages.

_____ (NAME OF WIRELESS PROVIDER) will maintain in force, during the full term of this Agreement, occurrence form of insurance in the following amounts and coverages:

6.1.1. Workers' Compensation Insurance as required from under G.L. c. 152 (the Workmen's Compensation Law) and including employer's liability limits of one million (\$1,000,000.00) per accident and per employee, including disease.

6.1.2. Commercial General Liability Insurance for Bodily Injury and Property Damage, on an Occurrence Form, including Premises/Operation, Products/Completed Operations Liability, Contractual Liability, and Personal and Advertising Injury with a limit of five million dollars (\$5,000,000.00) per occurrence for bodily injury and property damage and five million dollars (\$5,000,000.00) annual general aggregate.

6.1.3. Business Automobile Liability Insurance with limits not less than two million dollars (\$2,000,000.00) each accident Combined Single Limit for Bodily Injury and Property Damage.

6.1.4. Umbrella Liability Insurance in excess of Commercial General Liability and Business Automobile Liability for five million (\$5,000,000.00) each occurrence.

6.2 Required Provision. Commercial General Liability and Automobile Liability Insurance shall provide for the following:

6.2.1. Include as additional insureds the City of Chelsea, its officers, and employees as their interests may appear under this Agreement, excluding worker's compensation and employer's liability.



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6.2.2. That such policies are primary insurance to any other insurance available to the additional insureds, with respect to any claims arising out of this Agreement.

6.3 Advance Notice of Cancellation.

_____(NAME OF WIRELESS PROVIDER) shall provide the City with thirty (60) Days advance notice of cancellation to the following address:

City Solicitor's Office
Chelsea City Hall
500 Broadway, Room 307
Chelsea, MA 02150
ATTN: Cheryl Watson Fisher, Esquire

6.4 Receipt of Certificates of Insurance. Certificates of insurance, on Acord Form 25, evidencing all insurance coverages listed above, shall be furnished to the City before commencing any operations under this Agreement. Complete copies of policies may be reviewed at the office closest to the City of the

_____(NAME OF WIRELESS PROVIDER) at reasonable times, upon request. Renewal certificates shall be furnished to the City no later than thirty (30) days prior to expiration of the preceding policy.

6.5 All policies shall be issued by insurance companies licensed, authorized or permitted to write such insurance in their domicile state and in the Commonwealth of Massachusetts, and will have a current rating provided by "Best's Insurance Reports" of A-VII or above. Waiver of Subrogation will be included as respects all insurance coverages listed above in favor of the City. The Worker's Compensation Insurance Policy must be specifically endorsed and noted as such in the required certificate.

6.6 Failure of _____(NAME OF WIRELESS PROVIDER) to provide and continue to enforce such insurance shall be deemed a material breach of contract, and grounds for termination of the Agreement. These requirements shall to be construed to limit the liability of _____(NAME OF WIRELESS PROVIDER) or its insurers.

7.0 PERMIT FEES, ANNUAL FEES, RECORDS AND SECURITY DEPOSIT

In connection with the work to be performed and activities to be conducted by _____(NAME OF WIRELESS PROVIDER) under this Agreement:

7.1 Recurring Annual Fees



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7.1.1. In order to compensate the City for _____(NAME OF WIRELESS PROVIDER)' access to, entry upon, across, below, above or touching public Rights of Way, as to every Small Wireless Facility deployed or collocated upon a structure within the said Public Right of Way, an annual fee of \$270.00 per Small Wireless Facility shall accrue. Said fee shall be due and payable each year on or before December 31; to the extent the Small Wireless Facility is deployed or collocated for any portion of one year before December 31, the fee shall be prorated to reflect the number of full months (consisting of 30 days each) the Small Wireless Facility was so deployed or collocated.

7.2. One-Time Fees

7.2.1 In addition to all other permitting fees, _____(NAME OF WIRELESS PROVIDER) will pay a one-time fee in the amount of \$100.00 per each Small Wireless Facility which fee shall be due and payable as an "Application Fee" associated with the Application for Grant of Location. To the extent _____(NAME OF WIRELESS PROVIDER) seeks, in its Grant of Location Application, to erect a new Structure to support deployment of a Small Wireless Facility, _____(NAME OF WIRELESS PROVIDER) will pay, in connection with its Grant of Location Application Fee, \$1,000.00 per new Structure.

7.3 Exhibits to this Licensing Agreement

7.3.1: No siting shall be permitted except by duly executed Order of Grant or Grants of Location, which shall be affixed hereto, incorporated by reference, and is an integral part of this Licensing Agreement.

8.0 WORK STANDARDS

8.1 Performance of Work. _____(NAME OF WIRELESS PROVIDER) shall exercise due care, caution, skill, and expertise in performing all work under this Agreement and shall take all reasonable steps to safeguard and maintain in a clean and workmanlike manner, all work site areas, including, without limitation, the areas around City Poles, City Property Poles, and City-owned infrastructure. All work _____(NAME OF WIRELESS PROVIDER) undertakes in the Public Rights-of-Way and other City-owned Property pursuant to this Agreement shall at all times be formed by workers in accordance with generally accepted industry practice and in compliance with all Laws.

8.2 Work Plan. Prior to performing any work on Small Wireless Facilities subject to this Agreement within the Public Rights-of-Way, _____(NAME OF WIRELESS PROVIDER) shall present a map and written proposal describing the work to be performed and the facilities, methods, and materials (if any) to be installed in the Public Rights-of-Way ("Work Plan") to the



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Commissioner for review. In addition, prior to conducting any work in the Public Rights-of-Way, _____(NAME OF WIRELESS PROVIDER) shall provide to the City a current emergency response plan identifying staff who have authority to resolve, twenty-four (24) hours a Day, seven (7) Days a week, problems or complaints resulting, directly or indirectly, from the Small Wireless Facilities installed pursuant to this Agreement. As soon as is reasonably practical following installation of Small Wireless Facilities, _____(NAME OF WIRELESS PROVIDER) shall deliver as-built drawings to the Commissioner.

8.3 No underground work. _____(NAME OF WIRELESS PROVIDER) hereby represents, warrants and covenants that, except (i) to the extent associated with the installation of an Approved Small Wireless Facility entailing replacement of a City Pole, City Property Pole, or Non-City Pole as authorized under this Agreement, or (ii) to the limited and minimum extent necessary in order to connect fiber optic cable and power service from its Small Wireless Facilities to the fiber optic and electrical power facilities already present in the City's public ways, or which may be installed in the ways by others in the future, and with the express approval of the City or (iii) as otherwise expressly approved of the City, _____(NAME OF WIRELESS PROVIDER) shall perform no excavation, trenching, coring, boring, or digging into the ground or installation of any equipment or other material into the ground, or any other underground work within the Public Rights-Of-Way or other City owned property in connection with the installation of its Small Wireless Facilities under this Agreement.

_____(NAME OF WIRELESS PROVIDER) further represents, warrants and covenants that it shall not otherwise disturb or disrupt the operation or maintenance of any sanitary sewers, storm drains, gas or water mains, or other underground conduits, cables, mains or facilities.

8.4 Repair or Replacement of Damaged Facilities or Property. Upon written request, _____(NAME OF WIRELESS PROVIDER) agrees to repair or replace, to the City's reasonable satisfaction based on standards equivalent to those the City requires of any other similarly situated party, any City-owned facilities or City-owned Property that the City determines has been damaged, destroyed, defaced or otherwise injured as a result of work performed by _____(NAME OF WIRELESS PROVIDER) under this Agreement.

_____(NAME OF WIRELESS PROVIDER) shall perform such work at no expense to the City, except to the extent such damage, destruction, defacement or injury was caused by the gross negligence or willful misconduct of the City or a third party.

8.5 Modification of Work Plans. If during the term of this Agreement, the Commissioner determines that the public health or safety requires a modification of or a departure from the Work Plan submitted by _____(NAME OF WIRELESS PROVIDER) with respect to a particular Small Wireless Facility the Commissioner shall have the authority to identify, specify and delineate the modification or departure required, and



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_____(NAME OF WIRELESS PROVIDER) shall perform the work allowed under this Agreement as revised by the Commissioner's specified modification or departure, at _____(NAME OF WIRELESS PROVIDER)' sole expense. The Commissioner shall provide _____(NAME OF WIRELESS PROVIDER) with a written description of the required modification or departure, the public health or safety issue necessitating the modification or departure, and the time within which _____(NAME OF WIRELESS PROVIDER) shall make, complete or maintain the modification or departure required.

9.0 TERMINATION

9.1 Termination upon Notice in Certain Circumstances. In addition to all other remedies provided by Law or in equity, either party ("Non-Defaulting Party") may terminate this Agreement upon written notice to the other party ("Defaulting Party") in the event that the Defaulting Party has failed to perform any of its material obligations under this Agreement; provided, however, that if the Defaulting party's failure to perform under or comply with this Agreement is capable of being cured, and if a specific notice or cure period or time for performance of such obligation is not otherwise specified in this Agreement, then the Non-Defaulting Party shall provide the Defaulting Party with a notice of the Defaulting party's failure to perform or comply and provide the Defaulting Party with ninety (90) Days from the date of the notice to cure the failure to perform or comply and if within such time the Defaulting Party cures its failure to perform to the Non-Defaulting Party's reasonable satisfaction, the termination shall not take effect. If the Defaulting Party is unable to cure such failure to perform or comply within the time provided for such cure, the Non-Defaulting Party shall extend the time for cure so long as the Defaulting Party continues to diligently pursue such cure and then the termination shall not take effect until such time, if any, as the Defaulting Party has failed to cure to the reasonable satisfaction of the Non-Defaulting Party and is no longer diligently pursuing such cure.

9.2 Termination for Breach of Insurance Obligations. In addition to all other remedies provided by Law or in equity, the City may terminate this Agreement upon written notice to _____(NAME OF WIRELESS PROVIDER) in the event that _____(NAME OF WIRELESS PROVIDER) has failed to perform any of its material obligations under Article 6 of this Agreement; provided, however, that such termination is effective six (6) Business Days after such notice, and further provided that if _____(NAME OF WIRELESS PROVIDER) cures all of its failures to perform in compliance with Article 6 of this Agreement to the City's reasonable satisfaction, before the termination becomes effective, the termination shall not take effect.

9.3 Effect of Termination. In the event of termination of this Agreement, _____(NAME OF WIRELESS PROVIDER) shall immediately cease all work being performed under this Agreement, excepting only that work



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necessary for _____ (NAME OF WIRELESS PROVIDER) to remove all Small Wireless Facilities installed in City Poles, City Property Poles, or other City-owned infrastructure pursuant to this Agreement. Termination of this Agreement by the City, as herein provided, shall constitute a withdrawal of the consent or authorization of the City for _____ (NAME OF WIRELESS PROVIDER) to perform any construction or other work under this Agreement in the Public Rights-of-Way or on City-owned Property excepting only that work necessary for _____ (NAME OF WIRELESS PROVIDER) to remove all Small Wireless Facilities from City Poles, City Property Poles, or other City-owned infrastructure and leave all work site areas in a clean and safe condition and in accordance with Article 3, or as the City may otherwise expressly provide. Upon any such early termination, the City shall promptly remit to _____ (NAME OF WIRELESS PROVIDER) a prorated portion of any annual fees due to the City pursuant to Section 7. Termination or expiration of this Agreement shall not preclude _____ (NAME OF WIRELESS PROVIDER) from maintaining or modifying existing Small Wireless Facilities on Non-City Poles within the Public Rights-of-Way, subject to applicable laws.

10.0 NOTICES

Except as otherwise expressly provided in this Agreement, any notice given hereunder shall be effective only if in writing and given by delivering the notice in person, or by sending it first-class mail or certified mail with a return receipt requested, postage prepaid, or reliable commercial overnight courier, return receipt requested, with postage prepaid to:

If to the City:

City of Chelsea
ATTN: City Solicitor
500 Broadway Room 307
Chelsea, MA 02150

With a copy to:

City of Chelsea
ATTN: City Clerk
500 Broadway Room 209
Chelsea, MA 02150

If to _____ (NAME OF WIRELESS PROVIDER)

With a copy to (COMPLETE THIS SECTION):

.....

.....



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or to such other address as either the City or

_____ (NAME OF WIRELESS PROVIDER) may designate as its new address for such purpose by notice given to the other in accordance with the provisions of this Section at least ten (10) Days prior to the effective date of such change. Any notice under this Section shall be deemed to have been given two (2) Days after the date when it is mailed if sent by first-class or certified mail, return receipt requested, postage prepaid, one (1) Day after the date it is made if sent by commercial overnight courier, or upon the date personal delivery is made.

11.0 ASSIGNMENT

11.1 Assignment by _____ (NAME OF WIRELESS PROVIDER). Neither this Agreement nor any part of _____ (NAME OF WIRELESS PROVIDER)' rights hereto may be assigned, pledged or hypothecated, in whole or in part, without the express written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, the transfer of the rights and obligations of _____ (NAME OF WIRELESS PROVIDER) under this Agreement to a parent, subsidiary, successor or financially viable affiliate, or to any entity which acquires all or substantially all of _____ (NAME OF WIRELESS PROVIDER)' assets in a market defined by the FCC in which Chelsea, Massachusetts, is located, by reason of a merger, acquisition, or other business reorganization, shall not be deemed an assignment for the purposes of this Agreement, provided that _____ (NAME OF WIRELESS PROVIDER) delivers to the City the following: (1) a Bond issued in the name of the transferee; (2) an Assignment and Assumption Agreement between the City and the transferee; and (3) a Certificate of Insurance naming the transferee as insured. In the event _____ (NAME OF WIRELESS PROVIDER) files a petition in bankruptcy pursuant to 11 U.S.C. Sections 101, et seq., the assignment of this Agreement shall be governed by the provisions of the Bankruptcy Code. An assignment of this Agreement is only enforceable against the City if _____ (NAME OF WIRELESS PROVIDER) or its trustee in bankruptcy complies with the provisions of 11 U.S.C. Section 365, including obtaining the approval of the Bankruptcy Court. The City hereby expressly reserves all of its defenses to any proposed assignment of this Agreement. Any Person or entity to which the Bankruptcy Court approves this assignment of this Agreement shall be deemed without further act to have assumed all of the obligations of _____ (NAME OF WIRELESS PROVIDER) arising under this Agreement on and after the date of such assignment. Any such assignee shall upon demand execute and deliver to City an instrument confirming such assumption. Any monies or other considerations payable or otherwise to be delivered in connection with such assignment



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shall be paid to the City, shall be the exclusive property of the City, and shall not constitute property of _____(NAME OF WIRELESS PROVIDER) or of the estate of _____(NAME OF WIRELESS PROVIDER) within the meaning of the Bankruptcy Code.

11.2 Prohibition on Sublicense by

_____(NAME OF WIRELESS PROVIDER). Except to a parent, subsidiary, successor, or financially viable affiliate, or to any entity which acquires all or substantially all of _____(NAME OF WIRELESS PROVIDER)' assets in a market defined by the FCC in which Chelsea, Massachusetts, is located, by reason of a merger, acquisition or other business reorganization, VRIZON WIRELESS is prohibited from sublicensing any of its rights under this Agreement, including, but not limited to, its right to install Approved Small Wireless Facilities on poles and City-owned infrastructure, without the express written consent of the City. This restriction on sublicensing is not intended to prevent other parties such as, without limitation, resellers and providers of data services, from using _____(NAME OF WIRELESS PROVIDER) Small Wireless Facilities or Services.

11.3 Rights Upon Sale by City. If, at any time during the Term of this Agreement, the City decides: (1) to sell or transfer all or any part of the City Poles, City Property Poles or other City-owned infrastructure containing or having the potential to contain Small Wireless Facilities, or the underlying portions of the Right-of-Way or City property to a purchaser other than _____(NAME OF WIRELESS PROVIDER), or (ii) to grant to a third party by easement or other legal instrument an interest in City Poles, City Property Poles or other City-owned infrastructure for any purposes, that sale or grant of an easement or interest therein shall be subject to _____(NAME OF WIRELESS PROVIDER)' rights under this Agreement, and any such purchaser or transferee must recognize such rights.

12. MISCELLANEOUS

12.1 Amendments. Neither this Agreement nor any of its terms or provisions may be changed, waived, discharged or terminated, except by a written instrument signed by both of the parties.

12.2 Representations and Warranties. The Person executing this Agreement on behalf of _____(NAME OF WIRELESS PROVIDER) does hereby covenant, represent and warrant that, to the best of his or her knowledge, (a) _____(NAME OF WIRELESS PROVIDER) is a duly authorized and existing Delaware general partnership, has and is qualified to do business in the Commonwealth of Massachusetts and has full right and authority to enter into this Agreement, (b) the person signing on behalf of _____(NAME OF



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WIRELESS PROVIDER) is authorized to do so and (c) the Structures and or Small Wireless Facilities installed pursuant to this Agreement shall comply with all applicable FCC standards regarding radio frequencies and electromagnetic field emissions. Upon the City's written request, _____ (NAME OF WIRELESS PROVIDER) shall provide the City with evidence reasonably satisfactory to the City confirming the foregoing representations and warranties.

12.3 Interpretation of Agreement. This Agreement has been negotiated at arm's length and between Persons sophisticated and knowledgeable in the matters it concerns, and shall be interpreted to achieve the intents and purposes of the parties, without any presumption against the party responsible for drafting any part of this Agreement. Use of the word "including" or similar words shall not be construed to limit any general term, statement or other matter in this Agreement, whether or not language of non-limitation, such as "without limitation" or similar words, are used.

12.4 Severability. If any provision of this Agreement or its application to any Person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to Persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected, and each other provision of this Agreement shall continue to be valid and be enforceable to the fullest extent permitted by Law.

12.5 Governing Law. This Agreement shall be construed and enforced in accordance with the Laws of the Commonwealth of Massachusetts.

12.6 Entire Agreement. This instrument (including the exhibits which are made part of this Agreement) contains the entire agreement between the parties and supersedes all prior written or oral negotiations, discussions, understandings and agreements. The parties further intend that this Agreement shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including prior drafts of this Agreement) may be introduced in any judicial, administrative or other legal proceeding involving this Agreement.

12.7 Time of Essence. Time is of the essence with respect to all provisions of this Agreement in which a definite time for performance is specified.

12.8 Cumulative Remedies. All rights and remedies of either party set forth in this Agreement shall be cumulative, except as the Agreement may otherwise provide.

12.9 Relationship of the Parties. The City is not, and none of the provisions in this Agreement shall be deemed to render the City, a partner in _____ (NAME OF WIRELESS PROVIDER)' business, or joint venture or member in any joint enterprise with _____ (NAME OF WIRELESS PROVIDER). Neither party shall act as the agent of the other party in any respect under this Agreement, nor shall neither party have any authority to commit or bind the other party without such party's prior written consent. This Agreement is not intended nor shall it be construed to create any third party beneficiary rights in any third party, unless otherwise expressly provided.



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12.10 Non-Discrimination. _____(NAME OF WIRELESS PROVIDER) agrees and shall require all agents conducting business in Massachusetts on its behalf to agree not to discriminate on the basis of race, sex, religious creed, national origin, sexual preference, sexual identity, color, disability or age in connection with this Agreement. In addition, _____(NAME OF WIRELESS PROVIDER) shall require all agents to post in a conspicuous place all relevant notices and posters to be provided by the Massachusetts Commission Against Discrimination setting forth the provisions of the Fair Employment Law of the Commonwealth.

12.11 Unless, and only to the extent, specifically stated in this Agreement, nothing in this Agreement is intended or shall be interpreted to waive, limit or abridge any rights of _____(NAME OF WIRELESS PROVIDER) has under state or federal laws or regulations by virtue of its status as a federally licensed wireless services provider, or otherwise, with respect to the installation and operation of Small Wireless Facilities within or outside of the Public Rights-of-Way. If, after the Term Commencement Date there is (i) a change in Law that changes the nature or extent of the obligations that the City may require from or impose upon a party attaching to non-City Poles, or (ii) a change in Law or an agreement between the City and another small wireless service provider that contains more favorable provisions for the approval of Small Wireless Facilities such that the terms of this Agreement place _____(NAME OF WIRELESS PROVIDER) at a material competitive disadvantage to other small wireless service providers, the City agrees that notwithstanding any other provision of law or this Agreement, then upon _____(NAME OF WIRELESS PROVIDER)' written notice, _____(NAME OF WIRELESS PROVIDER) and the City shall, within thirty (30) days of the City's receipt of such notice, commence negotiations to modify this Agreement to conform to such change in Law or such other agreement.

12.12 To the extent that _____(NAME OF WIRELESS PROVIDER) provides information that is "Trade secrets or commercial or financial information" exempt from public disclosure pursuant to G.L. c. 4 §7(26)(g), the City agrees that this information may not be disclosed to any Person other than those City officials, employees, attorneys, and agents who have a need to know and are subject to this confidentiality requirement. The City agrees to protect the confidentiality of such Confidential Information to the extent permitted under applicable law and to notify _____(NAME OF WIRELESS PROVIDER) promptly if a third party seeks access to any Confidential Information.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE TO FOLLOW.



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IN WITNESS HEREOF, the duly authorized representatives of the parties hereto have executed this Agreement as of the dates below.

CITY OF CHELSEA

(NAME OF WIRELESS PROVIDER)

By: Thomas G. Ambrosino
Its: City Manager

By:
Its:

Date

Date

Approved as to Form

By: _____
Cheryl Watson Fisher, Esquire
City Solicitor

Date