

Small Wireless Facility Collocation Agreement Between the City of Shakopee and Verizon Wireless (VAW) LLC

This Small Wireless Facility Collocation Agreement (the "Agreement") is made this _____ day of _____, 20_____, between the City of Shakopee, a Minnesota local government unit, with its principal offices located at 485 Gorman Street in Shakopee, Minnesota 55379, ("CITY") and Verizon Wireless (VAW) LLC d/b/a Verizon Wireless, with its principal offices located at One Verizon Way, Mail Stop 4AW100 in Basking Ridge, New Jersey 07920 ("USER"). CITY and USER are collectively referred to as the "Parties" or individually as a "Party."

WHEREAS, the Federal Communications Act of 1934, as amended, authorizes CITY to manage and control access to and use of public rights-of-way within city limits; and

WHEREAS, CITY has elected to manage its rights-of-way as authorized by Minnesota Statutes, Sections 237.162-.163 and CITY's municipal code of ordinances (the "Code"); and

WHEREAS, this Agreement applies to the collocation of Small Wireless Facilities as defined per CITY Code Chapter 90, all of which are terms are applicable and enforceable by reference; and

WHEREAS, CITY owns or controls existing structures in the public right-of-way that are designed to support or determined by CITY as capable of supporting a Small Wireless Facility ("Wireless Support Structure"), which are located within the geographic area of a license held by USER to provide wireless services; and

WHEREAS, CITY has elected to set forth the terms and conditions of collocation on its Wireless Support Structures, and USER desires to install, maintain and operate Small Wireless Facilities on CITY's Wireless Support Structures; and

WHEREAS, CITY and USER desire to enter into this Agreement to define the general terms and conditions which will govern their relationship with respect to the particular sites at which USER will collocate its Small Wireless Facilities on CITY's Wireless Support Structures; and

WHEREAS, USER must compensate CITY for the collocation of Small Wireless Facilities on CITY's Wireless Support Structures. The fees imposed by CITY will be as established by the CITY fee schedule and as contained herein; and

WHEREAS, CITY and USER acknowledge that they will enter into an agreement supplement ("Supplement") in substantially the form attached hereto as Exhibit A, with respect to each particular Wireless Support Structure on which USER will collocate; and

WHEREAS, this Agreement is not exclusive, and CITY reserves the right to grant permission to other eligible and qualified entities to collocate Small Wireless Facilities in CITY's rights-of-way; and

WHEREAS, approval of this Agreement by CITY will be in the form of an approved City Council Resolution. Following said approval of this Agreement, each individual Supplement may be approved by the City Administrator or his/her designee.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the Parties agree as follows:

1. PREMISES. Pursuant to all of the terms and conditions of this Agreement and the applicable Supplement, CITY agrees to lease to USER certain space described in the applicable Supplement upon CITY's Wireless Support Structure in the public right-of-way (CITY's Wireless Support Structure, personal property, public right-of-way and surrounding real property are hereinafter sometimes collectively referred to as the "Property"), for the installation, operation and maintenance 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, under and through the Property to and from the Premises (as hereinafter defined) for the purpose of installation, operation and maintenance of USER's Small Wireless Facilities, all in accordance with CITY Code Chapter 90 and as further prescribed hereinafter. The space leased by CITY to USER described in the applicable Supplement is hereinafter collectively referred to as the "Premises." The Premises may include, without limitation, certain space on the ground (the "Equipment Space") on the Property, and space on the Wireless Support Structure sufficient for the installation, operation and maintenance of antennas and other equipment (the "Antenna Space") as described in the Supplement. Notwithstanding anything in the Supplement to the contrary, the Premises under each Supplement will include such additional space necessary for the installation, operation and maintenance of wires, cables, conduits, and pipes (the "Cabling Space") running between and among the various portions of the Premises and to all necessary electrical and telephone utility, cable, and fiber sources located within the Property. If there are not sufficient electric and telephone utility, cable, or fiber sources located on the Property, CITY agrees to grant USER, or the local utility, or fiber or cable provider, upon USER's approval, the right to install any utilities, cable, and fiber on, through, over, and under other properties as available and owned or controlled by CITY necessary for USER to operate its communications facility, provided the location of those utilities, cable, and fiber must be as reasonably designated by CITY. CITY's approval will not be unreasonably withheld.

2. INSTALLATION OF EQUIPMENT.

A. Construction Plans. For the initial installation of all Equipment and for any and all subsequent revisions and/or modifications thereof, or additions thereto, at the time of application for each individual Supplement, USER must provide CITY with an electronic PDF and CAD file format set of construction plans ("Construction Plans") consisting of the following:

- 1) Line or CAD drawings showing the location and materials of all planned installations plus an Engineer's Estimate of all materials and construction methods for each individual location, together with maps, showing specifically the Wireless Support Structures to be used, the number and character of the attachments to be placed on such Wireless Support Structures, equipment necessary for the use, proposed

replacement of existing Wireless Support Structures, any additional Wireless Support Structures which may be required and any new installations for transmission conduit, pull boxes, and related appurtenances.

- 2) Construction Specifications and Product Specifications for all planned installations.
- 3) Diagrams and Shop Drawings of proposed Equipment;
- 4) A complete and detailed inventory of all Equipment and other personal property of USER actually placed on the Premises. CITY retains the right to survey the installed Equipment.
- 5) Construction Plans must be easily readable and subject to prior written approval by CITY, which will not be withheld, conditioned or delayed without cause. CITY will have ninety (90) days to review and comment on the Construction Plans. However, the CITY has the right to reject an application based on generally applicable and reasonable health, safety and welfare concerns. If rejected, written documentation will be provided by the CITY to the USER. Should the Construction Plans need to be revised based on the comments provided by CITY, no construction will commence until final approval is granted by CITY. Final Construction Plans must have affixed to them the signature of USER's engineer who must be licensed in the State of Minnesota pursuant to Minnesota Rule 1800.4200 and Minnesota Statutes Chapter 326. The Director or the Director's designee will determine whether to give USER permission to proceed with the work as proposed by USER. USER must perform all work at its own expense and make attachments in such manner as to not interfere with the services of CITY.

B. Construction Scheduling. At least ten (10) business days prior to USER's construction mobilization, USER must conduct a meeting on the Property or other location as agreed upon. Said meeting must at a minimum be attended by a representative of CITY and all parties involved in the installation.

C. Construction Inspection. All construction activity will be subject to inspection and approval by CITY. Inspection may be performed at any time during the course of the construction activity reasonably determined by CITY, at USER's expense. Construction work performed without approval of CITY will not be accepted and must be removed or uninstalled at USER's sole expense. USER will be solely responsible for all costs associated with said inspection and approval of work by CITY.

D. Exposed Equipment. All Equipment affixed to a wireless support on the Premises which has exterior exposure must be as close to the color of the structure as is commercially available to the USER. For exposed cables, wires, conduits or appurtenances, CITY reserves the right to require USER to provide cables, wires or appurtenances in manufactured colors which are commercially available, in lieu of painting.

E. As-Built Drawings. Within thirty (30) days after USER activates the Equipment, USER must provide CITY with certified as-built record drawings by the engineer of record in electronic PDF file format consisting of as-built record drawings of the Equipment installed at the Premises and on any of the Property, which must show the actual location of all Equipment. Said drawings must be accompanied by a complete detailed certified site survey of the Property and inventory of all Equipment.

F. Permits. USER may also be required to obtain from CITY, or the appropriate governing agency as applicable, any and all permits required for a complete installation. Said permits must include, but not be limited to: excavation permit, obstruction permit, small wireless facility permit, etc. Applicable fees for any permits will be borne by USER and USER will be bound by the requirements of said permits.

3. CONDITION OF PROPERTY; ENGINEERING STUDY. Any expenses necessary to make the Premises ready for USER's construction of its improvements will be the responsibility of USER. USER must obtain and submit to CITY for exclusive approval, a structural engineering study carried out by a certified structural engineer showing the Wireless Support Structure and foundation is able to support the proposed Small Wireless Facility. CITY makes no warranties or representations, express or implied, including warranties of merchantability or fitness for a particular use, except those expressly set forth in this Agreement.

4. USE OF PUBLIC RIGHTS-OF-WAY.

A. CITY hereby grants to USER the right to use the municipal public right-of-way for the installation, maintenance and operation of USER's communications equipment in and on the Wireless Support Structure located within the public right-of-way.

B. All communications equipment must be installed in accordance with applicable Laws (as hereinafter defined) and USER must comply with all laws, ordinances, rules and regulations adopted by CITY, the more restrictive condition governing. Within the public rights-of-way, the location of the communications equipment will be subject to the reasonable and proper regulation, direction and control of the CITY, or the official to whom such duties have been delegated by CITY. The primary use and purpose of the Property, inclusive of the Premises, is to provide for traffic control, street lighting and other governmental purposes ("Primary Use"). CITY's operations take priority over USER's operations. USER agrees that the following priorities of use, in descending order, will apply in the event of communication interference, emergency public safety needs, Premises repair or reconditioning, or other conflict while this Agreement is in effect, and USER's use will be subordinate accordingly:

- 1) CITY, its employees, agents and contractors.
- 2) Public safety agencies, including law enforcement, fire, and ambulance services, that are not related to CITY.
- 3) Other governmental agencies where use is not related to public safety.

- 4) Pre-existing licensees or permittees of CITY (if any).
- 5) USER referenced in this Agreement.

USER will have no ownership interest in any Wireless Support Structure owned by CITY.

C. USER and its authorized contractors must provide CITY reasonable notice of the dates, location, and nature of all work to be performed on its communications equipment within the public rights-of-way. This Agreement allows USER to perform all work on USER's communications equipment within the public rights-of-way. However, when parking vehicles or equipment in the streets and other public rights-of-way when necessary for the installation, replacement, abandonment, operation or maintenance of USER's communications equipment, the USER must first obtain an obstruction permit as applicable. Following completion of work in the public rights-of-way, USER must repair any affected public rights-of-way as soon as possible, but no later than the time frame established in the applicable Supplement. No street, alley, highway, or public place will be encumbered for a longer period than is reasonably necessary to execute the work authorized by the applicable Supplement and this Agreement.

D. Any damages to CITY's Wireless Support Structures, equipment thereon or other infrastructure caused by USER's installation or operations must be repaired or replaced at USER's sole cost and to CITY's reasonable satisfaction.

E. When an event occurs that poses an immediate threat to substantial harm or damage to the health, safety and welfare of the public and/or the Property/Premises, as solely determined by CITY ("Jeopardy"), the CITY may take actions the CITY determines are required to address such Jeopardy provided that promptly after such actions that affect the Premises, and in no event later than seventy-two (72) hours after such actions, CITY provides written notice to USER of CITY's emergency actions. If CITY determines that the conditions of a Jeopardy would be benefited by cessation of USER's operations, USER must immediately cease its operations on the Premises upon notice from CITY to do so, and the Term (as defined herein) of the applicable Supplement will be suspended until the conditions of Jeopardy have ended.

5. STRUCTURE RECONDITIONING, REPAIR, REPLACEMENT.

A. Where the Premises includes one or more wireless support structures, CITY will keep and maintain the wireless support structures in good repair as required for the CITY's Primary Use and in the ordinary course of business as its budget permits. CITY makes no guarantee as to the condition of any Premises with regard to USER's intended use. If the Supplement for the Premises identifies USER as the owner of the wireless support structure, then USER must keep and maintain the facility in a good state of repair. From time to time, if CITY paints, reconditions, or otherwise improves or repairs the Wireless Support Structure in a substantial way ("Reconditioning Work"), CITY will reasonably cooperate with USER to carry out Reconditioning Work activities in a manner that minimizes interference with USER's approved use of the Premises.

B. Prior to commencing Reconditioning Work, CITY will provide USER with not less than ninety (90) days' prior written notice. Upon receiving that notice, it will be USER's sole responsibility to provide adequate measures to cover or otherwise protect USER's equipment from the consequences of the Reconditioning Work, including but not limited to paint and debris fallout. CITY reserves the right to require USER to remove all of USER's equipment from the Wireless Support Structure and Premises during Reconditioning Work, provided the requirement to remove USER's equipment is contained in the written notice required by this Section.

C. During CITY's Reconditioning Work, USER may maintain a temporary communications facility on the Property, or after approval by CITY, on any land owned or controlled by CITY in the vicinity of the Property. If the Property will not accommodate USER's temporary communications facility, or if the Parties cannot agree on a temporary location, the USER, at its sole option, will have the right to terminate the applicable Supplement upon thirty (30) days written notice to CITY.

D. USER may request a modification of CITY's procedures for carrying out Reconditioning Work in order to reduce the interference with USER's use of the Premises. If CITY agrees to the modification, USER will be responsible for all reasonable incremental costs related to the modification.

E. If CITY intends to replace a Wireless Support Structure ("Replacement Work"), CITY will provide USER with at least ninety (90) days' written notice to remove its equipment. CITY will also promptly notify USER when the Wireless Support Structure has been replaced and USER may re-install its equipment. During CITY's Replacement Work, USER may maintain a temporary communications facility on the Property, or after approval by CITY, on any land owned or controlled by CITY in the vicinity of the Property. If the Property will not accommodate USER's temporary communications facility or if the Parties cannot agree on a temporary location, the USER, at its sole option, will have the right to terminate the applicable Supplement upon thirty (30) days written notice to CITY.

F. If CITY intends to repair a Wireless Support Structure due to storm or other damage ("Repair Work"), CITY will notify USER to remove its equipment as soon as possible. In the event of an emergency, CITY will attempt to contact USER by telephone by calling USER's Network Operations Center at (800)264-6620 prior to removing USER's Equipment. Once the Wireless Support Structure has been replaced or repaired, CITY will promptly notify USER it can reinstall its equipment. During CITY's Repair Work, USER may maintain a temporary communications facility on the Property, or after approval by CITY, on any land owned or controlled by CITY in the vicinity of the Property. If the Property will not accommodate USER's temporary communications facility, or if the Parties cannot agree on a temporary location, or if the Wireless Support Structure cannot be repaired or replaced within thirty (30) days, USER, at its sole discretion, will have the right to terminate the applicable Supplement upon thirty (30) days' written notice to CITY. However, at USER's sole option, within thirty (30) days after the casualty damage, CITY must provide USER with a replacement Supplement to

lease space at a new location upon which the Parties mutually agree. The monthly rental payable under the new replacement Supplement will not be greater than the monthly rental payable under the terminated Supplement.

G. If USER's installation requires a new Wireless Support Structure to be constructed or an existing Wireless Support Structure to be replaced by USER (the "Replacement Wireless Support Structure"), then any such Replacement Wireless Support Structure will be deemed to be a fixture on the Property and the Replacement Wireless Support Structure will be and remain the property of the CITY, without further consideration to or from CITY. Upon completion of USER's installation, CITY will be responsible for any and all costs relating to the operation, maintenance, repair and disposal of the Replacement Wireless Support Structure, unless such costs are due to the improper or negligent installation by USER or contractor hired by USER. If the Replacement Wireless Support Structure replaces an existing structure, then also as part of USER's installation, USER must remove, dispose, salvage and or discard the existing structure at USER's sole discretion.

6. TERM; RENTAL.

A. This Agreement will be for a term of ten (10) years commencing upon the execution hereof by both Parties. Each Supplement will be effective as of the date of execution by both Parties (the "Effective Date"). The initial term of each Supplement will be for five (5) years and will commence based upon the date USER commences installation of the equipment on the Premises. In the event the date USER commences installation of the equipment on the Premises falls between the 1st and 15th of the month, the initial term of the Supplement will commence on the 1st of that month and if the date installation commences falls between the 16th and 31st of the month, then the initial term will commence on the 1st day of the following month (either the "Commencement Date"). On the Commencement Date of each Supplement, rental payments will commence and be due at a total annual rental as set forth in each Supplement, to be paid to CITY as set forth below. CITY and USER acknowledge and agree that the initial rental payment for each Supplement may not actually be sent by USER until forty-five (45) days after the Commencement Date.

B. Supplement rental payments will commence and be due at a total annual rental as set forth in the Supplement for each location (the "Annual Rental"), representing the CITY's costs related to the management and maintenance of the Premises. Consistent with Minnesota Statutes Sections 237.162-.163, the term of each Supplement will be equal to the length of time that the Small Wireless Facility is in use (the "Term"), unless the Supplement is terminated pursuant to this Agreement, prorated accordingly.

C. On all Supplements with a Commencement Date other than January 1, the first year's Annual Rental will be prorated to the end of the year in which the Commencement Date occurs. Similarly, for all Supplements that expire or otherwise terminate on a date other than December 31, the Annual Rental will be prorated from the beginning of the year to the end of the month in which the Supplement expires or otherwise terminates. Subsequent to the initial payment of pro-rated rents in the year of

the Commencement Date, the Annual Rental due hereunder for all subsequent years must be paid in advance to the CITY and prior to January first (1st) of each succeeding year.

D. In addition, the parties acknowledge and agree that USER must pay to CITY a one-time, lump-sum administration/application fee of Two Thousand Five Hundred Dollars (\$2,500.00) for this Agreement upon execution of this Agreement by both parties. The administrative/application fee will reimburse the CITY for its reasonable staff and legal costs incurred in drafting, reviewing, and processing this Agreement and any Supplements.

E. The parties further acknowledge and agree that pursuant to Minn. Stat. § 237.163, subd. 6, CITY may charge to USER, and USER must pay to CITY, a reasonable fee in an amount to be determined by CITY when USER causes CITY to incur costs as a result of actions or inactions of USER.

F. Upon agreement of the Parties, USER may pay Annual Rental by electronic funds transfer and in such event, CITY agrees to provide to USER bank routing information for such purpose upon request of USER.

G. Extension. This Agreement may be extended three (3) additional five (5) year terms by mutual agreement between CITY and USER. Any such extension must be memorialized in writing. Absent an extension in writing this Agreement will terminate at the end of the then current term. Each Supplement will automatically be extended for one (1) additional five (5) year term unless USER terminates the Supplement at the end of the initial five (5) year term by giving CITY written notice of the intent to terminate at least three (3) months prior to the end of the term. Upon the expiration or termination of this Agreement, its terms and conditions shall survive and govern with respect to any remaining Supplements in effect until their termination. The initial term and all extensions under this Agreement or a Supplement will be collectively referred to herein as the "Term".

H. Annual Termination. Notwithstanding anything to the contrary contained herein, provided USER is not in default hereunder beyond applicable notice and cure periods, USER will have the right to terminate each Supplement upon the annual anniversary of the Commencement Date provided that three (3) months prior notice is given to CITY. Upon such termination, the applicable Supplement will be of no further force or effect except the representations, warranties and indemnities made by each Party to the other thereunder will survive and be enforceable after termination. Otherwise, the USER will have no further obligations for the payment of rent to CITY for the terminated Supplement.

I. Removal at End of Term. Contemporaneously with the delivery to CITY of this Agreement executed by USER, USER solely at its cost and expense, will procure and deliver to CITY a bond or cash deposit (Security) in favor of CITY in the principal amount of Five Thousand and 00/100 Dollars (\$5,000) to secure USER's obligation herein to remove the Equipment. In the event USER fails to remove the Equipment and

restore the Property, reasonable wear and tear and casualty damage excepted, CITY may do so. USER must reimburse CITY for all costs incurred by CITY in removing the Equipment and restoring the Property. CITY may draw upon the Security in an amount that will reimburse CITY for its costs. Any amount remaining will be refunded to USER. If the Security is insufficient to cover CITY's costs USER must promptly pay to CITY the deficiency.

7. ELECTRICAL. Electric service will not be provided by the CITY. USER must purchase electricity directly from a utility provider.

8. ENGINEERING COSTS. The Parties acknowledge and agree that, pursuant to Minnesota Statutes, Sections 237.162-.163, CITY may charge the actual costs of the CITY's initial engineering and preparatory construction work associated with USER's collocation in the form of a onetime, nonrecurring, commercially reasonable, nondiscriminatory, and competitively neutral charge. USER must pay such reasonable costs within sixty (60) days of receipt of an invoice that itemizes the costs. These costs may be in addition to any other costs or fees contained herein as part of this Agreement.

9. USE. USER will use the Premises for the purpose of constructing, maintaining, repairing and operating Small Wireless Facilities and uses incidental thereto. USER will have the right, without any increase in rent, to replace or repair its utilities, fiber or cable, equipment, antennas and/or conduits or any portion thereof, and the frequencies over which the equipment operates. Any additions or material modifications will require CITY's approval and may be subject to an increase in rent if allowed by law.

10. GOVERNMENTAL APPROVALS; PERMITS. It is understood and agreed that USER's ability to use the Premises is contingent upon USER obtaining all of the certificates, permits and other approvals (collectively the "Government Approvals") that may be required by any Federal, State or Local authorities, as well as a satisfactory structural analysis that will permit USER use of the Premises as set forth above. CITY will cooperate with USER in its effort to obtain the Governmental Approvals, and will take no action which would adversely affect the status of the Property with respect to the proposed use thereof by USER. USER will have the right to terminate the applicable Supplement if: (i) any of the applications for Governmental Approvals is finally rejected; (ii) any Governmental Approval issued to USER is canceled, expires, lapses, or is otherwise withdrawn or terminated by governmental authority; (iii) USER determines that the Governmental Approvals may not be obtained in a timely manner; (iv) USER determines that the Premises is no longer technically compatible for its use; or (v) USER, in its sole discretion, determines that the use of the Premises is obsolete or unnecessary. Notice of USER's exercise of its right to terminate will be given to CITY in accordance with the notice provisions set forth in the "DEFAULT" section hereinafter and will be effective upon the mailing of that notice by USER, or upon such later date as designated by USER. All rentals paid to the termination date will be retained by CITY. Upon such termination, the applicable Supplement will be of no further force or effect except to the extent of the representations, warranties, and indemnities made by each Party to the other thereunder. Otherwise, the USER will have no further obligations for the payment of rent to CITY for the terminated Supplement.

11. INDEMNIFICATION. To the fullest extent permitted by law, USER agrees to defend, indemnify and hold harmless CITY, and its employees, officials, and agents from and against all claims, actions, damages, losses and expenses, including reasonable attorney fees, arising out of USER's negligence, misconduct, or USER's failure to perform its obligations under this Agreement. USER's indemnification obligation will apply to USER's contractors, subcontractors, or anyone directly or indirectly employed or hired by USER, or anyone for whose acts USER may be liable. CITY will provide USER with prompt, written notice of any written claim covered by this indemnification provision; provided that any failure of CITY to provide any such notice, or to provide it promptly, will not relieve USER from its indemnification obligations in respect of such claim, except to the extent USER can establish actual prejudice and direct damages as a result thereof. CITY will cooperate with USER in connection with USER's defense of such claim. USER will not settle or compromise any such claim or consent to the entry of any judgment without the prior written consent of CITY and without an unconditional release of all claims by each claimant or plaintiff in favor of CITY. The indemnity obligation must survive the completion or termination of this Agreement.

12. INSURANCE.

A. Waiver of Subrogation. To the extent allowed by law, USER hereby waives and release any and all rights of action for negligence against CITY which may hereafter arise on account of damage to USER's property, resulting from any fire, or other casualty of the kind covered by standard fire insurance policies with extended coverage, regardless of whether or not, or in what amounts, such insurance is now or hereafter carried by USER. This waiver and release will apply between the Parties and must also apply to any claim asserted as a right of subrogation. All such policies of insurance obtained by USER concerning its property must waive the insurer's right of subrogation against CITY.

B. General Liability. USER agrees that at its own cost and expense, it will maintain commercial general liability insurance with limits not less than \$2,000,000 per occurrence; \$4,000,000 annual aggregate, for bodily injury (including death) and for damage or destruction to property. The policy must cover liability arising from premises, operations, products-completed operations, personal injury, advertising injury, and contractually assumed liability. USER must add the CITY as an additional insured.

C. Commercial Automobile Liability. USER must maintain commercial automobile liability Insurance, including owned, hired, and non-owned automobiles, with a minimum combined single liability limit of \$2,000,000 per occurrence.

D. Workers' Compensation. USER agrees to provide workers' compensation insurance for all its employees in accordance with the statutory requirements of the State of Minnesota. CITY will also carry employers' liability insurance with minimum limits as follows: \$1,000,000 for bodily injury by disease per employee; \$1,000,000 aggregate for bodily injury by disease; and \$1,000,000 for bodily injury by accident.

E. Additional Insurance Conditions.

- 1) USER must deliver to CITY annually, a certificate of insurance as evidence that the above coverages are in full force and effect.
- 2) USER's policies must be primary insurance and non-contributory to any other valid and collectible insurance available to CITY with respect to any claim arising under this Agreement.
- 3) USER's shall provide at least thirty (30) days' advanced written notice to CITY of cancellation, or ten (10) days' written notice for non-payment of premium. USER must also submit within 30 days a new certificate of insurance from new insurance provider.

13. LIMITATION OF LIABILITY. Except for indemnification obligations pursuant to Paragraph 11, neither Party will be liable to the other, or any of their respective agents, representatives, employees for any lost revenue, lost profits, loss of technology, rights or services, incidental, punitive, indirect, special or consequential damages, loss of data, or interruption or loss of use of service, even if advised of the possibility of such damages, whether under theory of contract, tort (including negligence), strict liability or otherwise.

14. ENVIRONMENTAL.

A. USER must obtain a radio frequency interference study carried out by an independent certified professional radio frequency (RF) engineer showing that USER's intended use will not interfere with any current communication facilities which are located on or near a Wireless Support Structure. USER must not transmit or receive radio waves at the Premises until such evaluation has been satisfactorily completed and approved by CITY.

B. USER must hire an RF Engineer to conduct a RF radiation survey of the Property following USER's initial RF transmissions on the Premises. USER will be responsible for all costs of such survey. USER must provide a certified copy of the survey to CITY upon its completion.

C. USER agrees to install equipment of the type and frequency which will not cause harmful interference which is measurable in accordance with then existing industry standards to any equipment of CITY or other tenants of the Property which existed on the Property prior to the date the applicable Supplement is executed by the Parties. In the event any after-installed USER's equipment causes such interference, and after CITY has notified USER of such interference by a written communication and a call to USER's Network Operations Center at (800)264-6620, USER will take all commercially reasonable steps necessary to correct and eliminate the interference, including but not limited to, at USER's option, powering down such interfering equipment and later powering up such interfering equipment for intermittent testing. If the interference continues for a period in excess of 48 hours following such notification, CITY will have the right to require USER to reduce power, and/or cease operations until such time USER can make repairs to the interfering equipment. In no event will CITY be entitled to terminate a Supplement or relocate the Equipment as long as USER is making a good faith effort to remedy the interference issue. CITY agrees that CITY and/or any other users of the Property who currently have or in the future take possession of the

Property will be permitted to install only such equipment that is of the type and frequency which will not cause harmful interference which is measurable in accordance with then existing industry standards to the then existing equipment of USER. If USER determines, in its reasonable discretion, that CITY's equipment or any other user's equipment permitted by CITY is causing interference, CITY will, upon written communication from USER to CITY take all reasonable steps necessary to correct and eliminate the interference, including causing other users causing such interference to correct and eliminate the interference. If the interference continues for a period in excess of 48 hours following the notification, CITY will, or will require any other user to, reduce power and/or cease operations until such time as CITY, or the other user, can make repairs to the interfering equipment. USER must implement all measures at the transmission site required by FCC regulations, including but not limited to posting signs and markings. CITY will cooperate with and permit USER to implement all reasonable measures in order for USER to fulfill its FCC obligations. CITY agrees that in the event any future party causes the entire site to exceed FCC RF radiation limits, as measured on the Premises, CITY will hold such future party liable for all such later-arising non-compliance. The Parties acknowledge that there will not be an adequate remedy at law for noncompliance with the provisions of this Paragraph and therefore, either Party will have the right to equitable remedies without first having to attempt to mediate, such as, without limitation, injunctive relief and specific performance.

15. REMOVAL. USER must, within sixty (60) days after expiration of the Term, or any earlier termination of a Supplement, or an abandonment of its facilities, remove its equipment, conduits, fixtures and all personal property and restore the Premises to its original condition, reasonable wear and tear excepted, at USER's sole cost and expense. CITY agrees and acknowledges that all of the equipment, conduits, fixtures and personal property of USER will remain the personal property of USER and USER will 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 the time for removal causes USER to remain on the Premises after termination of the Supplement, USER must pay rent at the then-existing monthly rate, until such time as the removal of the equipment, fixtures and all personal property are completed. If USER fails to remove its facilities within the required time period, CITY reserves the right to remove the facilities and charge USER for the full cost of the removal and storage charges. If the USER's installation of its Small Wireless Facility resulted in the installation of a modified Wireless Support Structure, USER will be required to install a new Wireless Support Structure that is of the same like and kind to the original or of the same like and kind to adjacent structures as determined by the CITY.

16. RIGHTS UPON SALE. If, at any time during the Term of any Supplement, CITY decides: (i) to sell or transfer all or any part of the Property or the Wireless Support Structure thereon to a purchaser other than USER, or (ii) to grant to a third party by easement or other legal instrument an interest in that portion of the Property occupied by USER, or a larger portion thereof, for the purpose of operating and maintaining communications facilities or the management thereof, that sale or grant of an easement or interest therein will be subject to the Supplement, and any such purchaser or transferee must recognize USER's rights hereunder and under the terms of the affected Supplement(s). If CITY completes any such sale, transfer, or

grant described in this paragraph without executing an assignment of the Supplement in which the third party agrees in writing to assume all obligations of CITY under the Supplement, then CITY will not be released from its obligations to USER under the Supplement, and USER will have the right to look to CITY and the third party for the full performance of the Supplement.

17. QUIET ENJOYMENT AND REPRESENTATIONS. CITY covenants that USER, on paying the rent and performing the covenants herein and in a Supplement, will peaceably and quietly have, hold and enjoy the Premises. CITY represents and warrants to USER as of the execution date of each Supplement, and covenants during the Term, that CITY is has good and sufficient title and interest to the Property, and has full authority to enter into and execute the Supplement. CITY further covenants during the Term that there are no liens, judgments or impediments of title on the Property, or affecting CITY's title to the same and that there are no covenants, easements or restrictions that prevent or adversely affect the use or occupancy of the Premises by USER as provided in this Agreement and in the applicable Supplement(s).

18. ASSIGNMENT. This Agreement and each Supplement under it may be sold, assigned or transferred by the USER without any approval or consent of the CITY to the USER's principal, affiliates, subsidiaries of its principal, or to any entity which acquires all or substantially all of USER's assets in the market defined by the FCC in which the Property is located by reason of a merger, acquisition or other business reorganization. As to other parties, this Agreement and each Supplement may not be sold, assigned or transferred without the written consent of the CITY, which consent will not be unreasonably withheld, delayed or conditioned.

19. NOTICES. All notices hereunder must be in writing and are 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 to any other address that the Party to be notified may have designated:

CITY: City of Shakopee
Attention: Public Works Director
485 Gorman Street
Shakopee, Minnesota 55379

USER: Verizon Wireless (VAW) LLC d/b/a Verizon Wireless
Attention: Network Real Estate
180 Washington Valley Road
Bedminster, New Jersey 07921

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

20. RECORDING. CITY agrees to execute a Memorandum of each Supplement which USER may record with the appropriate recording officer. The date set forth in the

Memorandum is for recording purposes only and bears no reference to commencement of either the Term or annual rental payments.

21. DEFAULT. If there is a breach by a Party with respect to any of the provisions of this Agreement, or under the provisions of an individual Supplement, the non-breaching Party must give the breaching Party written notice of that breach. After receipt of the written notice, the breaching Party will have thirty (30) days in which to cure the breach, provided the breaching Party will have such extended period as may be required beyond the thirty (30) days if the breaching Party commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion, but in no event more than ninety (90) calendar days after receipt of written notice. The non-breaching Party may not maintain any action or effect any remedies for default against the breaching Party unless and until the breaching Party has failed to cure the breach within the time periods provided in this Paragraph. Notwithstanding the foregoing to the contrary, it will be a default under this Agreement, or under an individual Supplement if CITY fails, within five (5) days after receipt of written notice of such breach, to perform an obligation required to be performed by CITY, and if the failure to perform that obligation interferes with USER's ability to conduct its business in the Premises; provided, however, that if the nature of CITY's obligation is such that more than five (5) days after notice is reasonably required for its performance, then it will not be a default under this Agreement or the applicable Supplement if performance is commenced within such five (5) day period and thereafter diligently pursued to completion, but in no event more than fifteen (15) calendar days after receipt of written notice. CITY and USER agree that a default under an individual Supplement may constitute a default under this Agreement

22. DISPUTE RESOLUTION. Subject to the provisions of Paragraph 21, the Parties will cooperate and use their best efforts to ensure that the various provisions of the Agreement are fulfilled. The Parties agree to act in good faith to undertake resolution of disputes, in an equitable and timely manner and in accordance with the provisions of this Agreement. If disputes cannot be resolved informally by the Parties, the following procedures will be used:

A. Whenever there is a failure between the Parties to resolve a dispute on their own, the Parties will first attempt to mediate the dispute. The parties must agree upon a mediator, or if they cannot agree, must obtain a list of court-approved mediators from the Scott County District Court Administrator and select a mediator by alternately striking names until one remains. CITY will strike the first name followed by USER, and will continue in that order until one name remains.

B. If the dispute is not resolved within thirty (30) days after the end of mediation proceedings, the Parties may pursue any legal or equitable remedy.

23. CASUALTY. In the event of damage by fire or other casualty to the Property that cannot reasonably be expected to be repaired within forty-five (45) days following same or, if the Property is damaged by fire or other casualty so that such damage may reasonably be expected to disrupt USER's operations at the Premises for more than forty-five (45) days, then USER may, at any time following such fire or other casualty, provided CITY has not completed the restoration required to permit USER to resume its operation at the Premises, terminate the Supplement upon

fifteen (15) days' prior written notice to CITY. Any such notice of termination will 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 will make an appropriate adjustment, as of such termination date, with respect to payments due under the Supplement. Notwithstanding the foregoing, the rent will abate during the period of repair following such fire or other casualty in proportion to the degree to which USER's use of the Premises is impaired.

24. CONDEMNATION. If the whole or any part of the Property will be taken by any public authority under the power of eminent domain, or is sold to any entity having the power of eminent domain under threat of condemnation, then the term of this Agreement or the applicable Supplements will cease as of the date of the granting of the petition or the date of taking or closing whichever is applicable. All rentals and costs paid to said termination date will be retained by CITY, but any obligation to pay future rentals and costs will cease. Any award, compensation, or damages, must be paid to and be the sole property of CITY, but nothing herein will preclude USER from claiming against the condemning authority with respect to moving expenses and loss of personal property, and receiving an award therefor.

25. APPLICABLE LAWS. Laws means any and all laws, regulations, ordinances, resolutions, judicial decisions, rules, permits and approvals applicable to the subject of this Agreement or USER's use that are in force during the term of this Agreement, as lawfully amended including, without limitation, CITY's city Code. USER and CITY must comply with all applicable Laws. This Agreement does not limit any rights USER may have in accordance with Laws to install its own poles in the right of way or to attach USER's equipment to third-party poles located in the right of way. This Agreement will in no way limit or waive either party's present or future rights under Laws. If, after the date of this Agreement, the rights or obligations of either Party are materially altered, preempted, or superseded by changes in Laws, the parties agree to amend the Agreement and/or Supplement to reflect the change in Laws.

26. GOVERNMENT DATA. The Parties acknowledge and agree that this Agreement is considered public data not on individuals and is accessible to the public under Minnesota Statutes, Section 13.03. USER and CITY agrees to abide by the applicable provisions of the Minnesota Government Data Practice Act, Minnesota Statutes, Chapter 13, and all other applicable state or federal rules, regulations or orders pertaining to privacy or confidentiality.

27. GENERAL PROVISIONS.

A. Entire Agreement. This Agreement supersedes any prior or contemporaneous representations or agreements, whether written or oral, between the Parties and contains the entire agreement.

B. Captions. Captions contained in this Agreement are for reference only, and therefore, have no effect in construing this Agreement.

C. Ambiguities. If any term of this Agreement is ambiguous, it will not be construed for or against any Party on the basis that the Party did or did not write it.

D. Amendments. Any modification or amendment to this Agreement will require a written agreement signed by both Parties.

E. Third Party Rights. This Agreement is not a third-party beneficiary contract and will not in any respect whatsoever create any rights on behalf of any person or entity not expressly a party to this Agreement.

F. Nondiscrimination. In the hiring of employees or contractors to perform work under this Agreement, USER must not discriminate against any person by reason of any characteristic or classification protected by State or Federal law.

G. Governing Law. This Agreement will be governed by and interpreted in accordance with the laws of the State of Minnesota. The venue for all proceedings related to this Agreement will be in Scott County, Minnesota.

H. Waiver. The failure of either Party to insist upon strict performance of any of the terms or conditions of this Agreement or the waiver by either Party of any breach or failure to comply with any provision of this Agreement by the other Party will not be construed as, or constitute a continuing waiver of such provision or a waiver of any other breach of or failure to comply with any other provision of this Agreement.

I. Force Majeure. Except for payment of sums due, neither Party will be liable to the other or deemed in default under this Agreement, if and to the extent that a Party's performance is prevented by reason of force majeure. "Force majeure" includes war, an act of terrorism, fire, earthquake, flood and other circumstances which are beyond the control and without the fault or negligence of the Party affected and which by the exercise of reasonable diligence the Party affected was unable to prevent.

J. Further Assurances. From and after the execution of this Agreement, the parties must fully cooperate with each other and perform any further act(s) and execute and delivers any further documents which may be necessary in order to carry out the purposes and intentions of this Agreement.

K. Savings Clause. If any court finds any portion of this Agreement to be contrary to law, invalid, or unenforceable, the remainder of the Agreement will remain in full force and effect.

L. Counterparts. This Agreement may be signed in counterparts, each of which will be deemed an original, and which taken together will be deemed to be one and the same document.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK – SIGNATURES ON FOLLOWING PAGES

IN WITNESS WHEREOF, the Parties, have caused this Agreement to be approved on the date above.

CITY:
City of Shakopee

By: _____

Name: _____
Its: Mayor

Date: _____

By: _____

Name: _____
Its: City Administrator

Date: _____

STATE OF MINNESOTA)
) ss.
COUNTY OF SCOTT)

The foregoing instrument was acknowledged before me on _____, 20____, by _____, the Mayor, and by _____, the City Administrator, of the CITY OF SHAKOPEE, MINNESOTA, a Minnesota municipal corporation, on behalf of said municipal corporation.

Notary Public

CITY SIGNATURE PAGE TO SMALL WIRELESS FACILITY COLLOCATION AGREEMENT

EXHIBIT A
COLLOCATION AGREEMENT SUPPLEMENT

This Collocation Agreement Supplement ("Supplement"), is made this _____ day of _____, 20_____ between the City of Shakopee, a Minnesota local government unit, with its principal offices located at 485 Gorman Street in Shakopee, Minnesota 55379, ("CITY" and Verizon Wireless (VAW) LLC d/b/a Verizon Wireless, with its principal offices located at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920m ("USER").

1. SMALL WIRELESS FACILITY COLLOCATION AGREEMENT. This Supplement is a Supplement as referenced in that certain Small Wireless Facility Collocation Agreement between the City of Shakopee and _____, 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 will govern. Capitalized terms used in this Supplement will have the same meaning described for them in the Agreement unless otherwise indicated herein.

2. PREMISES. CITY hereby leases to USER certain spaces on and within CITY's Property located at _____, including the location of the Wireless Support Structure on the Property is shown on Exhibit 1 attached hereto and made a part hereof. The Equipment Space, Antenna Space and Cabling Space are as shown on Exhibit 2, attached hereto and made a part hereof.

3. TERM. The Effective Date and the Term of this Supplement will be as set forth in the Agreement.

4. CONSIDERATION. Rent under this Supplement will be \$175.00 per year, payable to the City of Shakopee located at 485 Gorman Street, Shakopee, MN 55379, as set forth in the Agreement. The rental amount will be adjusted annual as warranted and as allowed per applicable law. User shall purchase electrical service directly from a utility

5. SITE SPECIFIC TERMS.



In this section include any site-specific terms, including whether USER will be installing a Replacement Wireless Support Structure.

IN WITNESS WHEREOF, the Parties, have caused this Agreement to be approved on the date above.

CITY:
City of Shakopee

By: _____

Name: _____
Its: City Administrator

Date: _____

By: _____

Name: _____
Its: Public Works Director

Date: _____

STATE OF MINNESOTA)
) ss.
COUNTY OF SCOTT)

The foregoing instrument was acknowledged before me on _____, 20____, by _____, the Mayor, and by _____, the City Administrator, of the CITY OF SHAKOPEE, MINNESOTA, a Minnesota municipal corporation, on behalf of said municipal corporation.

Notary Public

CITY SIGNATURE PAGE TO SMALL WIRELESS FACILITY COLLOCATION AGREEMENT

IN WITNESS WHEREOF, the Parties, have caused this Agreement to be approved on the date above.

USER:

Verizon Wireless (VAW) LLC d/b/a Verizon Wireless

By: _____

Name: _____

Its: _____

Date: _____

STATE OF MINNESOTA)
) ss.
COUNTY OF SCOTT)

The foregoing instrument was acknowledged before me on _____, 20____, by _____, its _____, on behalf of said _____.

Notary Public

USER SIGNATURE PAGE TO SMALL WIRELESS FACILITY COLLOCATION AGREEMENT

EXHIBIT 1

Site Plan of Property

(see attached plans sheets 1-X)

EXHIBIT 2
Equipment Space, Antenna Space and Cabling Space
(see attached plans sheets X-XX)