

SMALL WIRELESS FACILITY PERMIT APPLICATION

Application Instructions: Submittals without the following criteria will be returned to the applicant with a list of deficiencies. All applications must contain a list of facilities included in the submittal. Separate materials should be separated into submittal packages for each review group as shown on the checklist.

WIRELESS PROVIDER INFORMATION

Company:	
Address:	
Contact Person:	Phone:
License Number:	Email:

CONTRACTOR INFORMATION

Company:	
Address:	
Contact Person:	Phone:
License Number:	Email:

**No contractor can perform any work in the ROW unless it is listed on the permit. If a subcontractor will be performing any work, additional contact information must be included on separate sheets.*

DEPLOYMENT INFORMATION

Number of facilities included in this application: _____
Deployment Type (check all that apply) <input type="checkbox"/> Modification <input type="checkbox"/> Collocation <input type="checkbox"/> New/Replacement Structure (If "eligible facilities request" under 47 CFR § 1.6100, must include documentation showing why deployment qualifies)
Placement Info (check all that apply) <input type="checkbox"/> In ROW <input type="checkbox"/> Outside ROW <input type="checkbox"/> Authority pole <input type="checkbox"/> Nonauthority pole
Review Period <input type="checkbox"/> 90 days <input type="checkbox"/> 60 days <input type="checkbox"/> Other: _____
Please explain why the above review period applies: _____ _____
Fee: _____ (See Ex. D of Permit, Fee Schedule) Payment Type: <input type="checkbox"/> Cash <input type="checkbox"/> Check

- Executed Permit for Access to and Use of Right-of-Way
- Specification sheets
- Attachment drawings and demonstration of each type of installation with photo simulations showing both collocations and new poles
- Design information for proposed attachments, including pole height, antenna height, wiring diagrams and power connections
- Pole loading analysis
- Attestation that the small cell wireless facilities will be operational for use by a wireless services provider within 1 year after the permit issuance date
- GIS maps and coordinates detailing locations for each proposed attachment
- Work plan describing the location of the proposed work, the work to be performed, the limits of disturbance to the public right-of-way, and the method and materials to be used
- Landscape plans for ground-mounted facilities, if applicable
- Site/structure remediation plans for restoring the public right-of-way after removal of the wireless facilities
- Certificate of compliance with FCC radio frequency emission regulations
- For new poles, demonstration of compliance with ANSI/TIA 222-G-2 standards
- Copy of all other permits related to the deployment
- For deployments in downtown or residential districts, documentation of compliance with design and concealment requirements
- Documentation providing an additional insured endorsement or rider to City
- Performance bond

ACCESS TO CITY'S PUBLIC RIGHTS-OF-WAY TERMS AND CONDITIONS

1. Conformance with City Agreements and City Code. The Terms and Conditions provided herein are inclusive of all other obligations imposed by any franchise, consent, permit, or license agreements entered with the City, as well as compliance with the City Code.

2. Conformance with Plans and Specifications on File. All work performed under this permit must be done in accordance with the plans, specifications, maps and statements filed with the City, any applicable franchise, consent or license agreements entered into with the City, and must comply with the City's current requirements and specifications on file.

3. Fees and costs. Wireless provider shall be responsible for all fees incurred by the City in connection with this permit to the extent allowed under the Michigan Small Wireless Communication Facilities Deployment and federal law, and shall deposit estimated fees and costs as determined by the City at the time the permit is issued.

4. Bond. Wireless provider shall provide a letter of credit or bond in a form and amount acceptable to the City at the time the permit is issued.

5. Insurance. Wireless provider shall furnish proof of insurance in the amount stated in the Permit providing an additional insured endorsement or rider to the City. Such insurance shall cover a period of not less than the term of this permit and shall provide that it cannot be cancelled without thirty (30) days advance written notice to the City.

6. Miss Dig. Wireless provider must comply with the requirements of Act 53 of 1974, as amended. CALL MISS DIG AT (800) 482-7171 AT LEAST THREE (3) FULL WORKING DAYS, BUT NOT MORE THAN TWENTY-ONE (21) CALENDAR DAYS, BEFORE YOU START WORK. Wireless provider assumes all responsibility for damage to or interruption of underground utilities.

7. Notification of Start and Completion of Work. Wireless provider shall notify the City at least 48 hours before starting work and shall notify the City that the work is completed no more than 48 hours after the work is complete.

8. Time Restrictions. All work shall be performed Mondays through Fridays between 8:00 A.M. and 5:00 P.M. unless prior written approval is obtained from the City.

9. Safety. Wireless provider agrees to work under this permit in a safe manner and to keep the area affected by this permit in a safe condition until the work is completed. All work site conditions shall comply with Michigan Manual of Uniform Traffic Control Devices.

10. Restoration and Repair of Road. Wireless provider agrees to restore the road and right-of-way to a condition equal to or better than its condition before the work began; and to repair any damage to the road right-of-way which is the result of the facility whenever it occurs or appears.

11. Limitation of Permit. This permit does not relieve wireless provider from meeting other applicable laws and regulations of other agencies. Wireless provider is responsible for obtaining additional permits or releases which may be required in connection with this work from other government agencies, public utilities, corporations and individuals, including property owners. Permission may be required from the adjoining property owners.

12. Revocation of Permit. This permit may be suspended or revoked as provided by Chapter 18 of the ordinance, and the wireless provider shall surrender this permit and alter, relocate or remove its facilities at its expense at the request of the City. It is to be understood that the rights granted herein are revocable at the will of the City and that the wireless provider acquires no rights in the highway and expressly waives any right to claim damages or compensation in case this permit is revoked. In the event the City determines it is in the public interest to widen or make any other improvements to any right-of-way in which this permit is granted, wireless provider agrees that if, in the course of widening, altering or modifying said road right-of-way and/or the roadbed itself which necessitates changes, modifications or alterations to the wireless provider's installation within or outside the existing right-of-way, such changes, alterations and modifications will be undertaken promptly upon receipt of a written request from the City and without costs or expenses to the City. The wireless provider herein acknowledges that the contents of this paragraph are a substantial portion of the consideration received by the City in the issuance of this permit.

13. Violation of Permit. This permit shall become null and void if wireless provider violates the terms of this permit and the City may require removal of wireless provider's facilities, or the City may remove them at wireless provider's expense, subject to the notice and cure provisions set forth in the Permit, and to the extent as provided in Chapter 18 of the ordinance.

14. Assignment. This permit may only be assigned or transferred in conformance with the Permit. The City's **prior approval is required for any assignment or transfer occurring before the work under this permit is** completed by wireless provider. After the work is completed, wireless provider must provide notice of assignment or transfer no later than 30 days after such occurrence, provided that the assignee or transferee shall be subject to all obligations of the Permit and this permit.

15. Cooperation with Others. The issuance of this permit does not give wireless provider an exclusive right to work within the area covered by this permit. Wireless provider shall cooperate with others and shall conduct his operations in such a fashion as to cause minimum conflict with and/or inconvenience to others working in area. The work of others does not relieve wireless provider of this responsibility to complete the work in accordance with the permit.

16. Conflicts. To the extent there is any conflict between the provisions of these terms and conditions and Chapter 18 of the City's Ordinance or state and federal law, the Ordinance and/or state and federal law as applicable shall control

Acknowledgement: The undersigned acknowledges that: I have verified that all the information included in the submittal and application is complete and accurate, and I understand that any omissions will result in disapproval of this application. I further acknowledge that any incorrect information provided resulting in the issuance of a permit will result in the removal of facilities authorized by this permit. I have read and agree to the Terms and Conditions set forth in this permit, as well as in the Permit.

Wireless Provider Signature

(With authority to bind Wireless Provider to this permit and these Terms and Conditions)

Date

FOR OFFICIAL USE ONLY

FOR OFFICIAL USE ONLY	
Date of Receipt:	Name of Recipient:
<input type="checkbox"/> Application Deemed Complete	<input type="checkbox"/> Application Deemed Incomplete
Days Tolloed _____	Days Tolloed _____
Date of Notice to Applicant _____	Date of Notice to Applicant _____
<input type="checkbox"/> Administrative Approval	<input type="checkbox"/> City Commission Approval
Date of Approval _____	Date of Approval _____

Signature

Date

Printed Name

Position

Exhibit D — Fee Schedule

APPLICATION FEES

Application Fees for Deployments in ROW MCL 460.1315(3)

Per small cell wireless facility	\$200.00*
Per small cell wireless facility requiring a new or replacement pole	\$300.00

Zoning Approval Fees for Deployments Outside of ROW MCL 460.1317(4)

New wireless support structure or modification of existing wireless support structure	\$1,000.00
New small wireless facility or modification of existing small cell facility	\$500.00

ANNUAL RATES

Annual Rates are calculated by adding the ROW Rate to the Pole Rate

Per utility pole or wireless support structure on which Company has collocated a small wireless facility	\$20.00/year
Per utility pole or wireless support structure erected by or on behalf of Company on or after March 12, 2019	\$125.00/year

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**ADDENDUM TO PERMIT
ATTACHMENTS TO CITY INFRASTRUCTURE**

The City and Company agree that the following addendum related to the attachment of small cell wireless facilities to City-owned utility poles and other City-owned infrastructure shall be a part of the existing Permit between the parties dated _____ and this addendum shall become effective immediately upon both parties' signatures.

RECITALS

- A. Company desires to use City-owned utility poles and other City-owned infrastructure ("City-Owned Infrastructure") for the installation and use of small cell wireless facilities, for the purposes of and as defined in the Small Wireless Communications Facilities Deployment Act, Act 365 of 2018, as amended (the "Act").
- B. Pursuant to its property ownership, jurisdiction, authority and/or control over City-Owned Infrastructure and the right to approve licenses and Permit for the use of the same under applicable statutes and the City Charter and Ordinances, the City has agreed to grant Company a nonexclusive license to access and use City-Owned Infrastructure under this Addendum, which Company has accepted.

Section 1. DEFINITIONS.

- 1. *City-Owned Infrastructure* means City-owned utility poles, light poles, traffic signal poles and buildings capable of supporting small cell wireless facilities and associated equipment.
- 2. *Make-Ready Work* means work necessary to enable City-Owned Infrastructure to collocate small cell wireless facilities, which may include modification or replacement of City-owned utility poles or modification of lines.

Section 2. SCOPE.

- 1. The City grants Company a revocable license to erect, attach, install and maintain small cell wireless facilities as the City may approve to such City-Owned Infrastructure as the City may designate and no others. The City must first approve the method and location of installation(s) on the City-Owned Infrastructure. Unless expressly agreed in writing by the City, a small cell wireless facility shall be and at all times utilize no more than the vertical space approved by the City on City-Owned Infrastructure, and no more than twenty percent (20%) of each City pole's loading capacity.
- 2. The City grants the Company nonexclusive rights for its small cell wireless facilities on City-Owned Infrastructure. The City does not imply or guarantee that Company will have sole occupancy of any space on City-Owned Infrastructure.
- 3. In attaching to City-Owned Infrastructure, Company will comply with and be bound by the City of Bloomfield Hills Code of Ordinances, specifically Chapter 18, Article VII, Division 9

and the Act, and will obtain all necessary Permits, consents, leases, easements or approvals, either public or private, which may be necessary to enable Company to install the small cell wireless facilities or to carry on its business. Should Company fail to obtain such authorizations, or should such authorizations be revoked, Company shall immediately cease installing its small cell wireless facilities. Company, when requested and where required, shall provide the City with copies of such authorizations, or any written consent from any private property owner, or owners, stating the Company has permission to ingress or egress and also to install, operate, and maintain its small wireless facilities over and upon City-Owned Infrastructure to the extent it is located on private property.

4. This Addendum does not give Company any rights to use any property, poles or other structures not owned by the City.
5. Any City-Owned Infrastructure used by the Company to collocate small cell wireless facilities shall be the property of the City and shall not entitle the Company to ownership of such infrastructure or allow Company to claim right to or use private property adjacent to City's property.

Section 3. APPROVAL REQUIRED.

1. Company shall submit a permit application prior to installing or modifying any small cell wireless facility on any City-Owned Infrastructure. For applications to collocate small cell wireless facilities on City-owned utility poles, Company will provide an engineering analysis showing the pole loading capacity set by the City is not exceeded by the size and weight of any small cell wireless facility.
2. The City must approve all locations selected for small cell wireless facilities. The City may grant or deny the location and installation of any small cell wireless facilities on City-Owned Infrastructure installation, based on reasonable proprietary and or regulatory factors, such as the location of other present or future communications facilities owned by or installed at the direction or permission of the City, efficient use of physical space to avoid premature exhaustion of rights of way resources and space, potential inference with other communications facilities and services, the public safety of the motoring public and other users of the rights of way, maintaining the integrity and character of the various community districts as embodied in the zoning ordinances of the City.
3. The City must approve the design and mounting requirements for all small cell wireless facilities to be attached to City-Owned Infrastructure.

Section 4. WORK PERFORMED.

1. All small cell wireless facilities permitted by the City shall be installed in a manner that does not interfere with any present or future use that the City may make of any City-Owned Infrastructure. The City has sole discretion to determine whether any small cell wireless facilities interfere with the City's present use or future planned use of City-Owned Infrastructure.

2. If Company causes an interruption of the City's service by damaging or interfering with any of the City's facilities, then Company shall immediately notify the City, and also at its own expense immediately do all things reasonable to avoid resulting injury or damages. Company shall also be responsible for all repair costs. The City shall exercise special precautions to avoid damage to the Company's small cell wireless facilities and shall be responsible for any and all loss it causes to the small cell wireless facilities, except as otherwise allowed by this Addendum.
3. Company shall maintain all small cell wireless facilities in good and safe condition, at its own cost and expense, and in compliance with applicable fire, health, building, and other life safety codes.
4. Upon the completion of each task or phase of work to be performed by Company under this Addendum, Company shall promptly restore all work site areas to a condition reasonably satisfactory to the City and in accordance with construction standards as specified by the City, ordinary wear and tear not caused by Company or the small cell wireless facilities excepted. The provisions of this paragraph shall survive the expiration, completion or earlier termination of this Addendum.
5. Company will provide the City with as-built maps of Company's small cell wireless facilities no more than sixty (60) days following the conclusion of Construction.
6. Company will advise the City of any significant discrepancy between construction plans and actual construction.

Section 5. MAKE-READY WORK.

1. Within sixty (60) days after receipt of a completed application, the City will provide Company with a good-faith estimate for any necessary Make-Ready Work. Company shall respond to the City of its acceptance of the quote within fourteen (14) days of its receipt of the quote. If Make-Ready Work is necessary, then Company shall not contact the City-Owned Infrastructure in question until it receives notice from the City that the Make-Ready Work is completed.
2. The City will complete all routine Make-Ready Work within sixty (60) days of the acceptance of the quote by Company. If there are extenuating circumstances that make the Make-Ready Work more complicated or time consuming (including but not limited to the number of poles or existing attachments, or seasonal weather conditions), then the City shall identify those factors in its grant of permission, and the parties shall agree on a timeframe for completion. The City may also toll the time period for completion by written notice in order to respond to severe storms or other emergency situations.
3. Company may request the ability to use a qualified contractor to perform any or all Make-Ready Work. In all circumstances, only the City or a contractor approved by the City shall be permitted to perform such work, and the City must be informed of and agree to the timing and nature of any work.

4. All fees charged for Make-Ready Work shall be nondiscriminatory, competitively neutral and commercially reasonable.

Section 6. RELOCATION; REMOVAL.

1. Company shall, at no cost to the City, relocate or remove portions of its small cell wireless facilities if the City, in its sole discretion, determines that the location of a wireless facility interferes with public safety and welfare or conflicts with any sidewalk, trail, or City project. The City shall provide Company 180 days' written notice prior to the required relocation or removal of the small cell wireless facilities.
2. Except in cases of emergency, prior to commencing work on City Owned Infrastructure upon which Company has collocated a small cell wireless facility, the City will provide Company with 24-hour prior notice. Upon receiving such notice; it shall be the sole responsibility of Company to take adequate measures to remove or otherwise protect the small cell wireless facility from the consequences of such activities. If reasonably necessary, the City may require Company to remove or power down any small cell wireless facilities during the work.
3. The City may, in its reasonable judgment, remove any City poles not needed for its own service requirements. Company shall have 180 days after receipt of written notification from the City, to remove, at its own expense, its small wireless facilities, except in extenuating circumstances supported by industry practices and substantiated through a written explanation.
4. Company shall remove all abandoned small cell wireless facilities within 180 days.
5. If Company fails to remove any small cell wireless facilities within 180 days of receiving notice from the City, the City may remove and dispose of such facilities. The cost incurred by the City will be charged to Company and paid within 30 days of receipt of an invoice. The City will use its best efforts to provide as much advance notice as possible.

Section 7. ANNUAL RATES; BOND.

1. Company will be charged an annual rate for each collocation. The annual rates for small cell wireless facilities collocated on City-Owned Infrastructure will be established by resolution of the City Commission.
2. To ensure the removal of abandoned or improperly maintained small cell wireless facilities, and to recoup rates and fees that have not been paid, Company shall furnish the City with a bond in maximum amount allowed by law per small cell wireless facility. The bond shall be in the form of an irrevocable bank letter of credit form or surety bond form approved by City and shall be posted with City before any work may begin.

Section 8. INDEMNIFICATION.

Company, with respect to a small cell wireless facility, a wireless support structure, or a utility pole, shall defend, indemnify, and hold harmless the City and its appointed and/or elected officers, agents, and employees against any claims, demands, damages, lawsuits, judgments, costs, liens, losses,

expenses, and attorney fees resulting from the installation, construction, repair, replacement, operation, or maintenance of any small cell wireless facilities, wireless support structures, or City-Owned Infrastructure to the extent caused by Company, its contractors, its subcontractors, and the officers, employees, or agents of any of these. Company has no obligation to defend, indemnify, or hold harmless the City, or the officers, agents, or employees of the City or governing body against any liabilities or losses due to or caused by the sole negligence of the City or its officers, agents, or employees.

WITNESSES

CITY OF BLOOMFIELD HILLS, a Michigan municipal corporation

By: _____

Its: Manager

Dated: _____

WITNESS

CITY OF BLOOMFIELD HILLS, a Michigan municipal corporation

By: _____

Its:
Clerk

Dated: _____

COMPANY

By: _____

Its: _____
(With authority to bind Wireless Provider to this permit and these Terms and Conditions)

Dated: _____

PERMIT AND CONSENT ACCESS TO AND USE OF CITY'S RIGHT-OF-WAY

This Permit, which shall be effective as of the date of the last signature ("Effective Date"), is by and between the City of Bloomfield Hills, a Michigan municipal corporation ("City"), whose address is 45 East Long Lake Road, Bloomfield Hills, MI 48304, and _____, ("Company").

RECITALS

A. Company desires to use public-right-of way in the City ("ROW") for the installation and use of "Small Wireless Facilities" for the purposes of and defined in the Small Wireless Communications Facilities Deployment Act, Act No. 365 of the Public Acts of 2018, as amended (the "Act"), and Permits that allow access to and ongoing use of the ROW under the Act.

B. Pursuant to its proprietary ownership, jurisdiction, authority, and/or control of the ROW, and the right to approve licenses and permits for the use of the ROW under the Michigan Constitution, applicable statutes, and the City Charter and Ordinances, the City has agreed to allow Company access to and the use of the ROW under the Terms and Conditions of this Permit, which Company has accepted.

C. In exchange for the City providing access to and use of the ROW, the Company agrees to compensate the City consistent with the schedule of fees attached as Exhibit A.

THE CITY AND COMPANY THEREFORE AGREE TO THIS PERMIT AND ALL OF ITS TERMS AND CONDITIONS:

Section 1. DEFINITIONS.

The following words or phrases have the meanings indicated:

Public Right-of-Way ("ROW") shall mean the area on, below, or above a public roadway, highway, street, alley, easement, or waterway owned, controlled, or under the jurisdiction of the City, to the extent the City has the ability to grant the rights set forth herein. ROW does not include a federal, state, or private right-of-way.

Small Wireless Facilities shall mean the Company's wireless facility that meets both of the following requirements:

- a. Each antenna is located inside an enclosure of not more than 6 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements would fit within an imaginary enclosure of not more than 6 cubic feet.
- b. All other wireless equipment associated within the facility is cumulative not more than 28 cubic feet in volume.

Poles shall mean light poles, wooden power poles, traffic light poles, highway sign poles, utility poles, lighting fixtures or other similar poles located in the ROW owned by the City, the Company, or third parties, as appropriate to the context in which used.

Services shall mean those services provided by or through the Small Wireless Facilities as specifically identified in the attached detailed plans and specifications. If the City grants the provision of any other services by the Company in writing, upon such grant, the definition of "Services" shall automatically be revised to include any such grant of additional services.

Collocation shall mean installing, mounting, maintaining, modifying, operating or replacing Small Wireless Facilities on or adjacent to a Wireless Support Structure or Pole.

Section 2. GRANT.

- a. *Installation of Small Wireless Facilities.* City hereby grants a non-exclusive Permit to Company for access to and ongoing use of the ROW to collocate Small Wireless Facilities or to install, modify or replace Poles in those portions of the ROW identified (by number) on the Location Map that is attached as Exhibit A in compliance with this Permit, the City's Code, and the standard terms contained on the City's permit.
 - i. *Location of Small Wireless Facilities.* The City may grant or deny the location and installation of any small wireless facility on a Pole prior to installation, if the location would:
 1. Materially interfere with the safe operation of traffic control equipment.
 2. Materially interfere with sight lines or clear zones for transportation or pedestrians.
 3. Materially interfere with compliance with the Americans with Disabilities Act of 1990, Public Law 101-336, or similar federal, state, or local standards regarding pedestrian access or movement.
 4. Materially interfere with maintenance or full unobstructed use of the City's public utility infrastructure.
 5. Materially interfere with maintenance or full unobstructed use of the City's drainage infrastructure as it was originally designed, or not be located a reasonable distance from the drainage infrastructure to ensure maintenance.
 6. Fail to comply with spacing requirements as set forth in the City of Bloomfield Hills Small Cell Wireless Facilities Ordinance
 7. Fail to comply with applicable codes.
 8. Fail to comply with design and concealment requirements as set forth in the City of Bloomfield Hills Small Cell Wireless Facilities Ordinance.

- ii. *Installation of New Poles.* For new Poles, the City may propose an alternate location within the ROW or on property or structures owned or controlled by the City within 75 feet of the proposed location to either place the new Pole or collocate on an existing structure. Company shall use the alternate location if it does not impose unreasonable technical limits or significant additional costs. If the Applicant and the City Manager/staff are not in agreement relate to the proposed alternative location for the placement of the new utility pole, the Applicant shall submit the proposed alternative pole location to the Planning Commission, which shall review the proposed alternative location and determine if the alternative location is appropriate
 - iii. *Map and List of Small Wireless Facilities.* Company shall maintain in a form acceptable to the City, a current map and list of the location of all Small Wireless Facilities used by Company pursuant to this Permit and located in the ROW; Company shall provide such list to the City within ten (10) business days upon receipt of request for same; and Company shall, whether or not requested by the City, provide an updated list and map promptly after any permitted work is completed.
 - iv. *Permits; Compliance with Permit and the Act.* Company shall obtain all required permits and grants of the City and any of its departments or agencies, and any other agency with jurisdiction over the Small Wireless Facilities, services or the property on which the Small Wireless Facilities are or will be located, prior to performing any work under this Permit and shall comply with all of the terms and conditions set forth in these permits. Company shall not mount, construct, install, maintain, locate, operate, place, protect, reconstruct, reinstall, remove, repair, or replace any Small Wireless Facilities on any Pole, except as expressly authorized by and in strict compliance with this Permit and the Act, and shall not without further and separate authorization, otherwise locate more than one Small Wireless Facility or other related facility on any single Pole.
- b. *Changes in Location.* If the Small Wireless Facilities or their locations on the Poles located in the ROW deviate in any material way from the specifications attached hereto as Exhibit A, then Company shall first obtain a grant for any such deviation from the owners of the Poles located on the ROW and shall provide the City with written evidence of such authorization. Upon receiving such authorization, the Exhibit A Location Map may be modified by written request by Company and approval by the Building Official, or their designee(s), to modify approved locations and/or add additional locations. Said approval shall not be unreasonably conditioned or denied for new locations on existing Poles. Upon written request to modify Exhibit A, the City shall approve or deny the request in writing within sixty (60) days for requests to modify an existing facility or Pole, or in ninety (90) days for requests to replace an existing Pole. In acting on an Exhibit A modification request, to the extent allowed by law, City may consider the factors enumerated in Section 2(a)(i).
- c. *Changes to Small Wireless Facilities and Equipment.* If Company proposes to install different but comparable Small Wireless Facilities or equipment on Poles and locations that have already been approved by the City, the Exhibit B Facilities Plans and

Specifications for a location may be modified by written request by Company and approval by the Building Official, or their designee(s). Small Wireless Facilities located in the ROW under this Permit may not be altered, expanded, or changed in appearance without City approval, which shall not be unreasonably withheld. The City's approval remains subject to any state or federal statute, rule, or law that allows such modifications without City approval, or restricts or limits the City's authority in that regard. Upon written request to modify Exhibit B, the City shall approve or deny the request in writing within sixty (60) days of the request. Nothing in this subsection shall be construed as requiring a permit or fees for the replacement of a Small Wireless Facility with another Small Wireless Facility that is not larger or heavier and is in compliance with all applicable codes and the Act.

- d. *Appeal to City Commission.* Any decision by the Building Official, or his/her designee(s), on a request for a modification of Exhibit A or Exhibit B for a location may be appealed by Company to the City Commission.
- e. *Attachments.* Company shall not allow attachment of wires or any other facilities of a third party to Small Wireless Facilities owned or controlled by Company without City's prior written approval of the required modification of Exhibit B under Section 2(c). Company shall allow attachment of third-party wires and facilities to Company owned poles that can structurally accommodate the attachments if the third party complies with all relevant state and federal law, and the third party has a license and all required permits from the City for the attachments.
- f. *Nonexclusive.* The rights granted by this Permit are nonexclusive. City reserves the right to approve, at any time, additional permits or licenses for access to and ongoing usage of the ROW by other wireless or telecommunications providers and to enter into agreements for use of the ROW with and/or grant Permits for use of the ROW to wireless providers, telecommunications providers, cable companies, utilities and other providers.
- g. *Limited Authorization.* This Permit does not authorize the placement of Small Wireless Facilities or any other equipment on sites, structures or facilities other than those specifically identified herein. This Permit does not relieve Company of its burden of seeking any necessary permission from other governmental agencies which may have jurisdiction regarding Company's proposed use. Company further acknowledges that it cannot use any historically or architecturally significant poles located within the ROW or other street furniture, except as may be otherwise expressly authorized in a specific permit issued by the City.
- h. *Reservation of Powers.* The City reserves any and all powers it may have, now or in the future under applicable local, state, or federal law, to regulate the Small Wireless Facilities, their use, or the use of the ROW or of other City property. Company shall be subject to all present and future ordinances of the City and its Commission, and boards. Nothing in this Permit shall be construed as a waiver of any codes, ordinances or regulations of the City or of the City's right to require Company to secure the appropriate permits or authorizations for exercising the rights set forth in this Permit.

- i. *All Permitted Activities Fees at Company's Sole Expense.* Notwithstanding any other provision of this Permit, the construction, operation, maintenance, removal and replacement of Facilities, and all other activities permitted hereunder and all fees or obligations of Company under this Permit, shall be Company's sole responsibility at Company's sole cost and expense.
- j. *Permit.* Company shall obtain, at its sole expense, all applicable permits as are required by City or any other agency to perform the work and ongoing use, as described in this Agreement, of poles located on the ROW.
- k. *No Real Property Interest Created.* Neither Company's use of the Public Rights-of-Way, nor anything contained in this Permit shall be deemed to grant, convey, create, or vest in Company a real property interest in any portion of the ROW or any other City property, including but not limited to, any fee or leasehold interest in any land or easement. Company, on behalf of itself and any permitted successor, lessee, or assign, recognizes and understands that this Permit may create an interest subject to taxation and that Company, its successor, lessee or assign may be subject to the payment of such taxes.
- l. *All Rights Nonexclusive.* Notwithstanding any other provision of this Permit, any and all rights expressly or impliedly granted to Company under this Permit 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 ROW, exclusively or concurrently with any other Person or Persons, 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 ROW now or at any time during the term of this Permit, including without limitation any Encumbrances granted, created or allowed by the City at any time.

Section 3 CONTACTS, MAPS AND PLAN

- a. *Company Contacts.* The names, addresses and contact information for engineering and construction related information for Company and its Facilities are as follows:

The address, e-mail address, phone number and contact person (title or name) at Company's local office (in or near Municipality) is:

If Company's engineering drawings, as-built plans and related records for the Facilities will not be located at the preceding local office, the location address, phone number and contact person for them is:

The name, title, address, e-mail address and telephone numbers of Company's engineering contact person(s) with responsibility for the design, plans and construction of the Facilities is:

The address, phone number and contact person (title or department) at Company's home office/regional office with responsibility for engineering and construction related aspects of the Facilities is:

Company shall at all times provide the Building Official with the phone number at which a live representative of Company (not voice mail) can be reached 24 hours a day, seven (7) days a week, in the event of a public emergency. This number is:

The preceding information is accurate as of the Effective Date. Company shall notify Municipality in writing as set forth in Section 13 of any changes in the preceding information.

- b. *As-Built Records.* Company, without expense to City, shall, upon 48 hours' notice, give City access to all "as-built" maps, records, plans and specifications showing the Small Wireless Facilities or portions thereof in the ROW.

Section 4. USE OF PUBLIC RIGHT-OF-WAY

- a. *No Burden on Public Right-of-Way.* Company, its contractors, subcontractors, and the Small Wireless Facilities shall not unduly burden or interfere with the present or future use of any of the ROW. The Small Wireless Facilities shall be installed and maintained so as to not endanger or injure persons or property in or about the ROW. If City reasonably determines that any portion of the Small Wireless Facilities constitutes an undue burden or interference, due to changed circumstances, Company, at its sole expense, shall modify the Small Wireless Facilities or take such other actions as City may determine is in the public interest to remove or alleviate the burden, and Company shall do so within a reasonable time period. City shall attempt to require all occupants of a pole or conduit whose facilities are a burden to remove or alleviate the burden concurrently.
- b. *No Priority.* This Permit does not establish any priority of use of the ROW by Company over any present or future licensees or parties having agreements with City or Permits for

such use. In the event of any dispute as to the priority of use of the ROW, the first priority shall be to the public generally, the second priority to City, the third priority to the State of Michigan and its political subdivisions in the performance of their various functions, and thereafter as between other licensees, agreement or Permit holders, as determined by City in the exercise of its powers, including the police power and other powers reserved to and conferred on it by the State of Michigan.

- c. *Restoration of Property.* Upon completion of each task or phase of work to be performed by Company under this Permit, Company, its contractors and subcontractors shall immediately (subject to seasonal work restrictions) restore, at Company's sole expense, in a manner approved by City, any portion of the ROW that is in any way disturbed, damaged, or injured by the construction, installation, operation, maintenance or removal of the Facilities to a reasonably equivalent (or, at Company's option, better) condition as that which existed prior to the disturbance. In the event that Company, its contractors or subcontractors fail to make such repair within sixty (60) days after written notice, the City may make the repair and Company shall pay the costs City incurred for such repair. The provisions of this paragraph shall survive the expiration, completion or earlier termination of this Permit.
- d. *Marking.* Company shall mark the Small Wireless Facilities as follows: Aerial portions of the Small Wireless Facilities shall be marked with a marker which shall state Company's name and provide a toll-free number to call for assistance. Underground portions of the Small Wireless Facilities shall have a stake or other appropriate above ground markers with Company's name and a toll-free number indicating that there is buried equipment below. Any signage required by this section shall not be used for advertising purposes and shall not exceed 1 square foot in area unless approved by the City.
- e. *Tree Trimming.* Company may trim trees upon and overhanging the ROW so as to prevent the branches of such trees from coming into contact with the Facilities, consistent with any standards adopted by City. Company shall dispose of all trimmed materials. Company shall minimize the trimming of trees to that essential to maintain the integrity of the Small Wireless Facilities. Except in emergencies, all trimming of trees in the ROW shall have the advance approval of the Building Official, or their designee(s).
- f. *Installation and Maintenance.* The construction and installation of the Small Wireless Facilities shall be performed pursuant to plans approved by City. Company shall install and maintain the Small Wireless Facilities in a reasonably safe condition. If the existing Poles in the ROW are overburdened or unavailable for Company's use, or the facilities of all users of the Poles are required to go underground then Company shall have the right to request a modification under Section 2 for an alternate location. Company may perform maintenance on the Small Wireless Facilities without prior approval of City, provided that Company shall obtain any and all permits required by City in the event that any maintenance will disturb or block vehicular traffic or are otherwise required by City.

- g. *Coordination.* Company shall coordinate its construction and all other work in the ROW with any City programs or projects Company is notified of in the City's review comments on a Company construction permit application.
- h. *Compliance with Laws.* Company shall comply with all laws, statutes, ordinances, rules and regulations regarding the construction, installation, and maintenance of its Small Wireless Facilities, whether federal, state or local, now in force or which hereafter may be promulgated. Before any installation is commenced, Company shall secure all necessary permits, licenses and approvals from City or other governmental entity as may be required by law, including, without limitation, all utility line permits and highway permits. City shall not unreasonably delay or deny issuance of any such permits, licenses or approvals. Company shall comply in all respects with applicable codes and industry standards, including but not limited to the National Electrical Safety Code (latest edition adopted by Michigan Public Service Commission) and the National Electric Code (latest edition). Company shall comply with all zoning and land use ordinances and historic preservation ordinances as may exist or may hereafter be amended. This Section does not constitute a waiver of Company's right to challenge laws, statutes, ordinances, rules or regulations now in force or established in the future.
- i. *Street Vacation.* If City vacates or consents to the vacation of a ROW within its jurisdiction, and such vacation necessitates the removal and relocation of Company's Facilities in the vacated ROW, Company shall, as a condition of this Permit, consent to the vacation and removal of its Small Wireless Facilities at its sole cost and expense when ordered to do so by City or a court of competent jurisdiction. Company shall relocate its Small Wireless Facilities to such alternate location as City and Company mutually agree, applying reasonable engineering standards.
- j. *Relocation or Removal of Small Wireless Facilities at City's Request.* Company understands and acknowledges that the City, at any time and from time to time, may require Company to remove or relocate upon a written request from the City on ten (10) business days' notice at Company's sole cost and expense, portions of the Small Wireless Facilities whenever City reasonably determines that the removal or relocation is needed: (1) to facilitate or accommodate the construction, completion, repair, relocation, or maintenance of a City project, (2) because the Small Wireless Facility interferes with or adversely affects proper operation of the light poles, traffic signals, City-owned communications systems or other City facilities, (3) because of a sale or vacation of the ROW by the City, (4) because there is a change in use of the ROW by the City provided such use similarly effects similarly licensed users in the ROW, (5) because there is damage to and/or removal of the light pole, or (6) to preserve and protect the public health and safety, in a manner not inconsistent with 47 U.S.C. § 332(c)(7). Company shall at its own cost and expense remove, relocate and/or adjust the Small Wireless Facility, or any part thereof, to such other location or locations in the ROW, or in such manner, as appropriate, as may be designated or granted, in writing and in advance, by the City. Such removal, relocation, adjustment shall be completed within the time prescribed by the City in its written request and in accordance with the terms of this Permit. Company shall not be in default hereunder if it

has taken appropriate action as directed by the City to obtain such grant. If Company fails to remove, relocate, adjust or support any portion of the Small Wireless Facility as described by the City within the prescribed time, City may take all reasonable, necessary, and appropriate action, as stated in Section 11.

- k. *Public Emergency.* City shall have the right to sever, disrupt, dig-up or otherwise destroy Small Wireless Facilities of Company if such action is necessary because of a public emergency. If reasonable to do so under the circumstances, City shall attempt to provide notice to Company. Public emergency shall be any condition which poses an immediate threat to life, health, or property caused by any natural or man-made disaster, including, but not limited to, storms, floods, fire, accidents, explosions, water main breaks, hazardous material spills, etc. Company shall be responsible for repair at its sole cost and expense of any of its Facilities damaged pursuant to any such action taken by City.
- l. *Miss Dig.* If eligible to join, Company shall subscribe to and be a member of "MISS DIG," the association of utilities formed pursuant to Act 174 of the Public Acts of 2013, as amended, MCL § 460.721et seq., and shall conduct its business in conformance with the statutory provisions and regulations promulgated thereunder.
- m. *Underground Relocation.* If Company has its Small Wireless Facilities on poles of Consumers Energy, Detroit Edison or another electric or telecommunications provider and Consumers Energy, Detroit Edison or such other electric or telecommunications provider relocates its system underground, this Permit shall terminate as to any pole that is no longer used except by Company for its Small Wireless Facilities, which shall be promptly removed at Company's sole cost and expense. For any pole that this Permit is terminated for under this subsection, Company may request a modification under Section 2 for an alternate location.
- n. *Identification.* All personnel of Company and its contractors or subcontractors who have as part of their normal duties contact with the general public shall wear on their clothing a clearly visible identification card bearing Company's name, their name and photograph. Company shall account for all identification cards at all times. Every service vehicle of Company and its contractors or subcontractors shall be clearly identified as such to the public, such as by a magnetic sign with Company's name and telephone number.

Section 5. INDEMNIFICATION

- a. *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 the Company, its successors and assigns, in the event of any default or breach by the City or for any amount which may become due to Company, its successors and assigns, or for any obligation of City under this Permit.
- b. *Obligation to Indemnify the City.* Company, its successors and assigns, shall hold harmless, defend, protect and indemnify the City, including, without limitation, each of its elected and/or appointed commissions, departments, officers, agents, employees and 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 allegedly arising directly or indirectly from: (i) any act by, omission by, or negligence of Company 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 Permit, or while in or about the ROW or any other City property for any reason connected in any way whatsoever with the performance of the work, conduct of the activities or presence of the Small Wireless Facilities authorized by this Permit, or allegedly resulting directly or indirectly from the presence, construction, installation, maintenance, replacement, removal or repair of the Small Wireless Facilities, (ii) any accident, damage, death or injury to any contractor, subcontractor, or any officer, agent, or employee of either of them, while engaged in the performance of the work, conduct of the activities or presence of the Small Wireless Facilities authorized by this Permit, or while in or about the ROW, for any reason connected with the performance of the work or conduct of the activities authorized by this Permit, 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 Permit, (iii) any accident, damage, death or injury, to real or personal property, good will, and Person(s) in, upon or in any way allegedly connected with the work or activities authorized by this Permit or the presence of the Small Wireless Facilities from any cause or claims arising at any time including, without limitation, injuries or damages allegedly caused, directly or indirectly, in whole or in part, by radio wave transmission or electromagnetic fields emitted by the Small Wireless Facilities, (iv) any release, or threatened release, of any hazardous material caused in whole or in part by Company in, under, on or about the property subject to this Permit or into the environment, or resulting directly or indirectly from the Small Wireless Facilities or the work or activities authorized by this Permit, (v) any violation by Company of the terms and conditions hereof, or any misrepresentation made herein or in any document given by Company in connection herewith, and (vi) any direct or indirect interference by Company or the Small Wireless Facilities, except to the extent that such claims arise from interference with use or placement of Small Wireless Facilities in the public way caused by the sole negligence or willful misconduct of the City, but such agreement shall not waive the City's right to governmental immunity.

- c. *Scope of Indemnity.* Company shall hold harmless, indemnify and defend the City as required in this Section 5, including without limitation, each of its elected and/or appointed commissions, boards, departments, officers, agents, employees and contractors, except only for claims resulting from the sole negligence or willful misconduct of the City. Company specifically acknowledges and agrees that it has an immediate and independent obligation to defend the City from any claim which actually or potentially falls within this indemnity provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered in writing to Company by the City and continues at all times thereafter. Company agrees that the indemnification obligations assumed under this Permit shall survive expiration or other termination of this Permit.

- d. *No Liability for Damage, Death or Bodily Injury.* Neither City nor any of its commissions, departments, boards, officers, agents or employees shall be liable for any damage to the property of Company, 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 Permit, the condition of any City property subject to this Permit or Company use of any City property, except as otherwise provided herein and permitted by law.
- e. *Waiver of Claims regarding Fitness of Poles or Other Municipal Properties or Structures Located in Public Right-of-Ways.* Company acknowledges that the City has made no warranties or representations regarding the fitness, availability or suitability of any Poles or other City properties or structures for the installation of the Small Wireless Facilities, or for any other activities permitted under this Permit, and that, except as expressly provided herein, any performance of work or costs incurred by Company or provision of Services contemplated under this Permit by Company is at Company's sole risk. Company 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 the ROWs, other City property affected by this Permit or any law or regulation applicable thereto.
- f. *Waiver of All Claims.* Company acknowledges that this Permit is terminable by the City under certain limited circumstances as provided herein, and in view of such fact Company expressly assumes the risk of making any expenditures in connection with this Permit, even if such expenditures are substantial, and Company expressly assumes the risk of selling its Services which may be affected by the termination of this Permit. Without limiting any indemnification obligations of Company or other waivers contained in this Permit and as a material part of the consideration for this Permit, Company fully RELEASES, WAIVES AND DISCHARGES forever any and all claims, demands, rights, and causes of action against, and covenants not to sue, City, its departments, commissions, officers, boards, 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 exercises its right to terminate this Permit, as specifically provided herein.
- g. *No Liability for Consequential or Incidental Damages.* Company expressly acknowledges and agrees that the City will not be liable for any consequential or incidental damages, including, but not limited to, lost profits and loss of good will, arising out of termination of this Permit or disruption to the Small Wireless Facilities or Company's permitted activities hereunder. The City would not be willing to enter into this Permit in the absence of a waiver of liability for consequential or incidental damages due to the acts or omissions of City or its agents, and Company expressly assumes the risk with respect thereto.

Accordingly, without limiting any indemnification obligations of Company or other waivers contained in this Permit and as a material part of the consideration for this Permit, Company fully RELEASES, WAIVES AND DISCHARGES forever 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 for such damages, City, its Commission, departments, boards, commissions, officers, and employees, and all persons acting by, through or under each of them, arising out of this Permit or the work and activities authorized hereunder, including, without limitation, any interference with uses conducted by Company pursuant to this Permit, regardless of the cause, and whether or not due to the negligence or gross negligence of City or its agents.

- h. *Notice, Cooperation.* City shall notify Company promptly in writing of any such claim and the method and means proposed by City for defending or satisfying such claim. City shall cooperate with Company in every reasonable way to facilitate the defense of any such claim. City shall consult with Company respecting the defense and satisfaction of such claim, including the selection and direction of legal counsel.
- i. *Settlement.* City shall not settle any claim subject to indemnification under this Section 5 without the advance written consent of Company, which consent shall not be unreasonably withheld. Company shall have the right to defend or settle, at its own expense, any claim against City for which Company is responsible hereunder.

Section 6. INSURANCE.

Company has provided and will continue to maintain all necessary insurance information which shall be applicable and cover Company's Small Wireless Facilities, actions, and operations under this Permit and be confirmed by the written insurance policies filed with the City Clerk.

- a. *Amounts and Coverages.* Company and each of its subcontractors or others working on its behalf, will maintain in force, during the full term of this Permit, insurance in the following amounts and coverages:
 - i. Workers' Compensation, with Employer's Liability limits of not less than One million dollars (\$1,000,000) each accident.
 - ii. Commercial General Liability Insurance with limits not less than five million dollars (\$5,000,000) each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Owners and Contractors' Protective, Broadform Property Damage, Products Completed Operations.
 - iii. Business Automobile Liability Insurance with limits not less than one million dollars (\$1,000,000) each occurrence Combined Single Limit for Bodily Injury and Property Damage, including owned, non-owned and hired auto coverage, as applicable.
- b. *Required Provisions.* General Liability and Automobile Liability Insurance shall be endorsed to provide for the following:

- i. Name as additional insureds: The City, its officers, agents and employees.
 - ii. That such policies are primary insurance to any other insurance available to the additional insureds, with respect to any claims arising out of this Permit, and that insurance applies separately to each insured against whom claim is made or suit is brought.
- c. *Advance Notice of Cancellation.* All policies shall be endorsed to provide: thirty (30) days advance written notice to City of cancellation or intended non-renewal, using the contact information provided in Section 13.
- d. *Claims-Made Policies.* Should any of the required insurance be provided under a claims-made form, Company shall maintain such coverage continuously throughout the term of this Permit and, without lapse, for a period of six (6) years beyond the Permit expiration, to the effect that, should any occurrences during the Permit term give rise to claims made after expiration of the Permit, such claims shall be covered by such claims-made policies.
- e. *General Aggregate Limit.* Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general aggregate limit shall double the occurrence or claims limits specified above.
- f. *Receipt of Insurance Policies.* Insurance Policies, in the form and with insurers reasonably satisfactory to the City, evidencing all coverages above shall be furnished to the City before commencing any operations under this Permit.
- g. *Effect of Approval of Insurance.* Approval of the insurance by the City shall not relieve or decrease the liability of Company hereunder.
- h. *Effect of Lapse of Insurance.* This Permit shall terminate immediately, after written notice to Company and an opportunity to cure of three (3) business days, upon any lapse of required insurance coverage.

Section 7. TERM.

The term ("Term") of this Permit shall be until the earlier of:

- a. Three years (3) from the Effective Date; provided, however, that following such initial term there shall be three subsequent renewal terms of two (2) years. Each renewal term shall be automatic unless City notifies Company in writing, at least one (1) year prior to the end of any term then in effect, that due to changed circumstances a need exists to negotiate the subsequent renewal with Company. City shall not unreasonably deny a renewal term; or

- b. When the Small Wireless Facilities have not been used to provide the Services for a period of 180 days by the Company or a successor or an assign of the Company; or
- c. When Company, at its election and with or without cause, delivers written notice of termination to City at least 180 days prior to the date of such termination; or
- d. By City after written notice to Company and after opportunity to meet with representatives of the City, if the City reasonably determines that Company's continued use of the ROW will adversely affect public health or safety; or
- e. Upon either Company or City giving written notice to the other of the occurrence or existence of a default under this Permit by the other party and such defaulting party failing to cure, or commence good faith efforts to cure, such default within 30 days (or such shorter period of time provided elsewhere in this Permit) after delivery of such notice.

In the event of termination of this Permit as herein provided, Company shall immediately cease all work being performed under this Permit, excepting only that work necessary for Company to remove all Facilities from the ROW as provided in Section 11 below. Termination of this Permit by the City as herein provided shall constitute the withdrawal of any grant, consent or authorization of the City for Company to perform any construction or other work under this Permit in the ROW or on public property excepting only that work necessary for Company to remove all Facilities and leave all work site areas in a clean and safe condition and in accordance with Section 11 below. Upon any such early termination, the City shall promptly remit to Company a prorated portion of the annual Permit fee paid to the City, if any.

Section 8. PERFORMANCE BOND OR LETTER OF CREDIT.

Company shall post a bond (or letter of credit) as specified in the attached Exhibit C.

Section 9. FEES.

- a. *Annual Fees.* Company shall pay City an annual fee in advance on or before the Effective Date and each anniversary date thereafter for each City approved location of Small Wireless Facilities shown on the Exhibit A, regardless of whether Company has installed the Small Wireless Facilities at that location, with the amount of the fee to be determined in accordance with the Fee Schedule that is attached as Exhibit D, and the payment to be made by delivery to the City Treasurer, or to such other person or location as the City designates in writing at least one (1) month prior to a payment due date.
- b. *Late Fees.* A payment of the annual fee received by the City more than 15 days after it is due shall include an administrative late charge equal to five (5%) percent of the required payment and shall incur interest at five (5%) percent, compounded monthly, for the outstanding balance due to the City.
- c. *Application Fee.* In order to compensate the City for the Company's initial entry upon and deployment of Small Wireless Facilities within the ROW, the Company shall pay to the

City an Application Fee for each Small Wireless Facility, as set forth in the Fee Schedule that is attached as Exhibit D.

Section 10. WORK STANDARDS.

- a. *Performance of Work.* Company shall use and exercise due care, caution, skill and expertise in performing all work under this Permit and shall take all reasonable steps to safeguard and maintain in clean and workmanlike manner, all work site areas, including, without limitation, the Poles located on the ROW and other existing facilities and property. All work to be undertaken by Company in the ROWs shall at all times be performed by workers in accordance with generally accepted industry practice.
- b. *Work Plan.* Prior to performing any work necessary under this Permit, Company shall present a map and written proposal describing the work to be performed and the Small Wireless Facilities, methods and materials (if any) to be installed ("Work Plan") to the City for review and will not perform any work until it has received city authorization of the Work Plan. In addition, prior to conducting any work in the ROW, Company 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 Permit. As soon as is reasonably practical following installation of the Small Wireless Facilities, Company shall deliver as-built drawings to the City.
- c. *No Underground Work Without Written Authorization.* Company hereby represents, warrants and covenants that Company 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 in connection with the work to be performed or Services to be provided by Company under this Permit, except to the extent expressly approved by the City. Company 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
- d. *Repair or Replacement of Damaged Facilities or Property.* Upon written request, Company agrees to repair or replace to City's reasonable satisfaction any City-owned facilities or City-owned property that the City determines has been damaged, destroyed, defaced or otherwise injured as a result of the work performed or Services provided by Company under this Permit. Company shall perform such work at no expense to the City, except to the extent such damage, destruction, defacement, or injury was caused by the sole negligence or willful misconduct of City.
- e. *Modification of Work Plans.* If during the term of this Permit the City determines that the public health or safety requires a modification of or a departure from the Work Plan submitted by Company and granted, the City shall have the authority to identify, specify and 'delineate the modification or departure required, and Company shall perform the work allowed under this Permit in accordance with the City-specified modification or departure

at Company's sole expense. The City shall provide Company 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 Company shall make, complete or maintain the modification or departure required.

- f. *Notification of Start and Completion of Work.* Company shall notify the City at least 48 hours before starting work and shall notify the City that the work is completed no more than 48 hours after the work is complete.
- g. *Time Restrictions.* All work shall be performed Mondays through Fridays between 8:00 a.m. and 5:00 p.m. unless prior written approval is obtained from the City.

Section 11. REMOVAL OF SMALL WIRELESS FACILITIES.

Upon one hundred and eighty (180) days' written notice by the City pursuant to the end of the Term, Company shall promptly, safely and carefully remove the Small Wireless Facilities from all Poles and other places located in the ROW. Such obligation of Company shall survive the expiration or earlier termination of this Permit. If Company fails to complete this removal work on or before the one hundred and eighty (180) days subsequent to the issuance of notice pursuant to this Section, then the City, upon written notice to Company, shall have the right at the City's sole election, but not the obligation, to perform this removal work and charge Company for the actual costs and expenses, including, without limitation, reasonable administrative costs. Company shall pay to the City the costs and expenses incurred by the City in performing any removal work and any storage of Company's property after removal (including any portion of the Small Wireless Facilities) within fifteen (15) 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 Company's performance bond. After the City receives the reimbursement payment from Company for the removal work performed by the City, the City shall promptly return to Company the property belonging to Company and removed by the City pursuant to this Section at no liability to the City. If the City does not receive the reimbursement payment from Company within such fifteen (15) business days, or if City does not elect to remove such items at the City's cost after Company's failure to so remove prior to one hundred and eighty (180) days subsequent to the issuance of notice pursuant to this Section, any items of Company's property, including without limitation the Small Wireless Facilities, remaining on or about the ROW 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, and in accordance with any legal rights of persons other than the City who own Poles located in the public way and used by Company. Alternatively, the City may elect to take title to such abandoned property, whether the City is provided by the Company, an instrument satisfactory to the City transferring to the City the ownership of such property, or not. The provisions of this paragraph shall survive the expiration or earlier termination of this Permit.

Section 12. ASSIGNMENT.

Company may assign or transfer its rights under this Permit, or the persons or entities controlling Company may change, in whole or in part, voluntarily, involuntarily, or by operation of law,

including by merger or consolidation, change in the ownership or control of Company's business, or by other means, subject to the following:

- a. No such transfer or assignment or change in the control of Company shall be effective under this Permit, without City's prior approval (not to be unreasonably withheld), during the time period from the Effective Date until the completion of the construction of the Small Wireless Facilities in those portions of the ROW identified on Exhibit A.
- b. After the completion of such construction, Company must provide notice to City of such transfer, assignment or change in control no later than 30 days after such occurrence; provided, however,
 - i. Any transferee or assignee of this Permit shall be qualified to perform under its terms and conditions and comply with applicable law; shall be subject to the obligations of this Permit, including responsibility for any defaults which occurred prior to the transfer or assignment; shall supply City with the information required under Section 3(a); and shall comply with any updated insurance and performance bond requirements under Sections 6 and 8 respectively, which City reasonably deems necessary, and
 - ii. In the event of a change in control, it shall not be to an entity lacking the qualifications to assure Company's ability to perform under the terms and conditions of this Permit and comply with applicable law; and Company shall comply with any updated insurance and performance bond requirements under Sections 6 and 8 respectively, which City reasonably deems necessary.
- c. Company may grant a security interest in this Permit, its rights thereunder or the Facilities at any time without notifying City.
- d. Any such transfer, assignment or change of control by the Company is subject to all rights and/or obligations granted under this Permit and the Ordinance.

Section 13. NOTICES.

- a. Notices. All notices under this Permit shall be given as follows:

If to City:

City of Bloomfield Hills:
Attn: City Manager
45 E. Long Lake Road
Bloomfield Hills, MI 48304

with a copy to:

City of Bloomfield Hills
Attn: Clerk
45 E. Long Lake Road
Bloomfield Hills, MI 48304

and

City of Bloomfield Hills
Attn: Building and Engineering Department
45 E. Long Lake Road
Bloomfield Hills, MI 48304

If to Company:

- b. Change of Address. Company and City may change its address or personnel for the receipt of notices at any time by giving notice thereof to the other as set forth above.

Section 14. OTHER ITEMS.

- a. *No Cable, OVS.* This Permit does not authorize Company to provide commercial cable type services to the public, such as "cable service" or the services of an "open video system operator" (as such terms are defined in the Federal Communications Act of 1934 and implementing regulations, currently 47 U.S.C. §§ 522 (6), 573 and 47 CFR § 76.1500).
- b. *No Wireline Backhaul Facility.* This Permit does not authorize Company to install, place, modify, maintain or operate a "wireline backhaul facility," as defined in Section 11 of the Act, in the ROW.
- c. *Duties.* Company shall faithfully perform all duties required by this Permit.
- d. *Amendment.* Except as set forth in Section 2, this Permit may only be amended by written agreement of the City and Company.
- e. *Interpretation and Severability.* The provisions of this Permit shall be liberally construed to protect and preserve the peace, health, safety and welfare of the public, and should any provision or Section of this Permit be held unconstitutional, invalid, overbroad or otherwise unenforceable, such determination/holding shall not be construed as affecting the validity of any of the remaining conditions of this Permit. If any provision in this Permit is found to be partially overbroad, unenforceable, or invalid, Company and City may nevertheless enforce such provision to the extent permitted under applicable law.
- f. *Governing Law.* This Permit shall be governed by the laws of the State of Michigan.

WITNESSES

CITY OF BLOOMFIELD HILLS, a Michigan
municipal corporation

By: _____

-

Its:
Manager _____

-

Dated: _____

WITENSS

CITY OF BLOOMFIELD HILLS,
A Michigan municipal corporation

By: _____

Its:
Clerk _____

Dated: _____

COMPANY

By: _____

-

Its: _____
(With authority to bind Wireless Provider to this
permit and these Terms and Conditions)

Dated: _____

Exhibit A
Location Map
Public Right-of-Way (“ROW”) to be Used by Small Wireless Facilities

The ROW locations that Company is granted access to and the use of are shown on the attached Location Map, which as provided in Section 2 of the Permit to which this Exhibit is attached, may be modified from time to time to add or remove locations.

Exhibit B
Small Wireless Facilities Plans and Specifications

For each numbered Small Wireless Facilities location shown on Exhibit A, the plans and specifications for those Facilities are attached.

Company acknowledges and agrees that the overall height of any new poles and antennas shall be strictly limited to _____, and the overall height of any replacement poles shall be strictly limited to _____, including the antenna or other equipment.

Exhibit C
Bond

As authorized under Section 8 of the Permit that this Exhibit is attached to and part of a Bond conforming to these specifications and requirements is required in the amount of \$_____ per Small Wireless Facility as representing an amount that does not exceed the reasonable cost to provide for the removal of abandoned or improperly maintained Small Wireless Facilities, to repair the ROW, and to recoup unpaid rates or fees.

The bond shall be in the form of an irrevocable bank letter of credit form or surety bond form approved by the City and shall be posted with the City before any work in the ROW may begin.

**Exhibit D
Fee Schedule**

Application Fees

Application Fees for Deployments in ROW MCL 460.1315(2)(o)

Per small wireless facility	\$200.00*
Per small wireless facility requiring a new or replacement pole	\$300.00

Zoning Approval Fees for Deployments Outside of ROW NCL 460.1317(4)

New wireless support structures or modification of existing wireless support structure	\$1,000.00
New small wireless facility or modification of existing small wireless facility	\$500.00

Annual Rates

Annual Rates are calculated by adding the ROW Rate to the Pole Rate

Rates for Deployments in ROW MCL 460.1313(3)

Per utility pole or wireless support structure on which Company has collocated a small wireless facility	\$20.00/year
Per utility pole or wireless support structure erected by or on behalf of Company on or after March 12, 2019	\$125.00/year