RESOLUTION R-2022-57

A RESOLUTION AUTHORIZING THE EXECUTION OF MASTER RIGHT OF WAY, EASEMENT AND POLE ATTACHEMENT LICENSE AGREEMENT – FOR CHICAGO SMSA LIMITED PARTNERSHIP D/B/A/ VERIZON WIRELESS

BE IT AND IT IS HEREBY RESOLVED by the Mayor and City Council of the City of Wheaton, Illinois, that the Mayor is hereby authorized to sign, and the City Clerk is directed to attest to the Master License Agreement dated July 19, 2022, between the City of Wheaton and Chicago SMSA Limited Partnership d/b/a Verizon Wireless, attached hereto as Exhibit 1.

ADOPTED this 18th day of July, 2022.

Mayor

ATTEST:

City Clerk

ROLL CALL VOTE

Ayes:	Councilman Brown
	Mayor Suess
	Councilwoman Fitch
	Councilwoman Robbins
	Councilman Weller
	Councilman Barbier
	Councilwoman Bray-Parker
Nays:	None
Absent:	None

Motion Carried Unanimously

MASTER RIGHT OF WAY, EASEMENT AND POLE ATTACHMENT AGREEMENT

This Master Right of Way, Easement and Pole Attachment Agreement (Agreement) made this 19th day of July, 2022, between the City of Wheaton, Illinois , with its principal offices located at 303 W. Wesley Street, Wheaton, Illinois 60187, hereinafter designated LICENSOR or City and Chicago SMSA Limited Partnership d/b/a Verizon Wireless, whose principal place of business is One Verizon Way, Mail Stop 4AW100, Basking Ridge, NJ 07920, hereinafter designated LICENSEE. LICENSOR and LICENSEE are at times collectively referred to hereinafter as the "Parties" or individually as the "Party."

WITNESSETH

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

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

WHEREAS, the LICENSOR and LICENSEE intend to facilitate the expansion of communications services in a manner consistent with the Small Wireless Facilities Deployment Act (the "Act"), 50 ILCS 835/1, et seq., the Illinois Cable and Video Competition Act, the Illinois Telephone Company Act, the Telecommunications Act of 1996, the Middle Class Tax Relief and Job Creation Act of 2012, the Simplified Municipal Telecommunications Tax Act, 35 ILCS 636/5-1, *et. seq.*, Federal Communication Commission Regulations and the City's Small Wireless Facilities in Rights-of-Way Ordinance (Article IX Code of Ordinances) and other applicable City ordinances which are not pre-empted; (hereinafter "SWFO"); and

WHEREAS, as referred to in this Agreement, the LICENSOR'S real property includes parking lots, municipal grounds, property titled in LICENSOR and that portion of right-of-way, as defined in the Act, necessary to physically support any utility pole, wireless support structure or any pole or structure owned by an entity or person other than the City which is in the right-of-way and upon which a small wireless facility is proposed to be installed or is installed; and

WHEREAS, LICENSOR and LICENSEE (sometimes "Parties") acknowledge that any term used in this Agreement that is defined in the SWFO (as now or hereafter amended) shall have the meaning provided therein and as further clarified in this Agreement; and

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

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

WHEREAS, LICENSOR and LICENSEE acknowledge that they will enter into a License Supplement ("Supplement"), an exemplar copy of which is attached hereto as Exhibit A, with respect to any specific location or site which the Parties agree to license, where specific locations are approved by City staff. The Corporate Authorities of the City have authorized the City Manager or similar office to execute all Supplements on the City's behalf; and

WHEREAS, the Parties acknowledge that different related entities may operate or conduct the business of LICENSEE in different geographic areas and as a result, each Supplement may be signed by LICENSEE affiliated entities as further described herein, as appropriate based upon the entity holding the FCC license in the subject geographic location, so long as the related entity is legally qualified.

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

1) RECITALS: The foregoing recitals are incorporated herein as definitions, substantive provisions and as representing the intent of the Parties

2) PREMISES. Pursuant to all of the terms and conditions of this Agreement, applicable Supplements, and the SWFO, LICENSOR agrees to license to LICENSEE that certain space on or upon LICENSOR's utility poles, and/or wireless support structures and/or real property, as more fully described in each Supplement to be executed by the Parties hereinafter referred to as the "Premises," for the installation, operation, maintenance, repair and modification (hereinafter "Work") of small wireless facilities; together with the non-exclusive right of ingress and egress from a public right-of-way, seven (7) days a week, twenty four (24) hours a day, over the Property (as defined below) and to and from the Premises for the purpose of installation, operation, maintenance, repair and modification of LICENSEE's small wireless facilities. Non-emergency Work shall not be performed in Residential Zoning Districts on Sundays. The LICENSOR's utility poles, wireless support structures and other poles and towers are hereinafter referred to as "Pole" and the entirety of the LICENSOR's real property is hereinafter referred to as "Property." In the event there are not sufficient electric and telephone, cable or fiber utility sources located at the Premises or on the Property, LICENSOR agrees to grant LICENSEE the right to install such utilities on, over and/or under the Property and to the Premises as necessary for LICENSEE to operate its communications facility, but only from duly authorized providers of such utilities, provided the location of such utilities shall be mutually designated by LICENSOR and LICENSEE, and so long as the installations are compliant with this Agreement .

3) PERMIT APPLICATION. For each small wireless facility, LICENSEE shall submit an application to LICENSOR for a permit that includes:

   a) Site specific structural integrity and, for LICENSOR'S Poles, make-ready analysis prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989;

   b) The location where each proposed small wireless facility, utility pole or wireless support structure would be installed and photographs of the location and its immediate surroundings depicting the utility poles or wireless support structures on which each proposed small wireless facility would be mounted or location where utility poles or wireless support structures would be installed. This should include a depiction of the completed facility;

   c) Specifications and drawings prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989, for each proposed small wireless facility covered by the application as it is proposed to be installed;

   d) The equipment type and model numbers for the antennas and all other wireless equipment associated with the small wireless facility;

e) A proposed schedule for the installation and completion of each small wireless facility covered by the application, if approved; and

f) Certification that the collocation complies with LICENSOR's Small Wireless Facilities Ordinance requirements, to the best of the applicant's knowledge.

g) The application fee.

h) If a utility pole or wireless support structure is owned by an entity or person other than the City that the applicant has authority to install the small wireless facility.

4) APPLICATION FEES. Application fees shall be subject to the following requirements:

a) LICENSEE shall pay an application fee of $650 for an application to collocate a single small wireless facility on an existing utility pole, wireless support structure or unoccupied City real estate and $350 for each small wireless facility addressed in a consolidated application to collocate more than one small wireless facility on existing utility poles, wireless support structures or unoccupied City real estate.

b) LICENSEE shall pay an application fee of $1,000 for each small wireless facility addressed in an application that includes the installation of a new utility pole, new wireless support structure or unoccupied real estate for such collocation.

c) LICENSOR shall not require an application, approval, or permit, or require any fees or other charges, from LICENSEE, for:

i. routine maintenance; or
ii. the replacement of wireless facilities with wireless facilities that are substantially similar, the same size, or smaller if LICENSEE notifies LICENSOR at least 10 days prior to the planned replacement and includes equipment specifications for the replacement of equipment consistent with the requirements of this Agreement; or
iii. the installation, placement, maintenance, operation, or replacement of small wireless facilities that are suspended on cables that are strung between existing utility poles in compliance with applicable safety codes, provided this provision does not authorize such facilities to be suspended from municipal electric lines, if any.

d) LICENSEE shall secure separate permits from LICENSOR to work within rights-of-way for activities that affect traffic patterns or require lane closures, or as are required by the City Code.

5) APPLICATION PROCESS. LICENSOR shall process applications as follows:

a) An application to collocate a small wireless facility on City real estate or on an existing utility pole, replacement of an existing utility pole or wireless support structure owned or controlled by LICENSOR shall be processed by LICENSOR and deemed approved if LICENSOR fails to approve or deny the application within 90 days. However, if LICENSEE intends to proceed with the permitted activity on a deemed approved basis, LICENSEE shall notify LICENSOR in writing of its intention to invoke the deemed approved remedy no sooner than 75 days after the submission of a completed application. The permit shall be deemed approved on the latter of the 90th day after submission of the complete application or the 10th day after the receipt of the deemed

approved notice by LICENSOR. The receipt of the deemed approved notice shall not preclude LICENSOR's denial of the permit request within the time limits as provided under the SWFO, as now or hereafter amended.

b) An application to collocate a small wireless facility that includes the installation of a new utility pole shall be processed and deemed approved if LICENSOR fails to approve or deny the application within 120 days. However, if LICENSEE applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant shall notify LICENSOR in writing of its intention to invoke the deemed approved remedy no sooner than 105 days after the submission of a completed application. The permit shall be deemed approved on the latter of the 120th day after submission of the complete application or the 10th day after the receipt of the deemed approved notice by LICENSOR. The receipt of the deemed approved notice shall not preclude LICENSOR's denial of the permit request within the time limits as provided under the SWFO, as now or hereafter amended.

c) LICENSOR shall approve an application unless the application does not meet the requirements of the SWFO, as now or hereafter amended.

d) If LICENSOR determines that applicable codes, local code provisions or regulations that concern public safety, or the requirements of the SWFO require that the utility pole or wireless support structure be replaced before the requested collocation, approval may be conditioned on the replacement of the utility pole or wireless support structure at the cost of LICENSEE. LICENSOR must document the basis for a denial, including the specific code provisions or application conditions on which the denial was based, and send the documentation to LICENSEE on or before the day LICENSOR denies an application. LICENSEE may cure the deficiencies identified by LICENSOR and resubmit the revised application once within 30 days after notice of denial is sent to LICENSEE without paying an additional application fee. LICENSOR shall approve or deny the revised application within 30 days after LICENSEE resubmits the application or it is deemed approved. However, LICENSEE shall notify LICENSOR in writing of its intention to proceed with the permitted activity on a deemed approved basis, which may be submitted with the resubmitted application. Any subsequent review shall be limited to the deficiencies cited in the denial, unless the LICENSOR inadvertently omitted referring to a deficiency which may create a public hazard. However, this revised application cure does not apply if the cure requires the review of a new location, new or different structure to be collocated upon, new antennas, or other new wireless equipment associated with the small wireless facility.

Within 30 days after receiving an application, the LICENSOR shall determine whether the application is complete and notify the applicant. If an application is incomplete, the LICENSOR shall specifically identify the missing information. An application shall be deemed complete if the LICENSOR fails to provide notification to the applicant within 30 days after all documents, information and fees specifically enumerated in the LICENSOR's permit application form are submitted by the application to the LICENSOR. Processing deadlines are tolled from the time the LICENSOR sends the notice of incompleteness to the time the applicant provides the missing information. A "deemed complete" election by the LICENSEE shall not waive the LICENSOR'S right to require compliance with any element of the application process directed at protecting the public health safety and welfare, ordinance, statutory requirements or requirements of this Agreement prior to final permitting.

The time period for applications may be further tolled by the express agreement in writing by both LICENSOR and LICENSEE; or a local, State or federal disaster declaration or similar emergency that causes the delay.

6) CONSOLIDATED APPLICATIONS. A LICENSEE seeking to collocate small wireless facilities within the jurisdiction of LICENSOR shall be allowed, at LICENSEE's discretion, to file a consolidated application and receive a single permit for the collocation of up to 25 small wireless facilities if the collocations each involve substantially the same type of small wireless facility and substantially the same type of utility pole or wireless support structure. If an application includes multiple small wireless facilities, LICENSOR may remove small wireless facility collocations from the application and treat separately small wireless facility collocations for which incomplete information has been provided or that do not qualify for consolidated treatment or that are denied. LICENSOR may issue separate permits for each collocation that is approved in a consolidated application.

7) REQUIREMENTS.

a) LICENSEE's operation of the small wireless facilities shall not interfere with the frequencies used by a public safety agency for public safety communications. LICENSEE shall install small wireless facilities of the type and frequency that will not cause unacceptable interference with a public safety agency's communications equipment. Unacceptable interference will be determined by and measured in accordance with of industry standards and the FCC's regulations addressing unacceptable interference to public safety spectrum or any other spectrum licensed by a public safety agency. If a small wireless facility causes such interference, and LICENSEE has been given written notice of the interference by the public safety agency, LICENSEE, at its own expense, shall take all reasonable steps necessary to correct and eliminate the interference, including, but not limited to, powering down the small wireless facility and later powering up the small wireless facility for intermittent testing, if necessary. The LICENSOR may terminate a permit for a small wireless facility based on such interference if LICENSEE is not making a good faith effort to remedy the problem in a manner consistent with the abatement and resolution procedures for interference with public safety spectrum established by the FCC including 47 CFR 22.970 through 47 CFR 22.973 and 47 CFR 90.672 through 47 CFR 90.675.

b) LICENSEE shall not install devices on the existing utility pole or wireless support structure that extend beyond 10 feet of the poles existing height.

c) LICENSEE shall install pole mounted equipment at a minimum of 12 feet from the ground.

d) In absence of specific design standards required by Ordinance, LICENSEE shall paint or otherwise camouflage antennas, mounting hardware, and other devices to match or complement the structure upon which they are being mounted.

e) LICENSEE shall comply with all the terms and conditions of LICENSOR's Code of Ordinances, Article IX, Section 58, Small Wireless Facilities in Rights-of-Way, as now or hereafter amended, as they pertain to work in the City's right of way beginning where any utility pole or wireless support structure intersects with the ground supporting the pole or structure.

f) LICENSEE shall comply with requirements that are imposed by a contract between LICENSOR and private property owners in connection with a subdivision improvement

or by annexation agreements between the LICENSOR and property owners that concern design or construction standards applicable to utility poles and ground-mounted equipment located in the right-of-way.

g) LICENSEE shall not collocate small wireless facilities within the communication worker safety zone of the utility pole or the electric supply zone of the utility pole on LICENSOR utility poles that are part of an electric distribution or transmission system. However, the antenna and support equipment of the small wireless facility may be located in the communications space on the LICENSOR utility pole and on the top of the pole, if otherwise available, if LICENSEE complies with the National Electric Safety Code, as now or hereafter amended, for work involving the top of the pole. For purposes of this subparagraph, the terms "communications space", "communication worker safety zone", and "electric supply zone" have the meanings given to those terms in the National Electric Safety Code as published by the Institute of Electrical and Electronics Engineers.

h) LICENSEE shall comply with all applicable City codes of general application, as now or hereafter amended, that concern public safety.

i) LICENSEE shall install, maintain, repair and modify its small wireless facilities in safe condition and good repair and in compliance with the requirements and conditions of this Agreement. LICENSEE shall ensure that its employees, agents or contractors that perform work in connection with its small wireless facilities are adequately trained and skilled in accordance with all applicable industry and governmental standards and regulations.

j) LICENSEE shall comply with the LICENSOR'S SWFO or seek a variance therefrom in accordance with the standards set forth in the SWFO, and shall comply with other written design plans that apply to other occupiers of the rights-of-way, including on historic buildings.

k) Any design or concealment measures, including restrictions on a specific category of poles, may not have the effect of prohibiting any of LICENSEE's technology. Such design and concealment measures shall not be considered a part of the small wireless facility for purposes of the size restrictions of a small wireless facility. This paragraph may not be construed to limit LICENSOR's enforcement of historic preservation in conformance with the requirements adopted pursuant to the Illinois State Agency Historic Resources Preservation Act or the National Historic Preservation Act of 1966, 54 U.S.C. Section 300101 *et seq.* and the regulations adopted to implement those laws.

l) All Small Wireless Facilities shall have a permanent identification placard placed by the Licensee containing the name, common address, e-mail address and 24 hour contact information of the LICENSEE. The size of the placard shall be specified by the City Engineer.

m) If a Pole is upgraded to support a SWF the licensee shall identify on the placard that the Pole is an upgrade.

n) All new and replacement poles shall accommodate the light support bolt patterns of the City's standard light poles.

8) COLLOCATION COMPLETION DEADLINE. Collocation for which a permit is granted shall be completed within 180 days after issuance of the permit, unless LICENSOR and LICENSEE

agree to extend this period or a delay is caused by: (a) make-ready work for a LICENSOR utility pole or (b) by the lack of commercial power or backhaul availability at the site, provided LICENSEE has made a timely request within 60 days after the issuance of the permit for commercial power or backhaul services, and the additional time to complete installation does not exceed 360 days after issuance of the permit. Otherwise, the permit shall be void unless LICENSOR grants an extension in writing to the LICENSEE.

9) DURATION OF PERMITS AND SUPPLEMENTS. The duration of a permit, and the initial Supplement, shall be for a period of 5 years, and the permit and Supplement shall be renewed for equivalent durations unless LICENSOR makes a finding that the small wireless facilities or the new or modified utility pole or wireless support structure do not comply with the applicable codes or local code provisions or regulations in the SWFO, as now or hereafter amended. If 50 ILCS 835/1, et seq., is repealed as provided in Section 90 of the Act, renewals of permits shall be subject to the LICENSOR's code provisions or regulations in effect at the time of renewal.

10) ANNUAL LICENSE FEES. Each Supplement shall be effective as of the last date of execution by both Parties (the "Effective Date"), provided, however, the initial term of each Supplement shall be for five (5) years and shall commence on the first day of the month following the day that LICENSEE commences installation of the equipment on the Premises (the "Commencement Date") at which time the annual license fee shall commence and be due. LICENSOR and LICENSEE acknowledge and agree that the initial annual license fee for each Supplement shall not actually be sent by LICENSEE until thirty (30) days after the Commencement Date. LICENSOR and LICENSEE agree that they shall acknowledge in writing the Commencement Date of each Supplement. Annual license fee payments pursuant to this Agreement, shall be an annual fee of $200.00 per each wireless facility which LICENSEE attaches to LICENSOR's Pole, which includes poles transferred to the LICENSOR by bill of sale. The annual recurring rate shall only be paid for each Supplement where the LICENSOR owns the utility pole or wireless support structure. No annual recurring fee shall be due for any utility pole or wireless support structure owned by any entity other than the LICENSOR. Thereafter, the annual license fee will be due at each annual anniversary of the "Commencement Date" of the applicable Supplement. Upon agreement of the Parties, LICENSEE may make payments by electronic funds transfer and in such event, LICENSOR agrees to provide to LICENSEE bank routing information for such purpose upon request of LICENSEE.

11) EXTENSIONS. Each Supplement may be extended for additional five (5) year terms unless LICENSEE terminates it at the end of the then current term by giving LICENSOR written notice of the intent to terminate at least three (3) months prior to the end of the then current term. The initial term and all extensions under a Supplement shall be collectively referred to herein as the "Term". Notwithstanding anything herein, after the expiration of this Agreement, its terms and conditions shall survive and govern with respect to any remaining Supplements in effect until their expiration or termination.

12) ABANDONMENT. A small wireless facility that is not operated for a continuous period of 12 months shall be considered abandoned and the LICENSEE shall remove the small wireless facility within 90 days after receipt of written notice from LICENSOR notifying LICENSEE of the abandonment. LICENSEE shall notify LICENSOR in writing of any small wireless facility that has not operated for a period of 12 months within 7 days of the last day in the 12 month

period. LICENSEE's written notice shall include an explanation of why the operation of the small wireless facility was halted.

LICENSOR'S notice to LICENSEE of LICENSOR'S determination of LICENSEE's abandonment of a small wireless facility shall be sent by certified or registered mail, return receipt requested, by LICENSOR to the LICENSEE at the last known address of LICENSEE. If the small wireless facility is not removed within 90 days of such notice, LICENSOR may remove or cause the removal of such facility and charge said costs to the LICENSEE.

LICENSEE shall provide written notice to LICENSOR of any sale or transfer of small wireless facilities not less than 30 days prior to such transfer and said notice shall include the name and contact information of the transferee. No notice shall be required where such sale or transfer is to an affiliated entity of the LICENSEE. Where a license is transferred to an affiliate, notice of the transfer and any revised or modified contact information shall be provided to the City and placed on the pole placard required by Section 7(m) of this Agreement within thirty (30) business days of the transfer. LICENSOR and LICENSEE agree and acknowledge that, notwithstanding anything in this Agreement to the contrary, certain small cell wireless facilities deployed by LICENSEE may be owned and/or operated by LICENSEE'S third-party wireless carrier customers ("Carriers") and installed and maintained by LICENSEE pursuant to licensee agreements between LICENSEE and such Carriers. Such small cell wireless facilities shall be treated as LICENSEE's small cell wireless facilities for all purposes under this Agreement provided that: (i) LICENSEE remains responsible and liable for all performance obligations under this Agreement with respect to such small cell wireless facilities; (ii) LICENSOR'S sole point of contact regarding such small cell wireless facilities shall be LICENSEE; and (iii) LICENSEE shall have the right to remove and relocate such small cell wireless facilities so long as the relocation is otherwise in compliance with the requirements of this Agreement.

13) AERIAL FACILITIES. For LICENSOR utility poles that support aerial facilities used to provide communications services or electric services, LICENSEE shall comply with the process for make-ready work under 47 U.S.C. 224 and its implementing regulations. LICENSOR shall follow a substantially similar process for such make-ready work except to the extent that the timing requirements are otherwise addressed in the SWFO, as now or hereafter amended. The good-faith estimate of the person owning or controlling LICENSOR's utility pole for any make-ready work necessary to enable the pole to support the requested collocation shall include LICENSOR utility pole replacement, if necessary. Make-ready work for utility poles that support aerial facilities used to provide communications services or electric services may include reasonable consultants' fees and expenses.

LICENSOR shall provide a good-faith estimate for any make-ready work necessary to enable the LICENSOR Poles to support the requested collocation, including pole replacement, if necessary, within 90 days after receipt of a complete application. Make-ready work, including any LICENSOR Pole replacement, shall be completed within 60 days of written acceptance of the good-faith estimate by LICENSEE at LICENSEE's sole cost and expense. Alternatively, if LICENSOR determines that applicable codes or public safety regulations require the LICENSOR's Pole to be replaced to support the requested collocation, LICENSOR may require LICENSEE to replace LICENSOR's Pole at LICENSEE's sole cost and expense. The replacement Pole shall be the property of the LICENSOR upon completion and written acceptance by the LICENSOR'S City engineer. The LICENSEE shall notify the CE that the Pole is ready for acceptance inspection by the CE within five business days of completion of the Work.

14) GENERAL RESTRICTIONS. In the event LICENSOR, in its reasonable discretion deems it necessary to remove, relocate or replace a utility pole, or wireless support structure, LICENSOR shall notify LICENSEE at least one hundred eighty (180) days prior of the need to remove or relocate its small wireless facility. In such event, LICENSOR shall provide options for alternative locations for LICENSEE relocation of equipment which shall be in a mutually agreeable location ("Alternative Premises"). LICENSEE shall be solely responsible for all costs related to the relocation of its small wireless facility to the Alternative Premises. In the event that a suitable Alternative Premises cannot be identified, LICENSEE may terminate the applicable Supplement. In the event of an emergency, which for purposes of this Agreement shall be considered any imminent threat to health, safety and welfare of the public, LICENSOR shall provide as much notice as reasonably practical under the circumstances. LICENSEE may terminate this Agreement by giving written notice to the other party specifying the date of termination, such notice to be given not less than one hundred eighty (180) days prior to the date specified therein. Unless otherwise agreed by the parties, any make-ready work, including pole and foundation replacements, shall be performed by the LICENSEE or its qualified contractor.

15) DAMAGED POLES. Poles containing SWF damaged by casualty, or other unexpected cause ("Casualty loss") may be replaced by the Licensor on a temporary basis at the discretion of the City Engineer ("CE"). The City, except in the case of an emergency as determined in the discretion of the CE, shall call or e-mail the Licensee to notify it of the impending temporary replacement. The LICENSOR and LICENSEE shall co-operate in maximizing the efficient replacement of damaged Poles. Damaged Poles and SWF equipment shall be removed by the Licensee no more than five (5) calendar days from the date of casualty. All new and replacement Poles shall have bolt patterns that correspond to existing City Light Poles. After a Casualty Loss, the replacement of upgraded or new Poles, related appurtenances and SWF, shall be at the LICENSEE's sole cost and expense. If Poles damaged by a Casualty loss are not replaced by the LICENSEE within 21 days of the casualty, the City may install a temporary light pole replacement and the LICENSEE shall reimburse the Licensor for all its costs and expenses associated with the replacement pole. Within seven (7) calendar days of the installation of temporary facilities, the LICENSEE shall provide the CE with a certified structural engineer's report confirming the structural safety of the temporary facilities consistent with Section 3(c) of this Agreement.

16) ELECTRICAL. LICENSEE shall be permitted to connect its equipment to necessary electrical and telephone service, at LICENSEE's expense. LICENSEE shall attempt to coordinate with utility companies to provide separate service to LICENSEE's equipment for LICENSEE use. In the event that LICENSEE can obtain separate electrical service with a separate meter measuring usage, the LICENSEE shall pay the utility directly for its power consumption, if billed directly by the utility. In the event that separate electrical service is not possible or practical under the circumstances, LICENSEE may use existing service, at LICENSEE's expense, upon the reasonable approval of LICENSOR. In the event that LICENSEE uses existing utility service at an individual Premises, the Parties agree to either: (i) attempt to have a sub-meter installed, at LICENSEE's expense, which shall monitor LICENSEE's utility usage (with a reading and subsequent bill for usage delivered to LICENSEE by either the applicable utility company or LICENSOR); or (ii) provide for an additional fee in the applicable Supplement which shall cover LICENSEE's utility usage. The fee for metered Poles shall be based on usage. The fee for unmetered Poles, for which the LICENSEE pays a City wide flat rate, shall be determined dividing the flat rate charged the Licensor by the total number of flat

rate poles in the City multiplied by the number of flat rate poles used by the LICENSEE multiplied by the percentage of increase attributable to the SWF's average monthly usage. The Parties agree to reflect power usage and measurement issues in each applicable Supplement.

17) TEMPORARY POWER. LICENSEE shall be permitted at any time during the Term of each Supplement, to install, maintain and/or provide access to and use of, as necessary (during any power interruption at the Premises), a temporary power source, and all related equipment and appurtenances within the Premises, or elsewhere on the Property in such locations as reasonably approved by LICENSOR. LICENSEE shall be permitted to connect the temporary power source to its equipment on the Premises in areas and manner approved by LICENSOR. LICENSEE shall comply with written NEC safety regulations adopted by the City applicable to temporary power sources.

18) USE; GOVERNMENTAL APPROVALS. LICENSEE shall use the Premises for the sole purpose of constructing, maintaining, repairing and operating small wireless facilities and uses incidental thereto. LICENSEE shall have the right to replace, repair and modify equipment, antennas and/or conduits or any portion thereof and the frequencies over which the equipment operates, in conformance with the original Supplement. It is understood and agreed that LICENSEE's ability to use the Premises is contingent upon its obtaining after the execution date of each Supplement all of the certificates, permits and other approvals (collectively the "Governmental Approvals") that may be required by any Federal, State or Local authorities as well as a satisfactory building structural analysis which will permit LICENSEE use of the Premises as set forth above. In the event that (i) any of such applications for such Governmental Approvals should be finally rejected; (ii) any Governmental Approval issued to LICENSEE is canceled, expires, lapses, or is otherwise withdrawn or terminated by governmental authority; and (iii) LICENSEE determines that such Governmental Approvals may not be obtained in a timely manner, LICENSEE shall have the right to terminate the applicable Supplement. Notice of LICENSEE's exercise of its right to terminate shall be given to LICENSOR in accordance with the notice provisions set forth in Paragraph 23 of this Agreement and shall be effective upon the mailing of such notice by LICENSEE, or upon such later date as designated by LICENSEE. All annual license fees paid to said termination date shall be retained by LICENSOR. Upon such termination, the applicable Supplement shall 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 LICENSEE shall have no further obligations for the payment of annual license fees to LICENSOR for the terminated Supplement. Notwithstanding anything to the contrary in this Paragraph, LICENSEE shall continue to be liable for all annual license fees to the LICENSOR until all equipment is removed from the Property. License fees shall not be pro-rated based on an early termination. Subject to the requirements set forth in Paragraph 21 of this Agreement, removal shall be completed no more than ninety (90) days from withdrawal or termination. If not removed as required, the LICENSOR may remove or cause to be removed such facilities and charge all costs to the LICENSEE.

19) INSURANCE.

(a) Required coverage and limits . Each LICENSEE occupying the right of way with a small wireless facility shall secure and maintain the liability insurance policies specified by the CITY insuring it as named insured and including the CITY and its elected and appointed officers, elected officials and employees as additional as their interest may appear under this

Agreement. The LICENSEE shall provide the CITY with a blanket additional insured endorsement. The LICENSEE's insurance shall be primary, and any CITY policies of insurance shall be deemed non-contributory.

(b) Copies required. The LICENSEE shall provide certificates of insurance reflecting the requirements of this section to the CITY within thirty (30) days following notification that its application is complete.

(c) Upon receipt of notice from its insurer(s) Licensee shall provide the CITY with thirty (30) days' prior written notice of cancellation of any required coverage, the LICENSEE shall obtain and furnish to the CITY evidence of replacement insurance policies meeting the requirements of this section. In the event that the LICENSEE fails to obtain or produce evidence of said replacement insurance, any permits issued pursuant to this Article shall, without any further notice, be null and void.

(d) Self-insurance . A LICENSEE may self-insure all or a portion of the insurance coverage and limit requirements required by subsection (a) of this section. A LICENSEE that self-insures is not required, to the extent of such self-insurance, to comply with the requirement for the naming of additional insureds under subsection (a) of this section or the requirements of subsections (b), (c) and (d) of this section. A LICENSEE that elects to self-insure shall provide the CITY evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage and limit required under subsection (a) of this section, such as evidence that the LICENSEE is a "private self-insurer" under the workers' compensation act. Self-insurance shall be primary, and any CITY policies of insurance shall be deemed non-contributory.

(e) Effect of insurance and self-insurance on utility's liability. The legal liability of the LICENSEE to the CITY and any person for any of the matters that are the subject of the insurance policies or self-insurance required by this section shall not be limited by such insurance policies, self-insurance or by the recovery of any amounts thereunder.

(f) LICENSEE shall establish by appropriate documentation, upon request of the Licensor, that all Supplements are covered by the insurance required by this Paragraph 19.

20) INDEMNIFICATION. LICENSEE shall indemnify and hold LICENSOR harmless against any and all liability or loss from personal injury or property damage resulting from or arising out of, in whole or in part, the use or occupancy of LICENSOR's improvements or right-of-way associated with such improvements by LICENSEE or its employees, agents, or contractors arising out of the rights and privileges granted under this Agreement, the SWFO and 50 ILCS 840/1, et seq. LICENSEE has no obligation to indemnify or hold harmless against any liabilities and losses as may be due to or caused by the negligence or willful misconduct of LICENSOR or its employees or agents. Neither party will be liable for consequential, indirect, punitive, incidental, or special damages (including lost revenues, loss of equipment, interruption or loss of service, or loss of data) for any cause of action, whether in contract, tort or otherwise, even if the party was or should have been aware of the possibility of these damages, whether under theory of contract, tort (including negligence), strict liability or otherwise., however caused, based on any theory of liability. The indemnification provisions

set forth in this Paragraph 19 of this Agreement shall remain in effect for any claims based on occurrences during a license period.

21) REMOVAL AT END OF TERM. LICENSEE shall, upon expiration of the Term, or within ninety (90) days after any earlier termination of a Supplement, remove its equipment, conduits, fixtures and all personal property and restore the Premises to its original condition, reasonable wear and tear and casualty damage not caused by LICENSEE excepted. LICENSOR agrees and acknowledges that all of the equipment, conduits, fixtures and personal property of LICENSEE shall remain the personal property of LICENSEE and LICENSEE shall have the right to remove the same at any time during the Term, whether or not said items are considered fixtures and attachments to real property under applicable laws. New Poles or replacement Poles installed by the LICENSEE shall become the property of the LICENSOR and said transfer shall be evidenced by a bill of sale. The bill of sale shall be provided to the LICENSOR within 14 calendar days of acceptance of the Pole by the LICENSOR. If such time for removal causes LICENSEE to remain on the Premises after termination of the Supplement, LICENSEE shall pay the annual license fee at the then existing monthly pro-rata basis, until such time as the removal of the antenna structure, fixtures and all personal property are completed.

22) RIGHTS UPON SALE. Should LICENSOR, at any time during the Term of any Supplement decide to sell or transfer all or any part of the Property such sale or grant of an easement or interest therein shall be under and subject to the Supplement and any such purchaser or transferee shall recognize LICENSEE's rights hereunder and under the terms of the Supplement. It shall be the obligation of the LICENSOR to notify the LICENSEE thirty (30) days prior to such sale or transfer of such sale or transfer. The notification shall include the identity, address, e-mail address, telephone number and identification of a responsible person representing the purchaser and of the purchaser and proof of insurability as described in the Agreement. Any purchaser shall upon purchase fully assume all duties of LICENSOR under the law and this Agreement.

23) NOTICES. All notices hereunder shall be in writing and shall be deemed validly given if sent by certified mail, return receipt requested or by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, addressed as follows (or any other address that the Party to be notified may have designated to the sender by like notice):

LICENSOR:

City of Wheaton
c/o Director of Public Works
303 W. Wesley Street
Wheaton, Illinois 60187

Copy to:

Walsh, Knippen and Cetina
2150 Manchester Road, Suite 200
Wheaton, Illinois 60187

LICENSEE:

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

Chicago SMSA Limited Partnership d/b/a Verizon Wireless
1701 Golf Road
Tower 2, Suite 400
Rolling Meadows, IL 60008
Attention: Network-Legal

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

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

24) CASUALTY. In the event of damage by fire or other casualty to the Pole, wireless structure or real property upon where such Pole or wireless structure is located, that cannot reasonably be expected to be repaired within forty-five (45) days following same or, if the Pole, wireless structure or real property is damaged by fire or other casualty so that such damage may reasonably be expected to disrupt LICENSEE's operations at the Premises for more than forty-five (45) days, then LICENSEE may, at any time following such fire or other casualty, provided LICENSOR has not completed the restoration required to permit LICENSEE to resume its operation at the Premises, terminate the Supplement upon fifteen (15) days prior written notice to LICENSOR. If a Pole or wireless structure is damaged caused by fire or other casualty and said Pole or wireless structure cannot be repaired or it constitutes a hazard to the public as determined by the CE, said Pole or wireless structure shall be removed or made safe by the Licensee within forty-eight (48 hours) of notice form the CE. The LICENSOR may remove, or cause to be removed said facilities at the LICENSEE'S cost if the LICENSEE fails to do so as required in this section. Any such notice of termination shall cause the Supplement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of the Supplement and the Parties shall make an appropriate adjustment, as of such termination date, with respect to payments due to the other under the Supplement. Notwithstanding the foregoing, the annual license fee shall abate during the period of repair following such fire or other casualty in proportion to the degree to which LICENSEE's use of the Premises is impaired.

25) BREACH. In the event there is a breach by a Party with respect to any of the provisions of this Agreement or its obligations under it, the non-breaching Party shall give the breaching Party written notice of such breach. Except as to the casualties described in Section 24, after receipt of such written notice, the breaching Party shall have 30 days in which to cure any breach, provided the breaching Party shall have such extended period, not to exceed 90 days, as may be required beyond the 30 days if the breaching Party commences the cure within the 30-day period and thereafter continuously and diligently pursues to cure to completion. Subject to the limitation set forth in Section 26 of this Agreement, the non-breaching Party may maintain any action or affect any remedies for default against the breaching Party subsequent to the 30-day cure period, as potentially extended to 90 days based on circumstances.

26) REMEDIES. LICENSEE's sole remedy against the LICENSOR for breach of this Agreement shall be specific performance or termination of the applicable Supplement

27) BOND. LICENSEE shall deposit with LICENSOR on one occasion prior to the commencement of the first Supplement a bond, in a form reasonably acceptable to LICENSOR, in the amount of $10,000 per small wireless facility to guarantee the safe and efficient removal of any equipment from any Premises subject to this Agreement, which equipment remains more than 30 days after the annual license fee payment has ceased and LICENSEE has failed to remove the equipment. The funds may also be used to restore the Premises to original condition, if LICENSEE fails to do so.

28) MISCELLANEOUS. This Agreement and the Supplements that may be executed from time to time hereunder contain all agreements, promises and understandings between the LICENSOR and the LICENSEE regarding this transaction, and no oral agreement, promises or understandings shall be binding upon either the LICENSOR or the LICENSEE in any dispute, controversy or proceeding. There are no third party beneficiaries of this agreement. This Agreement may not be amended or varied except in a writing signed by all Parties. This Agreement shall extend to and bind the heirs, personal representatives, successors and assigns hereto. The failure of either party to insist upon strict performance of any of the terms or conditions of this Agreement or to exercise any of its rights hereunder shall not waive such rights and such party shall have the right to enforce such rights at any time. The performance of this Agreement via each Supplement shall be governed interpreted, construed and regulated by the laws of the State of Illinois.

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

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

31) CHANGE OF LAW; RIGHTS UNDER LAWS. If any federal, state, or local laws, ordinances, permits and regulations (including, but not limited to, those issued by the FCC or its successor agency) and any binding judicial interpretations thereof (collectively, "Laws") that govern any aspect of the rights or obligations of the Parties under this Agreement shall change after the effective date of this Agreement and such change makes any aspect of such rights or obligations inconsistent with the then effective Laws, then the Parties agree to promptly amend this Agreement as reasonably required to accommodate and/or ensure compliance with any such legal or regulatory change. This Agreement is not intended to in any way limit or waive either Party's present or future rights under any Law, including but not limited to a Party's right to challenge the applicability of any present or future Law.

{Signatures on next page}

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

LICENSOR:

City of Wheaton, an Illinois Municipal Corporation

BY: _____

Name: Philip J. Suess

Title: Mayor, City of Wheaton

Date: 7/19/2022

LICENSEE:

Chicago SMSA Limited Partnership d/b/a Verizon Wireless

By: Cellco Partnership, its general partner

BY: _____

Name: James R. Martin

Title: DIR - Field NTWK-Engineering

Date: 6/29/22

EXHIBIT "A"

LICENSE SUPPLEMENT

This License Supplement (Supplement), is made this ____ day of _____, _____, between **the City of Wheaton**, whose principal place of business is located at 303 W. Wesley St., Wheaton, Illinois 60187 ("Licensor"), and _____, whose principal place of business is _____ ("Licensee").

1. **Master License Agreement.** This Supplement is a Supplement as referenced in that certain Master License Agreement between the City and Wheaton 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 (note – Supplement should govern because there may be some site specific items that might have to be addressed at an individual location which might create a conflict with Agreement terms) shall govern. Capitalized terms used in this Supplement shall have the same meaning described for them in the Agreement unless otherwise indicated herein.

2. **Premises.** The Property owned by Licensor is located at _____. The Premises licensed by the LICENSOR to the LICENSEE hereunder is described on Exhibit "1" attached hereto and made a part hereof.

3. **Term**. The Commencement Date and the Term of this Supplement shall be as set forth in Paragraph 9 of the Agreement.

4. **Consideration.** The Annual License Fee under this Supplement shall be $200.00 per year, payable to Licensor at _____. Thereafter, the Annual License Fee will be due at each annual anniversary of the "Commencement Date" of this Supplement. LESSEE shall obtain electrical service and provide for a separate meter and billing from the applicable utility provider.

5. **Site Specific Terms.** (Include any site-specific terms)

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

LICENSOR:

City of Wheaton, an Illinois Municipal Corporation

BY:_____

Name: _____

Title: _____

Date: _____

LICENSEE:

Chicago SMSA Limited Partnership d/b/a Verizon Wireless

By: Cellco Partnership, its general partner

BY:_____

Name: _____

Title: _____

Date: _____

EXHIBIT 1

Premises

(see attached site plans)