



**Communication Facilities License Program**  
**Policy and Procedures**  
**for**  
**Communication Facilities Licenses**  
**within**  
**Moulton Niguel Water District Properties**

**October 2016**

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## **1. Introduction**

Moulton Niguel Water District (“District” or “MNWD”) has a history dating back to 1986 of allowing installation of communication facilities on its properties compatible with District use. The District last amended its Policy and Procedures for Communication Facilities on District sites in March 2012 with Resolution No. 12-03. This revised Program of Policies and Procedures (“Program”) further defines and revises the District’s policies and procedures for granting communication licenses and approving licensee improvements.

Under this Program, the District will balance its interest in maximizing additional revenues from wireless communication companies with due consideration for operational needs related to use of District’s facility properties, flexibility to allow changes-in-use of its facilities, and adequate protection against safety concerns related to use of the sites for communications facilities.

The terms and requirements set forth in this Program shall apply to all communication facilities leases, licenses and arrangements. All new applications for communication facilities shall comply with the terms as outlined in this Program, and the authorizations to use District property shall be in substantially the form of the Communication Facility License Agreement attached in Appendix A.

Any existing leases for communication facilities may be replaced with a Communication Facility License Agreement permitted under this Program upon the expiration of the current communications facility arrangement, as determined by the District; or, earlier upon request, provided such lessee is not in default under the terms of such existing communications facility arrangement as determined by the District.

The terms and procedures outlined in this Program shall also apply to amendments or changes to existing communications facility arrangements. See Appendix B for the form of amendments to License Agreements.

**This Program may be amended from time to time by the MNWD Board of Directors in its sole discretion. If the revision, in MNWD’s sole discretion, is material we will notify current lessees and licensees in writing of the revised Program. However, it is the responsibility of all applicants to comply with the most current version of the Program.**

## 2. License Agreements and Amendments

1. All new applications for communications facilities shall be authorized in substantially the form of the Communications Facility License Agreement attached in Appendix A.
2. Key terms of the license agreement in Appendix A include:
  - a. The license term shall be for ten (10) years, and at the option of applicant for an additional five (5) year period (fifteen (15) years aggregate) provided Licensee is not currently in default under the License Agreement.
  - b. The license fee amount for the ten (10) year license period shall be negotiated between the District and the licensee and is payable in advance in annual payments. Payment schedule for license fees is listed in the Agreement in Appendix A.
  - c. Annual license fees shall begin immediately and be payable within 45 days of license agreement or amendment execution.
  - d. License fee amounts will be subject to an automatic yearly increase equal to 4 percent per annum during the ten (10) year license period and during any option period, as applicable. General Manager, or their designee, may negotiate other annual percentage increase rates at the time of the Agreement execution, so long as the starting rent amount and the annual percentage increase equate to an equivalent net-present-value as the previously determined license fee at a 4 percent per annum increase. In addition, if applicable, a one-time catch-up inflation adjustment shall be made for the first year of the option period based on the consumer price index as described in Section 4 of the license agreement.
  - e. Should the agreement lapse, the District shall charge a holdover fee of 150% of the then current monthly fee rate.
3. The Board of Directors may delegate authority individually to the General Manager Assistant General Manager, and the Director of Engineering & Operations, or their designees, to review all license applications and negotiate all licenses and amendments, including determination of annual license fees, in accordance with the terms and conditions of this Program, and may delegate authority individually to the General Manager Assistant

General Manager, and the Director of Engineering & Operations to enter into License Agreements and Amendments under this Program.

### **3. Cell Carrier Facility Development Guidelines and Requirements**

All wireless communications facilities on District properties shall be installed, operated, maintained, modified, and altered, according to this Program, and shall comply with the policies, procedures, guidelines and requirements outlined in this section and elsewhere in this Program. These Program guidelines and requirements apply to all sites and communications facilities installation, work and operations, whether under new licenses, or pursuant to existing lease arrangements.

#### **3.1 Universal Installation Requirements**

The following requirements apply to all wireless communications facilities on District property, and any reference to “license” or “licensee” shall also be deemed to mean “lease” and “lessee,” as applicable.

##### **3.1.1 New Site Build and Site Modifications**

1. Prior to any formal request for a new unmanned wireless communications facility, or modifications to an existing facility, the applicant must submit a site application and the appropriate fees for consideration. The applicant is encouraged to engage the District early in the processes and perform an assessment site walk to determine if proposed improvements are feasible.
2. Prior to commencement of any work by the licensee at a District property, the District must have:
  - a. Executed License Agreement or License Agreement Amendment, as applicable.
  - b. Certificate of insurance with the proper entity name for the licensee and for any contractor to be engaged in the installation of the communications facility, along with additional insured endorsements and other insurance required under the License Agreement.

- c. Set of working drawings and/or plans for the proposed communications facility signed and stamped by a licensed professional engineer, and received and accepted by the District.
  - d. Proof that licensee has complied with all applicable zoning and planning approvals from appropriate jurisdictions.
3. No work shall commence prior to the issuance of a consent letter by the District. The District will issue a consent letter once all the requirements of this Program have been met by the applicant and the District has determined that work may commence. The consent letter shall accompany the drawings and/or plans reviewed and accepted by the District.
4. No work shall commence without advance notice of proposed work on, or installation of, the communications facility. After the licensee receives a consent letter and accepted plans, the licensee or its contractor shall:
  - a. Contact the District's inspector to schedule a pre-construction conference. The conference shall be held at least one week prior to start of construction and attended by representative(s) of licensee, its contractor(s), the District's inspector and, if necessary, the District's coatings representative. A 24-hour contact information shall be provided to the District's inspector at the pre-construction conference.
  - b. If there are any changes to the construction schedule after a pre-construction conference was held, the District's inspector shall be notified at least two (2) working days prior to beginning any work or installation.
5. The District reserves the right to not issue or withdraw its approval to commence work if the licensee or its contractor(s) have failed to satisfy the Program terms.
6. If the District's facilities require maintenance work that may interfere with the Licensee's activities at the Site, The District reserves the right to require Licensee to postpone Licensee's activities at the Site until such District work is completed. The District will, wherever possible, give advance notice and coordinate its activities with the Licensee.
7. No work shall be performed on the roof of any District reservoir. District staff reserves the right to determine any work limitations at all District facilities and sites.

8. Any proposal for work upon a District facility must include stamped engineering structural analysis and a signed letter from a licensed engineer describing the work and assurance to the District that any equipment mounted to a reservoir or other District facility will not compromise the structural integrity of that facility and that mounts can adequately support the weight of all equipment.
9. Licensee's personnel, including contractors and subcontractors, must ensure that the District site and District facility is accessible at all times to District personnel, in accordance with the details under Section 3.3.
10. The licensee shall be responsible for any damage due to any construction work or other activities to the existing site and District facilities and upon request by the District shall promptly return damaged facilities and/or sites to at least pre-existing condition, at no cost to the District, and licensee shall ensure its contractors comply with the foregoing. In the event licensee does not comply, District may perform the necessary repairs and bill licensee which licensee shall pay within thirty (30) days.
11. All new and existing communication facilities and equipment owned by the licensee shall be properly tagged identifying the licensee's name, site name and/or number and 24-hour Emergency phone number.
12. The licensee and its contractors shall have a copy of the District accepted drawings and/or plans approved by the District's Director of Engineering & Operations (or designee) on-site at all times, while construction activities are occurring.
13. The licensee and its contractors are both responsible to ensure the District site and facilities cannot be accessed by the public at all times while installation work is occurring.
14. The licensee or its contractors shall provide the District with two (2) sets of District accepted plans prior to scheduling a final inspection with field mark-ups, if any. These plans will represent "record drawings" for the District to close-out the project upon completion of the installation and/or related work activity.
15. Trenching, as part of any work or installation, must conform to the requirements of Section 3.6 Trench Details.

16. The licensee and its contractors shall comply with all local, state, and federal health and safety requirements pertaining to the construction, installation, operation and maintenance of the cell carrier facility. Requirements of the Occupational Safety and Health Administration (OSHA) & FCC shall be adhered to at all times, including any safety and injury prevention program in place that is required under applicable laws and regulations. A copy of such program, if required by law or regulation, shall be on site at all times and employees and contractors of the licensee shall be trained accordingly.

### **3.1.2 Maintenance**

Maintenance at licensee facilities is divided into two categories: routine and non-routine. If Licensee has uncertainty which category proposed work is defined as, licensee should contact the District.

Routine maintenance is defined as the following:

1. Any work performed by licensee to repair or service their facility which does not require entitlements from a jurisdictional body; and,
2. Any work within the equipment space that does not extend beyond the licensed area, in any direction, and does not require any excavation; and,
3. In the case of antennas, like-for-like replacement is acceptable, subject to the conditions of approvals imposed on the original antenna installation.

Non-routine maintenance is defined as the following:

1. If the sizes, weight, shape, appearance or other similar characteristics of a replacement component are changed, the licensee shall be required to submit a site application and plans for District review and approval (Consent Letter).
2. In the event work performed by licensee is expected to impact the use of District property, including property access, obstructing driving lanes, or similar impacts licensee must notify the District and submit a site application and plans for District review and approval (Consent Letter).

## **3.2 Requirements for Proposed Drawings and Plans**

The requirements for submitting drawings and plans is for the purpose of evaluating the location and other aspect of the project as it relates to the continued on-going operations of the District's facility. Any drawings and/or plans submitted for review to the District in conjunction with a proposed or existing communications facility must contain the following:

### **3.2.1 Signature Block**

The title page of each drawing and/or plan set shall have a signature block for the District's Director of Engineering & Operations (or designee) with a date. Please see sample signature block in Appendix E.

### **3.2.2 Drawing/Plan Notes**

Each drawing and/or plan set should include MNWD notes drawing and/or plan set pursuant to Appendix F – MNWD Construction Notes, General Notes, Plan Notes & Requirements.

### **3.2.2. MNWD Contact**

The title page of each drawing and/or plan set shall have a District contact listed for engineering and inspection. The licensee shall obtain the current contact information from the District.

### **3.2.3 MNWD Facility Name**

Each document submitted to the District for review should have the District's Facility Name listed prominently in addition to the licensee's designation for the site and the site's APN(s).

### **3.2.4 MNWD Project Number**

Each document submitted to the District for review shall have the District's project number that has been assigned upon the submission of site application fee prominently displayed on the plans.

### **3.2.5 Equipment Table**

Each document submitted to the District for review shall have the equipment schedule, showing what equipment is licensed approved, zoning approved, number of antennas, type and size of the antennas, number of remote radio units (heads) according the sample table depicted in Exhibit E.

## **3.3 District Personnel Access**

Licensee and its contractors shall ensure their activities do not block access to the site at any time for District personnel, except with District's consent. Open trenches shall be properly plated at the end of each working day to allow for 24-hour MNWD access to the site.

## **3.4 DIG ALERT**

The licensee or its contractors shall notify underground service alert (DIG ALERT), in accordance with the law, at least two (2) working days prior to beginning construction at 1-800-422-4133. Any MNWD facilities to be crossed shall be potholed to verify location prior to working in the vicinity of MNWD facilities.

### **3.5 Coating Requirements**

For any work on a District reservoir, the licensee or its contractors shall coordinate with the District's inspector and coatings representative for coating requirements and coating inspections prior to any work on a reservoir tank. The licensee is responsible for any inspection fees associated with the District's coating inspector.

### **3.6 Trench Detail**

Trench details must show:

- a. Depth and width of the trench
- b. Backfill material list
  - (i.) Paved areas - one-sack cement slurry shall be used to within 1-inch of existing pavement
  - (ii.) In unpaved areas – suitable native material shall be used with 90% minimum compaction; a compaction report must be provided to the District
- c. All hardscape to be saw cut.
- d. Minimum 30- inch depth to top of conduit or as directed by District.
- e. AC replacement - 1st lift  $\frac{3}{4}$ - inch mix, relative compaction 95%, no more than 3- inch placed at any one time. 2nd lift,  $\frac{1}{2}$ - inch fine, no more than 1-  $\frac{1}{2}$  inch lift.
- f. Slurry seal the entire work area for the full width of the access road/paved areas or as directed by District's inspector after work is completed.

### **3.7 Softscape Replacement**

Drawings and/or plans must depict the replacement or repair of all landscaped areas. If work will be performed in unpaved areas, these notes must be present on the site plan (see, Appendix F):

1. Protect all landscaping in place.
2. Only remove trees and shrubs as marked on drawings and/or plans.
3. Any disturbed or damaged landscaping shall be replaced in-kind with 5-gallon minimum shrubs and 15-gallon minimum trees, as directed by the District inspector.
4. Areas exposed or disturbed by the work or installation shall be covered with District-approved mulch to a depth of 2-inches.
5. Contact the District's landscape manager prior to installation for landscaping requirements.

### **3.8 Work Hours and Lighting**

The licensee must obtain approved work hours and lighting restrictions, especially during night work, from the municipality which permitted the communications facility, which are further subject to the District's approval. The District reserves the right to restrict work hours at its sites depending on District needs. The use of night time flood lighting is strictly prohibited. In the event licensee determines that it is absolutely necessary, licensee may submit a lighting plan and schedule. District will review and determine at its sole discretion whether to allow the lighting.

### **3.9 Site Restoration**

Sites shall be repaved per Section 3.6 Trench Details or restored per Section 3.7 Softscape Replacement. Any other features disturbed, removed, or damaged by licensee or its contractors shall be replaced with new features, or repaired, as determined by the District inspector. The site shall be restored to a condition equal or better.

## **4. Site Access and Security**

### **4.1 Obtaining Keys**

Work on site, such as installation, maintenance, modifications and operation, will require use of a District issued cyber key. Licensee shall pay the District a Cyber Key Deposit in the amount of Five Hundred Dollars (\$500.00) per key issued. If a key is lost or damaged, the deposit will be forfeited and a new deposit will be necessary for each additional key. The key may be terminated at the sole discretion of the District in the event licensee or its employees, representatives, agents or contractors, or any of them, do not strictly adhere to all rules and requirements pertaining to the access of the site or safety at the site, including the requirements under this Program. Additional keys may be obtained as needed with applicable deposit fees.

The District may require a copy of licensee's safety rules and regulations and/or Policies for accessing any District facility for any purpose.

### **4.2 Security Measures and Access Regulations**

The District is subject to local, State, and Federal law, including Homeland Security regulations. The District requires security measures and access regulations to comply with applicable laws and District requirements as follows, but not limited to:

1. Rules and guidelines for each District site are at the sole discretion of the District and must be adhered to by each licensee. Site-specific rules and regulations, and updates to them, will

be effective upon written notice to licensee. Failure to follow the District's rules and guidelines are cause for revocation of the cyber keys.

2. Rules and guidelines may be established for each District site based on the unique characteristics of the site.
3. Each licensee will be required to have a cyber key. The cyber key tracks access to each District site for the District; notwithstanding the foregoing, in all cases, a licensee will be responsible for the activities of all their employees, agents, representatives and contractors while at a District site.
4. Licensee will be responsible for maintenance of the key. The key must be uploaded at District Operations facility on a periodic basis. If the key is not uploaded on a periodic basis, it will stop allowing access to the sites for the Licensee.
5. The Licensee shall provide the District a list of key holders and who will have access to the sites. No persons may access the sites except listed key holders and persons accompanying them on an as needed basis to perform work.
6. Licensee may not make any other attempt to enter a District property other than through the use of the cyber key.
7. Licensee may not leave the District property open and unattended for any reason.
8. In the event licensee discovers vandalism, whether to the Licensee's facilities or District property, Licensee must report it to the District immediately.
9. It is the responsibility of the Licensee to ensure the District property is properly locked upon leaving for any reason.
10. If District personnel are at a facility when Licensee arrives, it is the responsibility of Licensee to announce their presence and to let them know when they leave.
11. Licensee agrees to monitor the use of the cyber keys and to keep them in a safe and secure place at all times. Repeated loss of cyber keys may result in forfeiture of the use of the keys resulting in escorted access for a fee.
12. The District may in its sole discretion allow a licensee or its contractor to access a District property without a cyber key but reserves the right to charge an hourly fee for such access.

13. Wherever possible, each licensee shall design their equipment area on District property to allow for private access without going through the main gate of the District facility site.
14. Licensee shall provide at least 24 hours' prior written notice to the District when any activities by Licensee or its contractors will be occurring at a District site. The notification shall be by email sent to [cellsitenotices@mnwd.com](mailto:cellsitenotices@mnwd.com).
15. Employees of Licensee and its contractors accessing a District property shall carry name badges and picture identification and must present such to a District employee when requested. Persons without proper identification may be required to leave the site.
16. All vehicles of Licensee or its contractors shall be marked as such and be distinguishable from general public vehicles when on District sites.
17. The District may charge an escorted access fee for any requests by Licensee employees or contractors for access that are not due to a malfunctioning key.

### **4.3 Ongoing Operations**

1. Ongoing operations and maintenance of the licensee's facility shall comply with all applicable local, state, and federal laws and regulations and the requirements of this Program and the applicable executed license agreement.
2. In the event Licensee installs any equipment outside the parameters of the License agreement without the prior written authorization of the District, the District may, at its sole discretion, terminate the agreement with the Licensee, or charge an unauthorized facility fee equivalent to 200% (two hundred percent) of the rent that would have been due to the District for a similar increase in use had the District's prior consent been properly obtained. For the purposes of calculating the rent due for such unauthorized equipment, the District will assume the equipment was in place for the period which is the shorter of: two years prior to the date of discovery or the period from the effective date of the applicable license agreement to the date of discovery.

## **5. Decommission or Termination Process**

Any Licensee that decides to decommission its Wireless Communications Facilities on any of District's properties must follow the process described herein.

Licensee shall submit a letter to the District, by certified mail or equivalent, indicating Licensee's intention to decommission its Wireless Communications Facility ("WCF") located on District property. The letter shall include Licensee's site name & number, District facility name, site address, contact person, mailing address, e-mail address, and intended time-frame for the decommission activity.

The District shall provide Licensee a return letter acknowledging Licensee's intention to decommission its WCF and directing Licensee to initiate the application process, payment of appropriate fees, and submission of necessary decommission plans.

Once fees are paid and decommission plans are approved, the Licensee shall remove all installed equipment and return the site to pre-existing conditions or better.

**Appendix A**  
**Communication Facility License Agreement**  
**Template**

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MNWD SITE NAME:  
LICENSEE SITE NAME:  
LICENSEE SITE NUMBER:

## ATTACHMENT 1

### **MOULTON NIGUEL WATER DISTRICT COMMUNICATIONS FACILITY LICENSE AGREEMENT ([CARRIER] [SITE])**

THIS LICENSE AGREEMENT ("License") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, ("Execution Date") by and between **MOULTON NIGUEL WATER DISTRICT**, a California water district existing and operating pursuant to Division 13 of the California Water Code ("District"), and \_\_\_\_\_, a \_\_\_\_\_ ("Licensee"). District and Licensee are sometimes referred to in this License individually as "party" or jointly as "parties." The term "License" used in herein means this License and any amendments to this License as may be executed between the parties in accordance with the terms herein.

#### **RECITALS**

District adopted a revised "Communications Facilities License Program - Policy and Procedures for Communications Facilities Licenses within Moulton Niguel Water District Properties" dated November 2015 which was amended in \_\_\_\_\_ 2016 (the "Program").

District is the owner of that certain real property located at *[insert name of District site and address of site]*, as legally described in Exhibit "A" attached hereto ("Site").

#### [ALTERNATIVE LANGUAGE FOR RENEWALS

Licensee (or its predecessor in interest) entered into that certain *[insert name of lease or license agreement]* with District dated \_\_\_\_\_, \_\_\_\_\_ ("Original Agreement"), under which Licensee currently has installed and is operating Licensee's federally licensed communications facility at the Site.

District and Licensee desire to enter into this new License to replace the Original Agreement.]

This License is being entered into by District and Licensee in accordance with the Program to allow Licensee use of designated portions of the Site, for the installation and operation of Licensee's federally licensed Communications Facility (as defined and described under Section 1 hereof and **Exhibit B** hereto), such use to be consistent with the terms of the Program and this License.

#### **LICENSE**

**Section 1. Non-exclusive License.** Subject to the terms and conditions hereinafter set forth and the requirements of the Program, District grants Licensee a non-exclusive license to install, operate and maintain its Communications Facility, as particularly described in **Exhibit B** hereto, on a portion or portions of the Site as designated and approved by District. The site plan attached as **Exhibit C** depicts the dimensions and approved location of the Communications Facility on the Site to be used by Licensee under this License ("Licensed Area"). The Licensed Area includes (i) designated space on District's existing surface infrastructure; (ii) approximately \_\_\_\_\_ square feet of designated surface ground

MNWD SITE NAME:  
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LICENSEE SITE NUMBER:

space; and (iii) utility routes all as depicted in **Exhibit C**. Notwithstanding District's approval of Licensee's use of the Licensed Area of the Site, nothing in this License may be deemed to grant, convey, create, or vest in Licensee a real property interest in land, including any fee, leasehold interest, or easement. The term "Communications Facility" as used in this License shall include all antennas, facilities, structures and equipment and utilities that Licensee erects, installs and/or uses on or under the Site, as authorized and listed in **Exhibit B**, as may be modified from time to time in accordance with this License and the Program. In the event of a material conflict between the terms of this License and the Program (excluding Appendix A – Communications Facility License Agreement Template), the more stringent terms shall prevail.

**Section 1B. Access License.** The License granted hereunder includes non-exclusive ingress and egress to the Licensed Area, seven (7) days a week, twenty-four (24) hours a day, via foot or motor vehicle (but not including vehicles with more than two (2) axles/more than twenty (20) feet in length) via the access area delineated as such in **Exhibit C**, in order to install, operate, and maintain the Communications Facility. All access to the Licensed Area by Licensee shall be subject in each instance to the Program rules and regulations governing access, as well as any additional Site-specific rules from time to time in effect at the Site, of which District shall inform Licensee in writing. [IF APPLICABLE INCLUDE Further, Licensee expressly acknowledges that District accesses the Site through District's existing access easement over third party property to the Site ("Access Easement"), and nothing herein shall be deemed to be a representation or warranty by District that its interest or other rights to use of the Access Easement is sufficient to permit its use for Licensee's purposes, and Licensee shall be deemed to gain only those rights to use as are properly in District and as District may have the undisputed right and power to give Licensee. Licensee assumes the risk of any challenge, claim, litigation or damage, asserted in connection with Licensee's use of the Access Easement for ingress and egress to the Site and releases District from any and all responsibility, claim, damage, related to or in connection with Licensee's use of the Access Easement. Licensee agrees to indemnify District in connection with Licensee's use of the Access Easement as set forth more specifically in Section 13 of this License. If District's continued use of the Access Easement is challenged or threatened in any way by Licensee's use of the Access Easement, upon notice from District, Licensee shall cease ingress and egress to the Site until such time as Licensee is able to obtain any necessary approvals, licenses or easements from the third party property owner at its sole cost and expense.]

**Section 2. Permitted Use.** Licensee may transmit and receive communication signals and install, operate and maintain the Communications Facility in the Licensed Area in accordance with the site plan and dimension sketch of the Communications Facility in **Exhibit C** hereto, and the Program. Licensee may replace portions of its Communications Facility as part of Routine Maintenance (as defined in the Program) without District's prior consent to the extent permitted by the Program. Licensee may not perform Non-Routine Maintenance (as defined in the Program) or install any other facilities or use any other equipment of any kind not otherwise described in **Exhibit B** and depicted on **Exhibit C** without District's prior written consent which may be granted or denied in District's sole discretion. Applications for consent will only be considered by District if submitted in accordance with the procedures and requirements of the Program. Licensee acknowledges that the primary purpose of the Site is to provide water and/or wastewater services to District's customers, and Licensee's use of the Site shall be subject

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LICENSEE SITE NUMBER:

to District's paramount rights ("Paramount Rights") to use the Site for any and all current and future uses necessary for District's water or wastewater storage, conveyance or treatment purposes, including, but not limited to maintenance, repair, installation, construction, and replacement of any existing facilities or the construction or installation of any additional facilities or equipment, including additional subsurface and surface infrastructure. If District determines that Licensee is physically interfering with such use, District shall notify Licensee and Licensee shall cease such physical interference within twenty four (24) hours. In case of an emergency, District may take steps to eliminate such physical interference without prior notice to Licensee and Licensee shall reimburse District for any and all costs incurred to eliminate such physical interference.

**Section 3. License Term; Option Period.** This License shall be for a term of ten (10) years, referred to as the "License Term," commencing on the Execution Date as defined above. Unless Licensee gives District written notice of its intention not to extend the License at least six (6) months prior to the end of the License Term, and provided Licensee is not in default under this License, License shall automatically be extended upon the expiration of the License Term for one (1) additional five (5) year period ("Option Period"), subject to all terms and conditions of this License.

**Section 4. Annual License Fee; Increases; Late Payments.** For the first year of the License Term, Licensee shall pay District the total sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_ ) ("Annual License Fee") not later than forty-five(45) days after the Execution Date. The Annual License Fee for subsequent years shall be payable annually in advance on the anniversary of the Execution Date, and shall increase annually during the License Term and the Option Period, effective as of each anniversary of the Execution Date, by an amount equal to four percent (4%) over the amount of the Annual License Fee in effect immediately prior to such increase. In addition, the Annual License Fee payable for the first year of the Option Period shall be increased by the amount (if any) which (i) the amount calculated by increasing the first Annual License Fee paid in the License Term by the increase in the Consumer Price Index (All Items, Base 1982-1984 = 100) as published by the United States Department of Labor, Bureau of Labor Statistics for All Urban Consumers for the Los Angeles-Riverside-Orange County (CPI-U) over the License Term as measured in the month three months prior to the expiration of the License Term exceeds (ii) [ $\$$ \_\_\_\_\_ *insert the amount of the Annual License Fee payable for the first year of the Option Period as calculated using the 4% annual escalator*]. The Annual License Fee shall be payable without offset or deduction by check sent to District's address specified below or to any other person or firm as District may, from time to time, designate in writing at least sixty (60) days in advance of any Annual License Fee due date. If, at any time, Licensee fails to make timely payment, interest shall accrue on the past due amount at the rate of one and one half percent (1 1/2%) per month or the maximum allowable by law, whichever is less, until paid in full. This right to collect interest is in addition to all rights of District to terminate this License for non-payment pursuant to Section 7A of this License.

**Section 5. Holdover.** If the Communications Facility or any part thereof is still on the Site, or Licensee is still conducting any activities or operations on the Site, or is otherwise using the Site without a written agreement with District after expiration of the License Term, or, if applicable, the Option Period, such possession or use shall be deemed a holdover use under the same terms and conditions of this License, except that the Annual License Fee shall be one hundred fifty percent (150%) of the Annual

MNWD SITE NAME:  
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License Fee in effect at the expiration of the License Term or, if applicable, the Option Period, and shall be payable in advance in equal monthly installments. Nothing contained herein shall grant Licensee the right to holdover after the expiration of the License Term or, if applicable, the Option Period and notwithstanding the payment of license fees during the holdover period, District shall have the right to require Licensee to vacate the Site at any time upon thirty (30) days written notice..

**Section 6. Temporary Relocation.** Licensee understands and agrees that from time to time during the License Term and/or the Option Period, District may require Licensee to remove and/or relocate all or portions of the Communications Facility from the Licensed Area temporarily at Licensee's expense in order for District to exercise its Paramount Rights at the Site. District shall use its best efforts to give Licensee at least sixty (60) days prior written notice of the necessity to relocate the Communications Facility for the temporary period, and will use good faith efforts to provide temporary space at the Site, or another mutually acceptable District location for such temporary relocation; provided Licensee is not in default under this License. Licensee shall be responsible at its cost for obtaining any necessary permits and otherwise complying with all laws, permits, and other rules and regulations of any public entity applicable in connection with the temporary relocation of its Communications Facility. Licensee acknowledges that in case of emergency (as determined by District in its sole discretion), the notice period for temporary relocation may be shortened. Notwithstanding any relocation or any shortened notice period, the License shall continue without abatement of the Annual License Fee unless District is unable to provide space for temporary relocation and as a result Licensee is required to cease to operate its Communications Facility for a period of more than fourteen (14) days in which event Licensee shall be entitled to an abatement of the Annual License Fee equivalent to the number of full days in excess of fourteen (14) days during which Licensee was unable to operate its Communications Facility multiplied by 1/365 of the Annual License Fee applicable during such period. District will calculate and refund such abatement amount within sixty (60) days after the end of the temporary relocation period.

At the end of the temporary relocation period, Licensee shall at its cost return the relocated Communications Facility to the Licensed Area, unless the parties mutually agree that the Communications Facility may remain at the temporary location in which case the parties shall memorialize such agreement by an amendment to this License. Licensee shall have a right to terminate this License upon thirty (30) days prior written notice to District if any temporary relocation exceeds ninety (90) days, or if District requires Licensee to relocate the Communications Facility more than one (1) time during the License Term, or more than one (1) time during the Option Period. If the License is terminated for such reason, District shall refund unused months of the Annual License Fee on a proportionate basis, but Licensee shall not be entitled to reimbursement or payment by District of any further expenses or costs it may incur by reason of its election to terminate this License hereunder.

**Section 7A. District's Termination.** In addition to other rights of termination and revocation District has under this License, District may terminate and revoke this License prior to expiration of the License Term or Option Period, if applicable, in any of the following circumstances:

- (a) By giving Licensee twelve (12) months prior written notice, if District determines in its sole discretion that the Licensed Area is necessary for the exercise of its Paramount Rights

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at the Site or District decides to sell or otherwise dispose of its fee ownership of the Site. Upon notice of termination and revocation under this subsection (a), District shall make a good faith effort to permit Licensee to relocate the Communications Facility to another of District's sites prior to termination of the License, provided Licensee fully complies with the Program as to such relocated site and assumes all costs of any such relocation.

- (b) By giving Licensee sixty (60) days prior written notice, if Licensee fails to maintain and repair the Communications Facility according to the requirements of the License and the Program and fails to cure such non-compliance in response to any District request for such repairs within thirty (30) days or within such shorter time specified by District in such written request. Further, if District in its sole discretion determines that the Communications Facility is in a state of disrepair which imminently endangers the health and safety of District employees and other users of the Site, District may terminate the License and take steps to address the situation immediately without prior notice to Licensee, provided that District shall thereafter notify Licensee of the situation, and Licensee shall reimburse District for its actual costs incurred to take such action.
- (c) If Licensee fails to pay the Annual License Fee when due, District may, after giving ten (10) days prior written notice to Licensee terminate and revoke this License and seek other remedies, as appropriate, under the laws of the State of California, unless Licensee cures such default by payment of the Annual License Fee and accrued interest charges within such notice period.
- (d) If Licensee fails to perform or observe any of the other material terms or conditions of this License, which the parties agree include but are not limited to Sections 2, 8, 10, 11, 12 and 13, District may, after giving thirty (30) days prior written notice to Licensee terminate and revoke this License and seek other remedies, as appropriate, under the laws of the State, unless Licensee cures such default within such notice period.

The parties agree that it is presumed that any termination and revocation is exercised in good faith, in accordance with the terms hereof, and in a fair and reasonable manner. In the event Licensee disputes District's right to terminate or revoke this License in any proceeding, action, or otherwise, Licensee has the burden of proving District has breached the terms hereof, or that District has not exercised termination and revocation rights in good faith, fairly or in a reasonable manner.

**Section 7B. Licensee's Limited Termination Right.** It is understood and agreed that Licensee's ability to use the Site is contingent upon Licensee continually maintaining in full force and effect, after the Execution Date, all the certificates, permits, and other approvals that are required by any federal, state, or local authorities. In the event that any certificate, permit, license, or approval issued to Licensee is canceled, expires, lapses, or is otherwise withdrawn or terminated by any governmental authority so that Licensee is unable to use the Site for its intended purposes, Licensee may terminate this License upon ninety (90) days written notice to District, except that those terms that by their nature survive termination

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such as Licensee's obligations to remove the Communications Facility and restore the Site , and the indemnity obligation shall survive in accordance with the terms of this License.

**Section 8. Licensee's Installation, Ownership, Operation and Maintenance of Facilities; FCC Regulations, Emissions Testing, Compliance with Law.**

- (a) Licensee shall install, construct and maintain the Communications Facility in accordance with this License, and the terms of the Program that set forth specific requirements for such installation and work on the Site.
- (b) It is expressly understood and agreed that any and all fixtures and equipment of whatsoever nature at any time constructed or placed on the Site by Licensee shall be and remain the personal property of Licensee. Licensee shall have the right at any time during the License Term, and the Option Period, if applicable, to remove any and all fixtures and equipment owned or placed by Licensee in, under, or upon the Licensed Area.
- (c) Licensee, at Licensee's cost and expense shall keep and maintain, or cause to be kept and maintained, the Communications Facility in a state of good appearance and repair, reasonable wear and tear excepted. Licensee shall pay, when due, all claims for labor or materials furnished to or for Licensee for the use on the Licensed Area which claims are or may be secured by any mechanic's or materialmen's liens against the Communications Facility, or the Licensed Area, or any interest of Licensee therein. Licensee agrees that District has no greater obligation to repair and maintain the Site due to Licensee's presence at the Site than it would have in the ordinary course of its business, and District has no obligation to repair or maintain the Licensed Area, or the Communications Facility.
- (d) Licensee shall, at its own cost, protect, replace and provide any landscaping required in its permits to shield the Communications Facility on the Site and shall promptly replace any District landscaping damaged by Licensee's activities consistent with the requirements of the Program.
- (e) Licensee shall have a separate meter installed for Licensee's electrical power consumption, whereupon Licensee shall be solely responsible for payment of all utilities costs.
- (g) Upon completion of the installation of the Communications Facility, Licensee shall arrange for a Radio Frequency ("RF") emissions test to be performed by a Federal Communications Commission ("FCC")-certified third party reasonably approved by District, in accordance with FCC regulations, which results shall be provided to District in a written report including the monitoring results, if applicable, prior to commencement of any operations or use of the Communications Facility by Licensee. Licensee shall be responsible for all costs of the RF test, the written report and the monitoring results. During the License Term and Option Period if applicable, Licensee shall conduct all RF tests or other emissions tests as required by FCC regulations and shall provide all results to District within thirty (30)

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days of completion in a written report. All RF test results shall meet FCC regulations and emissions exposure limits. If results indicate RF emissions exceed the applicable FCC exposure limits or fail to meet applicable FCC standards, such failure shall be a material breach of this License, and subject the License to termination and revocation procedures pursuant to Section 7A.

- (h) In addition to compliance with specific laws otherwise described in this License, Licensee shall comply, and will ensure that its contractors and representatives will comply, with all regulations and requirements of the FCC and the California Public Utilities Commission, and all other local, state and federal laws, ordinances, rules and regulations, including health and safety requirements, pertaining to the construction, installation, operation and maintenance of the Communications Facility and work on the Site during the License Term and Option Period, and in conjunction with any activities undertaken on the Site by Licensee either prior to the Execution Date, or after expiration of this License. Requirements of the Occupational Safety and Health Administration (OSHA) shall be adhered to at all times during any activities on the Site by Licensee and its contractors or other representatives. Licensee shall have a safety and injury prevention program in place for the construction, installation, operation and maintenance of the Communications Facility and work on the Site, if required by laws or regulations. If required by law or regulation, a copy of any such program shall be on the Site at all times.

**Section 9. Removal/Restoration/Bond.** Licensee shall remove all of the Communications Facility at its sole expense upon the expiration or earlier termination of the License. Licensee shall repair any damage to the Licensed Area caused by such removal and shall return the Licensed Area to the condition which existed before the Execution Date, reasonable wear and tear excepted. On or before the Execution Date, Licensee shall obtain a faithful performance bond, in the amount of *[amount to be determined based on two quotes for removal costs obtained by Licensee]* Thousand Dollars (\$XX,000.00), from a bond company duly licensed to do business in California in favor of District (the "Bond"). The Bond shall secure Licensee's removal of its equipment from the Licensed Area following the expiration or earlier termination of the License, and shall be maintained in force by Licensee throughout the License Term and Option Period if applicable. Licensee agrees to deliver to District a copy of the Bond prior to commencement of construction activities on the Licensed Area (or if the License is a renewal for a previously constructed facility, prior to full execution of the License). Prior to the commencement of any Option Period, District and Licensee shall review the amount of the Bond to assess whether the amount of the Bond is reasonably sufficient to cover then current removal and restoration costs. If it is reasonably determined to be insufficient, Licensee shall obtain and maintain in force a Bond for such additional amount that District reasonably determines to be sufficient.

**Section 10. Prior Communications Facilities on Site, District Communications Systems; Non-interference .**

- (a) Licensee acknowledges and understands that the communications facilities providers listed in **Exhibit D** hereto (referred to as the "Prior User(s)") has(ve) entered into an

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agreement(s) (the "Prior Use Agreement(s)") with District, pursuant to which the Prior User(s) has(ve) been permitted to install and operate communications equipment on the Site. Licensee represents and warrants that prior to the execution of this License, Licensee has determined that the Prior Users present no material interference with Licensee's intended use within the Licensed Area.

- (b) Licensee shall operate the Communications Facility in a manner that will not cause harmful interference to (i) any communications equipment operated and/or owned by District within the service territory of District as of the Effective Date, or (ii) any communications equipment operated and/or owned by the Prior User(s) as of the Effective Date, provided that the Prior User(s) operates its communications equipment in accordance with the terms of the Prior Use Agreement(s). If Licensee's Communications Facility causes harmful interference to the communications equipment operated and/or owned by District under (i) above or the Prior User(s) under (ii) above, Licensee will take all steps necessary to correct and eliminate the interference, including but not limited to, at Licensee's option, powering down such equipment and later powering up such equipment for intermittent testing. If such interference cannot be corrected or powered down within two (2) days after Licensee is advised of such interference, District may require that Licensee cease (or cause the cessation of) operation of the interfering equipment until such interference can be so corrected at which time the operation of such equipment may resume.
- (c) Licensee further acknowledges that District assumes no risk or liability for any interference with Licensee's use of the Site which results from the operation of communications equipment on the Site by the Prior User(s) under the Prior Use Agreement(s) and agrees that District shall be held harmless from claims due to any such interference, pursuant to the indemnification terms set forth in Section 13 herein.
- (d) District reserves the right to license other portions of the Site to third parties during the License Term and Option Period, if applicable. Subsequent to the installation of the Communications Facility, District will not knowingly permit the installation of new equipment on the Site if such equipment will cause harmful interference with the Communications Facility. If any such harmful interference occurs, Licensee shall use its best efforts to resolve the interference issues in cooperation with the owner and operator of the new equipment without involving District personnel. If any such subsequent users cannot correct such harmful interference within ten (10) business days of Licensee's written notification thereof to District, Licensee may terminate this License upon sixty (60) days written notice to District and obtain a refund of prepaid unused amounts of the Annual License Fee, or seek injunctive or other legal relief against/from such subsequent users. The refund shall be Licensee's sole and exclusive remedy and recovery as against District, and Licensee hereby waives any other rights or remedies it may have at law or in equity against District related thereto. The parties recognize and agree that it is the intention of this Section 10 that District not become embroiled in any disputes or proceedings between Licensee and subsequent users, and/or expend funds as a result

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thereof; therefore, Licensee agrees to pay all of District's costs and attorney's fees that may be incurred by District related to any disputes or proceedings between Licensee and subsequent users.

Accordingly, District agrees that any other person or entity who may install equipment subsequent to the Execution Date in and/or on the Site will be permitted to install only such communications equipment that is of the type and frequency that will not cause any interference to Licensee or persons or entities claiming through or under Licensee. In the event any such person or entity's equipment causes such interference, District will cause the interfering party to take all steps necessary to correct and eliminate the interference or such interfering party will be required to cease operations until such interference is removed.

- (e) Nothing contained in this Section 10 or elsewhere in this License is intended to confer any rights or remedies under, or by reason of this License on, or waive any claims against, or adversely affect any rights of, any person or entity other than the parties hereto.

#### **Section 11. Environmental.**

- (a) For purposes of this License, the term "Hazardous Substances" means: (a) any substance, products, waste, or other material of any nature whatsoever which is or becomes listed, regulated, or addressed pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 United States Code Section 9601 et seq.; the Resources Conservation and Recovery Act, 42 United States Code Section 6901 et seq.; the Hazardous Materials Transportation Conservation and Recovery Act, 42 United States Code Section 1801 et seq.; the Clean Water Act, 33 United States Code Section 1251 et seq.; the Toxic Substances Control Act, 15 United States Code Section 2601 et seq.; the California Hazardous Waste Control Act, Health and Safety Code Section 25100 et seq.; the Hazardous Substance Account Act, Health and Safety Code Section 25330 et seq.; the California Safe Drinking Water and Toxic Enforcement Act, Health and Safety Code Section 25249.5 et seq.; California Health and Safety Code Section 25280 et seq. (Underground Storage of Hazardous Substances); the California Hazardous Waste Management Act, Health and Safety Code Section 25170.1 et seq.; California Health and Safety Code Section 25501 et seq. (Hazardous Materials Release Response Plans and Inventory); or the California Porter-Cologne Water Quality Control Act, Water Code Section 13000 et seq., all as amended; or any other federal, state, or local statute, law, ordinance, resolution, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning any Hazardous Substance, now or at any time hereinafter in effect; (b) any substance, product, waste or other material of any nature whatsoever which may give rise to liability under any of the above statutes or under any statutory or common law theory based on negligence, trespass, intentional tort, nuisance or strict liability or under any reported decisions of a state or federal court; (c) petroleum

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or crude oil, other than petroleum and petroleum products which are contained within regularly operated motor vehicles; and (d) asbestos.

- (b) Except as otherwise specifically permitted under the terms of this License, Licensee shall not use, create, generate, store, deposit, dispose of or allow any Hazardous Substances on, under, about or within the Site or Licensed Area in violation of any federal, state, or local law, rule, regulation, order, decree or other requirement listed in this Section 11. Batteries for emergency power and fuel for temporary generators during power outages may only be used or stored on-site with the prior written approval of District. On site use, but not storage, of ordinary paints, solvents and similar substances commonly used in small quantities and necessary for maintenance of Licensee's Communications Facility are excepted from the preceding prohibition of use by Licensee of Hazardous Substances on the Licensed Area and the Site, so long as Licensee complies with all applicable federal, state and local laws rules and regulations governing the use of such items.
- (c) No permanent underground or above ground storage tanks shall be installed on Licensed Area.
- (d) District or its officers, employees, contractors, or agents shall at all times have the right to go upon and visually inspect the Licensed Area and the operations conducted thereon to assure compliance with the requirements herein stated. This inspection may also include taking samples for chemical analysis of substances and materials present and/or testing soils on the Licensed Area and taking photographs. Except in case of emergency, District will not take samples or test soils on the Licensed Area without providing Licensee with notice and the opportunity to have a representative present.
- (e) Licensee shall, within forty-eight (48) hours of the discovery by Licensee of the presence of, or believed presence of, a Hazardous Substance as defined herein, give written notice to District in the event that Licensee knows or has reasonable cause to believe that any release of Hazardous Substance has come or will come to be located on, under, about or within the Licensed Area. The failure to disclose in a timely manner the release of a Hazardous Substance by Licensee, including but not limited to, an amount which is required to be reported to a state or local agency pursuant to law (e.g., California's Hazardous Materials Storage and Emergency Response Act, Health and Safety Code Section 25550 et seq.) shall be grounds for termination of this License by District in addition to actual damages and other remedies provided by law. Licensee shall immediately clean up and completely remove all Hazardous Substances placed by Licensee on, under, about or within the Licensed Area or the Site, in a manner that is in all respects safe and in accordance with all applicable laws, rules and regulations.
- (f) In the event Hazardous Substances are discovered, Licensee shall disclose to District the specific information regarding Licensee's discovery of any Hazardous Substances placed

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on, under, about or within the Licensed Area or the Site by Licensee, and provide written documentation of its safe and legal disposal.

- (g) Breach of any of these covenants, terms, and conditions, and Licensee's failure to cure within thirty (30) days of Licensee's receipt of written notice from District, shall give District the authority to either immediately terminate this License or to shut down Licensee's operations thereon, at the sole discretion of District. In either case, Licensee will continue to be liable under this License to remove and mitigate all Hazardous Substances placed by Licensee on, under, about or within the Licensed Area or the Site. Licensee shall be responsible for, and bear the entire cost of removal and disposal of, all Hazardous Substances introduced to the Licensed Area or the Site by Licensee during Licensee's period of use and possession of the Licensed Area. Upon termination of this License, Licensee shall, in accordance with all laws, remove from the Licensed Area any equipment or improvements placed on the Licensed Area by Licensee that may be contaminated by Hazardous Substances.

**Section 12. Insurance.** Licensee agrees to maintain in full force and effect a suitable policy or policies of Commercial General Liability insurance throughout the duration of the license. Such insurance shall be in amounts of not less than \$5,000,000 per occurrence. If a general aggregate limit is used, either the general aggregate limit shall apply separately to the Communications Facility and Site (with the ISO CG 2501 or insurer's equivalent endorsement provided to District), or the general aggregate limit shall be twice the required occurrence limit of \$5,000,000. Coverage shall include contractual liability coverage. Licensee also agrees to maintain in full force and effect Automobile Liability coverage (equivalent in coverage to ISO form CA 00 01) of not less than \$1,000,000 combined single limit, each accident, covering all owned, hired and non-owned autos; and, workers' compensation insurance and employer's liability insurance with respect to all employees, if any, engaged in the performance of work on the Site. Coverage must include a waiver of subrogation endorsement in favor of District.

All insurance required under this License shall be issued as a primary policy. Licensee shall provide at least thirty (30) days written notice to District of cancellation or non renewal of any required coverage that is not replaced. District, its directors, officers, agents, employees, volunteers and consultants, shall be designated as additional named insureds by separate endorsement under the foregoing policies. Concurrently with the execution of this License Agreement and prior to installing the Communications Facility or any portion thereof on the Site, Licensee will provide District with a certificate(s) verifying such insurance and the terms described herein, as well as the additional insured and/or other specified endorsement(s), and shall provide proof of continuing insurance as required herein on an annual basis thereafter in conjunction with payment of the annual license fee. Licensee shall ensure, in accordance with the Program, that its contractors performing any installation of the Communications Facility, including modifications to the Communications Facility as applicable or other work on the Site, will provide insurance that satisfies the same terms and conditions set forth in this Section 12, in accordance with the Program, and shall ensure that all insurance certificates and endorsements are provided by its contractors.

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Notwithstanding the foregoing, Licensee may self-insure any of the required insurance under the same terms as required by this License. In the event Licensee elects to self-insure its obligation under this License to include District as an additional insured, the following conditions apply: (i) District shall promptly provide Licensee with written notice of any claim, demand, lawsuit, or the like for which it seeks coverage pursuant to this Section and provide Licensee with copies of any demands, notices, summonses, or legal papers received in connection with such claim, demand, lawsuit, or the like; (ii) District shall not settle any such claim, demand, lawsuit, or the like without the prior written consent of Licensee; and (iii) District shall reasonably cooperate in the defense of the claim, demand, lawsuit, or the like.

**Section 13. Indemnification.** Licensee shall be responsible, and District shall not be answerable or accountable in any manner, for any loss or expense by reason of any damage or injury to person or property, or both, arising out of the acts of Licensee, its agents, officers, employees, or invitees (collectively with Licensee referred to in this Section 13 as "Licensee") resulting from Licensee's activities on the Site or on and over the Access Easement, the design or installation of the Communications Facility and any related equipment, including but not limited to razor ribbon, the operation, maintenance or removal of its Communications Facility, any harmful interference caused by Licensee which interferes with the ability of the Prior Users to operate their communications equipment in accordance with the terms of the Prior Use Agreements, and, any other use of and operations on the Site or the Access Easement by Licensee, or otherwise pursuant to this License.

To the fullest extent permitted by law, Licensee shall indemnify and defend (using counsel reasonably satisfactory to District) District and its directors, officers, agents, employees, contractors, volunteers, and invitees (collectively with District referred to as "District" in this Section 13) against and will hold and save them and each of them harmless from any and all actions, claims, damages to persons or property, penalties, fines, attorney's fees, administrative and judicial proceedings and orders, judgments, obligations or liabilities, and all costs and expenses incurred in connection therewith, including attorneys' fees and costs of defense arising from, resulting from or caused by Licensee's activities undertaken pursuant to this License including activities undertaken by its employees, officers, agents and contractors, whether or not there is concurrent passive negligence on the part of District, except to the extent that such claim is proximately caused by the active negligence or willful misconduct of District or its officers, agents, employees, contractors or subcontractors who are directly responsible to District. Licensee's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Licensee or District.

Licensee's indemnification obligation hereunder and the provisions of this Section 13 shall survive any termination, revocation, expiration, or assignment of this License.

**Section 14. Dispute Resolution**

- (a) Dispute Resolution Process. Except for any claim, controversy or dispute that is subject to the jurisdiction of the FCC, including interference, electromagnetic spectrum or licensed operation of wireless services, any claim, controversy, or dispute arising out of or

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relating to this License, or to the threatened, alleged, or actual breach thereof by any party, shall be resolved exclusively as set forth in this Section 14.

- (b) Invocation. Subject to the requirements of subsections (c) and (d) below, the resolution procedures shall be invoked when a party sends a written notice to the other party following the occurrence of any claim, controversy, or dispute arising out of or relating to this License, or to the threatened, alleged, or actual breach thereof. The notice shall describe the nature of the dispute and the party's position with respect to such dispute.
- (c) Field/Technical Representatives. Prior to invoking resolution procedures, the parties shall expeditiously schedule consultations or a meeting between field/technical representatives designated by each party in an effort to resolve the dispute informally.
- (d) Reference to Management Representatives. If the field/technical representatives appointed by each party are unable to resolve the dispute within fifteen (15) days, the management representatives designated by each party shall attempt to resolve such dispute through consultation and negotiation, within thirty (30) days (or such longer period as mutually agreed by the parties). The management representatives may request the assistance of an independent mediator if they believe that such a mediator would be of assistance to the efficient resolution of the dispute. Unless otherwise agreed, the cost of the mediator will be shared equally by the parties.
- (e) Arbitration. If the management representatives cannot resolve the dispute as set forth herein, the matter may be resolved by arbitration in the County of Orange, California, pursuant to the rules of Judicial Arbitration and Mediation Services ("JAMS"), as amended or as augmented in this License (the "Rules"). Arbitration shall be initiated as provided by the Rules, although the written notice to the other party initiating arbitration shall also include a description of the claim(s) asserted and the facts upon which the claim(s) are based. All disputes shall be decided by a single arbitrator. The arbitrator shall be selected by mutual agreement of the parties within thirty (30) days of the effective date of the notice initiating the arbitration. If the parties cannot agree on an arbitrator, then the complaining party shall notify JAMS and request selection of an arbitrator in accordance with the Rules. The arbitrator shall have only such authority to award equitable relief, damages, costs, and fees as a court would have for the particular claim(s) asserted. In no event shall the arbitrator award punitive damages of any kind. The parties acknowledge that one of the purposes of utilizing arbitration is to avoid lengthy and expensive discovery and allow for prompt resolution of the dispute. The arbitrator shall have the power to limit or deny a request for documents or a deposition if the arbitrator determines that the request exceeds those matters which are directly relevant to the claims in controversy. The document demand and response shall conform to Code of Civil Procedure section 1282.6. The deposition notice shall conform to Code of Civil Procedure section 1283. The parties may make a motion for protective order or motion to compel before the arbitrator with regard to the discovery, as provided in Code

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of Civil Procedure. Notwithstanding the election by the parties to arbitrate their disputes, nothing contained herein shall prevent a party from filing an action in a court of competent jurisdiction to seek any form of equitable remedy or relief.

**Section 15. Program Fees.** If not already paid by Licensee to District under the Program requirements, then concurrently with the execution of this License, Licensee shall pay to District the applicable fees set forth under the terms of the Program.

**Section 16. Entire Agreement; Amendment.** This License constitutes the entire understanding between the parties with respect to the subject matter hereof, superseding all negotiations, prior discussions and agreements made prior to the date hereof. In the event there is an existing lease or license between Licensee (or its predecessor-in-interest) and District covering the Licensed Area, it is agreed and understood that this License shall cancel, supersede and terminate said prior lease or license as of the Execution Date of this License. This License may not be modified except in a writing executed by both parties.

**Section 17. Paragraph Heading and Construction.** The section headings contained in this License shall not be considered to be a part hereof for purposes of interpreting or applying this License, but are for convenience only.

**Section 18. Governing Law/Venue.** This License shall be governed by and construed in accordance with the laws of the State of California without regard to its conflicts of laws rules. Any lawsuit brought in connection with this License (as may be permitted hereunder) shall be brought in the appropriate court of the County of Orange, California and the parties agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure section 394.

**Section 19. Binding on Successors; No Third Party Beneficiaries.** This License, and all of the provisions hereof, shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors, and assigns. No customer, other person or entity other than the parties shall be deemed to be a third party beneficiary hereof, and nothing in this License, either express or implied, is intended to confer upon any customer or other person or entity, other than the parties and their respective successors and assigns, any rights, remedies, obligations or liabilities under or by reason of this License.

**Section 20. Independent Contractors.** Licensee's contractors, agents and representatives are independent contractors of Licensee, and are not employees or independent contractors of District while on the Site, or while engaged in any work on the Site, including the construction, installation, maintenance or operation of the Communications Facility.

**Section 21. Limited Assignment/ No Sub-licensing.**

- (a) This License, or the license interest of Licensee in the Site, shall not be assigned by Licensee except with the prior written consent of District which consent may be withheld in the District's sole discretion, notwithstanding sections 1995.260 and 1995.270 of the California Civil Code, and as they may be amended, or as allowed under subsection (b) hereof.

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- (b) Licensee may, without District’s consent but upon at least sixty (60) days prior written notice to District, from time to time assign this License in its entirety (i) to any entity which has, directly or indirectly, a fifty-one percent (51%) or greater interest in Licensee (a “Parent”), or to any entity in which Licensee or a Parent has a fifty-one percent (51%) or greater interest. Any such assignment shall not be effective unless and until the assignee executes and delivers to District a written assumption of all Licensee’s obligations under this License.
- (c) Sub-licensing is strictly prohibited.
- (d) Any attempted or unauthorized assignment or sub-license shall be void and shall be cause for immediate termination of this License by District. The acceptance of Annual License Fees by District from any person other than Licensee or an authorized assignee shall not be deemed to be a waiver by District of any provision hereof. Consent to one assignment shall not be deemed consent to any subsequent assignment.
- (e) Applications for consent to assignments shall be submitted to District in accordance with the requirements set out in the Program.

**Section 22. Waiver of District’s Lien.** District waives any lien rights it may have concerning the Communications Facility which is deemed Licensee’s personal property and not fixtures, and Licensee has the right to remove the same at any time without District’s consent.

**Section 23. Attorneys’ Fees.** Should either party institute arbitration or legal or other proceedings against the other for or on account of its failure or refusal to perform or fulfill any of the covenants or conditions of this License on its part to be performed or fulfilled, then the prevailing party in such action or proceeding shall receive from the other party attorney’s fees and costs as adjudged reasonable by the arbitrator, or court.

**Section 24. Notice.** All notices, requests, and demands hereunder will be given in writing by first class, certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notices, requests and demands will be addressed to the parties as follows:

If to Licensee:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ Laguna Hills, CA 92653

If to District:  
Moulton Niguel Water District  
26161 Gordon Road \_\_\_\_\_

Attn: \_\_\_\_\_

Attn.: Director of Engineering & Operations

With a copy to:

MNWD SITE NAME:  
LICENSEE SITE NAME:  
LICENSEE SITE NUMBER:

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---

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Attn: \_\_\_\_\_

Either party may change the address or persons to which notices are to be sent to it by giving thirty (30) days' prior written notice of such change to the other party in the manner provided herein.

**Section 25. Counterparts.** This License may be executed in counterparts, each of which shall be deemed to be an original.

**Section 26. Representations and Warranties.**

- (a) Each party represents and warrants that this License constitutes a legal, valid and binding obligation of such party, and is enforceable against such party in accordance with the terms set forth in the License.
- (b) Licensee represents and warrants that it has received a complete copy of the Program from District, has read and understood the requirements of the Program, and is able to and will fully comply with the Program and the terms of this License, in connection with the Communications Facility, and in the exercise of its rights and obligations under this License.
- (c) Licensee acknowledges and agrees that the Program may be revised from time to time by District, and, provided that: (i) Licensee is given written notice by District in accordance with Section 24 that proposed changes or revisions to the Program are agendaized for action by District's Board of Directors at an upcoming meeting; and (ii) Licensee is given written notice by District in accordance with Section 24 that revisions to the Program were adopted by District's Board of Directors at such meeting, all changes or revisions to the Program (except for Appendix A – Communications Facility License Agreement Template) will automatically apply to this License upon the provision of the notice in (ii) above, without the need for any formal amendment of this License.
- (d) Licensee acknowledges and agrees that Licensee is not entitled to relocation assistance, or any other benefits under the Uniform Relocation Assistance Act, or any other applicable provision of law upon termination of this License.

**Section 27. NO WARRANTY**

LICENSEE'S RIGHT TO USE THE LICENSED AREA, DISTRICT IMPROVEMENTS AND THE SITE IS STRICTLY ON AN "AS IS" BASIS WITH ALL FAULTS. DISTRICT MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND AS TO THE PRESENT OR FUTURE CONDITION OF OR SUITABILITY OF THE SITE, DISTRICT IMPROVEMENTS OR THE LICENSED AREA FOR LICENSEE'S USE AND DISCLAIMS ANY AND ALL WARRANTIES EXPRESS OR IMPLIED WITH RESPECT TO THE PHYSICAL, STRUCTURAL, OR ENVIRONMENTAL CONDITION OF THE SITE,

MNWD SITE NAME:  
LICENSEE SITE NAME:  
LICENSEE SITE NUMBER:

DISTRICT IMPROVEMENTS, AND LICENSED AREA AND THE MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. LICENSEE IS SOLELY RESPONSIBLE FOR INVESTIGATION AND DETERMINATION OF THE CONDITION AND SUITABILITY OF THE SITE, DISTRICT IMPROVEMENTS, AND LICENSED AREA FOR LICENSEE'S INTENDED USE.

**Section 28 Taxes.** District hereby provides notice pursuant to California Revenue and Taxation Code Section 107.6, and Licensee acknowledges that this License may create a possessory interest and Licensee may be subject to property taxes levied on such interest, as described in California Revenue and Taxation Code Section 107. Licensee shall pay, when due, all real and personal property taxes, fees and assessments, assessed against the Licensed Area and the Communications Facility.

**Section 29. Time.** Time is of the essence of this License.

**Section 30 Survival.** All terms that by their nature should survive termination of this License shall survive, including but not limited to payment of amounts owed and indemnification obligations.

**Section 31.** The following exhibits are incorporated in this License:

- Exhibit A** Site- Legal Description
- Exhibit B** Description - Communications Facility (Equipment List)
- Exhibit C** Licensed Area (Site Plan)
- Exhibit D** List of Prior User(s)

**Section 32. Binding Authority/Authorized Representatives.** Each of the parties represents and warrants that it has the full right, power, legal capacity, and authority to enter into and perform its obligations hereunder and that those obligations will be binding upon that party without the approval or consent of any other person or entity. Each person executing this License represents and warrants he/she has been duly authorized to execute the same.

**IN WITNESS WHEREOF,** the parties hereto have executed this License as of the day and year first written above.

**“District”:**

**MOULTON NIGUEL WATER DISTRICT**

By: \_\_\_\_\_

General Manager

**“Licensee”:**

\_\_\_\_\_

By: \_\_\_\_\_

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

## **Appendix B**

# **Amendment to Communication Facility License Agreement Template**

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**AMENDMENT NO. \_\_\_\_ TO COMMUNICATION FACILITY LEASE/LICENSE**

**(cell carrier name & MNWD site name)**

This Amendment No. \_\_\_\_ to Lease/License (this "\_\_\_\_**Amendment**") is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between Moulton Niguel Water District ("**District** ") a California water district existing and operating pursuant to Division 13 of the California Water Code, and \_\_\_\_\_ ("**Lessee/Licensee**"), with reference to the facts set forth in the Recitals below:

**RECITALS**

- A. District is the owner of that certain real property located at \_\_\_\_\_ ("**District's Site**"); and B. District and Lessee/Licensee are parties to that certain Lease/License dated \_\_\_\_\_ (the "**Agreement**"), pursuant to which Lessee/Licensee currently has installed and is operating Licensee's federally licensed communications facility at the Site;" and
- C. On (Insert date of First Amendment, if applicable), the Parties executed Amendment No. \_\_\_\_\_ to the Agreement to (insert description of First Amendment, if applicable); and
- D. (Insert Recitals for all other Amendments as applicable, using the above format) (the Agreement and the amendments collectively are referred to herein as the "Agreement"); and
- E. District has adopted a revised "Communications Facilities License Program - Policy and Procedures for Communications Facilities Licenses within Moulton Niguel Water District Properties" dated \_\_\_\_ 2015 (the "Program").

**FOR EXPANSION OF SPACE ADD THE FOLLOWING RECITAL:**

- F. Lessee/Licensee desires to amend the Agreement in order to (i) expand its use of the Site to install, operate, maintain, repair and replace a [describe proposed work to be completed as specified in the attached Exhibit; and

**FOR ADDITIONAL ANTENNAS ADD THE FOLLOWING RECITAL:**

- G. Lessee/Licensee desires to amend the Agreement to allow for the installation of additional antennas, associated cables and other communications equipment as specified in the attached Exhibit; and

**FOR SITE IMPROVEMENTS ADD THE FOLLOWING RECITAL:**

H. Lessee/Licensee desires to amend the Agreement to permit Lessee/Licensee to add, modify and/or replace equipment in order to be in compliance with any current or future federal, state or local mandated requirement, including but not limited to emergency 911 communication services; and

**FOR EXTENSION OF THE LEASE TERM ADD THE FOLLOWING RECITAL:**

I. Lessee/Licensee desires to amend the Agreement to extend the term of the Agreement for (a period of \_\_\_\_, until \_\_\_\_ or another time period – please select one or modify as needed); and

**FOR ADDITIONAL RENT ADD THE FOLLOWING RECITAL:**

J. Lessee/Licensee desires to modify, as set forth herein, the Rent payable under the Agreement. In addition to Lessee’s annual rent obligations for the Existing Premises, lessee/licensee shall pay and additional rent in the amount of \$ \_\_\_\_\_ (\$xxxx.xx); and

K. District is willing to agree to such amendment(s) upon the terms and conditions specified herein.

**AGREEMENT**

NOW, THEREFORE, in consideration of the facts contained in the Recitals above, the mutual covenants and conditions below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**1. Defined Terms.** Any capitalized terms used in this Amendment No. \_\_\_\_ that are not defined herein shall have the meanings given those terms in the Agreement. Unless the context clearly indicates otherwise, all references to the “Agreement” in this Amendment No. shall hereinafter be deemed to refer to the Agreement, as amended hereby.

**FOR EXPANSION OF EXISTING PREMISES ADD THE FOLLOWING PARAGRAPH:**

**#. Expansion of Use of Site.** The description of the leased/licensed space (“Existing Space”) contained in the Agreement is hereby amended to hereinafter include additional ground space measuring approximately [incorporate this information] \_\_\_\_\_ (the “**Additional Space**”), all as more particularly described and depicted in the site drawing attached hereto as Exhibit A-1 and made a part hereof, together with such additional space as may be required for the installation of conduit and equipment, which shall be located within a non-exclusive utility easement to connect the Existing Space with the Additional Space. The parties acknowledge and agree that the attached Exhibit A-1 is intended to supplement the site drawing attached as Exhibit A-2 to the Agreement. Commencing on execution of this Amendment, the Additional Space and the Existing Space shall hereinafter be referred to collectively as the “Existing Space.”

**FOR SITE IMPROVEMENTS ADD THE FOLLOWING PARAGRAPH:**

**#. Site Improvements.** District acknowledges and agrees that Lessee/Licensee intends to construct and install certain additional improvements on the Existing space, which comprise, [describe proposed work to

be completed] \_\_\_\_\_ as substantially depicted on Exhibit A-2 (collectively, the "Improvements"). District hereby consents to the construction, installation, operation, maintenance, repair and replacement of the Improvements as the same may be replaced and/or substituted from time to time during the Term, as it may be extended. **FOR ADDITIONAL RENT ADD THE FOLLOWING PARAGRAPH:**

#. **Additional Rent.** In addition to Lessee's/Licensee's existing obligations under the Agreement, Lessee/licensee shall pay additional rent in the amount of \_\_\_\_\_ (\$XXXX.XX) per month, commencing upon execution of the Amendment No. \_\_\_\_\_. Commencing on [New Rent Commencement Date], the total Rent payable under the Agreement No. \_\_\_\_\_ shall be \$[New Base Rent] per [month/annually,] and shall continue during the Term, subject to adjustment, if any, as provided in the Agreement.

**FOR ADDITIONAL ANTENNAS ADD THE FOLLOWING PARAGRAPH:**

#. **Additional Antennas.** In addition to the existing antennas permitted in the Agreement, District consents to the installation and operation of additional antennas, associated cables and equipment as more completely described on attached Exhibit A-2. District's execution of this Amendment will signify District's approval of Exhibit A-2. Exhibit A-2 hereby replaces Exhibit XX to the Agreement/Amendment No. \_\_\_\_\_ dated \_\_\_\_\_.

#. **District Notices.** District and Lessee/Licensee notice addresses for purposes of the Agreement are as follows:

District: Moulton Niguel Water District  
P.O. Box 30203  
Laguna Niguel, 92607-0203  
Attention: \_\_\_\_\_.

Lessee/Licensee: \_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_

#. **License Program.** Lessee/Licensee represents and warrants that it has received a complete copy of the Program from District, has read and understood the requirements of the Program, and is able to and will fully comply with the Program (excluding Appendix A – Communications Facility License Agreement Template) and the terms of this Agreement, in connection with the Communication Facility, and in the exercise of its rights and obligations under the Agreement from and after the date of this Amendment. Further, Lessee/Licensee acknowledges and agrees that the Program may be revised from time to time by the District, and all changes or revisions to the Program (excluding Appendix A – Communications Facility License Agreement Template) will be automatically apply to this Agreement upon written notice of the revised Program by District, without the need for any formal amendment of this Agreement.

**#. Continued Effect.** Except as specifically modified by this Amendment No. \_\_\_\_, all of the terms and conditions of the Agreement shall remain in full force and effect. In the event of a conflict between any term or provision of the Agreement and this Amendment No. \_\_\_\_, the terms and provisions of this Amendment No. \_\_\_\_ shall control. In the event of a material conflict between the terms of this Agreement and the Program (excluding Appendix A – Communications Facility License Agreement Template), the more stringent terms shall prevail. All captions are for reference purposes only and shall not be used in the construction or interpretation of this Amendment No. \_\_\_\_.

[Signature page follows]

IN WITNESS WHEREOF, District and Lessee/Licensee have caused this Amendment No. \_\_\_\_ to be executed by each party's duly authorized representative effective as of the date first above written.

**DISTRICT:**  
**MOULTON NIGUEL WATER DISTRICT,**  
A California water district existing and operating pursuant  
to Division 13 of the California Water Code

By: \_\_\_\_\_  
General Manager or designee

ATTEST:

By: \_\_\_\_\_  
Secretary

**LESSEE:**

By: \_\_\_\_\_

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

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

*Proper notarial acknowledgment of execution by Lessee/Licensee must be attached.*

## **Appendix C**

### **Application Procedures and Forms**

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**Appendix C**  
**Moulton Niguel Water District**  
**Communication License Program**  
**Application Procedures and Forms**

**Contents**

Section C-1. Communications Facility License Application Procedures..... 1  
Section C-2. Communications Facility Application Review ..... 3

Form C-1: Application Form

Form C-2: Letter of Authorization

Form C-3: Letter of Consent

**Section C-1. Communications Facility License Application Procedures**

Applicants to the District seeking placement of communications facilities on District properties must submit an application with the applicable fees by separate checks for each required fee, payable to MNWD. The application form is provided in this Appendix and Appendix D contains the application fee schedule, which may be amended from time to time.

1. The applicant shall complete all necessary information on the application. Page 1 of the application shall be completed in its entirety. The applicant must provide this information:
  - a. licensee corporate name, state of incorporation, doing business as or trade name if any;
  - b. licensee corporate address and local address (if different);
  - c. contact information for licensee personnel responsible for the application;

- d. drawings and/or plans depicting the location and dimensions of the proposed communication facilities, equipment specifications, engineering calculations showing that equipment will not impact District facilities as applicable, geotechnical reports, and any other information as necessary to determine full scope of the work;
  - e. map depicting the location of the proposed communications facility;
  - f. radio frequency analysis showing the current usage at the proposed site along with the new usage and providing detailed information regarding any precautions necessary for District employees to be aware of in the normal course of their business due to the placement of licensee's transmitters or equipment;
  - g. list of any other facilities of licensee previously installed on District property including the site number and location;
  - h. proposed date of installation;
  - i. structural analysis for brackets;
  - j. description and listing of the various local, State of California and federal public agency approvals required with expected approval date;
  - k. copy of any license or registration required of licensee to do business in California; and pertinent FCC license(s); and
  - l. any other information pertinent to the applicant, or as may be requested by District staff and/or District representative.
2. Applicants shall coordinate and comply with requirements of public agencies of the County of Orange, adjacent cities or any other public agencies as required by the permitting public agencies.
3. All land use approvals, parcel map requirements, permits or any other regulations and conditions required by the County of Orange, the California Public Utilities Commission, the Federal Communications Commission or other municipalities and governmental agencies shall be satisfied by the applicant at its cost. Applicant shall provide the District with copies of any and all entitlement permits granted for installation and any conditions of approval for the operation of the communications facilities.

4. Applicant may make application at any time for a new License Agreement, with the understanding that the time remaining on the current agreement will not be added to the term of the new agreement. It is recommended, Licensee makes application for a new License Agreement at least one year prior to the end of the current agreement to ensure sufficient time for reviews and approvals.

## **Section C-2. Communications Facility Application Review**

The following steps make up the Application Review process:

1. Staff shall review the contents of applicant's submission and determine whether the application is complete.
2. Once a completed application is received and application fees are paid, if the applicant's proposed improvements are outside any existing areas used by the applicant, Staff will verify that the property interest of the District at the locations proposed to be used in conjunction with the proposed development is not restricted to reservoir purposes only (or pump/lift station or other specified facility purposes, as the case may be), or uses "incidental" to reservoir (pump/lift station) purposes.
3. Upon a determination by Staff that the application is incomplete, Staff shall advise the applicant in writing of the deficiencies in the application, or request such additional information which, in the sole discretion of the District, would make the application complete. Applicants shall respond to the District and complete the submission requirements as soon as possible. Should the applicant fail to submit the supplemental information within a one year time frame, the application may be deemed abandoned at the District's discretion. Re-submission shall require a new application and application fees.
4. Staff or its agent shall review the application to determine whether the application meets all policies and requirements outlined in this Program document or as otherwise incorporated by reference herein.
5. Staff shall consider the safety of District employees and all invitees and authorized volunteers in evaluation of new communications facility applications.

6. The District will not issue its consent letter for the construction of a site or for proposed improvements, unless and until all items requested by the District are provided and approved. These items include, but not limited to, the following:
  - a) Executed License Agreement or License Amendment
  - b) Adjoining land owners' Approval / Consent (when applicable)
  - c) Zoning Approval Documentation (when applicable)
  - d) Approved Construction Drawings (for District Signature)
  - e) Structural Analysis Report & Structural Mount Letter (when mounting to District tank facilities)
  - f) Building Permit / Encroachment Permit - Ready to Issue Memo (or Memo with supporting documentation indicating a permit is not require)
7. Upon receipt of the Consent Letter and signed drawings, Licensee has one year to complete its project, any extension to this time frame is at the discretion of the District. If not complete within one year, Licensee will be required to refile with the District for its project including all fees necessary to review the project.
8. The District reserves the right to deny any application at its sole discretion without liability.



MOULTON NIGUEL WATER DISTRICT  
WIRELESS TELECOMMUNICATION APPLICATION

*Required for all New & Existing Wireless Telecommunication Facilities*

*(Check all that apply)*

- Application for Renewal or New License
- Application for License Amendment
- Application for Consent Letter for minor improvements (no excavation/plan approval)
- Application for Consent Letter for major improvements (site excavation/plan approval)
- Specialty field inspection (coating, welding, compaction, etc.), billed to licensee upon completion of construction
- Application for site decommission
- Application for insurance compliance, name change, assignment, change of ownership or entity

**Please see the Fee Schedule in Appendix D of the MNWD Communication Facilities License Program**  
*(Payments should be made payable to MNWD and shall accompany this application)*

Total Fee: \$ \_\_\_\_\_

Check #: \_\_\_\_\_

MNWD Site Name: \_\_\_\_\_

Site Address: \_\_\_\_\_

APN#: \_\_\_\_\_

Wireless Service Provider Name (Carrier): \_\_\_\_\_

Carrier's Local Address: \_\_\_\_\_

Carrier Site Number/Name: \_\_\_\_\_

***Correspondence regarding this application should be sent to:***

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

Agent Company: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_

\_\_\_\_\_  
Applicant Signature

\_\_\_\_\_  
Date

\_\_\_\_\_ New Build      \_\_\_\_\_ Modified Build      \_\_\_\_\_ Decommission

Detailed description of project: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Equipment:**

(mark all that apply)

Antenna(s) (Y/N): \_\_\_\_\_      Number / Size: \_\_\_\_\_

Microwave dish (Y/N): \_\_\_\_\_      Number / Size: \_\_\_\_\_

RRH (Remote Radio Heads) (Y/N): \_\_\_\_\_      Number / Size: \_\_\_\_\_

Surge Suppressors (Y/N): \_\_\_\_\_      Number / Size: \_\_\_\_\_

TMA/LNA (Y/N): \_\_\_\_\_      Number / Size: \_\_\_\_\_

Trenching (Y/N): \_\_\_\_\_      Location/Length: \_\_\_\_\_

Location of the proposed BTS equipment (and existing equipment, if applicable): \_\_\_\_\_  
\_\_\_\_\_

Interior/ Exterior: \_\_\_\_\_      Size: \_\_\_\_\_      Square Feet: \_\_\_\_\_

Enclosure material: \_\_\_\_\_

Proposed screening material: \_\_\_\_\_

Site access to equipment: \_\_\_\_\_

Aesthetic mitigation measures: \_\_\_\_\_  
\_\_\_\_\_

<u>MNWD only</u>	
Payment Received: _____	Date: _____
Original Submittal Date: _____	
Re-submittal No.: _____	Date: _____



**LETTER OF AUTHORIZATION**  
**TO PROCEED WITH ZONING AND PERMITTING**  
**FOR WIRELESS COMMUNICATIONS FACILITY INSTALLATION**

Description of proposed communications facility installation (include site name/number):

**MNWD Submittal Number:** \_\_\_\_\_

**Street Address:** \_\_\_\_\_

**Carrier's Site ID:** \_\_\_\_\_

**APN#:** \_\_\_\_\_ **MNWD site name:** \_\_\_\_\_

**Carrier:** \_\_\_\_\_

**California Address:** \_\_\_\_\_

**Carrier's Agent:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Phone:** \_\_\_\_\_ **Fax:** \_\_\_\_\_

**Email:** \_\_\_\_\_

I hereby authorize Carrier and/or its agent to proceed to secure any permits or entitlements required by the appropriate jurisdiction associated with the installation of a wireless communications facility or appurtenances on the property described above. This authorization is not an agreement to lease or license space or rights to the Carrier and does not represent an agreement to do so. This authorization does not entitle the Carrier to use space of or initiate any type of construction on Moulton Niguel Water District property. The pursuit of required governmental approvals shall be at no cost to Moulton Niguel Water District.

**Signed:** \_\_\_\_\_

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

**Dated:** \_\_\_\_\_

THIS AUTHORIZATION EXPIRES 12 MONTHS FROM THE DATE OF SIGNATURE, UNLESS EXTENDED BY THE DISTRICT.

**Additional Comments:** \_\_\_\_\_

\_\_\_\_\_



**CONSENT LETTER**

**FOR WIRELESS COMMUNICATIONS FACILITY INSTALLATION**

Description of improvements

**MNWD Submittal Number:**

**Street Address:** \_\_\_\_\_

**Carrier's Site ID:** \_\_\_\_\_

**APN#:** \_\_\_\_\_ **MNWD site name:** \_\_\_\_\_

**Carrier:** \_\_\_\_\_

**California Address:** \_\_\_\_\_

**Carrier Agent:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Phone:** \_\_\_\_\_ **Fax:** \_\_\_\_\_ **Email:** \_\_\_\_\_

Carrier and/or its agent is authorized to proceed with the construction and/or installation, modification, upgrade, removal or maintenance described above. Attached hereto as Exhibit A is a drawing or drawings depicting the installation before the project and as-complete following the activity authorized by this Consent Letter. Attached hereto as Exhibit B is a construction schedule and a list of personnel expected to complete the project. Carrier hereby represents that all contractors are properly insured, bonded, and licensed according to the applicable laws of the State of California.

This authorization is not an agreement to amend the lease or license agreement, and is no extension of any rights or obligations other than those itemized in the existing lease or license agreement. This authorization does not entitle Carrier to use space of Moulton Niguel Water District other than for construction staging. This consent letter is provided on the condition that the project work shall be at no cost whatsoever to Moulton Niguel Water District.

Carrier and/or its agent must notify MNWD inspector, Peggy Toal 949-425-3530, at least 2 working days before construction begins to coordinate a preconstruction meeting at the site.

**MNWD CONSENT APPROVAL**

Name \_\_\_\_\_ Title \_\_\_\_\_ Signed \_\_\_\_\_ Date \_\_\_\_\_

**PROJECT COMPLETION**

This authorization expires 12 months from the date of the MNWD Consent Approval signature. Any work not completed within this time frame may be stopped and subject to resubmittal fees unless prior authorization has been granted by MNWD to continue/complete the work. Once the Carrier deems the project complete the Carrier will provide "as-built" drawings, sign this form below and deliver to MNWD for final sign-off.

**Carrier Agent's Name & Title** \_\_\_\_\_ **Signed** \_\_\_\_\_ **Date** \_\_\_\_\_

**MNWD Name & Title** \_\_\_\_\_ **Signed** \_\_\_\_\_ **Date** \_\_\_\_\_

**Appendix D**  
**Fee Schedule**

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**Moulton Niguel Water District  
Communication License Program  
Application Fee Schedule<sup>1</sup>**

Checks for site application fees should be made payable to the Moulton Niguel Water District. Separate checks must be made specifically for each District property and for each type of fee. Prior to cashing the checks, the District will review each application and determine whether the required application fees have been submitted. If a fee has been submitted that is not necessary, the District will return the check. If fees are missing, the District will advise the applicant. Once a fee is accepted, it is non-refundable and not assignable to another site or application. Failure to diligently pursue an application once submitted (for example, by not responding to a District request for information for several months) may result in denial of the application and require resubmittal.

Types of fees:

1. Application for a renewal or new License at a site - \$3,500.00 nonrefundable deposit and full reimbursement of District out-of-pocket and attorney fees above that amount.
2. Application for License Amendment - \$1,250.00 nonrefundable deposit and full reimbursement of District out-of-pocket and attorney fees above that amount.
3. Application for a Consent Letter for minor improvements (no excavation) - \$1,500.00 flat fee.
4. Application for a Consent Letter for major improvements (site excavation, ) - \$1,750.00 flat fee.
5. Application for a letter of authorization to commence zoning and permitting - \$500.00 flat fee.
6. Specialty field inspections - \$75 per hour (coating, welding, compaction, etc), billed to licensee upon completion of installation.
7. Application for site decommission - \$2,000.00 nonrefundable deposit and full reimbursement of District out-of-pocket and attorney fees above that amount.
8. Application for insurance compliance, name change, assignment, change of ownership or entity - \$600.00 nonrefundable deposit and full reimbursement of District out-of-pocket and attorney fees above that amount.

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<sup>1</sup> These processing application fees are in addition to the 'annual license fee' required under the License Agreement/Amendment.

## **Appendix E**

### **Signature Block and Equipment Table Samples**

## Signature Block Sample and Equipment Schedule

Required on all title pages of drawings submitted to MNWD for approval for communication license holder's site improvements.

<b>Moulton Niguel Water District</b>	
Director of Engineering and Operations	Date
or	
Assistant Director of Engineering	
MNWD Site Name: _____	

<b>EQUIPMENT SCHEDULE</b>				
	<b>ZONING APPROVED</b>	<b>LICENSED APPROVED</b>	<b>EXISTING ON SITE</b>	<b>NEW MOD</b>
<b># OF ANTENNAS</b>				
<b>ANTENNA SIZE</b>				
<b>EQUIPMENT AREA</b>				
<b>RRU'S / LOCATION</b>				

## **Appendix F**

### **Construction Notes**

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These construction notes must appear on the notes sheet of every plan set submitted for District's review and approval:

**MNWD construction notes:**

1. The Moulton Niguel Water District inspector shall be notified at least two (2) working days prior to beginning of construction. Call (949) 425-3530 to arrange for inspection.
2. A preconstruction conference of representatives from applicable agencies shall be held on site at least one week prior to beginning construction at which time a construction schedule and 24-hour contact information shall be provided to MNWD.
3. Contractor shall maintain access to the site at all times for Moulton Niguel Water District personnel. Open trenches shall be properly plated at the end of each working day to allow for 24-hour MNWD access to the site.
4. The Contractor and Cell Carrier shall be responsible for any damage due to Construction activities to the existing site and shall return damaged facilities to existing condition or better at no cost to the District.
5. The Contractor shall notify underground service alert (DIG ALERT) at least two (2) working days prior to beginning construction at 1-800-422-4133. Any MNWD facilities to be crossed or paralleled within five feet shall be potholed to verify location prior to working in the vicinity of MNWD facilities. Contractor is responsible for providing gate access to DIG ALERT inspection(s).
6. The Contractor shall contact the District coating representative (inquire for current name) for coating requirements and inspections at (XXX) XXX-XXXX prior to any work on a steel tank. District coating representative shall to be present during the preconstruction conference if proposed project involves any work on the steel tank. The Contractor is responsible for paying District coating representative for their services.
7. All new and existing facilities owned by the represented cellular carrier shall be properly tagged identifying the owner's name and 24-hour phone number.

Contractor to ensure that RF and emergency contact signage is correct and meets the requirements from the City and FCC.

8. The Contractor shall have a copy of plans approved by the MNWD Assistant Director of Engineering and a Consent Letter on-site at all times.

9. The Contractor is responsible to ensure the site is secure at all times, during both working and non-working hours.

10. The Contractor shall provide the District with two (2) sets of approved construction plans prior to scheduling inspection, and submit record drawings to the District upon completion of the job.

11. The contractor shall saw cut all pavement. Backfill shall be one sack slurry or aggregate base to within 1" of existing AC.

12. The contractor shall provide a minimum cover of 30-inches on top of all conduits.

13. The contractor shall replace asphalt pavement with: 1st lift - 3/4" mix, relative compaction 95%, no more than 3" placed at any one time. 2nd lift - 1/2" fine, no more than 1 1/2" lift.

14. The contractor shall slurry seal the entire work area and any damaged areas curb to curb. The contractor may be required to slurry seal additional areas as required by District inspector.

14B. If applicable, see Section 3.7 Softscape Replacement of the Policy and Procedures for Communication Facilities.

15. The contractor and license holder shall perform a final walkthrough to for release and provide the District a copy of the District signed plans with field mark-ups (record drawings).