

SMALL WIRELESS FACILITY COLLOCATION AGREEMENT

This Small Wireless Facility Collocation Agreement (the “Agreement”) is made this _____ day of _____, 20____, between the City of Northfield, a municipal corporation under the laws of the State of Minnesota, with its principal offices located at 801 Washington Street, Northfield, MN 55057, (hereinafter referred to as the “City”), and _____, a _____, organized under the laws of the state of _____, with its principal offices located at _____, (hereinafter referred to as the “Lessee”). City and Lessee are at times collectively referred to hereinafter as the “Parties” or individually as the “Party.”

RECITALS

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

WHEREAS, City has elected to manage its rights-of-way as authorized by Minnesota Statutes, Sections 237.162-.163 and City’s municipal code of ordinances (the “Code”), including but not limited to Chapter 70 thereof; and

WHEREAS, this Agreement shall apply to the collocation of Small Wireless Facilities (as hereinafter defined). “Collocate” or “collocation” shall have the meaning provided in Minnesota Statutes, Section 237.162, subd. 10; and

WHEREAS, a “Small Wireless Facility” means: (1) a wireless facility, as defined by Minnesota Statutes, Section 237.162, subd. 13, that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six (6) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all its exposed elements could fit within an enclosure of no more than six (6) cubic feet; and (ii) all other wireless equipment associated with the small wireless facility, excluding electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment, is in aggregate no more than twenty-eight (28) cubic feet in volume; or (2) a micro wireless facility as defined by Minnesota Statutes, Section 237.162, subd. 14; and

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

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

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

WHEREAS, Lessee shall compensate City for the collocation of Small Wireless Facilities on City's Wireless Support Structures. The fees imposed by City are (1) based on the actual costs incurred by City in managing the public rights-of-way; (2) based on an allocation among all users of the public rights-of-way, including City, which shall reflect the proportionate costs imposed on City by each of the various types of uses of the public rights-of-way; (3) imposed on a competitively neutral basis; and (4) imposed in a manner so that above ground use of public rights-of-way do not bear costs incurred by City to regulate underground uses of public rights-of-way; and

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

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

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

1. **PREMISES.** Pursuant to all of the terms and conditions of this Agreement and the applicable Supplement(s), City agrees to lease to Lessee certain space described in the applicable Supplement(s) upon City's Wireless Support Structure in the public right-of-way (City's Wireless Support Structure, personal property, public right-of-way and surrounding real property are hereinafter sometimes collectively referred to as the "Property"), for the installation, operation and maintenance of Small Wireless Facilities; together with the non-exclusive right of ingress and egress from a public right-of-way, seven (7) days a week, twenty four (24) hours a day, over, under and through the Property to and from the Premises (as hereinafter defined) for the purpose of installation, operation and maintenance of Lessee's Small Wireless Facilities. The space leased by City to Lessee described in the applicable Supplement(s) is hereinafter collectively referred to as the "Premises." The Premises may include, without limitation, certain space on the ground (the "Equipment Space") on the Property, and space on the Wireless Support Structure sufficient for the installation, operation and maintenance of antennas and other equipment (the "Antenna Space") as described in the Supplement(s). Notwithstanding anything in the Supplement(s) to the contrary, the Premises under each Supplement shall include such additional space necessary for the installation, operation and maintenance of wires, cables, conduits, and pipes (the "Cabling Space") running between and among the various portions of the Premises and to all necessary electrical and telephone utility, cable, and fiber sources located within the Property. If there are not sufficient electric and telephone utility, cable, or fiber sources located on the Property, City agrees to grant Lessee, or the local utility, or fiber or cable provider, upon Lessee's approval, the right to install any utilities, cable, and fiber on, through, over, and under other properties owned or controlled by City necessary for Lessee to operate its communications

facility, provided the location of those utilities, cable, and fiber shall be as reasonably designated by City. City's approval shall not be unreasonably withheld.

2. **PLANS AND DRAWINGS.** Before receiving approval from City to install a Small Wireless Facility on City's Wireless Support Structures in public rights-of-way, Lessee shall submit to the Director of Public Works (the "Director") or the Director's designee, detailed construction plans and drawings for each individual location, together with maps, showing specifically the Wireless Support Structures to be used, the number and character of the attachments to be placed on such Wireless Support Structures, equipment necessary for the use, proposed replacement of existing Wireless Support Structures, and any new installations for transmission conduit, pull boxes, and related appurtenances. The City may additionally require Lessee to provide such other information deemed reasonably necessary by the City for the efficient administration of the public right-of-way and to submit to the City plans for construction and major maintenance that provide reasonable notice to the City of projects that the Lessee expects to undertake that may require excavation and obstruction of public rights-of-way. Consistent with Minnesota Statutes, Sections 237.162-.163, the Director or the Director's designee shall determine whether to give Lessee permission to proceed with the work as proposed by Lessee. Lessee shall perform all work at its own cost and expense and make attachments in such manner as to not interfere with the services of City.

3. **CONDITION OF PROPERTY; ENGINEERING STUDY.**

- a. The Parties acknowledge and agree that the Property is provided on an "AS IS" basis and City makes no warranties or representations, express or implied, including warranties of merchantability or fitness for a particular use, except those expressly set forth in this Agreement. Any costs or expenses necessary to make the Premises ready for Lessee's construction of its improvements shall be the sole responsibility of Lessee.
- b. Lessee must obtain and submit to City a structural engineering study carried out by a qualified structural engineer showing the Wireless Support Structure and foundation is able to support the proposed Small Wireless Facility.

4. **USE OF PUBLIC RIGHTS-OF-WAY.**

- a. City hereby grants to Lessee the right to use the municipal public right-of-way for the installation, maintenance and operation of Lessee's Small Wireless Facility in and on the Wireless Support Structure located within the public right-of-way.
- b. All Small Wireless Facilities shall be installed in accordance with applicable Laws (as hereinafter defined) and Lessee shall comply with all applicable laws, ordinances, rules and regulations adopted by City. Within the public rights-of-way, the location of the Small Wireless Facilities shall be subject to the reasonable and proper regulation, direction and control of the City, or the official to whom such duties have been delegated

by City. Lessee shall have no ownership interest in any Wireless Support Structure or the Property owned by City.

- c. Lessee and its authorized contractors shall give City reasonable notice of the dates, location, and nature of all construction and major maintenance work to be performed on its Small Wireless Facilities that may require excavation and obstruction within the public rights-of-way. This Agreement shall allow Lessee to perform all work on Lessee's Small Wireless Facilities within the public rights-of-way, and to park vehicles in the streets and other public rights-of-way when necessary for the installation, replacement, abandonment, operation or maintenance of Lessee's Small Wireless Facilities. Following completion of work in the public rights-of-way, Lessee shall repair any affected public rights-of-way as soon as possible, but no later than the time frame established in the applicable Supplement. Any affected public rights-of-way shall be restored to the same condition that existed before Lessee's work began. No street, alley, highway, or public place shall be encumbered for a longer period than shall be reasonably necessary to execute the work authorized by the applicable Supplement and this Agreement.
- d. Any damages to City's Wireless Support Structures, equipment thereon or other infrastructure caused by Lessee's installation or operations shall be repaired or replaced at Lessee's sole cost and expense and to City's reasonable satisfaction.

5. **STRUCTURE RECONDITIONING, REPAIR, REPLACEMENT.**

- a. From time to time, if City paints, reconditions, or otherwise improves or repairs the Wireless Support Structure in a substantial way ("Reconditioning Work"), City shall reasonably cooperate with Lessee to carry out Reconditioning Work activities in a manner that minimizes interference with Lessee's approved use of the Premises.
- b. Prior to commencing Reconditioning Work, City shall provide Lessee with not less than ninety (90) days' prior written notice. Upon receiving that notice, it shall be Lessee's sole responsibility, at Lessee's cost and expense, to provide adequate measures to cover or otherwise protect Lessee's Small Wireless Facilities from the consequences of the Reconditioning Work, including but not limited to paint and debris fallout. City reserves the right to require Lessee to remove all of Lessee's Small Wireless Facilities, at Lessee's cost and expense, from the Wireless Support Structure and Premises during Reconditioning Work, provided the requirement to remove Lessee's Small Wireless Facilities is contained in the written notice required by this Section.
- c. During City's Reconditioning Work, Lessee may maintain a temporary Small Wireless Facility on the Property, or after approval by City, on any land owned or controlled by City in the vicinity of the Property. If the Property will not accommodate Lessee's temporary Small Wireless Facility, or if the Parties cannot agree on a temporary location, the Lessee, at its sole option, shall have the right to terminate the applicable Supplement upon thirty (30) days written notice to City.

- d. Lessee may request a modification of City's procedures for carrying out Reconditioning Work in order to reduce the interference with Lessee's use of the Premises. If City agrees to the modification, Lessee shall be responsible for all reasonable incremental costs and expenses related to the modification.
- e. If City intends to replace a Wireless Support Structure ("Replacement Work"), City shall provide Lessee with at least ninety (90) days' written notice, and it shall be Lessee's sole responsibility, at Lessee's cost and expense, to remove its Small Wireless Facility. City shall also promptly notify Lessee when the Wireless Support Structure has been replaced and Lessee may re-install its Small Wireless Facility. During City's Replacement Work, Lessee may maintain a temporary Small Wireless Facility on the Property, or after approval by City, on any land owned or controlled by City in the vicinity of the Property. If the Property will not accommodate Lessee's temporary Small Wireless Facility or if the Parties cannot agree on a temporary location, the Lessee, at its sole option, shall have the right to terminate the applicable Supplement upon thirty (30) days written notice to City.
- f. If City intends to repair a Wireless Support Structure due to storm or other damage ("Repair Work"), City shall notify Lessee, and it shall be Lessee's sole responsibility, at Lessee's cost and expense, to remove its Small Wireless Facility as soon as possible. In the event of an emergency, City shall contact Lessee by telephone prior to removing Lessee's Small Wireless Facility. Once the Wireless Support Structure has been replaced or repaired, City will promptly notify Lessee it can reinstall its Small Wireless Facility. During City's Repair Work, Lessee may maintain a temporary Small Wireless Facility on the Property, or after approval by City, on any land owned or controlled by City in the vicinity of the Property. If the Property will not accommodate Lessee's temporary Small Wireless Facility, or if the Parties cannot agree on a temporary location, or if the Wireless Support Structure cannot be repaired or replaced within thirty (30) days, Lessee, at its sole discretion, shall have the right to terminate the applicable Supplement upon thirty (30) days' written notice to City. However, at Lessee's sole option to execute a replacement Supplement, within thirty (30) days after the casualty damage, City must provide Lessee with a replacement Supplement to lease space at a new location upon which the Parties mutually agree. The monthly rental payable under the new replacement Supplement(s) will not be greater than the monthly rental payable under the terminated Supplement(s).
- g. If Lessee's installation requires a new Wireless Support Structure to be constructed or an existing Wireless Support Structure to be replaced by Lessee (the "Replacement Wireless Support Structure") then, any such Replacement Wireless Support Structure, shall be deemed to be a fixture on the Property and the Replacement Wireless Support Structure shall be and remain the property of the City with exclusive ownership by the City, without further consideration to or from the City. The Replacement Wireless Support Structure must meet the specifications of the City, including but not limited to, as to its height, color, materials, and decorative appearance. Lessee shall be responsible for installation of the Replacement Wireless Support Structure, including all cost and

expenses associated with the purchasing of the Replacement Wireless Support Structure and the installation process. Lessee shall install the Replacement Wireless Support Structure based on plans approved by the Director and to the satisfaction of the Director. Upon completion of Lessee's installation, City shall be responsible for any and all costs relating to the operation, maintenance, repair and disposal of the Replacement Wireless Support Structure, except to the extent such costs are due to the improper or negligent installation by Lessee or contractor hired by Lessee. If the Replacement Wireless Support Structure replaces an existing structure, then also as part of Lessee's installation, Lessee shall remove, dispose, salvage and or discard the existing structure at Lessee's sole discretion and at Lessee's cost and expense.

6. **TERM; RENTAL.**

- a. Consistent with Minnesota Statutes, Sections 237.162-.163, the term of each Supplement shall be equal to the length of time that the Small Wireless Facility is in use (the "Term"), unless the Supplement(s) is terminated pursuant to this Agreement.
 - b. Each Supplement shall be effective as of the date of execution by both Parties (the "Effective Date").
 - c. Upon the Effective Date, rental payments shall commence and be due at a total annual rent of \$175.00 (the "Annual Rent"), representing \$150.00 per year for rent to occupy space on a Wireless Support Structure and \$25.00 per year for maintenance associated with the space occupied on a Wireless Support Structure, and all other right-of-way management costs.
 - d. The Annual Rent for each Supplement shall be set forth in the Supplement and shall be paid in advance annually on each anniversary of the Effective Date, in advance, to the payee designated by City in the Supplement, or to such other person, firm or place as City may, from time to time, designate in writing.
 - e. Upon agreement of the Parties, Lessee may pay rent by electronic funds transfer. City hereby agrees to provide to Lessee the reasonable documentation required for Lessee to pay all rent payments due to City.
7. **ELECTRICAL.** City shall, at all times during the Term of each Supplement, provide electrical service and telephone service access within the Premises. As provided by Minnesota Statutes, Sections 237.162-.163, an annual fee for electricity used to operate the Small Wireless Facility, if not purchased directly from a utility, shall be paid with the Annual Rent due under each Supplement at the rate of:
- a. \$876.00 per radio node less than or equal to 100 max watts;
 - b. \$2,184.00 per radio node over 100 max watts;

- c. The actual costs of electricity, if the actual costs exceed the amount in item (a) or (b); or
- d. As otherwise agreed in writing by the City and Lessee

The amount of any such annual fee shall be set forth in each Supplement.

Lessee shall be permitted at any time during the Term of each Supplement, to install, maintain, and/or provide access to and use of, as necessary (during any power interruption at the Premises), a temporary power source and a temporary installation of any other services and equipment required to keep Lessee's Small Wireless Facilities operational, along with all related equipment and appurtenances within the Premises, or elsewhere on the Property in such locations as reasonably approved by City. Lessee shall have the right to install conduits connecting the temporary power source, and the temporary installation of any other services and equipment required to keep Lessee's Small Wireless Facilities operational, and related appurtenances to the Premises.

Alternatively, Lessee may purchase electricity directly from a utility provider.

- 8. **ENGINEERING COSTS.** The Parties acknowledge and agree that, pursuant to Minnesota Statutes, Sections 237.162-.163, City may charge the actual costs of the initial engineering and preparatory construction work associated with Lessee's collocation in the form of a onetime, nonrecurring, commercially reasonable, nondiscriminatory, and competitively neutral charge. Lessee shall pay such reasonable costs within sixty (60) days of receipt of an invoice that itemizes the costs.
- 9. **USE.** Lessee shall use the Premises for the purpose of constructing, maintaining, repairing and operating Small Wireless Facilities and uses incidental thereto. Lessee shall have the right, without any increase in rent, to replace or repair its utilities, fiber or cable, equipment, antennas and/or conduits or any portion thereof, and the frequencies over which the equipment operates. Any additions or material modifications shall require City's written approval and may be subject to an increase in rent if allowed by law.
- 10. **GOVERNMENTAL APPROVALS; PERMITS.** It is understood and agreed that Lessee's ability to use the Premises is contingent upon Lessee obtaining all of the certificates, permits and other approvals (collectively the "Government Approvals") that may be required by any Federal, State or Local authorities, as well as a satisfactory structural analysis that will permit Lessee's use of the Premises as set forth above. The parties acknowledge and agree that each Supplement shall be in lieu of a small wireless facility permit. City shall cooperate with Lessee in its effort to obtain the Governmental Approvals, and shall take no action which would adversely affect the status of the Property with respect to the proposed use thereof by Lessee. Lessee shall have the right to terminate the applicable Supplement if: (i) any of the applications for Governmental Approvals is finally rejected; (ii) any Governmental Approval issued to Lessee is canceled, expires, lapses, or is otherwise withdrawn or terminated by governmental authority; (iii) Lessee determines that the Governmental Approvals may not be obtained in a timely manner; (iv) Lessee

determines that the Premises is no longer technically compatible for its use; or (v) Lessee, in its sole discretion, determines that the use of the Premises is obsolete or unnecessary. Notice of Lessee's exercise of its right to terminate shall be given to City in accordance with the notice provisions set forth herein below and shall be effective upon the mailing of that notice by Lessee, or upon such later date as designated by Lessee. All rentals paid to the termination date shall be retained by City. Upon such termination, the applicable Supplement shall be of no further force or effect except to the extent of the representations, warranties, and indemnities made by each Party to the other thereunder. Otherwise, the Lessee shall have no further obligations for the payment of rent to City for the terminated Supplement.

11. **INDEMNIFICATION.** Pursuant to Minn. R. 7819.1250, Lessee agrees to defend, indemnify, save and hold harmless City, and its employees, officials, and agents from and against all claims, actions, damages, losses and expenses, including reasonable attorney fees, arising out of Lessee's negligence, misconduct, or Lessee's failure to perform its obligations under this Agreement. Lessee's indemnification obligation shall apply to Lessee's contractors, subcontractors, or anyone directly or indirectly employed or hired by Lessee, or anyone for whose acts Lessee may be liable. City will provide Lessee with prompt, written notice of any written claim covered by this indemnification provision; provided that any failure of City to provide any such notice, or to provide it promptly, shall not relieve Lessee from its indemnification obligations in respect of such claim, except to the extent Lessee can establish actual prejudice and direct damages as a result thereof. City will cooperate with Lessee in connection with Lessee's defense of such claim. Lessee shall not settle or compromise any such claim or consent to the entry of any judgment without the prior written consent of City and without an unconditional release of all claims by each claimant or plaintiff in favor of City. The indemnity obligation shall survive the completion or termination of this Agreement.

12. **INSURANCE.**

- a. **Waiver of Subrogation.** To the extent allowed by law, Lessee hereby waives and releases any and all rights of action for negligence against City, which may hereafter arise on account of damage to Lessee's property, resulting from any fire, or other casualty of the kind covered by standard fire insurance policies with extended coverage, regardless of whether or not, or in what amounts, such insurance is now or hereafter carried by Lessee. This waiver and release shall apply between the Parties and shall also apply to any claim asserted as a right of subrogation. All such policies of insurance obtained by Lessee concerning its property shall waive the insurer's right of subrogation against City.
- b. **Commercial General Liability.** Lessee agrees that at its own cost and expense, it will maintain commercial general liability insurance with limits not less than \$2,000,000 per occurrence; \$4,000,000 annual aggregate, for bodily injury (including death) and for damage or destruction to property, including premises, operations, products-completed operations, personal injury, advertising injury, and contractual liability. Lessee shall include the City as an additional insured as the City's interest appears in this Agreement.

- c. Commercial Automobile Liability. Lessee shall maintain commercial automobile liability Insurance, covering all owned, hired, and non-owned automobiles, with a minimum combined single liability limit of \$2,000,000 per occurrence each accident for bodily injury and property damage.
 - d. Workers' Compensation. Lessee agrees to provide workers' compensation insurance for all its employees in accordance with the statutory requirements of the State of Minnesota and employer's liability with minimum limits as follows: \$500,000 for bodily injury by disease per employee; \$500,000 aggregate for bodily injury by disease; and \$500,000 for bodily injury by accident.
 - e. Additional Insurance Conditions.
 - i. Lessee shall deliver to City a certificate of insurance as evidence that the above coverages are in full force and effect.
 - ii. Lessee's policies shall be primary insurance and non-contributory to any other valid and collectible insurance available to City with respect to any claim arising under this Agreement.
 - iii. Lessee's policies and certificate of insurance shall contain a provision that coverage afforded under the policies shall not be cancelled without at least thirty (30) days' advanced written notice to City, or ten (10) days' written notice for non-payment of premium.
13. **LIMITATION OF LIABILITY**. Except for indemnification obligations pursuant to Paragraph 11, neither Party shall be liable to the other, or any of their respective agents, representatives, employees for any lost revenue, lost profits, loss of technology, rights or services, incidental, punitive, indirect, special or consequential damages, loss of data, or interruption or loss of use of service, even if advised of the possibility of such damages, whether under theory of contract, tort (including negligence), strict liability or otherwise. Lessee shall not be liable for or responsible for addressing environmental conditions that do not result from the activities of Lessee
14. **INTERFERENCE**. Lessee shall, at its cost and expense, obtain a radio frequency interference study carried out by an independent professional radio frequency engineer showing that Lessee's intended use will not interfere with any current communication facilities, which are located on or near a Wireless Support Structure. Lessee shall not transmit or receive radio waves at the Premises until such evaluation has been satisfactorily completed and approved by City. Lessee agrees to install equipment of the type and frequency that will not cause harmful interference, which is measurable in accordance with then existing industry standards to any equipment of City or other tenants of the Property, and which existed on the Property prior to the date the applicable Supplement(s) is executed by the Parties. In the event any after-installed Lessee's equipment causes such interference, and after City has notified Lessee of such interference, Lessee, at its cost and expense, will take all commercially reasonable steps necessary to correct and eliminate

the interference, including but not limited to, at Lessee's option, powering down such interfering equipment and later powering up such interfering equipment for intermittent testing. If the interference continues for a period in excess of 48 hours following such notification, City shall have the right to require Lessee to reduce power, and/or cease operations until such time Lessee can make repairs to the interfering equipment. In no event will City be entitled to terminate a Supplement or relocate the equipment as long as Lessee is making a good faith effort to remedy the interference issue. City agrees that City and/or any other users of the Property who currently have or in the future take possession of the Property will be permitted to install only such equipment that is of the type and frequency that will not cause harmful interference and that is measurable in accordance with then existing industry standards to the then existing equipment of Lessee. If Lessee determines, in its reasonable discretion, that City's equipment or any other user's equipment permitted by City is causing interference, City shall, upon written communication from Lessee to City take all reasonable steps necessary to correct and eliminate the interference, including causing other users causing such interference to correct and eliminate the interference. If the interference continues for a period in excess of 48 hours following the notification, City shall, or shall require any other user to, reduce power and/or cease operations until such time as City, or the other user, can make repairs to the interfering equipment. The Parties acknowledge that there will not be an adequate remedy at law for noncompliance with the provisions of this Paragraph and therefore, either Party shall have the right to equitable remedies, such as, without limitation, injunctive relief and specific performance.

15. **REMOVAL.** Lessee shall, within sixty (60) days after expiration of the Term, or any earlier termination of a Supplement, or an abandonment of it facilities, remove its equipment, conduits, fixtures and all personal property and restore the Premises to its original condition, reasonable wear and tear excepted, at Lessee's sole cost and expense. City agrees and acknowledges that all of the equipment, conduits, fixtures and personal property of Lessee shall remain the personal property of Lessee and Lessee shall have the right to remove the same at any time during the Term, whether or not said items are considered fixtures and attachments to real property under applicable Laws. If the time for removal causes Lessee to remain on the Premises after termination of the Supplement(s), Lessee shall pay rent at the then-existing monthly rate, until such time as the removal of the equipment, fixtures and all personal property are completed. If Lessee fails to remove its facilities within the required time period, City reserves the right to remove the facilities and charge Lessee for the full cost of the removal and storage or disposal charges, and Lessee shall reimburse City for the same within sixty (60) days of the date of the City's invoice.
16. **RIGHTS UPON SALE.** If, at any time during the Term of any Supplement(s), City decides: (i) to sell or transfer all or any part of the Property or the Wireless Support Structure thereon to a purchaser other than Lessee, or (ii) to grant to a third party by easement or other legal instrument an interest in that portion of the Property occupied by Lessee, or a larger portion thereof, for the purpose of operating and maintaining communications facilities or the management thereof, that sale or grant of an easement or interest therein shall be subject to the applicable Supplement, and any such purchaser or transferee must recognize Lessee's rights hereunder and under the terms of the affected Supplement(s). If City completes any such sale, transfer, or grant described in this

paragraph without executing an assignment of the applicable Supplement in which the third party agrees in writing to assume all obligations of City under the applicable Supplement, then City shall not be released from its obligations to Lessee under the applicable Supplement, and Lessee shall have the right to look to City and the third party for the full performance of the applicable Supplement.

17. **QUIET ENJOYMENT AND REPRESENTATIONS.** City covenants that Lessee, on paying the Annual Rent and performing the covenants herein and in an applicable Supplement, shall peaceably and quietly have, hold and enjoy the Premises. City represents and warrants to Lessee as of the execution date of each Supplement, and covenants during the Term, that City is has good and sufficient title and interest to the Property, and has full authority to enter into and execute the Supplement(s). City further covenants during the Term that there are no liens, judgments or impediments of title on the Property, or affecting City's title to the same and that there are no covenants, easements or restrictions that prevent or adversely affect the use or occupancy of the Premises by Lessee as provided in this Agreement and in the applicable Supplement(s).
18. **ASSIGNMENT.** This Agreement and each Supplement under it may be sold, assigned or transferred by the Lessee without any approval or consent of City to the Lessee's principal, affiliates, subsidiaries of its principal, or to any entity that acquires all or substantially all of Lessee's assets in the market defined by the FCC in which the Property is located by reason of a merger, acquisition or other business reorganization. As to other parties, this Agreement and each Supplement may not be sold, assigned or transferred without the written consent of City, which consent will not be unreasonably withheld, delayed or conditioned.
19. **NOTICES.** All notices hereunder must be in writing and are validly given if sent by certified mail, return receipt requested, or by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, addressed as follows or to any other address that the Party to be notified may have designated:

City: City of Northfield
Attention: Director of Public Works
801 Washington Street
Northfield, MN 55057

Lessee: _____ (Name)
Attention: _____
_____ (Address)
_____ (City, State, ZIP)

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

20. **DEFAULT.** If there is a breach by a Party with respect to any of the provisions of this Agreement, or under the provisions of an individual Supplement, the non-breaching Party shall

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

21. **DISPUTE RESOLUTION.** Subject to the provisions of Paragraph 20, the Parties shall cooperate and use their best efforts to ensure that the various provisions of the Agreement are fulfilled. The Parties agree to act in good faith to undertake resolution of disputes, in an equitable and timely manner and in accordance with the provisions of this Agreement. Except for interference issues pursuant to Paragraph 14, if disputes cannot be resolved informally by the Parties, the following procedures shall be used:

- a. Whenever there is a failure between the Parties to resolve a dispute on their own, the Parties shall first attempt to mediate the dispute. The parties shall agree upon a mediator, or if they cannot agree, shall obtain a list of court-approved mediators from the Rice County District Court Administrator and select a mediator by alternately striking names until one remains. Lessee shall strike the first name followed by City, and shall continue in that order until one name remains.
- b. If the dispute is not resolved within thirty (30) days after the end of mediation proceedings, the Parties may pursue any legal or equitable remedy.

22. **CASUALTY.** In the event of damage by fire or other casualty to the Property that cannot reasonably be expected to be repaired within forty-five (45) days following same or, if the Property is damaged by fire or other casualty so that such damage may reasonably be expected to disrupt Lessee's operations at the Premises for more than forty-five (45) days, then Lessee may, at any time following such fire or other casualty, provided City has not completed the restoration required to permit Lessee to resume its operation at the Premises, terminate the Supplement upon fifteen (15) days' prior written notice to City. Any such notice of termination shall cause the applicable Supplement to expire with the same force and effect as though the date set forth in

such notice were the date originally set as the expiration date of the Supplement, and the Parties shall make an appropriate adjustment, as of such termination date, with respect to payments due under the applicable Supplement. Notwithstanding the foregoing, the Annual Rent shall abate during the period of repair following such fire or other casualty in proportion to the degree to which Lessee's use of the Premises is impaired.

23. **APPLICABLE LAWS.** Laws means any and all laws, regulations, ordinances, resolutions, judicial decisions, rules, permits and approvals applicable to the subject of this Agreement or Lessee's use that are in force during the term of this Agreement, as lawfully amended including, without limitation, City's city Code. Lessee and City shall comply with all applicable Laws. This Agreement does not limit any rights Lessee may have in accordance with Laws to install its own poles in the right of way or to attach Lessee's equipment to third-party poles located in the right of way. This Agreement shall in no way limit or waive either party's present or future rights under Laws. If, after the date of this Agreement, the rights or obligations of either Party are materially altered, preempted, or superseded by changes in Laws, the Parties agree to amend the Agreement and/or Supplement(s) to reflect the change in Laws.
24. **GOVERNMENT DATA.** The Parties acknowledge and agree that this Agreement is considered public data not on individuals and is accessible to the public under Minnesota Statutes, Section 13.03. Lessee and City agrees to abide by the applicable provisions of the Minnesota Government Data Practice Act, Minnesota Statutes, Chapter 13, and all other applicable state or federal rules, regulations or orders pertaining to privacy or confidentiality.
25. **GENERAL PROVISIONS.**
- a. **Entire Agreement.** This Agreement supersedes any prior or contemporaneous representations or agreements, whether written or oral, between the Parties and contains the entire agreement.
 - b. **Recitals.** The recitals hereto are made a part hereof by reference.
 - c. **Captions.** Captions contained in this Agreement are for reference only, and therefore, have no effect in construing this Agreement.
 - d. **Ambiguities.** If any term of this Agreement is ambiguous, it shall not be construed for or against any Party on the basis that the Party did or did not write it.
 - e. **Amendments.** Any modification or amendment to this Agreement shall require a written agreement signed by both Parties.
 - f. **Third Party Rights.** This Agreement is not a third party beneficiary contract and shall not in any respect whatsoever create any rights on behalf of any person or entity not expressly a party to this Agreement.

- g. Nondiscrimination. In the hiring of employees or contractors to perform work under this Agreement, Lessee shall not discriminate against any person by reason of any characteristic or classification protected by State or Federal law.
- h. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Minnesota. The venue for all proceedings related to this Agreement shall be in Rice County, Minnesota.
- i. Waiver. The failure of either Party to insist upon strict performance of any of the terms or conditions of this Agreement or the waiver by either Party of any breach or failure to comply with any provision of this Agreement by the other Party shall not be construed as, or constitute a continuing waiver of such provision or a waiver of any other breach of or failure to comply with any other provision of this Agreement.
- j. Force Majeure. Except for payment of sums due, neither Party shall be liable to the other or deemed in default under this Agreement, if and to the extent that a Party's performance is prevented by reason of force majeure. "Force majeure" includes war, an act of terrorism, fire, earthquake, flood and other circumstances which are beyond the control and without the fault or negligence of the Party affected and which by the exercise of reasonable diligence the Party affected was unable to prevent.
- k. Further Assurances. From and after the execution of this Agreement, the Parties shall fully cooperate with each other and perform any further act(s) and execute and delivers any further documents which may be necessary in order to carry out the purposes and intentions of this Agreement.
- l. Savings Clause. If any court finds any portion of this Agreement to be contrary to law, invalid, or unenforceable, the remainder of the Agreement will remain in full force and effect.
- m. Counterparts. This Agreement may be signed in counterparts, each of which shall be deemed an original, and which taken together shall be deemed to be one and the same document.

[Remainder of page intentionally left blank.]

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

CITY:
City of Northfield

By: _____
Rhonda Pownell, Its Mayor

By: _____
Deb Little, Its City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF RICE)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by Rhonda Pownell, as Mayor, and Deb Little, as City Clerk, for and on behalf of the City of Northfield, a Minnesota municipal corporation.

Notary Public

LESSEE:

By: _____
_____, Its _____

By: _____
_____, Its _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, as _____, and _____, as _____, for and on behalf of _____, a _____ (corporation, limited liability company), Lessee.

Notary Public

**EXHIBIT A
TO
SMALL WIRELESS FACILITY COLLOCATION AGREEMENT

COLLOCATION AGREEMENT SUPPLEMENT**

COLLOCATION AGREEMENT SUPPLEMENT

This Collocation Agreement Supplement ("Supplement"), is made this _____ day of _____, 20____ between the City of Northfield, a municipal corporation under the laws of the State of Minnesota, with its principal offices located at 801 Washington Street, Northfield, MN 55057, (the "City") and _____, with its principal offices at _____ in _____, _____, (the "Lessee").

1. **SMALL WIRELESS FACILITY COLLOCATION AGREEMENT.** This Supplement is a Supplement as referenced in that certain Small Wireless Facility Collocation Agreement between the City of Northfield and _____, dated _____, 20____, (the "Agreement"). All of the terms and conditions of the Agreement are incorporated herein by reference and made a part hereof without the necessity of repeating or attaching the Agreement. In the event of a contradiction, modification or inconsistency between the terms of the Agreement and this Supplement, the terms of this Supplement shall govern. Capitalized terms used in this Supplement shall have the same meaning described for them in the Agreement unless otherwise indicated herein.
2. **PREMISES.** City hereby leases to Lessee certain spaces on and within City's Property located at _____ (site address), including the location of the Wireless Support Structure on the Property as indicated in Lessee's Application for Right-of-Way Permit, which is shown on Exhibit 1 attached hereto and made a part hereof. The Equipment Space, Antenna Space and Cabling Space are as shown on Exhibit 2, attached hereto and made a part hereof. Exhibit 2 shall further include plans and specifications for the Small Wireless Facility, including, but not limited to, placement, dimensions, materials, color, appearance, type of equipment, and screening to be used. The Equipment Space, Antenna Space, Cabling Space, plans and specifications to be included in Exhibit 2 shall be shown through pictures, drawings, and written descriptions.
3. **TERM.** The Effective Date and the Term of this Supplement shall be as set forth in the Agreement.
4. **CONSIDERATION.** Annual Rent under this Supplement shall be \$175.00 per year, payable to the City of Northfield at 801 Washington Street, Northfield, MN 55057, as set forth in the Agreement. If City is providing electricity pursuant to Paragraph 7 of the Agreement, an annual electrical service fee shall be paid with the Annual Rent due under this Supplement. The Annual Rent amount shall automatically change commensurate with the effective date of any corresponding changes to the governing law.
5. **SITE SPECIFIC TERMS.** _____ (include any site-specific terms, including whether Lessee will be installing a Replacement Wireless Support Structure)

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

CITY:
City of Northfield

By: _____
Rhonda Pownell, Its Mayor

By: _____
Deb Little, Its City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF RICE)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by Rhonda Pownell, as Mayor, and Deb Little, as City Clerk, for and on behalf of the City of Northfield, a Minnesota municipal corporation.

Notary Public

LESSEE:

By: _____
_____, Its _____

By: _____
_____, Its _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, as _____, and _____, as _____, for and on behalf of _____, a _____ (corporation, limited liability company), Lessee.

Notary Public

EXHIBIT 1
Site Plan of Property

EXHIBIT 2

Equipment Space (if any), Antenna Space, Cabling Space, Plans and Specifications