

**FACILITIES LICENSE AGREEMENT FOR WIRELESS
INSTALLATIONS
ON STREETLIGHT AND TRAFFIC SIGNAL POLES**

BETWEEN

**NEW CINGULAR WIRELESS PCS, LLC
D/B/A AT&T MOBILITY**

AND

THE CITY OF WEST SACRAMENTO

EFFECTIVE DATE: January 17, 2017

TABLE OF CONTENTS

	<u>Page No.</u>
RECITALS	1
CERTAIN DEFINED TERMS	1
1. QUIET ENJOYMENT; SCOPE OF AGREEMENT	2
1.1 Quiet Enjoyment; License	2
1.2 Scope of Agreement	2
1.3 Interference with Licensee Installations	3
2. GENERAL OBLIGATIONS	3
2.1 Technical Requirements and Specifications	3
2.2 Safety Precautions	4
2.3 No Liens Permitted	4
2.4 Worker Qualifications; Responsibility for Agents and Contractors	4
2.5 Payment and Performance	4
2.6 Utilities	4
3. APPLICATION FOR PERMIT	4
3.1 Application For Permit	4
3.2 Technical Review and Other Permit Processing Costs	5
3.3 Multiple Requests	6
3.4 Rights of Third Parties	6
4. PREPARATION OF POLES FOR ATTACHMENT	6
4.1 Make-Ready Costs	6
4.2 Completion of Make-Ready Work	7
4.3 Make-Ready Cost Reconciliation	7
4.4 Notification of Completion of Installation	7
5. OPERATION AND MAINTENANCE; RESERVATION OF RIGHTS	7
5.1 Reservation of Rights	7
5.2 Tree Trimming	8
5.3 RF Emissions	8
5.4 FCC Antenna Registrations, Federal Aviation Administration (“FAA”) Compliance	9
5.5 Compliance with FCC’s Rules	9
5.6 Equipment Modification and Replacements	9
6. CHARGES, BILLING AND PAYMENT	10
6.1 Annual Rent for Licensee Installations	10
6.2 Timing of Payment and Calculation of Number of Authorized Licensee Installations	10

6.3	Surety Bond	10
6.4	Unauthorized Licensee Installation Fee.....	10
6.5	Billing and Payment Generally.....	11
7.	AUDITS AND INSPECTIONS.....	11
7.1	Audits.....	11
7.2	Safety Inspection.....	12
7.3	Audit and Inspection Expenses	12
7.4	No Release of Liability	12
8.	POLE REPLACEMENT, MODIFICATION AND ABANDONMENT, AND TERMINATION OF LICENSEE INSTALLATIONS TO COMPLY WITH GOVERNMENT REQUIREMENTS.....	12
8.1	Replacement or Abandonment of Streetlight/Traffic Signal Poles or Other Required Removal of Licensee Installations	12
8.2	Removal of Licensee Installations by Licensee.....	14
8.3	Licensee Safety or Other Violations	14
8.4	Performance by Licensor and Licensee	14
9.	INSURANCE.....	14
10.	ALLOCATION OF LIABILITIES.....	17
11.	INDEMNIFICATION	17
12.	REPRESENTATIONS, WARRANTIES AND COVENANTS.....	18
12.1	Authority to Enter Agreement	18
12.2	Required Authorizations	18
12.3	LIMITATIONS ON WARRANTIES.....	18
13.	TERM.....	18
14.	DEFAULT AND TERMINATION	19
14.1	Default Defined.....	19
14.2	Licensee’s Default and Licensor’s Remedies	19
14.3	Effect of Termination.....	20
14.4	Licensor’s Breach and Licensee’s Remedies.....	21
15.	DISPUTE RESOLUTION PROCEDURES.....	21
15.1	Good Faith Participation	21
15.2	Mediation	22
15.3	Enforcement.....	22
16.	CONFIDENTIALITY	22
17.	MISCELLANEOUS PROVISIONS.....	23
17.1	Notices	23

17.2	Force Majeure	24
17.3	Assignment and Transfer	24
17.4	No Third Party Beneficiaries	25
17.5	Applicable Law	25
17.6	Change of Law	25
17.7	Incorporation of Exhibits; Capitalized Terms.....	25
17.8	Headings, Construction, Counterparts	25
17.9	Waiver.....	26
17.10	Severability	26
17.11	Further Assurances.....	26
17.12	Survival	26
17.13	Entire Agreement; Amendments.....	27

EXHIBITS

- A** Safety Specifications for Wireless Installations
- B** Application for Permit

**FACILITIES LICENSE AGREEMENT FOR WIRELESS INSTALLATIONS
ON STREETLIGHT AND TRAFFIC SIGNAL POLES**

This Facilities License Agreement For Wireless Installations On Streetlight and Traffic Signal Poles (the "Agreement") is made and entered into as of Jan. 17, 2018 ("Effective Date"), by and between the CITY OF WEST SACRAMENTO, a California municipal corporation ("Licensor"), and NEW CINGULAR WIRELESS PCS, LLC a Delaware limited liability company d/b/a AT&T Mobility ("Attacher or Licensee"). Licensor and Licensee shall be referred to hereafter individually as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, Licensee seeks to affix wireless communication antennas and related equipment to certain Licensor Streetlight/Traffic Signal Poles, as defined herein;

WHEREAS, Licensor is willing to accommodate Licensee's non-exclusive use of such Streetlight/Traffic Signal Poles in accordance with all applicable law and the terms of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth in this Agreement, the Parties hereby agree as follows:

CERTAIN DEFINED TERMS

As used herein, the following capitalized terms have the meaning ascribed to them below:

"Authorized Licensee Installation" means any Licensee Installation placed on a Streetlight/Traffic Signal Pole by Licensee pursuant to a "Permit" (as defined in Section 3.1 hereof) authorized by Licensor.

"FCC" means the Federal Communications Commission;

"Federal Telecommunications Law" means the Communications Act of 1934, as amended by the Telecommunications Act of 1996, as the same may be amended or supplanted from time to time) and the published rules, regulations, and decisions of the FCC adopted to implement or interpret that Act and as may be further ruled upon and construed by the courts;

"Licensee Installation" means "Wireless Installations" (as defined below) and associated equipment, affixed by Licensee to a Streetlight/Traffic Signal Pole owned or controlled by Licensor.

“Permitted Services” means the provision of wireless communications services over Licensee’s network;

“Permitted Areas” means the areas covered by Licensee’s Permit Application and where Licensee provides service pursuant to necessary government authorizations;

“Person” or “Persons” means any person or entity;

“Streetlight/Traffic Signal Pole(s)” means a poles or poles supporting streetlights and/or traffic signals, and associated facilities, utilized solely for one or both of those purposes. Streetlight/Traffic Signal Poles do not include any Licensor pole used for the function of electric distribution.

“Wireless Installations” mean antenna system equipment including facilities that operate on FCC-approved frequencies in the bands authorized for commercial wireless communication services by the FCC pursuant to FCC licenses issued to Licensee;

Other defined terms have the meaning ascribed to them in the body of this Agreement.

1. QUIET ENJOYMENT; SCOPE OF AGREEMENT

1.1 Quiet Enjoyment; License. If Licensee is not in Default and complies with all of its obligations hereunder, then subject to the terms and conditions of this Agreement:

(a) Licensee shall have the right to continue its authorized Licensee Installations for Permitted Services in Permitted Areas throughout the Term, and

(b) Except where otherwise permitted herein, Licensor shall not intentionally disturb Licensee’s authorized Licensee Installations during the Term. No use, however extended, of Licensor’s Streetlight/Traffic Signal Poles under this Agreement shall create or vest in Licensee any ownership or property rights in those Streetlight/Traffic Signal Poles. Licensee’s rights in Licensor’s Streetlight/Traffic Signal Poles shall be and remain a mere license.

1.2 Scope of Agreement. Licensee acknowledges and agrees that nothing in this Agreement grants Licensee any right to make any Licensee Installation, or to install other facilities, including Wireless Facilities, that do not conform to this Agreement. To the extent Licensor’s access to rights-of-way and easements allow, Licensor hereby grants Licensee such rights-of-way and easements for the use and benefit of Licensee. Licensor shall provide notice to Licensee if approval of a third party is required in order for Licensee to place an Attachment. Otherwise, Licensee agrees not to attempt any such installation by virtue of this Agreement or to access, install or maintain its facilities upon, or cross the property of any third party absent an independent agreement between Licensee, on the one hand, and, on the other hand, Licensor and/or such third party.

1.3 Interference with Licensee Installations. Licensor will not grant after the date of this Agreement a permit, license or any other right to any third party if, at the time such third party applies for access to a Streetlight/Traffic Signal Pole, the Licensor has actual knowledge that such third party's use will adversely affect or interfere with the Licensee's existing Wireless Installations, the Licensee's use and operation of its facilities, or Licensee's ability to comply with the terms and conditions of this Agreement. Licensor shall use its best efforts to require any potential third party Streetlight/Traffic Signal Pole user to contact Licensee, prior to plan approval, to discuss the third party's intended plans and to coordinate efforts with Licensee for use of the same Streetlight/Traffic Signal Pole. Licensee shall promptly inform Licensor of any interference concerns it may have regarding a third party's use of any Streetlight/Traffic Signal Pole used by Licensee. Moreover, in the event that a subsequent third party Streetlight/Traffic Signal Pole user interferes with Licensee's Wireless Installations, Licensee's use and operation of its facilities or Licensee's ability to comply with the terms and conditions of this Agreement, Licensor shall use its best efforts to cause such third party user to promptly correct such interference.

2. GENERAL OBLIGATIONS

2.1 Technical Requirements and Specifications.

(a) At its own expense, Licensee must erect, install, repair and maintain its Licensee Installations in safe condition and good repair in accordance with:

- (i) the requirements and specifications of the National Electrical Safety Code ("NESC"), the National Electrical Code ("NEC") and any and all other applicable regulatory codes for safe practices when performing work on or near Streetlight/Traffic Signal Poles (collectively, "Safety Codes");
- (ii) the safety specifications for Wireless Facilities shown in Exhibit A hereto and such other instructions as may be mutually agreed upon by Licensee and Licensor ("Licensor Practices");
- (iii) any amendments or revisions of the Safety Codes or Licensor Practices, provided however that amendments or revisions shall not apply retroactively unless required by law; and
- (iv) any current or future rules or orders of the FCC, the State public utility commission, or any other federal, state or local authority having jurisdiction.

(b) Licensee shall ensure that all work performed by it or on its behalf is performed in accordance with the NESC and all applicable safety and health standards, including, without limitation, occupational safety and health standards promulgated by

the Occupational Safety and Health Administration of the United States Department of Labor.

(c) Licensor may, on "Technical Grounds," deny all or part of an Application for Permit, or limit the number and/or technical characteristics (*e.g.*, weight or size) of any Licensee Installation on any Streetlight/Traffic Signal Poles or require relocation, replacement or removal of Licensee Installations or take any other actions authorized hereunder and Licensee agrees to comply with any and all of its concomitant obligations hereunder in any such event or events. As used herein, "Technical Grounds" means reasons of insufficiency of capacity, safety, reliability and/or generally applicable engineering purposes.

2.2 Safety Precautions. Licensee shall take all necessary precautions, including installing protective equipment, performing "Tree Trimming" (as defined herein), or taking other measures, to protect Persons and property against injury or damage that may result from Licensee Installations, and to guard against interference with normal operation of utility circuits.

2.3 No Liens Permitted. Licensee agrees that it will not, directly or indirectly, create, incur, assume or suffer to exist any lien, mechanics, materialman or other, with respect to any Streetlight/Traffic Signal Pole or other Licensor property or facility resulting from any work performed by Licensee or on its behalf pursuant to this Agreement or any act or claim against it or any of its contractors, agents, or customers, and will, at its sole expense, promptly take any action as may be necessary to discharge any such lien, in all events within thirty (30) days of first being notified of its existence.

2.4 Worker Qualifications; Responsibility for Agents and Contractors. Each party shall ensure that each and every one of its workers and, to the extent that the either may employ agents or contractors, their workers, are adequately trained and skilled to access the Streetlight/Traffic Signal Poles in accordance with all applicable industry and governmental standards and regulations. Licensor may deny access to its pole to any such worker who is not so qualified, or does not act in a safe and professional manner when accessing any Streetlight/Traffic Signal Pole. In such event, the Licensee shall take such reasonable and necessary action so as to ensure that such worker does not continue to access the Streetlight/Traffic Signal Pole on Licensee's behalf, until and unless such worker is qualified to Licensor's reasonable satisfaction. In no event, however, shall a party be liable or otherwise responsible for the competence or conduct of the other party's workers or those of the other party's agents or contractors.

2.5 Payment and Performance. Licensee shall pay its liabilities hereunder within sixty (60) days of receipt of invoice and shall otherwise fully perform its covenants, agreements, obligations and liabilities herein.

2.6 Utilities. Arrangement and payment for electric service necessary in connection with Licensee Installations shall be Licensee's sole responsibility.

3. APPLICATION FOR PERMIT

3.1 Application for Permit. Before placing any new or additional Licensee Installation onto any Streetlight/Traffic Signal Pole, Licensee shall apply for and must receive a "Permit" from Licensor. Licensee shall apply for the Permit using the form required by Licensor, which may be revised or amended by Licensor from time to time in its reasonable discretion ("Application for Permit"). The Application for Permit shall mature into an authorized Permit once an authorized employee of Licensor signs and dates the Permit as approved. Licensor will review the Application for Permit and respond to Licensor as to whether the Application for Permit is "complete" or whether additional information is needed to process it within fifteen (15) days of its submission. The current Application for Permit form is set forth in Exhibit B. Any revised or amended Application for Permit form shall become effective and shall be used thereafter by Licensee upon written notice by Licensor to Licensee. Any Application for Permit shall be accompanied by such other information as is required by this Agreement or the Application for Permit (including any instructions thereto). Each Application for Permit shall be used to cover only up to ten (10) poles. If Licensee submits Application for Permits for an excessive number of Streetlight/Traffic Signal Poles, Licensor will contact Licensee to establish priorities.

3.2 Technical Review and Other Permit Processing Costs.

(a) Upon receipt of Licensee's Application for Permit, Licensor will perform a survey and engage in all engineering and administrative activities reasonably necessary to determine whether requested Attachments can be made or whether Technical Grounds exist for denying an Application for Permit, as set forth in section 2.1(c) above (a "Technical Review"). Licensee and Licensor, as property owner, agree to consult to reasonably determine the initial feasibility of proposed Attachments as set forth in section 2.1 ("Initial Consultation"). Such consultation will be scheduled within 10 business days of Licensee's consultation request. For the purpose of the Initial Consultation, Licensee shall meet with Licensor's representative from the Public Works Department or other designated staff. The Initial Consultation will set Licensee's priority date for the first to apply as set forth in section 3.3, Multiple Requests.

(b) Licensee shall reimburse Licensor for any and all costs, fees, expenses or other liabilities reasonably incurred by Licensor in the preparation and completion of the Technical Review including (without limitation) allocated direct and indirect overheads (collectively, "Costs"). Costs include "administrative expenses", "field work expenses", and "other expenses", as described below, that are reasonably undertaken by Licensor in processing an Application for Permit (collectively, "Permit Processing Expenses"). Licensee acknowledges that Licensor will incur such Costs whether an Application is found to be grantable or not, and agrees to reimburse Licensor for such Costs regardless of the ultimate determination of the Technical Review. Examples of "administrative expenses" include, but are not limited to, expenses incurred in assigning a Licensor Permit number, logging the Permit into the tracking system, approving any Make-Ready Work (described in section 4.1) associated with the Permit,

informing other attachers of Licensee's intent to attach, administrative expenses in approving the Permit, and other reasonable expenses. Examples of "field work expenses" include, but are not limited to, expenses incurred in inspecting the location, taking all required measurements at the location, setting up joint meetings with other attachers (if necessary), and other reasonable expenses. Examples of "other expenses" may include, but are not limited to, vehicle expenses, expenses incurred in re-inspecting the Streetlight/Traffic Signal Pole attachment location(s) to verify a safe and proper attachment, including, if necessary, reasonable lodging and meal expenses that might be required, any and all reasonable expenses related to coordinating the rearrangement activity of other attaching entities, as well as any other activities requested by Licensee with the exception of make ready construction as discussed later. No Permit shall be issued until such Costs are paid.

(c) At the time of, or prior to, submission of its first Application for Permit, Licensee shall submit a deposit to Licensor in the amount of \$7,000.00 to be used to pay Licensor's Costs ("Deposit"). All reasonable Costs incurred by Licensor in reviewing the technical parameters of Licensee Installations, analyzing the technical requirements of affixing such Licensee Installations on Licensor's Streetlight/Traffic Signal Poles, and other associated engineering and administrative activities reasonably undertaken by Licensor in this connection, shall be reimbursed by Licensee to Licensor from such Deposit, or if the Deposit is depleted, within sixty (60) days of invoice. No Permit for a Licensee Installation will be issued until such payment is made. Licensee shall replenish the Deposit at Licensor's request as the Deposit is depleted.

3.3 Multiple Requests. If more than one entity (each an "Applicant"), including Licensee, has submitted a completed Application for Permit to attach to the same Streetlight/Traffic Signal Pole(s), priority shall be determined in accordance with the date on which the Applications were submitted, or earlier date for Licensee upon an Initial Consultation in accordance with Section 3.2(a). Licensor will continue to process the Application for Permit for the first Applicant unless the first Applicant is unresponsive to Licensor in connection with its Application for Permit (as determined by the Licensor). If the first Applicant is unresponsive to Licensor in connection with its Application for Permit, the first Applicant will lose its priority in line to access the subject Streetlight/Traffic Signal Pole.

3.4 Rights of Third Parties. Nothing contained in this Agreement shall be construed as affecting any rights or privileges previously or subsequently granted by Licensor to other entities not parties to this Agreement, to use any Streetlight/Traffic Signal Poles covered by this Agreement. Licensor reserves the right to grant, continue and extend such rights or privileges.

4. PREPARATION OF POLES FOR ATTACHMENT

4.1 Make-Ready Costs.

(a) Licensee shall be responsible for all Costs necessary to replace and/or otherwise prepare the Streetlight/Traffic Signal Pole(s) for Attachment (“Make-Ready Costs”)

(b) In the event Licensor shall determine, in its reasonable discretion, that inadequate space exists on its Streetlight/Traffic Signal Pole to accommodate any proposed Licensee Installation, such Streetlight/Traffic Signal Pole may be replaced by Licensee, at Licensee’s sole Cost; provided, however, that nothing in this Agreement shall obligate Licensor to replace any Streetlight/Traffic Signal Pole for the sole purpose of accommodating any Licensee Installation.

(c) If a Person, other than Licensor, would have to rearrange or adjust any of its facilities in order to accommodate a new Licensee Installation, Licensor shall use reasonable efforts, at Licensee’s sole Cost (part of Permit Processing Expenses) to coordinate such activity. The Licensee shall, however, be responsible for separately paying such other Person, in advance, for its charges for the same, it being understood that the Make-Ready Costs referenced above would not include such costs, and that such rearrangement or adjustment must be completed before the Licensee Installation may be made. The Licensee Installation shall be conditioned on the completion of all Make-Ready Work needed to establish full compliance with NESC, and with Licensor Practices and engineering standards; provided, however, that Licensee shall not be responsible for any third-party or Licensor costs necessary to correct attachments that are non-compliant at the time of Licensee’s Application. If Licensee is requested by another Person, in comparable circumstances, to relocate or adjust any Licensee Installation to accommodate that Person’s facilities, subject to Licensor’s written approval of such relocation, the Licensee shall reasonably cooperate with such request and charge no more than Licensor would be permitted to charge for the relocation of its facilities on the Streetlight/Traffic Signal Pole under section 4.1(a) above.

4.2 Completion of Make-Ready Work. Licensee will complete all make-ready work described within one hundred twenty (120) days after receiving the Permit.

4.3 Notification of Completion of Installation. Within twenty (20) business days of completing the installation of each Licensee Installation, Licensee shall notify Licensor of such completion.

5. OPERATION AND MAINTENANCE; RESERVATION OF RIGHTS

5.1 Reservation of Rights. As permitted by applicable law and regulation, Licensor reserves to itself, its successors and assigns, the right to operate and maintain its Streetlight/Traffic Signal Poles and facilities, to discontinue such maintenance, and to remove its Streetlight/Traffic Signal Poles and facilities, in the best manner required to

fulfill its own service requirements, and its public, employee and worker safety obligations.

5.2 Tree Trimming.

(a) For purposes of this Agreement, "Tree Trimming" is defined as:

- (i) initial tree trimming done by Licensee necessary to make its own Licensee Installations free and clear in a situation involving an overhead right-of-way under which no ground clearing is required (*e.g.*, along town and city streets); and
- (ii) maintenance trimming performed by Licensee necessary to keep the Licensee Installations free and clear, irrespective of whether the right-of-way requires ground clearing.

(b) At its own expense, Licensee shall perform Tree Trimming to provide adequate clearance around Licensee Installations. Initial Tree Trimming will be performed prior to installation of Licensee Installations. By mutual written agreement, one contractor may perform Tree Trimming for Licensee, Licensor, and other Streetlight/Traffic Signal Pole users. In that case, the Cost for such Tree Trimming will be divided evenly among the Persons using the Streetlight/Traffic Signal Poles being cleared. No additional Permit is required, from Licensor, for Licensee to perform any Tree Trimming or cutting necessary to safeguard or maintain Licensee Installations.

5.3. RF Emissions.

(a) Licensee is solely responsible for the radio frequency ("RF") emissions emitted by its equipment and will comply with all Federal Communications Commission (FCC) regulations regarding RF emissions and exposure limitations. To the extent required by FCC rules, Licensee shall install appropriate signage to notify workers and third parties of the potential for exposure to RF emissions.

(b) Licensee is under a duty and obligation in connection with the operation of its own facilities, now existing or in the future, to protect against RF interference to the RF signals of any other attachers, as applicable, as may emanate or arise. Licensee shall endeavor to correct any interference to the RF signals of any other attachers created by its RF emissions. In the event Licensor's operations interfere with Licensee's RF signals, Licensor and Licensee shall cooperate to stop such interference.

(c) Licensee shall install a power cut-off switch on every Licensor pole or facilities to which it has attached facilities that can emit RF energy. Licensor's authorized field personnel will contact the Licensee's designated point of contact not less than 24 hours in advance to inform the Licensee of the need for a temporary power shut-down. In the event of an unplanned power outage or other unplanned cut-off of power, or an

emergency, the power-down will be with such advance notice as may be practicable. In all instances, once the work has been completed and the worker(s) have departed the exposure area, the party who accomplished the power-down shall restore power and inform Licensee as soon as possible that power has been restored.

(d) Emergency After Hours Contact Information. Licensee shall provide emergency after hours contact information to Licensor. Licensee shall be required to include signage, which indicates Licensor emergency contact information, Licensee's emergency contact information, and National Electrical Safety Code ("NESC") required information.

(e) Installation and Upkeep of Sign(s). Licensee is responsible for the installation and upkeep of its sign or signs on each pole. The signage will be placed so that it is clearly visible to workers who climb the pole or ascend by mechanical means. The signs will contain the information approved for such signs by the FCC, or in the absence of FCC approval, the information commonly used in the industry for such signs.

5.4 FCC Antenna Registrations, Federal Aviation Administration ("FAA") Compliance. Licensee acknowledges and agrees that it is solely responsible for ensuring compliance with any and all FCC antenna registration, FAA, or similar requirements with respect to the location of the Licensee's antennas or other facilities. Without limitation, Licensee acknowledges and agrees that Licensor's Streetlight/Traffic Signal Poles are not "antenna structures" under the FCC's rules and that, accordingly, Licensor has no obligation of its own in this regard to register them with the FCC, the FAA, or other agency.

5.5 Compliance with the FCC's Rules. Licensee agrees that it will obtain all required licenses and equipment authorizations and will not operate Licensee Installations in any manner inconsistent with such licenses and authorizations and the FCC's rules.

5.6 Equipment Modification and Replacements. Subsequent to the original installation of Licensee's equipment, Licensee may make modifications to or replace the equipment, or may alter, enhance, and upgrade its equipment, so long as such modification, replacement, substitution, alteration, enhancement, or upgrade does not increase pole loading beyond the pole loading that was established in the approved application, or involve placement of equipment outside the area designated in the approved application without obtaining prior written consent of Licensor. Any modification that would involve increasing the pole loading beyond what was established in the approved application shall require Licensee to submit a new application for such Site.

6. CHARGES, BILLING AND PAYMENT

6.1 Annual Rent For Licensee Installations.

Licensee shall pay Licensor an annual fee rental ("Rent") of \$250 per Authorized Licensee Installation for each year (or partial year) that this Agreement remains in effect, except to the extent that the Rent would be, in the absence of this Agreement, governed by law or regulation, in which case the Rent will be set in accordance with such law or regulation. Said Rent is per Streetlight/Traffic Signal Pole and includes all appurtenant equipment and facilities used in connection with Licensee Installations ("Annual Rent").

6.2 Timing of Payment and Calculation of Number of Authorized Licensee Installations.

(a) The Rent shall be payable annually in advance for each Authorized Licensee Installation, as recorded by Licensor or for which a Permit has been issued as of October 1 of the prior calendar year (the "Record Date").

(b) If Licensee's records show a different number of Authorized Licensee Installations for which a Rent payment is required, Licensee shall so notify Licensor within thirty (30) days of relevant invoice. Licensor will then, following receipt of Licensee's notification, either accept in writing Licensee's revised count/information or notify Licensee in writing that a dispute exists about such count, in which event the provisions of section 6.5 and Article 15 shall apply to any such amount in dispute.

6.3 Surety Bond.

Within fourteen (14) days of the Effective Date, at its own expense, Licensee shall furnish a surety bond (the "Surety Bond") in the amount of \$5,000 in order to guarantee Licensee's payment and performance of sums and liabilities that may become due to Licensor for all Rent and other amounts and liabilities required by or concerning this Agreement.

6.4 Unauthorized Licensee Installation Fee.

(a) Licensee shall pay to Licensor, within sixty (60) days from the date of invoice, as Rent due for the period from the original date of each Licensee Installation to the date of such invoice, a sum equal to the lesser of (a) the number of years since the last jointly conducted audit and (b) five (5) times the then current Rent applicable to each of its Licensee Installations that has not been approved by Licensor by Permit (an "Unauthorized Licensee Installation"), unless Licensee can produce documentation showing installation of the attachment occurred on a later date, in which case Licensee shall pay back rent from that point forward.. Licensor shall grant Permits to allow such Unauthorized Licensee Installations to remain when:

- (i) all applicable Unauthorized Licensee Installation Fees are paid;
- (ii) all necessary rearrangements have been made in accordance with this Agreement and an Application for Permit is filed by Licensee; and
- (iii) such Application for Permit is granted in accordance with the standards set forth herein for such Applications and associated requirements (*e.g.*, if the Streetlight/Traffic Signal Pole cannot safely support the Unauthorized Licensee Installation, the Unauthorized Licensee Installation must be removed).

(b) If, in accordance with section 6.4(a) or (b), Licensee fails to pay all Unauthorized Licensee Installation Fees, Rent, or other Costs within sixty (60) days of Licensor's demand to remit the same, Licensor may remove Unauthorized Licensee Installations at Licensee's expense. If Licensor removes such Unauthorized Licensee Installations, those Licensee Installations shall become the property of Licensor, which shall have sole rights over their disposition. Licensor's removal of Unauthorized Licensee Installations shall not release Licensee from its obligation to pay those Unauthorized Licensee Installation Fees, Rent, other fees, expenses and other liabilities accruing pursuant to this section 6.4.

6.5 Billing and Payment Generally.

(a) Except as otherwise provided herein, all bills and invoices and other requests for payment rendered under this Agreement shall be paid by Licensee within sixty (60) days from the date of invoice. Interest of one percent (1%) per month (or the highest amount permitted by law, whichever is less) of the total amount due and unpaid will apply to any unpaid amount after sixty (60) days from the invoice date.

(b) Licensee shall notify Licensor within thirty (30) days of the date of invoice of any dispute, with sufficient particularity so as to identify both the amounts in, and grounds for, dispute. Licensee shall continue to make all required payments regardless of any counterclaim or offset, and notwithstanding any pending or threatened litigation, administrative or regulatory proceeding, dispute resolution proceeding conducted in accordance with Article 15 or any other similar pending or threatened proceeding.

7. **AUDITS AND INSPECTIONS**

7.1 Audits.

(a) Licensee and Licensor shall cooperate in determining the total number of Authorized Licensee Installations. This determination shall be based on an on-going inventory of Permits that shall be maintained by Licensor. Licensor has the right to

require a jointly conducted audit of Licensee Installations. Any such audit (as to any particular area) may be conducted no more frequently than once every five (5) years, unless Licensee is responsible for a Default (defined in section 14.1) under this Agreement, in which case Licensor may audit no more frequently than once a year (until such default is cured). Licensor must provide ninety (90) days' notice of any such audit.

(b) Licensee and Licensor may mutually agree that in lieu of such a jointly conducted physical audit, the number of Authorized Licensee Installations may be determined from existing maps and attachment records, if each Party agrees that an accurate determination can reasonably be achieved using such maps and records. If both Parties agree to use this method, each Party shall make all relevant maps and records available to the other Party and the number of Authorized Licensee Installations shall be cooperatively determined.

7.2 Safety Inspection. Licensor also reserves the right to conduct inspections of Licensee Installations on Licensor's Streetlight/Traffic Signal Poles and to conduct inspections in the vicinity of Licensee Installations. Except in circumstances where Licensor has special reason to be concerned about potential violations, such inspection should be conducted no more frequently than once every three (3) years. Licensor will give Licensee sixty (60) days prior notice of such inspections and Licensee shall have the right to be present at and observe any such inspections. However, in the event of an emergency, or in cases in which Licensor must promptly provide or restore safe and reliable service to a customer, Licensor may conduct such inspections immediately and without prior notice to Licensee.

7.3 Audit and Inspection Expenses. Licensee acknowledges that Licensor will incur costs related to conducting audits and safety inspections. Routine inspections by Licensor generally of its poles will not be billed to Licensee except to the extent that the costs for the same may be properly included with other costs in Licensor's calculation of its annual rental rate. Licensee shall, however, pay Licensor for its reasonable costs for safety inspections performed for the purpose of determining if a safety violation of which Licensor has provided notice to Licensee has been corrected by Licensee.

7.4 No Release of Liability. Audits and inspections, whether conducted or not, shall in no event relieve Licensee of any responsibility, obligation, or liability assumed under this Agreement.

8. POLE REPLACEMENT, MODIFICATION AND ABANDONMENT, AND TERMINATION OF LICENSEE INSTALLATIONS TO COMPLY WITH GOVERNMENT REQUIREMENTS

8.1 Replacement or Abandonment of Streetlight/Traffic Signal Poles or Other Required Removal of Licensee Installations.

(a) If for safety, reliability or operational reasons Licensor replaces a Streetlight/Traffic Signal Pole to which Licensee Installations are affixed, the following procedures will apply: Licensor may, but shall not be required to, transfer the affected Licensee Installation to the replacement Streetlight/Traffic Signal Pole after providing ninety (90) days' notice to Licensee of the requirement to move. In the event that Licensor transfers the affected Licensee Installations, unless otherwise provided in a written Agreement between the Parties, Licensee shall reimburse Licensor for any reasonable costs associated therewith. If Licensor elects not to transfer the affected Licensee Installation, Licensor will also provide Licensee with ninety (90) days' notice. Within such notice period, Licensee must (i) remove the Licensee Installation located on the original Streetlight/Traffic Signal Pole, and, provided that the Licensee Installation was an Authorized Licensee Installation, transfer it to the substituted Streetlight/Traffic Signal Pole, and (ii) perform any other work in connection with said Licensee Installation that may reasonably be required by Licensor. All such work must be performed by Licensee at its sole expense.

(b) Notwithstanding the foregoing, in case of emergency, any situation that is dangerous to life or property, or the need to provide prompt service to Licensor's customer (each, an "Imminent Circumstance"), Licensor may itself remove, relocate, or replace the Licensee Installations, transfer them to substituted Streetlight/Traffic Signal Poles, or perform any other work in connection with said Licensee Installations that may reasonably be required to maintain, replace, remove or relocate those poles. In such a case, Licensee shall reimburse Licensor for the Costs so incurred by Licensor in this effort. In the event of an emergency, Licensor shall notify Licensee as soon as practicable, but in no event later than 24 hours after the emergency.

(c) If Licensor desires to abandon any Streetlight/Traffic Signal Pole(s), it shall give Licensee sixty (60) days' notice, and within such time, Licensee may remove or otherwise dispose of its Licensee Installations.

(d) If a Licensor Streetlight/Traffic Signal Poles needs to be replaced in order to accommodate Licensee Installations, Licensor will replaced the pole and Licensee will reimburse Licensor for all costs reasonably incurred by Licensor to do so. Licensor may, but shall not be required to, transfer the affected Licensee Installation to the replacement Streetlight/Traffic Signal Pole after providing ninety (90) days' notice to Licensee of the requirement to move. In the event that Licensor transfers the affected Licensee Installations, unless otherwise provided in a written Agreement between the Parties, Licensee shall reimburse Licensor for any reasonable costs associated therewith.

(e) Upon sixty (60) days' notice from Licensor to Licensee that the use of any Streetlight/Traffic Signal Pole(s) is forbidden by state, county, or municipal authorities or by owners of private property or that the Streetlight/Traffic Signal Pole must otherwise be modified such that the continued presence of a Licensee Installation(s) on the Streetlight/Traffic Signal Pole cannot be maintained consistent with other requirements, the Permit covering the use of such Streetlight/Traffic Signal Pole(s) shall terminate, and the Licensee Installation(s) shall be removed by Licensee

promptly from the affected Streetlight/Traffic Signal Pole(s) at Licensee's sole expense. Notwithstanding the foregoing, if the state, county, municipal authority or landowner requires discontinuance of the Streetlight/Traffic Signal Pole(s) in less than sixty (60) days, the notice provided by Licensor shall be reduced accordingly.

(f) If, upon expiration of any required notice period for removal, Licensee Installation(s) has/have not been removed, Licensor may at Licensee's sole Cost, remove the Licensee Installation(s). If Licensor so removes Licensee Installations and disposes of the same, such removal and disposition shall be without any liability to Licensee for such removal and disposition.

(g) No more than thirty (30) days' notice shall be required for the removal of any Unauthorized Licensee Installation. Licensor shall be under no obligation of notice with respect to any Unauthorized Licensee Installation the ownership of which cannot be reasonably determined by Licensor on inspection of the same.

8.2 Removal of Licensee Installations by Licensee. Licensee may at any time remove Licensee Installations from Licensor's Streetlight/Traffic Signal Poles, and shall give Licensor notice of such removal within thirty (30) days after removal. No refund of any rental paid will be due on account of such removal unless that removal is triggered by a Default of this Agreement by Licensor in which event the terms and conditions of section 14.4 shall apply, govern and control.

8.3 Licensee Safety or Other Violations. If Licensor discovers any regulatory, safety or other violation of this Agreement with respect to Licensee Installations, it shall notify Licensee and Licensee shall have sixty (60) days in which to remedy such violations, provided that Licensor may require quicker action, or take immediate action itself, in any Imminent Circumstances.

8.4 Performance by Licensor and Licensee. If Licensee fails to perform any of its obligations hereunder, Licensor may, at its option (but shall be under no obligation to do so), perform the obligation of Licensee which Licensee has failed to perform, following notice and a thirty (30) day opportunity to cure. Licensee shall reimburse Licensor the reasonable Costs it incurs in any such undertaking, including (without limitation) if Licensor is required to return to the site to perform its work because of the failure of the Licensee to timely undertake action required hereunder. Payment or performance by Licensor of the obligations or liabilities of Licensee shall not waive or cure any breach occasioned by Licensee's failure or refusal to pay or perform same.

9. INSURANCE

(a) Policies and Coverages. At all times during the Term of this Agreement, Licensee shall obtain and maintain, and require its subcontractors to obtain and maintain the following policies of insurance underwritten by insurance companies with a rating of AM Best A or better:

- (i) Workers' compensation insurance for all employees in all states where work is performed and any other states where the employees performing the work or any portion thereof are normally employed and employers' liability insurance with a \$500,000 limit for each accident, disease or occurrence.
- (ii) Commercial general liability insurance with bodily injury and property damage combined single limits of at least \$1,000,000 per occurrence. Such insurance shall include, but not be limited to, specific coverage for liability for bodily injury and property damage arising from premises, operations, independent contractors, products-completed operations, contractual liability encompassing the indemnity provisions in Article 11 - Indemnity, and where applicable, explosion, collapse, and underground hazards coverage and watercraft (protection and indemnity) liability coverage.
- (iii) Automobile liability insurance with bodily injury and property damage combined single limits of at least \$1,000,000 per occurrence covering vehicles owned, hired or non-owned.
- (iv) Umbrella or excess liability insurance with a single limit of \$5,000,000 per occurrence in excess of the employer's liability, commercial general liability and automobile liability policies.
- (v) The amounts of insurance required above may be satisfied by Licensee's purchasing primary coverage in the amounts specified or by Licensee's buying a separate excess umbrella liability policy together with lower limit primary underlying coverage. The structure of the coverage is at Licensee's option, so long as the total amount of insurance meets Licensor's requirements.
- (vi) The coverage required in sections 9.a.ii, 9.a.iii and 9.a.iv above should be "occurrence" form policies. If said coverages are written on a "claims-made" form instead of an occurrence form, Licensee shall arrange for adequate time for reporting losses. Failure to do so shall be at Licensee's sole risk.
- (vii) The coverages required in sections 9.a.ii, 9.a.iii and 9.a.iv above shall provide for claims by one insured against another such that, except for the limits of insurance, the insurance shall apply separately to each insured against whom a claim is made to suit is brought.
- (viii) Licensee waives all rights against Licensor, its directors, officers and employees, whether in contract, tort (including negligence and strict liability) or otherwise for recovery of damages to the extent these

damages are covered by the insurance required to be maintained pursuant to Article 9 Insurance of this Agreement.

- (b) Endorsements. Licensee and its authorized subcontractors and assignees shall cause their insurers to amend their commercial general liability and, their umbrella or excess liability policies, if any, with the following endorsements i, ii, and iii. Worker's compensation and automobile liability policies shall be amended with endorsement iii:
 - i. "The City of West Sacramento, its directors, officers and employees are additional insureds under this policy"; and
 - ii. "This insurance is primary with respect to the interest of the City of West Sacramento, its directors, officers and employees, and any other insurance or self-insurance maintained by them in excess and not contributory with this insurance," and
 - iii. The policy shall be endorsed to provide for at least thirty (30) days prior notice of cancellation by the insurance company for any reason other than non-payment of premium.
- (c) Insurance Certificates. Before starting work at any Streetlight/Traffic Signal Pole, Licensee shall cause its insurers or agents to complete, sign and forward to Licensor a certificate of insurance evidencing the coverages and limits required by this section. Failure of Licensor to receive certificates of insurance does not, however, relieve Licensee of the requirements of this Article 9 Insurance.
- (d) Licensee's compliance with this Agreement to maintain insurance in the amount and coverage required under this Agreement shall neither limit Licensee's liabilities nor relieve Licensee of any obligations under this Agreement. Failure to obtain the insurance coverage required by this Agreement shall in no way relieve or limit Licensee's obligations and liabilities under any provisions of this Agreement.
- (e) Licensee shall bear full responsibility for ensuring that its agents, contractors, and subcontractors are in compliance with the requirements of this Article 9 Insurance before they perform any work for Licensee in connection with this Agreement and at all times during the Term of this Agreement.
- (f) Upon the termination of this Agreement, Licensee shall maintain, and require to be maintained, all of the insurance specified above until the later of ninety (90) days after the date of termination of the Agreement or the completion of all post-termination or expiration activities of Licensee as specified in Articles 13 and 14 hereof.

(g) Notwithstanding the foregoing, Licensee shall have the right to self-insure the coverages required in subsection (a). In the event Licensee elects to self-insure its obligation to include Licensor as an additional insured, the following provisions shall apply (in addition to those set forth in subsection (a)):

- i. Licensor shall promptly and no later than ninety (90) days after notice thereof 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. Licensor shall not settle any such claim, demand, lawsuit, or the like without the prior written consent of Licensee; and,
- iii. Licensor shall fully cooperate with Licensee in the defense of the claim, demand, lawsuit, or the like.

10. ALLOCATION OF LIABILITIES

Each Party shall be liable for all damages for such injuries to third Persons or any third Person's property proximately caused by the Party's negligence or willful misconduct or by its failure to comply at any time with the practices herein provided. As used in the immediately preceding sentence, reference to injury to property shall be deemed to refer to physical damage to physical property.

NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES SUFFERED BY THE OTHER PARTY OR BY ANY CUSTOMER OR ANY PURCHASER OF SUCH PARTY OR ANY OTHER PERSON, FOR LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, WHETHER BY VIRTUE OF ANY STATUTE, IN TORT OR IN CONTRACT, UNDER ANY PROVISION OF INDEMNITY, OR OTHERWISE.

11. INDEMNIFICATION

11.1 To the extent permitted by law, Licensee shall indemnify, hold harmless and, at Licensor's sole option, defend Licensor, its principals, parents, affiliates, officers, directors, contractors, subcontractors, suppliers, licensees (other than Licensee), invitees, agents, attorneys, employees, successors and assigns (together "Licensor Indemnitees") from and against any and all liabilities, damages or claims for damage, including but not limited to all costs, reasonable attorneys' fees, and other charges and expenditures that Licensor Indemnitees may incur, asserted by reason of the installation, operation, use, repair, or removal of Licensee Installations or breach of the terms of this Agreement by Licensee, including acts or omissions by its agents, contractors, or subcontractors except

to the extent that such liabilities, damages or claims are a result of the negligence or willful misconduct of Licensor.

11.2 To the extent permitted by law, Licensor shall indemnify, hold harmless and, at Licensee's sole option, defend Licensee, its principals, parents, affiliates, officers, directors, contractors, subcontractors, suppliers, licensees, invitees, agents, attorneys, employees, successors and assigns (together "Licensee Indemnitees") from and against any and all liabilities, damages or claims for damage, including but not limited to all costs, reasonable attorneys' fees, and other charges and expenditures that Licensee Indemnitees may incur, asserted by reason of the installation, operation, use, repair, or removal of Licensor's Streetlight/Traffic Signal Poles or breach of the terms of this Agreement by Licensor, including acts or omissions by its agents, contractors, or subcontractors except to the extent that such liabilities, damages or claims are a result of the negligence or willful misconduct of Licensee.

12. REPRESENTATIONS, WARRANTIES AND COVENANTS

12.1 Authority to Enter Agreement. Each of Licensee and Licensor represents and warrants for itself only to the other that it has the authority to enter into this Agreement and to perform all of its obligations hereunder. The Parties have entered into this Agreement in good faith, as a result of arm's length negotiations, and the Parties covenant that they will conduct themselves under the terms of this Agreement reasonably and in good faith.

12.2 Required Authorizations. Licensee represents and warrants that it has obtained and shall maintain all required consents, easements and property rights from public or private landowners, or other Persons, to erect, operate, maintain and use Licensee Installations, including, without limitation, the Required Authorizations. Licensee shall take all action necessary to maintain, keep in full force and effect, and comply with the Required Authorizations; comply with all applicable laws and conduct its operations in accordance with the Required Authorizations; and shall provide Licensor, at its request, with copies of all applications and other correspondence to or from any Person relating to any Required Authorization in any circumstance when the scope or validity of a Required Authorization may be called into question.

12.3 LIMITATIONS ON WARRANTIES. THERE ARE NO WARRANTIES UNDER THIS AGREEMENT EXCEPT TO THE EXTENT EXPRESSLY AND UNAMBIGUOUSLY SET FORTH HEREIN. THE PARTIES SPECIFICALLY DISCLAIM AND EXCLUDE ALL IMPLIED WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

13. TERM

The "Term" of this Agreement shall commence as of the Effective Date, and, if not lawfully terminated sooner, remain in full force and effect for ten (10) years, and

will automatically renew for four (4) successive five (5) year periods, unless either Party gives the other written notice of termination at least one hundred and eighty (180) days prior to the end of the then-current Term. For each renewal Term, Licensor shall have the right to apply a reasonable increase in the Rent to bring the Rent to fair market value, except to the extent that the Rent for an Authorized Licensee Installation would be, in the absence of this Agreement, governed by law or regulation, in which case the Rent will be set in accordance with such law or regulation. Upon termination of this Agreement, Licensee shall remove Licensee Installations from all Streetlight/Traffic Signal Poles of Licensor within one hundred and eighty (180) days. If not so removed within one hundred and eighty (180) days following such termination, Licensor shall have the right to remove such Licensee Installations, and to dispose of same, at Licensee's sole cost and without any liability to Licensee for such removal and disposition. Licensor's removal or disposition of Licensee Installations shall not release Licensee from any liabilities imposed or otherwise incurred by Licensee hereunder or in connection herewith. Upon termination, if any other provision of this Agreement would require Licensee to remove Licensee Installations in some period shorter than the one hundred and eighty (180) days provided in this section 13, such shorter period shall apply and the remainder of section 13 shall be enforceable as set forth herein.

Notwithstanding anything to the contrary in this Agreement, if Licensee's occupancy of Streetlight/Traffic Signal Poles shall continue after expiration or termination of this Agreement, all other terms and conditions of this Agreement shall continue in full force and effect; provided, however, Licensor shall have the right to apply a reasonable increase in the Rent to bring the Rent to fair market value, except to the extent that the Rent for an Authorized Licensee Installation would be, in the absence of this Agreement, governed by law or regulation, in which case the Rent will be set in accordance with such law or regulation. Provided that Licensee is not in default of the terms of this Agreement, Licensee may give Licensor written notice at least 30 months prior to the expiration of the Term of this Agreement of its desire to enter into a replacement agreement. The Parties agree to negotiate the terms of a replacement agreement in good faith. If the Parties have not reached agreement after six (6) months of good faith negotiations, this Agreement will terminate at the end of the Term. Calculation of all prorated Rents under this section shall be based on a 30-day month. Notice of any permitted increase in Rent under this section shall be given in writing at least thirty (30) days prior to becoming effective.

14. DEFAULT AND TERMINATION

14.1 Default Defined. Subject to any applicable notice and cure provisions described in sections 14.2 and 14.4, for purposes of this Agreement, each of the following constitutes a default ("Default"), and the Party committing the Default is hereafter the "Defaulting Party":

(a) failure to pay any amount or liability arising hereunder or in connection herewith when it is due;

(b) failure to perform any of its material agreements, covenants or obligations set forth in this Agreement, including any Exhibits hereto;

(c) making any material representation or warranty in this Agreement which is misleading, untrue or incorrect; or

(d) an event of default occurs in any other agreement or instrument between Licensee and Licenser.

14.2 Licensee's Default and Licenser's Remedies.

(a) If any Default occurs, Licensee shall have thirty (30) days following notice from Licenser within which to correct such Default to Licenser's satisfaction; *provided, however,* that if the time to remedy a non-monetary Default takes longer than thirty (30) days and Licensee has diligently commenced and continues to remedy the non-monetary Default, the cure period shall be extended for a reasonable period of time taking into consideration all circumstances causing, caused by or arising from the non-monetary Default but no more than an additional thirty (30) days; provided further that, if Licensee has repeatedly committed serious violations of this Agreement that have threatened the safety of individuals or property of others, or interfered with the provision of Licenser's service, for which violations previous notices of Default have been given, Licenser may, upon notice to Licensee, either shorten or eliminate the cure period for any future such violations.

(b) In the event of any Licensee Default (after giving effect to any applicable notice and cure provisions), Licenser may, at its reasonable discretion, take any one or more of the following actions:

- (i) suspend Licensee's access to climb or work on any or all of Licenser's Streetlight/Traffic Signal Poles;
- (ii) terminate the specific Permit(s) granted to Licensee covering the Streetlight/Traffic Signal Poles to which such Default is applicable;
- (iii) require the obligation to be fulfilled;
- (iv) remove, relocate, or rearrange Licensee Installations to which such Default relates (all at Licensee's sole Cost);
- (v) decline to Permit additional Licensee Installations under this Agreement until all such Defaults are cured;
- (vi) exercise its rights with respect to the Surety Bond; and/or
- (vii) only in the case of a pattern or practice of Defaults, terminate this Agreement.

14.3 Effect of Termination.

(a) In the case of termination under section 14.2(b)(vii), such termination:

- (i) shall not reduce or eliminate the obligation of Licensee to make payments of any amount due to Licensor under this Agreement, including but not limited to, those fees, charges and expenses set forth in Article 6;
- (ii) shall not waive charges for any Licensee Installation until that Licensee Installation is removed from the Streetlight/Traffic Signal Pole to which it is attached; and
- (iii) shall not affect Licensee's obligation to procure, carry, and maintain in full force and effect the policies of insurance for as long as required by section 9.6.

(b) Any such termination shall be effective upon notice from Licensor to Licensee. Such notice will identify the effective date of the termination, which effective date may be as early as the effective date of the notice under section 17.1, or on any later date.

(c) Licensor shall incur no liability as a result of taking any or all of the actions enumerated in section 14.2. The remedies provided by this Agreement for Licensor are cumulative and in addition to any other remedies available to Licensor under this Agreement or otherwise.

14.4 Licensor's Breach and Licensee's Remedies.

(a) If Licensor is in Default under this Agreement, Licensor shall have thirty (30) days following receipt of written notice from Licensee within which to correct such Default *provided, however*, that if the time to remedy the Default takes longer than thirty (30) days and Licensor has diligently commenced and continues to remedy the Default, the cure period shall be extended for a reasonable period of time taking into consideration all circumstances causing, caused by or arising from the Default but no more than an additional thirty (30) days. If Licensor does not cure its Default within the allotted time period, Licensee may, at its reasonable discretion, either terminate this Agreement or demand that the terms of this Agreement be complied with.

(b) In the event of such termination by Licensee, any such termination shall be effective upon notice from Licensee to Licensor. Such notice will identify the effective date of termination, which effective date may be as early as the effective date of the notice under section 17.1, or on any later date

(c) If Licensor Defaults and Licensee elects to terminate the Agreement, Licensor shall refund any portion of advanced, prepaid Rent actually paid by Licensee prorated for any period of the Term remaining following the effective date of the termination of this Agreement. Licensor shall make such refund within sixty (60) days of the effective date of such termination. Licensor shall be entitled to retain all Rent and amounts paid by Licensee for the period up to such effective date of termination of this Agreement and Licensee shall remain liable for all Licensee liabilities up to such effective date of termination.

(d) The remedies provided by this Agreement for Licensee are cumulative and in addition to any other remedies available to Licensee under this Agreement or otherwise.

15. DISPUTE RESOLUTION PROCEDURES

15.1 Good Faith Participation. The Parties shall in good faith attempt to settle any dispute arising out of or relating to this Agreement through the step negotiation and non-binding mediation set forth herein prior to the initiation of any litigation. Good faith participation in these procedures shall be a condition precedent to any litigation. All negotiations pursuant to this Article shall be confidential and shall be treated as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and any state's rules of evidence.

15.2 Mediation. Either Party may give the other Party written notice of any dispute not resolved in the normal course of business. Representatives of both Parties with authority to settle the dispute shall meet at a mutually acceptable time and place within fourteen (14) calendar days after delivery of such notice, and thereafter as often as reasonably deemed necessary, to exchange relevant information and attempt to resolve the dispute. If the matter has not been resolved by these persons within thirty (30) calendar days of the disputing Party's notice, or if the Parties fail to meet within fourteen (14) calendar days, either Party may initiate mediation. Such mediation shall take place at a mutually agreeable location. In the event that such dispute is not resolved within ninety (90) days following initiation of mediation, either Party may initiate litigation.

15.3 Enforcement. The Parties regard the aforesaid obligation to mediate as an essential and material provision of this Agreement and one that is legally binding upon them. In case of a violation of such obligation by either Party, either Party may file a complaint or lawsuit in an appropriate agency or court."

16. CONFIDENTIALITY

Unless otherwise authorized by this section 16.1, neither Party shall at any time disclose, provide, demonstrate or otherwise make available any confidential information of the other Party ("Confidential Information"). "Confidential Information" shall include any information of a confidential or proprietary nature disclosed by a Party to this Agreement to the other Party, including the financial terms and conditions of this Agreement. Licensor's "Confidential Information," shall include, but not be limited to, substation locations, switching device locations, circuit connectivity, number of devices per square mile, and number of devices per circuit mile and any geographic information that may be deemed by Licensor to compromise the security or integrity of Licensor's system. Each Party shall use its best efforts and shall cause its officers, directors, employees, lenders and agents (including retained attorneys and consultants) to whom such Confidential Information may be disclosed to safeguard the confidentiality of the other Party's Confidential Information. At a minimum, such precautions shall include, but not be limited to, all precautions taken to ensure the confidentiality of such Party's own Confidential Information. Confidential Information may be disclosed (a) with the non-disclosing Party's prior written consent, or (b) as may be required by applicable law or governmental authorities (including but not limited to disclosures necessary to obtain permits and other regulatory approvals); provided that the Party making such disclosures shall seek, and use all reasonable efforts, to obtain confidential treatment for the same. Notwithstanding anything in this Section 16 or elsewhere in this Agreement to the contrary, Licensee shall have the right, without the necessity of obtaining Licensor's consent, to provide copies of this Agreement (with financial terms redacted) and the locations of Streetlight/Traffic Signal Poles to third parties as may be necessary to obtain Required Authorizations, or where otherwise compelled by law.

17. MISCELLANEOUS PROVISIONS

17.1 Notices. All notices given hereunder shall be in writing. Except as provided below, all notices shall be effective upon actual delivery or completed facsimile addressed to the other party as follows:

To Licensor:

City of West Sacramento
1110 West Capitol Avenue West Sacramento, CA 95691
Attn: City Manager

in each of the above cases, with a copy sent to:

Kronick Moskovitz Tiedemann & Girard
400 Capitol Mall, 27th Floor
Sacramento, CA 95814
Attn: Jeffrey A. Mitchell

To Licensee (including bills):

New Cingular Wireless PCS, LLC
Attn: Network Real Estate Administration
575 Morosgo Drive NE
Atlanta, GA 30324
Re: Wireless Installation on Public Structures West Sacramento, CA
Fixed Asset #

in each of the above cases (excluding bills), with a copy sent to:

New Cingular Wireless PCS, LLC
Attn: Legal Department, Network Operations
Re: Wireless Installation on Public Structures West Sacramento, CA
Fixed Asset #
208 S. Akard Street
Dallas, TX 75202-4206

Contact Number for day to day operations:

Licensor: 1-916-617-4500
Licensee: 1-800-638-2822

Licensor and Licensee shall, when feasible, use electronic notification ("Electronic Notification") through the National Joint Utilities Notification System ("NJUNS") for purposes of making and responding to an Application for Permit and for other notices required hereunder regarding the status of individual Licensee Installations, such as with respect to the completion of construction safety violations, required renewal or requested relocation on a Streetlight/Traffic Signal Pole, and the like. For reference, NJUNS is a national organization of member utilities and attaching entities formed for the purpose of improving the coordination of joint ventures between utilities.

Any Party may change its address or other contact information at any time by giving the other Party, and Persons named above, written notice of said change.

17.2 Force Majeure. Except as may be expressly provided otherwise, neither Licensee nor Licensor shall be liable for any delay or failure of performance hereunder due to causes beyond its reasonable control, including but not limited to acts of God, terrorism, fire, explosion, vandalism, storm and preparation therefor, or other similar occurrences that cannot be reasonably prevented, any law, order, regulation, direction, action or request, reasonably challenged by the Party seeking to claim force majeure, of the United States government, or of any other government, including state and local governments having jurisdiction over a Party, or of any department, agency commission, court, bureau, corporation or other instrumentality of any one or more of said governments, or of any civil or military authority, national emergencies, insurrections, riots, or wars, or strikes, lockouts, work stoppage, or other labor difficulties. To the

extent practicable, the Parties shall be prompt in restoring normal conditions, establishing new schedules and resuming operations as soon as the event causing the failure or delay has ceased. Each Party shall promptly notify the other Party of any delay and its effect on its performance. Notwithstanding the foregoing, this section 17.2 shall not apply to Licensee's obligation to make payments to Licensor under this Agreement nor shall Licensee install any Licensee Installation, and at Licensor's request, Licensee shall remove any Licensee Installation, in circumstances where it is, or to its knowledge will be, prevented from complying with all terms and conditions of this Agreement as to such Licensee Installation.

17.3 Assignment and Transfer. This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties; provided, however, that Licensee shall not assign, sell, transfer, sublicense or sublet the privileges hereby granted to any Person without the prior written consent of Licensor, which consent shall not to be unreasonably withheld, provided, however, that Licensee, without the prior written consent of Licensor: (i) shall have the right to assign this Agreement, upon thirty (30) days written notice, to any Person controlling, controlled by, or under common control with Licensee (collectively, an "Affiliate"); and (ii) Licensee may delegate its rights under any License to an Affiliate, provided, however, that Licensee remains solely liable to Licensor for all rights and obligations under this Agreement with respect to any such License. For purposes of this Agreement, a sale, assignment, transfer or sublet shall be deemed to occur if in a single transaction or in a series of transactions any equity interest in Licensee or in any Person that directly or indirectly controls Licensee is transferred, diluted, reduced or otherwise affected; provided, however, that an assignment, sale, transfer or sublet shall not be deemed to occur if the ownership change to Licensee or any such Person is less than 50% of the voting securities or other voting rights of Licensee or of such Person or of the beneficial interests of Licensee or such Person.

17.4 No Third Party Beneficiaries. Except with respect to Licensor Indemnities or Licensee Indemnities, this Agreement is intended to benefit only the Parties. It is not intended to, and shall not, create rights, remedies or benefits of any character whatsoever in favor of any Persons other than the Parties. The rights and obligations of each of the Parties under this Agreement are solely for the use and benefit of, and may be enforced solely by, the Parties, their successors in interest or permitted assigns.

17.5 Applicable Law. This Agreement has been made, and its validity, performance and effect shall be interpreted, construed, and enforced, in accordance with the laws of the State of California, without regard to its conflict of laws principles, and, where applicable, Federal Telecommunications Law and any other applicable Federal law.

17.6 Change of Law. In the event that any legislative, regulatory, judicial, or other action which would materially affect any of the terms of this Agreement becomes effective, then either Party may, upon thirty (30) days written notice, require that such terms be renegotiated, and the Parties expressly agree that they shall renegotiate in good

faith such mutually agreeable new terms. In the event that the Parties are unable to agree upon such new terms within a reasonable time period, then either Party may seek appropriate relief with the FCC, state regulatory commission if appropriate, or a court of competent jurisdiction.

17.7 Incorporation of Exhibits; Capitalized Terms. The Exhibits referenced in and attached to this Agreement form a part of and shall be deemed an integral part of this Agreement to the same extent as if written in whole herein. In the event of any inconsistency between the provisions of this Agreement and any Exhibits attached hereto, the provisions of this Agreement shall supersede the provisions of any such incorporated Exhibits unless such Exhibit specifies otherwise. Capitalized terms used in Exhibits but not otherwise defined in the Exhibits shall have the meanings given such terms in this Agreement.

17.8 Headings, Construction, Counterparts. The headings contained in this Agreement are solely for the convenience of the Parties and are not to be used or relied upon in any manner in the construction or interpretation of this Agreement. The use of the singular shall include the plural and vice versa, and the use of any gender shall include all genders. References herein to sections and Exhibits mean the sections and Exhibits of this Agreement. This Agreement has been fully reviewed and negotiated by the Parties and their counsel. Accordingly, this Agreement is the joint-product of the Parties and in interpreting this Agreement, no weight shall be placed upon which Party drafted or controlled the drafting of the provision being interpreted. This Agreement shall be construed and enforced without any presumption or construction against the Party drafting the document. Words having well-known technical or trade meanings will be so construed; and all listings of items will not be taken to be exclusive, but will include other items, whether similar or dissimilar to those listed, as the context reasonably requires. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts together shall constitute but one and the same instrument. This Agreement may also be executed via counterpart facsimiles upon (a) the telecopy or facsimile by each Party of a signed signature page thereof to the other Parties, with return receipt by telecopy or facsimile requested and received and (b) the Parties' agreement that they will each concurrently post, by overnight courier, a fully executed original counterpart of the Agreement to the other Parties.

17.9 Waiver. Any forbearance or delay in exercising any right hereunder or the failure to exercise such right shall not constitute a waiver. Any covenant, duty, obligation or undertaking required by the terms of this Agreement shall only be waived by the express written consent of the Party granting such waiver. A waiver granted on one occasion shall not be construed to constitute a waiver on any subsequent occasion.

17.10 Severability. Nothing contained in this Agreement shall be construed to require the commission of any act contrary to law, and wherever there is any conflict between any provision of this Agreement and any law, such law shall prevail. In such event, however, the provisions of this Agreement so affected shall be curtailed and limited only to the extent necessary to permit compliance with the minimum legal requirement, and no other provisions of this Agreement shall be affected thereby and all such other provisions shall continue in full force and effect.


17.11 Further Assurances. Each Party to this Agreement agrees to execute and deliver all documents and to perform all further acts and to take any and all further steps that may be reasonably necessary to carry out the provisions of this Agreement and the transactions contemplated hereby.

17.12 Survival. The covenants, agreements, indemnifications, representations and warranties contained in or made pursuant to this Agreement (including any Exhibits) shall survive the execution and delivery of this Agreement and any related documents and the closing. Similarly, any covenants, agreements, indemnifications, representations and warranties made by Licensee or on its behalf in any Exhibit, certificate, instrument or other document pursuant hereto or in connection herewith shall survive the execution and delivery of such Exhibit, certificate, instrument or document. All covenants, agreements, indemnifications, representations and warranties shall be considered to have been relied upon by Licensor regardless of any research or investigation made by Licensor or on its behalf. Additionally, all rights and remedies of a Party occasioned by any indemnification provisions or by the failure of the other Party to fulfill any of its obligations or liabilities under, relating to, or in connection with this Agreement shall survive any closing or termination of this Agreement and will continue in full force and effect thereafter.

17.13 Entire Agreement; Amendments. This Agreement (including the Exhibits hereto) embodies the entire agreement between Licensee and Licensor with respect to the subject matter of this Agreement supersedes all prior agreements and understandings, oral or written, with respect thereto. Each Party acknowledges that the other Party has not made any representations other than those that are contained herein. This Agreement may not be amended or modified orally, but only by an agreement in writing signed by the Party or Parties against whom any waiver, change, amendment, modification, or discharge may be sought to be enforced.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the Effective Date.

City of West Sacramento

BY: 
Name:

CITY MANAGER
Title:

1/17/18
Date

NEW CINGULAR WIRELESS PCS, LLC

By: AT&T Mobility Corporation
Its: Manager

BY: 
Name:

Michael Guibord
Title: Director
Construction & Engineering

12/20/17
Date

EXHIBIT A

Safety Specifications for Wireless Installations

- Antennas, feed lines, and radio equipment will be grounded in accordance with NESC and NEC requirements. Bonding of multiple ground systems will occur at the base of the pole and not at our neutral level or to any guy wires.
- Antennas feed lines will be covered by a riser as required by NESC requirements.
- The AC and DC power energy isolating device shall meet the requirements of OSHA 1910.147b.

Installation of the antenna and radio system:

- Pursuant to OSHA, only parties qualified to do electrical work can work above or at our power lines. Licensor shall provide Licensee with a list of approved contractors upon request.
- Other contractors may be used but Licensor will need to verify that they meet OSHA 1910.269 requirements. This will require a review by Licensor of a copy of contractor's Safety Program and by discussing the project with both its construction and safety departments.



ENCROACHMENT PERMIT APPLICATION

PERMIT NUMBER _____

PERMITTEE INFORMATION

(TO BE COMPLETED BY PERMITTEE, PLEASE PRINT)

LOCATION OF WORK OR PROJECT _____

ASSESSOR'S PARCEL NUMBER _____

PERMITTEE _____

CONTACT NAME _____

ADDRESS _____ CITY / STATE / ZIP _____

PHONE NUMBER / FAX NUMBER _____

PROJECT COST ESTIMATE: \$ _____

E-MAIL _____

CONTRACTOR INFORMATION

CONTRACTOR PERFORMING WORK _____

CONTACT NAME _____

ADDRESS _____ CITY / STATE / ZIP _____

PHONE NUMBER / FAX NUMBER / E-MAIL _____

CONTRACTOR'S LICENSE NO. _____ CLASS _____

BUSINESS LICENSE NO. _____

I have read, understand, and agree to comply with the permit conditions which are a part of this permit. I further agree to comply with the current City of West Sacramento Standard Specifications and Details, City Ordinances, and conditional requirements

PERMITTEE'S SIGNATURE _____

DATE _____

DESCRIPTION OF CONSTRUCTION: _____

INSURANCE

(TO BE COMPLETED BY CITY)

PERMITTEE'S INSURANCE CARRIER _____

POLICY NUMBER _____

EXPIRATION DATE _____

FEES

\$ _____ PERMIT FEE

24 HR. INSPECTION # 916-617-4692

\$ _____ CASH DEPOSIT PERFORMANCE BOND LETTER OF CREDIT OTHER

\$ _____ TOTAL AMOUNT PAID RECEIPT NUMBER _____

ENCROACHMENT PERMIT GENERAL REQUIREMENTS

AN ENCROACHMENT PERMIT MUST BE OBTAINED FROM THE ENGINEERING DIVISION FOR ANY WORK PERFORMED WITHIN A PUBLIC RIGHT-OF-WAY (STREET/ SIDEWALK/ CURB/ GUTTER) OR EASEMENT OR FOR WORK THAT MAY AFFECT THESE AREAS. THIS WORK GENERALLY INCLUDES, BUT IS NOT LIMITED TO, THE CONSTRUCTION OF CURB, GUTTER, SIDEWALK AND DRIVEWAYS; THE CONNECTION TO THE PUBLIC SEWER, WATER AND STORM DRAIN SYSTEM; INSTALLATION OF BACKFLOW ASSEMBLIES AND CLEANOUTS; POOL INSTALLATIONS. ALL WORK REQUIRED OF AN ENCROACHMENT PERMIT MUST BE COMPLETED PRIOR TO FINAL APPROVAL AND OCCUPANCY OF THE BUILDING.

IF THE PROPOSED SITE DEVELOPMENT IS TO BE LOCATED ON A STATE HIGHWAY (JEFFERSON BLVD., SACRAMENTO AVE. WEST OF JEFFERSON BLVD. OR REED AVE.) AND WORK WILL BE PERFORMED WITHIN THE STATE RIGHT-OF-WAY, AN ENCROACHMENT PERMIT FROM THE CALTRANS' DISTRICT 3 OFFICE IN MARYSVILLE WILL BE REQUIRED. CALTRANS' ENCROACHMENT PERMIT OFFICE CAN BE REACHED AT (530) 741-4403.

THE FOLLOWING ITEMS ARE PREREQUISITES FOR ISSUANCE OF A CITY OF WEST SACRAMENTO ENCROACHMENT PERMIT:

1. PAYMENT OF AN ENCROACHMENT PERMIT FEE IN ACCORDANCE WITH THE CURRENT ENGINEERING DIVISION FEE SCHEDULE C.

2. COMPLETE CITY OF WEST SACRAMENTO INSURANCE CERTIFICATES AND ENDORSEMENTS ISSUED BY THE ENGINEERING DIVISION. THE INSURANCE CARRIER OF THE OWNER, DEVELOPER, OR CONTRACTOR FOR THE SPECIFIC WORK MAY ACCOMPLISH THIS. BLANK INSURANCE CERTIFICATES AND ENDORSEMENTS ARE AVAILABLE AT THE ENGINEERING DIVISION OFFICE.

NOTE: THE PERMITTEE HAS THE OPTION TO SUBMIT INSURANCE CERTIFICATES AND ENDORSEMENTS ISSUED BY THEIR INSURANCE CARRIERS. IF THIS OPTION IS CHOSEN, THE PERMITTEE MUST ALSO SUBMIT A COPY OF THE ACTUAL INSURANCE POLICY FOR REVIEW AND APPROVAL BY THE ENGINEERING DIVISION.

3. A CASH DEPOSIT, PERFORMANCE BOND, LETTER OF CREDIT OR OTHER APPROVED FORM OF SECURITY SHALL BE SUBMITTED IN AN AMOUNT EQUAL TO 100% OF THE VALUE OF THE WORK PERFORMED WITHIN THE CITY RIGHT-OF-WAY OR EASEMENT TO ENSURE COMPLETION OF THE WORK. SECURITIES IN A FORM OTHER THAN CASH OR BOND WILL BE SUBJECT TO THE APPROVAL OF THE CITY ATTORNEY. SAMPLE BOND AND LETTER OF CREDIT FORMS CAN BE OBTAINED FROM THE ENGINEERING DIVISION, OR ARE AVAILABLE IN THE "APPLICATIONS" SECTION OF THE COMMUNITY DEVELOPMENT DEPARTMENT'S SECTION OF THE CITY'S WEBSITE.

NOTE: PERFORMANCE SECURITIES SUBMITTED FOR ISSUANCE OF THE ENCROACHMENT PERMITS WILL NOT BE RELEASED UNTIL ALL IMPROVEMENTS HAVE BEEN COMPLETED AND, THE ENCROACHMENT PERMIT HAS BEEN FINALED BY THE ENGINEERING DIVISION.

4. THE STATE OF CALIFORNIA CONTRACTOR'S LICENSE NUMBER OF THE PARTY TO PERFORM THE WORK SHALL BE ENTERED ON THE PERMIT. THE CLASS OF LICENSE SHALL BE, ACCORDING TO THE STATE OF CALIFORNIA LICENSING BOARD, APPROPRIATE FOR THE TYPE OF WORK ANTICIPATED.

5. THE APPLICANT SHALL FURNISH PROOF OF POSSESSION OF A CURRENT CITY OF WEST SACRAMENTO BUSINESS LICENSE OR A COPY OF A CURRENT BUSINESS LICENSE FROM THEIR HOME AGENCY.

6. A SITE PLAN ILLUSTRATING GENERAL LOCATION AND SCOPE OF THE WORK.

IF YOU OR YOUR CONTRACTOR HAVE ANY QUESTIONS REGARDING ENCROACHMENT PERMIT REQUIREMENTS, PLEASE CONTACT THE CITY'S ENGINEERING DIVISION PERMIT TECHNICIAN AT (916) 617-4645.

INSURANCE REQUIREMENTS FOR ENCROACHMENT PERMITS

Contractor shall procure and maintain for the duration of the Permit insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, or employees.

Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence for CG 0001)

Minimum Limits of Insurance

Contractor shall maintain limits no less than:

1. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the Entity. At the option of the Entity, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Entity, its officers, officials, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.

Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The Entity, its officers, employees and volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, occupied or used by the Contractor; or automobiles owned, leased or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the Entity, its officers, officials, employees or volunteers.
2. For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the Entity, its officers, employees and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the Entity, its officers, officials, employees or volunteers.
4. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Entity.

Acceptability for Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the entity.

Verification of Coverage

Contractor shall furnish the Entity with original endorsements effecting coverage required by this clause. The Endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on forms provided by the Entity. All endorsements are to be received and approved by the Entity before work commences. As an alternative to the Entity's forms, the Contractor's insurer may provide complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications.

Subcontractors

Contractor shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

CERTIFICATE OF INSURANCE					ISSUE DATE (MM/DD/YY)
FOR THE CITY OF WEST SACRAMENTO, CALIFORNIA (the "Entity")					
PRODUCER	THIS CERTIFICATE OF INSURANCE IS NOT AN INSURANCE POLICY AND DOES NOT AMEND, EXTEND, OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.				
INSURED	COMPANIES	BEST'S RATING			
	COMPANY LETTER	A	_____	_____	
	COMPANY LETTER	B	_____	_____	
	COMPANY LETTER	C	_____	_____	
	COMPANY LETTER	D	_____	_____	
COMPANY LETTER	E	_____	_____		
<p>This is to certify that the policies of insurance listed below have been issued to the insured named above for the policy period indicated. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued to may pertain, the insurance afforded by the policies described herein is subject to all terms, exclusions, and conditions of such policies. Limits shown may have been reduced by paid claims.</p>					
CO LET	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	ALL LIMITS IN THOUSANDS
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR <input type="checkbox"/> OWNER'S & CONTRACTOR'S PROT. <input type="checkbox"/> OTHER _____				GENERAL AGGREGATE \$ _____ PRODUCTS-COMP/OPS AGGREGATE \$ _____ PERSONAL & ADVERTISING INJURY \$ _____ EACH OCCURRENCE \$ _____ FIRE DAMAGE (any one fire) \$ _____ MEDICAL EXPENSE (Any on person) \$ _____
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS <input type="checkbox"/> GARAGE LIABILITY				COMBINED SINGLE LIMIT \$ _____ BODILY INJURY (PER PERSON) \$ _____ BODILY INJURY (PER ACCIDENT) \$ _____ PROPERTY DAMAGE \$ _____
	EXCESS LIABILITY <input type="checkbox"/> UMBRELLA <input type="checkbox"/> OTHER THAN UMBRELLA FORM				EACH OCCURRENCE \$ _____ AGGREGATE \$ _____
	<input type="checkbox"/> WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY				STATUTORY \$ _____ EACH ACCIDENT \$ _____ DISEASE - POLICY LIMIT \$ _____ DISEASE - EACH EMPLOYEE \$ _____
	PROPERTY INSURANCE <input type="checkbox"/> COURSE OF CONSTRUCTION				AMOUNT OF INSURANCE \$ _____
DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS					
<p>THE FOLLOWING PROVISIONS APPLY:</p> <ol style="list-style-type: none"> None of the above-described policies will be canceled until 30 days' written notice has been given to the Entity at the address indicated below. The Entity, its officials, officers, employees and volunteers are added as insureds on all liability insurance policies listed above. It is agreed that any insurance or self-insurance maintained by the Entity will apply in excess of and not contribute with, the insurance described above. The Entity is named as loss payee on the property insurance policies described above, if any. All rights of subrogation under the property insurance policy listed above have been waived against the Entity. The workers' compensation insurer named above, if any, agrees to waive all rights of subrogation against the Entity for injuries to employees of the insured resulting from work for the Entity or use of the Entity's premises or facilities. 					
CERTIFICATE HOLDER/ADDITIONAL INSURED			AUTHORIZED REPRESENTATIVE		
(ENTITY)			SIGNATURE _____		
			TITLE _____		
			PHONE NO. _____		

THIS ENDORSEMENT CHANGES THE POLICY, PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED
OWNERS, LESSEES OR CONTRACTORS (FORM B)**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

SCHEDULE

Name of Organization

(If no entry appears above, the information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you.

Modifications to ISO form CG 20 10 11 85:

1. The insured scheduled above includes the Insured's officers, officials, employees and volunteers.
2. This insurance shall be primary as respects the insured shown in the schedule above, or if excess, shall stand in an unbroken chain of coverage excess of the Named Insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the Insured scheduled above shall be in excess of this insurance and shall not be called upon to contribute with it.
3. The insurance afforded by this policy shall not be canceled except after thirty days prior written notice by certified mail, return receipt requested, has been given to the Entity.

Signature-Authorized Representative

Address

BONDING COMPANY

BOND NUMBER

PREMIUM: \$ _____

ENCROACHMENT PERMIT BOND

WHEREAS _____, as Principal, has applied to the City of West Sacramento for a Encroachment Permit for work to be performed at _____ in West Sacramento and Principal agrees to perform certain designated improvements required under said permit and said permit is hereby referred to and made apart hereof; and

WHEREAS, said Principal is required under the terms of said permit to furnish a bond for the faithful performance of said permit.

NOW, THEREFORE, we, the Principal and _____ as surety, are held and firmly bound unto the City of West Sacramento (herein called "City"), in the penal sum of _____ Dollars (\$ _____) lawful money of the United States, for the payment of which sum will and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above bounded Principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the said permit, and any alteration thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby, and in addition to the face amount specified therefore, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by the City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the permit or to the work to be performed thereunder, or the specifications accompanying the same in anywise affect its obligations on thisw bond, and it does hereby waive notice of any such change, ext ension of time, alteration or addition to the terms of the permit, or to the work, or to the specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and surety above named on _____, 20_____.

Bonding Company

BY: _____
(Signature)

Applicant

BY: _____
(Signature)

EXHIBIT B

APPLICATION FOR PERMIT