

LICENSE AGREEMENT

THIS license agreement and special permit (hereinafter "License Agreement") is entered into on this ____ day of _____, 2018, between the City of Columbia, a municipal corporation (hereinafter "City") and Cellco Partnership d/b/a Verizon Wireless (hereinafter "Licensee").

WHEREAS, Licensee and City are parties to a Parkside Drive Tower Co-Location Agreement dated October 17, 2006 (hereinafter, the "Co-Location Agreement"), and

WHEREAS, Licensee desires to install, construct, maintain, operate, repair and replace utility lines, including fiber optic cables and conduit to and from the Parkside Drive tower located on City property, and

WHEREAS, City, through City's Parks and Recreation Department, uses this property for park and recreation purposes, and

WHEREAS, City is willing to grant Licensee a revocable license that is only a privilege to enter the park property for this limited specific purpose and this license does not vest any title, interest or estate in the Licensee with terms and conditions required by City; and

WHEREAS Licensee understands and agrees that it is the intention of City only to grant a license; and

WHEREAS, City and Licensee desire to enter into this License Agreement specific to the particular circumstances of this project only.

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated into this License Agreement by reference, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Grant of License**

City owns park property (the "Property"), as legally described in "Exhibit A," attached hereto and incorporated herein by reference, in Columbia, Missouri, commonly known as Cosmopolitan Recreation Area. City agrees to allow Licensee to use a strip of land across the Property during the term of this License Agreement, as provided in Section 2, below. This licensed area (hereinafter "Licensed Area") is more particularly

outlined and legally described in "Exhibit B," attached hereto and incorporated herein by reference.

2 Term of License

This License Agreement shall be effective as of the day and year first above written and shall continue in effect until revoked as provided herein or by operation of law or upon the expiration or early termination of the Co-Location Agreement, or as expressly provided herein.

3. Non-exclusive Use of the Premises

The Licensed Area may be used on a nonexclusive basis by Licensee for the sole purposes of the installation, construction, maintenance, operation, repair or replacement of utilities, including fiber optic cable and conduit. All utilities located, placed or constructed by Licensee shall remain the personal property of Licensee and may be removed by Licensee at its sole option at any time during the term of this License Agreement, unless as otherwise stated in this License Agreement.

The City owns and maintains the Property primarily as a park for the benefit of the residents of City. The license granted for the Licensed Area is as an accommodation to Licensee and is not an agreement by City to create a transferable business interest in City property for the benefit of Licensee, or to subordinate City's use of the property to Licensee. Licensee's use of the Property in the Licensed Area and its utilities is contractual only. This License Agreement does not grant Licensee any easement rights over City property.

4. Construction on Premises

All installation, relocation and removal of Licensee's utilities must have prior approval of the City. Licensee shall be responsible to City for any damage to the Property, or any equipment on the Property, or to any neighboring land or property on neighboring land caused by Licensee, its employees, contractors or agents. Licensee shall ensure that any damage to the Property is repaired, the Property restored and any damaged property is repaired or replaced, to the satisfaction of the property's owner. At the conclusion of construction and installation of the utilities, Licensee will restore the ground around the park to its original contour, removing all ruts and reseeding or resodding or repouring any surface; replace any trees or landscaping; replace any improvements; all to the reasonable satisfaction of City. Notwithstanding any other section of this License Agreement, failure to repair or restore damaged land or property within thirty (30) days of written notice from the City of such damage may be considered by City as reason to terminate this License Agreement and revoke the license immediately at the discretion of the Director of the Parks and Recreation Department (hereinafter "Director").

5. Conditions and stipulations of the License

The Licensee is subject to the following conditions and stipulations:

5.1. This license is for the exclusive purpose of installation, construction, improvement, repair, operation and maintenance of Licensee's utilities in the above described Licensed Area. This license is not transferable.

5.2. This license does not grant Licensee or any of its officers, agents or employees the right to cut, break, alter or damage other utility lines or park facilities located within, or to be located in the future within, the Licensed Area or located on City's adjacent property without Licensee receiving prior written consent from the Director.

5.3. Licensee will be responsible for the costs of any future repairs, maintenance or replacements to the adjacent utility lines or park facilities which result from Licensee's use under this license.

5.4. Licensee agrees utilities to be installed shall be installed with at least a 24-inch separation from sewer or water lines, which may be located within or near the Licensed Area.

5.5. Upon one hundred and eighty (180) days advance notice, Licensee will relocate its utilities, if requested to do so by City. Any such relocation must be reasonable. The reasonable cost of such relocation of Licensee's utilities shall be paid by Licensee; provided, however, in the event City requires more than one (1) relocation within any rolling five (5) year period, City shall reimburse Licensee for any reasonable relocation costs.

5.6. If Licensee's utilities are no longer being utilized by Licensee, and Licensee has abandoned the installed fiber and conduit in place, all rights herein granted shall terminate and Licensee shall have no further rights under this License Agreement.

6. License Fees

As full consideration for the license, Licensee agrees to pay to City a one-time, nonrecurring fee of Fifteen Thousand Dollars (\$15,000.00), which is due and payable to City within ninety (90) days after full execution of the License Agreement.

7. Termination of Agreement

7.1. Except as otherwise provided herein, this License Agreement may be terminated:

- (1) After the initial five (5) year term of the license by either Licensee or City, upon) twelve (12) months prior written notice to the other..
- (2) Upon a default of any covenant or term hereof by the other party, which default is not cured within sixty (60) days of receipt of written notice of default.
- (3) Automatically upon the termination or expiration of the Co-Location Agreement.

7.2. Upon termination of this License Agreement, whether by revocation of the license, termination, cancellation, forfeiture or otherwise, the parties may agree in writing to allow any installed fiber and conduit, or other improvement, to remain in place. Otherwise, Licensee shall have the right to remove from the site all utilities and improvements installed or placed in the site by Licensee unless otherwise stated in this License Agreement. Licensee shall have ninety (90) days after termination of this License Agreement within which to dismantle and remove the utilities and improvements it has made and, upon removal, Licensee shall be responsible to City for any damage to the Licensed Area, or any equipment on the Property, or to any neighboring land or property on neighboring land, caused by Licensee, its employees, contractors or agents. Licensee shall ensure the damage to the land is repaired, the land restored and any damaged property is repaired or replaced, to the satisfaction of the property's owner. At the conclusion of dismantling and removing the utilities and improvements, Licensee will restore the ground around its utilities and improvements to its original contour, removing all ruts and reseeding or resodding or repouring any surface; replace any trees or landscaping; replace any improvements of City or others; all to the satisfaction of City. If Licensee fails to remove its utilities and other improvements within the ninety (90) day period, such equipment and improvements shall become the property of City and City may remove the utilities. Any costs of removal of utilities shall be borne by Licensee; any costs to restore the Licensed Area shall be borne by the Licensee.

Licensee shall reimburse City within thirty (30) days of Licensee's receipt of an invoice from City, for all costs incurred by City for removal of utilities, restoration and other costs to City under this provision. This provision shall survive the expiration or early termination of the License Agreement.

8. Compliance with Laws

Licensee shall install and operate its utilities and use the Licensed Area in a manner which complies with all laws, regulations and rules of federal, state and municipal agencies governing the installation, operation, and use of the site.

9. Liens and Encumbrances

Pursuant to this License Agreement, Licensee has no power, authority or right to create or permit any lien or encumbrance, including, without limitation, tax liens, mechanics liens, or other liens or encumbrances with respect to work performed or equipment furnished, in connection with the installation, repair, maintenance, or operation of its utilities.

10. Insurance

10.1. Commercial General Liability. Licensee will procure and maintain a commercial general liability insurance policy with a limit of two million dollars (\$2,000,000) per occurrence, and three million dollars (\$3,000,000) general aggregate including contractual liability, cross liability and products/completed operations. Coverage to be provided shall be an insurance company authorized to do business in the State of Missouri with an A.M. Best minimum rating of A-VII. If the contract involves any underground/digging operations, the general liability certificate shall include X, C and U (Explosion, Collapse and Underground) coverage.

10.2. Workers' Compensation Insurance & Employers' Liability. Licensee agrees to take out and maintain during the life of this License Agreement, Workers' Compensation Insurance in compliance with the statutory requirements of the State of Missouri and Employer's Liability with a limit of One Million Dollars (\$1,000,000.00) each accident/disease/policy limit covering all of their employees employed at the site of the work.

10.3. Additional Insured. Licensee agrees to include the City of Columbia as an Additional Insured as their interest may appear under this License Agreement by blanket additional insured endorsement, or similar endorsement, to the Commercial General Liability.

11. Indemnification and Hold Harmless

To the fullest extent not prohibited by law, Licensee shall indemnify, hold harmless and defend the City, its directors, officers, agents and employees from and

against all claims, damages, losses and expenses (including but not limited to attorney's fees) arising by reason of any negligence, or willful misconduct, of Licensee, of any subcontractor (meaning anyone, including but not limited to consultants having a contract with Licensee or a subcontractor for part of the services), of anyone directly or indirectly employed by Licensee or by any subcontractor, or of anyone for whose acts the Licensee or its subcontractor may be liable, in connection with providing these services except as provided in this License Agreement. This provision does not, however, require Licensee to indemnify, hold harmless or defend the City from its own negligence or willful misconduct, except as set out herein.

12. Notice

All notices must be in writing and are effective when deposited in the U.S. Mail certified and postage prepaid, or when sent via overnight delivery, to the address set forth below or as otherwise provided by law.

For Notice to Licensee:
Cellco Partnership
d/b/a Verizon Wireless
Attention: Network Real Estate
180 Washington Valley Road
Bedminster, New Jersey 07921

For Notice to City:
City of Columbia
City Manager's Office
P.O. Box 6015
Columbia, MO 65205-6015

Either party may change the address to which or official to whom notice is to be given by giving notice of the change to the other party.

13. Taxes

Licensee will be responsible for payment of all personal property and other taxes assessed upon and arising from its use of the utilities at City's Property.

14. Governing Law/Jurisdiction

This License Agreement shall be construed in accordance with the laws of Missouri. Should any part of this License Agreement be litigated, venue shall be proper only in the Circuit Court of Boone County, Missouri or the United States District Court for Western Missouri. If any term of this License Agreement is found by a court of competent jurisdiction to be void or invalid, such finding shall not affect the remaining terms of this License Agreement, which shall remain in effect.

15. Assignment

Neither party shall assign this License Agreement or its rights and obligations hereunder without the prior written consent of the other party. Notwithstanding, no

consent shall be required for an assignment or other transfer to a parent, subsidiary of or an entity controlled by Licensee, under common control with Licensee, controlling Licensee or is merged or consolidated with Licensee.

16. Non Waiver

In no event shall the language of this License Agreement constitute or be construed as a waiver or limitation for City's rights and defenses with regard to the applicable sovereign, governmental or official immunities and protections as provided by federal and state constitution and law.

17. No Attorneys' Fees

Each party hereto agrees that in any action to enforce the terms of this License Agreement, each party shall be responsible for its own attorneys' fees and costs.

18. Sole Benefit of Parties

This License Agreement is for the sole benefit of City and Licensee. Nothing in this License Agreement is intended to confer any rights or remedies on any third party.

19. Entire Agreement

This License Agreement constitutes the entire agreement and understanding of the parties. No modification, amendment or waiver of any provisions of this License Agreement or any of the rights or obligations arising hereunder shall be valid unless in writing and executed by both parties. This License Agreement supersedes any prior agreements or understandings between them with respect to Licensed Area whether written or oral. This License Agreement is subject to and contingent upon the approval of the City Council of the City.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have caused this agreement to be executed by their duly authorized agents on the day and year first above written.

CITY OF COLUMBIA, MISSOURI

By: _____
Mike Matthes, City Manager

Date: _____

ATTEST:

By: _____
Sheela Amin, City Clerk

APPROVED AS TO FORM:

By: _____
Nancy Thompson, City Counselor 5

STATE OF MISSOURI)
) ss
COUNTY OF BOONE)

On this _____ day of _____, 2018, before me appeared Mike Matthes, to me personally known, who, being duly sworn, did say that he is the City Manager of the City of Columbia, Missouri, and that the seal affixed to the foregoing instrument is the corporate seal of the City and that this instrument was signed and sealed on behalf of the City by authority of its City Council and the City Manager acknowledged this instrument to be the free act and deed of the City.

IN TESTIMONY WHEREOF, I have hereunto set by hand and affixed my official seal, at my office Columbia, Boone County, Missouri, the day and year first above written.

Notary Public

My commission expires: _____

Exhibit A

Description of Property

THE EAST HALF (E 1/2) OF SECTION THREE (3), THE WEST HALF (W 1/2) OF SECTION TWO (2), THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION ELEVEN (11) AND THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION TEN (10), ALL IN TOWNSHIP FORTY-EIGHT (48) NORTH, RANGE THIRTEEN (13) WEST, OF THE FIFTH (5TH) PRINCIPAL MERIDIAN, IN THE CITY OF COLUMBIA, BOONE COUNTY, MISSOURI, AND THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION THIRTY-FOUR (34) AND THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION THIRTY-FIVE (35), BOTH IN TOWNSHIP FORTY-NINE (49) NORTH, RANGE THIRTEEN (13) WEST, OF THE FIFTH (5TH) PRINCIPAL MERIDIAN, IN THE CITY OF COLUMBIA, BOONE COUNTY, MISSOURI, AND LOTS 1, 2, 9, 10, 11, 12 AND 13 OF LEVI M. GARRISON'S SUBDIVISION IN THE CITY OF COLUMBIA, BOONE COUNTY, MISSOURI, AS SHOWN BY THE PLAT RECORDED IN PLAT BOOK 1, PAGE 29, RECORDS OF BOONE COUNTY, MISSOURI.

Exhibit B
Licensed Area

PREPARED BY,
RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

Stinson Leonard Street LLP
1201 Walnut, Suite 2600
Kansas City, Missouri 64106
Attention: Anissa Christeson
(Site Name: COLP Bear Creek)

(Space above this line for Recorder's use.)

MEMORANDUM OF LICENSE AGREEMENT

THIS MEMORANDUM OF LICENSE AGREEMENT evidences that a License Agreement ("License") was entered into on the ____ day of _____, 20____, by and between the City of Columbia, Missouri ("Grantor"), with an address at 700 East Broadway, Columbia, Missouri 65205, and Cellco Partnership d/b/a Verizon Wireless ("Grantee"), with offices located at Attention: Network Real Estate, 180 Washington Valley Road, Bedminster, New Jersey 07921, for certain real property located within the property of Grantor which is described in Exhibit "A" attached hereto ("Grantor's Property"), for a term coinciding with the term of the Parkside Drive Tower Co-Location Agreement, dated October 17, 2006, including any renewals thereof, between Grantor and Grantee, as described in the Memorandum of Tower Co-Location Agreement, recorded March 6, 2007 in Book 3103, at Page 158.

Pursuant to the License, Grantor conveyed to Grantee a utility license over, under, and across the Grantor's Property, as more specifically described in Exhibit "B" attached hereto.

IN WITNESS WHEREOF, Grantor and Grantee have duly executed this Memorandum as of the day and year first above written.

GRANTOR:

City of Columbia, Missouri

By: _____

Name: _____

Title: _____

Date: _____

GRANTEE:

Cellco Partnership
d/b/a Verizon Wireless

By: 

Name: Steve Levar

Title: Director Network Field Engineering

Date: 5/18/2018

STATE OF _____)
) SS.
COUNTY OF _____)

On _____, 20____, before me, _____, notary public, personally appeared _____, as _____ of the City of Columbia, Missouri, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____ (Seal)

Print Name: _____

STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

On May 18, 2018, before me, James D. Harwell, notary public, personally appeared Steve Lehar, _____ of Cellco Partnership d/b/a Verizon Wireless, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature James D. Harwell

(Seal)

Print Name: James D. Harwell

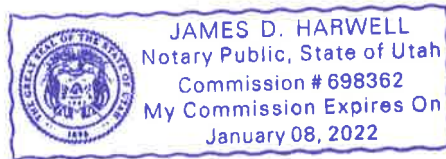


EXHIBIT "A"

Legal Description of Grantor's Property

THE EAST HALF (E 1/2) OF SECTION THREE (3), THE WEST HALF (W 1/2) OF SECTION TWO (2), THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION ELEVEN (11) AND THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION TEN (10), ALL IN TOWNSHIP FORTY-EIGHT (48) NORTH, RANGE THIRTEEN (13) WEST, OF THE FIFTH (5TH) PRINCIPAL MERIDIAN, IN THE CITY OF COLUMBIA, BOONE COUNTY, MISSOURI, AND THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION THIRTY-FOUR (34) AND THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION THIRTY-FIVE (35), BOTH IN TOWNSHIP FORTY-NINE (49) NORTH, RANGE THIRTEEN (13) WEST, OF THE FIFTH (5TH) PRINCIPAL MERIDIAN, IN THE CITY OF COLUMBIA, BOONE COUNTY, MISSOURI, AND LOTS 1, 2, 9, 10, 11, 12 AND 13 OF LEVI M. GARRISON'S SUBDIVISION IN THE CITY OF COLUMBIA, BOONE COUNTY, MISSOURI, AS SHOWN BY THE PLAT RECORDED IN PLAT BOOK 1, PAGE 29, RECORDS OF BOONE COUNTY, MISSOURI.

EXHIBIT "B"

Grantee's Utility License

A 10 foot wide Utility Right of Way, situated in the Northwest Quarter of Section 2, Township 48, Range 13, in Boone County, Missouri, lying 5.00 feet on each side of the following described centerline:

COMMENCING at the Southwest Corner of a 60 foot by 60 foot Lease Area described in Book 3103, Page 158; thence along the Southerly line thereof, South 68°50'56" East, a distance of 7.28 feet to the POINT OF BEGINNING of said centerline; thence South 41°58'20" West, a distance of 118.82 feet; thence South 36°21'02" West, a distance of 199.94 feet; thence South 36°53'44" West, a distance of 216.06 feet; thence South 36°51'28" West, a distance of 177.17 feet; thence South 04°40'57" East, a distance of 174.06 feet; thence South 31°59'47" West, a distance of 185.08 feet; thence South 01°18'43" East, a distance of 156.71 feet; thence South 23°51'04" East, a distance of 81.74 feet; thence South 00°46'38" East, a distance of 266.70 feet; thence South 10°15'55" West, a distance of 135.56 feet; thence South 31°47'18" East, a distance of 125.74 feet; thence South 00°08'43" East, a distance of 237.16 feet; thence South 48°33'47" East, a distance of 135.61 feet; thence South 02°08'21" West, a distance of 119.69 feet; thence South 02°24'16" West, a distance of 166.00 feet; thence South 07°16'41" East, a distance of 34.05 feet, more or less, to the Northerly Right of Way line of PARKSIDE DRIVE (Public Right of Way) and the POINT OF TERMINATION.