

**WIRELESS COMMUNICATIONS FACILITIES  
MASTER LICENSE AGREEMENT**

THIS SMALL WIRELESS COMMUNICATIONS FACILITIES MASTER LICENSE AGREEMENT ("Agreement") is entered into this \_\_\_\_\_ day of April, 2021 ("Effective Date"), by and between the Town of Waterford (the "Town") and Celco Partnership d/b/a Verizon Wireless ("Licensee"). The Town and Licensee are at times collectively referred to hereinafter as the "Parties" or individually as the "Party."

**RECITALS**

WHEREAS, the Town owns, operates, maintains or otherwise controls the public rights-of-way (ROW) situated within its jurisdictional boundaries and owns as its personal property a certain number of poles located in the public rights-of-way; and

WHEREAS, Licensee owns and/or controls, maintains and operates a wireless communications network, for which Licensee desires to install, attach, operate and maintain Small Wireless Facilities in the Town's public rights-of-way as provided herein; and

WHEREAS, the Town recognizes that small wireless facilities are critical to delivering reliable access to wireless telecommunications technology, broadband and 9-1-1 services to homes, businesses, schools within the Town; and

WHEREAS, the Town recognizes the need for Small Wireless Facilities, including facilities commonly referred to as "small cells" and "distributed antenna systems," to allow access to advanced technologies wirelessly, which may be deployed in the public rights-of-way pursuant to applicable laws; and

WHEREAS, the Parties acknowledge and agree that the purpose of this Agreement is to permit the deployment of Small Wireless Facilities within the Town's public rights-of-way, subject to all applicable laws, including but not limited to the rules, regulations and orders of the Federal Communications Commission, as further described herein, and any rules, regulations and orders of the New York State Public Service Commission.

ACCORDINGLY, in consideration of the covenants of this Agreement and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the Parties, the Parties agree as follows:

1. Definitions:

- a. "Application" means a request submitted by Licensee (i) for a small cell building/work permit to collocate small wireless facilities in a ROW; and/or (ii) to approve the installation or modification of a utility pole in a ROW.
- b. "Town Owned Pole" means (i) a utility pole owned or operated by the Town in the rights-of-way, including a utility pole that provides lighting or traffic

control functions, including light poles, traffic signals, and structures for signage, and (ii) a pole or similar structure owned or operated by the Town in the ROW that supports only Wireless Telecommunications Facilities.

- c. "Collocate" means to install, mount, maintain, modify, operate, or replace wireless telecommunications facilities on or adjacent to a wireless support structure or utility pole. "Collocation" has a corresponding meaning.
- d. "Commencement Date" means the first day of the month following the date that is 180 days from the date of the fully approved or fully executed (as applicable) Pole License.
- e. "Equipment" means equipment, technologies, frequencies and related fiber, power, and other materials reasonably necessary to access, connect, operate and provide power to its equipment to enable wireless telecommunications.
- f. "Rights-of-Way" or "ROW" means the area on, below, or above a roadway, highway, street, sidewalk, alley, utility easement, or similar property, in the Town of Waterford and owned by the Town.
- g. "Small Cell Building/Work Permit" means a permit issued by the Town authorizing the installation of a small wireless facility.
- h. "Small Wireless Facilities" or "Small Cell" are defined as those meeting the following conditions:
  - i. The facilities:
    - 1. are mounted on structures 50 feet or less in height including their antennas, or
    - 2. are mounted on structures no more than 10 percent taller than adjacent structures, or
    - 3. do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;
  - ii. Each antenna associated with the deployment, excluding associated antenna equipment, is no more than 3 cubic feet in volume, and
  - iii. All other wireless equipment associated with the structure including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume.
- i. "Utility Pole" means a pole or similar structure that is used in whole or in part for the purpose of carrying electric distribution lines or cables or wires for

telecommunications, cable or electric service, or for lighting, traffic control, signage, or a similar function regardless of ownership, including Town-Owned Poles. Such term shall include structures supporting only Wireless Telecommunications Facilities.

- j. "Wireless Telecommunications Facility" means equipment at a fixed location that enables wireless telecommunications between user equipment and a communications network, including: (i) equipment associated with wireless telecommunications; and (ii) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term does not include the structure or improvements on, under, or within which the equipment is collocated.

2. Grant.

- a. Subject to applicable laws and this Agreement, the Town grants Licensee a nonexclusive license to:
  - i. access, use and occupy the Town's ROW 7 days a week, 24 hours a day, for the installation, construction, use, maintenance, operation, repair, modification, replacement and upgrade of equipment, technologies, frequencies and related fiber and materials reasonably necessary to access, connect, operate and provide power to its equipment ("Equipment") that enables Licensee's wireless communications ("Licensee Use");
  - ii. use, collocate on, and/or replace Town Owned Poles for Licensee's Use;
  - iii. use privately owned or controlled Utility Poles, including replacement Utility Poles, for Licensee's Use in the ROW pursuant to agreement with the entity owning the poles ("Privately Owned Poles"); and
  - iv. Use, install, replace or remove Utility Poles in the ROW which are owned or controlled by Licensee ("Licensee Owned Poles") (the poles identified in subclauses (ii), (iii) and (iv) are collectively referred to as "Poles").
- b. Licensee's Use of Town Owned Poles shall, in accordance with Section 5, require the Town's issuance of a Pole License (defined below).
- c. Licensee's Use for attachments to Utility Poles in the ROW which are owned by Licensee or by a third party shall not require a Pole License; however, upon request, Licensee shall provide the Town a certification of authorization to attach to such third-party structures.
- d. The Town expressly reserves for itself the rights and uses of the ROW for its public purposes and for the public's health, safety and general welfare. Licensee shall be required to first obtain a Small Cell Building/Work Permit prior to Licensee's Use as

further described in Section 5.

3. Term of Agreement. The term of this Agreement shall be for 15 years beginning on the Effective Date (the "Term"). Unless either Party provides written notice to the other Party at least ninety 90 days prior to expiration of the Term that such Party will not renew the Term, the Term will automatically renew for 1 additional 15year period. After the expiration or earlier termination of this Agreement, it shall apply to all Pole Licenses entered into hereunder until the expiration or termination of such Pole Licenses.

4. Fees. Licensee shall pay to the Town the Fees set forth in the "Fee Schedule" attached hereto and made a part hereof as Exhibit A.

a. Licensee shall pay the one-time application fee with submission of the Pole Application (defined in Section 5(a) to the Town's Building Department.

b. Licensee may make payments for the one time application fee by check made out to the order of the Town of Waterford and sent to the following address

Town of Waterford Building Department  
Attn: Building Inspector  
65 Broad Street  
Waterford, NY 12188

c. Licensee shall pay the initial recurring fee within 90 days of the Commencement Date, prorated on a monthly basis, and pay subsequent recurring fees, in advance, on or before January 1st of each subsequent year. Notwithstanding the foregoing, no recurring payment shall be due until 90 days after the Commencement Date.

d. Before any recurring fees are paid, the Town shall provide Licensee a completed, current Internal Revenue Service Form W-9 and state and local withholding forms if required.

e. Licensee may make payments by check made out to the order of the Town of Waterford and sent to the following address:

Town of Waterford  
Supervisor's Office  
Attn: Budget Officer  
65 Broad Street  
Waterford, NY 12188

5. Pole License.

a. Prior to installing any Equipment, new Poles, replacement Town Owned Poles, or Privately Owned Poles, Licensee shall file an Application with the Town on the form attached hereto and made a part hereof as Exhibit B (the "Pole Application")

for one or more poles. Within 60 days of receipt of a Pole Application for Equipment or replacement of Town Poles or Privately Owned Poles the Town shall, in writing, approve or reject the Pole Application, otherwise the Pole Application shall be deemed approved. Within 90 days of receipt of a Pole Application for new Pole, the Town shall, in writing, approve or reject the Pole Application, otherwise the Pole Application shall be deemed approved. If the Town timely rejects the Pole Application, the review period will be suspended until Licensee cures the non-compliance. Upon approval, a Pole Application for use of a Town Owned Pole shall be deemed to be a separate pole license ("Pole License") for each pole included in the Pole Application.

- b. The Town may reject a Pole Application for any reason permitted under applicable laws, which must be specified with reasonable detail in the written rejection, such as:
  - i. concerns about structural capacity, safety, reliability, or generally applicable engineering practices;
  - ii. Pole Application is incomplete;
  - iii. proposed Equipment exceeds the height, dimension or other parameters for Small Wireless Facilities under applicable law;
  - iv. design documents attached to the Pole Application do not comply with this Agreement or with the Town's pole attachment laws for traffic signal poles, interfere with the Town's public safety radio system, traffic signal light system, or other communications components, or do not comply with the Design Considerations (as defined below)
  - v. Pole Application does not include a load bearing study; or
- c. Licensee's Use shall comply with the Town's published Design Considerations at all times, including any and all replacement and reinforcement work, except that changes made to the Design Considerations shall not be applied retroactively unless required by applicable state or federal law during the term of this Agreement. Any aesthetic or other design criteria for Small Wireless Facilities and Poles upon which Small Wireless Facilities are attached (collectively the "Design Considerations"), as promulgated by the Town Engineer and Town Planner, shall apply only if the criteria are (i) reasonable, (ii) applied equally and in a non-discriminatory manner to other similar types of infrastructure deployments within the ROW, (iii) objective and published in advanced of an Application submitted hereunder, and (iv) comply with applicable federal and state laws. The Parties agree that the Design Considerations published as of the Effective Date of this Agreement meet the criteria outlined in this sub-paragraph.

- d. Licensee shall pay for any electricity service for Small Wireless Facilities. As permitted by the electric provider, Licensee may install an electric meter on a Town Owned Pole or the ground adjacent to a Town Owned Pole.
  - e. The term of each Pole License shall be 10 years beginning on the Commencement Date. Unless Licensee provides written notice to the Town prior to the expiration of the then current term that Licensee will not renew any Pole License, each Pole License will automatically renew for 3 consecutive 5-year periods.
  - f. A Pole License may be terminated prior to the expiration of its term: (i) by the Town upon written notice to Licensee, if Licensee fails to pay any amount when due and such failure continues for 30 days after Licensee's receipt of notice of such failure; (ii) by either Party upon written notice to the other Party, if such other Party fails to comply with this Agreement and the Party has failed to initiate a cure within 60 days after receipt of written notice; (iii) by Licensee at any time for any reason or no reason; or (iv) by Licensee in the event that Licensee fails to timely obtain or maintain or is not satisfied with any governmental approval applicable to Licensee.
  - g. Following expiration or earlier termination of any Pole License, Licensee shall remove all Equipment from the Town Owned Poles and, other than reasonable wear and tear, repair and restore the Town Owned Poles and the ROW to its prior condition, unless the Town authorized otherwise. In the event that Licensee removes any Town Owned Poles pursuant to this Agreement, the Town shall retain ownership of any poles Licensee or its contractor removes and shall provide directions to Licensee for their reuse or disposal. Equipment installed pursuant to clauses (ii) or (iii) of Section 2 shall not be subject to removal under this Agreement but shall at all times remain subject to the Town Code (as defined below).
6. Permits/Town Code. While the requirements of the Code of the Town of Waterford ("Town Code") are in addition to the requirements of this Agreement, Licensee shall be required to apply for and obtain only those permits that are required of other occupants of the ROW. The Town may only impose on Licensee those conditions or restrictions on permits that are permitted by applicable laws and are necessary to protect structures in the ROW, to ensure the proper restoration of the ROW, to provide for protection and the continuity of pedestrian and vehicular traffic, and otherwise to protect the safety of the public's utilization of the ROW. Within 180 days after the Effective Date, the Town will consider revisions to the Town Code to conform to this Agreement and applicable law, and to clarify that Section of the Town Code (pertaining to "Telecommunications facilities") does not apply to Small Wireless Facilities.
7. Interference.
- a. Licensee will not cause interference to Town traffic, public safety or other communications signal equipment in the Town ROW. The Town agrees that it will not cause interference to Licensee's Equipment or Licensee's Use.

- b. If interference occurs, the non-interfering Party shall notify the interfering Party via telephone to Licensee's Network Operations Center at (800) 621-2622 or to the Highway Superintendent at (518) 235-3413, or the Town Police Dispatcher (518) 237-3341, and the Parties shall work together to cure the interference as soon as commercially possible.

8. Maintenance, Repairs and Modifications.

- a. Equipment Maintenance, Repairs and Modifications. Licensee shall keep and maintain all Equipment in commercially reasonable condition and in accordance with any applicable and non-discriminatory maintenance requirements of the Town. Licensee may conduct testing and maintenance activities, and repair and replace damaged or malfunctioning Equipment at any time. Licensee may maintain, repair, replace and make like-kind modifications to any Small Wireless Facility that do not materially change the size, height and weight of the Small Wireless Facility or exceed the structural capacity of the supporting structure without requiring additional applications, permits or other Town approval. Licensee shall obtain all required permits and prior approvals from the Town for all other work subject to the terms of this Agreement.
- b. Pole Repairs and Replacements. Licensee shall notify the Town if a Town pole for which Licensee has a Pole License is in need of repair or replacement. Upon receipt of such notice, the Town shall prompt repair or replace such pole, unless otherwise agreed by the Parties in the applicable Pole License. If the Town becomes aware of damage to a Town pole that supports the Equipment, the Town shall notify Licensee's Emergency Contact as soon as practicable. The Parties will use reasonable efforts to coordinate any necessary responses. In the event of any damage to a pole that impacts Licensee's Use, Licensee may repair or replace the pole with a like-kind pole at its own expense. Licensee may reinstall its Equipment after a damaged pole has been repaired or replaced. Licensee may temporarily use an alternative pole or structure reasonably acceptable to the Parties during repair or restoration of a pole.
- c. Emergency Events. The Town reserves the right to take all reasonable actions in the case of an emergency to protect the public health and safety of its citizens, and to ensure the safe operation of its rights of way and public facilities. In case of an emergency affecting the Equipment or Licensee's Use, Licensee may access the ROW and perform necessary repairs to its Equipment and to the pole, including the right to install a replacement pole, without first obtaining any otherwise necessary permit(s) or authorization(s). All emergency work in the ROW shall be conducted by Licensee in a safe and good workmanlike manner and in accordance with applicable laws.
- d. Emergency Contacts. Licensee's network operations center may be reached 24/7 at (800) 621-2622. The Town's 24/7 emergency contact information is the Town Police Dispatcher (518) 237-3341. Each Party will maintain the emergency contact information current at all times with the other Party.

9. Removal and Relocation. No later than 180 days after receipt of written notice from the Town, Licensee shall remove and may relocate the Equipment to an alternative location made available by the Town due to: (i) construction, expansion, repair, relocation, or maintenance of a street or other public improvement project; or (ii) maintenance, upgrade, expansion, replacement, or relocation of Town traffic signal poles and/or traffic signal light system; or (iii) permanent closure of a street or sale of Town property. The Town shall require removal or relocation only if necessary. If Licensee fails to remove or relocate any Equipment within 180 days, the Town shall be entitled to remove the Equipment at Licensee's expense. The Parties shall cooperate to the extent possible to assure continuity of service during any relocation. The Town shall use best efforts to provide a reasonably equivalent location that affords Licensee substantially similar engineering objectives.
  
10. Indemnity/Damages. Licensee shall indemnify, defend and hold the Town, its employees, officers, elected officials, agents and contractors (the "Indemnified Parties") harmless from and against all claims, suits, actions of any nature for injury, loss, damage, liability, costs or expenses arising from any third party claims resulting from Licensee's Use or Licensee's breach of this Agreement. Licensee's indemnity shall not apply to any liability resulting from the negligence or willful misconduct of the Town or other Indemnified Parties. The Town shall give prompt written notice to Licensee of any claim for which the Town seeks indemnification. Licensee shall have the right to investigate these claims. Licensee shall not settle any claim without reasonable consent of the Town, unless the settlement (i) will be fully funded by Licensee, and (ii) does not contain an admission of liability or wrongdoing by any Indemnified Parties. Neither Party will be liable under this Agreement for consequential, special, punitive or indirect damages, whether under theory of contract, tort (including negligence), strict liability, or otherwise.
  
11. Insurance.
  - a. Licensee and its subcontractors shall carry the following insurance: (i) commercial general liability insurance in an amount of \$3,000,000 per occurrence and \$4,000,000 general aggregate and which provides coverage for bodily injury, death, damage to or destruction of property of others, including loss of use thereof, and including products and completed operations; (ii) Workers' Compensation Insurance as required by law; and (iii) employers' liability insurance in an amount of \$500,000 bodily injury each accident, \$500,000 disease each employee, and \$500,000 disease policy limit.
  
  - b. The insurance coverages identified in this Section: (i) except the Workers' Compensation Insurance, shall include the Town as an additional insured as their interests may appear under this Agreement; (ii) will be primary and non-contributory with respect to any self-insurance or other insurance maintained by the Town; (iii) contain a waiver of subrogation for the Town's benefit; and (iv) will be obtained from insurance carriers having an AM. Best Co. (or its successor) rating of at least II A- VII ".



c. If requested, Licensee shall provide the Town with a Certificate of Insurance to provide evidence of insurance. Licensee will endeavor to provide the Town with thirty (30) days prior written notice of cancellation upon receipt of notice thereof from its insurer(s).

12. Assignment. Licensee may assign this Agreement, any Town Pole License, and/or related permits to any entity which (i) is an affiliate, subsidiary or successor of Licensee; or (ii) that acquires all or substantially all of the Licensee's assets in the market. Licensee shall provide the Town written notice of any such assignment. Otherwise, Licensee shall not assign or transfer this Agreement or the rights granted hereunder without the Town's written consent.

13. Notices. Notices required by this Agreement may be given by registered or certified mail by depositing the same in the United States mail or with a commercial courier. Unless either party notifies the other of a change of address, notices shall be delivered as follows:

If to Town:

Town of Waterford  
65 Broad Street  
Waterford, NY 12188  
Attn: Town Attorney

With a copy to:

Town of Waterford  
65 Broad Street  
Waterford, NY 12188  
Attn: Town Clerk

If to Licensee:

Cellco Partnership  
d/b/a Verizon Wireless  
180 Washington Valley Road  
Bedminster, NJ 07921  
Attn: Network Real Estate

With a copy to:

Cellco Partnership  
d/b/a Verizon Wireless  
100 Southgate Parkway  
Morristown, NJ 07960  
Attn: Legal Department

Notices shall be deemed effective upon delivery or refusal of delivery.

14. Change of Law. If any state or federal law sets forth a term or provision that is inconsistent with or different than this Agreement, then the Parties agree to promptly amend the Agreement to effect the term or provision set forth under such law.

15. Taxes. If the Town is required by law to collect any federal, state, or local tax, fee, or other governmental imposition (each, a "Tax") from Licensee with respect to the transactions contemplated by this Agreement, then the Town shall bill such Tax to Licensee in the manner and for the amount required by law. Licensee shall pay such billed amount of Tax to the Town, and the Town shall remit such Tax to the appropriate tax authorities as required by law. Licensee shall have no obligation to pay any Tax

for which Licensee is exempt. Otherwise, Licensee shall be responsible for paying all Taxes that are the legal responsibility of Licensee under applicable law.

16. Laws; Non-discrimination

- a. The Parties shall comply with applicable laws including, without limitation, regulations and judicial decisions, Federal Communications Commission regulations and order.
- b. Notwithstanding anything else in this Agreement, the Town shall treat Licensee in a manner that is competitively neutral, nondiscriminatory, consistent with all applicable laws, and is no more burdensome than other users of the ROW or Town poles.
- c. This Agreement shall not constitute a waiver of any party's rights under applicable laws.

17. Miscellaneous. This Agreement shall be governed by the laws of the State of New York and all other applicable laws. The provisions of this Agreement may be waived or modified only by written agreement signed by both Parties. This Agreement may be executed in counterparts. A scanned or electronic copy shall have the same legal effect as an original signed version. If one or more provisions in this Agreement is found to be invalid, illegal or otherwise unenforceable, all other provisions will remain unaffected and shall be deemed to be in full force and effect and the Parties shall amend this Agreement, if needed to give effect the original intent of the Parties. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors. Nothing in this Agreement shall be construed to grant Licensee an interest in the Town's ROW or the Town's assets located in the ROW. Neither Party shall be responsible for delays in the performance of its obligations caused by events beyond the Party's reasonable control. As to the subject matter hereof, this Agreement is the complete agreement of the Parties. The Parties represent and warrant that the individuals executing this Agreement are duly authorized.

*[Remainder of page intentionally left blank; signature page to follow.]*

IN WITNESS WHEREOF, the Parties have executed, or caused their respective duly authorized representatives to execute, this Agreement as of the day and year listed below.

**TOWN OF WATERFORD  
Wireless**

**Cellco Partnership d/b/a Verizon**

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

Printed name: John E. Lawler  
Title: Supervisor  
Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Office of the Town Attorney