



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
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Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

OFFICE OF CABLE TELEVISION
AND TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF MOBILITIE,) ORDER
LLC FOR APPROVAL OF A MUNICIPAL)
CONSENT PURSUANT TO N.J.S.A. 48:2-14)
) DOCKET NO. TE17080927

Parties of Record:

Jane C. Silver, Esq., Kutak, Rock, LLP on behalf of Mobilitie LLC, Petitioner
Stefanie A. Brand, Esq., Director, on behalf of the New Jersey Division of Rate Counsel

BY THE BOARD:

PROCEDURAL HISTORY AND BACKGROUND

By verified petition filed pursuant to N.J.S.A. 48:2-14 on August 22, 2017 (“Petition”), Mobilitie LLC¹ (“Mobilitie” or “Petitioner”) requested Board of Public Utilities (“Board”) approval of a Master License Agreement adopted by the Borough of Paramus (“Borough”) in Bergen County, New Jersey by Resolution dated December 20, 2016. This agreement grants Mobilitie the right to install, maintain and operate its facilities in local rights-of-way in order to provide customers within the Borough with telecommunications services.

According to Petitioner, it designs, builds and operates networks and infrastructure to deliver optimal wireless coverage. Petitioner maintains that its complete wireless infrastructure solutions include funding, designing, building, operating, and maintaining neutral host outdoor and indoor distributed antenna systems (“DAS”), small cells, Wi-Fi and communication towers. As described in the petition, the service anticipated involves the provision of wireless service and Petitioner has negotiated access with the town.

¹ On April 27, 2011, Petitioner was authorized to provide local exchange and interexchange telecommunications services within the State of New Jersey subject to the jurisdiction of the Board pursuant to the applicable provisions of Title 48 of the New Jersey statutes. See, I/M/O the Petition of Mobilitie, LLC d/b/a NYFI for Approval to Provide Local Exchange and Interexchange Telecommunications Services Throughout the State of New Jersey, BPU Docket No. TE10100771 (April 27, 2011).

Petitioner is providing transport, backhaul, and broadband data and other voice and data service as well as other infrastructure used by carriers, emergency responders, public safety agencies, backhaul providers and other companies within New Jersey. Petitioner states that it is currently working to develop a network of poles, conduits, lines, and microwave links for the purpose of providing these services.

On December 20, 2016, the Borough adopted Resolution 16-12-884 ("Resolution") granting municipal consent to Mobilitie to occupy the public rights-of-way within the Borough and authorizing the Borough to enter into a Master License Agreement ("MLA") with Mobilitie for the use of public rights-of-way.²

DISCUSSION AND FINDINGS

N.J.S.A. 48:2-14 provides that no privilege or franchise granted after May 1, 1911, to any public utility by a political subdivision in this state shall be valid until approved by the Board. It further states that the Board's approval shall be given when, after hearing, the Board determines that the privilege or franchise is necessary and proper for the public convenience and properly conserves the public interest.

Petitioner stated that it intends to build and operate a network and infrastructure to deliver optimal wireless coverage and that its complete wireless infrastructure solutions include funding, designing, building, operating and maintaining neutral host outdoor and indoor antenna systems, small cell, Wi-Fi and communication towers. Following submission of its petition, by letter dated October 18, 2017, the Petitioner stated that Mobilitie is in the process of rolling out a Hybrid Transport Network ("HTN") to deploy bandwidth in numerous municipalities throughout the state. HTN as described by Mobilitie provides backhaul connectivity services to wireless carriers and connects devices to the network where data is processed and routed. The description of services provided coupled with the narrative set out in the petition reflects that the communications services rendered are for the provision of wireless services.

While the Telecommunications Act of 1996, P.L.104-104, requires that a common carrier comport with the provisions of Title 47, there are distinctions within the law regarding wireline and wireless service. These distinctions dictate that separate applications and approvals are needed when offering service. Specifically, carriers must obtain the necessary approvals based upon the service rendered. Because the services described in the Master License Agreement outline the terms for the provisioning of wireless service and for the funding, infrastructure and building of wireless facilities in the State of New Jersey, the Agreement does not fall within the purview of the Board. Accordingly, N.J.S.A. 48:2-14 does not apply.

Based on a review of the entire record, the Board **HEREBY FINDS** that said record reflects that this Board has no jurisdiction over the requested wireless base facilities which are subject to local zoning as well as applicable federal law.

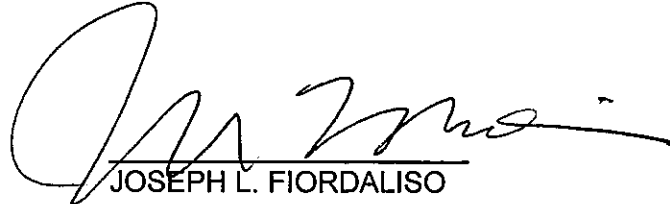
The Board **FURTHER FINDS** that the Master License Agreement for the use of the public rights of way granted to Mobilitie, LLC, by the Borough of Paramus does not require Board approval due to the lack of its jurisdiction over wireless base facilities. Therefore, the Board **HEREBY DISMISSES** the petition submitted by Mobilitie for lack of jurisdiction.

² The MLA was attached as Exhibit B to the Petition.

This order shall be effective February 10, 2018.

DATED: 1/31/18

BOARD OF PUBLIC UTILITIES
BY:



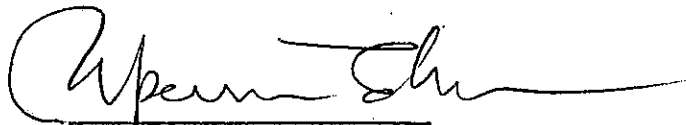
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PRESIDENT




MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER



UPENDRA J. CHIVUKULA
COMMISSIONER



RICHARD S. MROZ
COMMISSIONER

ATTEST: 

CARMEN D. DIAZ
ASSISTANT BOARD SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public Utilities.

I/M/O THE PETITION OF MOBILITIE, LLC FOR APPROVAL OF A MUNICIPAL CONSENT
PURSUANT TO N.J.S.A. 48:2-14

DOCKET NO. TE17080927

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Exhibit B

**MASTER LICENSE AGREEMENT BETWEEN THE
BOROUGH OF PARAMUS AND MOBILITIE, LLC,
FOR THE USE OF PUBLIC RIGHTS-OF-WAY**

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**MASTER LICENSE AGREEMENT BETWEEN THE
BOROUGH OF PARAMUS AND MOBILITIE, LLC,
FOR THE USE OF PUBLIC RIGHTS-OF-WAY**

This MASTER LICENSE AGREEMENT FOR THE USE OF PUBLIC RIGHTS-OF-WAY ("Agreement") is made and entered into by and between the Borough of Paramus ("Borough" or "Licensor"), and Mobilitie, LLC, a Nevada limited liability company ("Licensee"). Licensor and Licensee are at times collectively referred to hereinafter as the "Parties" or individually as the "Party."

WHEREAS, Licensee is the holder of Authority to Provide Resold and Facilities-Based Competitive Local Exchange Services, Docket No. TE1010077, from the State of New Jersey, which authorizes the provision of competitive local exchange services in the State of New Jersey;

WHEREAS, Licensee desires the use of the public rights-of-way for the purpose of installing, maintaining and operating communications facilities as defined by this Agreement pursuant to applicable law, in a manner consistent with the Borough's public rights-of-way regulations, and all other applicable local, state and federal regulations; and

WHEREAS, N.J.S.A. 48:17-10 and N.J.S.A. 40:67-1 authorize the Borough to grant municipal consent for the installation of public utility lines in its rights-of-way; and

WHEREAS, it is deemed to be in the best interest of the Borough and its citizenry, including the commercial and industrial citizens, for the Borough to grant municipal consent to Licensee to occupy said public rights-of-way within the Borough for this purpose and upon the terms and conditions set forth in this Agreement; and

WHEREAS, the granting of such consent is and shall be conditioned upon Licensee's continued compliance with all existing and future ordinances of the Borough and its compliance with the terms and conditions set forth in this Agreement.

NOW THEREFORE, IN RECOGNITION OF MUTUAL CONSIDERATION, THE ABOVE PARTIES AGREE TO THE FOLLOWING:

SECTION 1 DEFINITIONS

For purposes of this Agreement the following terms shall have the same meanings herein. When not inconsistent with the context, words in the plural number include the singular number, and words in the singular include the plural.

- (a) "Annual License Fee" means the annual rate described in Section 5 of this Agreement.
- (b) "Backhaul Equipment" means broadband backhaul transmission facilities, whether provided by landline communications infrastructure (including, without limitation, fiber, conduit and related equipment and improvements) ("Landline Backhaul Equipment") and/or wireless communications infrastructure (including, without limitation, wireless microwave and related cables, wires, equipment and improvements) ("Wireless Backhaul

Equipment") that interconnects with Wireless Communication Equipment at the Point-of-Demarcation and is for the purpose of providing Backhaul Service.

- (c) "Backhaul Service" means communications transport service, whether provided by Landline Backhaul Equipment or Wireless Backhaul Equipment that interconnects with the Wireless Communication Equipment at the Point-of-Demarcation.
- (d) "Borough Representative" means the Borough Administrator of the Borough, or his/her designee.
- (e) "Communication Facility" means Wireless Communication Equipment and/or Backhaul Equipment.
- (f) "Communication Service" means Wireless Communication Service and/or Backhaul Service.
- (g) "Communication Site" means a location in the Public Rights-of-Way selected for the Communication Facility.
- (h) "Communication Site Application" means a document, substantially in the form attached as Exhibit A, which shall identify the location of the proposed Communication Site, describe the characteristics of the proposed Communication Facility installation, and be accompanied by relevant documents to support approval of the proposed installation.
- (i) "Communication Sites Inventory" means an accurate and current inventory of all Communication Sites approved by Licensor pursuant to this Agreement.
- (j) "Effective Date" means the date on which this Agreement is approved by Borough Council.
- (k) "Point of Demarcation" means the point where the Wireless Communication Equipment terminate and interconnect with Backhaul Equipment.
- (l) "Right(s)-of-Way" or "Public Right(s)-of-Way" means the surface of, and the space above and below, any public street, road, highway, freeway, lane, path, public way or place, sidewalk, alley, boulevard, parkway, drive, or other easement now or hereafter-held by the Borough or over which the Borough exercises any rights of management control.
- (m) "Rights-of-Way Regulations" means all portions of Borough ordinances that concern the regulation or management of Public Rights-of-Way, which are applicable to all utilities operating within the Borough.
- (n) "Rights-of-Way Manager" means the Borough Engineer.
- (o) "Supplemental License" means a document, substantially in the form attached as Exhibit B. Each Communication Site installation will be subject to a Supplemental License.

- (p) "Transmission Media" means radios, antennas, transmitters, wires, fiber optic cables, and other wireless transmission devices which are part of the Wireless Communication Equipment.
- (q) "Unauthorized Communication Site" means use of Public Rights-of-Way for the installation of Communication Facility on Borough poles or poles owned by another party, or for the installation of Licensee poles or any other facilities, for which Licensee did not receive approval under this Agreement.
- (r) "Unauthorized Installation Charge" means the license fee payable by Licensee to Licensor under this Agreement for an Unauthorized Communication Site.
- (s) "Wireless Communication Service" means wireless, Wi-Fi, voice, data, messaging, or similar type of wireless service now or in the future offered to the public in general using spectrum radio frequencies, whether or not licensed by the Federal Communication Commission ("FCC") or any successor agency.
- (t) "Wireless Communication Equipment" means the Transmission Media attached, mounted, or installed on a pole located in Public Rights-of-Way, in addition to control boxes, cables, conduit, power sources, and other equipment, structures, plant, and appurtenances between the Transmission Media and the Point-of-Demarcation for the purpose of providing Wireless Communication Service.

SECTION 2 GRANTING CLAUSE

- (a) **License to Use Rights-of-Way** – Licensor hereby grants Licensee, a non-exclusive license to use and occupy Rights-of-Way within the Borough for the permitted uses contemplated under Section 3, subject to the conditions outlined in this Agreement.
- (b) **License to Use Borough Poles** – Licensor also grants Licensee the right to use Borough poles for the purpose of attaching the Communication Facility based on the then-current inventory of Borough poles. Access to individual Borough poles will be determined on a case-by-case basis pursuant to the provisions of this Agreement.
- (c) **Non-Exclusive License** – The Licensee's right to use and occupy the Public Rights-of-Way and attach to Borough poles shall not be exclusive as the Borough reserves the right to grant a similar use of same to itself or any person or entity at any time during the Term in the Borough's sole and absolute judgment.

SECTION 3 PERMITTED USE OF RIGHTS-OF-WAY

- (a) **Provision of Personal Communication Service** – Public Rights-of-Way may be used by Licensee, seven (7) days a week, twenty-four (24) hours a day, only for the installation, construction, use, maintenance, operation, repair, modification, replacement and upgrade of the Communication Facility by Licensee from time to time for Wireless Communication Service and/or Backhaul Service or to comply with applicable law, and not for any other purpose whatsoever. This Agreement shall include new types of Wireless Communication Equipment or Backhaul Equipment that may evolve or be adopted using wireless

technologies. Licensee shall, at its expense, comply with all applicable federal, state, and local laws, ordinances, rules and regulations in connection with the use of Public Rights-of-Way.

- (b) **Installations** – Wireless Communication Equipment and Wireless Backhaul Equipment may be installed only on Licensor's poles under the terms of this Agreement, on poles under the terms of a separate agreement with the owner of such poles, or on Licensee's poles and surrounding space until the Point-of-Demarcation, and Landline Backhaul Equipment may be installed only at the locations and as provided in a Supplemental License executed by the Borough. If the Communication Facility is to be installed on a Licensee pole, such pole shall be deemed part of the Communication Facility for purposes of this Agreement.

SECTION 4 TERM AND AMENDMENTS

- (a) **Term of Agreement** – The term of this Agreement shall be for an initial term of ten (10) years commencing on the Effective Date and ending at midnight on the last day of the term (the "Term"), provided however that, unless either Party provides written notice to the other Party prior to expiration of the Term that the notifying Party will not renew the Term, the Term will automatically renew for one (1) additional five (5) year period, upon the same terms and conditions set forth in this Agreement. Notwithstanding the foregoing, in no event shall the Term expire until: (i) terminated pursuant to Section 18, or (ii) the expiration or earlier termination of all Supplemental Licenses entered into hereunder.
- (b) **Supplemental Licenses** – Each Communication Site will be subject to a Supplemental License pursuant to the terms and conditions of this Agreement. The term of each Supplemental License shall be for five (5) years commencing on the date the corresponding Communication Site Application is approved as provided hereunder ("Commencement Date"), but in no event to extend beyond the expiration of this Agreement. So long as the Term is still in effect, unless Licensee provides written notice to the Borough prior to the expiration of the then current term that Licensee will not renew the Term, the Term will automatically renew for one (1) additional five (5) year period, upon the same terms and conditions set forth in this Agreement.
- (c) **Termination of Supplemental Licenses** – A Supplemental License may be terminated prior to the expiration of the Term: (i) by Licensor upon notice to Licensee, if Licensee fails to pay any amount when due hereunder concerning the applicable Communication Facility and such failure continues for fifteen (15) days after Licensee's receipt of written notice of nonpayment from Licensor; or (ii) by either Party upon notice to the other Party, if such other Party materially breaches any provision of this Agreement concerning the applicable Communication Facility and the breach not cured within thirty (30) days after receipt of written notice of the breach from the non-breaching Party; or (iii) by Licensee, at any time, with or without cause, upon notice to Licensor. The Borough may terminate this Agreement at any time the Borough determines that the use of the Borough's Right-of-Way by Licensee is compromising the health, safety and welfare of the Borough. In such event, Licensee shall be entitled to contest such determination as permitted by law.

- (d) **Effect of Termination** – All Annual License Fees paid prior to the expiration or earlier termination of the Supplemental License shall be retained by Licensor. Within thirty (30) days after such expiration or earlier termination, Licensee shall provide the Borough Representative with a schedule and timeline for removing the Communication Facility reasonably acceptable to the Borough Representative, excluding subsurface infrastructure. Licensee shall continue to be liable to Licensor for the Annual License Fee prorated for every month that such Communication Facility remains in the Rights-of-Way and the Supplemental License shall be deemed to remain in effect until it is removed. After such removal, the Supplemental License shall be of no further force or effect and Licensee shall have no further obligations for the payment of Annual License Fees to Licensor in connection therewith.

SECTION 5 LICENSE FEES/ADMINISTRATIVE FEES

- (a) **Annual License Fee** – The Annual License Fee per Communication Site shall be as provided in the following table depending on the type of Communication Facility thereat:

Type of Communication Facility	Annual License Fee
Wireless Communication Equipment (or Wireless Backhaul Equipment) on a pole owned by Licensor	\$500
Landline Backhaul Equipment	The Borough's standard underground utility rate

- (b) **Timing of License Fee Payments** – Licensee shall pay in advance to Licensor the Annual License Fee for the coming year for each Communication Site. The Annual License Fee for all Communication Sites installed during any given month will commence and be due on the first day of the following month (the "License Fee Commencement Date"). Thereafter, on each annual anniversary of License Fee Commencement Date, Licensee shall pay Licensor the Annual License Fees.
- (c) **Late Payment Interest** – Any Annual License Fees not paid within fifteen (15) days of notice of non-payment will be assessed a rate of 10% per annum from that date.
- (d) **Annual License Fees to Licensor** – Licensee shall pay Licensor the fees specified in this Section in the form of a money transfer or a check made out to the order of the Borough of Paramus and sent to: 1 Jockish Square, Paramus, New Jersey 07652 Attn: Treasurer.
- (e) **Municipal Costs** – Licensee shall pay the Borough a one-time fee of \$5,000 simultaneously with the execution and delivery of this Agreement to offset the costs incurred by the Borough for initial engineering review and analysis, including initial plan review, and initial inspection of Licensee's facilities. Upon the execution and delivery of this Agreement, Licensee shall pay to the Borough the sum of \$5,000 to be deposited into escrow representing the engineering escrow (the "Engineering Escrow") to be maintained and paid in accordance with N.J.S.A. 40:55D-53a. Licensee will maintain the Engineering Escrow amount at \$5,000 at all times. Licensee will replenish the Engineering Escrow to \$5,000 if the engineering review and analysis, including plan review and inspection of Licensee's facilities in connection with a Communication Site

Application and/or any Supplemental License requires payment from the Engineering Escrow. Licensee agrees to pay the Borough's additional reasonable administrative expenses with respect to each Communication Site Application and Supplemental License upon presentation of a detailed invoice. Any balance remaining in the Engineering Escrow will be returned to Licensee upon termination of this Agreement and removal of Licensee's facilities.

SECTION 6 APPROVAL OF COMMUNICATION SITES

- (a) **Communication Site Application** – Licensee shall file with the Borough Representative a Communication Site Application for every proposed Communication Site. Said application form may be modified from time-to-time by the Borough Representative as deemed necessary in order to more efficiently process applications from Licensee.
- (b) **Communication Site Approval Process** – Upon filing of a Communication Site Application, the Borough Representative shall process the Communication Site Application within sixty (60) days, unless the Borough Representative and Licensee agree in writing to extend such process.
 - (1) **Rights-of-Way Determination** – The Licensor will determine whether the location (and any existing pole) identified by Licensee as a Communication Site is within Borough Rights-of-Way.
 - (2) **Ownership of Borough Pole** – The Licensor will confirm the ownership of any Borough pole identified for installation of the Communication Facility.
 - (3) **Site Eligibility** – Licensor shall determine whether a requested Borough pole or the location for the installation for a new pole is eligible as a Communication Site based on space availability or other considerations. In addition, Licensor must determine whether public safety considerations prevent eligibility of a pole as a Communication Site. Concerning a request to install a new pole, Licensor shall determine whether Borough policies and availability of Rights-of-Way prevent the pole installation at the requested location.
 - (4) **Review Criteria** – For each Communication Site Application, the Borough Representative shall:
 - a. Verify that the Communication Site Application is complete.
 - b. Review engineering design documents to determine in its reasonable discretion:
 - i. compliance with contractual requirements under this Agreement; and
 - ii. no interference with Borough public safety radio system, traffic signal light system, or other communications components; and

- iii. compliance with Borough pole attachment regulations for traffic light poles, including replacement of an electric meter with dual meters, if and as applicable; and
 - iv. shall not adversely affect the health or safety of the Borough in the Borough's sole judgment.
- c. Determine compliance with any other applicable requirements, including engineering.

All Communication Site Applications requesting access to a Borough pole must include a load bearing study to determine whether the attachment of the Communication Facility may proceed without pole modification or whether the installation will require pole reinforcement or replacement. If pole reinforcement or replacement is necessary, Licensee shall provide engineering design and specification drawings demonstrating the proposed alteration to the pole and shall be responsible for the cost of replacing the pole.

As appropriate, the Borough Representative shall require Licensee to make design modifications in order to comply with applicable contractual, regulatory, or legal requirements. Failure to make the requested design modifications shall result in an incomplete Communication Site Application which may not be processed under this Agreement.

Approval of Application – Upon finding that the Communication Site Application is complete and in compliance with all applicable requirements as outlined above, the Borough Representative shall approve such Communication Site application. The approval of the Communication Site Application requesting to attach to a Borough pole, or to install a new pole, shall authorize Licensee to proceed to obtain all generally applicable, ministerial permits that are required of all occupants of the Public Rights-of-Way, if required (collectively, "ROW Permit"). Licensee shall comply with the requirements of the Rights-of-Way Regulations. Licensee shall pay all appropriate New Jersey standard promulgated one-time ROW Permit fees, if required. Licensor may impose on the ROW Permit only those conditions that are necessary to protect structures in the Public Rights-of-Way, to ensure the proper restoration of the Public Rights-of-Way and any structures located therein, 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 Public Rights-of-Way. In no event shall Licensor treat Licensee's Communication Site Applications or ROW Permit applications in a more burdensome manner than Licensor treats Public Rights-of-Way access permits of all other public utilities and telecommunications services providers. Upon obtaining a ROW Permit, Licensee may proceed to install the Communication Facility in coordination with any affected Borough departments. Approval of a Communication Site Application related to the use of a pole owned by a third party, shall authorize Licensee to proceed with the attachment process applicable to the pole owner and in accordance

with the pole owner's regulations, and Licensee may proceed to install the Communication Facility in coordination with any affected Borough departments.

- (5) **Execution of Supplemental License** – Upon approval of the Communication Site Application, the Parties shall execute a Supplemental License, which shall be effective as of the date of application approval.

SECTION 7 CONSTRUCTION WORK-REGULATION BY BOROUGH

- (a) **Compliance with Law Required** – The work done by Licensee in connection with the installation, construction, maintenance, repair, and operation of Communication Facility on poles within the Public Rights-of-Way shall be subject to and governed by all pertinent local and state laws, rules, regulations, including the Borough's Rights-of-Way Regulations, that are applicable to ensuring the work done does not unduly inconvenience the public in the use of the surface of the streets and sidewalks.
- (b) **Duty to Minimize Interference** – All pole excavations, construction activities, and aerial installations on poles in the Rights-of-Way shall be carried on as to minimize interference with the use of Borough's Rights-of-Way and with the use of private property, in accordance with all regulations of the Borough necessary to provide for public health, safety and convenience. All such activities shall be coordinated with the Paramus Police Department and Licensee shall reimburse the Paramus Police Department for all reasonable costs incurred with respect thereto, upon presentation of a detailed invoice.

SECTION 8 CONSTRUCTION, RESTORATION AND MAINTENANCE ACTIVITIES

- (a) **Eligibility of Borough Pole** – Prior to submitting a Communication Site Application related to the use of a Borough pole, Licensee shall verify with the Borough the eligibility of the specified pole for attachment of the Communication Facility. In addition, Licensee shall conduct an engineering load bearing study to determine whether the pole can withstand the added weight of the Communication Facility. If the proposed installation will require pole reinforcement or replacement, the engineering design documents included with the Communication Site Application shall include specifications relating to the proposed pole reinforcement or replacement. Construction activities involving pole reinforcement or replacement shall be coordinated with applicable Borough personnel and the Rights-of-Way Manager.
- (b) **Compliance with Rights-of-Way Regulations** – In the installation, construction, maintenance, upgrade, and operation of Communication Facility, Licensee shall comply with the provisions of the Rights-of-Way Regulations, including but not limited to provisions pertaining to the following activities:
 - (1) Construction activities related to the installation, maintenance, repair, upgrade, and removal of Communication Facility on existing poles in the Rights-of-Way;
 - (2) installation of new poles in the Rights-of-Way;

- (3) cut or otherwise disturb the surfaces of the Rights-of-Way;
 - (4) disruption of vehicular and pedestrian traffic on Rights-of-Way to a minimum as reasonably necessary to execute the required work;
 - (5) applicable excavation and restoration standards; and
 - (6) pavement repairs.
- (c) **Submission of Engineering Plans** – Prior to installation, Licensee shall submit engineering plans to the Rights-of-Way Manager for review and approval in accordance with the Rights-of-Way Regulations.
- (d) **Identification of Utility Lines** – Prior to beginning any excavation or boring project on Public Rights-of-Way, Licensee engage a utility locator service. Licensee has the responsibility to protect and support the various utility facilities of other providers while conducting construction, installation, and maintenance operations.
- (e) **Maintenance and Repair of Communication Facility** – Licensee shall keep and maintain all Communication Facility installed on Public Rights-of-Way in commercially reasonable condition and repair throughout the Term, normal wear and tear and casualty excepted. Licensee shall have the right to conduct testing and maintenance activities, and repair and replace a damaged or malfunctioning Communication Facility at any time during the Term.
- (f) **Upgrade of Communication Facility** – Licensee shall have the right to upgrade the Communication Facility with next-generation equipment and innovative new technologies. Prior to making any such equipment or technology upgrade that materially changes the size or weight of the Communication Facility, Licensee shall file a Communication Facility Application with the Borough Representative, who shall review the application for compliance with the permitted use under this Agreement and to verify that the new installation will not cause any interference with Borough's public safety communications system, traffic light signal system, or other Borough communications infrastructure operating on spectrum where the Borough is legally authorized to operate. Licensee will address any interference issues prior to approval of such application.
- (g) **Coordination of Maintenance and Equipment Upgrade Activities** – Prior to Licensee engaging in planned or routine maintenance activities, or equipment upgrades concerning Communication Facility attached to a Borough traffic light pole, Licensee shall provide twenty (20) days advance notice to the Borough Representative in order to coordinate such maintenance activities with Borough operations of the traffic light system or other public safety functions. Licensee shall obtain a ROW Permit prior to engaging in any maintenance or equipment upgrade activities in the Rights-of-Way regardless of pole ownership. Such twenty (20) day advance notice shall not be required in the case of an emergency.
- (h) **Removal of Non-Compliant Installations** – The Borough shall have the authority at any time to order and require Licensee to remove and abate at Licensee's sole cost and expense, any Communication Facility or other structure that is in violation of the Borough's Rights-

of-Way Regulations. In case Licensee, after receipt of written notice and thirty (30) days opportunity to cure, fails or refuses to comply, the Borough shall have the authority to remove the same at the expense of Licensee, all without compensation or liability for damages to Licensee.

- (i) **Reservation of Rights** – The Borough reserves the right to install, and permit others to install utility facilities in the Rights-of-Way. In permitting such work to be done by others, the Borough shall not be liable to Licensee for any damage caused by those persons or entities.
- (j) **No Limitation in Borough's Operation of Traffic Light Signal System** – The Parties agree that this Agreement does not in any way limit Licensor's right to locate, operate, maintain, and remove Borough traffic light poles in the manner that best enables the operation of its traffic light signal system and protect public safety. The Borough Representative may deny access to Borough traffic light poles due to operational conditions at the requested site, limited space availability, public safety concerns, future traffic signal system planning, or other operational considerations, in the sole and absolute judgment of the Borough Representative. Further, nothing in this Agreement shall be construed as granting Licensee any attachment right to install Communication Facility to any specific traffic light pole, other than an approved Communication Site Application and execution of the corresponding Supplemental License under the terms of this Agreement.
- (k) **Coordination of Traffic Light Maintenance Activities and Emergency Response** – Prior to conducting planned or routine maintenance on specific components of the traffic light signal system mounted on poles where Communication Facility has been installed, the Borough shall provide Licensee twenty (20) days advance notice of such maintenance activities. In advance of such maintenance activities, Licensee shall temporarily cut-off electricity to its Communication Facility for the safety of maintenance personnel. In the event of failure of components of the traffic light signal system for whatever reason, including damage resulting from vehicular collisions, weather related events, or malicious attacks, Licensor will respond to restore traffic light signal operations as a matter of public safety under the emergency provisions outlined in Section 12. Should the events that results in damage or failure of the traffic light signal system also affect Communication Facility, Licensee shall have the sole responsibility to repair or replace its Communication Facility and shall coordinate its own emergency efforts with the Borough.
- (l) Nothing contained herein shall be construed so as to convey any rights to Licensee on or within any Public Right-of-Way owned by the State and/or County of Bergen.

SECTION 9 SUPERVISION BY BOROUGH OF LOCATION OF POLES

- (a) **Supervision by Rights-of-Way Manager** – In the event Licensee desires to install poles on Public Rights-of-Way in order to install Communication Facility at a selected Communication Site, such poles shall be owned and maintained by Licensee. Such poles shall be of adequate strength and straight, and shall be set so that they will not interfere with the flow of water in any gutter or drain, and so that they will not unduly interfere with ordinary travel on the streets or sidewalk. The location of all Licensee's personal property,

poles, and electrical connections placed and constructed by the Licensee in the installation, construction, and maintenance of Communication Facility shall be subject to the approval of the Rights-of-Way Manager in his sole and reasonable judgment.

- (b) **Pre-Approval by Rights-of-Way Manager** – Prior to submitting a Communication Site Application covering the installation of a new pole, Licensee shall verify with the Rights-of-Way Manager the eligibility of the Rights-of-Way location for the proposed pole installation. Licensee shall include in the Communication Site Application documentation from the Rights-of-Way Manager approving the proposed pole location in the Rights-of-Way.

SECTION 10 INTERFERENCE WITH OTHER FACILITIES PROHIBITED

- (a) **Interference with Rights of Others Prohibited** – Licensee shall not impede, obstruct or otherwise interfere with the installation, existence and operation of any other facility in the Rights-of-Way, including, but not limited to, sanitary sewers, water mains, storm water drains, gas mains, poles, aerial and underground electrical infrastructure, cable television and telecommunication wires, public safety and Borough networks, and other telecommunications, utility, or Borough personal property.
- (b) **Signal Interference with Borough's Communication Infrastructure Prohibited** – In the event that Licensee's Communication Facility interferes with the Borough's traffic light signal system, public safety radio system, or other Borough communications infrastructure operating on spectrum where the Borough is legally authorized to operate, Licensee will respond to the Licensor's request to address the source of the interference as soon as practicable, which may include discontinuing such use altogether, but in no event later than twenty-four (24) hours of receiving notice.

SECTION 11 COMPLIANCE WITH UTILITY REGULATIONS

- (a) **Compliance with Local Regulations** – All Communication Facility installations shall be in compliance with all relevant legal requirements for connecting the Communication Facility to electricity and telecommunications service. Borough is not responsible for providing electricity or transport connectivity to Licensee.

SECTION 12 EMERGENCY CONTACTS

- (a) **Coordination of Emergency Events** – In case of an emergency due to interference, failure of traffic light signal system, or any unforeseen events, Licensor will act to protect the public health and safety of its citizens, and to protect public and private property, notwithstanding any provision in this Agreement. Licensor will make every reasonable effort to coordinate its emergency response with the Licensee. To that end, the Licensor will use the following emergency contacts: The Licensee's network operations center may be reached 24/7 at (877) 244-7889.
- (b) **Licensee's Duty to Maintain Current Emergency Contacts** – Licensee will maintain the emergency contact information current at all times with the Borough Representative.

- (c) **Licensee's Response to Network Emergency** - In case of a network emergency, Licensee may access its Communication Facility without first obtaining a ROW Permit provided Licensee has conducted network trouble-shooting and diagnostic tests and has reasonably identified the point or points of network failure or malfunction. While acting under this provision to address a network emergency, Licensee shall conduct its activities within the Rights-of-Way in such a manner as to protect public and private property. Licensee will make every reasonable effort to coordinate its emergency response with the Licensor. To that end, prior to entering the Rights-of-Way, Licensee will contact the Borough Representative and give notice to Licensor of the network emergency and an estimated time period to address the situation.
- (d) **Licensor's Duty to Maintain Emergency Contacts** – Licensor's emergency contact is the Paramus Police Department.

SECTION 13 INDEMNITY

- (a) **General Indemnity Clause** – Licensee covenants and agrees to **INDEMNIFY, DEFEND and HOLD HARMLESS**, the Borough and the elected officials, employees, officers, directors, agents and representatives of the Borough, individually and collectively ("Indemnitees"), from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the Borough arising out of a third-party claim to the extent arising out of or under this Agreement and/or the use of the Public Rights-of-Way including all costs incurred by the Borough in defending any such claim, except to the extent resulting from the negligent or intentional acts or omissions of the Borough. This indemnification shall specifically include, but not be limited to, any and all costs, reasonable attorneys' fees, court costs and any other expenses that may be incurred by the Borough in connection with any and all claims, demands, suits, actions at law or equity or otherwise and/or arbitration proceedings. It is the intent of the Borough and Licensee that this indemnification provision be interpreted in the broadest possible manner in favor of the Borough. The indemnity provided for in this paragraph shall not apply to any liability resulting or arising from the gross negligence of the Borough or an Indemnitee.
- (b) **Licensor's Duty to Notify Licensee of Claims** – The Borough shall give prompt written notice to Licensee of any claim for which the Borough seeks indemnification. The Borough shall have the right to investigate and defend and shall be entitled to reimbursement from Licensee for its reasonable costs. The Borough may compromise such claims subject to Licensee's approval which shall not be unreasonably withheld, delayed or conditioned.
- (c) **Licensor's Consent to Settle Claims** – Licensee may not settle any claim subject to this Section without the consent of Borough, unless (i) the settlement will be fully funded by Licensee; (ii) the proposed settlement does not contain an admission of liability or wrongdoing by any elected officials, employees, officers, directors, volunteers or

representatives of Borough; and (iii) the settlement does not contain a public policy issue affecting the health, safety or welfare of the Borough and/or the residents of the Borough, in which event, the Borough's consent may be withheld in its sole judgment. The Borough's withholding its consent as allowed in the preceding sentence does not release or impair Licensee of any obligations under this Section. Licensee must give Borough at least twenty (20) days advance written notice of the details of a proposed settlement before it becomes binding. Any settlement purporting to bind Borough must first be approved by the Borough.

- (d) **General Limitation** – Neither party will be liable under this Agreement for consequential, indirect, or punitive damages (including lost revenues, loss of equipment, interruption, loss of service, or loss of data) for any cause of action, whether in contract, tort, or otherwise, even if the party was or should have been aware of the possibility of these damages, whether under theory of contract, tort (including negligence), strict liability, or otherwise.

SECTION 14 INSURANCE REQUIREMENTS

- (a) Prior to the commencement of any work under this Agreement, the Licensee shall furnish copies of all required certificate(s) of insurance to the Borough Representative. The Borough shall have no duty to pay or perform under this Agreement until such certificate has been received by the Borough.
- (b) Borough reserves the right to review the insurance requirements of this Section during the effective period of this Agreement and any extension or renewal hereof and to modify insurance coverages and their limits when reasonably determined necessary by the Borough based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement. Such review and modification shall not occur more frequently than every five (5) years.
- (c) The Licensee's financial integrity is of interest to the Borough; therefore, the Licensee shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at the Licensee's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of New Jersey and with an A.M Best's rating of no less than A-VII, in the following types and for an amount not less than the amount listed below:

Type of Coverage	Amounts
1. Workers' Compensation	Statutory
2. Employers' Liability	\$1,000,000
3. Commercial General Liability Insurance to include coverage for the following:	Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence and General Aggregate limit of \$2,000,000
a. Premises/Operations	
b. Independent Contractors	
c. Products/complete operations	
d. Property damage	

4. Business Automobile Liability	Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence
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- (d) The Licensee agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:
- Name the Borough, its officers, officials, employees, and elected representatives as additional insureds, as respects operations and activities of, or on behalf of, the named insured performed under contract with the Borough, with the exception of the workers' compensation and professional liability policies.
 - Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the Borough.
 - Upon receipt of notice from its insurer, Licensee will provide Licensor with thirty (30) days prior written notice of cancellation.
- (e) Within thirty (30) calendar days of a suspension, cancellation or non-renewal of coverage, the Licensee shall provide a replacement Certificate of Insurance and applicable endorsements to the Borough. The Borough shall have the option to suspend the Licensee's performance should there be a lapse in coverage at any time during this Agreement.
- (f) In addition to any other remedies the Borough may have upon the Licensee's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the Borough shall have the right to order the Licensee to stop work hereunder, and/or withhold any payment(s) which become due to the Licensee hereunder until the Licensee demonstrates compliance with the requirements hereof.
- (g) Nothing herein contained shall be construed as limiting in any way the extent to which the Licensee may be held responsible for payments of damages to persons or property resulting from the Licensee's or its subcontractors' performance of the work covered under this Licensee Agreement.
- (h) It is agreed that the Licensee's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by the Borough for liability arising out of operations under this Agreement.
- (i) It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement.

SECTION 15 ADMINISTRATION OF LICENSE

- (a) **Administration of License by Borough Officials** – The Borough Representative is the principal Borough person responsible for the administration of this Agreement. The Rights-of-Way Manager shall review the operations of Licensee in the Rights-of-Way under this Agreement and the Rights-of-Way Regulations.
- (b) **Licensee's Duty to Communicate with Borough Officials** – Licensee shall communicate with the Rights-of-Way Manager all matters in connection with or affecting the installation, construction, reconstruction, maintenance and repair of Licensee's Communication Facility in the Rights-of-Way and provide periodic deployment plans to the Rights-of-Way Manager and the Borough Representative.
- (c) **Notice** – Notices required by this Agreement may be given by nationally recognized overnight courier such as Fed Ex or UPS. Either Party shall have the right, by giving written notice to the other, to change the address at which its notices are to be received. Until any such change is made, notices shall be delivered as follows:

If to the Borough:

1 Jockish Square
Paramus, NJ 07652
Attention: Borough Clerk

With a copy to the Borough Administrator and Borough Attorney of record.

If to Licensee:

Mobilitie, LLC
2220 University Drive
Newport Beach, CA 92660
Attention: Asset Management

With a copy to:

Mobilitie, LLC
2220 University Drive
Newport Beach, CA 92660
Attention: Legal Department

SECTION 16 ASSIGNMENT OF LICENSE

- (a) **Limited Right of Assignment** – This Agreement and each Supplemental License under it may be sold or assigned by Licensee without any approval or consent of the Licensor to Licensee's principal, affiliates, subsidiaries of its principal or to any entity which acquires all or substantially all of Licensee's assets in the market defined by the FCC in which the Right-of-Way is located by reason of a merger, acquisition or other business reorganization provided that such acquiring entity is bound by all of the terms and conditions of this Agreement. As to other parties, this Agreement and each Supplemental License may not be sold or assigned without the written consent of the Licensor, which shall not be unreasonably withheld or conditioned. Licensee shall provide the Borough Representative notice of any such merger, acquisition or other business reorganization with a principal, Affiliate or subsidiary of Licensee within a reasonable period of time after the

consummation thereof. No change of stock ownership, partnership interest or control of Licensee or transfer upon partnership or corporate dissolution of Licensee shall constitute an assignment hereunder.

- (b) **Licensee's Right to Grant Security Interest In License** – Additionally, Licensee may mortgage or grant a security interest in this Agreement and the Communication Facility, and may assign this Agreement and Communication Facility to any mortgagees or holders of security interest, including their successors or assigns (collectively "Mortgagees"), provided such Mortgagees' interests in this Agreement are subject to all of the terms and provisions of this Agreement and notice of same has been provided to the Borough. In such event, Borough shall execute such consent to financing as may reasonably be required by Mortgagees.

SECTION 17 FUTURE CONTINGENCY

- (a) **Renegotiation for Incapacity of Contract** – Notwithstanding anything contained in this Agreement to the contrary, in the event that this Agreement, in whole or in part, is declared or determined by a judicial, administrative or legislative authority exercising its jurisdiction to be excessive, unrecoverable, unenforceable, void, unlawful, or otherwise inapplicable, the Licensee and Licensor shall meet and negotiate an amended Agreement that is in compliance with the authority's decision or enactment and, unless explicitly prohibited.

SECTION 18 AGREEMENT VIOLATIONS LEADING TO TERMINATION

- (a) **Events of Termination** – This Agreement may be terminated before the expiration date of the Term on written notice by Borough to Licensee, if Licensee materially breaches any provision of this Agreement and such breach is not cured by Licensee within thirty (30) days after Licensee's receipt of written notice of such breach from the Borough unless such breach involves the health and/or safety of the Borough and the breach is not immediately cured. Licensee shall not be excused from complying with any of the terms and conditions of this Agreement by the previous failure of the Borough to insist upon or seek compliance with such terms and conditions.
- (b) **No Waiver of Duties** – Termination of this Agreement does not relieve Licensee from the obligation (i) to pay Annual License Fees accrued and owing to Licensor under the Agreement at the time of termination, or (ii) concerning any claim for damages against Licensee under this Agreement. Licensor's rights, options, and remedies under this Agreement are cumulative, and no one of them is exclusive of the other. Licensor may pursue any or all such remedies or any other remedy or relief provided by law, whether or not stated in this Agreement. No waiver by Licensor of a breach of any covenant or condition of this Agreement is a waiver of any succeeding or preceding breach of the same or any other covenant or condition of this Agreement.

SECTION 19 GOVERNING LAW, JURISDICTION AND VENUE

- (a) **Governing Law** – This Agreement is passed in accordance with the constitutions, statutes, ordinances, and regulations of the United States, the State of New Jersey, and the Borough

of Paramus in effect on the effective date of this Agreement, and as such local, state, and federal laws may be subsequently amended.

- (b) **Compliance with Local Ordinances** – Nothing in this Agreement shall be interpreted to limit the authority of the Borough to adopt, from time to time, ordinances, rules and regulations it may deem necessary in the exercise of Borough's governmental powers. Licensee shall abide by any laws of the Borough that do not conflict or are otherwise preempted by state or federal law.
- (c) **Enforcement of Local Regulations** – Licensor expressly reserves the right to enforce requirements for ministerial issuance of ROW Permits. It is understood and agreed that Licensee is responsible for obtaining all such permits necessary to install, maintain and operate its Communication Facility.
- (d) **Jurisdiction and Venue** – The provisions of the agreement shall be construed under, and in accordance with, the laws of the State of New Jersey, and all obligations of the parties hereunder shall be performed in the county in which the Borough is located. Therefore, in the event any court of action is brought directly or indirectly by reason of this agreement, such action shall be brought in the Superior Court of New Jersey, Bergen County vicinage or the United States District Court, District of New Jersey and Licensee consents to the in personam jurisdiction of both courts.

SECTION 20 NON-DISCRIMINATION

- (a) **Non-Discrimination** – Licensee agrees not to engage in employment practices that discriminate against any employee or applicant for employment based on race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age, disability, or political belief or affiliation, unless exempted by state or federal law. In the event non-compliance occurs with this Section occurs, Licensee, upon written notification by Borough, shall commence compliance procedures within fifteen (15) days.

SECTION 21 REPRESENTATIONS

- (a) Mobilitie represents that it is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Nevada.
- (b) Mobilitie represents that it is authorized as a foreign entity to do business in the State of New Jersey.
- (c) Mobilitie represents that this Agreement is a valid and binding agreement of Mobilitie, enforceable in accordance with its terms.
- (d) Mobilitie represents that neither Mobilitie nor any person or entity holding legal or beneficial interest whatsoever (whether directly or indirectly) in it, is named on any list of persons, entities and governments issued by the Office of Foreign Assets Control of the United States Department of the Treasury pursuant to Executive Order 13224-Blocking Property and Prohibiting Transactions with Persons who Commit, Threaten to Commit or

Support Terrorism, as in effect on the date hereof, or any similar list issued by OFAC or any other department or agency of the United States of America.

- (e) Mobilite represents that it is a Public Utility as designated by the New Jersey Board of Public Utilities.

SECTION 22 MISCELLANEOUS PROVISIONS

- (a) **Waiver** – None of the material provisions of this Agreement may be waived or modified except expressly in writing signed by the Licensee and Licensor. Failure of either Party to require the performance of any term in this Agreement or the waiver by either Party of any breach thereof shall not prevent subsequent enforcement of this term and shall not be deemed a waiver of any subsequent breach.
- (b) **Severability** – If any clause or provision of the Agreement is illegal, invalid, or unenforceable under present or future laws effective during the Term, then and in that event it is the intention of the Parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the Parties that in lieu of each clause or provision of this Agreement that is illegal, invalid, or unenforceable, there be added as part of this Agreement a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable.
- (c) **Captions** – The captions contained in this Agreement are for convenience of reference only and in no way limit or enlarge the terms and conditions of this Agreement.
- (d) **Extent of Agreement** – This Agreement, together with its attached exhibits and the authorizing ordinance, if any, embodies the complete agreement of the Parties, superseding all oral or written previous and contemporary agreements between the Parties and relating to this Agreement.
- (e) **Authority** – The signer of this Agreement for the Licensee and the Borough hereby represents and warrants that he or she has full authority to execute this Agreement on behalf of the Licensee or the Borough respectively.
- (f) **Non-Waiver of Rights** – By entering this Agreement, neither Licensor nor Licensee has waived any rights either Party may have under applicable state and federal law pertaining to the provision of Communication Service or Licensee's access rights concerning the Rights-of-Way.
- (g) **Force Majeure** – In the event a Party's performance of any of the terms, conditions, obligations or requirements of this Agreement is prevented or impaired due to a force majeure event beyond such Party's reasonable control, such inability to perform will be deemed to be excused and no penalties or sanctions will be imposed as a result thereof. For purposes of this subsection, "force majeure" means an act of God, a natural disaster or an act of war (including terrorism), civil emergencies and labor unrest or strikes, untimely delivery of equipment, pole hits, and unavailability of essential equipment, and/or materials, and any act beyond the Party's reasonable control. It also includes an explosion,

fire or other casualty or accident, which is not the result of gross negligence, an intentional act or misconduct on the part of the Party.

- (h) **Technical Amendments** – Other than proposed substantive contractual amendments requested under Section 4, the Parties may mutually agree to make technical amendments to the Agreement and its exhibits without the approval of the Borough that would not alter the obligations and responsibilities of the Parties under the Agreement, in order to address advances and/or innovations in wireless technologies and equipment.
- (i) **No Partnership or Joint Venture** – The relationship between Licensor and Licensee is at all times solely that of licensor and licensee, not that of partners or joint venturers.
- (j) **Effect of Bankruptcy** – Bankruptcy, insolvency, assignment for the benefit of creditors, or the appointment of a receiver is an event of default.
- (k) **Counterparts** – This Agreement may be executed in multiple counterparts, each of which is an original. Regardless of the number of counterparts, they constitute only one agreement. In making proof of this agreement, it is not necessary to produce or account for more counterparts than are necessary to show execution by or on behalf of all Parties.
- (l) **Further Assurances** – The Parties must execute and deliver such additional documents and instruments as may be required to effect fully the provisions hereof. No such additional document(s), however, may alter the rights or obligations of the Parties as contained in this Agreement.

EXECUTED and AGREED.

**BOROUGH
PARAMUS**

OF

MOBILITIE, LLC

**By its Manager: Mobilitie
Management, LLC**



(Signature)

Printed Name: Richard LaBarbiera
Title: Mayor
Date: 1/9/17



(Signature)

Printed Name: CHRIS GLASS
Title: SUP. GENERAL COUNSEL
Date: 12/16/16

EXHIBIT A

COMMUNICATION SITE APPLICATION

Applicant: _____ Date: _____

Licensee: _____ Application/License#: _____

Licensee ID#	Site	Communication Coordinates	Site	GIS	Type of Communication Facility
					[Wireless Communication Equipment] [Wireless Backhaul Equipment] [Landline Backhaul Equipment]

If Wireless Communication Equipment or Wireless Backhaul Equipment:

Pole Type	Pole Alteration	Attachment Height	Attachment Weight	Attachment Dimensions	Location of Equipment Shelter
[Borough Pole] [Third-Party Pole] [Licensee Pole] [Not Applicable/Needed]	[Pole Reinforcement] [Pole Replacement] [New Pole] [Not Applicable/Needed]				[Installed on Pole] [Installed in Ground (Vault)] [Other Location (Requires Borough Representative Approval)] [Not Applicable/Needed]

APPLICANT SHALL PROVIDE THE FOLLOWING IF/AS APPLICABLE:

- Site plan and engineering design and specifications for installation of Communication Facility, including the location of radios, antenna facilities, transmitters, equipment shelters, cables, conduit, point of demarcation, backhaul solution, electrical distribution panel, electric meter, and electrical conduit and cabling. Where applicable, the design documents should include specifications on design, pole modification, and ADA compliance.
- For Borough poles, include documentation from the Borough verifying that the pole is eligible for attachment. Also include a load bearing study that determines whether the pole requires reinforcement or replacement in order to accommodate attachment of Communication Facility. If pole reinforcement or replacement is warranted, the design documents should include the proposed pole modification.
- For new pole installations, include documentation from the Rights-of-Way Manager verifying that the pole location in the Rights-of-Way is eligible for installation.
- If the proposed installation includes a new pole, provide design and specification drawings for the new pole.
- If the proposed installation will require reinforcement or replacement of an existing pole, provide applicable design and specification drawings.
- The number, size, type and proximity to the facilities of all communications conduit(s) and cables to be installed.
- Description of the utility services required to support the facilities to be installed.
- All necessary permits and letters of authorization from all affected parties.
- List of the contractors and subcontractors, and their contact information, authorized to work on the project.

APPLICANT REPRESENTATIVE: _____
PRINT NAME: _____
TITLE: _____

----- FOR BOROUGH USE ONLY -----
RECEIPT DATE: _____ APPLICATION NO.: _____

APPROVED BY: _____
PRINT NAME: _____
TITLE: _____
APPROVAL DATE: _____

**EXHIBIT B
Supplemental License Form**

**Supplemental License No. _____
For Communication Facility Installation**

This Supplemental License is entered on this ___ day of _____, _____, between the Borough of Paramus, acting through its Borough Representative, or his/her designee, ("Licensor") and Mobilite, LLC, a Nevada limited liability company ("Licensee").

1. **Overview of Supplemental License** – This Supplemental License applies to the Communication Sites described below.

Authorizing Agreement:

License: Master License Agreement for Use of Use of Borough Rights-of-Way for the Use of Public Rights-of-Way

Licensor: Borough of Paramus

Licensee: Mobilite, LLC

Initial Aggregate Annual License Fees: _____

Commencement Date: _____

Term: Term to be co-terminous with the Master License Agreement.

Licensee ID.#	Site	Communication Coordinates	Site	GIS	Type of Communication Facility
					[Wireless Communication Equipment] [Wireless Backhaul Equipment] [Landline Backhaul Equipment]

If Wireless Communication Equipment or Wireless Backhaul Equipment:

Pole Type	Pole Alteration	Attachment Height	Attachment Weight	Attachment Dimensions	Location of Equipment Shelter
[Borough Pole] [Third-Party Pole] [Licensee Pole] [Not Applicable/Needed]	[Pole Reinforcement] [Pole Replacement] [New Pole] [Not Applicable/Needed]				[Installed on Pole] [Installed in Ground (Vault)] [Other Location (Requires Borough Representative Approval)] [Not Applicable/Needed]

2. **Source of Authority** – This Supplemental License is authorized and executed pursuant to the terms and conditions of the “Master License Agreement between the Borough and Licensee for the Use of Public Rights-of-Way,” as it may be amended by the Parties during its Term (“Master License Agreement”). All of the terms and conditions of the Master License Agreement, including any future amendments, are incorporated herein by reference and made a part hereof without the necessity of repeating or attaching the Master License Agreement. Capitalized terms used in this Supplemental License shall have the same definitions and meanings ascribed to them in the Master License Agreement, unless otherwise indicated herein.

3. **Approval Process** – This Supplemental License arises from and is part of the approval process associated with the Communication Site Application approved by the Borough Representative on _____. The Communication Site Application, including all attachments, is incorporated as Exhibit 1 and made a part hereof. If not attached, the Communication Site Application is hereby incorporated herein by reference and made a part hereof without the necessity of repeating or attaching it.

4. **Scope of License** – This Supplemental License is limited to the Communication Facility installation(s) referenced in the Communication Site Application associated with this Supplemental License.

5. **Conflict in Interpretation** – Nothing in this Supplemental License is intended to grant Licensee any rights or privileges beyond those addressed in the Master License Agreement. In the event of any conflict in contractual interpretation between this Supplemental License and the Master License Agreement, the terms and conditions of the Supplemental License shall govern, provided however that any future amendments or modifications to the Master License Agreement

shall simultaneously apply and serve to amend or modify this Supplemental License without the need by either Party to provide notice of such to the other.

6. **Site Specific Conditions** – All site specific conditions shall be addressed in the Communication Site Application associated with this Supplemental License.

7. **Site Modifications** – Prior to making any post-installation future material modifications to a Communication Site, other than maintenance and repair of site specific Communication Facility as further provided in the Master License Agreement, Licensee shall file a Communication Site Application with the Borough Representative describing the proposed modifications. The Borough Representative, or his/her designee, shall review the Communication Site Application pursuant to the terms and conditions in the Master License Agreement, and if approved such Communication Site Application shall be attached as Exhibit 2 and made a part hereto. Any additional site modifications shall be incorporated hereto in the same manner.

8. **License Fee** – The aggregate Annual License Fees applicable to this Supplemental License, as summarized in Section 1 above, shall be calculated based on the number of applicable Communication Facility as set forth in the Master License Agreement, payable by Licensee as provided therein.

9. **Commencement Date** – The Commencement Date for this Supplemental License shall be the same date that the Communication Site Application associated with this Supplemental License, which is hereby approved by the Borough Representative or the Borough Council if required.

10. **Term** – The term for this Supplemental License, as described in Section 1 above, is set forth in the Master License Agreement.

NOW THEREFORE, the Parties hereto by the signature of their respective representatives hereby agree to enter into this Supplemental License.

LICENSOR

BOROUGH OF PARAMUS

By: _____
Printed Name: _____
Title: _____
Date: _____

LICENSEE

MOBILITIE, LLC

By its Manager: Mobilitie Management, LLC

By: _____
Printed Name: _____
Title: _____
Date: _____

Doc #01-2993996.5