



MAIL APPLICATIONS TO:
Monmouth County
Department of Public Works & Engineering
Supervising Road Inspector
250 Center Street
Freehold, NJ 07728
Phone: 732-431-6550

OFFICIAL USE ONLY
Application #: _____

MONMOUTH COUNTY
DEPARTMENT OF PUBLIC WORKS & ENGINEERING

APPLICATION FOR SMALL WIRELESS FACILITY SITING PERMIT

NOTICE

BEFORE RECEIVING APPROVAL OF ANY SMALL WIRELESS FACILITY SITING PERMIT APPLICATIONS, THE APPLICANT MUST OBTAIN CONSENT TO USE COUNTY RIGHT-OF-WAY BY ENTERING INTO A "SMALL WIRELESS FACILITY RIGHT-OF-WAY USE AGREEMENT" IN ACCORDANCE WITH COUNTY RESOLUTION NO. 2023-0773

Applicant's Name: _____

Street Address: _____

City: _____ State: _____ Zip: _____ Email: _____

Daytime Phone: _____ Fax: _____

Co-Applicant's Name: _____

Street Address: _____

City: _____ State: _____ Zip: _____ Email: _____

Daytime Phone: _____ Fax: _____

24 Hour Emergency Contacts: Name: _____ Phone Number: _____

Name: _____ Phone Number: _____

I/we request a Permit for the Use and Occupancy of the Right of Way of County Route No. _____

Further identified as (road name) _____

Located in (municipality) _____ Lane: [] NB [] SB [] EB [] WB

At a point (distance in feet) _____ Direction [] North [] South [] East [] West

From (intersecting road, street, or landmark) _____

If the applicant is submitting a batched application (for up to 25 Small Wireless Facilities), note "various locations" above and attach a separate certification detailing the locations of all proposed Small Wireless Facilities.

APPLICANT SHALL SUBMIT FOUR (4) COPIES OF THIS APPLICATION, DETAILED PROJECT DESCRIPTION, DETAILED SCALED PLAN(S), DETAILED SITE-SPECIFIC TRAFFIC CONTROL PLANS SHOWING THE PROPOSED WORK AREA, MAINTENANCE AND PROTECTION OF TRAFFIC, AND ANY OTHER DATA NECESSARY FOR A COMPLETE UNDERSTANDING OF THE REQUEST IN ACCORDANCE WITH MONMOUTH COUNTY RESOLUTION NO. 2023-0773. THE COUNTY WILL NOT BE RESPONSIBLE FOR ANY ERRORS, OMISSIONS OR MISINFORMATION GIVEN IN THE APPLICATION AND/OR ON THE ACCOMPANYING PLANS.

INSTRUCTIONS TO APPLICANTS

CASH WILL NOT BE ACCEPTED – APPLICATION FEES ARE NON-REFUNDABLE

Check and initial all appropriate boxes:

Initial

- ROAD OPENING APPLICATION FORM** – Included is a separate Road Opening Permit application form and fee(s) which are required for any proposed excavation work within County right-of-way. _____
- Included is the required Small Wireless Facility Siting Permit Application Fee in the amount of \$ _____.
- Included is the required Escrow Fee in the amount of \$ _____.
- I/we have attached the required “Small Wireless Facility Siting Permit Certification”. _____
- Included are 4 copies of the following prepared in accordance with County Resolution No. 2023-0773: _____
 - Detailed Project Description
 - Detailed Scaled Plan(s) including materials and methods of construction
 - Site Specific Traffic Control Plan (TCP)
- I/we understand that no refunds will be made after an application has been filed. _____
- Required contact authorization and contact information for all consultants and contractors is attached to this application. _____

I/we certify that this Application meets all the requirements of Monmouth County Resolution No. 2023-0773 and that all information provided in support of this application is correct and true.

(Signature of Applicant)

(Date)

(Print or Type Your Name)

(Company & Title)

(Signature of Co-Applicant)

(Date)

(Print or Type Your Name)

(Company & Title)

(09/2023)



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OFFICE USE ONLY
Application #: _____

MONMOUTH COUNTY
DEPARTMENT OF PUBLIC WORKS & ENGINEERING

SMALL WIRELESS FACILITY SITING PERMIT CERTIFICATION

Applicant's Name: _____
Street Address: _____
City: _____ State: _____ Zip: _____ Email: _____
Daytime Phone: _____ Fax: _____

I certify, on behalf of the Applicant, that the attached Application meets all the requirements of Monmouth County Resolution No. 2023-0773 and complies with the following criteria for the installation of Small Wireless Facilities in Monmouth County right-of-way:

- 1. The Applicant agrees to obtain consent from the Monmouth County Board of Commissioners to install Small Wireless Facilities in County right-of-way and to execute a "Small Wireless Facility Right-of-Way Use Agreement".
2. The proposed Small Wireless Facilities will comply with all applicable Federal, State and local laws, administrative regulations and codes.
3. The Applicant agrees to market the availability of approved facilities to all major wireless carriers in the marketplace. The Applicant will encourage, manage, and coordinate the location and placement of any interested carrier's equipment on the approved structures.
4. All poles will be built to allow three (3) carriers to utilize the same pole and will not be taller than 45 feet. All poles will have the capability to house and support the operation of three (3) carriers within one pole at the time of installation.
5. The Applicant agrees that if the pole location is found to be in a high traffic and/or sensitive area as determined by the County, the Applicant will move the pole to another location.
6. The Applicant agrees to take down and remove from any pole or other structure, any equipment or wires that are deactivated and no longer working.
7. The Applicant agrees that the location of all poles will be no closer than five hundred (500) feet apart. Should a carrier successfully scientifically demonstrate that acceptable coverage cannot be achieved with 500 feet spacing, such carrier may make an application for a waiver with a specific analysis of the need for densification.
8. The Applicant will procure all necessary Federal, State and/or local permits required for placement of small wireless facilities and poles in the County of Monmouth. Attached to this certification is a certified list of the required permits and copies of any permits that have been issued.

(Signature of Applicant)

(Date)

(Print or Type Your Name)

(Company & Title)

(FORM MUST BE NOTARIZED)

Monmouth County Board of County Commissioners

Meeting Venue:

Date: Sep 28, 2023 - 1:30 PM

Location: Hall of Records
 Commissioner's Meeting Room
 1 East Main Street
 Freehold, NJ 07728

Agenda: Resolution authorizing execution of Small Wireless Facility Right-of-Way Agreements in Monmouth County

Official Document #	Res# 2023-0773						
Meeting Date	09/28/2023						
Introduced Date	09/28/2023						
Adopted Date	09/28/2023						
Agenda Item	7						
COUNTY COMMISSIONER	PRES.	ABS.	MOVE	SEC	AYE	NAY	ABST.
Licitra	<				<		
DiRocco	<				<		
Burry	<			<	<		
Kiley	<		<		<		
Arnone	<				<		

CERTIFICATION

I HEREBY CERTIFY THE ABOVE TO BE A TRUE COPY OF A RESOLUTION ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF MONMOUTH AT A MEETING HELD

Sept. 28, 2023

Javara Brown

CLERK OF THE BOARD

Administrator

RESOLUTION AUTHORIZING EXECUTION OF SMALL WIRELESS FACILITY
RIGHT-OF-WAY AGREEMENTS IN MONMOUTH COUNTY

WHEREAS, pursuant to N.J.S.A. 48:17-8, any telegraph or telephone company organized under the laws of any state, or of the United States, may erect construct and maintain the necessary poles, wires, conduits and other fixtures for its lines, in, upon, along, over and under any public street, road or highway, upon first obtaining the consent in writing of the owner of the soil to the erection of such poles and such consent previously has been provided to such companies of the erection of such poles; and

WHEREAS, on September 12, 2023 by Resolution 2023-0725, the Monmouth County Board of County Commissioners authorized an Ordinance establishing procedures and standards regarding deployment of Small Wireless Facilities in public rights-of-way in the County of Monmouth; and

WHEREAS, a public hearing is required to be held and Resolution 2023-0725 set the public hearing for September 28, 2023, at 1:30 P.M. in the Commissioner Meeting Room, Hall of Records, One East Main Street, Freehold, New Jersey 07728 to discuss this Ordinance; and

WHEREAS, notice of the public hearing was printed in an official newspaper of the County of Monmouth; and

WHEREAS, a public hearing was held at the Board of County Commissioner's meeting on September 28, 2023; and

Introduced on: September 28, 2023
Adopted on: September 28, 2023
Official Resolution#: 2023-0773

Agenda Item# 7

WHEREAS, the County wishes to adopt an Ordinance regulating the deployment, placement, operation and permitting of Small Wireless Facilities in the County of Monmouth; and

WHEREAS, as the needs and specifications related to the types of and siting of monopoles throughout the County will change, the Ordinance will be, from time to time, modified by Engineering.

NOW, THEREFORE, BE IT RESOLVED that the Monmouth County Commissioner Director, or his designee, and the Clerk of the Board are authorized to execute Small Wireless Facility Right-of-Way Agreements in a form substantially as attached to the Ordinance adopted herein and approved by County Counsel.

BE IT FURTHER RESOLVED that all terms of deployment, operation, permitting as well as all other facets of Small Wireless Facilities within the County shall be in accordance with the Ordinance adopted herein.

BE IT FURTHER RESOLVED that as the needs and specifications related to the types of and siting of monopoles throughout the County will change, the Ordinance will be, from time to time, modified by Engineering.

BE IT FURTHER RESOLVED that the Clerk of the Board shall forward a certified true copy of this resolution to the County Administrator; County Counsel; Governor of the State of New Jersey; Lieutenant Governor of the State of New Jersey; the New Jersey State Legislature; the members of the Monmouth County Legislative Delegation; New Jersey League of

Agenda Item# 7

Municipalities; all County Boards of County Commissioners and the Mayor and Council of all towns within the County of Monmouth.

Introduced on: September 28, 2023
Adopted on: September 28, 2023
Official Resolution#: 2023-0773

Monmouth County Board of County Commissioners

Meeting Venue:

Date: Sep 28, 2023 - 1:30 PM

Location: Hall of Records
 Commissioner's Meeting Room
 1 East Main Street
 Freehold, NJ 07728

Agenda: Open Public Hearing

Official Document #	#						
Meeting Date	09/28/2023						
Introduced Date	09/28/2023						
Adopted Date							
Agenda Item	7-a						
COUNTY COMMISSIONER	PRES.	ABS.	MOVE	SEC	AYE	NAY	ABST.
Licitra	<		<		<		
DiRocco	<			<	<		
Burry	<				<		
Kiley	<				<		
Arnone	<				<		

Monmouth County Board of County Commissioners

Meeting Venue:

Date: Sep 28, 2023 - 1:30 PM

Location: Hall of Records
 Commissioner's Meeting Room
 1 East Main Street
 Freehold, NJ 07728

Agenda: Close Public Hearing

Official Document #	#						
Meeting Date	09/28/2023						
Introduced Date	09/28/2023						
Adopted Date							
Agenda Item	7-b						
COUNTY COMMISSIONER	PRES.	ABS.	MOVE	SEC	AYE	NAY	ABST.
Licitra	<			<	<		
DiRocco	<		<		<		
Burry	<				<		
Kiley	<				<		
Arnone	<				<		

Monmouth County Board of County Commissioners

Meeting Venue:

Date: Sep 28, 2023 - 1:30 PM

Location: Hall of Records
 Commissioner's Meeting Room
 1 East Main Street
 Freehold, NJ 07728

Agenda: Motion to adopt above Resolution

Official Document #	#						
Meeting Date	09/28/2023						
Introduced Date	09/28/2023						
Adopted Date							
Agenda Item	7-c						
COUNTY COMMISSIONER	PRES.	ABS.	MOVE	SEC	AYE	NAY	ABST.
Licitra	<				<		
DiRocco	<				<		
Burry	<			<	<		
Kiley	<		<		<		
Arnone	<				<		

ORDINANCE NO.

**AN ORDINANCE OF THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY
ESTABLISHING PROCEDURES AND STANDARDS REGARDING DEPLOYMENT
OF SMALL WIRELESS FACILITIES IN PUBLIC RIGHTS-OF-WAY IN THE
COUNTY OF MONMOUTH**

WHEREAS, the wireless telecommunications industry has expressed interest in submitting applications to utilize space in public rights-of-way within the County of Monmouth (“County”) for the installation of small cell wireless telecommunications facilities (hereinafter “Small Wireless Facilities”) in connection with the industry’s efforts to expand and/or upgrade existing 4G services and as part of the construction of a nation-wide 5G network and beyond; and

WHEREAS, the County of Monmouth encourages wireless infrastructure investment and wishes to provide a fair and predictable process for the deployment of Small Wireless Facilities while preserving the County’s ability to manage public rights-of-way in the overall interests of the public health, safety and welfare; and

WHEREAS, the County recognizes that as usage of wireless technologies continues to rapidly increase, Small Wireless Facilities will be critical to delivering wireless access to advanced technologies, autonomous vehicle operation, broadband services and 911 services to residences, businesses, schools and individuals within the County; and

WHEREAS, the County recognizes that Small Wireless Facilities often are most effectively deployed in public rights-of-way; and

WHEREAS, multiple installations of Small Wireless Facilities within the public right-of-way can impact property values, create traffic and pedestrian safety hazards, impact shade trees where proximity conflicts may require trimming of branches or require removal of roots and create visual and aesthetic blights all of which can negatively impact the quality and character of life within the County; and

WHEREAS, the County wishes to preserve the aesthetics of the community by encouraging the location of 5G equipment on existing or previously approved infrastructure in an orderly manner to achieve densification without extensive damage to existing roads, sidewalks, curbs and subterranean infrastructure; and

WHEREAS, a September 2018 Ruling and Order of the Federal Communications Commission (“FCC”) provides that all local jurisdictions must comply with various restrictions on the exercise of local aesthetic, zoning, public works and fees when dealing with Small Wireless Facility installation siting applications by the effective date of the Order which was January 14, 2019. The FCC Order further provided that all local agencies should be capable of fully implementing its provisions within 180 days of its adoption which was on September 26, 2018. The Order also includes modifications to “shot clocks” which require local governments to

approve or deny applications within certain expedited periods of time; and

WHEREAS, the County has, for in excess of five (5) years, maintained an orderly procedure for the application, construction and approval of what is commonly referred to in the County as “road opening permits”; and

WHEREAS, the County needs to amend its ordinances to address the legal and practical issues that arise in connection with multiple Small Wireless Facility installations deployed in the public rights-of-way due to the fact that the “road opening permit” does not differentiate between applications for Small Wireless Facilities as opposed to routine utility type applications; and

WHEREAS, in light of the foregoing, this governing body is of the opinion that the adoption of this Ordinance and its immediate implementation are in the best interest of the County and the health, safety and welfare of its residents and visitors.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Monmouth that the following procedures and standards regarding deployment of “Small Cell Wireless Facilities” be established as follows:

Definitions.

- A. All definitions of words, terms and phrases that are set forth in the Communications Act of 1934, P.L. 73-416, as amended by various statutory enactments including, but not limited to, the Telecommunications Act of 1996 P.L. 104-104, are incorporated herein and are made apart hereof.
- B. All definitions of the words, terms and phrases that are set forth in the portion of the Middle-Class Tax Relief and Job Creation Act of 2012, P.L. 112-96, as codified in 47 U.S.C. § 455, are incorporated herein and are made a part hereof.
- C. All definitions of words, terms and phrases that are set forth in the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1, *et. seq.*, are incorporated herein and are made apart hereof.
- D. All of the definitions of words, terms and phrases that are set forth in the Code of Federal Regulations at 47 C.F.R. § 1.6002, as amended, are incorporated herein and are made a part hereof.
- E. In addition to the foregoing, the following words, terms and phrases shall have the meanings indicated unless an alternate meaning clearly is discernable from the context in which the word, term or phrase is used:

Personal Wireless Services

“Personal Wireless Services,” as defined in 47 U.S.C. § 332(c)(7)(C), as supplemented and/or as amended to mean commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.

Public Right-of-Way

The surface, the airspace above the surface and the area below the surface of any street, road, highway, lane, alley, boulevard or drive, including the sidewalk, shoulder and area for utilities owned by the County of Monmouth within an easement to the public or other easement owned by the County of Monmouth

Replacement Pole

A pole which replaces an Existing Pole shall be considered a new pole. A New Pole shall be a concealment pole.

Small Wireless Facility

“Small Wireless Facility,” as defined in the Code of Federal Regulations at 47 C.F.R § 1.6002(1), as supplemented and/or as amended.

Concealment-Pole

A decorative concealment pole that conceals, three Small Wireless Facility installation(s) and may include other features such as street lighting, 911 call service access, public access Wi-Fi and surveillance cameras. The concealment pole should be manufactured with an inherently rust-resistant material (i.e., aluminum alloy with a natural, powder-coated or anodized finish, or stainless steel). If required by the County, the pole shall be of breakaway design in conformance with FHWA design and testing requirements. The color/finish of the concealment pole shall be specified by the County and/or municipality. The use of wooden poles is not permitted. A Concealment Pole must allow for multiple occupants and allow space for municipal use for other services and/or equipment. Concealment Poles shall be built with the capability to house three carriers within the base of the pole. Concealment Poles should be a maximum of 45 feet in height and a maximum of 26” in diameter at its widest cross-section including antenna shrouds and pedestal cabinets/bases. Concealment Poles shall neither have external latches, external hinges, external cabling, nor external antennas. . All 5G and related equipment, including but not limited to, electrical and telecom service disconnects, breaker panels and patch panels shall be housed internally within the concealment pole. Further, all utility connections to the concealment pole (i.e., electric and telecom providers) shall be made via an underground conduit system routed through the pole foundation. The use of aerial cable connections with attachments to concealment poles for any purpose are not permitted.

- F. In the event that a term, word or phrase is not defined in any of the aforementioned statutes and is not otherwise defined herein, then that term, word or phrase shall have its common, ordinary meaning.

Small Wireless Facility Siting Permit Required; Consent to Use Rights-of-Way Required.

- A. No person shall place a Small Wireless Facility in any right-of-way without first filing a Small Wireless Facility siting permit application, in the form specified herein and in accordance with the procedures specified herein, with the County Supervising Road Inspector and obtaining a siting permit therefore, except as otherwise may be provided in this ordinance. Upon approval of a siting permit application, the siting permit authorizing placement of a Small Wireless Facility in a public right-of-way shall not be issued by the County Supervising Road Inspector to any Applicant unless:
1. All siting permit application fees and escrow fees, as established herein, have been paid; and
 2. All other governmental permits or other governmental approvals that are required for the deployment(s) proposed by the Applicant's siting permit application under this Ordinance and by any other applicable federal, state, County or municipal law have been issued by the appropriate issuing authority therefore to the Applicant and the Applicant has supplied copies of such other permits or approvals to the County Supervising Road Inspector for inclusion with the Applicant's application documents; and
 3. The Applicant has entered into a "Right-of-Way Use Agreement," the approved form of which is set forth in Appendix "A" to this ordinance, with the County. The approved form of "Right-of-Way Use Agreement" may from time-to-time be revised, supplemented or otherwise amended or replaced. All such revisions, supplements, amendments or replacements shall be approved by Resolution of the Monmouth County Board of County Commissioners. The County Engineer shall maintain on file the currently approved Right-of-Way Use Agreement version and shall provide a copy to all siting permit applicants. Minor deviations to the terms and conditions that are set forth in the approved form of Right-of-Way Use Agreement may be approved by the Monmouth County Board of County Commissioners at the time that it grants consent to use a right-of-way to a siting permit Applicant.
- B. No siting permit authorizing placement of a Small Wireless Facility in a public

right-of-way shall be issued to any Applicant unless the Monmouth County Board of County Commissioners, in the manner prescribed by applicable laws of the State of New Jersey, has granted to the siting permit Applicant its consent to use public rights-of-way within the County. No siting of a Small Wireless Facility shall be permitted within five hundred (500) feet of another Small Wireless Facility unless it can be established by clear and convincing evidence that co-location on an existing or previously approved Small Wireless Facility is not feasible. Any claims of carriers of technical incompatibility or inability to collocate need to be proven by the carrier, not disproven by the County. Responsibility for judging proof of said claims lies solely with the County and/or its chosen representative(s).

Installation of New Structures; Installation on Existing Structures.

- A. No application for a Small Wireless Facility siting permit shall be approved if the application proposes the deployment of a Small Wireless Facility upon an existing structure in a right-of-way unless the structure is one of the types of Concealment Poles that are set forth in Section One: Definitions to this ordinance and such Concealment Pole specifically is designed to accommodate the reasonable and customary equipment necessary for a Small Wireless Facility installation which will accommodate at least three carriers per Small Wireless Facility deployment.
- B. No Small Wireless Facility shall be installed upon any new structure within any right-of-way unless the new structure is one of the pre-approved types of Concealment Poles that are identified in Section One: Definitions to this ordinance. A replacement pole is a new structure and must be a metal concealment pole capable of housing three carriers within the internal housing unit. No Concealment Poles shall be located within 500 ft. of another unless a waiver is granted pursuant to the Procedure on Permit Application Section of this Agreement.

The County may require small wireless facilities be located at locations set forth within a County Wireless Siting Plan. All Small Wireless Facilities must be placed within a 50 ft. radius of those specific locations set forth a County Wireless Siting Plan unless a waiver is granted pursuant to the Procedure on Permit Application Section of this Agreement. No more than one (1) Concealment Pole shall be permitted per intersection or block if the Siting Plan calls for the deployment of a Small Wireless Facility at any location other than an intersection, unless otherwise specified within a County Wireless Siting Plan or a waiver is granted pursuant to the Procedure on Permit Application Section of this Agreement.

Siting Permit Application Process.

- A. Application Filing. An application for a siting permit to place one or more Small Wireless Facility within a right-of-way shall be made on forms which

shall be available from the Office of the County Supervising Road Inspector. The application, along with the required application fee and the required escrow fee, shall be filed with the County Supervising Road Inspector. Immediately upon receipt of an application, the County Supervising Road Inspector shall provide copies of the application and all supporting documents that were submitted by the Applicant with the application, to the County Engineer, the Construction Official and the County Attorneys.

B. Application Form. The Small Wireless Facility siting permit application shall be made by a provider of personal wireless services, or its duly authorized representative as noted in a notarized statement from the provider of personal wireless services on whose behalf the representative is acting, and shall contain the following:

1. The Applicant's name, address, telephone number and e-mail address.
2. A prominent reference to the application referring to a request for a Small Wireless Facility
3. The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the Applicant with respect to the filing of the Application.
4. A description of the proposed Small Wireless Facility, existing structure and new structure work to be performed. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with particular emphasis on those matters, including, but not limited to, subservice utilities likely to be affected or impacted by the work proposed along with a description of such other governmental permits or approvals as may be required by applicable law with respect to the proposed installation(s) and a description of such other permits or approvals for which the Applicant has applied.
5. All Siting Applications shall include detailed scaled plan(s) that clearly shows all proposed work to be constructed and include additional relevant details on the proposed materials and methods of construction. Plan scales shall be 1" = 20' for site plan views and 3/8" = 1' for elevation views. Existing conditions shall be accurately depicted on the plan including right-of-way limits and all aerial and underground utilities within fifty (50') of the proposed work. Plans shall detail the full limits of all required underground utility connections and construction required to support the operation of the Small Wireless Facility. Bifurcating the design and/or permits for the required utility connections is not permitted.
6. All Siting Applications shall include a detailed, site specific Traffic

Control Plan (TCP) drawn to scale, clearly showing the proposed maintenance and protection of traffic required to construct the small wireless facility. The TCP must conform to the latest “Manual on Uniform Traffic Control Devices” (MUTCD) standards.

7. Authorization for any consultant acting on behalf of the Applicant to speak with the County, or a designee of the County, for the Applicant even if the Applicant cannot be available.
8. Verification from an appropriate professional that the Small Wireless Facility shall comply with all applicable federal, state and local laws, administrative regulations and codes.
9. The Applicant shall certify that they shall market the availability of approved facilities to all major wireless carriers in the marketplace. The Applicant shall further certify that they will encourage, manage and coordinate the location and placement of any interested carrier’s equipment on their structure.
10. The Applicant shall certify that the poles are built to allow three (3) carriers to utilize the same pole. The Applicant shall certify that the poles will not be taller than 45 feet. The Applicant shall also verify that the proposed pole being built can accommodate three total carrier without having to be replaced.
11. The Applicant shall certify that if the pole location is found to be in a high traffic and/or sensitive area as determined by the County, the Applicant will place a pole in another location for safety.
12. The Applicant shall certify that it will take down and remove from any pole or other structure any equipment or wires that are deactivated and no longer working.
13. The Applicant shall certify that the location of all poles will be no closer than five hundred (500) feet apart. Should a carrier successfully scientifically demonstrate that acceptable coverage cannot be achieved with 500 feet spacing, such carrier may make an application for a waiver with a specific analysis of the need for densification.
14. The Applicant shall certify the location and number of internal housing units needed for their poles in the County of Monmouth. All poles shall have the capability to house three (3) carriers within one pole at the time of installation.
15. The Applicant shall procure any and all necessary State and/or local permits required for placement of poles in the County of Monmouth.

16. An Applicant seeking to deploy a network of Small Wireless Facilities, all of which are to be located in rights-of-way, may file a batched application for up to twenty-five (25) Small Wireless Facilities and receive a single siting permit for multiple Small Wireless Facilities.
17. A certification that the Applicant shall remove the Small Wireless Facility, including any equipment or wires, when it is no longer in use.

Procedure on Permit Application; No Exclusive Rights.

- A. The County Engineer shall review each application for a Small Wireless Facility Siting Permit for conformity with the provisions of this Ordinance and for compliance with accepted engineering standards and guidelines. The County Engineer's review and decision to approve or deny any application shall be guided by the latest editions of the Roadside Design Guide and Guide for Accommodating Utilities within Highway Right-of-Way published by the American Association of State Highway Transportation Officials (AASHTO), Standard Specifications for Road and Bridge Construction published by the New Jersey Department of Transportation and the Manual on Uniform Traffic Control Devices (MUTCD). Further, the County with approve all siting permits on nondiscriminatory terms and conditions subject to the following requirements:
 1. Within ten (10) days of receiving an Application, the County Supervising Road Inspector shall determine and notify the Applicant:
 - a. Whether the Application is complete;
 - b. If the Application is incomplete, what specific information is missing; and
 - c. Whether the deployment of the Small Wireless Facilities as proposed requires the Applicant to apply for other County permits, such as a road opening permit, roadway occupancy permit or construction permit, for which the Applicant has not yet applied. No Small Wireless Facility siting permit application shall be deemed complete until the Applicant has applied for all other permits and approvals required by all other laws and regulations that are applicable to the Applicant's proposed Small Wireless Facility deployment.

- B. The County shall make its final decision to approve or deny the Application within the following timeframes:
- a. Sixty (60) days from the submission of a complete application to install a Small Wireless Facility upon one or more existing structures.
 - b. Ninety (90) days from the submission of a complete application to install a Small Wireless Facility upon one or more new structures.
 - c. Ninety (90) days from the submission of a complete batched application to install Small Wireless Facilities upon both existing and new structures.

The timeframes described above by which an application shall be either approved or denied may be extended by mutual consent of the Applicant and County. Such consent shall be set forth on a form for such purposes which shall be available from the Office of the County Supervising Road Inspector. Such consent on behalf of the County shall be exercised by the Commissioner Director in their reasonable discretion.

- C. The County Supervising Road Inspector shall notify the Applicant in writing of the final decision, and if the Application is denied it shall specify the basis for denial; and cite such specific provisions, as to why the Application was denied.
- D. Notwithstanding an initial denial, the Applicant may cure any deficiencies identified by the County within thirty (30) days of the denial without paying an additional application fee, provided the County Supervising Road Inspector shall approve or deny the revised application within thirty (30) days of receipt of the amended application. Any denial shall be limited to the deficiencies specified in the original notice of denial.
- E. If the County fails to act upon an application within the timeframes prescribed by this section, the Applicant may provide written notice to the County that the application review and decision period has lapsed. Upon receipt of such notice, the Monmouth County Board of County Commissioners, by resolution adopted no later than its second regularly scheduled public meeting next following receipt of the notice, shall either deny the application or direct that the siting permit shall be approved and issued. Nothing in this paragraph is intended in any way to impact any other right or remedy that may be available to the Applicant under applicable federal or state law if the County fails to act upon an application within the timeframes prescribed by this section.
- F. A siting permit from the County authorizes an Applicant to undertake only certain activities in accordance with this ordinance. No approval or consent granted, or siting permit issued, pursuant to this ordinance shall confer any exclusive right, privilege, license or franchise to occupy or use any public right-of-way within the

County of Monmouth for the delivery of telecommunications services or for any other purpose.

- G. Waiver: The County Engineer may waive any siting standard set forth in this Chapter if the carrier can scientifically demonstrate strict enforcement will prohibit or have the effect of prohibiting any interstate or intrastate telecommunications service or personal wireless service. Claims of technical incompatibility or inability to collocate need to be proven by the carrier, not disproven by the County. Responsibility for judging proof of said claims lies solely with the County and/or its chosen representative(s).

Duration.

No siting permit issued under this ordinance shall be valid for a period longer than twelve (12) months unless construction has actually begun and continuously and diligently is pursued to completion. Upon written request from the Applicant, the Commissioner Director, upon consultation with the Construction Official, may extend the siting permit for a period of up to twelve (12) months so long as construction has begun at the time that the Applicant's request for an extension is made.

Routine Maintenance and Replacement.

A Small Wireless Facility siting permit shall not be required for:

- A. Routine maintenance of a Small Wireless Facility.
- B. The replacement of a Small Wireless Facility with another Small Wireless Facility that is substantially similar or smaller in size, weight and height to the Small Wireless Facility that is being replaced.
- C. Provided, however, that on a location where the County and/or another provider has placed equipment or facilities, any routine maintenance or replacement that is done shall not occur until written authorization from the County and/or the other provider, as the case may be, to proceed is provided to the County, which authorization to proceed shall not unreasonably be withheld by the County and/or the other provider.
- D. Provided further that if the replacement of a Small Wireless Facility with another Small Wireless Facility includes replacement of the structure to which the Small Wireless Facility is attached then an application for a siting permit shall be required.

**** Performing Routine Maintenance and Replacement work may require the Licensee to apply for other permits including but not limited to a road opening and/or roadway occupancy permit.**

Application Fees.

- A. All applications for approval and issuance of a Small Wireless Facility siting permit pursuant to this ordinance shall be accompanied by a fee as follows:
 - 1. For applications that do not include the installation of any new structures within a right-of-way the application fee shall be \$500.00 for up to five (5) Small Wireless Facilities with an additional \$100.00 for each Small Wireless Facility beyond five (5).
 - 2. For applications that include the installation of a new structure within a right-of-way the application fee shall be \$1000.00 for up to five (5) Small Wireless Facilities with an additional \$100.00 for each Small Wireless Facility beyond five (5).

Escrow Fee for Third-Party Professionals and Consultants.

- A. In addition to the application fee, all applications for approval and issuance of a Small Wireless Facility siting permit shall be accompanied by an escrow fee as follows:
 - 1. For applications whose proposed Small Wireless Facility deployment(s) will not require a road opening permit or roadway occupancy : \$5,000.00.
 - 2. For applications whose proposed Small Wireless Facility deployment(s) will require a road opening permit or roadway occupancy \$7,500.00.
- B. The escrow account deposits are required to pay for the costs of professional services, including engineering, planning, legal and other third-party professional consulting expenses connected with the review of submitted materials, including any traffic engineering review or other special analyses related to the County's review of the materials submitted by the Applicant and the preparation of any reports or any necessary legal agreement regarding rights-of-way use. An Applicant is required to reimburse the County for all fees, costs and expenses of third-party professionals and consultants incurred and paid by the County for the review process of a Small Wireless Facility siting permit application, such as, but not limited to:
 - 1. Professional fees for reviews by third-party professionals or consultants of applications, plans and accompanying documents;
 - 2. Issuance of reports or analyses by third-party professionals or consultants to the County setting forth recommendations resulting from the review of any documents submitted by the Applicant;
 - 3. Charges for any telephone conference(s) or meeting(s), including travel

expenses, requested or initiated by the Applicant, the Applicant's attorney or any of the Applicant's experts or representatives;

4. Review of additional documents submitted by the Applicant and issuance of reports or analyses relating thereto;
 5. Review or preparation of right-of-way use agreements, easements, deeds, right-of-way municipal consent ordinances or resolutions and any and all other like or similar documents; and
 6. Preparation for and attendance at all meetings by third-party professionals or consultants serving the County, such as the County Attorney, County Engineer and County Planner or other experts as required.
- C. The escrow account deposits shall be placed in a separate account by the County's Chief Financial Officer at the request of the County Supervising Road Inspector and an accounting shall be kept of each Applicant's deposit. Thereafter:
1. All third-party professional or consultant fees, costs, expenses and charges shall be paid from the escrow account and charged to the applicant;
 2. Upon either final denial of a Small Wireless Facility siting permit application or upon issuance of a Small Wireless Facility siting permit, any moneys not expended for third-party professional or consulting services shall be returned to the Applicant within 90 days upon written request by the Applicant and as authorized by the Monmouth County Board of County Commissioners;
 3. If at any time during the application review process 75% of the money originally posted shall have been expended, the Applicant shall be required to replenish the escrow deposit to 100% of the amount originally deposited by the Applicant;
 4. No Small Wireless Facility siting permit application shall be considered complete until such time as the required escrow fee has been posted to guarantee payment of third-party professional or consultant fees, costs, expenses and charges;
 5. All payments charged to the escrow deposit shall be pursuant to vouchers from the third-party professionals or consultants stating the hours spent, the hourly rate and the fees, costs, expenses and charges incurred;
 6. Third-party professionals and consultants submitting charges pursuant to this section shall be permitted to charge for such services at the same rates as they would charge their private clients for like or similar work provided that:

- a. Professional fees are billed at rates that do not exceed such professional fees as are customarily charged by other like professionals and consultants performing similar work within Monmouth County; and
 - b. Out-of-pocket costs, expenses and charges are billed on a dollar-for-dollar basis with no mark-up being permitted;
7. The County shall render a written final accounting to the Applicant on the uses to which the escrow deposit was put. The written final accounting shall include copies of all vouchers that were submitted by third-party professionals and consultants and paid for by the County.

County Access to New Structures.

An Applicant whose siting permit includes the installation of any new Concealment Pole structure of any of the types that are defined in in Section One: Definitions to this ordinance shall provide the County with access to any of the technological features that are a component the new Smart Pole structure such as, for example, public access Wi-Fi, 911 call service or security cameras, before the Applicant offers such access to any other person or entity. Should the County decide to utilize any such technological features then the County, on an annual basis, shall reimburse the Applicant or the subsequent owner of the structure, the costs, on a dollar-for-dollar basis, of providing the County with such access. Such costs shall be limited to the costs of providing electricity to the components used by the County and the costs of any repairs required to be made to the components used by the County, unless the repair costs are necessitated by the acts of the Applicant or subsequent owner of the structure, without regard to whether such acts are negligent or intentional.

SECTION TWO. All Ordinances or parts of Ordinances inconsistent with this Ordinance, to the extent of such inconsistencies only, be and the same hereby are repealed.

SECTION THREE. Should any section, paragraph, clause or other portion of this Ordinance be adjudged by a Court of competent jurisdiction to be invalid, such judgment shall not affect or impair the remainder of this Ordinance.


SECTION FOUR. This Ordinance shall take effective immediately upon final passage and publication as provided by law.

I HEREBY CERTIFY this to be a true and correct Ordinance of the Monmouth County Board of County Commissioners, introduced on September 12, 2023 and further considered after a Public Hearing held on September 28, 2023.


INTRODUCED:	September 12, 2023
PUBLIC HEARING:	September 28, 2023
ADOPTED:	September 28, 2023

Witness

COUNTY OF MONMOUTH



TAMARA BROWN, CLERK



THOMAS A. ARNONE
Commissioner Director

APPENDIX A
(Form of Approved Small Wireless Facility Right-of-Way Agreement)

SMALL WIRELESS FACILITY RIGHT-OF-WAY USE AGREEMENT

This Right-of-Way Use Agreement (“Agreement”) is made and entered into on _____, 2023 by and between the County of Monmouth (“County”), having its principal offices at One East Main Street, Hall of Records, Freehold, New Jersey 07728 and Applicant (_____) (“Licensee”), having a mailing address at (_____).

Throughout this Agreement County and Licensee each may be referred to as a “Party” and collectively may be referred to as the “Parties.”

W I T N E S S E T H

WHEREAS, the County of Monmouth is duly formed, organized and existing in accordance with the laws of the State of New Jersey; and

WHEREAS, the County of Monmouth possesses and exercises control over various permanent rights-of-way that are, or are planned to be, utilized for streets, roads and highways and those rights-of-way are depicted on the current County Tax Map and/or other maps and documents of public record; and

WHEREAS, N.J.S.A. 48:17-8 provides that any telegraph or telephone company organized under the laws of any state, or of the United States, may erect, construct and maintain the necessary poles, wires, conduits and other fixtures for its lines, in, upon, along, over and under any public street, road or highway, upon first obtaining the consent in writing of the owner of the soil to the erection of such poles and such consent previously has been provided to such companies for the erection of such poles; and

WHEREAS, various public utilities that are subject to the jurisdiction of the New Jersey Board of Public Utilities such as, by way of example and not by way of limitation, Jersey Central Power and Light have erected and maintain utility poles within the public rights-of-way in the County for use in connection with supplying and distributing electricity, telephone services, cable television, telecommunication services and/or other utilities pursuant to consent previously granted by the County; and

WHEREAS, Licensee does not presently have the right to maintain utility poles in any municipal right-of-way within the County or to otherwise use or occupy any municipal right-of-way within the County for any of its Small Wireless Facilities, as hereinafter defined; and

WHEREAS, in accordance with the provisions of N.J.S.A. 48:3-11, et. seq., Licensee has petitioned the County for its consent to locate, place, attach, install, operate, control, maintain, upgrade and enhance its Small Wireless Facilities in County rights-of-way as well as on utility

poles and/or other facilities that are owned by third parties which already are located in County rights-of-way pursuant to municipally granted franchises or otherwise; and

WHEREAS, N.J.S.A. 48:3-18 provides that any person may enter into a written agreement with any other person owning utility poles erected under municipal consent in any street, highway or other public place for use by the former person and N.J.S.A. 48:3-19 requires that the former person obtain the consent of the County for use by the former person of the poles of another if the former person does not have the lawful right to maintain poles in such street, highway or public place; and

WHEREAS, as to those utility poles or structures that are owned by third parties and which are located in municipal rights-of-way pursuant to municipally granted franchises or otherwise, Licensee has provided the County with evidence, consisting of written agreements, that it has obtained consent from those third parties to use the utility poles or structures that are owned by those third parties; and

WHEREAS, N.J.S.A. 48:3-15 provides that, upon satisfaction of the procedures that are set forth in N.J.S.A. 48:3-11 through N.J.S.A. 48:3-14, consent for use of any street, avenue, park, parkway, highway or other public place may be granted by ordinance and not otherwise; and

WHEREAS, the Monmouth County Board of County Commissioners adopted Ordinance No. _____-2023 which authorizes the making and execution of this Agreement.

NOW, THEREFORE, for and in consideration of the covenants and obligations contained herein and for other good and valuable consideration, the receipt and sufficiency of which hereby is acknowledged, the Parties hereby agree as follows:

1. Incorporation of Preamble. All of the statements of the Preamble are repeated and are incorporated herein and are made apart hereof by this reference thereto as if set forth at length.

2. Definitions. All definitions of words, terms and phrases that are set forth in the Communications Act of 1934, P.L. 73-416, as amended by various statutory enactments including, but not limited to, the Telecommunications Act of 1996 P.L. 104-104, are incorporated herein and are made apart hereof.

All definitions of the words, terms and phrases that are set forth in the portion of the Middle-Class Tax Relief and Job Creation Act of 2012, P.L. 112-96, as codified in 47 USC § 455, are incorporated herein and are made a part hereof.

All definitions of words, terms and phrases that are set forth in the New Jersey Municipal Land Use Law, N.J.S.A. 40:550-1, *et. seq.*, are incorporated herein and are made apart hereof.

In the event that a term, word or phrase is not defined in any of the aforementioned statutes and is not otherwise defined by this Agreement then that term, word or phrase shall have its common, ordinary meaning.

“County” means the County of Monmouth in the State of New Jersey.

“Licensee” means (_____) (NAME OF LICENSEE).

“Pole” means a Concealment/Smart pole erected as a new pole, or, a replacement pole in the same location as an already existing pole as defined herein.

“Public Right-of-Way” means the surface, the airspace above the surface and the area below the surface of any street, road, highway, lane, alley, boulevard or drive, including the sidewalk, shoulder and area for utilities owned by the County of Monmouth within an easement to the public or other easement owned by the County.

3. Grant of Consent. In accordance with the provisions of N.J.S.A. 48:3-19, *et. seq.*, and County Ordinance No. ____-2023, and subject to obtaining the permission of the owner(s) of the affected Utility Poles, the County hereby grants approval and consent to Licensee, its consultants, agents and contractors, to enter upon Public Rights-of-Way within the confines of the County for the purpose of owning, constructing, attaching, operating, maintaining, removing, reattaching, reinstalling, relocating and replacing its Small Wireless Facilities that more particularly are depicted and are described in Section One: Definitions, made a part hereof, upon the Utility Poles that are particularly identified in Section One: Definitions all of which Utility Poles are located in Public Rights-of-Ways and all of which Utility Poles are owned by third parties. Licensee represents that it has obtained consent from the owners of the Utility Poles to utilize those Utility Poles for the aforementioned purposes. Upon request, Licensee shall furnish the County with evidence of its Utility Pole attachment agreement(s) made pursuant to N.J.S.A. 48:3-18 and/or N.J.S.A. 14:18-2.9, *et. seq.* Further, the County hereby grants approval and consent to Licensee, its consultants, agents and contractors, to enter upon Public Rights-of-Way within the confines of the County for the purpose of constructing and owning, such new utility poles or new structures for the purposes attaching, operating, maintaining, removing, reattaching, reinstalling, relocating and replacing its Small Wireless Facilities that more particularly are depicted and are described in Section One: Definitions, made a part hereof. Nothing in this Agreement shall be construed as authorizing Licensee to own, construct, attach, operate, maintain, remove, reattach, reinstall, relocate and/or replace any Small Wireless Facility, Utility Pole or any other structure unless the Licensee first has obtained all permits and other approvals therefore, as required by all applicable laws and regulations. Nothing in this Agreement shall be construed as granting Licensee consent to utilize any rights-of-way over which the County lacks authority to grant consent such as any right-of-way over which the County or the State of New Jersey have exclusive authority.

All poles will be no closer than five hundred (500) feet apart. In the event that the Licensee wishes to place poles closer than 500 feet, the Licensee shall why the Licensee’s system could not function at five hundred 500 feet apart and why the Licensee needs the poles closer subject to review and approval by the County of Monmouth pursuant to the Procedure on Permit Application Section of this Agreement.

4. Term. The term of this Agreement shall be ten (10) years, commencing on _____, 2023 unless sooner terminated by either Party in accordance with the provisions

of this Agreement. The term of this Agreement automatically shall be renewed for five (5) successive terms of five (5) years each on the same terms and conditions as are set forth herein, unless Licensee notifies the County of its intention not to renew not less than sixty (60) days prior to the end of the Term then in effect.

5. Non-Exclusive License. This Agreement is a non-exclusive license. It shall not be recorded. Any and all rights granted to Licensee under this Agreement shall be exercised at Licensee's sole cost and expense, shall be subject to the prior and continuing right of the County to use any and all parts of its Public Rights-of-Way exclusively or concurrently with any other person or entity and further shall be subject to all deeds, easements, dedications, conditions, covenants, restrictions, encumbrances and claims of title of record which may affect the Public Rights-of-Way. Nothing in this Agreement shall be deemed to grant, convey, create or vest in Licensee a real property interest in any land, including any fee, leasehold interest or easement.

6. Compliance with Laws; Required Permits; Utilities; Maintenance.

(a) *Compliance with Laws.* Licensee shall comply with all applicable federal, state and County laws, administrative regulations, codes, zoning ordinances, ordinances, standards, specifications and requirements relating to the construction, installation, operation, maintenance and control of Licensee's Small Wireless Facilities, appurtenant equipment, structures and utility poles defined in Section One: Definitions, in the designated locations within the Public Rights-of-Way. Licensee shall not attach, install, maintain or operate any Small Wireless Facility within any Public Right-of-Way without a permit therefore first having been issued by the County. Therefore, in the event that Licensee desires to construct, attach, install, maintain or operate any additional Small Wireless Facilities, Utility Poles or structures within a Public Right-of-Way that is not defined in Section One: Definitions then such construction, attachment, installation, maintenance or operation first shall be approved by a majority vote of the governing body and permit therefore issued by the County prior to the commencement of such construction, attachment, installation, maintenance or operation of the Small Wireless Facilities, Utility Poles or structures.

(b) *Required Permits.* If the attachment, installation, operation, maintenance or location of any Small Wireless facility by Licensee in any Public Right-of-Way requires any permit, including any County street opening permit, then Licensee, if required under applicable County ordinances, shall apply for the appropriate permit with the appropriate municipal official and shall pay the required fee therefore.

(c) *Utilities.* Licensee shall pay for all utilities used (and connections to said utilities) in connection with the installation, operation and maintenance of its Small Wireless Facilities. Licensee agrees to take utility access from the nearest possible connection in order to minimize utilization of the Public Rights-of-Way.

(d) *Maintenance.* In the performance and exercise of its rights and obligations under this Agreement, Licensee, at its sole cost and expense, shall maintain its Small Wireless Facilities, its Utility Poles, its structures and any real property utilized to access any of the foregoing in a safe and satisfactory condition as directed by, and to the satisfaction of, the County including, but not

limited to, replacing or repairing poles and cabinets that have been damaged (including cosmetic damage), defaced, pole out of plumb, faded or failing paint/coatings, missing hinges and cabinet doors, removal of any debris generated by Licensee and replacement of any plants, trees or vegetation damaged or destroyed by Licensee. In the event that any of Licensee's Small Wireless Facilities, and appurtenances thereto, its Utility Poles or its structures causes damage to any Public Right-of-Way or interferes with the performance of any of the County's public duties or other uses of the Public Rights-of-Way, Licensee agrees, upon notice from the County to promptly commence and complete all necessary repairs to cure any such damage at Licensee's sole cost and expense. If Licensee fails to repair the damage after receiving notice from the County or if an emergency necessitates immediate repair of the damage, then the County, in its sole discretion, may perform the repair work itself in which case Licensee shall reimburse the County for the cost of the repair work within thirty (30) days after receiving a statement detailing such costs. The Licensee shall take down and remove from any pole or other structure any equipment or wires that are deactivated and no longer working. Performing Routine Maintenance and Replacement work may require the Licensee to apply for other permits including but not limited to a road opening and/or roadway occupancy permit.

7. Removal and Relocation. Within 30 days following written notice from the County, Licensee, at its own expense, shall temporarily or permanently remove, relocate, change or alter the position of any of its Small Wireless Facilities, Utility Poles or structures if the County determines that (a) such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any the County improvement in or upon, the Public Right-of-Way; or (b) because the Small Wireless Facilities, Utility Poles or structures are interfering with or adversely affecting proper operation of street lighting, traffic signaling or other poles; or (c) the widening of the Public Right-of-Way necessitates such removal, relocation, change or alteration. In such instance, the County shall cooperate with Licensee to find a replacement location for its Small Wireless Facilities that will provide similar radio frequency coverage as is provided by the Small Wireless facilities to be removed or relocated. Once the emergency condition no longer exists Licensee shall apply for any permit for the work that was performed during the emergency that it would have had to secure for said work prior to performing said work in the absence of the emergency.

If a pole location is found to be in a high traffic and/or sensitive area as determined by the County, the Licensee will place a pole in another location, or, place the equipment underground.

8. Emergent Conditions. Licensee shall maintain all of its Small Wireless facilities, Utility Poles and structures at Licensee's sole cost and expense. The noncompliance with normally required procedures for securing a required permit shall be excused when Licensee reasonably determines that an emergency exists. If an emergency creates a hazard on the traveled portion of the Public Right-of-Way, then Licensee shall take immediate steps to provide all necessary protection for traffic on the roadway including the use of signs, lights, barricades or flaggers. Licensee shall, as soon as practical, notify the County Supervising Road Inspector, Construction Official, or their designees, and the local Police Department of the emergency, informing them as to what steps have been taken for protection of the traveling public and what will be required to make the necessary repairs. On nights and weekends the Licensee shall notify the local Police Department of an emergency if the County Supervising Road Inspector and Construction Official

are unavailable. If the nature of the emergency is such as to interfere with the free movement of traffic, the local Police Department shall be notified immediately, prior to any other action being taken. To the extent that the County has actual knowledge of the displacement or damage to any of Licensee's Small Wireless Facilities, Utility Poles or structures, it shall inform Licensee upon learning of the same.

9. Personal Property Owned by Licensee. All Small Wireless Facilities, Utility Poles and structures covered under this Agreement shall be considered personal property and shall remain the property of and shall be under the dominion and control of the Licensee. Such personal property may not be utilized by any third party without the express prior written consent of Licensee, but Licensee, upon the request of the County and at no cost to Licensee, shall cooperate with any third party in collocating the third party's equipment upon any Utility Pole or structure upon which Licensee has installed any Small Wireless facility.

10. Insurance and Indemnity.

(a) Licensee shall secure and maintain commercial general liability insurance or self-insurance with limits of \$2,000,000 for injury or death on one or more persons in any one occurrence and in the aggregate and \$2,000,000 for damage or destruction in any one occurrence and in the aggregate insuring Licensee as named insured and listing the County as an included insured on the policies. The County's included insured status shall (i) be limited to bodily injury, property damage or personal and advertising injury caused, in whole or in part, by Licensee, its employees, agents or independent contractors; (ii) not extend to claims for punitive or exemplary damages arising out of the acts or omissions of the County, its employees, agents or independent contractors or where such coverage is prohibited by law or to claims arising out of the gross negligence of the County, its employees, agents or independent contractors; and, (iii) not exceed Licensee's indemnification obligation under this Agreement, if any. Notwithstanding the foregoing, Licensee may, in its sole discretion, self-insure any of the required insurance under the same terms as required by this Agreement. In the event Licensee elects to self-insure its obligation under this Agreement to include the County as an additional insured, the following conditions apply: (i) the County shall promptly and no later than thirty (30) days after notice thereof provide Licensee with written notice of any claim, demand, lawsuit, or the like for which it seeks coverage pursuant to this Section and provide Licensee with copies of any demands, notices, summonses, or legal papers received in connection with such claim, demand, lawsuit, or the like; (ii) the County shall not settle any such claim, demand, lawsuit, or the like without the prior written consent of Licensee; and (iii) the County shall fully cooperate with Licensee in the defense of the claim, demand, lawsuit, or the like. If Licensee elects to self-insure then it or its affiliated parent shall maintain a financial net worth of at least \$100,000,000 and it or its affiliated parent shall provide the County with a certificate of self-insurance along with a copy of its or its affiliated parent's latest financial statement (or a link to an internet web site from which the County may print a copy of the financial statement) showing a net worth of not less than \$100,000,000 as sufficient evidence to demonstrate its or its affiliated parent's financial ability to self-insure the insurance coverage and limits that are specified in this paragraph 10(a).

(b) Certificates of the insurance required by this paragraph 10, along with the evidence of financial ability to self-insure as described in paragraph (a) above, if applicable, shall

be provided to the County within ten (10) days following the effective date of this Agreement and prior to obtaining any permits required under paragraph 6(b). Thereafter, and so long as this Agreement remains executory, Licensee shall provide certificates of insurance or of self-insurance reflecting the requirements of this paragraph to the County within ten (10) days following receipt of a written request from the County. Production of a certificate of self-insurance always shall be accompanied by the evidence of ability to self-insure that is described in paragraph 10(a) above. Should any policy of insurance on which the County is an included insured be cancelled before the expiration date thereof then Notice of the cancellation shall be provided to the County in accordance with the policy provisions by Licensee or by its affiliated parent or by the insurer.

(c) Licensee agrees to indemnify and hold harmless the County against any claim of liability or loss from personal injury or property damage to the extent directly resulting from or arising out of the negligence or willful misconduct of the Licensee, its employees, contractors or agents, except to the extent such claims or damage may be due to or caused by the negligence or willful misconduct of the County, or its employees, contractors or agents. The County will provide the Licensee with prompt, written notice of any claim covered by this indemnification and hold harmless provision; provided that any failure of the County to provide any such notice, or to provide it promptly, shall not relieve the Licensee from its indemnification and hold harmless obligation in respect of such claim, except to the extent the Licensee can establish actual prejudice and direct damages as a result thereof. The County shall cooperate with the Licensee in connection with the Licensee's defense of such claim. The Licensee shall defend the County at the County's request, against any claim with counsel of the County's choosing that is reasonably satisfactory to the Licensee.

(d) The legal liability of the Licensee to the County and any person for any of the matters that are the subject of the insurance policies required by this paragraph shall not be limited by such insurance policies or by the recovery of any amounts thereunder, however neither the County nor the Licensee shall be liable to the other for consequential, incidental, exemplary or punitive damages on account of any activity pursuant to this Agreement.

11. No Waiver of Breach of Remedies. No waiver by a Party of any breach of this Agreement or of any representation hereunder by the other Party shall be deemed to be a waiver of any other breach by the other Party (whether preceding or succeeding and whether or not of the same or similar nature), and no acceptance of performance by a Party after any breach by the other Party shall be deemed to be a waiver of any breach of this Agreement or of any representation hereunder by the other Party whether or not the first Party knows of such breach at the time it accepts such performance. No failure or delay by a Party to exercise any right it may have by reason of the default of the other Party shall operate as a waiver of default or modification of this Agreement or shall prevent the exercise of any right by the first Party while the other Party continues to be so in default. Any remedy that either Party may have by reason of a breach of any provision of this Agreement by the other Party at all times shall be preserved and may not be waived.

12. Mediation of Disputes. In the event of any dispute concerning the interpretation of the terms of this Agreement or of the obligations of either Party under this Agreement, the Parties shall attempt in good faith to resolve such dispute via consultation between their designated

representatives. If such consultation fails to resolve the dispute, then the Parties agree to submit the dispute to mediation. The mediation shall be initiated by one Party serving the other Party with a written demand to mediate. The mediation demand shall include the initiating Party's designation of a mediator. Within fourteen (14) days of receipt of the mediation demand the Party receiving the mediation demand shall either agree to the mediator designated by the other Party or shall provide the other Party with its written designation of a mediator. Thereafter, the designated mediators immediately shall jointly designate a third mediator who shall be either a New Jersey licensed attorney-at-law or a retired judge of the Superior Court of New Jersey. Payment of mediation fees, costs and expenses shall be split evenly amongst the Parties. The mediated resolution of the dispute may include a provision that provides for something other than an even split of the mediation fees, costs and expenses.

13. Severability. If any provision of this Agreement or the application thereof shall, for any reason and to any extent, be invalid or unenforceable, neither the remainder of this Agreement nor the application of the provision to other persons, entities or circumstances shall be affected thereby, but instead shall be enforced to the maximum extent permitted by law.

14. Governing Law. This Agreement shall be governed, construed and interpreted by, through and under the laws of the State of New Jersey without reference to conflict of law principles, except in such instances when the laws of the United States preempt the laws of the State of New Jersey and all actions, suits and litigation arising under the terms of this Agreement shall be litigated in the Superior Court of New Jersey, Monmouth County, or in the United States District Court for the District of New Jersey, but no such litigation shall be initiated by a Party until there has been compliance with the mediation provisions of this Agreement that are set forth above. In the event of litigation arising out of this Agreement, the prevailing party shall not be entitled to recover its costs of suit and attorney's fees from the non-prevailing party unless such recovery is specifically and expressly provided for by a statute of the United States or a statute of the State of New Jersey.

15. Entire Agreement. This Agreement contains the entire understanding between the parties, and such understanding may not be modified or terminated except in writing and signed by all parties to this Agreement.

16. Notice. Any notice required or permitted under this Agreement or under state or federal law shall be deemed sufficiently given or served if sent by United States certified mail, return receipt requested or by a nationally recognized overnight delivery service. The County and Licensee may change the address required for service of any notice by providing the other party to this Agreement with a new address for sending and receiving of required notices under this Agreement. No notice required under this Agreement may be served validly by email. All notices to the County or Licensee shall be delivered to the following addresses:

County of Monmouth
Teri O'Connor, County Administrator
One East Main Street
Hall of Records
Freehold, New Jersey 07728

Licensee: (INSERT NAME AND ADDRESS)
With a copy to: (INSERT NAME AND ADDRESS)

17. Emergency Contact Information for Licensee. The emergency telephone contact number to reach Licensee 24 hours per day, seven days per week, is: (INSERT PHONE NUMBER). Should that number be disabled or revised for any reason, Licensee shall give the County immediate notice of an alternate emergency contact telephone number. Additionally, Licensee may be reached during business hours as follows:

(INSERT ADDITIONAL CONTACT INFORMATION)

18. Assignment. Licensee may sell, assign or transfer this Agreement without the need for any approval or consent of the County 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 Federal Communications Commission in which the County is located by reason of a merger, acquisition or other business reorganization. Except as provided in the previous sentence, Licensee may not assign this Agreement without the prior express written consent of the County, which consent shall not be unreasonably withheld, conditioned, or delayed after written notice to the County of the request. The terms and conditions herein contained shall be binding upon and inure to the benefit of the permitted successors and assigns of the Parties hereto.

19. Miscellaneous.

a. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and all those who succeed to their rights and responsibilities, including their respective successors in interest.

b. The headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement and shall not be deemed to explain, modify, amplify or otherwise alter the substance of this Agreement.

c. The County and Licensee each acknowledge that they have had adequate opportunity to review the contents of this Agreement with legal counsel and have executed this Agreement with full and complete understanding of its terms.

d. This Agreement (and all exhibits thereto) is deemed to have been jointly prepared by the Parties hereto, and any uncertainty or ambiguity existing herein, if any, shall not be interpreted against any Party, but shall be interpreted according to the application of the rules of interpretation for arm's-length agreements.

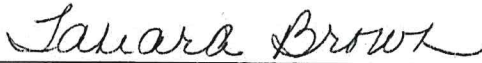
20. Execution. Each Party represents and warrants that it has the full right, power, legal capacity, and authority to enter into and perform its respective obligations under this Agreement. This Agreement may be executed in one or more counterparts, each of which should be deemed an original, but which together shall constitute one and the same instrument.

[Signature Page to Follow]


IN WITNESS WHEREOF, and in order to bind themselves to the terms and conditions of this Agreement, the Parties have caused this Agreement to be executed by their proper corporate officers and their corporate seals have been affixed hereto on the date first set forth above.

ATTEST:

COUNTY OF MONMOUTH



TAMARA BROWN, CLERK



THOMAS A. ARNONE
Commissioner Director