



CITY OF BETHLEHEM
OFFICE OF THE CITY SOLICITOR

INTER-OFFICE MEMORANDUM


To: Adam Waldron, Council President

From: Matthew J. Deschler, Assistant Solicitor

Re: Proposed Small Cell Wireless Lease with New Cingular Wireless PCS, LLC d/b/a AT&T Mobility

Date: September 10, 2020

Enclosed for Council's action and review is a proposed resolution authorizing the Mayor and Controller to execute a lease with New Cingular Wireless PCS, LLC d/b/a AT&T Mobility. The proposed lease, which is also enclosed, governs the installation and operation by New Cingular Wireless of small cell wireless installations in the City.


Matthew J. Deschler
Assistant Solicitor

Cc: Mayor Donchez
Eric Evans
Michael Alkhal
Matthew Dorner
Gregory Cryder

RESOLUTION NO. 2020-_____

Authorization For Lease Agreement

BE IT RESOLVED by the Council of the City of Bethlehem that the Mayor and the Controller and/or such other City officials as deemed appropriate by the City Solicitor, are hereby authorized to execute a Lease Agreement with New Cingular Wireless PCS, LLC d/b/a AT&T Mobility, and such other agreements and documents as are deemed by the City Solicitor to be necessary and/or related thereto, for the installation of small cell wireless facilities on City-owned or operated poles, according to the terms and conditions indicated therein and made a part hereof.

Sponsored by _____

ADOPTED by Council this _____ day of _____, 2020.

President of Council

ATTEST:

City Clerk

**LICENSE AGREEMENT FOR WIRELESS INSTALLATIONS
ON PUBLIC STRUCTURES**

BETWEEN

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

AND

CITY OF BETHLEHEM

EFFECTIVE DATE: _____

**LICENSE AGREEMENT FOR WIRELESS INSTALLATIONS
ON PUBLIC STRUCTURES**

This License Agreement For Wireless Installations on Public Structures (the “Agreement”) is made and entered into as of _____, 2020 (“Effective Date”) by and between the City of Bethlehem, Pennsylvania (“Licensor”) and NEW CINGULAR WIRELESS PCS, LLC a Delaware limited liability company d/b/a AT&T Mobility (“Licensee”). Licensor and Licensee shall be referred to hereafter individually as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, Licensee seeks to affix wireless communication antennas and related equipment within the Rights-of-way and/or to certain Structures located therein, as defined herein;

WHEREAS, Licensor wishes to encourage wireless infrastructure investment by providing a fair and predictable process for the deployment of small wireless facilities, while enabling Licensor to promote the management of the Rights-of-way in the overall interests of the public health, safety and welfare;

WHEREAS, Licensor is willing to accommodate Licensee’s non-exclusive use of the Rights-of-way and/or such Structures in accordance with all applicable law and the terms of this Agreement;

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

CERTAIN DEFINED TERMS

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

“Antenna” means an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to FCC authorization or regulations, for the provision of wireless communications services and any commingled information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under part 15 of Title 47 of the United States Code of Federal Regulations

“Antenna Equipment” means equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an Antenna, located at the same fixed location as the Antenna, and, when Collocated on a structure, is mounted or installed at the same time as such Antenna.

“Collocate” means to install, mount, maintain, modify, operate or replace Wireless Facilities on or adjacent to a Structure.

“Emergency” means a situation in which there is an imminent threat of injury to person or property, or loss of life.

“FCC” means the Federal Communications Commission;

“Person” or “Persons” means any individual, corporation, limited liability company, partnership, association, trust or other entity or organization, including a municipality.

“Rights-of-way” or “ROW” means the area on, below or above a public roadway, highway, street, sidewalk, alley, utility easement, or similar property, but not including a Federal interstate highway.

“Structure” means a pole in the ROW, owned or operated by Licensor (or a third party with Licensor’s permission), supporting one or more streetlights, traffic signals, flags, banners and/or signage capable of supporting a Wireless Installation. Structure also includes a tower, base station, or other building that is used or to be used for the provision of wireless communications services. Structure does not include any Licensor pole used for the function of electricity distribution.

“Technical Grounds” means, in light of prevailing industry engineering standards, reasons of insufficiency of capacity, safety, reliability and/or generally applicable engineering purposes consistent with applicable law.

“Wireless Facility” means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including equipment associated with wireless communications and radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies and comparable equipment, regardless of technological configuration, including Wireless Installations and distributed antenna systems. The term shall not include the Structure or improvements on, under or within which the equipment is Collocated.

“Wireless Installation” means a Wireless Facility affixed by Licensee to a Structure owned or controlled by Licensor pursuant to a Permit (in accordance with Section 3.1 hereof) authorized by Licensor that meet the following conditions:

(1) The Wireless Facility

- (i) is mounted on a Structure 50 feet or less in height including its antenna; or
- (ii) is mounted on a Structure no more than 10 percent taller than other adjacent structures; or
- (iii) does not extend an existing Structure on which it is located to a height of more than 50 feet or by more than 10 percent, whichever is greater;

(2) Each Antenna associated with the deployment, excluding associated Antenna Equipment is no more than three cubic feet in volume;

(3) All other wireless equipment associated with the Structure, including the wireless equipment associated with the Antenna and any pre-existing associated equipment on the Structure, is no more than 28 cubic feet in volume;

(4) The Wireless Facility does not require antenna structure registration under part 17 of Chapter I of Title 47 of the United States Code of Federal Regulations;

(5) The Wireless Facility is not located on Tribal lands, as defined under 36 CFR 800.16(x); and

(6) The Wireless Facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 CFR 1.1307(b).

1. SCOPE OF AGREEMENT

1.1 Scope of Agreement. Nothing in this Agreement grants Licensee the right to attach, install, remove, replace, locate, or Collocate any Wireless Installation, or to install other facilities, including Wireless Facilities, that do not conform to this Agreement. To the extent not already governed by applicable law, Licensor hereby grants Licensee such Rights-of-way and easements for the use and benefit of Licensee as necessary to exercise the right to install Wireless Installations within the ROW and/or to Licensor's Structures, as provided herein. No use of Licensor's Structures under this Agreement shall create or vest in Licensee any ownership or property rights in such Structures.

1.2 Interference with Wireless Installations. Licensor will not grant after the Effective Date of this Agreement a permit, license or any other right to any third party if, at the time such third party applies for access to a Structure, Licensor knows or has reason to know that such third party's use may in any way adversely affect or interfere with the Licensee's existing Wireless Installations, Licensee's use and operation of its facilities, Licensee's rights under this Agreement, or Licensee's ability to comply with the terms and conditions of this Agreement.

1.3 Installation of Poles. Notwithstanding any provision herein, Licensee has the right to install its own poles in a municipal ROW for the purpose of affixing its Wireless Installations, subject to reasonable permitting requirements and in accordance with applicable law. Upon completion of installation of such poles by Licensee, ownership shall automatically vest in Licensor.

2. GENERAL OBLIGATIONS

2.1 Technical Requirements and Specifications.

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

(i) the requirements and specifications of the National Electrical Safety Code (“NESC”), the National Electrical Code (“NEC”) and any and all other applicable regulatory codes for safe practices when performing work on or near Structures (collectively, “Safety Codes”); and

(ii) any applicable current or future rules or orders of the FCC, the State public utility commission, or any other federal, state or local authority having jurisdiction.

(iii) Any applicable current or future duly enacted state or federal statutes and any current or future duly enacted ordinances of Licensor, provided such ordinances (i) are applied in a non-discriminatory manner to similarly situated Persons; (ii) do not materially circumvent, contradict, or unduly frustrate or burden the purposes of this Agreement; and (iii) are not changed in a manner which materially adversely affects Licensee’s permitted use under this Agreement or conflict with any terms of this Agreement, or increases Licensee’s financial obligations to Licensor under this Agreement except to the extent such increase results from the enactment or amendment of any ordinance or regulation of Licensor required to conform the Parties’ obligations under this Agreement to applicable state or federal law in accordance with Section 16.5 hereof; and (iv) are consistent with applicable state and federal law and do not result in materially inhibiting Licensee’s ability to provide service.

(iv) changes to the requirements, specifications, rules, orders, statutes, and ordinances in subsections (i), (ii), and (iii) shall not apply retroactively unless required by law.

(b) Licensor may, on Technical Grounds, deny all or part of a Permit Application, or limit the number and/or technical characteristics (*e.g.*, weight or size) of any Wireless Installation on any Structure or require relocation, replacement or removal of Wireless Installations.

(c) Licensee shall exercise best practices and incur expenses reasonably necessary to install, replace or relocate Wireless Installations using pole and support structures, and their location, consistent with the type, character and appearance of Licensor’s Structures for the purpose of preserving a consistent period appropriate appearance of the vicinity. In Licensor’s historic districts designated by ordinance, Licensee also shall use all reasonable efforts to locate equipment in non-conspicuous locations and prevent out-of-character or unsightly installations.

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

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

2.4 Utilities. Licensee shall be solely responsible for arrangement and payment for electric service necessary in connection with Wireless Installations.

2.5 Compliance with Licensor's Ordinances. Licensee must at all times comply with the duly enacted ordinances of Licensor to the extent that such ordinances are applicable and not preempted by state or federal law, provided such ordinances (i) are applied in a non-discriminatory manner to similarly situated Persons; (ii) do not materially circumvent, contradict, or unduly frustrate or burden the purposes of this Agreement; and (iii) are not changed in a manner which materially adversely affects Licensee's permitted use under this Agreement or conflict with any terms of this Agreement, or increases Licensee's financial obligations to Licensor under this Agreement except to the extent such increase results from the enactment or amendment of any ordinance or regulation of Licensor required to conform the Parties' obligations under this Agreement to applicable state or federal law in accordance with Section 16.5 hereof.

3. APPLICATION FOR PERMIT

3.1 Application for Permit. Before placing any new or additional Wireless Installation onto any Structure, Licensee shall apply for a Permit from Licensor. Licensee shall apply for the Permit using the Permit Application attached as Exhibit A hereto, which Licensor may revise or amend from time to time in its reasonable discretion upon sixty (60) days' written notice to Licensee. Unless applicable law provides otherwise, Licensor will approve or reject each Permit Application within sixty (60) days of its submission, unless Licensor, within ten (10) days after submission of the Permit Application, notifies Licensee in writing that the Permit Application is materially incomplete, and clearly and

specifically identifies the missing documents or information and the specific statute, ordinance, rule, regulation, or provision of this Agreement creating the obligation to submit such documents or information, in which case Licensee shall have the right to submit all the documents and information identified by Licensor to render the Permit Application complete. Licensee shall have the right to supplement its Permit Application with material addressing the specific deficiencies set forth in Licensor's notice. Licensor shall have an additional sixty (60) days from the date of Licensee's submission of supplemental material to approve or reject the Permit Application, as supplemented, excluding any time that is tolled pursuant to this Section 3.1. Any tolling shall only be effective if Licensor serves the deficiency notice upon Licensee on or before the 10th day after the date when Licensor receives the Permit Application.

For resubmitted Permit Applications following a notice of deficiency, the sixty (60) day review period shall be tolled from the date when Licensor notifies Licensee in writing that Licensee's supplemental submission was not sufficient to render the Permit Application complete and clearly and specifically identifies the missing documents or information that need to be submitted based on Licensor's original deficiency notice until the date when Licensee submits all the documents and information identified by Licensor to render the Permit Application complete. Such tolling shall only be effective if Licensor serves the deficiency notice upon Licensee on or before the 10th day after the date when Licensee makes a supplemental submission in response to Licensor's deficiency notice. There shall be no limit to the number of supplementations Licensee may submit in the sixty (60) day review period, except that (i) Licensee may not submit a supplementation within ten (10) days from Licensee's prior submission, unless Licensor, within that time, has notified Licensee of specific deficiencies in the Permit Application or in any supplementation thereof, and the new supplementation is submitted in response to Licensor's deficiency notice; and (ii) Licensee may not submit any supplementation less than ten (10) days prior to the expiration of the sixty (60) day review period unless Licensee has agreed in writing to extend Licensor's review period for ten (10) days following submission of the supplementation.

In the event of rejection of a Permit Application, Licensor shall provide a written explanation to Licensee of the bases for the rejection within the applicable sixty (60) day review period. The incompleteness of a Permit Application, with or without supplementation, at the expiration of the sixty (60) day review period shall constitute a sufficient ground for rejecting the Permit Application. In addition to the provisions set forth in this Section 3.1, any portion of the sixty (60) day review period may be tolled by mutual written agreement of the Parties. A Permit Application shall be deemed approved if not approved or denied (for reasons consistent with applicable law) within the time frames specified herein. Each Permit Application shall request attachment of one (1) Wireless Installation per Structure. Licensee shall pay an Application Fee for each Permit Application at the time of submission in the amount of \$100.00, except that no such fee shall be required for a supplemental Permit Application where the prior submission of such Permit Application, whether as an original or as a supplemental, was rejected as incomplete.

3.2 Technical Review. Licensor will undertake all engineering and administrative activities necessary to approve or deny Licensee's Permit Application. Such activities include, but are not limited to, assigning a Permit Application number, logging the Permit Application into the tracking system, approving any Make-Ready Work associated with the Permit Application, informing other attachers of Licensee's intent to attach, approving the Permit Application, field work (inspecting the location, taking required measurements at the location, setting up joint meetings with other attachers if necessary, and inspecting the work.) Licensor shall recover the costs associated with this Technical Review from Licensee through the Application Fee.

4. PREPARATION OF STRUCTURES FOR ATTACHMENT

4.1 Make-Ready Costs.

(a) Unless otherwise agreed to by the Parties, Licensee shall perform all necessary work, subject to Licensor's prior permitting and approval, to prepare the Structure(s) for attachment and accommodation of new Wireless Installations (the "Make Ready Work"). Licensee shall bear the cost of all Make Ready Work.

(b) In the event Licensor determines, based upon Technical Grounds, that inadequate space exists on its Structure(s) to accommodate any proposed Wireless Installation, such Structure(s) may be replaced by Licensor, at Licensee's sole expense, with Structure(s) with adequate space to accommodate the proposed Wireless Installation; provided, however, that nothing in this Agreement shall obligate Licensor to replace any Structure for the sole purpose of accommodating any Wireless Installation.

(c) If a Person, other than Licensor, would have to rearrange or adjust any of its facilities in order to accommodate a new Wireless Installation, Licensor shall use reasonable efforts, at Licensee's sole expense, to coordinate such activity. Licensee shall, however, be responsible for directly paying such other Person for its charges for the same. The Wireless Installation shall be conditioned on the completion of all Make-Ready Work needed to establish full compliance with NESC, and with Licensor's practices and engineering standards; provided, however, that Licensee shall not be responsible for any third-party or Licensor costs necessary to correct third party or Licensor attachments that are non-compliant with NESC and with Licensor's practices and engineering standards at the time of Licensee's Permit Application for such new Wireless Installation. If Licensee is requested by another Person, in comparable circumstances, to relocate or adjust any Wireless Installation to accommodate that Person's facilities, subject to Licensor's written approval of such relocation, Licensee shall reasonably cooperate with such request and charge no more than the costs that are reasonably incurred as a direct result of accommodating the relocation or adjustment of the Wireless Installation.

4.2 Completion of Make-Ready Work. Unless otherwise agreed to by the Parties, Licensee will complete all Make Ready Work within sixty (60) days after Licensor's approval of Licensee's Permit Application.

4.3 Notification of Completion of Installation. Within ten (10) business days of completing the installation of each Wireless Installation, Licensee shall notify Licensor of such completion. Licensor shall have the right, upon reasonable notice to Licensee, to inspect and review the installation of such Wireless Installation upon completion thereof for the purpose of ensuring that the installation is in compliance with the approved Permit Application. Licensee shall have the right to be present at any such review and inspection.

5. OPERATION AND MAINTENANCE; RESERVATION OF RIGHTS

5.1 Reservation of Rights. As permitted by applicable law, Licensor reserves the right to operate and maintain its Structures and facilities, to discontinue such maintenance, and to remove its Structures and facilities, in the best manner required to fulfill its own service requirements, and its public, employee and worker safety obligations.

5.2. RF Emissions.

(a) Licensee will comply with all Federal Communications Commission (FCC) regulations regarding radio frequency (“RF”) emissions and exposure limitations. Licensee is allowed to install signage and other mitigation, such as a power cut-off switch on Structures, to allow workers and third parties to avoid excess exposure to RF emissions. Licensor’s authorized field personnel will contact Licensee’s designated point of contact not less than 24 hours in advance to inform Licensee of the need for a temporary power-shut-down. In the event of an unplanned outage or cut-off of power or an Emergency, the power-down will be with such advance notice as practicable. Once the work has been completed and the worker(s) have departed the exposure area, the Party who accomplished the power-down shall restore power and inform Licensee as soon as possible that power has been restored. The Parties acknowledge that they understand the vital nature of Licensee’s Wireless Installations and agree to limit the frequency of power-downs and restore power as promptly as is reasonably possible.

(b) Licensor, Licensee and other attachers which emit RF on Licensor’s Structures are under an obligation to operate their own respective existing or future facilities to protect against RF interference to RF signals of Licensor, Licensee, and such other attachers, as applicable, as may emanate or arise. Licensor and Licensee and all others on Licensor’s Structures shall endeavor to correct any interference to other lawfully operating networks created by their own respective RF emissions promptly and shall coordinate and cooperate with each other relating to the same.

5.3 FCC Antenna Registrations, Federal Aviation Administration (“FAA”) Compliance. Licensee is solely responsible for ensuring compliance with any and all FCC antenna registration, FAA, or similar requirements with respect to the location of the Licensee’s Antennas or other facilities. Without limitation, Licensee acknowledges and agrees that Licensor’s Structures are not “antenna structures” under the FCC’s rules and

that, accordingly, Licensor has no obligation of its own in this regard to register them with the FCC, the FAA, or other agency.

5.4 Equipment Modification and Replacements. Subsequent to the original installation of Licensee's equipment, Licensee may modify or replace the equipment so long as such modification or replacement does not increase the load on the applicable Structure beyond the loading, if any, that was established in the approved Permit Application, or involve placement of equipment outside the area designated in the approved Permit Application without obtaining prior written consent of Licensor.

5.5 Access. At all times throughout the term of this Agreement, and at no additional charge to Licensee, Licensee and its employees, agents, and subcontractors, will have twenty-four (24) hour per day, seven (7) day per week pedestrian and vehicular access ("Access") to, in and on any Structure used or to be used pursuant to an approved Permit Application so that Licensee may install, operate, maintain, repair, replace, remove, or modify its Wireless Installations. Licensor acknowledges that in the event Licensee cannot obtain Access, Licensee shall incur significant damage. If Licensor fails, through its own negligence, recklessness, or willful misconduct, to provide the Access granted by this Section, such failure shall be a default under this Agreement. However, Licensor shall not be in default of this Agreement where Licensee cannot obtain Access as a result of the negligence, recklessness, or willful misconduct of any Person not a party to this Agreement; provided, however, Licensor's employees, agents, and subcontractors shall be deemed to be Licensor for the purposes of this Section 5.5.

5.6 Repairs to Structures and ROWs. Licensee shall repair all damage to any Structure or Right-of-way of Licensor to the extent directly caused by activities of Licensee while occupying, installing, repairing or maintaining a Wireless Installation on any Structure or Right-of-way of Licensor and shall return the damaged Structure or Right-of-way to its functional equivalence. If Licensee fails to complete such repairs within forty-five (45) days after written notice from Licensor, Licensor may perform those repairs and charge Licensee the documented cost of the repairs.

6. CHARGES, BILLING AND PAYMENT

6.1 Annual Rent For Wireless Installations. Licensee shall pay Licensor the rental fee per Wireless Installation ("Rent") as set forth in Exhibit B, for each year (or partial year) that this Agreement remains in effect. Said Rent is per Wireless Installation.

6.2 Timing of Payment and Calculation of Number of Wireless Installations.

(a) The initial Rent for a particular Wireless Installation shall be due forty-five (45) days following the date on which Licensor approves a Permit Application for that particular Wireless Installation. Rent shall conform to or increase annually to the lesser of such maximum amounts authorized under (i) applicable federal or state statute or regulation as set forth in Section 16.5 or (ii) two percent (2%).

(b) If Licensee's records show a different number of Wireless Installations for which a Rent payment is required, Licensee shall so notify Licensor within thirty (30) days of the relevant invoice. Licensor will then, following receipt of Licensee's notification, either accept in writing Licensee's revised count/information or notify Licensee in writing that a dispute exists about such count, in which event the Parties shall comply with the dispute resolutions provisions of the Agreement.

6.3 Surety Bond. Licensor may, upon sixty (60) days' written notice, require Licensee to furnish a surety bond (the "Surety Bond") as provided for in Exhibit B, in order to guarantee Licensee's payment and performance of sums and liabilities that may become due to Licensor for all Rent and other amounts and liabilities required by or concerning this Agreement.

6.4 Unauthorized Wireless Installations.

(a) Upon discovery of a Wireless Installation that has not been approved by Licensor by Permit (an "Unauthorized Wireless Installation"), Licensor may invoice, and Licensee shall pay to Licensor within sixty (60) days from receipt of the date of invoice, a sum equal to the lesser of (a) the then current Rent multiplied by the number of Unauthorized Wireless Installations multiplied by the number of years since the last jointly conducted audit, or (b) five (5) times the then current Rent multiplied by the number of Unauthorized Wireless Installations, unless Licensee can produce documentation showing that installation of the Unauthorized Wireless Installation occurred on a later date, in which case Licensee shall pay back Rent from that point forward.

(b) Within sixty (60) days of notification of an Unauthorized Wireless Installation, Licensee shall either remove the Unauthorized Wireless Installation at its sole cost and expense or submit a Permit Application for the Unauthorized Wireless Installation, which Licensor shall approve or deny in accordance with this Agreement.

(c) Unauthorized Wireless Installations shall not be considered a default of this Agreement unless there is established a pattern of Unauthorized Wireless Installations by Licensee.

6.5 Billing and Payment Generally.

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

(b) Licensee shall notify Licensor within thirty (30) days of the date of invoice of any dispute, with sufficient particularity to identify the amounts in, and grounds for, dispute.

7. AUDITS AND INSPECTIONS

7.1 Audits.

(a) Licensee and Licensor shall cooperate in determining the total number of Wireless Installations. This determination shall be based on an on-going inventory of issued Permits that shall be maintained by Licensor. Licensor has the right to require a jointly conducted physical audit of Wireless Installations no more frequently than once every five (5) years, unless Licensee is responsible for a Default (defined in Section 13.1) under this Agreement, in which case Licensor may audit no more frequently than once a year (until such default is cured). Licensor must provide ninety (90) days' written notice of any audit. The actual and reasonable cost of such audits will be shared equally by Licensor and Licensee.

(b) Licensee and Licensor may mutually agree that in lieu of such a jointly conducted physical audit, the number of Wireless Installations may be determined from existing maps and attachment records, in which case, each Party shall make all relevant maps and records available to the other Party and the number of Wireless Installations shall be cooperatively determined.

7.2 **Safety Inspections.** Licensor may conduct, at its sole expense, inspections of Wireless Installations on Licensor's Structures and to conduct inspections in the vicinity of Wireless Installations. Licensor shall give Licensee sixty (60) days' prior written notice of such inspections and Licensee shall have the right to be present at and observe any such inspections, at Licensee's sole expense. However, in the event of an Emergency for which Licensor must promptly provide or restore safe and reliable service to any Person, Licensor may conduct such inspections immediately and without prior notice to Licensee. Notwithstanding the foregoing, Licensee shall pay Licensor for its actual and reasonable costs for safety inspections performed for the purpose of determining if a safety violation of which Licensor has provided written notice to Licensee has been corrected by Licensee.

8. STRUCTURE REPLACEMENT AND ABANDONMENT AND REMOVAL OF WIRELESS INSTALLATIONS

8.1 Replacement or Abandonment of Structure.

(a) If, for safety, reliability or operational reasons or due to government requirements, Licensor decides to replace or remove a Structure to which Wireless Installations are affixed, Licensor will, prior to replacement or removal, provide at least sixty (60) days' written notice to Licensee, or as soon as reasonably practicable if federal or state authorities require replacement or removal of the Structure within sixty (60) days and sooner notice could not reasonably have been given, so that Licensee may, at its own cost and expense, remove any Wireless Installations affixed to the Structure. In the event that Licensor replaces the Structure, Licensee may, at its own cost and expense, transfer the previously removed Wireless Installations onto the replacement Structure. If

Licensor does not replace the Structure, Licensor agrees to work in good faith with Licensee to identify and facilitate permitting of an alternate Structure for Licensee's removed Wireless Installations.

(b) Notwithstanding the foregoing, in the case of an Emergency, Licensor may remove, or replace the Wireless Installations or transfer them to replacement Structures, or perform any other work in connection with said Wireless Installations that may reasonably be required to maintain, replace, remove or relocate the Structures. In such a case, Licensee shall reimburse Licensor for the expenses incurred by Licensor. In the event of an Emergency, Licensor shall notify Licensee as soon as practicable, but in no event later than 24 hours after the Emergency. Licensor shall be held harmless by Licensee for any damage to the extent caused to Licensee's Wireless Installations by Licensor's removal, replacement, or transference of, or work performed on, such Wireless Installations pursuant to this Section 8.1(b), except to the extent such damage is caused by Licensor's intentional, reckless, or grossly negligent conduct.

(c) If Licensor desires to abandon any Structure, it shall give Licensee sixty (60) days' written notice, and within such time, Licensee may remove or otherwise dispose of its Wireless Installations. In such cases, Licensor agrees to work in good faith with Licensee to identify and facilitate permitting of an alternate Structure for Licensee's removed Wireless Installations.

(d) If a Licensor's Structure needs to be replaced in order to accommodate Wireless Installations, Licensor will, prior to replacement, provide at least sixty (60) days' written notice so that Licensee may, at its own cost and expense, remove any Wireless Installations affixed to the Structure. After Licensee's removal of any Wireless Installation(s) or upon the expiration of the sixty (60) day notice period, whichever occurs first, Licensor will replace the Structure and Licensee will reimburse Licensor for all actual and reasonable costs directly incurred by Licensor to do so. Following Licensor's replacement of the Structure, Licensee may, at its own cost and expense, transfer the previously removed Wireless Installations onto the replacement Structure.

(e) If, upon expiration of any required notice period for removal, Wireless Installation(s) has/have not been removed, Licensor may, at Licensee's sole expense, remove and dispose of the Wireless Installation(s), without any liability to Licensor for such removal and disposition.

8.2 Removal of Wireless Installations by Licensee. Licensee may at any time remove Wireless Installations from Licensor's Structures, and shall give Licensor notice of such removal within thirty (30) days after removal. No refund of any Rent paid will be due on account of such removal except as provided for in Section 13.3 or if triggered by casualty, fire or other harm affecting any Structure ("Casualty Event"). Licensor will provide notice to Licensee of any Casualty Event as soon as reasonably possible thereafter. In the event of damage by a Casualty Event to a Structure that cannot reasonably be

expected to be repaired within forty-five (45) days following such Casualty Event or which Licensor elects not to repair, or if such Casualty Event is reasonably expected to disrupt Licensee's operations on the Structure for more than forty-five (45) days, then Licensee may, at any time following such casualty or harm; (i) terminate the applicable Permit upon fifteen (15) days' written notice to Licensor; (ii) place a temporary facility, if feasible, at a location equivalent to Licensee's current use of the Structure until such time as the Structure is fully restored to accommodate Licensee's Wireless Installation; or (iii) permit Licensee to submit a new Permit Application for an alternate location equivalent to Licensee's current use of the Structure, and Licensor shall waive the Application Fee. Any such notice of termination shall cause the applicable Permit to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of the applicable Permit. The Rent shall abate during the period of repair following such Casualty Event in proportion to the degree to which Licensee's use of the Structure is impaired. Licensee will be entitled to collect all insurance proceeds payable to Licensee on account thereof and to be reimbursed for any prepaid Rent on a *pro rata* basis. Licensor shall be held harmless by Licensee for any damage caused by a Casualty Event to Licensee's Wireless Installations, excepting any damage caused by Licensor's intentional, reckless, or grossly negligent conduct.

8.3 Licensee Safety or Other Violations. If Licensor discovers any violation of this Agreement reasonably likely to endanger the safe attachment and operation of any of Licensee's Wireless Installations, Licensor shall notify Licensee and Licensee shall have sixty (60) days in which to remedy such violations, except that Licensor may require quicker action in Emergency situations or if otherwise required by applicable state or federal law.

9. INSURANCE

9.1 Licensee shall at its sole cost and expense maintain the insurance coverage and limits required by this Section during the term of this Agreement. Licensee agrees to carry the required insurance from an insurance company having and maintaining an A.M. Best rating of at least A-VII and deliver to Licensor a Certificate of Insurance evidencing the types of insurance and policy limits required.

9.2 Licensee's Required Insurance.

(a) Workers' Compensation and Employer's Liability insurance, as required by statute, with Employer's Liability limits of \$500,000 each accident, \$500,000 by disease policy limits, and \$500,000 by disease each employee. To the extent allowed by law, the policy must include a blanket endorsement waiver of subrogation against Licensor.

(b) Commercial General Liability insurance written on Insurance Services Office (ISO) Form CG 00 01 or a substitute form providing equivalent coverage, with limits of:

\$ 2,000,000 General Aggregate Limit

\$ 1,000,000 Each Occurrence
\$ 1,000,000 Each Occurrence - Personal Injury and Advertising Injury
\$ 2,000,000 Products/Completed Operations Aggregate Limit

The Commercial General Liability policy must include Licensor as an additional insured by endorsement as respects this Agreement on a primary and non-contributory basis and a waiver of subrogation against Licensor.

(c) Commercial Automobile Liability insurance with limits of \$1,000,000 Combined Single Limit for each Accident for Bodily Injury and Property Damage, extending to all Licensee-owned, leased, and non-owned vehicles.

(d) Umbrella/Excess Liability insurance with limits of \$1,000,000 each occurrence and in the aggregate.

9.3 Licensee may meet the required insurance coverage and limits with any combination of primary and umbrella/excess liability insurance. Licensee shall provide at least thirty (30) days advance written notice of cancellation or non-renewal of any required insurance that is not replaced. Licensee will require any subcontractors performing work under this Agreement to maintain coverage and limits at least as broad as those listed above. With respect to any required policy that is issued on a “claims-made” basis, Licensee agrees to maintain coverage for two (2) years following the term of this Agreement.

9.4 Licensor shall provide to Licensee a certificate of Licensor’s general liability insurance coverage upon request. As of the Effective Date of this Agreement, Licensor carries general liability insurance of \$1,000,000 per occurrence and \$2,000,000 in the aggregate. This Agreement shall not be construed to obligate Licensor to obtain or maintain any particular general liability insurance coverage.

10. ALLOCATION OF LIABILITIES

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

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

11. INDEMNIFICATION

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

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

12. TERM

This Agreement shall commence as of the Effective Date, and, if not lawfully terminated sooner, remain in full force and effect for a term of ten (10) years, and will automatically renew for four (4) successive five (5) year terms, unless either Party gives the other written notice of termination at least one hundred and eighty (180) days prior to the then-current term. Upon termination of this Agreement, Licensee shall remove Wireless Installations from all Licensor's Structures within one hundred and eighty (180) days. If not so removed within one hundred and eighty (180) days following such termination, Licensor shall have the right to remove such Wireless Installations, and to dispose of same, at Licensee's sole expense and without any liability to Licensee for such removal and disposition.

13. DEFAULT AND TERMINATION

13.1 Default. If either Party fails to perform or observe any material term or condition of this Agreement within sixty (60) days after receipt of written notice of such failure from the other Party, then such Party will be in default of the Agreement (“Default”). No such failure, however, will be deemed to exist if a Party has commenced to cure such Default within such period and provided that such efforts are prosecuted to completion with reasonable diligence.

13.2 Licensee’s Default and Licensor’s Remedies. If Licensee does not cure its Default within the allotted time period, Licensor may, at its reasonable discretion, take any one or more of the following actions:

- (a) suspend Licensee’s Access to any or all of Licensor’s Structures;
- (b) terminate the specific Permit(s) granted to Licensee covering the Structure(s) to which such Default is applicable;
- (c) require the obligation to be fulfilled;
- (d) remove, relocate, or rearrange Wireless Installations to which such Default relates (all at Licensee’s sole expense), upon providing ten (10) days’ advance written notice to Licensee;
- (e) decline to Permit additional Wireless Installations under this Agreement until all such Defaults are cured;
- (f) exercise its rights with respect to the Surety Bond; and/or
- (g) only in the case of a pattern or practice of Defaults, terminate this Agreement.

13.3 Licensor’s Default and Licensee’s Remedies.

(a) If Licensor does not cure its Default within the allotted time period, Licensee may, at its reasonable discretion, either terminate this Agreement or demand that the terms of this Agreement be complied with.

(b) If Licensor Defaults and Licensee elects to terminate the Agreement, Licensor shall refund any portion of advanced, prepaid Rent actually paid by Licensee pro-rated for any period of the term remaining following the effective date of the termination of this Agreement. Licensor shall make such refund within sixty (60) days of the effective date of such termination.

13.4 Effective Date of Termination. Any termination under Sections 13.2(b), 13.2(g) or 13.3(a) shall be effective upon written notice from the terminating Party to the defaulting Party. Such notice will identify the effective date of the termination, which effective date may be as early as the effective date of the notice under Section 16.1.

13.5 Cumulative Remedies. The remedies provided by this Section 13 are cumulative and in addition to any other remedies available under this Agreement or otherwise.

13.6 Licensee's Discretionary Termination Right. Licensee may terminate this Agreement for any reason by providing written notice to Licensor. Unless otherwise agreed to by the parties, such termination shall take effect ninety (90) days after service of such notice upon Licensor. Licensee shall receive no refund or proration for any Rent paid or due prior to the date on which the termination of this Agreement takes effect under this Section 13.6. Licensee shall remove all Wireless Installations by the date on which the termination of this Agreement takes effect, and Licensee shall bear the full costs and expenses for their removal.

13.7 All obligations, debts, liabilities, suits, and claims incurred by any of the Parties prior to the termination of this Agreement shall survive the termination of this Agreement.

14. DISPUTE RESOLUTION PROCEDURES

As a condition precedent to the initiation of any litigation, the Parties shall in good faith attempt to settle any dispute arising out of or relating to this Agreement through upper management escalation and non-binding mediation. Either Party may give the other Party written notice of any dispute not resolved in the normal course of business. The dispute shall be escalated to upper management to exchange relevant information and attempt to resolve the dispute. If the matter has not been resolved within thirty (30) business days of receipt of the disputing Party's notice, either Party may initiate mediation by so notifying the other Party. Such mediation shall take place at a mutually agreeable location. In the event that such dispute is not resolved within ninety (90) calendar days following service of the mediation notice, either Party may initiate litigation. In case of a failure of either Party to follow the foregoing, the other may seek specific enforcement of such obligation in the courts having jurisdiction hereunder. Notwithstanding the foregoing, either Party may seek temporary or preliminary injunctive relief without first resorting to the dispute resolution procedures set forth in this Section 14. Litigation over a dispute arising out of or relating to this Agreement shall be commenced in a court with proper venue in the Commonwealth of Pennsylvania.

15. CONFIDENTIALITY

Unless otherwise authorized by this Section 15, neither Party shall at any time disclose, provide, demonstrate or otherwise make available any confidential information of the other Party ("Confidential Information"). "Confidential Information" shall include any non-public information of a confidential or proprietary nature disclosed by a Party to this Agreement to the other Party that is either marked as proprietary or confidential or is of the type that would reasonably be understood by the receiving Party to constitute proprietary or confidential information. Each Party shall use its best efforts and shall cause its officers, directors, employees, lenders and agents (including retained attorneys

and consultants) to whom such Confidential Information may be disclosed to safeguard the confidentiality of the other Party's Confidential Information. At a minimum, such precautions shall include, but not be limited to, all precautions taken to ensure the confidentiality of such Party's own Confidential Information. Confidential Information may be disclosed (a) with the non-disclosing Party's prior written consent, or (b) as may be required by applicable law, including, without limitation, Open Records laws such as the Right-to-Know Law, or governmental authorities (including but not limited to disclosures necessary to obtain permits and other regulatory approvals). To the extent that Licensee's Confidential Information falls within the definitions or "confidential proprietary information" and/or "trade secrets" as those terms are defined by the Right-to-Know Law, 65 P.S. § 67.102, Licensor shall only release such Confidential Information pursuant to the provisions of the Right-to-Know Law, including, without limitation, 65 P.S. § 67.707. Notwithstanding anything in this Section 15 or elsewhere in this Agreement to the contrary, Licensee shall have the right, without the necessity of obtaining Licensor's consent, to provide copies of this Agreement (with financial terms redacted) and the locations of Structures to third parties as may be necessary to obtain required authorizations, or where otherwise compelled by law.

16. MISCELLANEOUS PROVISIONS

16.1 Notices. Except as provided below, all written notices shall be effective upon actual delivery or completed facsimile addressed to the other Party as follows:

To Licensor:

City of Bethlehem
Department of Public Works
10 E. Church Street
Bethlehem, PA 18018
Fax No. 610-865-7331

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

City of Bethlehem
Law Bureau
10 E. Church Street
Bethlehem, PA 18018
Fax No. 610-865-7019

To Licensee (including bills):

New Cingular Wireless PCS, LLC
Attn: Network Real Estate Administration
Re: Wireless Installation on Public Structures City of Bethlehem, PA
1025 Lenox Park Boulevard NE, 3rd Floor
Atlanta, GA 30319

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

New Cingular Wireless PCS, LLC
Attn: Legal Department, Network Operations
Re: Wireless Installation on Public Structures City of Bethlehem, PA
208 S. Akard Street
Dallas, TX 75202-4206

Contact Number for day to day operations:

Licensor: 610-865-7050
Licensee: 1-800-638-2822

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

16.2 Force Majeure. Deadlines for completing work and providing notice under this Agreement shall be suspended for a reasonable period upon the occurrence of a force majeure event.

16.3 Assignment and Transfer. This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties. Except as otherwise provided in this Agreement, neither Party shall assign this Agreement or its rights or obligations hereunder to any firm, corporation, individual, or other entity, without the written consent of the other Party, which consent shall not be unreasonably withheld. Either Party may assign its rights and obligations to an affiliate without consent upon 30 days' written notice and shall provide confirmation of the assignment at the time the assignment becomes effective. Affiliate for purposes of this provision is any entity that controls, is controlled by, or is under common control with Licensee.

16.4 Applicable Law. This Agreement shall be interpreted, construed, and enforced, in accordance with the ordinances of the City of Bethlehem and the laws of the Commonwealth of Pennsylvania, without regard to its conflict of laws principles, and, where applicable, federal law.

16.5 Change of Law. In the event that any legislative, regulatory, judicial, or other action ("new law") affects the rights or obligations of the Parties, or establishes rates, terms or conditions for the construction, operation, maintenance, repair or replacement of Wireless Installations on public infrastructure or in the Right-of-way, that differ, in any material respect from the terms of this Agreement, then either Party may, upon thirty (30) days' written notice, require that the terms of this Agreement be renegotiated to conform to the new law on a going forward basis for all existing and new Wireless Installations, unless the new law requires retroactive application. Such obligations shall include compliance with historic conservation guidelines and standards adopted by Licensor. In the event that the Parties are unable to agree upon such new terms within 90 days after such notice, then

any rates contained in the new law shall apply from the 90th day forward until the negotiations are completed or a Party obtains a ruling regarding the appropriate conforming terms from a commission or court of competent jurisdiction. Except as otherwise provided in this Agreement, all terms in the existing Agreement shall remain in effect while the Parties are negotiating.

16.6 Exhibits. In the event of any inconsistency between the provisions of this Agreement and any Exhibits attached hereto, the provisions of this Agreement shall supersede the provisions of any such incorporated Exhibits unless such Exhibit specifies otherwise.

16.7 Execution in Counterparts. This Agreement may be executed in several counterparts, including by counterpart facsimiles or emails, each of which shall be deemed an original, and all such counterparts together shall constitute one and the same instrument.

16.8 Waiver. The failure of either Party to insist on the strict enforcement of any provision of this Agreement shall not constitute a waiver of any provision.

16.9 Severability. If any portion of this Agreement is found to be unenforceable by a court of competent jurisdiction, the remaining portions shall remain in effect and the Parties shall begin negotiations for a replacement of the invalid or unenforceable portion.

16.10 Survival. The terms and provisions of this Agreement that by their nature require performance by either Party after the termination or expiration of this Agreement, shall be and remain enforceable notwithstanding such termination or expiration of this Agreement for any reason whatsoever.

16.11 Waiver of Jury Trial. Each Party waives its right to a trial by jury on disputes arising from this Agreement.

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

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

CITY OF BETHLEHEM

BY: _____

Name:

Title:

Date

**NEW CINGULAR WIRELESS PCS, LLC,
a Delaware Limited Liability Company**

By: AT&T Mobility Corporation

Its: Manager

Name:

Title: Area Manager

Date

EXHIBIT A: PERMIT APPLICATION



10 E. Church Street
Bethlehem, PA 18018

CITY OF BETHLEHEM

DEPARTMENT OF PUBLIC WORKS

ENGINEERING PERMIT APPLICATION

APPLICANT INFORMATION	Name of Applicant					
	Address					
	Phone #		Fax #		Email	
CONTRACTOR	Name of Contractor					
	Address					
	Phone #		Fax #		Email	
WORK INFORMATION	On-site Contact Person	Name			Cell Phone	
	Description of Work/Project					
	Permit Address (location of work/project)	_____ Owner of the Property: _____				
	Date of Work/ Dates of Usage	<input type="checkbox"/> Start Date: _____ <input type="checkbox"/> Will Call FROM _____ TO _____				
	Check all that apply	<input type="checkbox"/> San Sewer <input type="checkbox"/> Storm Sewer <input type="checkbox"/> Water <input type="checkbox"/> Driveway <input type="checkbox"/> Sidewalk Closure <input type="checkbox"/> Street Closure <input type="checkbox"/> Curb <input type="checkbox"/> Sidewalk <input type="checkbox"/> Sign (Sandwich Board) <input type="checkbox"/> Moving Pod <input type="checkbox"/> Dumpster <input type="checkbox"/> Right-of-Way <input type="checkbox"/> Encroachment <input type="checkbox"/> Warrant of Survey <input type="checkbox"/> Excavation (in road) <input type="checkbox"/> Excavation (out of road) <input type="checkbox"/> Degradation <input type="checkbox"/> Utility Pole/Guy Wire <input type="checkbox"/> Table/Chairs in ROW <input type="checkbox"/> Handi-Cap Ramp <input type="checkbox"/> Activity/Event in ROW				
	Road Closure/Lane Restrictions? TRAFFIC SUPERINTENDENT 610-997-7960	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please list below streets/locations to be closed and/or any lane closures, or impacts to parking, must be approved by the Traffic Superintendent PRIOR to impacting Traffic.				
	PA One Call Dig #					
	Tree/Tree Roots?	<input type="checkbox"/> Yes <input type="checkbox"/> No Tree or Tree Root Pruning and/or Removal involved? SEE CITY FORESTER 610-865-7073 Permit: _____ <i>*see Notice to Applicants, number 3.</i>				

Sketch: Please draw a detailed sketch of proposed work to be done or attach a sketch. Include location of any trees (which may be impacted by the proposed work).

INSURANCE INFORMATION	Name of Insurance Carrier	
	Agent/Broker	
	Phone #	
	Address	

NOTICE TO APPLICANTS

- 1 By signing this application, the applicant agrees to the conditions on page 1.
- 2 No permit shall be issued for the opening and digging up of any street or public right of way in the City between December 1 of any year and March 1 following, except to repair leaking and damaged water pipes, gas pipes, sewer or drain, or such other work deemed necessary and essential by the City Engineer, and then only with the issuance of a permit and written consent of the City Engineer.
- 3 If trees or tree roots are impacted, a separate permit from the Bureau of Urban Forestry is required. Tree roots shall be exposed with hand tools or an air spade in such a manner as to not cause damage or destroy any tree in the public area. Per Article 910 City Codified Ordinance.

ALL REQUESTS ARE SUBJECT TO APPROVAL BY THE CITY OF BETHLEHEM

1 Whoever violates any provision of City Ordinances, shall, upon conviction thereof, be subject to all associated fines, costs, and penalties. In the case of a permittee's violation of any provisions of these ordinances, the individual designated upon the permit as the responsible party shall be considered the violator.

2

I hereby certify that all information on this form is correct and accurate. Any error, misstatement or misrepresentation with or without intention can result in revocation of this permit. I agree to indemnify and hold harmless the City of Bethlehem, its employees, agents, officials, representatives, attorneys and assigns from any and all liability, both negligent and non-negligent arising directly or indirectly out of any activities that occur in connection with this event, or out of the acts, errors, or omissions of the undersigned.

Print Name		Date	
Signature of Applicant			

- For Use by City of Bethlehem Only -

Insurance Received	<input type="checkbox"/> Yes	<input type="checkbox"/> No	C+ Permit #:	Received by:
--------------------	------------------------------	-----------------------------	--------------	--------------

Comments / Notes:

SPONSORING ORGANIZATION:	GRANTED	DENIED	<i>NOTAPPLICABLE</i>
BUREAU OF ZONING:	GRANTED	DENIED	<i>NOTAPPLICABLE</i>
BUREAU OF TAX:	GRANTED	DENIED	<i>NOTAPPLICABLE</i>
PARKING AUTHORITY BY:	GRANTED	DENIED	<i>NOTAPPLICABLE</i>
POLICE DEPARTMENT BY:	GRANTED	DENIED	<i>NOTAPPLICABLE</i>
BUREAU OF HEALTH:	GRANTED	DENIED	<i>NOTAPPLICABLE</i>
TRAFFIC COORDINATOR:	GRANTED	DENIED	<i>NOTAPPLICABLE</i>
HARB/COMMITTEE/COUNCIL:	GRANTED	DENIED	<i>NOTAPPLICABLE</i>
BUREAU OF FIRE:	GRANTED	DENIED	<i>NOTAPPLICABLE</i>
APPROVAL:	DATE:		

EXHIBIT B: FEES, BOND AND STATE-SPECIFIC TERMS – PENNSYLVANIA

This Exhibit B controls and supersedes any inconsistent provisions of the Agreement. (Section 16.6)

Permit Application and Pole Attachment Rental Fee (Sections 3.1, 6.1)

All Permit Applications shall relate to a single proposed Wireless Installation, and the Application for each such Permit Application shall be \$100.00.

Licensee shall pay Rent of \$270.00 per Wireless Installation for each year (or partial year) that this Agreement remains in effect. Rent shall conform to or increase annually to the lesser of such maximum amounts authorized under applicable federal or state statute or regulation or two percent (2%).

Surety Bond (Section 6.3)

A surety performance bond shall be posted annually in advance, no later than January 1 each year, in the greater amount of either \$5,000.00 or the total amount of all projected Rent due for the year. Said bond shall secure against default of all financial obligations arising under this Permit in such form and terms acceptable to Licensor.