



**BOARD OF SUPERVISORS AGENDA ITEM REPORT  
CONTRACTS / AWARDS / GRANTS**

Award  Contract  Grant

Requested Board Meeting Date: October 3, 2017

\* = Mandatory, information must be provided

or Procurement Director Award

**\*Contractor/Vendor Name/Grantor (DBA):**

Mobilitie, LLC, a Nevada Limited Liability Company ("Mobilitie").

**\*Project Title/Description:**

Master Agreement with Mobilitie, LLC ("Mobilitie") for Wireless Telecommunication Equipment in Right-of-Way and on County Facilities (the "Master Agreement"). Lic-0278

**\*Purpose:**

The Master Agreement establishes terms and conditions under which Mobilitie may install, operate and maintain wireless telecommunications equipment and related ground equipment on (A) "County Facilities", which are: 1) County-owned street light poles and traffic light poles in or above the public right of way ("ROW") and 2) other County-owned structures in the ROW that County determines to be suitable for use of such equipment, and (B) "TP Poles" which are third-party poles in the ROW that are suitable for use of such equipment, within unincorporated Pima County. Mobilitie shall obtain a license in the form of a Site-Specific Agreement ("SSA") for each location in the ROW in which it wishes to install, place, operate, manage and maintain its equipment, including its equipment on TP poles. The SSA's will stipulate conditions for each of the respective sites authorized for use under the Master Agreement.

**\*Procurement Method:**

D 29.4.XI.H "Other Non-Procurement Method"

**\*Program Goals/Predicted Outcomes:**

To stipulate the terms and conditions under which Mobilitie may install, operate and maintain wireless telecommunications equipment within unincorporated Pima County via the subject Master Agreement and any subsequent SSA's issued thereunder.

**\*Public Benefit:**

The Master Agreement and SSA's will set forth the terms which will govern Mobilitie's right to occupy County right of way to operate and maintain wireless telecommunications equipment for its cell phone provider companies wishing to locate on such equipment at the locations to be covered in SSA's in unincorporated Pima County.

**\*Metrics Available to Measure Performance:**

Mobilitie to provide certificate of insurance and pay fees and rates for each SSA issued thereunder as stipulated in the Master Agreement; obtain permits as required; comply with highway safety and construction standards; exercise care and restore County roadways or facilities as warranted; and provide written notice of change to use of facility.

**\*Retroactive:**

No.

TO: COB 9-15-17 (2)  
Vers.: 1  
Pgs.: 38

Procure Dept 09/14/17 PM0338

Document Type: CTN Department Code: PW Contract Number (i.e., 15-123): 18\*0041

Effective Date: 10/3/2017 Termination Date: 10/2/2027 Prior Contract Number (Synergen/CMS): \_\_\_\_\_

Expense Amount: \$\* \_\_\_\_\_  Revenue Amount: \$ 0.00

\*Funding Source(s) required: Not Applicable

Funding from General Fund?  Yes  No If Yes \$ \_\_\_\_\_ % \_\_\_\_\_

Contract is fully or partially funded with Federal Funds?  Yes  No

\*Is the Contract to a vendor or subrecipient? \_\_\_\_\_

Were insurance or indemnity clauses modified?  Yes  No

If Yes, attach Risk's approval

Vendor is using a Social Security Number?  Yes  No

If Yes, attach the required form per Administrative Procedure 22-73.

**Amendment / Revised Award Information**

Document Type: \_\_\_\_\_ Department Code: \_\_\_\_\_ Contract Number (i.e., 15-123): \_\_\_\_\_

Amendment No.: \_\_\_\_\_ AMS Version No.: \_\_\_\_\_

Effective Date: \_\_\_\_\_ New Termination Date: \_\_\_\_\_

Prior Contract No. (Synergen/CMS): \_\_\_\_\_

Expense or  Revenue  Increase  Decrease Amount This Amendment: \$ \_\_\_\_\_

Is there revenue included?  Yes  No If Yes \$ \_\_\_\_\_

\*Funding Source(s) required:

Funding from General Fund?  Yes  No If Yes \$ \_\_\_\_\_ % \_\_\_\_\_

**Grant/Amendment Information** (for grants acceptance and awards)  Award  Amendment

Document Type: \_\_\_\_\_ Department Code: \_\_\_\_\_ Grant Number (i.e., 15-123): \_\_\_\_\_

Effective Date: \_\_\_\_\_ Termination Date: \_\_\_\_\_ Amendment Number: \_\_\_\_\_

Match Amount: \$ \_\_\_\_\_  Revenue Amount: \$ \_\_\_\_\_

\*All Funding Source(s) required:

\*Match funding from General Fund?  Yes  No If Yes \$ \_\_\_\_\_ % \_\_\_\_\_

\*Match funding from other sources?  Yes  No If Yes \$ \_\_\_\_\_ % \_\_\_\_\_

\*Funding Source: \_\_\_\_\_

\*If Federal funds are received, is funding coming directly from the Federal government or passed through other organization(s)? \_\_\_\_\_

Contact: Mike Stofko

Department: PW-Real Property Services Telephone: 724-6667

Department Director Signature/Date: [Signature] 8/29/17

Deputy County Administrator Signature/Date: [Signature] 9/12/17

County Administrator Signature/Date: [Signature] 9/12/17

(Required for Board Agenda/Addendum Items)



CONTRACT	
NO.	<u>CTN-PW-18-041</u>
AMENDMENT NO.	_____
This number must appear on all invoices, correspondence and documents pertaining to this contract.	

**PIMA COUNTY  
LICENSE**

**MASTER AGREEMENT FOR WIRELESS TELECOMMUNICATION EQUIPMENT  
IN RIGHT-OF-WAY AND ON COUNTY FACILITIES**

This Master Agreement for Wireless Telecommunication Equipment In Right-Of-Way and on County Facilities ("Agreement") is made as of the Effective Date (as defined in Section 29), between Pima County, Arizona, a political subdivision of the State of Arizona ("County") and Mobilitie, LLC, a Nevada limited liability company ("Company"). Each of County and Company is sometimes referred to as a "Party." Collectively, they are the "Parties."

**RECITALS**

A. Company desires to obtain site licenses from County to install, place, operate, manage, and maintain wireless telecommunications Equipment (defined in Section 1.2) and related Ground Equipment (defined in Section 1.5) on (A) "County Facilities," which are (i) County-owned street light poles and traffic light poles in or above the public right-of-way ("ROW") and (ii) other County-owned structures in the ROW that County determines to be suitable for use of Equipment, and (B) "TP Poles," which are third-party poles in the ROW that are suitable for use of Equipment.

B. Company agrees to comply with County's ROW or other use requirements for licensing the installation, placement, operation and maintenance of its Equipment on County Facilities and TP Poles. At Company's sole cost and expense, Company must perform all activities on County Facilities and TP Poles relating to any of the Equipment (and any Ground Equipment, defined in Section 1.5).

C. Company shall obtain a license for each location in the ROW at which it wishes to install, place, operate, manage, and maintain its Equipment. This includes Equipment on TP Poles. The license shall be a Site-Specific Agreement in the form attached hereto as Exhibits C-1 or C-2 and defined in Section 4.1.

D. This Agreement does not apply to County-owned property, like County buildings or County-owned communications towers that are not located in the ROW.

The Parties agree as follows:

1. County Facility; Equipment Permitted; Definitions.

1.1 This Agreement sets out the terms and conditions on which Company may install, place, operate, manage and maintain certain Equipment on County Facilities and TP Poles.

1.2 Under this Agreement the wireless telecommunications equipment ("Equipment") that is permitted on County Facilities and TP Poles at any approved site ("Site") consists of and is limited to:

1.2.1 Above-ground and ground-based equipment that is used solely for transmitting, processing and receiving voice and data wireless telecommunications services in the operation of facilities that comprise at each Site an antenna array through which third parties provide Personal Wireless Service (defined in Section 1.6) ("Antenna Array"). Equipment includes radios approved by the Federal Communications Commission ("FCC") to provide Personal Wireless Service ("Licensed Radios"); and

1.2.2 One or more fiber optic cables leading from the Antenna Array at each Site along a common route, to the extent feasible, to the ground-based equipment that supports and directly connects to the Site. Except as approved by County, the fiber optic cables must run inside of the pole (or stealth antenna structure) and then underground to ground-based equipment (of Company or an Affiliate) that serves the Site. Each fiber optic cable includes appurtenant conduit, manholes, handholes, pull boxes, fittings, access points, and similar supporting furnishings and improvements.

1.3 The term "Affiliate" means each person or entity which falls into one or more of the following categories: (a) each person or entity having, directly or indirectly, a controlling interest in Company; (b) each person or entity in which Company has, directly or indirectly, a controlling interest; or (c) each person or entity that, directly or indirectly, is controlled by a third party which also directly or indirectly controls Company. An "Affiliate" shall in no event include any creditor of Company solely by virtue of its status as a creditor and which is not otherwise an Affiliate by reason of owning a controlling interest in, being owned by, or being under common ownership, common management, or common control with, Company.

1.4 Intentionally omitted.

1.5 The term "Ground Equipment" means any ground-mounted cabinet or other enclosure (including cabling and other materials that connect to the Antenna Arrays) that Company requests to install, operate, manage and maintain in the ROW at a Site.

1.6 The term "Personal Wireless Service" means any FCC-licensed commercial wireless telecommunications services including cellular, personal communications services, specialized mobile radio, enhanced specialized mobile radio, and common carrier wireless exchange access services.

1.7 The term "Qualified Service Provider" means a person, other than Company, that has all applicable FCC and other authorizations required to transmit, process and receive Personal Wireless Services through Licensed Radios.

## 2. Equipment; Limitations.

2.1 Equipment that may be permitted includes: antennas attached to existing or replacement vertical elements or poles; antennas mounted to a vertical element that is stealth or otherwise concealed; antennas mounted on new vertical elements or poles that are neither stealth, nor concealed; and ground equipment associated with any approved Equipment including but not limited to electrical meters, solar panels and battery backup units.

2.2 Subject to County approval as provided herein, this Agreement authorizes Company to mount, operate and maintain Antenna Arrays on County Facilities and TP Poles. For all Sites that include poles owned or controlled by a third party, Company shall maintain in effect the third party's approval to use the poles or other structures.

2.3 An Antenna Array that accommodates more than five (5) co-located tenants must be approved by the County Administrator. Except as the County agrees in its sole discretion, the size of Antenna Arrays at each County Facility and TP Pole is limited to antennae and radio pairs that are used to provide Personal Wireless Service with each occupying no more than

three (3) cubic feet in volume for a single antenna and no more than six (6) cubic feet for all antennas on a single County Facility or a TP Pole.

2.4 Replacement poles or stealth antenna structures may be installed at a Site at Company's expense with County approval (which may include accommodation or co-location of County or third-party antenna arrays) where no suitable existing street light or traffic light poles or other technically suitable County or third-party structures are available in the vicinity of the Site. Company may proceed at its sole cost and expense to replace the County Facility. A replacement pole that Company includes in the Network Design is subject to acceptance and approval by County.

2.5 Where no suitable existing street light or traffic light poles or other technically suitable County or third party structures are available in the vicinity of the Site, County may authorize Company to install a new pole (including a free-standing monopole) at a Site. Company may install the new pole at a Site at Company's expense with County approval (which may include accommodation or co-location of County or third party antenna arrays). A new pole that Company includes in the Network Design is subject to acceptance and approval by County. Co-location of County equipment on the pole (at County expense) shall be at no rental to County. Upon expiration or termination of the Site license, Company shall dedicate such pole to County as a County Facility.

2.6 The Antenna Array must be finished to match the color of the pole or as reasonably approved by County.

2.7 Screening will be required for the placement of Ground Equipment unless otherwise approved by the County Administrator. Ground Equipment shall not obstruct public thoroughfares, pedestrian pathways (i.e., trails, sidewalks, etc.), or sight visibility triangles. Ground Equipment shall be placed in such a manner that it shall not exceed thirty-six (36) inches in height unless otherwise approved by County during the permitting process. Ground Equipment shall be powder coated to match nearby site walls, building color, or with neutral earth tones to blend with the environment where no built elements are nearby, unless waived by the County Administrator. A concrete masonry wall or wall of alternate non-transparent material as approved by the County, matching the existing surroundings shall be constructed around the Ground Equipment in order to screen the Ground Equipment from view from any public access points.

2.8 Company shall allow only a Qualified Service Provider to use the Equipment to provide Personal Wireless Service. All Equipment shall be owned by Company (or an Affiliate), except that by agreement with Company, a Qualified Service Provider may own and/or operate the Licensed Radios, antenna arrays and related equipment. Company is not authorized to and shall not use the Equipment to offer or provide any other services not specified herein.

2.9 In addition to its other obligations under this Agreement, Company has the responsibility to obtain the approval of the third-party owner or controller of a TP Pole for use of and attachment to the third-party's pole and to meet the terms and conditions of this approval including removal or replacement of the TP Pole and provision of electric power to the attached Equipment.

2.10 Except as set forth in Section 2.8, this Agreement does not authorize, and Company shall neither permit nor obligate itself to permit, a Qualified Service Provider to mount, operate, manage or maintain Equipment (i) on County Facilities or (ii) on TP Poles.

3. Site Selection. Company will propose Sites in a manner and form agreed to by the Parties. Company will separately propose County-owned or controlled Sites and third party owned or controlled Sites. Sites with both County and third-party owned or controlled poles or other structures shall be applied for singly.

3.1 County staff will inform Company within thirty (30) business days whether it approves the location of the proposed Site(s). Such approval is only for the purposes of approval by staff of the proposed site locations under this Agreement and does not constitute approval by County of engineered site plans, issuance of a Site-Specific Agreement, issuance of a required building permit, design review or other zoning or regulatory approval.

3.2 In proposing a Site with poles or other structures owned or controlled by a third party, Company shall maintain on file with the County documents showing, and shall aver in each application, that it has the approval of the third party owning or controlling the poles or other structures at the Site to use them as Company proposes.

3.3 Attached as **Exhibit B** incorporated by this reference is an illustrative rendition of several light-pole mounted antennas that are treated as a single attachment for determining the annual license fee under Section 7.

4. Construction Requirements. Construction at a Site may not begin until the following conditions are satisfied:

4.1 A Site-Specific Agreement has been issued for the Site in the form of **Exhibit C-1** for County Facilities and **Exhibit C-2** for TP Poles, both incorporated by this reference.

4.2 A Permit for Construction or Removal has been issued pursuant to the Pima County Code. A separate permit is required each time construction activity for Equipment is performed on County Facilities and TP Poles under this Agreement.

4.3 All development review, zoning, and other required approvals have been granted.

4.4 Any and all other requirements of this Agreement and all applicable laws, rules, and regulations are satisfied.

5. Use Limitations.

5.1 All construction, maintenance, and other activities relating in any way to the construction, installation, repair, maintenance, operation, service, replacement, removal or otherwise relating to the Equipment, including without limitation any restoration of, affected County or third-party improvements must be performed by Company or its Affiliate (or its contractors or agents) entirely at Company or its Affiliate's expense. This Agreement does not waive any rule or regulation pertaining to installation, construction, maintenance, or operation of the Equipment. This Agreement does not authorize Company to place anything other than the permitted Equipment at any Site or on County Facilities and TP Poles. Company is responsible to provide for electricity or other utility services required for the Equipment on County Facilities. Company agrees to pay all charges for such utilities and services directly to the supplier thereof. County will not be liable in any way to Company for any failure or defect in the supply or character of utilities furnished to the Equipment by reason of any requirement, act or omission of the provider of such service or for any other reason.

5.2 Company shall without charge allow County to place County equipment on a pole to which Company Equipment is attached and that (i) was a County Facility modified by Company or (ii) is a Company-owned pole.

5.2.1 County's equipment shall be purchased, installed and maintained, at the expense of County, and must be kept and maintained at all times in a good state of repair and maintenance and in compliance with all laws, rules and regulations of any and all governmental authorities. Company assumes no responsibility for the licensing, operation or maintenance of the County's equipment.

5.2.2 County shall arrange for and pay for power to its equipment.

5.2.3 County agrees not to damage Company's Equipment or any personal property or fixtures thereon in any way. County shall be responsible and liable for any such damages.

5.2.4 Installation of any County Equipment upon a pole shall be conditioned upon review and approval of a structural report and completed plans submitted by County, which approval of Company shall not be unreasonably withheld. If Company determines that improvements to the pole are necessary to support County's equipment, then Company may condition approval of County's equipment upon completion of the improvements. Any pole improvements shall be completed by Company, or its contractors, at County's expense.

5.2.5 County agrees that its equipment shall not cause interference to the use or enjoyment of the property of Company and other licensees located at the Premises, including but not necessarily limited to interference with radio communication facilities. If County's equipment causes interference to Company's use or enjoyment, County agrees immediately to cease operations until such interference is removed by County, at its sole expense.

5.2.6 Company must approve in writing all contractors and personnel County selects to install, maintain and operate the equipment, which approval shall not be unreasonably withheld. County shall maintain and operate its system so as not to damage or interfere with Company's use of the pole and Equipment. County shall require its contractors to provide Company with certificates of insurance for commercial general liability and commercial automobile liability showing the current status of all insurance policies, which shall meet all the requirements County imposes on Company under Section 26.1. Company shall be included as an additional insured as its interest may appear on the commercial general liability and automobile liability insurance policies.

5.2.7 Company assumes no responsibility for the licensing, operation, and/or maintenance of County's equipment.

5.2.8 Company shall not be liable for injury or damage to any person or property occurring within or on a Pole under use by County unless caused by or resulting from the negligence of the Company, its servants, agents or employees.

5.2.9 Maintenance of County's equipment shall be in accordance with the reasonable standards and requirements of Company, and shall be done under Company's supervision. Scheduling of any work will be coordinated with Company.

5.2.10 All of County's equipment mounted on the pole must be attached securely to the tower with approved mounts, hangers, and clamps as directed by Company. All cables and wires entering or exiting equipment must do so in a manner approved by Company.

5.3 Company must replant any trees or other significant vegetation removed during construction on a Site, in a location and a manner reasonably satisfactory to County; provided, Company shall not be responsible for maintaining any vegetation after planting.

5.4 Work at the Site must be performed in a good and workmanlike manner and in accordance with all applicable requirements of local ordinances, including zoning, and all rules, regulations, and requirements of all departments, boards, bureaus, officials, and authorities having jurisdiction thereof.

5.5 Company must timely pay all contractors, subcontractors, mechanics, laborers, or materialmen providing materials or services with respect to the Site, and must not permit any lien to attach to the County Facilities or any interest therein, and must indemnify and defend County against all legal costs and charges resulting from any such lien.

5.6 Company shall commence construction at a Site within six (6) months after County approval of the Site-Specific Agreement for the Site and complete construction at a Site within four (4) months after commencement.

6. Term. This Agreement will terminate ten (10) years from the Effective Date. The parties may jointly agree to extend the term of this Agreement for up to two (2) successive five (5)-year periods, but any extensions require the written agreement of both Parties in their sole discretion.

6.1 Upon termination of this Agreement by either Party, within thirty (30) days after termination Company must remove from County Facilities and TP Poles all Equipment installed under this Agreement and restore the County Facilities to their preexisting condition, reasonable wear and tear excepted. Nothing in this Agreement limits County's rights to cause Company to remove any of the Equipment pursuant to the terms of this Agreement or any associated Site Specific Agreement. All of the Equipment shall be deemed and remain Company's personal property and is not fixtures. Company has the right to remove the Equipment at its sole expense on or within thirty (30) days after the expiration or earlier termination of this Agreement, and Company shall repair any damage to County Facilities caused by that removal, reasonable wear and tear excepted.

7. Fees. Except as otherwise provided in this Agreement, including but not limited to Section 8, no payment by Company to County under this Agreement is refundable for any reason. Company shall pay to County the following amounts:

7.1 Fees and Rates as set forth in **Exhibit A**

7.2 Unless otherwise notified by County under Section 23, Company shall deliver all payments to County that are not made at the point of service in the ordinary course of business to:

Pima County Revenue Management  
130 W. Congress St  
Mail Stop: DT-BAB6-401  
Tucson, Arizona 85701

8. Abandonment of Equipment. Subject to the procedures set forth in the applicable Site-Specific Agreement, any Equipment installed under this Agreement that remains on any Site after the termination of the applicable Site-Specific Agreement, whether the termination occurs by lapse of time or otherwise, will constitute and be construed abandoned equipment. Subject to the procedures set forth in the applicable Site-Specific Agreement, County has the right to remove any such abandoned Equipment and Company will reimburse County for County's actual costs incurred in removing and disposing of the Equipment.

9. Assignments. This Agreement shall not be assigned by Company without the express written consent of the County. Notwithstanding the foregoing, the transfer of the rights and obligations of Company (i) to an Affiliate or (ii) to any successor in interest or entity acquiring fifty percent (50%) or more of Company's stock or assets (collectively "Exempted Transfers") shall not require the consent of the County, provided that with regard to a successor in interest or entity acquiring fifty percent (50%) or more of Company's stock or assets: (a) such transferee will have a financial strength after the proposed transfer sufficient to fully perform Company's obligations hereunder; (b) any such transferee assumes all of Company's obligations hereunder, including all obligations and/or defaults under this Agreement occurring prior to the transfer (whether known or unknown), signed by a Company representative authorized to do so; (c) the experience and technical qualifications of the proposed transferee, either alone or together with Company's management team, in the provision of telecommunications service, evidences an ability to operate the Company Facilities; and (d) the transferee has a valid County business license. Notwithstanding the foregoing, the consent or approval of County is



not required for any contract or license entered into between Company and any third-party related to such third party's use of Company's Equipment.

10. Nature of Rights. County grants no exclusive rights under this Agreement. County does not warrant County's title to County's Facilities. Subject to Section 12 of this Agreement, County agrees not to install, or permit others to install, equipment on County Facilities that will interfere with the operation or maintenance of Company's Equipment. Under this Agreement Company agrees not to use any County Facilities contrary to or beyond any limits of County's rights in such County Facilities. Company will hold no real property rights of any sort under this Agreement. Company will have no power to create a lien upon County Facilities or other County property. Company agrees not to record or file, or permit to be recorded or filed, any document affecting or mentioning the County Facility unless the document mentions the County Facility solely for the purpose of identifying personalty located there not owned by County. Any document permitted to be filed or recorded must contain this sentence in the body of the document:

PURSUANT TO A MASTER AGREEMENT FOR WIRELESS TELECOMMUNICATION EQUIPMENT IN RIGHT-OF-WAY AND ON COUNTY FACILITIES WITH PIMA COUNTY, ARIZONA, NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, NO PARTY TO THIS DOCUMENT CLAIMS ANY REAL PROPERTY INTEREST IN ANY PIMA COUNTY RIGHT-OF-WAY OR OTHER REAL PROPERTY MENTIONED IN THIS DOCUMENT.

The rights of anyone using County Facilities pursuant to this Agreement are derivative of Company's rights under this Agreement. This Agreement controls any variation between this Agreement and any other agreement concerning the Equipment to which Company is or may be a party. County is not bound by any agreement to which County is not a party.

11. No Warranties. County Facilities are made available by County "as is" without any warranty of any description regarding conflicting uses, physical condition, legal condition or any other circumstance affecting in any way its suitability, fitness or availability for Company's use.

12. Relocation. Company specifically agrees that Company's sole remedy for any requirement by County for removal or relocation of Equipment from County Facilities that is necessary for the development of a County project will be exclusively pursuant to this Agreement and Company specifically disclaims and waives any rights to any reimbursement from County for relocation of Equipment which is necessary for the development of a County project.

In making decisions whether County may install, add to, reduce, reconfigure, remove, abandon, repair, replace or otherwise modify the County Facilities or any existing or future improvements in the County Facilities which are related to a County project, County will have the right to disregard the consequences of any modification of the County Facilities on the Equipment, and County will have no liability for relocation of the Equipment that might be necessary as a result of its work on the County Facilities. Without limitation, if any Equipment is required to be relocated as a result of a County project, Company will have no right to object to, or make a claim against County for the cost of relocation. If County requires the removal or relocation of the Equipment, County shall provide Company with at least ninety (90) days' prior written notice of the required completion date for such removal or relocation.

13. Taxes. Company will indemnify, pay, defend and hold County harmless against any personal or real property tax imposed on Company's Equipment regardless of how calculated or denominated.

14. Equipment Modifications. Unless specifically waived by County in writing, Company shall notify County of any modification of Equipment, and County may require Company to

obtain new approvals as if the Equipment were being installed at a new Site. Notwithstanding the prior sentence, no new approval will be required for Equipment modifications to the extent that: (i) such modification to the Equipment involves only substitution of internal components, and does not result in any change to the external appearance, dimensions, or weight of the Equipment, as previously approved by County; or (ii) such modification involves replacement of the Equipment or a component of the Equipment with Equipment or a component that is the same, or smaller in weight and dimensions as the approved Equipment or component.

15. Conflicting Improvements and Technology. Company may not install Equipment which would interfere in any way with any County or other public communications equipment.

16. Hazardous Materials. Company may not produce, dispose, transport, treat, use or store any hazardous waste or materials or toxic substance or any substance upon or about the County Facilities and TP Poles in violation of the Arizona Hazardous Waste Management Act, A.R.S. § 49-901 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., or the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., or any other federal, state, county, or local law pertaining to hazardous waste or toxic substances (collectively "Toxic Substances"). Company may not use the County Facilities and TP Poles in a manner inconsistent with regulations issued by the State of Arizona, or in a manner that would require a permit or approval related to Toxic Substances from the Arizona Department of Health Services or any governmental agency other than County. Company will pay, indemnify, defend and hold County harmless against any loss or liability incurred by reason of any Toxic Substance produced, disposed, or used by Company on or affecting the County Facilities and TP Poles attributable in any way to any activity by Company pursuant to this Agreement, and must immediately notify County of any Toxic Substance at any time discovered or existing upon the County Facilities and TP Poles in violation of applicable law. Company must cause any on-Site or off-Site storage, treatment, transportation, disposal or other handling of Toxic Substance by Company in connection with the County Facilities and TP Poles to be performed by persons, equipment, facilities and other resources who are properly trained, authorized, licensed and otherwise permitted to perform those services.

17. Force Majeure. If a Party is delayed or hindered in, or prevented from performance by reason of earthquakes, landslides, strikes, lockouts, labor troubles, failure of power, riots, insurrection, war, acts of God or other reason of like nature not the fault of the Party delayed in performing, then that Party is excused from performance for the period of delay that may not exceed sixty (60) days.

18. Default.

18.1 Any failure by Company or County to perform that is not cured within thirty (30) days after notice by the other Party of that failure will be a default. In the event of default, either Party will have any remedies that are permitted by applicable law. In the event of default by Company, in addition to termination of this Agreement and any other available remedies, County will have the right to perform Company's obligations at Company's expense. Such right will not include the right of County to operate the Equipment at a Site or the associated ground-based equipment, unless County determines that, due to an emergency, County needs to cure Company's non-performance to protect the public health, safety and welfare.

18.2 Should County fail or delay in exercising or enforcing any right, power, privilege, or remedy under this Agreement, such failure or delay may not be deemed a waiver, release or modification of the requirements of this Agreement or of any of its terms or provisions. Company's failure to fulfill any obligation, or violation of any provision or covenant, of this Agreement may not be construed as changing the terms of, or prevent County from enforcing any provision of this Agreement. The acceptance of payments by County for any period after a

default by Company may not be deemed a waiver of County's right to exercise its remedies under this Agreement for breach. Expiration or other termination of this Agreement will not terminate Company's obligations or liability for breach arising prior to, or at the time of expiration or termination.

18.3 If a notice and opportunity to cure period is not otherwise specified in this Agreement, Company will have thirty (30) business days after receipt of written notice to cure any breach, unless County has agreed to an extension of time in writing. However, if the nature of the cure reasonably requires more than thirty (30) business days and Company commences the cure within the thirty (30)-business day period and continuously and diligently pursues the cure to completion, then Company will have such extended period as is reasonably required. In no event will the cure period exceed one hundred twenty (120) business days unless specifically authorized in writing by County.

19. Miscellaneous. Any consent required from County must be obtained in writing from the County Administrator. The County Administrator may designate other County officials to give approvals, consents and waivers and take other actions provided for herein. This Agreement will be governed by Arizona law without regard to choice of law rules. This Agreement constitutes the entire agreement between the parties and supersedes all related prior negotiations, understandings, or agreements. This Agreement does not waive or suspend any law, regulation, or rule relating to Company activities. This Agreement does not create any partnership, joint venture or similar relationship between County and Company. All County reviews, inspections and approvals are solely for County's benefit.

20. Government Property Lease Excise Tax. A.R.S. § 42-6206 requires notice that Company will be responsible for any and all government property lease excise taxes described in A.R.S. § 42-6201 *et seq.* or similar laws. Although it is not anticipated at the inception of this Agreement, if Company later constructs any structures to which lease excise taxes apply, then failure by Company as lessee to pay the tax(es) after notice and an opportunity to cure is an event of default that could result in divesting Company of any interest in or right of occupancy of the County Facilities.

21. Conflict of Interest. This Agreement is subject to cancellation within three (3) years after its execution pursuant to A.R.S. § 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating this Agreement on behalf of County or Company, at any time while this Agreement or any extension of the Agreement is in effect, an employee or agent of any other party to the Agreement with respect to the subject matter of the Agreement.

22. Legal Worker Requirements; Nondiscrimination.

22.1. County is prohibited by A.R.S. § 41-4401 from awarding an agreement to any contractor who fails, or whose subcontractors fail, to comply with A.R.S. § 23-214(A). Therefore, Company agrees that:

- A. Company and each subcontractor it uses under this Agreement warrants their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-214(A).
- B. A breach of warranty under paragraph A shall be deemed a material breach of this Agreement and is subject to penalties up to and including termination of this Agreement.
- C. County retains the legal right to inspect the papers of Company or subcontractor employee(s) who perform work under this Agreement to ensure that Company or subcontractor is complying with the warranty under paragraph A.



25.2 The performance bond is security for Company's performance of all of its obligations under this Agreement.

25.3 The performance bond will be in a form reasonably acceptable to County and subject to the prior approval of County, which approval County will not unreasonably withhold. The performance bonds shall be issued by a surety company licensed to do business in the State of Arizona, running to County, as obligee, conditioned on completion of the work in accordance with the design and the provisions of this Agreement, free and clear of all mechanics' and materialmen's or other liens and free and clear of all financing statements under the Uniform Commercial Code.

25.4 Company will provide and maintain the performance bond during the entire term of this Agreement as follows:

25.4.1 At least thirty (30) days before a performance bond is required, Company will give County notice containing a copy of the proposed form of performance bond, along with a copy to County's Finance Director.

25.4.2 Company will cause the original performance bond to be delivered to County's Finance Director.

25.4.3 Company will pay all costs associated with the performance bond, regardless of the reason or manner such costs are required.

25.5 Within ten (10) business days after County gives Company notice that County has drawn on the performance bond, Company will cause the performance bond to be replenished to its prior amount.

25.6 Subject to the cure provisions in Section 18.3 of this Agreement, County may draw on the performance bond upon the occurrence of any event of default that result in a loss or expense to County, including but not limited to Company's failure to timely make monetary payments required under this Agreement.

25.7 Upon termination or expiration of this Agreement, upon Company's written request, County will release the performance bond within sixty (60) days but only after County determines that all obligations under this Agreement have been satisfied, including but not limited to any obligations to remove Equipment and restore County Facilities to their prior condition.

25.8 County will also have such additional rights regarding the performance bond as may be provided elsewhere in this Agreement.

## 26. Insurance.

26.1. Types of Insurance Required. Company must procure, before beginning any operations or activities under this Agreement, and maintain throughout the Term, the following insurance from an insurance company or companies reasonably acceptable to the County:

- Commercial General Liability insurance with coverage at least as broad as ISO form CG 001 or equivalent in an amount not less than \$2,000,000.00 covering the Company's operations and activities under this Agreement, endorsed to include the County as an additional insured, as its interest may appear.
- Commercial Automobile Liability insurance with coverage at least as broad as ISO form CA 001 or equivalent in an amount not less than \$1,000,000.00 for Company's vehicles actually used in the operations under the Agreement (i.e., not used for simple commuting).

- Workers' Compensation insurance with statutory limits, with Employers' Liability coverage in an amount not less than \$1,000,000 per injury, illness, or disease.

26.2. Certificates and Proof of Insurance. Company must provide the County with copies of certificates of insurance showing the current status of all insurance policies. The County shall be included as an additional insured as its interest may appear on the commercial general liability and automobile liability insurance policies. Company must deliver to the County satisfactory proof that worker's compensation insurance has been procured to cover all persons employed by Company in connection with this Agreement.

All certificates of insurance to be provided to County shall bear the County's Contract Number and Site Location and shall be addressed to:

Pima County Telecom Contracts Administrator  
201 N. Stone Avenue, 6<sup>th</sup> Floor  
Tucson, AZ 85701-1215

26.3. Waiver of Subrogation. Each Party waives its claims and subrogation rights against the other for losses typically covered by property insurance.

26.4. Changes to Insurance Requirements. The County may review and reasonably alter coverage and amount of insurance required hereunder. The County will notify Company in writing of any changes to the aforesaid insurance requirements, and Company will have sixty (60) days to comply with the requirements as changed. Such action will not require a formal amendment to this Agreement, but may be made by administrative action.

27. Indemnification. Company agrees to indemnify, defend, save and hold harmless, Pima County, any jurisdiction or agency issuing permits for any work included within this Agreement, and its elected or appointed officials, agents, boards, commissions, employees and volunteers (hereinafter referred to as "Indemnitee") from and against any and all suits, claims, demands, actions, liabilities, damages, losses, or expenses of any nature or kind whatsoever, including but not limited to court costs, attorneys' fees, and costs of claim processing, investigation and litigation (hereinafter collectively referred to as "Claims") for personal injury (including death) or property damage caused, or alleged to be caused in whole or in part, by the negligence or willful acts or omissions of Company (or an Affiliate or a Qualified Service Provider) or any of Company's (or their) directors, officers, agents, employees, or volunteers, except to the extent such Claims result from the negligent or willful acts or omissions of the Indemnitee. This indemnity includes any claims or amount arising or recovered under the Workers' Compensation Laws or arising out of the failure of Company to conform to any federal, state or County law, statute, ordinance, rule, regulation, or court decree. It is agreed that Company will be responsible for primary loss, investigation, defense, and judgment costs where this indemnification is applicable. In consideration of receiving this Agreement, Company agrees to waive all rights of subrogation against County, its officers, agents and employees for losses arising from Company's activities under this Agreement. For clarity this includes work by Company (or an Affiliate) on any Equipment owned by a Qualified Service Provider. In no event, to the extent permitted by law, will Company be liable to County for consequential, indirect, speculative or punitive damages.

28. Governing Law. This Agreement, and the rights and obligations of the parties, will be governed by, and construed and interpreted in accordance with, the laws of the State of - Arizona, Pima County and any applicable Federal laws. Any action brought to interpret or enforce any provision of this Agreement, or otherwise related to or arising from this Agreement, must be commenced and maintained in the state or federal courts of the State of Arizona in

Pima County, and each of the Parties, to the extent permitted by law, consents to jurisdiction and venue in such courts for such purposes.

29. Effective Date. This Agreement shall be effective on the date it is signed by all of the parties hereto (the "Effective Date"). This Agreement shall be considered signed by County on the date that it is executed by the Chair of the Pima County Board of Supervisors.

30. Underground Facilities. Company will comply with Arizona Revised Statutes §§40-360.21 through 40-360.32 in the design and construction of its facilities, including the Equipment and Ground Equipment, within Pima County right of way.

31. County Use of Company's Equipment and Ground Equipment. At Company's sole discretion, County may place County equipment upon the Equipment or Ground Equipment, and may use up to two (2) strands of Company's fiber and/or conduit for County use, at no rental cost to County, provided:

31.1. County shall provide prior written notice to Company, and shall comply with any reasonable requirements of Company to insure that County does not materially and adversely affect Company's design capacity and structural integrity of the Equipment or Ground Equipment; and

31.2. County's equipment shall be purchased, installed and maintained, at the expense of County, and must be kept and maintained at all times in a good state of repair and maintenance and in compliance with all laws, rules and regulations of any and all governmental authorities. Company assumes no responsibility for the licensing, operation or maintenance of the County's equipment; and

31.3 County shall arrange for and pay for power to its equipment; and

31.4 County agrees not to damage the Equipment or Ground Equipment, including the fiber and/or conduit, or any personal property or fixtures thereon in any way. County shall be responsible and liable for any such damages; and

31.5 County agrees that its equipment shall not cause interference to the use or enjoyment of the property of Company, including but not necessarily limited to interference with radio communication facilities. In the event that County's equipment causes such interference to such use or enjoyment, County agrees immediately to cease operations until such interference is removed by County, at its sole expense; and

31.6 County, at its cost and expense, agrees to relocate County's equipment to another location on the Equipment or Ground Equipment, in the event that the Company deems it necessary to use the space for Company's own purpose. The site of such relocation shall be by mutual agreement in writing between County and Company; and

31.7 Company must approve of, in writing, all contractors and personnel chosen by County to install, maintain and operate the County's equipment, which approval shall not be unreasonably withheld; and

31.8 All installations and operation by County shall meet with all applicable Rules and Regulations of the Federal Communications Commission and all applicable codes and regulations of the municipality, county and state concerned. Company assumes no responsibility for the licensing, operation, and/or maintenance of County's equipment; and

31.9 Company shall not be liable for injury or damage to any person or property under use by County unless caused by or resulting from the negligence of Company, its servants, agents or employees.


31.10 Maintenance of the County's equipment shall be in accordance with the reasonable standards and requirements of Company, and shall be done under Company's supervision. Scheduling of any and all work will be coordinated with Company.

[signatures on following page(s)]



EXECUTED as of the Effective Date.

MOBILITIE, LLC, a Nevada limited liability company

By:   
CHRISTOPHER GLASS  
Its: SVP, GENERAL COUNSEL

Date: 8/29/17

PIMA COUNTY, ARIZONA, a political  
subdivision of the State of Arizona

By: \_\_\_\_\_  
Sharon Bronson  
Chair, Board of Supervisors

Date: \_\_\_\_\_


ATTEST:

\_\_\_\_\_  
Julie Castaneda, Clerk of Board

APPROVED AS TO CONTENT:

 8/15/17  
\_\_\_\_\_  
Jesse Rodriguez, Chief Information Officer

APPROVED AS TO FORM:

 8/15/17  
\_\_\_\_\_  
Tobin Rosen, Deputy County Attorney.  
Civil Division

7080218v3

**EXHIBIT "A"**

**SCHEDULE OF FEES AND RATES FOR SMALL CELL INSTALLATIONS IN  
COUNTY ROW**

1. \$100 Fee for processing an Application and for conducting associated inspections for:
  - a. Installation, modification or replacement of a utility pole; or
  - b. Collocation of a Small Wireless Facility (SWF) on a utility pole or a Wireless Support Structure (WSS), which includes Ground-Mounted Equipment (GME). ARS §11-1802(B)
2. For collocations which are applied for in a single, consolidated Application under ARS §11-1804(B), \$100 Application Fee for up to the first five (5) SWF's addressed in the Application; and \$65 for each additional SWF addressed in the Application.
3. \$175 Rate for the collocation of a SWF on a utility pole or WSS not owned by PC and that does include GME. ARS §11-1802(D)(1)
4. \$20 Rate for the collocation of a SWF on a PC-owned utility pole that does not include GME. ARS §11-1802(D)(2)
5. \$175 Additional Rate for the collocation of a SWF on a PC- owned utility pole that does include GME. ARS §11-1802(D)(2)
6. \$175 for the installation of a utility pole and the collocation of a SWF that will not be owned by the County. ARS §11-1802(D)(3)

**EXHIBIT B**

# PHOTOGRAPHIC SIMULATION

PROPOSED WIRELESS COMMUNICATIONS FACILITY



## SITE LOCATION MAP



**SITE NAME:** PH90XSM34D  
**SITE ID:**

**SITE LOCATION:** VALENCIA WEST OF I-19  
TUCSON, AZ 85757

**DATE:** 4/21/2017

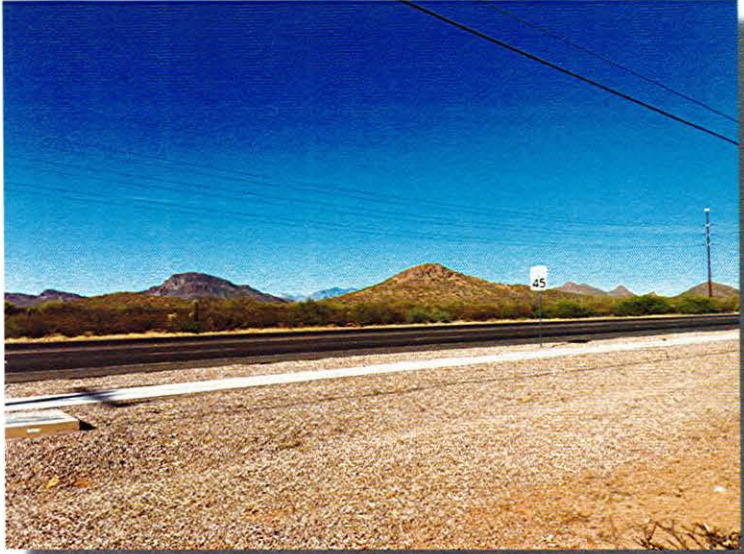
**APPLICANT:** MOBILITIE  
2955 RED HILL AVENUE, #200  
COSTA MESA, CA 92626

**CONTACT:** ADAM BRIXIUS  
**PHONE:** (480) 528-0384

2017 GOOGLE MAPS

The included Photograph Simulation(s) are intended as visual representations only and should not be used for construction purposes. The materials represented within the included Photograph Simulation(s) are subject to change.

**EXISTING VIEW 1, looking northeast:**



**PROPOSED SIMULATED VIEW 1, looking northeast:**



PROPOSED INSTALLATION OF NEW WOOD POLE, WITH ANTENNA AND ADDITIONAL EQUIPMENT ADDED TO POLE.

**EXISTING VIEW 2, looking east:**

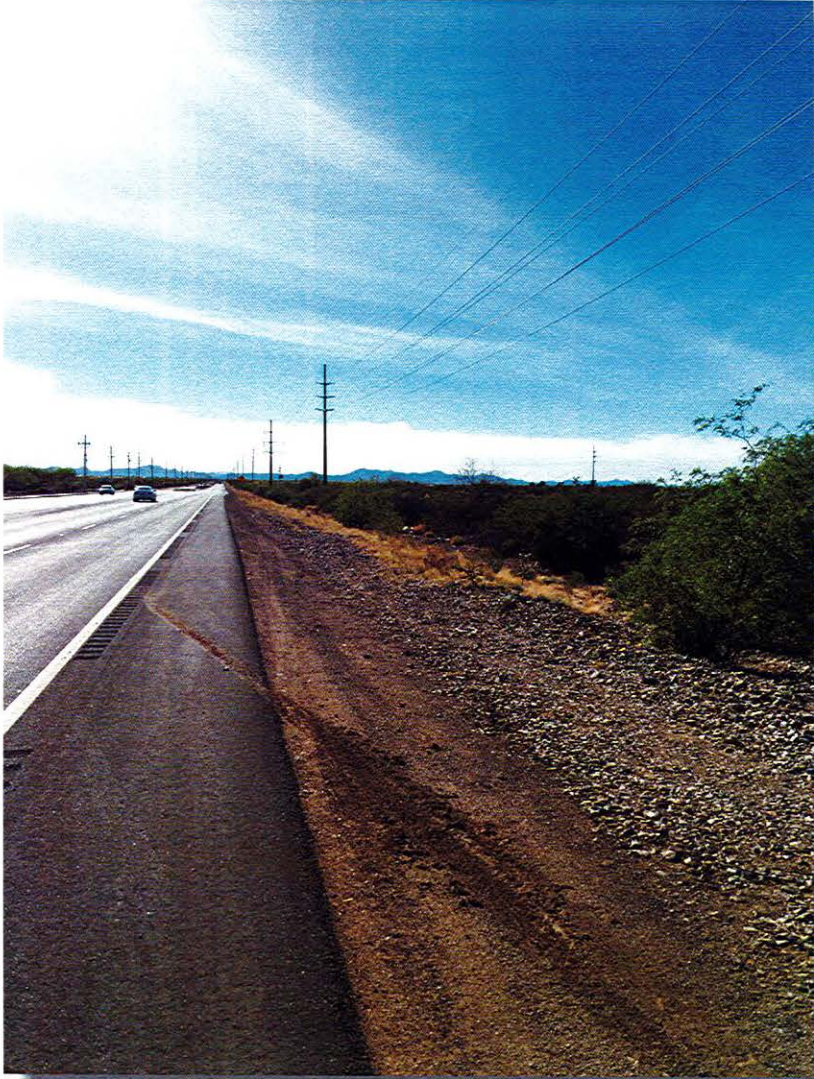


**PROPOSED SIMULATED VIEW 2, looking east:**



PROPOSED INSTALLATION OF NEW WOOD POLE, WITH ANTENNA AND ADDITIONAL EQUIPMENT ADDED TO POLE.

EXISTING VIEW 3, looking west:



PROPOSED SIMULATED VIEW 3, looking west:

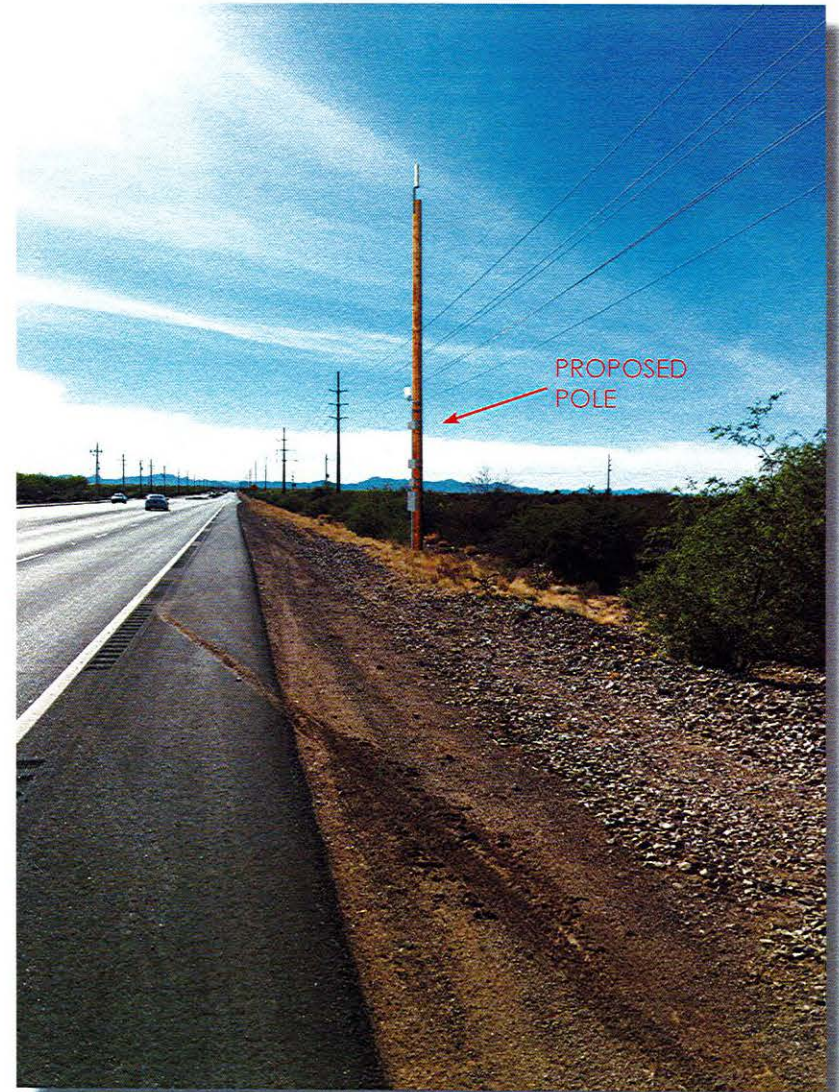
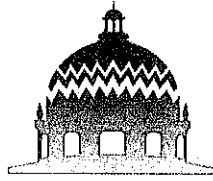


EXHIBIT C-1



**PIMA COUNTY**

**REAL PROPERTY**

**SITE-SPECIFIC AGREEMENT**

**SITE LICENSE – COUNTY POLES/STRUCTURES**

**PIMA COUNTY LICENSE NO. LIC- \_\_\_\_\_**

Pursuant to the Master Agreement for Wireless Telecommunication Equipment in Right-of-Way and on County Facilities, County Contract No. \_\_\_\_\_ (the "Agreement"), with Pima County, Arizona ("Licensor"), the \_\_\_\_\_ Department ("\_\_\_\_\_ Department"), as authorized by the Board of Supervisors, grants this license ("License") to Mobilitie, LLC, a Nevada limited liability company ("Licensee") for the installation, use and maintenance of wireless telecommunication equipment ("Encroachments") within Licensor right-of-way. County and Licensee are each sometimes referred to as "Party" and collectively as the "Parties." Capitalized terms not defined herein shall have the meaning given them in the Agreement.

**THIS LICENSE IS SUBJECT TO THE FOLLOWING CONDITIONS:**

**I. GENERAL CONDITIONS:**

1. Prior Approval of Encroachments. The Encroachments allowed by this License are Equipment as defined in the Agreement and as shown in Attachment A, incorporated by this reference. Any modifications or additions to the Encroachments within Licensor right-of-way must be approved by Licensor. Notwithstanding the prior sentence, no new approval will be required for Encroachment modifications to the extent that: (i) such modification to the Encroachments involves only substitution of internal components, and does not result in any change to the external appearance, dimensions, or weight of the Encroachments, as approved by County; or (ii) such modification involves replacement of the Encroachments or a component of the Encroachments with Encroachments or a component that is the same, or smaller in weight and dimensions as the previously approved Encroachments or component. All work by or on behalf of Licensee within Licensor right-of-way requires a construction permit issued by Licensor's Development Services Department, except for inspections of installed Encroachments.
2. County Retains Full Rights. This License is not a construction permit. This License is limited to the Encroachments and for maintenance and use of the Encroachments. Licensor retains full rights to the public right-of-way.
3. Transfer of Privileges. Company's rights and obligations under this License are transferable and assignable on the same basis as the Agreement. The consent or approval of Licensor is not required for any contract or license entered into between Company and any third-party related to such third party's use of Company's Equipment.



4. Notice of Change of Address. The Licensee shall notify Licensor ----- Department at the address set forth herein within thirty (30) days after any change in Licensee's mailing address, proposed lease, assignment, sale or transfer of this License.
5. No Interest in Real Property. This License does not create or grant a franchise, an easement, a covenant running with the land, an interest in real property, or a lease. This License strictly allows the Encroachments within the public right-of-way for an indefinite period of time.
6. Removal of Encroachments. Upon revocation or termination of this License or upon damage to the County Facility affecting use of the Encroachments that Licensor elects not to repair, the Encroachments must be removed to the satisfaction of the ----- Director at no cost to County within ninety (90) days after written notice to vacate the public right-of-way. Final notice will be given to Licensee within fifteen (15) days for realignments of streets or construction in streets by Licensor or by its contractors, or upon notice of an emergency. In the event that the Encroachments are not removed from the public right-of-way after notice by Licensor, Licensor reserves the right to remove the Encroachments and Licensee will be responsible for and must pay all costs related to the removal of the Encroachments. If Licensee fails to pay the costs for Licensor's removal of Encroachments within ninety (90) days after written request for payment, Licensee agrees that Licensor may recover from Licensee all of Licensor's costs of removal of Encroachments, including but not limited to attorneys' fees and collection costs.

Alternatively for underground Encroachments, subject to Licensor's approval in its sole discretion, Licensee may permanently abandon those Encroachments in place in lieu of removal. Upon permanent abandonment in place, if Licensor does not require removal, the Licensee will submit to Licensor a proposal and instruments for transferring ownership to Licensor. Any Equipment which is not removed as required by Licensor within one hundred twenty (120) days after either the date of termination or revocation or of the date Licensor issued a permit authorizing removal, whichever is later, automatically will become the property of Licensor. The underground construction notification center must be notified to record abandoned underground Equipment.

7. Limitation of Liability. Without waiving any of Licensee's rights under this License and the Agreement or remedies against Licensor in law or equity in the event of a breach of this License or the Agreement by Licensor, Licensor's officials, board members, agents or employees shall not be personally liable for any loss, costs, expenses or damage arising out of any of the conditions or provisions of this License or because of any defects in this License, or should the Licensee in accordance with the terms of this License be lawfully deprived of the use and possession of the Encroachments. In no event, to the extent permitted by law, shall either Party be liable to the other Party for consequential, indirect, speculative or punitive damages in connection with or arising from this License or the Agreement, or the Licensee's use of Licensor's right-of-way or other property.
8. Termination. This License will terminate ten (10) years from the execution hereof, except as provided in the Agreement. Licensee will have the right to terminate this License for any or no reason upon ninety (90) days' written notice.
9. License Subject to Ordinances. This License is subject to the Pima County Code now in effect as amended from time to time. Except as specifically provided, nothing in this License may be deemed to waive the requirement of the various codes and ordinances of Licensor regarding permits or manner of construction in Licensor right-of-way. This

License is subject to and the Licensee must comply with any future ordinances that may be adopted by Board of Supervisors pertaining to the location and relocation of facilities in the streets and public ways.

10. Records. The Licensee must keep as-built records of the Encroachments, and within ninety (90) days after completion of any construction, Licensee must furnish a copy of the as-built records to the ----- Department showing that the construction was completed according to the approved plans. Where Encroachments are underground facilities in the public right-of-way, Licensee must participate as a member in Blue Stake Center and comply with A.R.S. § 40-360.21, et seq., regarding underground facilities. A copy of the Blue Stake agreement or proof of participation must be submitted to the ----- Department.
11. Maintenance and Disturbance of Public Right-of-Way.
  - (a) The Licensee must maintain the Encroachments in a manner satisfactory to the ----- Director. Failure to provide satisfactory maintenance can result in revocation of this License pursuant to the General Conditions.
  - (b) Whenever the Licensee disturbs a public right-of-way, alley, public highway, street easement, or public utility easement for any reason as a result of construction or due to failure of any of its facilities or previous public right-of-way restoration work, the Licensee must restore the same to the satisfaction of the ----- Director and must obtain all appropriate construction permits.
  - (c) Licensor may, in its own discretion, remedy Licensee's failure to maintain Encroachments or disturbance after written notice and an opportunity to cure of thirty (30) days, unless an emergency or safety hazard is presented, in which case, prior notice is required only to the extent practicable. The cost thereof, including but not limited to the cost of inspection and supervision, will be paid by the Licensee. If Licensee fails to pay Licensor's costs for maintenance of Encroachments within ninety (90) days after written request for payment, Licensee agrees that Licensor may recover such costs from any bond or security fund provided by Licensee under this License or the Agreement. Licensor will have any additional remedies as afforded by law. All excavations in the public right-of-way made by the Licensee must be maintained by Licensee or her agents and contractors in a safe manner. Any barricading by Licensee must be in compliance with the latest County Traffic Barricade Manual.
  - (d) Licensee or its maintenance contractor must obtain insurance; and Workers' Compensation insurance; and perform work in a satisfactory manner and according to plans approved by the ----- Department.
  - (e) Licensor will not assume any maintenance responsibility for maintenance of the Encroachments and will not assure protection of the Encroachments from damage by others permitted in the public right-of-way over or under the Encroachments. Licensor does not warrant, represent or guarantee that Encroachments will not be damaged from underground seepages, failure of soil materials or soil movements, unless caused by the gross negligence or willful misconduct of Licensor.
  - (f) Licensor retains the right of access to the Encroachments at all reasonable times for inspection, for maintenance or for repairs.

12. Emergency Work by Licensee. Emergency work by Licensee in the public right-of-way shall be barricaded according to the latest County Traffic Barricade Manual. Barricading must be followed immediately by contacting all affected utility companies and the ----- Department. Licensee must also obtain a construction permit from the ----- Department before Licensee, its contractors or its agents restore the public right-of-way to original conditions as approved by Licensor. Licensee must follow emergency procedures set forth by the ----- Department.
13. User Conflicts. Nothing in the License may be construed to prevent Licensor from constructing facilities, grading, paving, and/or altering any facilities, street, alley, or constructing any other public work facility permitted by Licensor in the public right-of-way. If any Encroachment of the Licensee interferes with the construction, alteration, or repair of any public facility, street, alley, or easement, the Licensee and any of his assigns must relocate, remove, or replace the Encroachment at Licensee's expense according to plans submitted to and approved by Licensor.
14. Entire Agreement; Amendment; Waivers. This License, together with the Agreement, constitutes the entire agreement between Licensor and Licensee with respect to the transactions contemplated herein and supersedes all prior negotiations, communications, discussions and correspondence, whether written or oral, concerning this subject matter. No supplement, modification, or amendment of any term of this License will be binding or effective unless executed in writing by all the Parties. No waiver of any of the provisions of this License will constitute a waiver of any other provision, whether or not similar, nor will any waiver constitute a continuing waiver. No waiver will be binding unless executed in writing by the Party making the waiver.
15. Rights of Parties. Nothing in this License, whether express or implied, is intended to confer any rights or remedies under or by reason of this License on any persons other than the Parties to this License and their respective successors and permitted assigns, nor is anything in this License intended to relieve or discharge any obligation or liability of any person who is not a party to this License, nor will any provision hereof give any persons not a party to this License any right of subrogation or action over or against any party to this License.
16. Construction. This License is the result of negotiations between the Parties, none of whom has acted under any duress or compulsion, whether legal, economic or otherwise. Accordingly, the terms and provisions of this License will be construed in accordance with their usual and customary meanings. The Parties waive the application of any rule of law that otherwise would be applicable in connection with the construction of this License that ambiguous or conflicting terms or provisions should be construed against the Party who (or whose attorney) prepared the executed License or any earlier draft of the same. Unless the context of the License otherwise clearly requires, references to the plural include the singular and the singular the plural. The words "hereof," "herein," "hereunder" and similar terms in this License refer to this License as a whole and not to any particular provision of this License. All references to "Sections" refer to the sections and paragraphs of this License unless specifically stated otherwise. All references to "days" mean calendar days unless specifically noted otherwise.
17. Severability. If any covenant, condition, term or provision of this License is held to be illegal, or if the application of it to any person or in any circumstances to any extent is judicially determined to be invalid or unenforceable, the remainder of this License or the application of that covenant, condition, term or provision to persons or in circumstances

other than those to which it is held invalid or unenforceable, will not be affected by that, and each covenant, term and condition of this License is enforceable to the fullest extent permitted by law.

18. Governing Law. This License, and the rights and obligations of the Parties, will be governed by, and construed and interpreted in accordance with, the laws of the State of Arizona, Pima County and any applicable Federal laws.
19. Cooperation and Further Documentation. Licensee agrees to provide Licensor any other executed documents as may be reasonably requested by Licensor to implement the intent of this License.
20. Survival of Representations and Warranties. All representations and warranties made in this License by Licensee will survive the termination of this License.
21. Attachments. The following attachment is attached to, and incorporated by this reference into this License:

Attachment A – Map of wireless telecommunication equipment location.

22. Notices. All notices, requests, demands, other communications, certificates of insurance or payments under this License must be in writing and will be deemed to have been given and received (i) on the date of service if personally delivered to the Party to whom notice is to be given (ii) on the third day after the date of the postmark or deposit if mailed to the Party to whom notice is to be given, by first-class United States Mail, registered or certified, postage prepaid and properly addressed as follows; or (iii) on the second day after deposit with a nationally recognized private express courier service providing proof of receipt and delivery and guaranteed “same day” or “next day” delivery and properly addressed as follows:

If to County:                                  Pima County  
  ----- Department  
  -----  
  -----, Arizona -----  
  Telephone: (---) -----  
  Attention: Utility Coordination

If to Company:                                Mobilitie, LLC  
  ATTN: Asset Management  
  660 Newport Center Drive  
  Suite 200  
  Newport Beach, CA 92660

With a copy to:                                Mobilitie, LLC  
  ATTN: Legal Department  
  660 Newport Center Drive  
  Suite 200  
  Newport Beach, CA 92660

23. Conflict among Provisions. In the event of any inconsistency or conflict among the Pima County Code, the Agreement, General Conditions of this License or Special

Conditions of this License, the terms and conditions will control in the following priority: (1) Pima County Code; (2) the Agreement; (3) License General Conditions; and (4) License Special Conditions.

24. County Cancellation. This Agreement is subject to cancellation within three (3) years after its execution pursuant to A.R.S. § 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating this Agreement on behalf of County or Company, at any time while this Agreement or any extension of the Agreement is in effect, an employee or agent of any other party to the Agreement with respect to the subject matter of the Agreement.
25. Public Safety. If Licensee's Encroachments or any other equipment, improvements or activities within the public right-of-way present any immediate hazard or impediment to the public, to County, to other improvements or activities within or without the public right-of-way, or to County's ability to safely and conveniently operate the public right-of-way or perform County's utility, public safety and other public health, safety and welfare functions, then Licensee shall immediately remedy the hazard, comply with County's requests to secure the public right-of-way, and otherwise cooperate with County at no expense to County to remove any such hazard or impediment. Licensee's work crews shall report to the affected public right-of-way within eight (8) hours of any request by County under this Section 25. If Licensee does not report to the affected public right-of-way within eight (8) hours of such request by County pursuant to this Section 25, Licensor may, in its own discretion, remedy the hazard in which case Licensee will pay Licensor's actual cost thereof. If Licensee fails to pay Licensor's costs pursuant to this Section 25 within ninety (90) days after written request for payment, Licensee agrees that Licensor may recover such costs from any bond or security fund provided by Licensee under this License or the Agreement.

## II. SPECIAL CONDITIONS

### 1. Construction Permits.

- (a) The Licensee or Licensee's contractor must obtain a construction permit to perform the work in the public right-of-way or public easement, and pay any related, standard utility plan review, inspection and permitting fees.
- (b) The Licensee or Licensee's contractor will comply with construction permit requirements and agree to protect, at their expense, any existing facilities in or near the permitted area. The Licensee or Licensee's contractor must call for Blue Stake before securing Licensor inspector's approval to begin construction.
- (c) The Licensee will provide the ----- Department, Planning, Design and Programming Division, Utility Coordination Section, with final construction plans for approval of plans to be used as permanent as-built Record Drawings. Any refinement or other change to the final construction plans after County approves final construction plans for each Site is void unless Licensee obtains County's approval of the change pursuant to Licensor's standard approval processes and pursuant to all applicable regulatory requirements. All work and anything installed in County Facilities may only be located in the locations specifically identified in the construction plans by Licensee and approved by Licensor.

**III. USE OF BRIDGE STRUCTURES**

- (a) Existing street light poles on bridge structures will not be considered for use for Encroachments.
- (b) Licensee will submit engineer approved construction plans to the ----- Department, Bridge Safety Section, for approval of new load rated street light poles to be installed and utilized by Licensee for Encroachments on bridge structures.

**SIGNATURES**

DATED this \_\_\_\_ day of \_\_\_\_\_, 201-

PIMA COUNTY, ARIZONA, a political  
subdivision of the State of Arizona

ATTEST:

County -----

\_\_\_\_\_  
Julie Castaneda, Clerk of the Board

By \_\_\_\_\_  
Sharon Bronson, Chair, Board of  
Supervisors

APPROVED AS TO FORM:

\_\_\_\_\_  
County Attorney

**L I C E N S E E**

The undersigned agrees to the conditions set forth in this License and understands that the work must be done in conformity with the laws of the ----- of ----- and the State of Arizona.

Mobilitie, LLC, a Nevada limited liability  
company

DATED: \_\_\_\_\_

BY: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

The signature of Licensee is acknowledged by me this \_\_\_\_ day of \_\_\_\_\_, 201-, signed by \_\_\_\_\_ of Mobilitie, LLC.

By: \_\_\_\_\_

Notary Public

My Commission Expires:

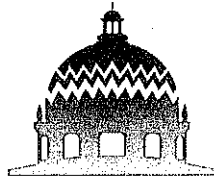
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**ATTACHMENT A**

*[EXHIBIT DRAWINGS DETAILING THE NATURE AND LOCATION OF EQUIPMENT TO BE INSTALLED IN THE PUBLIC RIGHT OF WAY, BOTH ABOVE GROUND EQUIPMENT AND BURIED CABLE TO BE INCLUDED IN THE FINAL LICENSE]*



EXHIBIT C-2



**PIMA COUNTY**

**REAL PROPERTY**

**SITE-SPECIFIC AGREEMENT**

**SITE LICENSE – THIRD-PARTY POLES**

**PIMA COUNTY LICENSE NO. LIC- \_\_\_\_\_**

Pursuant to the Master Agreement for Wireless Telecommunication Equipment in Right-of-Way and on County Facilities, County Contract No. \_\_\_\_\_ (the "Agreement"), with Pima County, Arizona ("Licensor"), the \_\_\_\_\_ Department ("\_\_\_\_\_ Department"), as authorized by the Board of Supervisors, grants this license ("License") to Mobilitie, LLC, a Nevada limited liability company ("Licensee") for the installation, use and maintenance of wireless telecommunication equipment ("Encroachments") within Licensor right-of-way. County and Licensee are each sometimes referred to as "Party" and collectively as the "Parties." Capitalized terms not defined herein shall have the meaning given them in the Agreement.

**THIS LICENSE IS SUBJECT TO THE FOLLOWING CONDITIONS:**

**I. GENERAL CONDITIONS:**

1. Prior Approval of Encroachments. The Encroachments allowed by this License are Equipment as defined in the Agreement and as shown in Attachment A, incorporated by this reference. Any modifications or additions to the Encroachments within Licensor right-of-way must be approved by Licensor. Notwithstanding the prior sentence, no new approval will be required for Encroachment modifications to the extent that: (i) such modification to the Encroachments involves only substitution of internal components, and does not result in any change to the external appearance, dimensions, or weight of the Encroachments, as approved by County; or (ii) such modification involves replacement of the Encroachments or a component of the Encroachments with Encroachments or a component that is the same, or smaller in weight and dimensions as the previously approved Encroachments or component. All work by or on behalf of Licensee within Licensor right-of-way requires a construction permit issued by Licensor's Development Services Department, except for inspections of installed Encroachments.
2. County Retains Full Rights. This License is not a construction permit. This License is limited to the Encroachments and for maintenance and use of the Encroachments. Licensor retains full rights to the public right-of-way.
3. Transfer of Privileges. Company's rights and obligations under this License are transferable and assignable on the same basis as the Agreement. The consent or approval of Licensor is not required for any contract or license entered into between Company and any third-party related to such third party's use of Company's Equipment.

4. Notice of Change of Address. The Licensee shall notify Licensor ----- Department at the address set forth herein within thirty (30) days after any change in Licensee's mailing address, proposed lease, assignment, sale or transfer of this License.
5. No Interest in Real Property. This License does not create or grant a franchise, an easement, a covenant running with the land, an interest in real property, or a lease. This License strictly allows the Encroachments within the public right-of-way for an indefinite period of time.
6. Removal of Encroachments. Upon revocation or termination of this License, the Encroachments must be removed to the satisfaction of the ----- Director at no cost to County within ninety (90) days after written notice to vacate the public right-of-way. Final notice will be given to Licensee within fifteen (15) days for realignments of streets or construction in streets by Licensor or by its contractors, or upon notice of an emergency. In the event that the Encroachments are not removed from the public right-of-way after notice by Licensor, Licensor reserves the right to remove the Encroachments and Licensee will be responsible for and must pay all costs related to the removal of the Encroachments. If Licensee fails to pay the costs for Licensor's removal of Encroachments within ninety (90) days after written request for payment, Licensee agrees that Licensor may recover from Licensee all of Licensor's costs of removal of Encroachments, including but not limited to attorneys' fees and collection costs.

Alternatively for underground Encroachments, subject to Licensor's approval in its sole discretion, Licensee may permanently abandon those Encroachments in place in lieu of removal. Upon abandonment in place, if Licensor does not require removal, the Licensee will submit to Licensor a proposal and instruments for transferring ownership to Licensor. Any Equipment which is not removed as required by Licensor within one hundred twenty (120) days after either the date of termination or revocation or of the date Licensor issued a permit authorizing removal, whichever is later, automatically will become the property of Licensor. The underground construction notification center must be notified to record abandoned underground Equipment.

7. Limitation of Liability. Without waiving any of Licensee's rights under this License and the Agreement or remedies against Licensor in law or equity in the event of a breach of this License or the Agreement by Licensor, Licensor's officials, board members, agents or employees shall not be personally liable for any loss, costs, expenses or damage arising out of any of the conditions or provisions of this License or because of any defects in this License, or should the Licensee in accordance with the terms of this License be lawfully deprived of the use and possession of the Encroachments. In no event, to the extent permitted by law, shall either Party be liable to the other Party for consequential, indirect, speculative or punitive damages in connection with or arising from this License or the Agreement, or the Licensee's use of Licensor's right-of-way or other property.
8. Termination. This License will terminate ten (10) years after the execution hereof, except as provided in the Agreement. Licensee will have the right to terminate this License for any or no reason upon ninety (90) days' written notice.
9. License Subject to Ordinances. This License is subject to the Pima County Code now in effect as amended from time to time. Except as specifically provided, nothing in this License may be deemed to waive the requirement of the various codes and ordinances of Licensor regarding permits or manner of construction in Licensor right-of-way. This License is subject to and the Licensee must comply with any future ordinances that may

be adopted by Board of Supervisors pertaining to the location and relocation of facilities in the streets and public ways.

10. Records. The Licensee must keep as-built records of the Encroachments, and within ninety (90) days after completion of any construction, Licensee must furnish a copy of the as-built records to the ----- Department showing that the construction was completed according to the approved plans. Where Encroachments are underground facilities in the public right-of-way, Licensee must participate as a member in Blue Stake Center and comply with A.R.S. § 40-360.21, et seq., regarding underground facilities. A copy of the Blue Stake agreement or proof of participation must be submitted to the ----- Department.

11. Maintenance and Disturbance of Public Right-of-Way.

- (a) The Licensee must maintain the Encroachments in a manner satisfactory to the ----- Director. Failure to provide satisfactory maintenance can result in revocation of this License pursuant to the General Conditions.
- (b) Whenever the Licensee disturbs a public right-of-way, alley, public highway, street easement, or public utility easement for any reason as a result of construction or due to failure of any of its facilities or previous public right-of-way restoration work, the Licensee must restore the same to the satisfaction of the ----- Director and must obtain all appropriate construction permits.
- (c) Licensor may, in its own discretion, remedy Licensee's failure to maintain Encroachments or disturbance after written notice and an opportunity to cure of thirty (30) days, unless an emergency or safety hazard is presented, in which case, prior notice is required only to the extent practicable. The cost thereof, including but not limited to the cost of inspection and supervision, will be paid by the Licensee. If Licensee fails to pay Licensor's costs for maintenance of Encroachments within ninety (90) days after written request for payment, Licensee agrees that Licensor may recover such costs from any bond or security fund provided by Licensee under this License or the Agreement. Licensor will have any additional remedies as afforded by law. All excavations in the public right-of-way made by the Licensee must be maintained by Licensee or her agents and contractors in a safe manner. Any barricading by Licensee must be in compliance with the latest County Traffic Barricade Manual.
- (d) Licensee or its maintenance contractor must obtain insurance; and Workers' Compensation insurance; and perform work in a satisfactory manner and according to plans approved by the ----- Department.
- (e) Licensor will not assume any maintenance responsibility for maintenance of the Encroachments and will not assure protection of the Encroachments from damage by others permitted in the public right-of-way over or under the Encroachments. Licensor does not warrant, represent or guarantee that Encroachments will not be damaged from underground seepages, failure of soil materials or soil movements, unless caused by the gross negligence or willful misconduct of Licensor.
- (f) Licensor retains the right of access to the Encroachments at all reasonable times for inspection, for maintenance or for repairs.

12. Emergency Work by Licensee. Emergency work by Licensee in the public right-of-way shall be barricaded according to the latest County Traffic Barricade Manual.

Barricading must be followed immediately by contacting all affected utility companies and the ----- Department. Licensee must also obtain a construction permit from the ----- Department before Licensee, its contractors or its agents restore the public right-of-way to original conditions as approved by Licensor. Licensee must follow emergency procedures set forth by the ----- Department.

13. User Conflicts. Nothing in the License may be construed to prevent Licensor from constructing facilities, grading, paving, and/or altering any facilities, street, alley, or constructing any other public work facility permitted by Licensor in the public right-of-way. If any Encroachment of the Licensee interferes with the construction, alteration, or repair of any public facility, street, alley, or easement, the Licensee and any of his assigns must relocate, remove, or replace the Encroachment at Licensee's expense according to plans submitted to and approved by Licensor.
14. Entire Agreement; Amendment; Waivers. This License, together with the Agreement, constitutes the entire agreement between Licensor and Licensee with respect to the transactions contemplated herein and supersedes all prior negotiations, communications, discussions and correspondence, whether written or oral, concerning this subject matter. No supplement, modification, or amendment of any term of this License will be binding or effective unless executed in writing by all the Parties. No waiver of any of the provisions of this License will constitute a waiver of any other provision, whether or not similar, nor will any waiver constitute a continuing waiver. No waiver will be binding unless executed in writing by the Party making the waiver.
15. Rights of Parties. Nothing in this License, whether express or implied, is intended to confer any rights or remedies under or by reason of this License on any persons other than the Parties to this License and their respective successors and permitted assigns, nor is anything in this License intended to relieve or discharge any obligation or liability of any person who is not a party to this License, nor will any provision hereof give any persons not a party to this License any right of subrogation or action over or against any party to this License.
16. Construction. This License is the result of negotiations between the Parties, none of whom has acted under any duress or compulsion, whether legal, economic or otherwise. Accordingly, the terms and provisions of this License will be construed in accordance with their usual and customary meanings. The Parties waive the application of any rule of law that otherwise would be applicable in connection with the construction of this License that ambiguous or conflicting terms or provisions should be construed against the Party who (or whose attorney) prepared the executed License or any earlier draft of the same. Unless the context of the License otherwise clearly requires, references to the plural include the singular and the singular the plural. The words "hereof," "herein," "hereunder" and similar terms in this License refer to this License as a whole and not to any particular provision of this License. All references to "Sections" refer to the sections and paragraphs of this License unless specifically stated otherwise. All references to "days" mean calendar days unless specifically noted otherwise.
17. Severability. If any covenant, condition, term or provision of this License is held to be illegal, or if the application of it to any person or in any circumstances to any extent is judicially determined to be invalid or unenforceable, the remainder of this License or the application of that covenant, condition, term or provision to persons or in circumstances other than those to which it is held invalid or unenforceable, will not be affected by that,

and each covenant, term and condition of this License is enforceable to the fullest extent permitted by law.

- 18. Governing Law. This License, and the rights and obligations of the Parties, will be governed by, and construed and interpreted in accordance with, the laws of the State of Arizona, Pima County and any applicable Federal laws.
- 19. Cooperation and Further Documentation. Licensee agrees to provide Licensor any other executed documents as may be reasonably requested by Licensor to implement the intent of this License.
- 20. Survival of Representations and Warranties. All representations and warranties made in this License by Licensee will survive the termination of this License.
- 21. Attachments. The following attachment is attached to, and incorporated by this reference into this License:

Attachment A – Map of wireless telecommunication equipment location.

- 22. Notices. All notices, requests, demands, other communications, certificates of insurance or payments under this License must be in writing and will be deemed to have been given and received (i) on the date of service if personally delivered on the Party to whom notice is to be given (ii) on the third day after the date of the postmark or deposit if mailed to the Party to whom notice is to be given, by first-class United States Mail, registered or certified, postage prepaid and properly addressed as follows; or (iii) on the second day after deposit with a nationally recognized private express courier service providing proof of receipt and delivery and guaranteed "same day" or "next day" delivery and properly addressed as follows:

If to County:                      Pima County  
     ----- Department  
     -----  
     -----, Arizona -----  
     Telephone: (---) -----  
     Attention: Utility Coordination

If to Company:                      Mobilitie, LLC  
     ATTN: Asset Management  
     660 Newport Center Drive  
     Suite 200  
     Newport Beach, CA 92660

With a copy to:                      Mobilitie, LLC  
     ATTN: Legal Department  
     660 Newport Center Drive  
     Suite 200  
     Newport Beach, CA 92660

- 23. Conflict among Provisions. In the event of any inconsistency or conflict among the Pima County Code, the Agreement, General Conditions of this License or Special Conditions of this License, the terms and conditions will control in the following priority: (1) Pima County Code; (2) the Agreement; (3) License General Conditions; and (4) License Special Conditions.

24. County Cancellation. This Agreement is subject to cancellation within three (3) years after its execution pursuant to A.R.S. § 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating this Agreement on behalf of County or Company, at any time while this Agreement or any extension of the Agreement is in effect, an employee or agent of any other party to the Agreement with respect to the subject matter of the Agreement.
25. Public Safety. If Licensee's Encroachments or any other equipment, improvements or activities within the public right-of-way present any immediate hazard or impediment to the public, to County, to other improvements or activities within or without the public right-of-way, or to County's ability to safely and conveniently operate the public right-of-way or perform County's utility, public safety and other public health, safety and welfare functions, then Licensee shall immediately remedy the hazard, comply with County's requests to secure the public right-of-way, and otherwise cooperate with County at no expense to County to remove any such hazard or impediment. Licensee's work crews shall report to the affected public right-of-way within eight (8) hours of any request by County under this Section 25. If Licensee does not report to the affected public right-of-way within eight (8) hours of such request by County pursuant to this Section 25, Licensor may, in its own discretion, remedy the hazard in which case Licensee will pay Licensor's actual cost thereof. If Licensee fails to pay Licensor's costs pursuant to this Section 25 within ninety (90) days after written request for payment, Licensee agrees that Licensor may recover such costs from any bond or security fund provided by Licensee under this License or the Agreement.

## II. SPECIAL CONDITIONS

### 1. Construction Permits.

- (a) The Licensee or Licensee's contractor must obtain a construction permit to perform the work in the public right-of-way or public easement, and pay any related, standard utility plan review, inspection and permitting fees.
- (b) The Licensee or Licensee's contractor will comply with construction permit requirements and agree to protect, at their expense, any existing facilities in or near the permitted area. The Licensee or Licensee's contractor must call for Blue Stake before securing Licensor inspector's approval to begin construction.
- (c) The Licensee will provide the ----- Department, Planning, Design and Programming Division, Utility Coordination Section, with final construction plans for approval of plans to be used as permanent as-built Record Drawings. Any refinement or other change to the final construction plans after County approves final construction plans for each Site is void unless Licensee obtains County's approval of the change pursuant to Licensor's standard approval processes and pursuant to all applicable regulatory requirements. All work and anything installed in County Facilities and TP Poles may only be located in the locations specifically identified in the construction plans by Licensee and approved by Licensor.

**SIGNATURES**

DATED this \_\_\_\_ day of \_\_\_\_\_, 201-

PIMA COUNTY, a political subdivision  
of the State of Arizona

ATTEST:

County -----

\_\_\_\_\_  
County Clerk

By \_\_\_\_\_  
-----  
-----

APPROVED AS TO FORM:

\_\_\_\_\_  
County Attorney

**LICENSEE**

The undersigned agrees to the conditions set forth in this License and understands that the work must be done in conformity with the laws of the ----- of ----- and the State of Arizona.

MOBILITIE, LLC, a Nevada limited liability company

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

The signature of Licensee is acknowledged by me this \_\_\_\_ day of \_\_\_\_\_, 201-, signed by \_\_\_\_\_ of Mobilitie, LLC.

By: \_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

**ATTACHMENT A**

*[EXHIBIT DRAWINGS DETAILING THE NATURE AND LOCATION OF EQUIPMENT TO BE  
INSTALLED IN THE PUBLIC RIGHT OF WAY, BOTH ABOVE GROUND EQUIPMENT AND  
BURIED CABLE TO BE INCLUDED IN THE FINAL LICENSE]*

Owner of Pole(s): \_\_\_\_\_