

SITE NAME: MIN KILT

### **AMENDMENT NO. 3 TO SITE LEASE AGREEMENT**

This AMENDMENT NO. 3 TO SITE LEASE AGREEMENT ("Amendment") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the Board of Water Commissioners of the City of Saint Paul, a Minnesota municipal corporation ("LESSOR"), and Verizon Wireless (VAW) LLC d/b/a Verizon Wireless, a Delaware limited liability company ("LESSEE"), with its principal office located at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920 (telephone number 866-862-4404), with reference to the facts set forth in the Recitals below:

#### **RECITALS**

A. LESSOR and LESSEE, or their predecessors in interest, are parties to a Water Tower Site Lease Agreement dated October 28, 2011 ("Agreement") whereby LESSOR has leased ground space and water tower space to LESSEE at LESSOR'S site located at 750 Snelling Avenue South, St. Paul, Minnesota 55104 for a wireless communication system.

B. The parties entered into Amendment No. 1 to Site Lease Agreement dated August 22, 2012 to allow for revisions to the system and to provide an increase in the annual rent payable to LESSOR under the Agreement.

C. The parties entered into Amendment No. 2 to Site Lease Agreement dated September 8, 2015 to allow for the installation of additional equipment and to provide an increase in the annual rent payable to LESSOR under the Agreement.

D. The parties desire to further amend the Agreement at this time to provide for the installation of a second fiber optic cable line and a non-exclusive easement.

E. The proposed location of said second fiber optic cable lies within the boundaries of Highland National Golf Course, which is operated by the City of Saint Paul by agreement with LESSOR.

#### **AGREEMENT**

NOW, THEREFORE, in consideration of the facts contained in the Recitals above, the mutual covenants and conditions below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **EFFECTIVE DATE.**

The effective date of this Amendment shall be the date last signed below ("Effective Date").

2. **REVISED INSTALLATION.**

a. LESSEE shall have the right to modify its Communications Facilities to install a fiber optic cable from the public right of way to the Leased Premises as described and depicted on Exhibit A (Construction Drawings dated \_\_\_\_\_, 2016), attached hereto and incorporated herein, and subject to the following:

b. Construction activity is allowed only within the construction and excavation areas at the north and south terminus points, as shown on Construction Drawings Sheet A-1 "Construction Areas". Access to the northerly Construction Area is allowed only from Highland Parkway. Access to the southerly Construction Area is allowed only from the northeast end of the parking lot.

c. The installation shall not encroach on golf course irrigation or drain tile lines, or cart paths.

d. All golf course lands, cart paths and other golf course improvements disturbed or damaged during the cable installation or future maintenance of the same shall be restored to Golf Course Standards, or equal to pre-existing conditions, whichever is greater. All final restoration shall be subject to approval by LESSOR and City of Saint Paul Parks and Recreation Department. All such restoration shall be at no cost to LESSOR or the City of Saint Paul.

e. Neither the LESSOR nor the City of Saint Paul shall be responsible for any portion of the cost of the cable installation or its ongoing maintenance, including but not limited to design, design review, inspection, construction, required permits, and restoration.

### **3. LIMITED TERM NON-EXCLUSIVE UTILITY EASEMENT.**

LESSOR hereby grants to LESSEE a limited term non-exclusive utility easement for the installation of utilities and said fiber optic cable, as described in Exhibit B, attached hereto and incorporated herein, and depicted in site survey dated \_\_\_\_\_, 2016, attached hereto as Exhibit C and incorporated herein. The easement shall be extinguished upon the later date of 1) the expiration or termination of the Agreement, or 2) the expiration or termination of any future site lease agreement between the parties at this site that would by its nature require the same utility easement.

### **4. CONSIDERATION.**

As consideration for the rights granted herein, and within twenty (20) days after the Effective Date, LESSEE shall make a one-time payment to LESSOR in the amount of One Thousand Dollars (\$1000.00) at the following address:

Board of Water Commissioners  
Attn: Accounting  
1900 Rice Street, Office Building  
Saint Paul, Minnesota 55113

### **5. RATIFICATION OF AMENDMENT.**

a. Except as specifically modified by this Amendment, the parties agree that all of the terms and conditions of the Agreement are in full force and effect and remain unmodified, and the parties hereby ratify and reaffirm the terms and conditions of the Agreement and agree to perform and comply with the same.

b. In the event of a conflict between any term or provision of the Agreement and this Amendment, the terms and provisions of this Amendment shall control.

c. Except as otherwise stated in this Amendment, all initially capitalized terms will have the same respective defined meaning stated in the Agreement. All captions are for reference purposes only and shall not be used in the construction or interpretation of this Amendment.

Signatures on following page

**IN WITNESS WHEREOF**, LESSOR and LESSEE have caused this Amendment to be executed by each party's duly authorized representative as of the Effective Date.

**For LESSOR:**

Approved:

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Stephen P. Schneider, General Manager  
Saint Paul Regional Water Services

Approved as to Form:

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Assistant City Attorney

**BOARD OF WATER COMMISSIONERS  
OF THE CITY OF SAINT PAUL**

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Matt Anfang, President

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Mollie Gagnelius, Secretary

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Todd Hurley, Director  
Office of Financial Services

**CITY OF SAINT PAUL**

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Kristin Beckmann, Deputy Mayor

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Shari Moore, City Clerk

**For LESSEE:**

**VERIZON WIRELESS (VAW) LLC  
d/b/a Verizon Wireless**

By:

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Aaron Glass, regional Network Executive  
Director

## ACKNOWLEDGEMENTS

**BOARD OF WATER COMMISSIONERS OF THE CITY OF SAINT PAUL**

STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF RAMSEY )

On \_\_\_\_\_, 2016, before me, \_\_\_\_\_, Notary Public, personally appeared Matt Anfang, President, Board of Water Commissioners of the City of Saint Paul, a Minnesota municipal corporation, on behalf of the corporation.

Witness my hand and official seal.

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## Notary Public

STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF RAMSEY )

On \_\_\_\_\_, 2016, before me, \_\_\_\_\_, Notary Public, personally appeared Mollie Gagnelius, Secretary, Board of Water Commissioners of the City of Saint Paul, a Minnesota municipal corporation, on behalf of the corporation.

Witness my hand and official seal.

## Notary Public

## CITY OF SAINT PAUL

STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF RAMSEY )

On \_\_\_\_\_, 2016, before me, \_\_\_\_\_, Notary Public, personally appeared Kristin Beckmann, Deputy Mayor of the City of Saint Paul, a Minnesota municipal corporation, on behalf of the corporation.

Witness my hand and official seal.

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## Notary Public

STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF RAMSEY )

On \_\_\_\_\_, 2016, before me, \_\_\_\_\_, Notary Public, personally appeared Shari Moore, City Clerk, City of Saint Paul, a Minnesota municipal corporation, on behalf of the corporation.

Witness my hand and official seal.

Notary Public

STATE OF MINNESOTA )  
COUNTY OF RAMSEY ) ss.  
 )

On \_\_\_\_\_, 2016, before me, \_\_\_\_\_, Notary Public, personally appeared Todd Hurley, Director, Office of Financial Services of the City of Saint Paul, a Minnesota municipal corporation, on behalf of the corporation.

Witness my hand and official seal.

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## Notary Public

**VERIZON WIRELESS (VAW) LLC**  
**d/b/a Verizon Wireless**

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the \_\_\_\_\_ of Verizon Wireless (VAW) LLC d/b/a Verizon Wireless, a Delaware limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_

Witness my hand and official seal.

## Notary Public

**Exhibit A**

**(Attached CDs Rev \_\_ dated \_\_\_\_\_/2016)**

**EXHIBIT B**

**Legal Description of Limited Term Non-Exclusive Utility Easement**

**Exhibit C**  
**(Attached Survey)**