

COMMUNICATIONS SITE LICENSE

between

INCORPORATED COUNTY OF LOS ALAMOS,
a New Mexico incorporated County

and

SUN STATE TOWERS IV, LLC,
a Delaware limited liability company

Date: October 28, 2025

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COMMUNICATIONS SITE LICENSE

This Communications Site License (“**License**”) dated _____, 2025 (the “**Effective Date**”) is by and between the INCORPORATED COUNTY OF LOS ALAMOS, a New Mexico incorporated county (the “**County**”), and Sun State Towers IV, LLC, a Delaware limited liability company (“**Licensee**”).

BACKGROUND

WHEREAS, the County, in its proprietary capacity as a New Mexico incorporated county, owns or controls that certain real property commonly known as 580 Overlook Road, White Rock, NM 87547 (APN: 1040108270432) (the “**Property**”), as legally described in **Exhibit A** attached hereto and incorporated herein; and

WHEREAS, the Property’s principal use is a sports park; and

WHEREAS, Licensee constructs, installs, owns, operates and/or maintains wireless communication facilities as its business; and

WHEREAS, Licensee desires to license from the County certain ground space on the Property (the “**License Area**”) for a wireless communication facility, together with certain additional non-exclusive space for access and utilities (the “**Access/Utilities Route**”), all as more particularly described and depicted in **Exhibit B** attached hereto and incorporated herein; and

WHEREAS, the County, in its proprietary capacity, desires to license the License Area and Access/Utilities Route to Licensee on the terms and conditions in this License.

NOW, THEREFORE, for good, valuable and sufficient consideration received and acknowledged by the parties, the County and Licensee agree as follows:

AGREEMENT

1. DEFINITIONS

The words, phrases, abbreviations and terms used in this License will have the following meanings assigned to them unless defined elsewhere in this License or context indicates otherwise or by applicable laws and regulations. Undefined phrases, terms or words in this License will have their ordinary meanings.

(1) “**Agent**” means a party’s agent, employee, director, officer, contractor, subcontractor or representative in relation to this License or the License Area.

(2) “**Broker**” means any licensed real estate broker or other person who could claim a right to a commission or “finder’s fee” in connection with the license(s) or other real estate rights contemplated or conveyed in this License.

(3) “**Collocator**” means an additional wireless carrier that is not an affiliate of Licensee.

(4) “**County**” means the Incorporated County of Los Alamos, New Mexico.

(5) “**Claim**” means any and all liabilities, losses, costs, claims, judgments, settlements, damages, liens, fines, penalties and expenses, whether direct or indirect.

(6) “**Commencement Date**” means the date that is the earlier of (a) one hundred eighty (180) days after the Effective Date of this License, or (b) the date Licensee commences construction activities for installation of the Facilities and Equipment on the License Area.

(7) “**Environmental Costs**” means any and all damages, fines, costs and fees that arise from: (i) any violation of or material noncompliance with any applicable Environmental Laws; (ii) any violation of or material noncompliance with any environmental provision in this License; (iii) immediate response, remediation and restoration actions; (iv) governmental oversight and participation; (v) actual fees and costs for project managers, attorneys, legal assistants, engineers, consultants, accountants and experts, whether employed with the damaged party or not; (vi) any diminution in value, loss or restriction on use of the Property; and (vi) any damages, fines, costs or fees whether taxable as costs or not, incurred before, at or after any administrative or judicial proceeding, appeal or any other judicial review.

(8) “**Environmental Laws**” means any and all Laws which govern materials, substances, regulated wastes, emissions, pollutants, water, storm water, ground water, wellfield and wellhead protection, cultural resources protection, animals or plants, noise or products and relate to protection for health, safety or the environment and natural resources, including land, sediments, water, groundwater and stormwater, including Hazardous Materials as defined in this License.

(9) “Facilities” or “**Equipment**” means a monopole structure, antennas, radios and any associated utility or equipment boxes, support structures, battery backup, transmitters, receivers, amplifiers, and ancillary equipment used for radio or other wireless communication (voice, data or otherwise) transmission and/or reception, which includes without limitation the means, devices and apparatus used to attach any Equipment to any structure, and any ancillary equipment such as wiring, cabling, power feeds or similar things, any ground based equipment and/or power pedestals needed for the operation of Equipment, and any signage attached to such Equipment that may be approved by the County or required by Law.

(10) “**FCC**” means the Federal Communications Commission or its duly appointed successor agency.

(11) **“Hazardous Material”** means any material that, due to its quantity, concentration or physical or chemical characteristics, is at any time now or hereafter deemed by any local, regional, state or federal body with jurisdiction and responsibility for issuing Regulatory Approvals in accordance with applicable Laws to pose a present or potential hazard to human health, welfare or safety, or to the environment. The term “Hazardous Material” as used in this License will be broadly construed, and includes, without limitation, the following: (1) any material or substance defined as a “hazardous substance”, or “pollutant” or “contaminant” in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (codified as 42 U.S.C. §§ 9601 *et seq.*) or the Hazardous Waste Act (NMSA 1978 § 74-4-1); (2) any “hazardous waste” as defined in NMSA 1978 § 74-4-3(k); or (3) any petroleum, including crude oil or any fraction thereof, natural gas or natural gas liquids.

(12) **“Indemnified County Party” or “Indemnified Parties”** means the County and its Agents, Invitees, elected and appointed officials and volunteers.

(13) **“Investigate and Remediate”** means the undertaking of any activities to determine the nature and extent of Hazardous Material that may be located in, on, under or about the License Area or that has been, is being, or is in danger of being Released into the environment, and to clean up, remove, contain, treat, stabilize, monitor or otherwise control such Hazardous Material.

(14) **“Invitee”** means the client, customer, invited guest, tenant, subtenant, licensee, assignee and/or sublicensee of a party in relation to the License Area.

(15) **“Laws”** means all present and future statutes, ordinances, codes, orders, policies, regulations and implementing requirements and restrictions by federal, state, county and/or municipal authorities, whether foreseen or unforeseen, ordinary as well as extraordinary, as adopted or as amended at the time in question.

(16) **“Regulatory Approvals”** means all governmental or regulatory agreements, licenses, permits, certificates, variances, consents and other approvals necessary for Licensee to install, operate and maintain Equipment on the License Area.

(17) **“Release”** when used with respect to Hazardous Material includes any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing on, under or about the License Area, the Property, other County property or the environment.

(18) **“RF”** means radio frequency or electromagnetic waves.

2. LICENSE AREA

2.1. Grant and Scope

Subject to the terms and conditions in this License, the County licenses to Licensee the exclusive right to use the License Area, together with a non-exclusive right to use the Access/Utilities Route, for only the Permitted Use (as defined below in Section 3.1) and for no other purpose whatsoever without the County's prior written consent, which the County may withhold in its sole and absolute discretion for any or no reason. Licensee acknowledges that this License is not coupled with an interest. This License and all Licensee's rights and/or privileges to use the License Area and the Access/Utilities Route will remain subject and subordinate to all recorded leases, subleases, licenses, sublicenses, easements, reservations, covenants, conditions, restrictions and exceptions, that exist prior to the Effective Date.

2.2. License Area Condition

Except as may be specifically and explicitly provided otherwise in this License, the County makes no warranties or representations whatsoever about the Property's, License Area's or Access/Utilities Route's condition, fitness or suitability for Licensee's use. Licensee expressly warrants and represents to the County that, as of the Commencement Date, Licensee or its Agent inspected the Property, License Area and Access/Utilities Route, and any environmental or other conditions on the Property, License Area, and Access/Utility Route, and accepts the License Area and Access/Utilities Route in its present **"AS-IS"** and **"WHERE IS"** and **"WITH ALL FAULTS"** condition. Licensee expressly acknowledges and agrees that, as of the Commencement Date, it has made its own independent complete inspection of the Property, License Area, and Access/Utility Route, and that neither the County nor its Agents have made any warranties, representations or promises to Licensee or its Agents about the Property, License Area or Access/Utilities Route, whether in whole or in part, or any aspect about the Property, License Area or Access/Utilities Route, which includes, without limitation, any structures or improvements, utilities or Hazardous Substances, except as may be specifically and explicitly provided otherwise in this License.

2.4. Subsurface and Utility Improvement Rights

The County reserves the right to install, lay, construct, maintain, repair and operate such sanitary sewers, drains, stormwater sewers, pipelines, manholes and connections; water, oil, and gas pipelines; and the appliances and appurtenances necessary or convenient in connection therewith, in, over, upon, through, across and along the License Area, and any part thereof, and to enter the License Area upon reasonable prior notice to Licensee for any and all such purposes. The County also reserves the right to grant franchises, easements, rights-of-way and permits in, over, upon, through, across and along any and all portions of the License Area for the installation, operation and maintenance of public utilities and conduits for communication, information services, and the County's Community Broadband Network ("CBN"). The County shall not exercise any rights reserved under this Section 2.4 in a manner that unreasonably interferes with Licensee's operations or access under this License or to impair the security of any secured creditor of Licensee. The County agrees that rights granted to third parties by reason of this

Section 2.4 must contain provisions that the Equipment shall not be disturbed in any manner whatsoever and that the surface of the License Area will be restored as nearly as practicable to its original condition upon the completion of any construction. Any damage caused to the Equipment as a result of the County's exercise of its rights reserved under this Section 2.4 shall be promptly repaired at the County's sole cost and expense.

2.5. Lead Warning Statement

Licensee acknowledges that the County has advised Licensee that soils and surfaces within the Property may contain lead-based paints ("**LBP**"). Lead from paint, paint chips and dust can pose health hazards if not managed properly. Licensee may at its sole cost and expense, have a state-certified LBP Inspector complete an LBP inspection and abatement and, if Licensee completes such inspection, shall provide an abatement certification to the County. The County has no specific knowledge of the presence of LBP in or about the Property.

3. USE; ACCESS; UTILITIES

3.1. Permitted Use, Equipment

After the Commencement Date, Licensee may use the License Area to construct, install, operate, maintain, remove and repair the Equipment, in the locations and configurations more particularly described in **Exhibit C** attached hereto and incorporated herein (the "**Approved Plans**"), to facilitate the use of the License Area as a site for the transmission and receipt of communication signals including, but not limited to, voice, data and internet transmissions and for any other uses which are incidental to the transmission and receipt of communication signals of any kind and frequency, operated in compliance with all applicable Laws (the "**Permitted Use**"), for purposes reasonably necessary to accomplish the Permitted Use, but for no other purpose whatsoever without the County's prior written consent, which the County may withhold for any or no reason in the County's sole discretion.

3.2. Prohibited Uses

Licensee shall not use the License Area or any areas on the Property (whether in whole or in part) in any unlawful manner or for any illegal purpose. In addition, Licensee shall not use the License Area in whole or in part in any manner that interferes with the maintenance, operation or future operation of the County's sports park, or constitutes a nuisance either under applicable Laws or as determined by the County in its reasonable judgment. Licensee shall take all precautions to eliminate any nuisances or hazards in connection with its uses and activities on or about the License Area. Licensee acknowledges and agrees that its rights under this License do not authorize Licensee to erect, post or maintain, or permit others to erect, post or maintain, any signs, notices, graphics or advertisements whatsoever on the License Area, except signs that may be required under applicable Laws for site identification and/or public health and safety

reasons. Except as otherwise expressly contemplated under this License, Licensee shall not permit the License Area or Access/Utilities Route to be used by any third parties at any time during the Term in a manner that would impair the County's title to or interest in the License Area or Access/Utilities Route or in such a manner as would cause a claim or claims of adverse possession, adverse use, prescription or other similar claims in, to or with respect to the License Area or Access/Utilities Route.

3.3. Tests and Surveys

At any time throughout the Term, Licensee will have the right, but not the obligation, to conduct necessary tests, surveys and other reasonably necessary inspections (collectively "**Tests**") on the License Area and/or Access/Utilities Route to determine suitability for the Permitted Use; provided that: (1) Licensee has first furnished the County with all up-to-date insurance documentation required in Section 12 (Insurance) under this License; (2) Licensee has provided the County with at least 24 hours' prior notice; (3) Licensee complies with all the State's and County's rules and regulations necessary to avoid undue interference with other authorized activities or operations on the Property, i.e., call the Statewide 811 "Call before you Dig" number for underground utility locating services; and (4) Licensee shall promptly return any areas on the Property affected by any Tests to substantially the same condition that existed immediately prior to such Tests, reasonable wear and tear excepted.

3.4. Access by Licensee

Except as may be specifically provided otherwise in this License, Licensee may use the Access/Utilities Route, 24-hours-per-day and seven-days-per-week, for overland vehicular and pedestrian ingress and egress between the License Area and Overlook Road for purposes reasonably related to the Permitted Use. The County may impose reasonable rules and regulations on the manner in which Licensee uses the Access/Utilities Route, which includes without limitation rules and regulations (1) for the locations in which Licensee, its Agents, Invitees and other personnel may park vehicles and equipment on the Access/Utilities Route; (2) necessary to secure the Property; and (3) necessary to ensure access to the Property for all users authorized by the County. The County will issue to Licensee, and Licensee shall safeguard and not share with others other than any Collocators and their respective employees, agents, contractors and consultants, any keys or codes necessary to access the License Area via the Access/Utilities Route.

3.5. County's Access to License Area

The County and its Agents may, after reasonable advance written notice and at any time without notice in case of emergency or for any purpose related to protecting the Property, enter onto and inspect the License Area. During the six (6) months before the expiration of the Term, the County may exhibit the License Area to prospective licensees at times approved by Licensee and in the presence of Licensee or its Agent. In the event of an emergency, the County may enter on or pass through the License Area. If, under such

emergency circumstances, Licensee is not present to open the License Area, the County may enter by any means without liability to Licensee except for failure to exercise reasonable care under the circumstances. The County's actions under this Section 3.5 will not constitute an actual or constructive eviction or relieve Licensee of any obligation with respect to making any repair, replacement, or improvement or complying with any law, order, or requirement of any government or other authority. No provision of this Section 3.5 shall be construed as obligating the County to perform any maintenance, repairs, alterations or improvements.

3.6. Utilities

Licensee shall be solely responsible to secure its own utilities for its Permitted Use and will not be permitted to submeter from any electrical service provided by the County. In that regard, during the License Term, Licensee shall NOT have the right to install utilities, unless approved through the County's Department of Public Utilities and Department of Planning and Zoning, for the placement of photo-voltaic panels, wind generators, other electrical generator systems or battery storage systems, and if approved, solely at Licensee's expense, on the License Area and through the Access/Utilities Route, and to place utilities on (or to bring utilities across or under) the License Area and the Access/Utilities Route to service the Equipment. Licensee shall timely pay when due all charges for all utilities installed and furnished to the Equipment.

3.7. Construction, Installation and Other Work

3.7.1. Structural Review

Licensee may not commence any construction or installation activities on the Property that involve new structures or increased loading on existing structures without prior written approval from the County Engineer or the County Engineer's designee. Licensee shall submit its written request for approval together with complete engineering plans, specifications and a structural analysis report, all in a form reasonably acceptable to the County Engineer. The County Engineer may (but is not obligated to) review all or part of such materials and may reasonably approve or reject them for cause.

3.7.2. Performance Standards

Licensee, its Agents, employees, contractors and subcontractors shall perform all work on the Property and License Area in a good, safe and workmanlike manner, in strict compliance with the Approved Plans and all applicable Laws. All installed Equipment must be high quality, safe, fire resistant, modern in design and attractive in appearance, all as approved by the County.

3.7.3. Licensee's Contractors

Licensee shall use only qualified and trained persons and appropriately licensed contractors for all work performed on or about the License Area. At least 10 business

days before any work commences on or about the License Area that requires the County's prior approval, Licensee shall provide the County with: (1) a schedule with all activities to be performed in connection with the work; and (2) a list with all the names, contractor's license numbers and business addresses for all contractors who will be physically present on the Property.

3.7.4. Labor and Material Costs

Licensee shall be responsible for all direct and indirect costs (labor, materials, and overhead) in connection with designing, purchasing and installing all Equipment in accordance with the Approved Plans and all applicable Laws. Licensee shall timely pay for all labor, materials, Equipment and all professional services related to the Permitted Use or furnished to the License Area at Licensee's direction or for Licensee's benefit.

3.7.5. Contracting Requirements

Licensee shall provide proof of online registration and payment of \$400.00 for Certificate of Contractors Registration with New Mexico Department of Workforce Solutions, and comply with the prevailing wage rate as required by NMSA 1978 Section 13-4-11, for the corresponding classifications of laborers and mechanics employed on contract work of a similar nature in the state or locality.

3.7.6. Coordination; Supervision

Licensee must coordinate all its installation, construction and other work on or about the License Area with the County so as to avoid any material interference (physical, electronic or otherwise) with any existing utilities, substructures, facilities, communication transmission or reception equipment used by others or the County's operations. The County may, but will not be obligated to, supervise any construction activities in connection with this License that require the County's prior review and approval.

3.7.7. Staging Area

For no more than ninety (90) continuous days after Licensee commences construction work, Licensee may use, on a temporary and non-exclusive basis, certain space on the Property contiguous with the License Area to the extent reasonably necessary to construct and/or install the Equipment and subject to the County's prior written approval not to be unreasonably withheld, conditioned or delayed ("**Staging Area**"). The County may withhold or revoke its consent to allow Licensee's to use any Staging Area if County determines that Licensee's use unreasonably interferes with other persons or entities authorized to use the Property, adjoining or nearby public property.

3.7.8. As-Built Site Plans

Within ninety (90) days after Licensee completes any construction, installation or other work on the Property that requires the County's prior review and approval, Licensee shall

furnish the County with as-built site plans that depict all the subsurface Equipment and any improvements in the then-current location and configuration. Licensee shall also provide such as-built site plans in a native or portable document format.

3.8. Modifications to Equipment or the License Area

Licensee and any approved Collocators may replace and update the Equipment, but shall not add any additional towers or monopoles, shall not increase the surface area of any antenna or increase the monopole structure's total antenna surface area, change or alter the height from the ground or the distance from the monopole structure axial center to any support arm or brace structure which could alter the wind load analysis, and/or add or modify the frequencies upon which such Equipment operates as needed to meet its respective business objectives. Licensee shall be permitted to make "Equipment Modifications" (as defined below) without incurring any increase in the then current License Fee, and without Landlord's approval thereof, conditioned upon the above antenna wind-load area limitations or the need for new wind load analysis. For purposes of this License, "Equipment Modifications" means removal of any Equipment installed within the License Area, (collectively, the "Old Equipment"), and replacing the same with new Equipment (collectively, the "Replacement Equipment") so long as support structures, bracing structures and other static-moments or torque impacts are the same or lessened and antenna surface area wind resistance is the same or lessened. All mechanical equipment changes shall be documented and preapproved by the County with a revised **Exhibit C** that shows all Equipment and other improvements to be built, modified or altered. An administrative County review fee fixed at \$2,500.00 for each Equipment change and/or ground Equipment changes shall be owed to the County for review and approval before any changes are made. Any enlargement or reduction to the ground Equipment fenced Licensed Area, shall require an adjustment and amendment to the Licensee Fee.

3.9. Routine Maintenance

Licensee shall be responsible for Routine Maintenance of the Equipment. Routine maintenance means ensuring that the Equipment and License Area is kept in good operating condition, in good aesthetic condition in accordance with the Approved Plans and in safe condition in accordance with all applicable Laws ("**Routine Maintenance**"). Routine Maintenance includes, but is not limited to, inspections, testing and repairs that are not otherwise modifications or alterations pursuant to Section 3.8 (Modifications to Equipment or the License Area). Routine Maintenance also includes like-for-like Equipment replacements but does not include additional Equipment installations not shown on the Approved Plans or replacement Equipment of different dimensions or weight. Routine Maintenance may be performed by or caused to be performed by Licensee from time to time as required in Licensee's reasonable discretion so long as such Routine Maintenance does not unreasonably interfere with other operations on the Property, and all such Routine Maintenance shall be performed in compliance with all applicable Laws and by qualified and trained persons and appropriately licensed contractors.

4. TERM

4.1. Initial Term; Renewal Terms

The initial term under this License (the “**Initial Term**”) will commence on the Effective Date and automatically expire five (5) years from the Effective Date, unless earlier terminated in accordance with this License. After the Initial Term expires, this License may be renewed by Licensee for five (5) additional five (5)-year terms for a total of thirty (30) years, (each a “**Renewal Term**”) by written notice from Licensee to the County at least ninety (90) days prior to the expiration of the then-current Term, unless Licensee is in default beyond any applicable notice and cure periods at the time the then-current Term expires. The Parties refer to the Initial Term and any applicable Renewal Term(s) collectively as the “**Term**”.

4.2. Holdover Term

Licensee will have no right or privilege whatsoever to use or occupy the License Area or Access/Utilities Route in any manner or for any purpose after this License expires or terminates. In the event that Licensee continues to use or occupy the License Area or Access/Utilities Route after this License expires or terminates, this License will automatically convert to a month-to-month license on the same terms and conditions (the “**Holdover Term**”), except that:

(1) the License Fee (as defined below in Section 5.1) will be automatically increased to one hundred fifty percent (150%) over the License Fee payable for the prior year immediately prior to the expiration or termination of this License (the “**Holdover Fee**”), and will continue to increase in accordance with Section 5.2 (Annual License Fee Adjustments); and

(2) either Party may terminate such Holdover Term on 30 days’ written notice to the other Party for any or no reason.

5. LICENSE FEE AND OTHER PAYMENTS

5.1. License Fee

Commencing on the first day of the month following the Commencement Date, Licensee shall pay the County TWO THOUSAND DOLLARS (\$2,000.00) (the “**License Fee**”) on or before the first calendar day of each month, in advance, without any prior demand, setoff, deduction or counterclaim for any reason. The initial License Fee payment shall be due within forty-five (45) days after the Commencement Date. As an additional sum for the License Fee under this License, the County shall receive twenty-five percent (25%) of any rent paid to Licensee by each and any additional approved Collocator(s) beyond the initial Collocator (Verizon). Licensee shall remit to the County its share of such additional rent received from any additional Collocator(s) within thirty (30) days of

Licensee's receipt of such payment. Licensee shall keep full, proper, and accurate books, records, and accounts of its rent from the Collocators arising from use of the License Area. For elimination of doubt, there shall be no more than three Collocator antenna arrays located on the monopole structure (excluding public emergency services such as fire, police, etc.). Should a fourth Collocator (other than public emergency services such as fire, police, etc.) be contemplated, the parties must amend this License by mutual written consent with a commensurate amendment to the monthly License Fee.

5.2. Annual License Fee Adjustments

On each anniversary of the Commencement Date throughout the Term, the License Fee will be automatically increased by 3% over the License Fee payable in the immediately previous year.

5.3. Late Charges

In the event that Licensee fails to pay any License Fee or any other amount payable to the County within five (5) business days after the County notifies that such amounts are due and unpaid, such amounts will be subject to a late charge equal to five percent (5%) of unpaid amounts.

5.4. Interest

Any License Fees and all other amounts payable to the County other than late charges will bear interest at eighteen percent (18%) per annum which is the highest rate permitted by applicable Law from the due date when not paid within five (5) business days after due and payable to the County. Any sums received shall be first applied towards any interest, then to the late charge and lastly to principal amount owed. Any interest or late charge payments will not alone excuse or cure any default by Licensee.

5.5. Administrative Fee

Within sixty (60) days after Effective Date of this License, Licensee shall pay to the County a nonrefundable administrative fee equal to FIFTEEN THOUSAND and 00/100 Dollars (\$15,000.00) (the "**Administrative Fee**") to cover all of the County's costs to negotiate, review, and execute this License. The Administrative Fee is not a portion of the License Fee or any offset thereto.

5.6. Payment Procedures

Licensee shall deliver all payments due under this License to:

Incorporated County of Los Alamos
Accounts Receivable
1000 Central Avenue, Suite 300
Los Alamos, NM 87544

The designated place of payment may be changed from time-to-time upon written notice. Payments must be made by check or direct deposit payable to the Incorporated County of Los Alamos. No payment by Licensee or receipt by the County of a lesser amount than payment due will be deemed to be other than a payment made on account for the total payment due, nor will any endorsement or statement on any check or any letter accompanying any check or payment be deemed an accord and satisfaction. The County's acceptance of such checks or payment will be without prejudice to the County's right to recover the balance of the amount due or pursue any other remedy in this License. Where Licensee makes direct deposits to County, Licensee is absolutely barred from making any offsetting, withdrawals, or other adjustments to County's account. No self-help remedy whatsoever is available to Licensee.

6. GOVERNMENTAL APPROVALS

6.1. Acknowledgement of County Acting in its Proprietary Capacity

The County and Licensee expressly acknowledge and agree the County enters into and maintains this License solely in its proprietary capacity as the owner or controller of the Property and not in its capacity as a regulatory agency. Licensee acknowledges and agrees that any federal or state Laws applicable to the County in its regulatory capacity will not be applicable to the County in its proprietary capacity and Licensee will not seek to have such Laws applied to the County or any approval, disapproval, act or failure to act in connection with this License. Licensee further acknowledges and agrees that: (1) only the terms and conditions in this License will govern the criteria and timeframes for the County's decisions or actions in its proprietary capacity in response to Licensee's requests for approvals in connection with this License; (2) any approval or disapproval the County may issue in its proprietary capacity in connection with this License will not be deemed to be an approval or disapproval the County may be required to issue in its regulatory capacity, if any; and (3) any approval or disapproval the County may issue in its proprietary capacity will not give preference to Licensee or Licensee's applications over other persons or applications in any regulatory proceeding solely based on this proprietary relationship.

6.2. Permits and Other Regulatory Approvals

Licensee shall not commence any work at the Property until Licensee obtains all necessary Regulatory Approvals, which includes without limitation a use permit, design review permit and any other permit obtained through any other County department. Subject to the provisions and limitations in Section 6.1 (Proprietary Capacity Acknowledgment), and only to the extent permissible under applicable Laws, the County will reasonably cooperate with Licensee's efforts to obtain and maintain all necessary Regulatory Approvals.

7. MAINTENANCE

7.1. Licensee's Maintenance Obligations

At all times throughout the Term, Licensee shall install, maintain, repair, and secure its Equipment and all other personal property and improvements brought onto the Property by or on behalf of Licensee or any Collocator in good, orderly and safe condition. Licensee shall keep the License Area free of debris, graffiti and any other dangerous, noxious or offensive conditions which would create a hazard or undue vibration, heat, noise or interference, and shall use commercially, reasonably, diligent efforts to correct any such conditions to the County's reasonable satisfaction within two (2) business days after receipt of notice from County. If a maintenance issue is not resolved within two (2) business days following Licensee's receipt of written notice from the County (unless such issues cannot be resolved within two (2) business days, then so long as Licensee commences efforts to cure within such two (2) business days and otherwise diligently prosecutes such resolution to completion within a period not to exceed twenty (20) days), the County may correct the issue or have the issue corrected, and invoice the Licensee for the actual expenses.

7.2. County's Maintenance Obligations

The County shall not be responsible for repairs or maintenance in connection with the Equipment, License Area (which includes the Staging Area during Licensee's use) or for any associated costs except to the extent caused by the County or its Agents. The County shall maintain, at its sole expense, the Access/Utilities Route in a manner sufficient to allow access, weather and seasonal conditions permitting. Licensee acknowledges that the Access/Utilities Route as currently constructed and maintained is sufficient to provide Licensee with access. The County, under no circumstances, shall be required to expand or enlarge the Access/Utilities Route. The Access/Utilities Route may be altered in design or location by the County provided that the alteration does not materially impair Licensee's ability to access the License Area. If Licensee causes any damage to the Access/Utilities Route, Licensee shall promptly repair same at its sole expense.

8. INTERFERENCE

8.1. Licensee's Interference Obligations

Licensee shall not operate the Equipment, cause or allow others to operate the Equipment, or use or allow the use of the License Area in a manner that causes interference with other communication transmission or reception equipment lawfully used by the County, its Agents or any third parties authorized by the County to use the Property. Any such interference will be deemed a default under this License and, after Licensee receives notice that such interference exists, Licensee will be responsible to promptly eliminate any such interference at no cost to the County. The County agrees to reasonably cooperate with Licensee's efforts to locate the interference source at Licensee's sole cost and expense. In the event that Licensee does not promptly cure such interference, the parties acknowledge that continued interference with communication transmission or reception equipment lawfully used by the County, its Agents or any third

parties authorized by the County to use the Property may result in irreparable harm and, therefore, the County will have the right to bring an action against Licensee to enjoin such interference or terminate this License.

8.2. County's Interference Obligations

The County shall not operate or allow others to operate any commercial communications equipment within 75 feet of Licensee's monopole structure, or cause or allow any third parties authorized by the County to operate competing communications equipment within a 75 foot radius of Licensee's monopole structure, in a manner that causes interference with other communication transmission or reception equipment lawfully used by Licensee, its Agents or Invitees. Any such interference will be deemed a default under this License and, after the County receives notice that such interference exists, the County will be responsible for using commercially reasonable efforts to cause such interference to cease as soon as reasonably possible. Licensee agrees to reasonably cooperate with the County's efforts to locate the interference source. In the event that the County does not promptly cure such interference, the parties acknowledge that continued interference with communication transmission or reception equipment lawfully used by Licensee, its Agents or Invitees may result in irreparable harm and, therefore, Licensee will have the right to terminate this License and/or pursue any other rights and remedies at law or in equity available to Lessee, other than the pursuit of any monetary damages.

9. TAXES

9.1. Title to Licensee's Equipment and Improvements

All Equipment and other improvements constructed, installed or placed on the License Area or Access/Utilities Route by Licensee or at Licensee's request or direction will be and at all times remain Licensee's business personal property and subject to New Mexico business personal property tax. The County or State may have the right to file tax liens against the Equipment and other improvements constructed, installed or placed on the License Area or Access/Utilities Route by Licensee or at Licensee's request or direction. Upon the revocation, termination or expiration of this license, for any reason other than a breach or default by the County, Licensee may be required to remove all improvements at Licensee's expense, return the License Area to its pre-license condition, or at County's sole discretion, transfer all title, interest and ownership of the improvements to the County.

9.2. Possessory Interest Taxes

Licensee understands and acknowledges that: (1) this License, the Equipment and/or any improvements placed on the Property may create a possessory interest subject to taxation; (2) Licensee will be required to timely pay any and all such possessory interest taxes; and (3) any transfer, assignment or sublicense in connection with this License, and any options to extend or renew this License, may constitute a change in ownership for taxation purposes and therefore result in a revaluation for any possessory interest created

under this License. Licensee further acknowledges that Licensee will have no claim for damages against the County for any possessory interest taxes levied against the License Area, Equipment or improvements because it received actual notice that this License may create a possessory interest and that Licensee would be solely liable for any and all taxes levied on such possessory interest.

9.3. Licensee's Tax and Assessment Obligations

Licensee agrees to pay when due and prior to delinquency any and all taxes, assessments, charges, excises and exactions whatsoever (collectively, "**Impositions**"), which includes without limitation any possessory interest taxes, that arise from or in connection with Licensee's uses on the License Area or the Equipment that may be imposed on Licensee under Law. Licensee shall not allow or suffer any lien for any Impositions to be imposed on the License Area or Equipment. In the event that the County receives any Imposition notices on or in connection with the License Area or Equipment, the County shall promptly (but in no event later than 30 calendar days after receipt) forward the same, together with reasonably sufficient written documentation that details any increases in the taxable or assessable amount attributable to this License or the Equipment.

9.4. Licensee's Right to Contest Taxes or Assessments

Licensee will have the right to contest any Impositions that Licensee disputes in good faith, so long as no lien attaches to the Property and Licensee complies with any bond, deposit, collateral or other requirements under applicable Law.

10. LIENS

Licensee shall keep the License Area free and clear from any and all liens or other impositions in connection with any work performed, material furnished, or obligations incurred by or for Licensee. Licensee will inform all contractors and material suppliers that provide any work, service, equipment or material to Licensee in connection with the License Area that the License Area is public property not subject to any mechanics' liens or stop notices. If any Licensee contractor or material supplier files any lien or imposition that attaches to the License Area, Licensee shall promptly (but in no case later than 30 days after discovery) cause such lien or imposition to be released. In the event that Licensee does not cause such lien or imposition to be released within the 30-day period, the County will have the right, but not the obligation, to cause such lien or imposition to be released in any manner the County deems proper, which includes without limitation payment to the lienholder, with or without notice to Licensee. Licensee shall reimburse the County for all actual reasonable costs and expenses incurred to cause such lien or imposition to be released (which includes without limitation reasonable attorneys' fees) within 10 days after Licensee receives a written demand from the County together with reasonable documentation to support such costs and expenses.

11. INDEMNIFICATION

11.1. General Indemnification Obligations

Licensee, for itself and its successors and assigns, shall indemnify, defend and hold the Indemnified County Parties harmless from and against any and all Claims, incurred in connection with or arising in whole or in part from any act or omission by Licensee or its Agents, licensees, customers or invitees in connection with this License or any Equipment, whether any negligence may be attributed to any Indemnified County Parties or not, whether any liability without fault is imposed or sought to be imposed on any Indemnified County Parties or not, but except to the extent that that such Claim is directly caused by the County's negligence or willful misconduct. Licensee's obligations under this Section 11 includes, without limitation, all reasonable fees, reasonable costs and expenses for attorneys, consultants and experts, and the County's actual costs to investigate and defend against any Claim. Licensee expressly acknowledges and agrees that: (a) Licensee has an immediate and independent obligation to defend any Indemnified County Parties from any Claim that actually or potentially falls within this Section 11, except to the extent such allegations in the Claim are or appear to be groundless, fraudulent or false; and (b) Licensee's obligations arise at the time any Indemnified County Parties tender a Claim to Licensee and continue until such Claim's final, non-appealable resolution. Licensee's obligations under this Section 11 shall survive this License's revocation, termination or expiration.

11.2. Licensee's Indemnification for Personnel Injuries

Licensee acknowledges that (1) the County has delegated to Licensee control over the License Area; and (2) the County is not a co-employer of any employee of Licensee or any employee of Licensee's Agents, and the County shall not be liable for any Claim by Licensee's or its Agent's employee(s). Licensee agrees to fully indemnify, defend and hold the County harmless in the same manner as provided in Section 11.1 (General Indemnification Obligations) against any Claim by any employee of Licensee or its Agents that arises in connection with Licensee's or its Agents' or Invitees' access, uses or other activities on or about the License Area.

11.3. Licensee's Defense Obligations

If any Claim is brought against any Indemnified County Parties in connection with any subject matter for which any Indemnified County Parties are indemnified by Licensee under this License, Licensee shall, upon written notice and at Licensee's sole cost and expense, resist and defend against such Claim with competent and experienced legal counsel reasonably acceptable to the County. The County shall not unreasonably withhold or delay its consent to legal counsel selected by Licensee; provided, however, that the County has the absolute right to reject any proposed legal counsel that: (1) has less than 10 years' direct experience representing public agencies in similar actions or proceedings as those brought against the Indemnified County Parties; (2) is not duly licensed to practice law in the State of New Mexico by the State Bar of New Mexico; (3) has any past or pending disciplinary actions by any United States tribunal or state bar

association; or (4) has any actual or potential conflicts of interest with any Indemnified County Parties who would be represented by such proposed legal counsel. Licensee shall not, without the County's written consent, enter into any compromise or settlement agreement on any Indemnified County Parties' behalf that: (a) admits any liability, culpability or fault whatsoever on any Indemnified County Parties' part; or (b) requires any Indemnified County Party to take or refrain from any action, which includes without limitation any change in the County's policies or any monetary payments. Nothing in this License shall be construed to limit or preclude any Indemnified County Parties or their respective legal counsel from cooperating with Licensee and/or participating in any judicial, administrative, alternative dispute resolution or other litigation or proceeding. Licensee's obligations under this Section 11.3 shall survive this License's revocation, termination or expiration.

12. INSURANCE

Prior to any construction, installation or other work by Licensee or its contractors or subcontractors in, on, under or above the Property, Licensee shall comply with all insurance requirements and other obligations contained in **Exhibit D** (Licensee's Insurance Obligations), attached hereto and incorporated herein, and shall provide the County with all required certificates, endorsements and other documentation. To the extent designed to assure protection from and against the kind and extent of risk that may exist under the activities subject to this License, the County shall have the right to reasonably increase the insurance coverage amounts contained in **Exhibit D** to then-current market rates for similar Permitted Uses in the County on one hundred eighty (180) days' prior written notice to Licensee, but not more often than once every one (1) year during the Term. Any noncompliance with any insurance requirements in this License by Licensee or its contractors or subcontractors shall be a material default by Licensee, but otherwise still subject to the notice and cure periods otherwise set forth in this License.

13. ASSIGNMENT; SUBLICENSE

13.1. Assignment

Licensee may assign this License at any time without the County's consent (1) to any of Licensee's partners or parent firms; (2) to Licensee's successors-in-interest by operation of law or otherwise; (3) in connection with the sale, exchange, or other transfer of Licensee's FCC authorization for the geographic market area in which the License Area is located or substantially all of Licensee's assets in the geographic market area where the License Area is located; or (4) in connection with any financing, loan, security interest, pledge, or mortgage of Lessee's property. Any other assignment shall require the County's prior written approval, not to be unreasonably withheld, conditioned or delayed. This Section 13.1 shall not preclude Licensee's right to enter into a standard roaming or Collocator agreement allowing subscribers or sublicensees of other wireless carriers to use the Equipment specifically constructed for Licensee's use in accordance with Section 13.2 below.

13.2. Sublicense

Licensee shall have the right, and the County hereby approves of and consents to, Licensee's sublicense or sublease of all or a portion of the Equipment to Cellco Partnership, a Delaware general partnership dba Verizon Wireless and/or its affiliates (the "**Initial Collocator**"). Upon the prior written consent of the County, not to be unreasonably withheld, conditioned or delayed, Licensee shall have the further right to sublicense or sublease all or a portion of the Equipment to additional wireless carriers or other communication providers (each, a "**Collocator**" and collectively, the "**Collocators**"). With the County's consent and in compliance with the terms of Section 3.8 above, the Collocators will be entitled to modify the Equipment and to erect additional improvements on the License Area, including, but not limited to antennas, dishes, cabling, additional buildings or shelters ancillary to the Permitted Use. Conditioned upon Section 5.1 above regarding sub-license fees, the Collocators will be entitled to all rights of ingress and egress to the License Area and the right to install utilities on, in, and to the License Area that Licensee has under this License, and shall have all rights and inclusions of the Permitted Use described herein including, but not limited to, the use of the Access/Utilities Route and on the same terms as Licensee. Except as expressly provided above, Licensee shall not sublicense or in any other manner allow a third party to occupy or use the License Area and/or support structure and/or equipment therein without the County's prior written consent, not to be unreasonably withheld, conditioned or delayed. Any act that violates this Section 13.2 shall be deemed to be a material default by Licensee and in addition to every other right of County herein, the County shall have the right (but not the obligation) to exclude any unauthorized third parties from the Property.

13.3. Continuing Obligations after Transfer

No assignment, sublicense or other transfer, whether with the County's consent or not, will relieve Licensee from any obligation under this License unless: (1) the County expressly releases Licensee from such obligations in a written release signed by the County; (2) Licensee's transferee demonstrates the present ability to perform such obligations to the County's satisfaction; and (3) Licensee's transferee expressly and irrevocably assumes such obligations in a writing signed by Licensee's transferee. Any assignment, sublicense or other transfer that is not in compliance with this Section 13 (Assignment; Sublicense) will be deemed to be a material default by Licensee. Any payment by any third-party person or entity accepted by the County in connection with this License will not be deemed to waive any provision or obligation in this License or be construed to be consent by the County to any assignment or sublicense.

14. DEFAULT; REMEDIES

14.1. Defaults and Cure Periods

The parties agree that it will be a default under this License when either the County or Licensee: (1) fails to tender any sums payable pursuant to this License when due, and such failure continues for ten (10) days after notice from the non-defaulting party; or (2)

fails to perform any non-monetary term, provision, covenant or obligation under this License, and such failure continues for thirty (30) days after notice from the non-defaulting party. Notwithstanding the foregoing sentence, said thirty-day (30-day) cure period will be reasonably extended when the default cannot be cured within thirty (30) days and the defaulting party commences to cure within said thirty-day (30-day) cure period and diligently pursues the cure to completion without break.

14.2. Sums Paid During Default

Neither Licensee's payment nor the County's or its Agents' acceptance of any License Fees or any other sums due to the County or its Agents under this License during any such default will be deemed to cure any such default, waive the County's right to demand material compliance with such obligation, term, covenant or condition or be deemed to be an accord and satisfaction for any Claim the County may have for further or additional sums.

14.3. No Consequential Damages

Licensee expressly acknowledges and agrees that the License Fee or any other sums payable to the County under this License do not consider any potential liabilities for consequential or incidental damages. The County would not willingly enter this License without a complete waiver of liability, to the fullest extent permitted by Law, for consequential or incidental damages due to the County's or its Agents' acts or omissions, and Licensee expressly assumes the risk with respect thereto. Accordingly, without limiting Licensee's indemnification obligations or other waivers contained in this License and as a material consideration for this License, Licensee fully releases, waives and discharges forever any and all Claims against the County for consequential and/or incidental damages that arise from or in connection with this License, which includes without limitation any lost profits from disruption to Equipment, any interference with uses or activities conducted by Licensee under this License, from any cause whatsoever, and whether due to the County's or its Agents' active or passive negligence or willful misconduct or not, and covenants not to sue for such damages the County and the County's other departments, and all the County agencies, officers, directors and employees, and all persons acting by, through or under them.

14.4. No Personal Liability

No elected or appointive board, agency, member, officer, employee, agent or volunteer or other Agent of the County or any other natural person will be personally liable to Licensee, its successors and assigns, in the event of any default or breach by the County or for any amount which may become due to Licensee, its successors and assigns, or for any obligation of the County under this License. Similarly, no member, officer, employee, agent or volunteer or other Agent of Licensee or any other natural person will be personally liable to the County, its successors and assigns, in the event of any default or breach by Licensee or for any amount which may become due to the County, its successors and assigns, or for any obligation of Licensee under this License.

14.5. No Relocation Assistance

This License does not create any right in Licensee to receive any relocation assistance or payment for any reason under the New Mexico Relocation Assistance Act (NM Stat §§ 42-3-1 *et seq.*, the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. §§ 4601 *et seq.*), as either may be amended or superseded, or any similar Laws upon or after any termination. To the extent that any such Laws may apply, Licensee waives, releases and relinquishes forever any and all Claims that it may have against the County for any compensation from the County except as provided in Section 18 (Condemnation).

14.6. Cumulative Remedies

Except as may be specifically provided otherwise in this License, any and all rights, benefits and/or remedies provided or afforded to either the County or Licensee under this License or any other instrument or document executed pursuant to this License are and will be cumulative and not exclusive of any legal or equitable rights, benefits or remedies available to either the County or Licensee under applicable Laws.

15. TERMINATION

15.1. Grounds for Termination

In addition to any other provision in this License that authorizes the County or Licensee to terminate this License, this License may be terminated as follows:

(1) by either the County or Licensee upon 30 days' written notice when the other remains in default beyond such 30-day period (or any other applicable cure period expressly provided in this License);

(2) by Licensee upon written notice to the County at any time prior to the Commencement Date if any Tests show, in Licensee's opinion, that the License Area is not suitable for the Permitted Use;

(3) by Licensee upon written notice to the County at any time prior to the Commencement Date if Licensee cannot obtain all Regulatory Approvals required for the Permitted Use after Licensee exhausts in, good faith all administrative remedies available to Licensee in connection with an application for such Regulatory Approvals; or

(4) by Licensee upon 30 days' written notice to the County at any time after the Commencement Date for any or no reason.

15.2. Early Termination Fee

If Licensee elects to terminate this License pursuant to Section 15.1(4), Licensee shall include with its termination notice a lump sum payable to the County equal to the then-current monthly License Fee multiplied by either twelve (12) or the number of months remaining on the Term (whichever is less) (the “**ETF**”). Licensee will not be obligated to pay any ETF if Licensee terminates this License prior to the Commencement Date pursuant to Section 15.1(1), (2) or (3).

16. REMOVAL AND RESTORATION

Licensee shall remove all Equipment and every other thing Licensee has brought onto the Property, at its sole expense, within ninety (90) days following the expiration or termination of this License, including but not limited to facilities used to house Equipment that the County does not elect to retain. Licensee at Licensee’s sole cost and expense shall repair any damage to the License Area caused by such removal and shall return the License Area to substantially the same condition which existed on the Effective Date, reasonable wear and tear and damage, casualty and condemnation beyond the control or without the fault or neglect of Licensee, excepted. Without limiting the generality of the foregoing, Licensee shall remove all footings, foundations, utilities, wiring and conduits. Lessee shall be deemed in actual possession of the License Area until and unless it completely removes its personal property and restores the License Area consistent with this Section 16.

17. ENVIRONMENTAL PROVISIONS

17.1. Licensee’s General Environmental Obligations

Licensee, its Agents and Invitees may use only those Hazardous Substances on or about the Property that are normally associated with the Permitted Use, and only in strict compliance with all applicable Environmental Laws. Licensee shall use reasonable efforts to minimize Hazardous Substance use on the Property and, to the extent commercially reasonable, use non-hazardous alternatives in Licensee’s operations. Licensee shall manage and conduct its, its Agents’ and Invitees’ activities on or in connection with the Property: (1) in compliance with all applicable Environmental Laws and applicable provisions in this License; (2) in cooperation with the County and the County’s efforts to maintain compliance with all applicable Environmental Laws; and (3) in accordance with all environmental or operational standards or guidelines for common and accepted practices appropriate for the business that Licensee and its Agents or Invitees engage in on the Property and/or such guidelines as have been articulated by pertinent trade associations, professional associations or regulatory agencies applicable to the Equipment and the Permitted Use. Licensee shall manage its, its Agents’ and Invitees’ activities on or about the Property, and as may be appropriate, secure the License Area, so as to prevent any noncompliance with any applicable Environmental Law or any applicable environmental provision in this License.

17.2. Response to Hazardous Substance Releases

If any actual, threatened or reasonably suspected Release occurs for which Licensee is responsible under this License, Licensee shall immediately undertake and diligently pursue, at Licensee's sole cost and expense, all action or actions necessary or appropriate to investigate, contain, stop, accomplish source control, remove and perform interim remediation in connection with such Release. Licensee shall promptly send the County written notice after Licensee discovers facts about: (1) an actual or reasonably suspected violation in connection with any Environmental Law related to the Property or this License; or (2) an actual or reasonably suspected Release on, under, from or adjacent to the Property.

17.3. Self Help Remedies

Except in an emergency or pursuant to any governmental order that requires immediate action, in which case the County shall have the rights to perform immediate action, the County shall have the right (but not the obligation) to perform Licensee's environmental obligations under this Section 17 or any applicable Environmental Laws after the County provides Licensee with thirty (30) days' written notice and a demand to perform the obligations in issue. The County shall charge Licensee, and Licensee shall promptly reimburse the County upon demand, for any Environmental Costs, which shall bear interest at the statutory rate then in effect from the date the County expends any such funds. However, the County may not perform Licensee's obligations under this Section 17 when, within the 30-day notice period, Licensee promptly notifies the County, begins and continues thereafter to diligently pursue full performance to completion for all obligations stated in the County's notice.

17.4. Licensee's Environmental Indemnifications

If Licensee breaches or fails to perform any environmental obligations contained in this Section 17, or if any act, omission or negligence by Licensee or its Agents or Invitees results in any contamination on or about the Property or the License Area, in whole or in part, or in a Release from, on, about, in or beneath the Property or the License Area, in whole or in part, or any Environmental Law violation, then Licensee, on its own behalf and for its successors and assigns, shall indemnify, defend and hold harmless the County, including its Agents, and their respective successors and assigns from and against any and all Claims (including damages for decrease in value of the Property or License Area, any loss or restriction on the use of usable space on the Property or the License Area and sums paid to settle any Claims, which include without limitation attorneys' fees, consultants' fees, experts' fees and related costs) that arise during or after the Term and in relation to such Release or violation; provided, however, Licensee shall not be liable for any Claims to the extent such Release or violation was caused by the County's or its Agents' gross negligence or willful misconduct. Licensee's indemnification obligation includes costs incurred in connection with any activities required to Investigate and Remediate any Hazardous Substance brought onto the Property or the License Area by Licensee, its Agents or Invitees and to restore the Property or the License Area to its condition that existed immediately before Licensee

introduced such Hazardous Substance or to correct any Environmental Law violation(s). Licensee specifically acknowledges and agrees that it has an immediate and independent obligation to defend the County and the other Indemnified County Parties from any Claim that actually or potentially falls within this indemnification provision even if the allegations that support the Claim are or may be groundless, fraudulent or false, and which obligation arises at the time such Claim is tendered to Licensee by the Indemnified County Party and continues until the Claim is finally resolved. Licensee shall afford the County a full opportunity to participate in any discussions with regulatory agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree or other compromise or proceeding involving Hazardous Substances.

17.5. Licensee's Cleanup Obligations

Without limiting the indemnification obligations in Section 17.4 (Licensee's Environmental Indemnification Obligations), Licensee will be and remain responsible for all response, remediation and restoration obligations in connection with any Release and associated Environmental Costs that results from or occurs in connection with Licensee's occupation, possession or use of the Property and/or License Area from the Commencement Date, throughout the Term and after this License expires or terminates. Notwithstanding the preceding sentence, as between the County and Licensee, Licensee will not be responsible for any Releases or associated Environmental Costs caused by the County, its Agents, contractors, Invitees, licensees or other lessees after the Commencement Date so long as Licensee has complied with all applicable conditions for non-liability established in 42 U.S.C. § 9607(q), as may be amended or superseded.

18. CONDEMNATION

18.1. Permanent Takings

If any entity with the power to condemn permanently takes any License Area in whole or in part, or if the County transfers the License Area (in whole or in part) to such entity in lieu of eminent domain, the following provisions will apply:

(1) This License will automatically terminate on the date the permanent taking or transfer occurs. The County will be entitled to any award paid or made in connection with the taking or any sums paid in lieu of such taking. Licensee hereby expressly waives any right or claim to any portion thereof, including any claim for loss of business or goodwill. All damages, whether awarded as compensation for diminution in value of the License or to the fee of the License Area, shall belong to the County. Licensee will have no Claim against the County for the value of any unexpired Term of this License or otherwise except that Licensee may claim any portion of the award that is specifically allocable to Licensee's loss or damage to Licensee's Equipment or other trade fixtures or personal property.

(2) If the County transfers the License Area (in whole or in part) to any entity with the power to condemn in lieu of eminent domain, the proceeds from such transfer shall be distributed in the same manner as in a condemnation.

(3) The parties understand, acknowledge and agree that this Section 18.1 is intended to fully govern the parties' rights and obligations in the event of a permanent taking. Licensee and the County each hereby waives and releases any right to terminate this License in whole or in part under applicable New Mexico law and under any similar Laws to the extent applicable to this License.

18.2. Temporary Takings

Any taking that affects any License Area in whole or in part for less than ninety (90) days will have no effect on this License, except that Licensee will be entitled to a pro-rata abatement in the License Fee to the extent that such temporary taking materially impairs Licensee's use of the License Area. Furthermore, in the event that the County receives an award, if any, in connection with such temporary taking, Licensee will receive the portion from the award that represents compensation for the use or occupancy of the License Area during the Term but not to exceed the License Fees payable by Licensee for the period of the taking, and the County will retain the balance of the award.

19. DESTRUCTION

If the Property or License Area, in whole or in part, becomes damaged or destroyed due to any cause, the County will have no obligation to repair, rebuild or replace the damaged or destroyed License Area. If the Property or License Area, in whole or in part, becomes so damaged or destroyed that it materially impairs Licensee's Permitted Use, and such damage or destruction resulted from a cause not attributable to Licensee or any other person or entity affiliated with Licensee or under Licensee's direction or control, Licensee may elect to terminate this License within sixty (60) days after such damage or destruction occurs.

20. SECURITY DEPOSIT

Before the commencement of any work, Licensee shall maintain and furnish to the County, at Licensee's election, either an executed performance bond, letter of credit or other form of security acceptable to the County (the "**Security**") for the purpose of protecting the County from the costs and expenses associated with Licensee's failure to comply with its material obligations under and throughout the life of this License, including but not limited to, (a) the County restoration of the License Area; (b) the County's removal of any of Licensee's Equipment or associated improvements that are abandoned or not properly maintained or that need to be removed after expiration or termination of this License or to protect public health, safety, welfare, or County property; or (c) the County's remediation of environmental and hazardous waste issues caused by Licensee pursuant to Section 17 (Environmental Provisions), after Licensee receives written notice from the County of any of the non-compliance listed above and an opportunity to cure as described

within this License. The amount of the Security shall be TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00). The Security must be in a form approved by the County Attorney. Any acceptable Security instrument having an expiration date earlier than the expiration of the Term of this License shall be automatically renewable. In the event the surety or party issuing the Security cancels or decides not to renew or extend the Security, Licensee shall obtain, and provide to the County for approval, a replacement Security with another surety within thirty (30) days of the date of receipt of the notice that the existing surety intends to cancel or not renew. If Licensee fails to provide the replacement Security within the 30-day period, the County may immediately suspend Licensee from any further performance under this License and begin procedures to terminate for default. Licensee's obligations in this Section 20 will survive expiration or earlier termination of this License.

21. NOTICES

Except as may be specifically provided otherwise in this License, all notices, demands or other correspondence required to be given in connection with or pursuant to this License must be written and delivered through (1) an established national courier service that maintains delivery records and confirmations; (2) hand delivery; or (3) certified or registered U.S. Mail with prepaid postage and return receipt requested, and addressed as follows:

TO COUNTY: Incorporated County of Los Alamos
Attn: County Manager
1000 Central Avenue
Los Alamos, NM 87544
Telephone: 505-663-1750

With a required copy to: Incorporated County of Los Alamos
Attn.: County Attorney
1000 Central Avenue
Los Alamos, NM 87544
Telephone: 505-662-8020

TO LICENSEE: Sun State Towers IV, LLC
Attn.: Land Management
1426 North Marvin Street #101
Gilbert, AZ 85233

All notices, demands or other correspondence in connection with this License will be deemed to have been delivered: (a) on the date delivery is made by personal delivery or overnight delivery; or (b) the date an attempt to make delivery fails if a party changes its address without proper notice or actually refuses to accept delivery after an attempt. Any

copies required to be given constitute an administrative step for the parties' convenience and not actual notice. Each party may change its related notice addresses above from time-to-time and upon written notice to the addresses above or the then-current notice address.

22. MISCELLANEOUS PROVISIONS

22.1. Interpretation; Construction

The parties agree as follows:

- (1) The recitals set forth in this License are true and correct.
- (2) The section captions in this License and the table of contents have been included for the parties' convenience and reference and neither the captions nor the table of contents in no way define or limit the scope or intent of any provision in this License.
- (3) This License has been jointly negotiated and, although formulated at the outset by counsel for the County, the License has been reviewed by counsel for Licensee, and each such counsel has participated in the preparation of the final License. The language used in this License shall be construed as a whole according to its fair meaning and not strictly for or against any party, and it is agreed that no provision hereof shall be construed against any party hereto by virtue of the activities of that party or such party's attorneys.
- (4) Inclusive terms and/or phrases, which includes without limitation the terms and/or phrases "including," "such as" or similar words or phrases that follow any general or specific term, phrase, statement or matter may not be construed to limit the term, phrase, statement or matter to the stated terms, statements or matters, or the listed items that follow the inclusive term or phrase, whether any non-limitation language or disclaimers, such as "including, but not limited to" and/or "including without limitation" are used or not. Rather, the stated term, phrase, statement or matter will be interpreted to refer to all other items or matters that could reasonably fall within such term, phrase, statement or matter given its broadest interpretation.
- (5) References in this License to "days" mean calendar days, unless specifically provided otherwise. A "business day" means a day other than a Saturday, Sunday or a bank or County holiday. If the last day in any period to give notice, reply to a notice or to undertake any other action occurs on a day that is not a business day, then the last day for giving notice, replying to the notice or undertaking any other action will be the next business day.
- (6) Unless expressly provided otherwise, references in this License to codified statutes and regulations will be interpreted to refer to such statutes and regulations as the same may be duly amended, recodified or superseded.

(7) Whenever required by the context, the singular includes the plural and vice versa; the masculine gender includes the feminine or neuter genders and vice versa; and defined terms encompass all their correlated forms (e.g., the definition for “indemnify” applies to “indemnity,” “indemnification,” etc.).

22.2. Unenforceability; Severability

If a court of competent jurisdiction over this License holds any provision in this License invalid or unenforceable with respect to either the County or Licensee, or any third parties to whom this License may become applicable or enforceable: (1) such provision or its application to such person, entity or circumstance will be deemed severed from this License; (2) all other provisions in this License and their application to any person, entity or circumstance will not be affected; and (3) all other provisions in this License and their application to any person, entity or circumstance will be valid and enforceable to the fullest extent permitted by Law, except to the extent that such enforcement would (a) be manifestly unreasonable or manifestly inequitable under all the circumstances or (b) undermine one or both parties’ fundamental purpose in entering this License.

22.3. Time for Performance; Force Majeure

Time is of the essence of this License. Notwithstanding anything in this License to the contrary, the time for performance for any term, provision, covenant or obligation under this License will be deemed extended to account for any time lost due to delays that arise from strikes, civil riots, floods, labor or material shortages or restrictions, governmental intervention or any other cause not within the control of the party whose performance is due.

22.4. Integration; Entire Agreement

This License contains the entire agreement and understanding between the parties as to the subject matter concerned in this License, and this License supersedes all prior or contemporaneous agreements, commitments, conditions, discussions, instruments, offers, promises and/or proposals between or among the County and Licensee in connection with the License Area, whether oral or written.

22.5. Successors and Assigns

The parties intend and agree that this License will extend to and bind the parties’ respective, successors and assigns.

22.6. Amendments and Modifications

All amendments or modifications to this License, if any, must be in a written and fully executed agreement signed by both parties.

22.7. Waivers

No failure by either the County or Licensee to insist that the other strictly perform any obligation, term, covenant or condition under this License or to exercise any rights, powers or remedies in connection with the other party's failure to strictly perform such obligation, term, covenant or condition no matter how long the failure to insist on such performance or exercise such rights, powers or remedies, will be deemed to waive any default for non-performance. No behaviors, patterns or customs that may arise between the parties with respect to their performance required under this License will be deemed to waive any rights, powers or remedies the parties' may have to insist on strict performance. Any express waiver by either the County or Licensee in connection with any default or obligation to perform any provision, term, covenant or condition under this License will: (1) be limited to the specific default or performance for which the express waiver is granted; (2) not be deemed to be a continuing waiver; and (3) not affect any other default or performance no matter how similar or contemporaneous such other default or performance may be. The County's or Licensee's consent given in any specific instance in connection with or pursuant to this License will not relieve the County or Licensee from the obligation to secure the other's consent in any other or future specific instances, no matter how similar or contemporaneous the request for consent may be.

22.8. Governing Law; Venue; Attorneys' Fees

This License shall be governed and construed in accordance with the laws of the State of New Mexico without regard to conflicts of laws principles. Sole and exclusive venue for any action or claim between the parties that arises from or in connection with this License will reside exclusively in the District Court of the Incorporated County of Los Alamos (the "**Court**"). All parties to this License agree to be subject to the Court's jurisdiction and waive all claims whatsoever that would defeat the Court's jurisdiction to hear and adjudicate any action or claim between the parties that arises from or in connection with this License. The prevailing party in any final or non-appealable decision on the merits that arises from or in connection with this License may be entitled to its reasonable attorneys' fees and costs, which include without limitation reasonable witness, expert and consultant fees, at the Court's sole discretion. With respect to any provision in this License that provides for payment of attorneys' fees, such fees will be deemed to include reasonable fees incurred through any applicable appeal process and will include, but not be limited to, fees attributable to legal services provided by any in-house counsel and staff to the prevailing or indemnified party. For purposes in this License, all services rendered by all attorneys and their staff will be valued at the average rates for independent counsel prevailing in the Incorporated County of Los Alamos, New Mexico.

22.9. Government Torts Claims Act

Any claim for money damages by Licensee against the County hereunder will be subject to NM Stat §§ 41-4-1, et seq, (the "**Government Torts Claims Act**"). The claims presentation provisions in the Government Torts Claims Act are hereby modified such that all claims to be presented to the County will be irrevocably waived if not made within ninety (90) days after Licensee discovers the facts that either give rise to the claim or

would prompt an investigation that, with reasonable diligence, would lead Licensee to facts that would give rise to the claim. Neither the County nor its council members, commissioners, elected or appointed officers or officials, administrators, directors, managers, employees, attorneys, Agents or volunteers will be personally liable to Licensee in the event of any default or breach of the County, or for any amount which may become due to Licensee or any successor in interest, or for any obligations directly or indirectly incurred under this License.

22.10 New Mexico Fraud Against Taxpayers Act

Licensee agrees that any License claim submitted to the County must be asserted as part of the License process as set forth in this License and not in anticipation of litigation or in conjunction with litigation. Licensee acknowledges that if a false claim is submitted to the County by Licensee, it may be considered fraud and Licensee may be subject to criminal prosecution. Licensee acknowledges that the New Mexico Fraud Against Taxpayers Act applies to this License and provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of false information or in reckless disregard of the truth or falsity of information. If the County seeks to recover penalties pursuant to the New Mexico Fraud Against Taxpayers Act, it is entitled to seek to recover its litigation costs, including attorney's fees. Licensee acknowledges that the filing of a false claim may subject Licensee to an administrative debarment proceeding as the result of which Licensee may be prevented from bidding on any public work or improvement for a period as set out in law.

22.11. Public Records Act Disclosure

Licensee acknowledges that the County is a public entity organized under the laws of the State of New Mexico. Furthermore, the parties acknowledge that this License constitutes a public record that the County must publicly disclose under the New Mexico Public Records Act (IPRA); and (4) any other applicable Law that may require the County to disclose public records.

22.12. Estoppels

Licensee or the County, as applicable, at any time and from time-to-time on not less than 30 days' notice from the other party, shall execute, acknowledge and deliver to the other party or its designee, an estoppel certificate which states:

(1) as applicable, that Licensee has accepted the License Area (or, if Licensee has not done so, that Licensee has not accepted all or any part of the License Area and specifying the applicable portions of the License Area and reasons for non-acceptance);

(2) the Commencement Date, Effective Date and expiration date for this License;

(3) that this License is unmodified and in full force and effect or, if modified, the manner in which this License is modified;

(4) whether any defenses then exist against the enforcement of any of Licensee's or the County's obligations, as applicable, under this License (and if so, specifying the same);

(5) whether any of Licensee's or the County's obligations, as applicable, under this License are outstanding (and if so, identifying any the obligations that such party believes that the other party has failed to meet);

(6) the dates, if any, to which the License Fees have been paid;

(7) as applicable, the number and identity of all sublicensees on the License Area, and the dates on which such sublicensees commenced and terminated their use or occupancy on the License Area; and

(8) any other information that may be reasonably required by any such person.

22.13. Brokers

The parties represent to each other that neither has had any contact, dealings, or communications with any real property, business, or other type of Broker in connection with this License, whose commission, if any, would be paid pursuant to a separate written agreement between such Broker and such party with which such Broker contracted. If any Broker perfects a claim for a commission or finder's fee based upon any such contact, dealings or communication, the party through whom such Broker is claiming shall indemnify the other party from all Claims brought by the Broker. The representations and indemnification obligations in this Section 22.13 will survive expiration or earlier termination of this License.

22.14. No Third-Party Beneficiaries

Except for Licensee and any approved Collocator(s), this License is not intended to (and shall not be construed to) give any third party any right, title or interest in this License or the real or personal property(ies) that may be affected by this License. The parties acknowledge and agree that any rights a Collocator may have to enter or use the License Area, the Access/Utilities Route and/or or the Facilities and Equipment shall be derived through Licensee pursuant to the terms of its license or sublease with Licensee, and in no event shall Landlord have any independent duty, obligation or liability to any such Collocator under this License.

22.15. Bankruptcy

If Licensee becomes a debtor in any voluntary or involuntary bankruptcy proceeding under the Bankruptcy Code, the County and Licensee expressly intend, acknowledge and

agree that this License will be treated as either an unexpired commercial lease or an executory contract for all purposes in connection with Bankruptcy Code § 365 and subject to the provisions of Bankruptcy Code §§ 365(d)(3) and 365(d)(4) as those provisions may be amended or superseded in the future. Any person or entity to which this License is assigned pursuant to the Bankruptcy Code will be deemed without any further act to have assumed all Licensee's obligations under this License which arose before or may arise after such assignment, and any such assignee shall execute and deliver to the County a written instrument that confirms such assumption promptly upon a written demand from the County. Any monies or other consideration payable or otherwise to be delivered in connection with such assignment will be promptly paid to the County, will be the County's exclusive property and will not constitute Licensee's or its estate's property for the purposes under the Bankruptcy Code. Any such monies or other consideration not paid to the County will be held in trust for the County's benefit and paid to the County as soon as possible.

22.16. Survival

All terms, provisions, covenants, conditions and obligations in this License will survive this License's expiration or termination when, by their sense or context, such provisions, covenants, conditions or obligations:

(1) cannot be observed or performed until this License's expiration or earlier termination;

(2) expressly so survive; or

(3) reasonably should survive this License's expiration or earlier termination. Notwithstanding any other provision in this License, the parties' rights to enforce any and all indemnities, representations and warranties given or made to the other party under this License or any provision in this License will not be affected by this License's expiration or termination.

22.17. Submission for Inspection; No Offer

Prior to the Effective Date, the parties may submit this License to each other for inspection and examination purposes and such submission will not constitute an offer to license the License Area. This License will become effective only upon full execution by both the County and Licensee.

22.18. Execution; Counterparts

The parties warrant and represent to each other that the person who executes this License on their behalf has the full power and authority to enter this License, and that any approvals or authorizations necessary to enter this License have been obtained. This License may be executed simultaneously or in one or more counterparts. If the parties elect to execute this License in one or more counterparts, Licensee shall execute first,

the County shall execute second, each executed counterpart will be deemed to be an original, but all counterparts taken together will constitute one and the same agreement.

23.19. Representations and Warranties of the County

The County represents and warrants to Licensee as follows:

- (1) The County has the full right, power, and authority to execute this License.
- (2) There are no pending administrative actions, including bankruptcy or insolvency proceedings under state or federal law, suits, claims or causes of action against the County which may affect the Property.
- (3) The Property is not presently subject to an option, lease or other contract which may adversely affect the County's ability to fulfill its obligations under this License, and the execution of this License by the County will not cause a breach or an event of default of any other agreement to which the County is a party. The County agrees that it will not grant an option or enter into any contract or agreement which will have any adverse effect on the Permitted Use or Licensee's rights under this License.
- (4) The County has good and marketable fee simple title to the License Area, the Access/Utilities Route and the Property. The County covenants that Licensee will have the quiet enjoyment of the License Area during the term of this License, subject to the terms hereof.

[END OF LICENSE – SIGNATURES BEGIN ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have executed this License on the Effective Date:

COUNTY

Incorporated County of Los Alamos, an
incorporated New Mexico County

By: _____

Name: Anne W. Laurent

Its: County Manager

Date: _____

LICENSEE

Sun State Towers IV, LLC,
a Delaware limited liability company,

By: _____

Name: Chad A. Ward

Its: Manager

Date: _____

APPROVED AS TO FORM

By: _____

Mr. J. Alvin Leaphart
County Attorney

Date: _____

[END OF SIGNATURES – EXHIBITS BEGIN ON NEXT PAGE]

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

Tract N, White Rock Subdivision, as shown on plat recorded September 3, 1965 in Book 1, page 62, and Affidavit of Correction recorded on August 30, 1966 in Book 7, page 141, records of Los Alamos County, New Mexico.

EXHIBIT B

LEGAL DESCRIPTIONS FOR THE LICENSE AREA, ACCESS ROUTE AND UTILITIES ROUTE

LICENSE AREA 1 LEGAL DESCRIPTION

A PORTION OF THE EXCEPTED AREA, FOR THE SEWAGE DISPOSAL PLANT, WITHIN TRACT N, WHITE ROCK SUBDIVISION, AS SHOWN ON PLAT RECORDED SEPTEMBER 3, 1965 IN BOOK 1, PAGE 62, AND AFFIDAVIT OF CORRECTION RECORDED ON

AUGUST 30, 1966 IN BOOK 7, PAGE 141, RECORDS OF LOS ALAMOS COUNTY, NEW MEXICO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A REBAR HAVING NEW MEXICO STATE PLANE US FOOT, CENTRAL COORDINATES OF NORTHING 1755901.90 FEET, EASTING 1658851.32 FEET, FROM WHICH A REBAR BEARS NORTH 85°42'54" WEST, 401.32 FEET; THENCE NORTH 70°06'36" WEST, 155.80 FEET; THENCE NORTH 89°17'38" WEST, A DISTANCE OF 26.30 FEET; THENCE NORTH 00°39'06" EAST, A DISTANCE OF 241.79 FEET;

THENCE NORTH 90°00'00" EAST, A DISTANCE OF 14.60 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 00°00'00" EAST, A DISTANCE OF 20.00 FEET; THENCE NORTH 90°00'00" EAST, A DISTANCE OF 20.00 FEET;

THENCE SOUTH 00°00'00" EAST, A DISTANCE OF 20.00 FEET; THENCE NORTH 90°00'00" WEST, A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 400 SQUARE FEET OR 0.009 ACRES, MORE OR LESS.

LICENSE AREA 2 LEGAL DESCRIPTION

A PORTION OF THE EXCEPTED AREA, FOR THE SEWAGE DISPOSAL PLANT, WITHIN TRACT N, WHITE ROCK SUBDIVISION, AS SHOWN ON PLAT RECORDED SEPTEMBER 3, 1965 IN BOOK 1, PAGE 62, AND AFFIDAVIT OF CORRECTION RECORDED ON AUGUST 30, 1966 IN BOOK 7, PAGE 141, RECORDS OF LOS ALAMOS COUNTY, NEW MEXICO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A REBAR HAVING NEW MEXICO STATE PLANE US FOOT, CENTRAL COORDINATES OF NORTHING 1755901.90 FEET, EASTING 1658851.32 FEET, FROM WHICH A REBAR BEARS NORTH 85°42'54" WEST, 401.32 FEET; THENCE NORTH 70°06'36" WEST, 155.80 FEET; THENCE NORTH 89°17'38" WEST, A DISTANCE OF 26.30 FEET; THENCE NORTH 00°39'06" EAST, A DISTANCE OF 241.79 FEET;

THENCE NORTH 90°00'00" EAST, A DISTANCE OF 23.00 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 90°00'00" EAST, A DISTANCE OF 20.00 FEET; THENCE SOUTH 00°00'00" EAST, A DISTANCE OF 30.00 FEET;

THENCE NORTH 90°00'00" WEST, A DISTANCE OF 20.00 FEET; THENCE NORTH 00°00'00" EAST, A DISTANCE OF 30.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 600 SQUARE FEET OR 0.014 ACRES, MORE OR LESS.

4

6' UTILITY ROUTE LEGAL DESCRIPTION

A 6.00 FOOT WIDE STRIP OF LAND BEING IN THE EXCEPTED AREA, FOR THE SEWAGE DISPOSAL PLANT, WITHIN TRACT N, WHITE ROCK SUBDIVISION, AS SHOWN ON PLAT RECORDED SEPTEMBER 3, 1965 IN BOOK 1, PAGE 62, AND AFFIDAVIT OF CORRECTION RECORDED ON AUGUST 30, 1966 IN BOOK 7, PAGE 141, RECORDS OF LOS ALAMOS COUNTY, NEW MEXICO, LYING 3.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT A REBAR HAVING NEW MEXICO STATE PLANE US FOOT, CENTRAL COORDINATES OF NORTHING 1755901.90 FEET, EASTING 1658851.32 FEET, FROM WHICH A REBAR BEARS NORTH 85°42'54" WEST, 401.32 FEET; THENCE NORTH 70°06'36" WEST, 155.80 FEET;

THENCE NORTH 89°17'38" WEST, A DISTANCE OF 26.30 FEET; THENCE NORTH 00°39'06" EAST, A DISTANCE OF 241.79 FEET;

THENCE NORTH 90°00'00" EAST, A DISTANCE OF 23.00 FEET; THENCE SOUTH 00°00'00" EAST, A DISTANCE OF 30.00 FEET;

THENCE NORTH 90°00'00" WEST, A DISTANCE OF 3.70 FEET TO THE POINT OF BEGINNING;

THENCE SOUTH 00°00'23" WEST, A DISTANCE OF 199.80 FEET TO THE POINT OF TERMINUS.

ALL SIDELINES TO BE LENGTHENED OR SHORTENED TO FORM ONE CONTIGUOUS PARCEL.

10' UTILITY ROUTE LEGAL DESCRIPTION

A 10.00 FOOT WIDE STRIP OF LAND BEING IN THE EXCEPTED AREA, FOR THE SEWAGE DISPOSAL PLANT, WITHIN TRACT N, WHITE ROCK SUBDIVISION, AS SHOWN ON PLAT RECORDED SEPTEMBER 3, 1965 IN BOOK 1, PAGE 62, AND AFFIDAVIT OF CORRECTION RECORDED ON AUGUST 30, 1966 IN BOOK 7, PAGE 141, RECORDS OF LOS ALAMOS COUNTY, NEW MEXICO, LYING 5.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT A REBAR HAVING NEW MEXICO STATE PLANE US FOOT, CENTRAL COORDINATES OF NORTHING 1755901.90 FEET, EASTING 1658851.32 FEET, FROM WHICH A REBAR BEARS NORTH 85°42'54" WEST, 401.32 FEET; THENCE NORTH 70°06'36" WEST, 155.80 FEET;

THENCE NORTH 89°17'38" WEST, A DISTANCE OF 26.30 FEET; THENCE NORTH 00°39'06" EAST, A DISTANCE OF 241.79 FEET;

THENCE NORTH 90°00'00" EAST, A DISTANCE OF 23.00 FEET ;THENCE NORTH 90°00'00" EAST, A DISTANCE OF 12.54 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 00°00'00" EAST, A DISTANCE OF 108.50 FEET;

THENCE NORTH 90°00'00" EAST, A DISTANCE OF 44.05 FEET TO THE POINT OF TERMINUS.

ALL SIDELINES TO BE LENGTHENED OR SHORTENED TO FORM ONE CONTIGUOUS PARCEL.

ACCESS AND UTILITY ROUTE LEGAL DESCRIPTION

A PORTION OF THE EXCEPTED AREA, FOR THE SEWAGE DISPOSAL PLANT, WITHIN TRACT N, WHITE ROCK SUBDIVISION, AS SHOWN ON PLAT RECORDED SEPTEMBER 3, 1965 IN BOOK 1, PAGE 62, AND AFFIDAVIT OF CORRECTION RECORDED ON AUGUST 30, 1966 IN BOOK 7, PAGE 141, RECORDS OF LOS ALAMOS COUNTY, NEW MEXICO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A REBAR HAVING NEW MEXICO STATE PLANE US FOOT, CENTRAL COORDINATES OF NORTHING 1755901.90 FEET, EASTING 1658851.32 FEET, FROM WHICH A REBAR BEARS NORTH 85°42'54" WEST, 401.32 FEET; THENCE NORTH 70°06'36" WEST, 155.80 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 89°17'38" WEST, A DISTANCE OF 26.30 FEET; THENCE NORTH 00°39'06" EAST, A DISTANCE OF 241.79 FEET;

THENCE NORTH 90°00'00" EAST, A DISTANCE OF 23.00 FEET; THENCE SOUTH 00°00'00" EAST, A DISTANCE OF 30.00 FEET;

THENCE NORTH 90°00'00" WEST, A DISTANCE OF 11.34 FEET; THENCE SOUTH 00°39'13" WEST, A DISTANCE OF 199.81 FEET;

THENCE NORTH 90°00'00" EAST, A DISTANCE OF 14.30 FEET; THENCE SOUTH 00°37'08" WEST, A DISTANCE OF 12.30 FEET TO THE POINT OF BEGINNING.

EXHIBIT C

APPROVED PLANS FOR EQUIPMENT AND OTHER IMPROVEMENTS

[see attached]

EXHIBIT D

LICENSEE'S INSURANCE OBLIGATIONS

A. Indemnification: Sun State Towers IV, LLC, ("Licensee" or "Facility Owner") must indemnify and hold harmless the County from loss or injury due to any negligent act of the Facility Owner, the Facility Owner's employees, any agent acting on the Facility Owner's behalf, and anyone else engaged by the Facility Owner to work on the Facility Owner's installations or maintenance of their facilities. Any contractor or subcontractor engaged by the Facility Owner to perform facility installation, construction, or maintenance must also indemnify and hold harmless the County from loss or injury due to any negligent act of the Facility Owner's contractor or subcontractor.

B. Insurance requirements: Facility Owner shall carry insurance in amounts not less than those below specified and as outlined in the current edition of the New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction. In the event of conflict between the specification, and this License, Facility Owner shall carry the larger amount of insurance. If a Facility Owner is self-insured, the Facility Owner shall provide an owner's protective liability insurance policy, in favor of the County, in the amounts below specified.

(1) General liability: Bodily injury liability and property damage liability insurance applicable to the facility installation, construction, maintenance and operation shall be provided as follows, which amounts may be changed, by the County, from time to time: Insurance coverage in the amount of Personal and bodily Liability: \$1,000,000.00 each person; \$2,000,000.00 each occurrence (annual aggregate); and property damage liability: \$2,000,000.00 each occurrence (annual aggregate); written on a comprehensive general liability form or commercial general liability form which must include the following:

- (a) coverage for liability arising out of the operation of independent contractors;
- (b) completed operations coverage;
- (c) attachment of the broad form comprehensive general liability endorsement.

(2) In the event that any excavation is required during the installation or construction, the insurance shall include coverage for injury to or destruction of property arising out of: the collapse of, or structural injury to any building or structure due to excavation, including borrowing, tunneling, filling or backfilling in connection therewith, or to moving or shoring, underpinning, raising or demolition of any building or structural support thereof.

(3) Coverage must be included for injury to or destruction of any property arising from injury to or destruction of wires, conduits, pipes, mains, sewers or other similar property or any other apparatus in connection therewith below the ground. If such injury or destruction is caused by or during the use of mechanical equipment for the purpose of excavating, digging or injury to or destruction of property at any time resulting therefrom.

(4) Automobile liability insurance: Coverage for the Facility Owner, its contractor or subcontractor (whether included in the policy providing general liability

insurance or in a separate policy) must provide liability for the ownership, operation and maintenance of owned, non-owned, and hired vehicles. The limits of liability for automobile liability insurance shall be provided in the following amounts, which amounts may be changed from time to time:

(a) personal and bodily injury liability: \$1,000,000 each person; \$2,000,000 per occurrence; (annual aggregate); and,

(b) property damage liability: \$2,000,000 each occurrence; (annual aggregate).

(5) County as additional named insured: The Facility Owner, its contractor or subcontractor shall have the County added as an additional named insured on the comprehensive general liability form or commercial general liability form furnished by the Facility Owner.

(6) Proof of insurance: The Facility Owner shall provide to the County Manager a certified copy of the Facility Owner's insurance policy and certificate of insurance, or in the event the Facility Owner is self-insured, a copy of the owner's protective liability insurance policy or a certificate of insurance at the time the original Facility Owner's License is submitted for approval. The Facility Owner shall also be responsible for and require that any contractor or subcontractor engaged by them shall provide the County with a certified copy of their insurance policy or certificate of insurance in the amounts and with the provisions as herein provided. The Facility Owner shall provide proof of a surety bond to the County Manager.

(7) Worker's compensation insurance: The Facility Owner, its contractor or subcontractor shall also carry worker's compensation insurance as required by law or otherwise comply with the provisions of the New Mexico Workmen's Compensation Act and Occupational Disease Disablement Law.

(8) Liability insurance, automobile liability insurance and worker's compensation insurance: For the Facility Owner, its contractor or subcontractor shall be kept in force for the duration of the facility installation, construction, maintenance, operation and any remedial or clean-up work required.