

LICENSE AGREEMENT

This License Agreement ("Agreement") is dated February 1, 2021, and is between CONTRA COSTA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, a flood control district organized under the laws of the State of California ("District"), and GTE MOBILNET OF CALIFORNIA LIMITED PARTNERSHIP D/B/A VERIZON WIRELESS ("Licensee").

Recitals

- A. District is the owner of the real property in Alamo, California that is a 0.30-acre parcel located north of and adjacent to Alamo Square Drive and commonly known as APN 192-082-004 as shown in Exhibit A attached hereto (the "Property").
- B. The District and Licensee are parties to a license agreement dated February 24, 1998, under which Licensee obtained the right to use the Licensed Premises, as defined below, for the construction, maintenance, removal and use of a subsurface utility line and related purposes (the "1998 License"). By virtue of Licensee continuing to use the Licensed Premises beyond the January 31, 2016, expiration date of the 1998 License, the parties effectively extended the term of the 1998 License. Licensee has not paid the \$500 annual access fee due under the 1998 License for the periods 2016-2017, 2017-2018, 2018-2019, 2019-2020, 2020-2021. The total unpaid annual access fee of \$2,500 (the "Unpaid Access Fee") is due upon execution of this Agreement.
- C. Licensee desires to use a 931 square foot portion of the Property for the limited purposes described in this Agreement. The District is willing to grant a license to use that portion of the Property that consists of a twelve-foot wide strip of land at the eastern border of the Property that is described in Exhibit B and shown on the plat that accompanies Exhibit B, which is marked as Exhibit C (such twelve-foot wide strip, the "Licensed Premises"), upon the terms and conditions set forth in this Agreement.

Now, therefore, the parties agree as follows:

AGREEMENT

- 1. **Grant of License.** Subject to the terms and conditions of this Agreement and the District's receipt of the Unpaid Access Fee upon Licensee's execution of this Agreement, the District hereby grants to Licensee a nonexclusive revocable license to enter the Licensed Premises for the purposes described in Section 2 below, and for no other purpose without District's prior written consent.
- 2. **Use of Premises.** Licensee may use the Licensed Premises for the purpose of maintaining and using Licensee's 4-inch subsurface PVC conduit located under the Licensed Premises, which conduit contains electric power and telecommunication utilities and the following:
 - a. One ¾-inch copper cable (black outer casing)
 - b. One 15.5 mm cable with 144-count fiber (brand-Prysmian, black outer sheath)

- c. One 2-inch 3-cell white Maxcell innerduct
- d. One white woven pull cable inside of the Maxcell innerduct

The rights granted by this Agreement are surface and subsurface rights only. No excavation rights are granted by this Agreement. Excavation rights require District's prior written approval and the District's issuance of an encroachment permit.

3. **Term.** The term of this Agreement begins February 1, 2021, and ends January 31, 2026 (the "Initial Term"), unless extended or terminated in accordance with its terms. Licensee has two options to extend this Agreement, each for a term of five years (each, an "Extension Term"), upon all the terms and conditions set forth in this Agreement; provided, however, in order to effectuate an Extension Term, Licensee must (i) give written notice of its intention to extend this Agreement at least one-hundred eighty (180) days prior to the expiration of this Agreement, and (ii) pay the applicable fee described in Section 5, below, on the date set forth in Section 5, below. District may revoke the rights granted under this Agreement at any time upon thirty (30) days' written notice to Licensee.
4. **Contingency.** This Agreement is subject to approval by the District's governing body. This Agreement will be submitted to the Licensee first for approval, and thereafter to the District.
5. **Fees.** During the term of this Agreement, Licensee shall pay the following amounts on the following dates:
 - a. **Initial Term.** A nonrefundable fee in the amount of \$10,000.00 is due within thirty days after the full execution of this Agreement.
 - b. **First Extension Term.** If Licensee elects to exercise its first extension option, a nonrefundable fee in the amount of \$12,000.00 is due on February 1, 2031.
 - c. **Second Extension Term.** If Licensee elects to exercise its second extension option, a nonrefundable fee in the amount of \$14,000.00 is due on February 1, 2036.
6. **Improvements to the Premises.**
 - a. Licensee may not construct any improvements on the Licensed Premises without prior written consent from the District. For the purposes of this Agreement, any equipment Licensee is permitted to install on the Licensed Premises is not considered to be an improvement to the Property or the Licensed Premises.
 - b. Any improvements to the Licensed Premises by Licensee (with or without the consent of the District) must be removed by Licensee, at its sole cost, except those improvements that the District and Licensee agree are not required to be removed upon the termination of this Agreement. Licensee shall repair, at its sole cost, any damage caused by the installation or removal of its improvements or equipment.

- c. If Licensee fails to remove any improvements or equipment it is required to remove, the District may remove them at Licensee's expense, and Licensee shall immediately reimburse the District upon Licensee's receipt of an invoice from the District.
7. **Permits and Approvals.** Licensee shall obtain any permits or approvals from any agency having jurisdiction. This Agreement does not convey any rights or approvals not explicitly stated in this Agreement.
8. **District's Use.** District has the right to use the Licensed Premises for any purpose, including, but not limited to, ingress, egress, flood control, drainage water conveyance, water conservation, water quality improvement, maintenance, channeling or otherwise controlling the flow of drainage waters, and performing activities required by federal, state, regional or local agencies, including, but not limited to, water quality and quantity control and environmental mitigation and enhancement, all of which constitute "District's Use." District's Use of the Property, including the Licensed Premises, is paramount and superior to any other use of the Property.
9. **Temporary Suspension of Use of Licensed Premises.** District may limit or temporarily suspend Licensee's use of the Licensed Premises. District shall attempt to minimize such interruption or interference and will provide Licensee as much advance notice as possible under the circumstances. District is not liable, under any circumstances, to Licensee or any other users of the Property for any cost, expense or damage caused by their loss of use of the Property, including the Licensed Premises.

In the event District must temporarily suspend Licensee's use of the Licensed Premises, Licensee may deploy a Cell on Wheels (COW) to mitigate loss of coverage. The Licensee may deploy a COW with the following conditions:

- a. The Licensee is allowed to transport a COW across the Licensed Premises.
 - b. The Licensee is not permitted to store the COW on the Licensed Premises.
 - c. The Licensee is responsible for obtaining permission from adjacent property owners to store the COW.
 - d. The Licensee is responsible for any damage caused to the District's property and the District cannot guarantee that the access road is adequate to handle loads caused by transport of the COW.
10. **Nonexclusive Right of Use.** Licensee's right to use the Licensed Premises is nonexclusive. District reserves the right to issue licenses to others for other purposes.
11. **Existing Facilities.** It is understood and agreed that District has licenses and/or easements with others for all or a portion of the Property, including the Licensed Premises.

The holders of the licenses and/or easements granted by the District have the right to enter on the Property and maintain their facilities. Licensee will not be compensated for damage resulting from such maintenance.

12. **Damage.** It is the responsibility of Licensee to contact property owners and holders of easements, leases, and licenses to determine if any real property over which Licensee wishes to use a vehicle is able to support the vehicle without damage to subsurface or surface facilities. If Licensee's use of real property pursuant to this Agreement causes damage to that real property, the Property, the Licensed Premises, or their vegetation, subsurface or surface facilities, Licensee shall repair the damage and return the affected property to a neat and safe condition satisfactory to the District and the affected users.
13. **Pollution.** Licensee, at its expense, shall comply with all applicable laws, regulations, and rules that relate to the use of the Property, regardless of when they become or became effective, including, without limitation, those that relate to health, safety, noise, environmental protection, waste disposal, and water and air quality and shall furnish satisfactory evidence of such compliance upon request by the District.

Other than, in fuel tanks for vehicles and machinery, Licensee shall not handle any hazardous materials upon the Property. Should any discharge, leakage, spillage, emission or pollution of any type occur upon or from the Property due to Licensee's use and occupancy of the Property, Licensee, at its expense, shall clean all the property affected thereby, whether owned or controlled by District or any third person, to the satisfaction of District (insofar as the property owned or controlled by District is concerned) and any governmental body having jurisdiction.

To the extent permitted by law, Licensee shall indemnify, hold harmless, and defend the District and the holders of rights to use the Property (each, an "Indemnitee") against all liability, cost, and expense (including, without limitation, any fines, penalties, judgments, litigation costs, and attorneys' fees) incurred by any Indemnitee as a result of any discharge, leakage, spillage, emission or pollution arising from the activities of Licensee, regardless of whether the liability, cost or expense arises during or after the term of this Agreement, unless such liability, cost or expense is proximately caused solely by the active negligence of the District.

Licensee shall pay all amounts due to the District under this section within thirty (30) days after any demand therefor.

14. **Hold Harmless.** Licensee shall defend, indemnify, save, and keep harmless the District and its agents against all liabilities, judgments, costs, and expenses that may in any way accrue against District as a result of District granting this Agreement, save and except claims or litigation arising from the sole negligence, gross negligence or willful misconduct of District.
15. **Insurance.** Licensee agrees, at no cost to the District, to obtain and maintain during the term of this Agreement, commercial general liability insurance with a minimum limit coverage of \$1,000,000 each occurrence and \$2,000,000 aggregate for all claims or losses due to bodily injury, including death, or damage to property, including loss of use, and to name **Contra Costa County Flood Control and Water Conservation District and its**

officers, agents, and employees as additional insured thereunder. The coverage must provide for a thirty-day written notice to District of cancellation or lapse. Licensee shall provide evidence of the coverage to District prior to execution of this Agreement.

16. **Assignment.** Licensee may not assign its rights under this Agreement.
17. **District's Title.** Licensee hereby acknowledges District's fee title in and to the Property and agrees never to assail or to resist the District's title. Licensee agrees that it has not, and never will, acquire any rights or interest in the Property as a result of this Agreement, and that Licensee has not, and will not, obtain any right or claim to the use of the Property beyond that specifically granted in this Agreement. Construction of any improvements by Licensee on or about the Property does not give rise to an agreement coupled with an interest. The foregoing does not preclude Licensee from purchasing the Property under a separate agreement with the District.
18. **Notices.** Notices under this Agreement must be in writing and will be effective either when delivered in person or deposited as certified mail, postage prepaid, return receipt requested, or sent by a recognized overnight courier service, and directed to the other party at its address as stated below, or to such other address as the party may designate by written notice.

Licensee:

GTE Mobilnet of California Limited Partnership
d/b/a Verizon Wireless
Attn: Network Real Estate
180 Washington Valley Road
Bedminster, New Jersey 07921

With a copy to:

GTE Mobilnet of California Limited Partnership
d/b/a Verizon Wireless
Attn: Legal Department
180 Washington Valley Road
Bedminster, New Jersey 07921

Verizon Legal (California)
15505 Sand Canyon Ave, Bldg. D
Irvine, CA 92618

CT Corporation Systems
818 W 7th St, #930
Los Angeles, CA 90017

District:

Contra Costa County Flood Control & Water Conservation District
Attn: Real Estate Division
255 Glacier Drive
Martinez, CA 94553

19. **Governing Law.** This Agreement is governed by the laws of the State of California.
20. **Entire Agreement.** This instrument contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. No alteration or variation of this Agreement shall be valid or binding unless made in writing and signed by the parties hereto.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

The parties are signing this Agreement as of the date set forth in the introductory paragraph.

**CONTRA COSTA COUNTY
FLOOD CONTROL AND WATER
CONSERVATION DISTRICT**

**GTE MOBILNET OF CALIFORNIA
LIMITED PARTNERSHIP D/B/A VERIZON
WIRELESS
BY CELLCO PARTNERSHIP, ITS GENERAL
PARTNER**

APPROVED:

By: _____
Brian M. Balbas
Chief Engineer

By: _____
Scott Steward
Director - Network Engineering

RECOMMENDED FOR APPROVAL:

By: _____
Jessica L. Dillingham
Principal Real Property Agent

By: _____
Margaret Eychner
Senior Real Property Agent

APPROVED AS TO FORM:
MARY ANN McNETT MASON, COUNTY
COUNSEL

By: _____
Kathleen M. Andrus
Deputy County Counsel

ME:dw
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Alamo Square
License for Utilities and Access
Along San Ramon Creek
From CCCFC&WCD to Verizon Wireless
Portion of APN 192-082-004

Exhibit B

Real property in the unincorporated area of Alamo, County of Contra Costa, State of California, being a portion of Rancho San Ramon, also being a portion of Parcel Five in the Grant Deed to Contra Costa County Flood Control and Water Conservation District recorded December 20, 1967 in Book 5520 of Official Records at Page 451, more particularly described as follows:

Utility and Access License

A strip of land 12.00 feet wide along the eastern side of said Parcel Five, measured concentrically from the east line of the property.

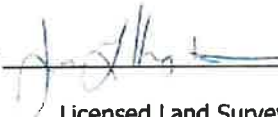
The westerly line of said 12.00 foot wide strip shall be lengthened or shortened so as to terminate on the northerly and southerly lines of said Parcel Five.

Contains an area of 931 square feet of land, more or less.

Exhibit "B", a plat is attached hereto, and by this reference made a part hereof. Bearings are based on said deed (5520 OR 451) to CCCFC & WCD. Dimensions given are grid.

This real property description has been prepared by me or under my direction, in conformance with the Professional Land Surveyors Act.

Signature: _____



Licensed Land Surveyor
Contra Costa County Public Works

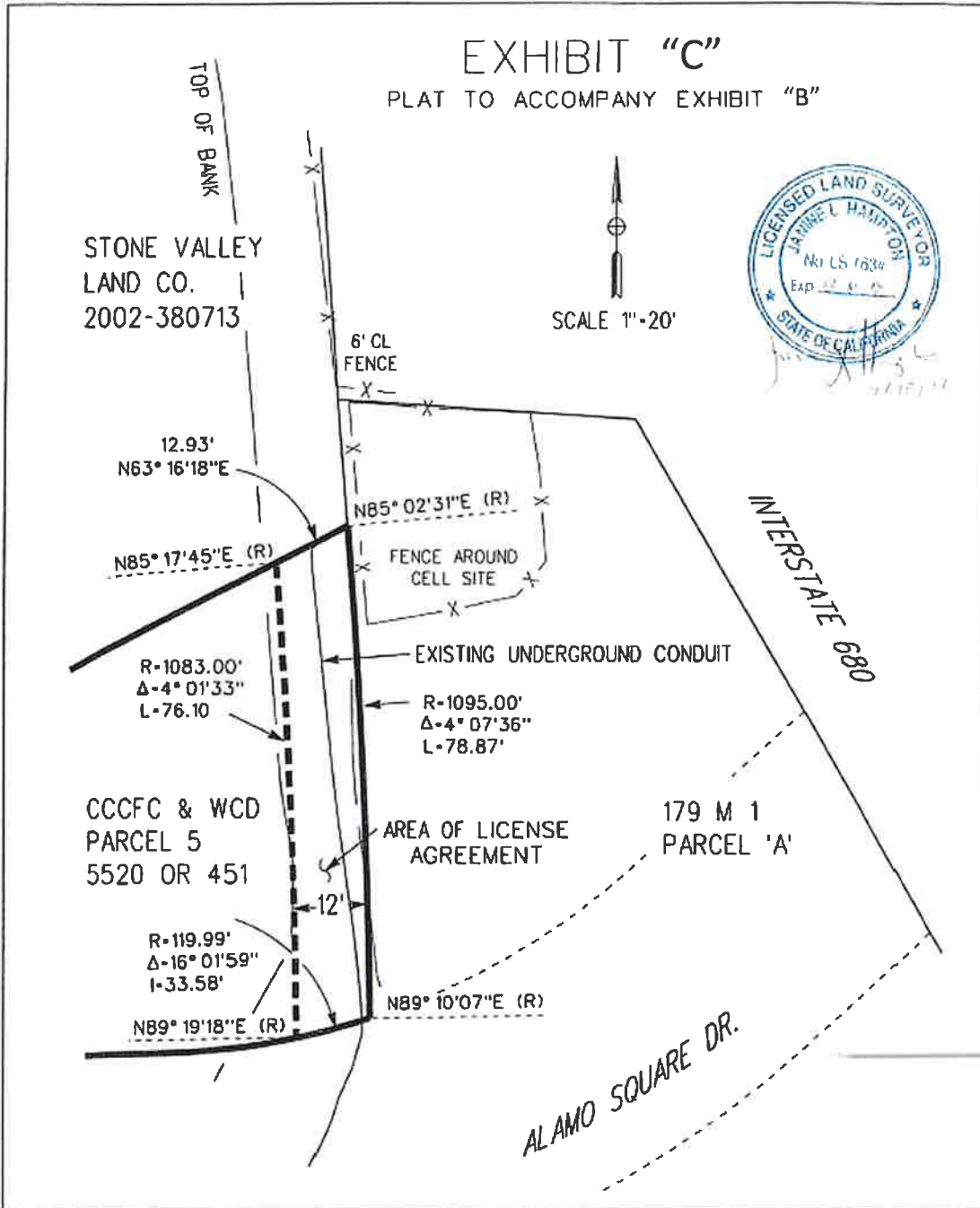
Date: _____

7/16/2017



EXHIBIT "C"

PLAT TO ACCOMPANY EXHIBIT "B"



SCALE 1"=20'

CCCFC&WCD License Agreement at Alamo Square

Instrument :	Scale 1"=20'	Date JULY 18, 2017
Series No.	Recorded	File No.
	Checked By JLH/JJS	Cad File Alamo Sq 2017.dwg