

**AGREEMENT BETWEEN
RCC Consultants, Inc.
AND THE CITY OF ANN ARBOR
FOR PROFESSIONAL SERVICES**

The City of Ann Arbor, a Michigan municipal corporation, having its offices at 301 East Huron Street, Ann Arbor, Michigan 48107 ("City"), and RCC Consultants, Inc. ("Consultant") a Delaware corporation with its address at 100 Woodbridge Center Drive, Suite 201, Woodbridge, New Jersey 07095 agree as follows on this _____ day of _____, 20__.

The Consultant agrees to provide professional services to the City under the following terms and conditions:

I. DEFINITIONS

Administering Service Area/Unit means Financial and Administrative Services Area.

Contract Administrator means Purchasing Manager, acting personally or through any assistants authorized by the Administrator/Manager of the Administering Service Area/Unit.

Deliverables means all Plans, Specifications, Reports, Recommendations, and other materials developed for or delivered to City by Consultant under this Agreement

Project means Cell Tower/ Wireless Communications Site Management Services.
(Project name; File and Subfile No.)

II. DURATION

This Agreement shall become effective on _____, 20__, and shall remain in effect until satisfactory completion of the Services specified below unless terminated as provided for in this Agreement.

III. SERVICES

- A. The Consultant agrees to provide professional Cell Tower/ Wireless Communications Site Management (as described in Section II) (type of service) services ("Services") in connection with the Project as described in Exhibit A. The City retains the right to make changes to the quantities of service within the general scope of the Agreement at any time by a written order. If the changes add to or deduct from the extent of the services, the contract sum shall be adjusted accordingly. All such changes shall be executed under the conditions of the original Agreement.
- B. Quality of Services under this Agreement shall be of the level of professional quality performed by experts regularly rendering this type of service. Determination of acceptable quality shall be made solely by the Contract Administrator.

- C. The Consultant shall perform its Services for the Project in compliance with all statutory, regulatory and contractual requirements now or hereafter in effect as may be applicable to the rights and obligations set forth in the Agreement.
- D. The Consultant may rely upon the accuracy of reports and surveys provided to it by the City except when defects should have been apparent to a reasonably competent professional or when it has actual notice of any defects in the reports and surveys.

IV. COMPENSATION OF CONSULTANT

- A. The Consultant shall be paid in the manner set forth in Exhibit B. Payment shall be made monthly, unless another payment term is specified in Exhibit B, following receipt of invoices submitted by the Consultant, and approved by the Contract Administrator. Total compensation payable for all Services performed during the term of this Agreement shall not exceed \$128,346.00.
- B. The Consultant will be compensated for Services performed in addition to the Services described in Section III, only when those additional Services have received prior written approval of the Contract Administrator. Compensation will be payable according to the fee schedule in Exhibit B. The Contract Administrator shall be the sole arbitrator of what shall be considered "reasonable" under this provision.
- C. The Consultant shall keep complete records of time spent and materials used on the Project so that the City may verify invoices submitted by the Consultant. Such records shall be made available to the City upon request and submitted in summary form with each invoice.

V. INSURANCE/INDEMNIFICATION

- A. The Consultant shall procure and maintain during the life of this contract, such insurance policies, including those set forth in Exhibit C, as will protect itself and the City from all claims for bodily injuries, death or property damage which may arise under this contract; whether the acts were made by the Consultant or by any subcontractor or anyone employed by them directly or indirectly. In the case of all contracts involving on-site work, the Consultant shall provide to the City, before the commencement of any work under this contract, documentation demonstrating it has obtained the policies required by Exhibit C.
- B. Any insurance provider of Consultant shall be admitted and authorized to do business in the State of Michigan and shall carry and maintain a minimum rating assigned by A.M. Best & Company's Key Rating Guide of "A-" Overall and a minimum Financial Size Category of "V". Insurance policies and certificates issued by non-admitted insurance companies are not acceptable unless approved in writing by the City.

- C. To the fullest extent permitted by law, the Consultant shall indemnify, defend and hold the City, its officers, employees and agents harmless from all suits, claims, judgments and expenses including attorney's fees resulting or alleged to result from any acts or omissions by the Consultant or its employees and agents occurring in the performance of or breach in this Agreement.

VI. COMPLIANCE REQUIREMENTS

- A. Nondiscrimination. The Consultant agrees to comply, and to require its subcontractor(s) to comply, with the nondiscrimination provisions of Section 209 of the Elliot-Larsen Civil Rights Act (MCL 37.2209) The Consultant further agrees to comply with the nondiscrimination provisions of Chapter 112 of the Ann Arbor City Code and to assure that applicants are employed and that employees are treated during employment in a manner which provides equal employment opportunity.
- B. Living Wage. The Consultant is a “covered employer” as defined in Chapter 23 of the Ann Arbor City Code and agrees to comply with the living wage provisions of Chapter 23 of the Ann Arbor City Code. The Consultant agrees to pay those employees providing Services to the City under this Agreement a “living wage,” as defined in Section 1:815 of the Ann Arbor City Code, as adjusted in accordance with Section 1:815(3); to post a notice approved by the City of the applicability of Chapter 23 in every location in which regular or contract employees providing services under this Agreement are working; to maintain records of compliance; if requested by the City, to provide documentation to verify compliance; to take no action that would reduce the compensation, wages, fringe benefits, or leave available to any employee or person contracted for employment in order to pay the living wage required by Section 1:815; and otherwise to comply with the requirements of Chapter 23.

VII. WARRANTIES BY THE CONSULTANT

- A. The Consultant warrants that the quality of its Services under this Agreement shall conform to the level of professional quality performed by experts regularly rendering this type of service.
- B. The Consultant warrants that it has all the skills, experience, and professional licenses necessary to perform the Services specified in this Agreement.
- C. The Consultant warrants that it has available, or will engage, at its own expense, sufficient trained employees to provide the Services specified in this Agreement.
- D. The Consultant warrants that it is not, and shall not become overdue or in default to the City for any contract, debt, or any other obligation to the City including real and personal property taxes.

VIII. TERMINATION OF AGREEMENT

- A. If either party is in breach of this Agreement for a period of fifteen (15) days following receipt of notice from the non-breaching party with respect to a breach, the non-breaching party may pursue any remedies available to it against the breaching party under applicable law, including but not limited to, the right to terminate this Agreement without further notice.
- B. The City may terminate this Agreement, on at least thirty (30) days advance notice, for any reason, including convenience, without incurring any penalty, expense or liability to the Consultant except the obligation to pay for Services actually performed under the Agreement before the termination date.
- C. Consultant acknowledges that, if this Agreement extends for several fiscal years, continuation of this Agreement is subject to appropriation of funds for this Project. If funds to enable the City to effect continued payment under this Agreement are not appropriated or otherwise made available, the City shall have the right to terminate this Agreement without penalty at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of termination to the Consultant. The Contract Administrator shall give the Consultant written notice of such non-appropriation within thirty (30) days after it receives notice of such non-appropriation.
- D. The remedies provided in this Agreement will be cumulative, and the assertion by a party of any right or remedy will not preclude the assertion by such party of any other rights or the seeking of any other remedies.

IX. OBLIGATIONS OF THE CITY

- A. The City agrees to give the Consultant access to the Project area and other City-owned properties as required to perform the necessary Services under this Agreement.
- B. The City shall notify the Consultant of any defects in the Services of which the Contract Administrator has actual notice.

X. ASSIGNMENT

- A. The Consultant shall not subcontract or assign any portion of any right or obligation under this Agreement without prior written consent from the City. Notwithstanding any consent by the City to any assignment, Consultant shall at all times remain bound to all warranties, certifications, indemnifications, promises and performances, however described, as are required of it under the Agreement unless specifically released from the requirement, in writing, by the City.

- B. The Consultant shall retain the right to pledge payment(s) due and payable under this Agreement to third parties.

XI. NOTICE

All notices and submissions required under this Agreement shall be delivered to the respective party in the manner described herein to the address stated in this Agreement or such other address as either party may designate by prior written notice to the other.

Notices given under this Agreement shall be in writing and shall be personally delivered, sent by next day express delivery service, certified mail, or first class U.S. mail postage prepaid, and addressed to the person listed below. Notice will be deemed given on the date when one of the following first occur: (1) the date of actual receipt; (2) the next business day when notice is sent next day express delivery service or personal delivery; or (3) three days after mailing first class or certified U.S. mail.

If Notice is sent to the CONSULTANT, it shall be addressed and sent to:

RCC Consultants, Inc.
100 Woodbridge Center Drive, Suite 201
Woodbridge, New Jersey 07095
Attn: Michael W. Hunter

If Notice is sent to the CITY, it shall be addressed and sent to:

City of Ann Arbor
301 E. Huron
Ann Arbor, Michigan 48107
Attn: Purchasing Manager

XII. CHOICE OF LAW

This Agreement will be governed and controlled in all respects by the laws of the State of Michigan, including interpretation, enforceability, validity and construction. The parties submit to the jurisdiction and venue of the Circuit Court for Washtenaw County, State of Michigan, or, if original jurisdiction can be established, the United States District Court for the Eastern District of Michigan, Southern Division, with respect to any action arising, directly or indirectly, out of this Agreement or the performance or breach of this Agreement. The parties stipulate that the venues referenced in this Agreement are convenient and waive any claim of non-convenience.

XIII. OWNERSHIP OF DOCUMENTS

Upon completion or termination of this Agreement, all documents (i.e., deliverables) prepared by or obtained by the Consultant as provided under the terms of this Agreement shall be delivered to and become the property of the City. Original basic survey notes, sketches, charts, drawings, partially completed drawings, computations, quantities and other data shall remain in the possession of the Consultant as instruments of service unless specifically incorporated in a deliverable, but shall be made available, upon request, to the City without restriction or limitation on their use. The City acknowledges that the documents are prepared only for the Project. Prior to completion of the contracted Services the City shall have a recognized proprietary interest in the work product of the Consultant.

Unless otherwise stated in this Agreement, any intellectual property owned by Consultant prior to the effective date of this Agreement (i.e., preexisting information) shall remain the exclusive property of Consultant even if such Preexisting Information is embedded or otherwise incorporated in materials or products first produced as a result of this Agreement or used to develop Deliverables. The City's right under this provision shall not apply to any Preexisting Information or any component thereof regardless of form or media.

XIV. CONFLICT OF INTEREST

Consultant certifies it has no financial interest in the Services to be provided under this Agreement other than the compensation specified herein. Consultant further certifies that it presently has no personal or financial interest, and shall not acquire any such interest, direct or indirect, which would conflict in any manner with its performance of the Services under this Agreement.

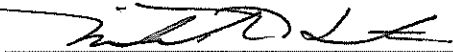
XV. SEVERABILITY OF PROVISIONS

Whenever possible, each provision of this Agreement will be interpreted in a manner as to be effective and valid under applicable law. However, if any provision of this Agreement or the application of any provision to any party or circumstance will be prohibited by or invalid under applicable law, that provision will be ineffective to the extent of the prohibition or invalidity without invalidating the remainder of the provisions of this Agreement or the application of the provision to other parties and circumstances.

XVI. EXTENT OF AGREEMENT

This Agreement, together with any affixed exhibits, schedules or other documentation, constitutes the entire understanding between the City and the Consultant with respect to the subject matter of the Agreement and it supersedes, unless otherwise incorporated by reference herein, all prior representations, negotiations, agreements or understandings whether written or oral. Neither party has relied on any prior representations, of any kind or nature, in entering into this Agreement. This Agreement may be altered, amended or modified only by written amendment signed by the Consultant and the City.

FOR CONSULTANT

By 
Michael W. Hunter, President and CEO

FOR THE CITY OF ANN ARBOR

By _____
Christopher Taylor, Mayor

By _____
Jacqueline Beaudry, City Clerk

Approved as to substance

Steven D. Powers, City Administrator

Tom Crawford, Financial and
Administrative Services Administrator

Approved as to Form and Content

Stephen K. Postema, City Attorney

EXHIBIT A

1) SCOPE OF SERVICES

A Project Initiation Meeting will be conducted between the City and RCC teams to introduce personnel who will interface with the City on a daily basis, and to review the project plan and schedule and update as needed. The project plan and schedule will include tasks as required due to unusual site conditions, planning and zoning requirements, client needs, or due to local laws, regulations, or ordinances. Plan and schedule may be modified throughout the contract agreement to incorporate additional needs identified subject to mutual agreement by RCC and the City.

RCC will immediately commence data collection that will allow it to reconcile the revenues owed to the City, to the extent needed, and will collect from the City the existing documentation related to the antenna sites that will allow RCC to establish and populate its site management database and website for City access.

A set of site rules, regulations, and procedures to be followed by the licensees and City will be drafted by RCC for City consideration and adoption.

a) Data Collection

Beginning with the Project Initiation Meeting RCC will begin the process of data collection of materials that will populate the database tool that will be utilized in the project. Items to be collected include:

- Copies of all site licenses, and amendments thereto, between licensees and the City
- Copies of all plans, drawings, equipment lists, and other data related to the licensee's equipment at the site
- Copies of antenna mounting drawings
- Lists of radio frequencies in use at the sites
- Financial records including amounts actually collected by the City.
- Copies of City Code applicable to antenna siting (available at www.municode.com)
- Copies of any rights of way granted for access to the antenna site
- Copies of any utilities or access easements
- Financial records regarding collection of amounts owed to the City
- Other correspondence and notes related to licensee activities
- Any utility bills related to the site operations

RCC will use this data to establish an understanding of the current license terms, expiration dates, cost escalation, and responsibilities of the parties to the licenses. RCC will create spreadsheets for each licensee that includes the past history of payments and which forecast future revenues from the sites for each licensee or sub-licensee. Understanding of existing

license terms will provide a starting point for the negotiation of new or amended licenses for each licensee.

b) Site Audit of the Existing Equipment on the Sites

RCC will undertake a detailed audit of the existing antenna support facilities, compounds, and the underlying documentation. It is the intent of this task to conduct an audit of the existing structures on which antennas are mounted to determine:

- Compliance with existing site license terms
 - License fees paid up to date
 - Cost escalators applied to base rent
 - Antennas, transmission lines, and equipment cabinets as licensed
 - Number of antennas
 - Type of antennas
 - Type of transmission line
 - Antenna mounting position
 - Space occupied by standby power generator
 - Radio Frequency Bands in use at the site
 - Past Radio Frequency measurements collected by providers
 - Equipment space used in accordance with site license
 - Contact information correct for licensees
 - Access and security arrangements
 - Power arrangements
 - Meters
 - Who is paying for power
 - Panels and sub-panels

Within forty-five days after contract approval, RCC will provide an audit report to the City that outlines the results of the existing site conditions investigation. RCC will pursue for the City correction by licensees of any non-compliance with existing licenses, collection of any amounts due to the City, and recommendations on modifications to be made in the license agreements at the time of renewal.

2) SITE MANAGEMENT

a) Market available space on suitable City properties to wireless carriers or licensees.

To optimize revenue to the City from its antenna site assets, RCC will provide marketing services to promote the City sites to wireless carriers or other suitable site licensees. RCC will contact wireless carriers that provide services in the Southeast Michigan market to determine interest in expansion of coverage and capacity in the area. Information on the City sites will be sent to the carrier's site acquisition contractors and directly to the Radio Frequency (RF) Engineering group in the organization.

If the City desires public information on the towers to be made available via a website RCC will provide web page content for each site with the details needed for a wireless carrier to determine the suitability of the site for its needs. Web pages will be maintained by City staff.

RCC will make recommendations for additional sites to be added to the marketing portfolio, and will incorporate additional properties to its marketing portfolio at the City's request. RCC will make recommendations regarding public venues operated by the City to be added as candidates for installation of a Distributed Antenna System (DAS) to provide indoor or outdoor coverage and capacity expansion for the carriers. RCC will develop recommendations for the City to leverage City facilities for DAS installations. This shall include but not be limited to review and development of appropriate ordinances for consideration by the City planners, marketing City facilities for DAS to existing and new carriers, and proposing license fee models to address the addition of DAS into the City marketplace for the City's consideration.

RCC will perform market research based on contacts with wireless carriers, governmental entities, transportation entities, broadcasters, radio equipment vendors, and others to determine current demand for space at the sites. RCC will canvass potential licensees in the Ann Arbor market and will establish a contact list for future exchange of information.

RCC will remain in contact with potential licensees as the sales cycle for new installations is long and is dependent on capital budgets, corporate priorities, FCC licenses, coverage and capacity requirements, and other factors.

b) Recommend appropriate spaces for cell antenna placement

RCC will visit each City site identified to provide an assessment of potential or existing antenna mounting facilities or locations on the existing structures or sites that may accommodate additional licensee equipment and produce additional revenues for the City. RCC will consider making space available through removal of abandoned equipment or by adding antenna supports that will optimize space utilization. RCC will prepare a detailed plan that addresses all of the specific steps recommended to accommodate additional antennas on the sites at such time as interest is shown by a wireless carrier or licensee. It is the intent of this assessment to recommend a solution that would be paid for by the licensee.

c) Include new City owned locations not presently marketed to or utilized by wireless carriers

RCC will review documentation provided by the City regarding other property or structures that may be attractive locations for antenna sites or installations. This documentation will be reviewed in conjunction with research on existing antenna sites in the vicinity of the proposed location, RCC will review City files on structures that have been permitted within Ann Arbor. RCC will also review databases that contain information on existing towers, such as the FCC antenna site registration files, FCC license files, and other sources. The purpose of this research is to determine what existing sites are in use and to allow an assessment of their ability to handle additional carrier installations.

RCC will consider the feasibility of locating sites contained in the City documentation from the perspective of desirability for radio coverage or capacity, zoning of the site, and the probability of successfully permitting the site. Existing sites, industrial zoning, and existing attractive nuisances are often the most likely to be approved by planning authorities.

RCC will include the locations of such sites in its package of materials to be made available to wireless carriers and others that are seeking antenna sites in the Ann Arbor area.

- d) Seek to maximize revenue generated from City facilities including: Negotiation of license agreements with third parties in collaboration with the City

RCC will commence the process of maximization of revenue by reviewing existing antenna site licenses and comparing equipment installation agreements with what is actually installed on City sites. Items that exceed the terms of the existing licenses, if any, will be identified and a claim for additional rent will be made.

RCC will review license renewal dates and cost escalation terms and will compare these amounts to those collected by the City. Any discrepancies will be identified so that a claim for back payment can be made.

RCC will provide to the City recommendations for any changes or supplements to the form of agreement utilized for existing site licenses. Included in these recommendations will be extra fees for services required to be performed by the City or its antenna site manager in conjunction with the planning for the installation of new or modified facilities.

RCC will work with the City to establish baseline terms of license agreements, as a template that can be used in negotiation of new or modified antenna site licenses. RCC will collaborate with the City legal and administrative staff in reaching agreement with both existing and potential telecommunications licensees.

- e) Manage the expansion of the existing telecommunications facilities by additional telecommunications providers

RCC will work with potential licensees in selecting a location for additional facilities at existing sites. RCC will coordinate this activity with the City to select a location that will be acceptable to the City and the licensee. RCC will review site plans prepared by the applicant's engineer prior to submittal to permit officials and before recommendation to the City to accept or deny the proposed design.

RCC will provide construction oversight of licensee activities at the sites. This includes enforcing compliance with permits, approved drawings and plans, safety regulations and practices, FCC and FAA regulations, and City regulations, ordinances and policies related to work on or around City property.

In working to accommodate the expansion of facilities by carriers or other licensees, RCC will be cognizant of improvements by a licensee that may benefit the City, such as access road improvements, installation of telecommunications or electrical utilities facilities, tower or structural reinforcement, fencing, foliage screening, or landscaping.

- f) All negotiations and expansions shall be reviewed, approved and executed by the City of Ann Arbor Project Manager

Negotiations with potential licensees will begin with the baseline set of requirements approved by the City, RCC will bring to the City a proposed set of conditions and terms of agreement offered by the licensee. RCC will discuss these terms and conditions with the City and will return a counter-offer, rejection, or approval to the potential licensee. RCC will work closely with the City in providing materials to review and approve, and signature copies of any approved agreement will be provided in the format required for final approval and signature by the designated official.

- g) Make recommendations on City policies and zoning code to encourage location of cell antennas on City facilities

RCC will review the existing antenna siting ordinances and policies to make recommendations on amendments that may be adopted to encourage potential wireless licensees to locate on City property. RCC will provide the City with the antenna siting policies or strategic telecommunications plans of other local governments to review. Such documents can be a useful starting point in revision, if desirable, of the City's policies or ordinances.

- h) Streamline the process for responding to license agreement requests and license amendment requests without compromising the City's need to review proposed installations and equipment.

Wireless carriers that seek antenna sites follow a similar practice of identifying a centroid around which a radius is set for search of suitable sites that will meet coverage and/or capacity requirements. Work in site identification and selection is typically performed by independent contractors who, most often, operate on milestone payments based on passing certain hurdles in the process. Such contractors are usually provided a financial incentive for lowering the monthly lease payment under a "floor" established by the client, or some percentage under a "ceiling". In general, the process favors a site location that meets minimal technical requirements, a faster time to license and approvals, and a lower rent rate.

Expediting the licensing process through use of preferred sites discussed in paragraph 3 above and providing a prompt turn-around of answers to licensee concerns will improve the success rate of the City in increasing revenues. In weighing speed versus rental rate, it is our experience that the speed of service will assist in obtaining optimal revenue.

RCC will assist in improving the response time for response to license agreement requests through service as a single point of contact between the City and the potential licensee, distributing documents to stakeholders, and following a uniform procedure for handling these requests.

- i) Leverage City resources by investigating potential partnerships with other community entities, e.g., University of Michigan.

A partnership with one or more entities in the City may prove beneficial to all stakeholders. A City policy or ordinance that favors co-location of wireless facilities on City owned property will benefit the owner of the property through increased revenues, reduced proliferation of antenna sites, and co-marketing of a complete portfolio of sites to the wireless industry. Use of standard procedures and a site management consultant will provide an improved quality of service to the owners and tenants or licensees. Uniform practices and documents will benefit the carriers and their site acquisition contractors by expediting the process.

3) RESPONSE TO CARRIER INQUIRIES

- a) Respond to all carrier requests from current and prospective licensees regarding maintenance, equipment changes, antenna upgrades

RCC will serve as the point of contact for carrier inquiries related to maintenance activities, equipment changes, antenna upgrades, installation of standby power facilities and other improvements proposed for the site. RCC will review the proposal of the licensees and will determine if an amendment of the license agreement is required and whether additional rent should be charged.

RCC will work with the licensee to gain a full understanding of the proposed work. Items that may require permits, such as relocation of utilities, use of a crane that will obstruct traffic, changes in the installation that may be covered by a covenant in previous planning approvals, and other matters will be reviewed with the licensee.

b) Assess the structural feasibility of proposed installations.

Potential or existing licensees will be required to pay for a structural analysis of the antenna support structure, existing loads, and the proposed loads. This work will be performed in accordance with the TIA-222-G or latest revision of this standard radio towers or, in the case of water towers, in accordance with the International Building Code, ASCE-7, and/or other applicable standards used in the water utility industry.

If modifications to the support structure are required, a plan from a structural engineer will be provided by the applicant at its expense. RCC will forward this design to the City's designated engineer for review. This work will also be done at the applicant's expense. If tests, such as ultrasound, are required RCC will oversee this work by a qualified engineer that is provided at the applicant's expense.

Modifications proposed are subject to approval by the City and permission for installation can be withheld at the sole option of the City.

c) Ensure compliance with the Ann Arbor City Code and all other applicable regulations

Upon project initiation RCC staff will familiarize themselves with applicable sections of the Ann Arbor City Code and other applicable regulations. RCC will also work with the City to develop site regulations and practices for use in managing the City's antenna sites.

d) Ensure that proposed additions or modifications do not conflict with terms and conditions of existing license agreements with other wireless carriers, with City operations, or with license or other agreements with other entities on or near the same site, building, structure or asset;

In negotiation of site licenses RCC will review the original site license and any amendments thereto. All original, applicable and desirable terms will be kept intact in any amendments. Many license agreements will contain "last-on/first-off" provisions for the resolution of interference between the radio frequencies of licensees on the site. Ground space within the equipment compound will generally be specified in the antenna site license, but may not have been marked by a land surveyor. Care will be taken to not infringe on the demised premises of existing licensees by the addition of new licensees.

RCC will coordinate with City agencies to identify any rights of way, easements, reservations, or other encumbrances on the site that might be interfered with by the proposed installation.

e) Coordinate carrier site visits;

In establishment of site regulations and policies, RCC will be the sole point of contact by the carriers or their representatives in coordination of site visits. Prior notification of site visits will be required, and at those sites where security is of concern, an escort will be provided. RCC will require identification from anyone who enters a City site prior to the site visit, and will adhere to existing City protocol for access to secure sites. If the City requires a background check for persons who will enter critical facilities, that will need to be done in advance of work at the

expense of the licensee or its contractor. RCC will respond to all carrier requests for site visits in a timely manner, and ensure that background checks are conducted with sufficient advance time to allow for processing and review of information. RCC will review existing City protocol for site access and recommend improvements, where appropriate, for City review and consideration. Site access compliance with Environmental Protection Agency and Homeland Security requirements will be maintained.

- f) Review the scope of work on all carrier requests to ensure compliance with license agreement terms and conditions, and identify cases where a license agreement amendment is warranted;

RCC will review the scope of work proposed by the potential licensee to ensure that work complies with the terms and conditions of the site license. RCC will recommend any needed amendments to the existing license agreement, including the need to increase rental fees, before work will be allowed to proceed. RCC will also verify that there are no outstanding amounts owed to the City before recommending a notice to proceed.

- g) Review insurance certificates for contractors working on site;

RCC will verify that an insurance certificate and copies of all the endorsements the City needs to document compliance with the City's insurance requirements have been received for the licensee and for contractors that will perform work on City sites. These materials shall be provided to the City Attorney for review. Once the City Attorney determines the insurance as acceptable, RCC will be notified to recommend a notice to proceed with the work.

- h) Coordinate with City of Ann Arbor Project Manager before issuing responses to carrier requests, e.g., Notices to Proceed (NTP's).

RCC will work closely with the City Project Manager to ensure that all outstanding issues have been resolved prior to issuance of a NTP for the work.

- i) Make recommendations on applicable fees to be assessed to carriers.

RCC will recommend fees to be assessed to carriers that propose installation or modification of an installation on City sites. These fees are intended to compensate the City and the site manager for expenses related to:

- Review of the application from the licensee to install or modify equipment located on the site
- Provision of escort services after hours on critical sites
- Provide construction oversight and inspections and to verify compliance with the site license, permits, the scope of work, and plans that are approved by the City

4) OVERSIGHT OF INSPECTIONS AND MAINTENANCE

- a) Inspections

RCC will provide monthly visits to the sites to identify maintenance issues or other problems. RCC staff will conduct thorough bi-annual site inspections to ensure carrier owned, on-site equipment, is in compliance with the license agreement terms and conditions and that carriers are properly maintaining their portion of the sites. RCC will photograph the site and its key licensee elements and will post this information on the ComSite Manager application. Any deficiencies noted on the site visits will be noted in the reports issued on a quarterly basis.

b) Screening and Preauthorization

With the City, RCC will establish a system for screening and preauthorization of personnel to manage site access requests. A form of identification for authorized personnel will be defined with the City to ensure that only authorized personnel who have been preauthorized will be allowed entry to antenna sites.

RCC recommends that carrier licensees be required to provide an authorized person to accompany contractors to sites where work will be performed.

c) Site Escort

RCC will work with the City to identify sites that are defined as secured facilities. At these sites RCC will provide an escort to accompany and observe licensee work at any secured facilities.

d) Regulatory Compliance

RCC will complete any regulatory compliance documents required for the antenna sites, as required. This documentation may include Federal Communications Commission and Federal Aviation Administration registrations, notices, and applications related to the site management duties.

e) Construction Supervision and Inspection

RCC will provide on-site inspection of construction or modifications made to any installations on the City antenna sites. RCC will oversee construction work to ensure compliance with permits, approved plans and specifications, safety regulations, and site rules and regulations. RCC will require contractors to comply with the regulations of OSHA, MIOSHA, and applicable industry standards and practices such as TIA-222-G governing antenna support structures, Motorola practice R-56 for site grounding, bonding and lightning protection and the National Fire Code. RCC will develop punch lists for correction of deficiencies noted at the site. RCC will stop work at the site if contractors fail to abide by safety regulations.

f) Conflict Resolution

Facilitate conflict resolution among carriers, FCC and residents to address signal interference or complaints. RCC will work with licensees as new installations are made to provide an opportunity to comment on potential interference. If such a policy does not exist, RCC will implement a "last-on, first-off" policy for interference generated by the newest licensee. Carriers will generally cooperate in resolving interference at sites. RCC will coordinate such meetings and discussions of interference issues.

5) RECORD KEEPING

RCC will maintain records including, but not limited to items listed below. RCC will enter all relevant information related to each site in its ComSite Manager Web Edition asset management application. This application is a secure web based relational database that provides mapping, documents, drawings, and technical data on the sites and licensees. Access to the database will be provided to the City and to RCC with multiple user passwords. Original documents, after scanning, will be maintained by the City for archival purposes. In the event of contract termination, or at any other point as requested by the City, ComSite data will be made available to the City electronically, as excel or text file format.

a) License agreements and amendments

License agreements, exhibits, and amendments will be maintained on the site.

b) Surety bonds

Original surety bonds, as well as performance and payment bonds, will be kept on file with the City. Copies of any surety bonds filed by licensees will be scanned and maintained on the system. Other types of bonds, such as payment bonds, will be also be maintained on the system. Expiration dates will be tracked in the application and reminders will be provided when renewals are due.

c) Certificates of Insurance and other insurance documents

RCC will maintain copies of Certificates of Insurance and required endorsements on the system. Expiration dates will be tracked by the database and reminders provided when renewals are due.

d) Compliance documentation, such as National Environmental Policy Act (NEPA) Reports

Compliance documentation will be tracked on the system. Such documents may include environmental studies, environmental permits, building permits, certificates of occupancy, electrical permits, and any certifications required by Michigan law for equipment shelters, standby power systems, and fuel supplies.

e) Federal Aviation Administration (FAA) review, Federal Communications Commission (FCC) registration, etc;

Copies of FAA 7460-1 and notifications of construction, FCC Antenna Site Registration, FCC licenses, 1A or 2C surveys, TowAir findings, and related documents will be scanned and will be accessible on the system. Pertinent permit, registration and license numbers will be accessible in the database.

f) Asset documents, such as structural analyses, radio frequency surveys, etc.

Data collected as part of the application process will be scanned and retained on the system. Site plans, structural reports, radio system coverage maps, interference analyses, antenna types and model numbers, equipment types and serial numbers, transmission line or telecommunications cabling. Fiber optic equipment, power supplies, standby motor generators, transfer switches, alarm system, environmental controls and other site mounted equipment will be entered and tracked in the application.

g) Construction documents, such as carrier details, utility runs, as-built drawings, etc., and all documents necessary for the issuing of local building permits;

Documents related to the construction of improvements by the carrier will be scanned and maintained on the system. This includes antenna diagrams, site plans, as-built drawings, utility specifications, applications made for permits, final copies of the permits, inspection reports, and photographs taken during construction. If available, concrete break tests, concrete delivery reports, photos of measurement of the foundation and/or pads, and other information will also be placed on the system.

h) Other property management records, such as insurance certificates, hazardous materials inventory, etc.

Other documents or files related to the construction, operation, and maintenance of the sites will be scanned for access on the system. MSDS files related to any hazardous materials on the sites

will be scanned and entered into the system.

6) REPORTING

RCC will prepare and submit quarterly reports to the City of Ann Arbor Project Manager that will include but not be limited to:

a) Carrier activity;

RCC will provide a routine quarterly report to the City that reports contacts with wireless carriers or their representatives. This will include sales calls, mailings, or emails. RCC will report any reports of problems at the sites and the response provided to resolve the complaint.

RCC will report inquiries from potential licensees that seek information on the site.

b) License agreement amendment requests;

As received, RCC will report to the City any requests for modifications to the licensee facilities that will require an amendment to the site license.

c) Inspections and maintenance reports

At a minimum, RCC will make a routine monthly visit to each site to identify any maintenance or pest issues, to make note of any changes that may have been made to licensee equipment, or any evidence of criminal activity at the site.

7) ON-CALL SERVICES AND EMERGENCY RESPONSE PLAN PREPARATION

Through use of a local representative RCC will be available to respond to requests and inquiries on an as-needed basis. RCC will develop and maintain an emergency response plan to include but not be limited to:

a) Critical situations which may arise outside of the normal 8:00AM to 5:00PM workday or on holidays or weekends;

RCC will, through its Voice over IP telephone system, maintain an emergency and inquiry number that will be provided to the City and which will be posted on each site. This number will route incoming calls to an available RCC Facilities Group employee to be answered. If a message is left in voice mail, the system will initiate an email to Facilities Group staff who will respond to the caller. Our local representative will, if needed, go to the site to assist in resolving the issue.

b) A catastrophic event (natural or man-made) which causes major damage to the cell tower and/or base compound.

In the event of an emergency that causes major damage to a site, antenna support structure, compound, or fencing, RCC will dispatch a staff member and the local representative to the site (provided access is available and permitted by law enforcement). RCC will work with the site licensees to facilitate temporary facilities or installations that will be performed at the licensee's expense. RCC will maintain on the ComSite Manager application emergency contact information for contractors that may provide a crane, excavators, technicians, electricians, or other trades that may be needed by a licensee to restore service.

8) FINANCIAL MANAGEMENT AND OVERSIGHT

- a) Track payments; ensure all carriers are up-to-date on payments and that payment increases are accurate per license agreement terms;

Based on information to be provided by the City, RCC will conduct an audit of amounts received from the licensees for compliance with the terms of the licenses including annual escalations and equipment installed. RCC will assist the City in recovering amounts due, if any, from the licensees. In conjunction with the City, licensees that are delinquent in payments will be given notice of default. In collaboration with the City RCC will recommend whether or not to renew licenses with delinquent licensees. The City of Ann Arbor will remain the direct recipient of licensee payments.

- b) Track electrical usage payments and ensure payments are accurate and up-to-date;

RCC will review the method by which electrical power is metered and how costs are allocated. RCC will review the method by which licensees pay for utilities, how much is collected, and how much should be charged. Any deficiencies in payments will be brought to the attention of the City and RCC will assist in providing notice of amounts due to the licensees.

- c) Develop financial reports for City review; upon request;

With the cooperation of the City, RCC will prepare financial reports as part of its quarterly reporting of antenna site management activities. This will require timely availability of data from the City financial personnel. Prior to June 30th of each year an updated schedule of anticipated future payments will be prepared by RCC and provided to the City.

- d) Track license fees and ensure parity amongst carriers;

Using data provided by the City, RCC will track the receipts from site licensees and will compare these amounts to the expected revenue calculated in the license review process.

- e) Make recommendations for license agreement terms and conditions and for updating/revising agreements and fees, e.g., monitor changes/modifications and initiate rate increases (new or altered equipment may warrant additional fees).

RCC will review the site license agreements presently in use by the City. Recommendations will be made for additional terms and conditions that are in the best interests of the City. A revised license form will be provided to the City Attorney for review. RCC will work with the City Attorney to make edits and changes to the form. It is anticipated that this form will be used for new licensees and will be offered to the existing licensees at any renewal opportunity.

EXHIBIT A

Attachment

Existing Cell Tower Antenna Locations

- Plymouth water tower (3150 Plymouth Road)
 1. AT&T
 2. T-Mobile
 3. New Par d/b/a Verizon
 4. Sprint Spectrum LP

- Water treatment plant (919 Sunset Street)
 1. T-Mobile
 2. Sprint Spectrum, LP

- Forest St. Parking Structure (616 S. Forest Avenue)
 1. New Par d/b/a Verizon
 2. MetroPCS
 3. T-Mobile

- Manchester water tower (2011 Manchester Road)
 1. MetroPCS
 2. AT&T
 3. Sprint Spectrum, LP
 4. New Par d/b/a Verizon

- Ann Ashley Parking Structure (220 N. Ashley Street)
 1. Sprint Spectrum, LP

EXHIBIT B

Task	Description	Hours	Fees
1a	Project Initiation and Data Collection	32	\$9,380.00
1b	Site audits	40	\$9,168.00
2a	Marketing	86	
2b & 2e	Appropriate spaces on towers	20	
2c	New city properties to market	24	
2d	Negotiations with tenants	24	
2g	City policies, rules and regulations	12	\$2,700.00
2h	Partnerships	16	
3a-i	Carrier process, compliance, coordination, site visits, SOW, insurance documentation, fees	96	\$7,506.00
4a	Monthly site visits	60	
4b	Screening	8	
4c	Regulatory compliance	16	
4e	Construction supervision	-	
4f	Conflict resolution	12	
5a-h	Establish CSM asset management system, load documents, drawings, records	32	\$5,280.00
6a-c	Reporting, carrier activity, license agreement modification requests, inspection and maintenance reports	34	
7a-b	On-call and emergency response	18	
8a-d	Financial Tracking and reporting	30	
8e	Recommendations on site licenses and terms	8	\$1,800.00
	Total		\$35,834.00

FY 2015 \$44,346.00 Total
 \$35, 834.00 One-time expenditures, reference fee schedule below
 \$8,512.00 Estimated FY2015 revenue sharing

FY 2016-2018 \$28,000.00 Estimated annual revenue sharing

Revenue sharing details

5% of existing revenue
 20% of future negotiations

1. Although the City receives payments from wireless carriers as lump sum, annual payments, revenue sharing with RCC will be distributed as pro-rated, monthly payments.
2. Sharing of existing revenue to begin 60 days following contract commencement date.
3. Previously negotiated increases and automatic contract renewals that do not involve new negotiation will be subject to 5% revenue sharing.
4. Where RCC negotiates additional revenue to an existing agreement (i.e. via contract amendment), revenue sharing for the existing annual fee (including previously negotiated escalation) will be at a rate of 5%; revenue sharing for the amount of the increase will be at a rate of 20%.

EXHIBIT C

INSURANCE REQUIREMENTS

Effective the date of this Agreement, and continuing without interruption during the term of this Agreement, Consultant shall have the insurance required below and shall provide certificates of insurance to the City on behalf of itself and, when requested, any subcontractor(s).

- A. The Consultant shall have insurance that meets the following minimum requirements:
1. Professional Liability Insurance or Errors and Omissions Insurance protecting the Contractor and its employees in an amount not less than \$1,000,000.
 2. Worker's Compensation Insurance in accordance with all applicable state and federal statutes. Further, Employers Liability Coverage shall be obtained in the following minimum amounts:

Bodily Injury by Accident - \$500,000 each accident
Bodily Injury by Disease - \$500,000 each employee
Bodily Injury by Disease - \$500,000 each policy limit
 3. Commercial General Liability Insurance equivalent to, as a minimum, Insurance Services Office form CG 00 01 07 98 or current equivalent. The City of Ann Arbor shall be an additional insured. There shall be no added exclusions or limiting endorsements which diminish the City's protections as an additional insured under the policy. Further, the following minimum limits of liability are required:

\$1,000,000 Each occurrence as respect Bodily Injury Liability or Property Damage Liability, or both combined
\$2,000,000 Per Job General Aggregate
\$1,000,000 Personal and Advertising Injury
 4. Motor Vehicle Liability Insurance, including Michigan No-Fault Coverages, equivalent to, as a minimum, Insurance Services Office form CA 00 01 07 97 or current equivalent. Coverage shall include all owned vehicles, all non-owned vehicles and all hired vehicles. Further, the limits of liability shall be \$1,000,000 for each occurrence as respects Bodily Injury Liability or Property Damage Liability, or both combined.
 5. Umbrella/Excess Liability Insurance shall be provided to apply in excess of the Commercial General Liability, Employers Liability and the Motor Vehicle coverage enumerated above, for each occurrence and for aggregate in the amount of \$1,000,000.

- B. Insurance required under A.3 above shall be considered primary as respects any other valid or collectible insurance that the City may possess, including any self-insured retentions the City may have; and any other insurance the City does possess shall be considered excess insurance only and shall not be required to contribute with this insurance. Further, the Contractor agrees to waive any right of recovery by its insurer against the City.

- C. Documentation must provide and demonstrate an unconditional 30 day written notice of cancellation in favor of the City of Ann Arbor. Further, the documentation must explicitly state the following: (a) the policy number; name of insurance company; name and address of the agent or authorized representative; name and address of insured; project name; policy expiration date; and specific coverage amounts; (b) any deductibles or self-insured retentions which shall be approved by the City, in its sole discretion; (c) that the policy conforms to the requirements specified. An original certificate of insurance may be provided as an initial indication of the required insurance, provided that no later than 21 calendar days after commencement of any work the Contractor supplies a copy of the endorsements required on the policies. Upon request, the Contractor shall provide within 30 days a copy of the policy(ies) to the City. If any of the above coverages expire by their terms during the term of this contract, the Contractor shall deliver proof of renewal and/or new policies to the Administering Service Area/Unit at least ten days prior to the expiration date.

**ATTACHMENT F
NON-DISCLOSURE AGREEMENT**

BETWEEN RCC CONSULTANTS, INC. AND THE CITY OF ANN ARBOR

Whereas, the City of Ann Arbor, with municipal offices at 301 E. Huron Street, Ann Arbor 48107 (“City”) is the owner of certain confidential information relating to its cell tower/wireless communications site management services and components thereof, which is or may be classified as exempt or restricted information under the Michigan Freedom of Information Act and federal bioterrorism and homeland security laws (collectively referred to as “Confidential Information”).

Whereas, RCC Consultants, Inc. (referred to as “Receiver”) is desirous of receiving, reviewing, and/or evaluating the Confidential Information for the sole and exclusive purpose of gathering information for the management of cell towers and wireless communications sites.

Therefore, it is agreed this ____ day of January 2015:

That, the City shall, in its sole discretion, disclose to Receiver some or all of the Confidential Information based on Receiver’s request for such Confidential Information.

It is understood that Receiver will secure at its sole cost any and all licenses, authorizations or other intellectual property rights necessary for the transfer of Confidential Information in the format requested by Receiver. Receiver will be required to provide documentation of it having all necessary licenses, authorizations or rights prior to transfer of the Confidential Information in the requested format.

That, Receiver shall hold and use Confidential Information only for the above-stated purpose of this Agreement and shall restrict disclosure of such Confidential Information to its employees with a need to know. Each employee of Receiver identified as “need to know” in connection with the receipt, review or evaluation of the Confidential Information shall be required to execute a Non-Disclosure Agreement under the same terms as stated herein. The City shall be provided with a copy of the executed employee Non-Disclosure Agreements and a master list of the employees, their respective jobs, and the reason for their classification as “need to know.”

That, Receiver will hold the Confidential Information or any part thereof in strict confidence and will not permit any disclosure thereof to any person or persons outside its organization and not use or derive any direct or indirect benefit from the Confidential Information or any part thereof without the prior written consent of the City. Receiver agrees that it will not disseminate in any manner any part of the Confidential Information.

If the Receiver receives a subpoena, request from an administrative agency or order from a court that requires Receiver to disclose all or any of the Confidential Information, the Receiver shall notify the City immediately, including a copy of the subpoena, request or order, and shall act in cooperation with the City to seek a protective order to prevent or limit disclosure and/or impose a non-disclosure obligation on the recipient(s). Recipient shall include a copy of this Non-Disclosure Agreement along with the Confidential Information it produces or discloses. Confidential Information disclosed in accordance with this paragraph shall remain Confidential Information for all other purposes.

That, Receiver will not make or authorize to be made any copies of any reports, plans, drawings or electronic data files supplied by the City and showing or describing or embodying the Confidential Information unless authorized by the City in writing. At any time and for any reason, prior to the completion of the work performed by the Receiver, the City may request and Receiver agrees it will return all of the said reports, plans, drawings or electronic data files together with any reports, drawings or electronic data files, including any independent notations of the Confidential Information, made by Receiver showing or describing or embodying the Confidential Information or any part thereof to the City immediately. After completion of the work, the Receiver shall return to the City any drawings, extracts, reproductions, or other documentation comprising the Confidential Information, in whatever format or media, including any independent notations of the Confidential Information made by Receiver showing or describing or embodying the Confidential Information or any part thereof. In addition, access shall be controlled by the Receiver to all Confidential Information generated as part of the work performed by the Receiver. Although the Receiver is permitted to maintain copies of their work, dissemination of this Confidential Information is not permitted without written authorization from the City.

That, the restrictions on the use or disclosure of Confidential Information by Receiver shall not include any information which:

1. at the time of disclosure to Receiver was known to Receiver free of restriction and such previous knowledge is evidenced by documentation in the possession of Receiver. A copy of which documentation will be provided to the City if requested by the City; or
2. is publicly known or later made publicly known by the City; or
3. is evidenced by documentation in the possession of Receiver as being received from a third party to this Agreement who: (a) has the legal right to so furnish such information to Receiver, and (b) is not obligated to the City to keep such information confidential; or
4. is approved for release in writing by the City.

That, nothing in this Agreement shall be construed as conferring to Receiver any right of ownership in the Confidential Information or license to use any, patents, industrial designs, copyrights or other intellectual property rights owned or licensed by the City.

That, nothing in this Agreement shall be construed as restricting the City's right to restrain use or dissemination of the Confidential Information in accordance with applicable federal, state or local law and regulation or at common law.

Receiver acknowledges that a breach by him/her of the provisions of this Agreement will cause the City irreparable damage for which the City cannot be reasonably or adequately compensated in damages. The City shall therefore be entitled, in addition to all other remedies available to it including, but not limited to, attorney fees and costs, to injunctive and/or other equitable relief to prevent a breach of this Agreement, or any part of it, and to secure its enforcement.

This Agreement shall be construed in accordance with the laws of the State of Michigan.

This Agreement and any amendments hereto may be executed by facsimile signature and in any number of counterparts, all of which taken together shall constitute one and the same instrument.

CITY OF ANN ARBOR

RCC CONSULTANTS, INC.

By: _____
Steven D. Powers

By: 
Michael W. Hunter

Title: City Administrator

Title: President and CEO

Approved as to substance:

Tom Crawford
Financial and Administrative Services Area
Administrator

Approved as to form:

Stephen K. Postema
City Attorney