

STATE OF NORTH CAROLINA

ORANGE COUNTY

LICENSE AGREEMENT

THIS LICENSE AGREEMENT, is made and entered into this _____ day of _____, 2016, by and between the TOWN OF CARRBORO, a body politic and corporate, whose principal offices are located at 301 West Main Street in Carrboro, North Carolina, hereinafter called "LICENSOR", party of the first part, and the ORANGE WATER AND SEWER AUTHORITY, a public corporate entity, organized and acting under Chapter 162A of the North Carolina General Statutes, whose principal offices are at 400 Jones Ferry Road, Carrboro, North Carolina, hereinafter called the "LICENSEE," party of the second part.

WITNESSETH:

That for and in consideration of the covenants herein contained, and in further consideration of the mutual benefits and duties created and to be enjoyed hereunder, the LICENSOR hereby licenses the LICENSEE to place, erect, connect, maintain and operate communications facilities and equipment as described in "Exhibit A" attached hereto, upon the LICENSOR's property at the Town of Carrboro Town Hall (301 W. Main St) and the Carrboro Century Center (100 North Greensboro Street). Furthermore, the LICENSOR grants the LICENSEE unrestricted access to and joint use of predetermined unused strands of fiber in existing fiber optic cables owned by the Town of Carrboro, which presently run from the Carrboro Town Hall to the Carrboro Century Center and from the Carrboro Century Center to the ITS Manning Building located on the UNC-Chapel Hill campus.

1. TERM OF LICENSE AGREEMENT. This LICENSE AGREEMENT shall be effective as of the _____ day of _____, 2016 and shall continue in effect, unless terminated as herein provided, for an original term of five (5) years therefrom. After the expiration of said original five (5) year term, this LICENSE AGREEMENT shall be extended automatically for successive additional five (5) year terms, upon all of the other terms, conditions, covenants and provisions set forth herein, provided, however, that this LICENSE AGREEMENT may be earlier cancelled or terminated by either party as provided in Paragraph 8 below.
2. PAYMENTS AND SERVICES. The LICENSOR shall not require an annual license fee or any other payment from the LICENSEE; however, the LICENSOR, in lieu of LICENSEE's payment of any such fee, shall be permitted to use and may jointly use the facilities and equipment installed by LICENSEE, so that LICENSOR can transmit signals to, and receive signals from other facilities, on a separate channel that is equivalent to a virtual area network or VLAN, and is or may be entirely controlled by the LICENSOR; provided further that the parties' intent is to make joint use of these facilities, with neither interrupting or interfering with the other's use.

3. **TERMS OF LICENSE.** LICENSEE will construct, install, operate and maintain its facilities and equipment at the LICENSOR's Carrboro Town Hall and Carrboro Century Center so as not to damage or interfere with any and all other equipment or operations located or conducted on said site and facilities. The LICENSEE shall be permitted reasonable access to the facilities on which the LICENSEE's facilities and equipment are to be located on a seven (7) days a week, twenty-four (24) hours a day basis. Except where prevented by emergency circumstances, LICENSEE shall notify the LICENSOR in advance before entering either Site. And, LICENSEE shall lock and secure the LICENSOR's facilities against any unauthorized entry or use in accordance with directions from the LICENSOR, on any occasion when it exercises access thereto. Failure to secure and lock such site after access has been exercised may, at the election of the LICENSOR, result in termination of further unrestricted access for the LICENSEE.
4. **POWER AND COMMUNICATIONS.** Any communications or power lines provided by the LICENSEE to serve its facilities and equipment installed at or on the LICENSOR's property shall be installed and operated at the LICENSEE's expense (unless otherwise agreed to by both parties) and only with the prior written approval of the LICENSOR, which approval shall not be unreasonably withheld. Licensee shall take care to assure its facilities and equipment are not operated so as to cause any interference or detrimental effects to communications facilities or other operations of the LICENSOR, or similar equipment previously installed by other parties. And, Licensor shall not authorize or permit the installation or operation of other facilities or connections by third parties, which may be detrimental to LICENSEE'S operations. All electrical power lines and other cables provided by the LICENSEE shall be installed in accordance with applicable codes and regulations.
5. **CONSTRUCTION.** Prior to the LICENSEE or any agents or contractors of the LICENSEE entering the premises to perform construction activities, the LICENSEE must notify the LICENSOR at least three days in advance. All construction activities related to equipment delivery, parking or use of the area outside of the fence shall be coordinated with the LICENSOR prior to commencement of work. The LICENSOR shall have the right to accompany the LICENSEE's employees, agents or contractors on such activities to inspect such activities and to order any work or activities stopped that risk or actually damage LICENSOR's property or operations, or the property or operations of any third party permitted by LICENSOR upon that site. All installation and construction will be performed by the LICENSEE or a qualified contractor selected by the LICENSEE. LICENSEE shall obtain LICENSOR's approval of the contractor it proposes to complete any work for LICENSEE, and LICENSOR shall have the right to inspect and have work that is unacceptable redone at LICENSEE's expense. At LICENSEE's expense, LICENSOR may rebuild, repair, repaint, seal and restore the LICENSOR's facilities where LICENSEE's actions, or those of

its contractors, have in LICENSOR's opinion, caused such restoration to be necessary. In all cases such work as may be required by LICENSOR shall be completed by the LICENSEE within thirty (30) days of its receipt of written notice from LICENSOR provided, however, that if such required work is not capable of being completed within thirty (30) day period, LICENSEE shall be afforded a reasonable period of time to complete such work ; in any event, LICENSEE shall promptly commence such work after receipt of notice and prosecute and complete such work with due diligence, failing which, LICENSOR may undertake and complete the work at LICENSEE's expense.

6. COMPLIANCE WITH APPLICABLE REQUIREMENTS: PAYMENT OF APPLICABLE FEES. LICENSEE shall, at its own expense, promptly obtain any and all required licenses, permits, or other approvals necessary for operation of the facilities to be constructed; and, LICENSEE shall pay all permit fees and charges and otherwise comply with the requirements of every applicable statute, law, ordinance, regulation, or order by any Federal, State, or other Public Body, Department, or Commission, as necessary with respect to installation, operation and maintenance of said facilities. LICENSEE further agrees to pay all applicable fees and taxes associated with the ownership and use of LICENSEE's facilities.

If LICENSOR determines, in its sole discretion, that the LICENSEE'S facilities adversely affect, or may adversely affect, the LICENSOR's facilities or operations at LICENSOR's facilities, at the LICENSOR's direction the LICENSEE shall relocate or remove its facilities at or from the LICENSOR's property within one hundred and eighty (180) days' of the LICENSOR's giving LICENSEE written notice to vacate.

7. TERMINATION; RESTORATION OF PROPERTY. This LICENSE AGREEMENT may be cancelled or terminated as provided herein.
 - (a) In the event the LICENSEE defaults in the performance of any of the obligation, covenants, or agreements hereunder, the LICENSOR shall notify the LICENSEE in writing of such default. If, following thirty (30) days of its receipt of said notice the LICENSEE remains in default, then the LICENSOR shall have the right to immediately cancel and terminate this AGREEMENT, and thereafter, the LICENSEE shall have no further rights hereunder; or
 - (b) If the LICENSOR determines that the LICENSEE's use of the premises adversely affects in any manner the provisions of services by the LICENSOR, or if the LICENSEE fails to permit the LICENSOR to use the LICENSEE's facilities and equipment as provided in Paragraph 2 above, the LICENSOR shall have the right to cancel and terminate this LICENSE AGREEMENT upon thirty (30) days written notice to the LICENSEE; or

(c) Either party may terminate this LICENSE AGREEMENT at any time upon providing one hundred and eighty (180) days written notice to the other. Each party represents that prior to providing notice to terminate under this sub-paragraph it will explore other reasonable alternatives with the other.

(d) In the event of termination of this LICENSE AGREEMENT as herein provided, the LICENSEE shall remove its facilities and equipment from the AUTHORITY's property within thirty (30) days; and upon the LICENSEE's failure to remove said facilities, the LICENSOR may remove the same without obligation to the LICENSEE therefor.

8. ADJUSTMENT. If this LICENSE AGREEMENT is cancelled or terminated as set forth in Paragraph 6, neither the LICENSOR nor the LICENSEE shall be responsible for payment of any damages, including the LICENSEE'S cost of removing the LICENSEE'S facilities and equipment.

9. REMOVAL AND RESTORATION. On termination of this LICENSE AGREEMENT by expiration of the above term or pursuant to Paragraph (6), (8) or (11), LICENSEE shall remove or cause to be removed the LICENSEE'S said facilities and restore the LICENSOR'S property to the condition that existed before the construction and the installation of the LICENSEE'S facilities. Such restoration shall be done in such a manner as is satisfactory to the LICENSOR in the exercise of reasonable judgment and good faith.

10. RIGHTS OF LICENSOR TO EXECUTE SIMILAR LICENSE AGREEMENTS. None of the terms or conditions contained herein shall be construed as in any manner prohibiting or limiting the LICENSOR'S right to enter into a license agreement with any other party for purposes equivalent or similar to or different from the LICENSEE'S rights under this LICENSE AGREEMENT at the LICENSOR's property or any other facility owned, leased, or in any other manner controlled by the LICENSOR; provided, however, that the subsequent execution of such license agreement shall be protective of Licensee's rights herein, and shall not directly require the modification or removal of the LICENSEE'S facilities and equipment permitted under this LICENSE AGREEMENT

11. DISAGREEMENTS OR DISPUTES HEREUNDER; GOVERNING LAW. This LICENSE AGREEMENT shall be governed by and construed under and in accordance with the laws of the State of North Carolina. Should any provision of this LICENSE AGREEMENT contravene in any way any provision of such law, such provision shall be deemed of no effect and the LICENSOR and the LICENSEE agree that they shall remain bound by the other provisions hereof. Any dispute under this LICENSE AGREEMENT shall be submitted to a court of competent jurisdiction within Orange

County, North Carolina, for resolution in accord with the judicial process, unless the parties agree otherwise in writing.

12. LICENSE AGREEMENT SUBJECT TO REGULATORY APPROVALS. The parties to this LICENSE AGREEMENT acknowledge that this LICENSE AGREEMENT is made and executed subject to any and all approvals which may be necessary to be obtained from any public agency, including, but not limited to, the Federal Communications Commission, Federal Aviation Administration, and the Town of Carrboro and, in the event prohibited by rule or regulation of any such public agency, the LICENSEE'S activities permitted hereunder shall be terminated therewith.

The LICENSOR covenants that the LICENSEE, upon performing the covenants aforesaid, shall and may peaceably and quietly have, hold and enjoy the license privileges described herein during the term hereof, including any extensions or renewals.

IN WITNESS WHEREOF, the parties hereto have caused this LICENSE AGREEMENT to be executed in duplicate by their duly authorized officers, and affixed their respective Corporate Seals hereunto, all on the day and year first above written.

ATTEST:

TOWN OF CARRBORO

BY _____

Title _____
(SEAL)

ATTEST:

ORANGE WATER AND SEWER AUTHORITY

By _____

Title _____
(SEAL)

Approved as to form and legality.

Date

Counsel to the AUTHORITY

EXHIBIT A

Facilities and Equipment to be Installed at the LICENSOR's Town of Carrboro Town Hall and Carrboro Century Center

1. One receiving and transmitting radio antenna located on the radio tower at Carrboro Town Hall, cables running between the antenna and to equipment at the base of the radio tower and to the Town Hall Server Room as necessary, and other equipment necessary to support the antenna.

Special Conditions

1. All electrical work, including underground installation of conduits/wiring, shall be coordinated through the LICENSOR. All underground appurtenances shall be located, marked, and approved by the LICENSOR and One Call Utility Locating Service before commencement of any digging.
2. Associated cables from antennas to equipment located as mutually agreed by the LICENSOR and LICENSEE.
4. LICENSEE shall obtain all Federal, State and Local Permits and Licenses required for the installation of the transmitting equipment.
5. LICENSEE shall coordinate access to the site with the LICENSOR during construction and installation of equipment.