

34849

FIRST AMENDMENT TO LICENSE AGREEMENT NO. 34849
(License Area)

This FIRST AMENDMENT ("**Amendment**") is entered into between the City of Long Beach, a municipal corporation and charter city ("**City**"), and Crown Castle Fiber LLC, a Delaware limited liability company ("**Licensee**"), hereinafter collectively referred to as the "**Parties**," to be effective on the first day of the first month following the date of execution by City ("**Effective Date**").

RECITALS

- A. The Parties entered License Agreement No. 34849 (the "**License Agreement**") for the non-exclusive use of City-owned property for wireless telecommunications facilities for a ten-year term;
- B. The License Agreement defines the License Area as the area bounded by south of Ocean Boulevard to Shoreline Drive, and Alamitos and the 710 Freeway, as depicted in **Exhibit "A"** attached to the License Agreement; and
- C. Licensee desires to modify the License Area, and City is willing to make the modified License Area and City Streetlights available to Licensee, subject to the covenants and conditions set forth in the License Agreement (as amended and augmented as set forth in this Amendment) on a non-exclusive basis, in order to facilitate the efficient and orderly deployment of wireless telecommunications facilities in the City of Long Beach.
- D. This License Agreement is entered into pursuant to and subject to the provisions of Chapter 15.34 of the Long Beach Municipal Code.

NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. The License Area is hereby amended to include the additional area, as described and depicted in **Exhibit "A-1"** attached hereto and incorporated by reference.
2. As part of each permit application for the installation of Permit Approved Equipment, Licensee shall provide a phasing schedule containing timing milestones for construction and inspection of the Permit Approved Equipment that are acceptable to the Director of Public Works ("**Phasing Plan**"). The purpose of the Phasing Plan is to provide for the orderly and timely installation of Permit Approved Equipment in phases in order to avoid the partial or incomplete installation of equipment in the License Area. In the event that Licensee fails to a material extent to meet any of the milestones specified in the Phasing Plan for any reason other than a Permitted Delay, the City shall have the right to either (a) extend the target completion date for the applicable milestone, or (b) notify Licensee in writing that it has failed to meet a specific milestone and that the failure to meet such milestone within thirty (30) days (or a longer period if such milestone cannot be reasonably achieved in 30 days as determined by the Director of Public Works) shall constitute a default with respect to the applicable Permit Approvals. In the event that Licensee materially fails to achieve a milestone within the time period specified in such a written notice, such failure shall constitute a default under the applicable Permit Approvals and the City shall have the right to terminate the applicable Permit Approvals related to

the specified equipment. For the purposes of this section, the term "Permitted Delay" shall mean any delay approved by the Director of Public Works, resulting from causes beyond the reasonable control of Licensee including, without limitation, any delay caused by any action, inaction, order, ruling, moratorium, regulation, statute, condition or other decision of any private party or governmental agency (including the City) having jurisdiction over any portion of the Permit Approved Equipment, over the construction or uses thereof, or by delays in inspections or in issuing approvals by private parties or permits by governmental agencies (including the City), or by fire, flood, inclement weather, strikes, lockouts or other labor or industrial disturbance, civil disturbance, order of any government, court or regulatory body claiming jurisdiction or otherwise, act of public enemy, war, riot, sabotage, blockage, embargo, failure or inability to secure materials, supplies or labor through ordinary sources by reason of shortages or priority, discovery of hazardous or toxic materials, earthquake, or other natural disaster, delays caused by any dispute resolution process, fiber-optic installation and connectivity issues that are beyond the control of Licensee, or any cause whatsoever beyond the reasonable control (excluding financial inability) of Licensee, or any of its contractors or other representatives, whether or not similar to any of the causes hereinabove stated. All milestones set forth in the Phasing Plan shall be extended one day for each day of Permitted Delay.

3. Licensee shall have the right to apply for such additional Permit Approvals as it deems appropriate to provide services within the License Area. For each desired additional Permit Approved Equipment, Licensee must submit the City's then current application for wireless telecommunications facilities on City Streetlights ("**Permit Application**"). Licensee acknowledges that City has the right to disapprove any Permit Application in its reasonable discretion subject to the requirements set forth in Title 15 of the Long Beach Municipal Code including but not limited to timing and review requirements therein. On the first Monday of January of every year during the Term of this Agreement, Licensee shall submit a list of all its Permit Approvals, along with Licensee's Annual License Fee.

4. Either Party hereto may, upon thirty (30) days' written notice (the "**New Law Notice**"), require that the terms of this Agreement which are affected by any new law be renegotiated to ensure that the essential deal points of this Agreement are preserved, notwithstanding the adoption of the new law. In furtherance of the foregoing, the Parties expressly acknowledge and agree that any revision to this Agreement pursuant to this section shall preserve Licensee's obligation to pay the Annual License Fee, in the amounts specified herein. Upon receipt of a New Law Notice, the parties shall engage in good faith negotiations; provided, however, that if no mutually acceptable renegotiated terms are achieved within ninety (90) days of receipt of said New Law Notice, the parties agree to submit such dispute to binding arbitration, with the resulting arbitrated terms applying to this Agreement retroactively to the date of reception of the New Law Notice. All terms in this existing Agreement shall remain in effect while the parties are negotiating

5. Sections 5.5 and 5.6 of the License Agreement are replaced with a new Section 5.5, to read as follows:

"Licensee shall pay all customary and standard permit processing fees contained in the Long Beach Municipal Code, or other duly adopted ordinance, resolutions, or orders of the City of Long Beach."

6. Section 26.2 of the License Agreement is amended and replaced in its entirety to read as follows:

"If, after the Effective Date another non-governmental commercial telecommunications entity applies to attach telecommunications equipment to a City Streetlight for which Permit Approvals have already been issued to Licensee, City shall notify Licensee of the application and may process such application if Licensee has not pursued its rights to place the Permit Approved Equipment on the Streetlight within six (6) months of (i) the date of installation prescribed for such City Streetlight by the Phasing Plan, (ii) if the Phasing Plan does not specify a date for installation, the date of Permit Approvals or, (iii) if at some future time an amendment to this Agreement is approved to include the construction, installation, and operation of additional Permit Approved Equipment, then the issue date of any such subsequently issued Permit Approvals."

7. Except as expressly modified herein, all of the terms and conditions contained in License Agreement No. 34849 are ratified and confirmed and shall remain in full force and effect.

[SIGNATURES NEXT PAGE]

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be executed in duplicate on the dates indicated below.

APPROVED AS TO FORM

6-24, 2019
CHARLES PARKIN, City Attorney

By: [Signature]
By: AMY R. WEBBER
Charles Parkin DEPUTY CITY ATTORNEY
City Attorney

A California municipal corporation
Date: 6/27/19

By: [Signature]
Patrick H. West
City Manager

ATTEST:
Date: [Signature]

LICENSEE:
Rod Hanson
VPGM - Crown Castle Fiber LLC
Date: _____

By: [Signature]
Michael Mais

By: [Signature]
Crown Castle Fiber LLC.

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY Date: [Signature]

CITY OF LONG BEACH,
City Clerk

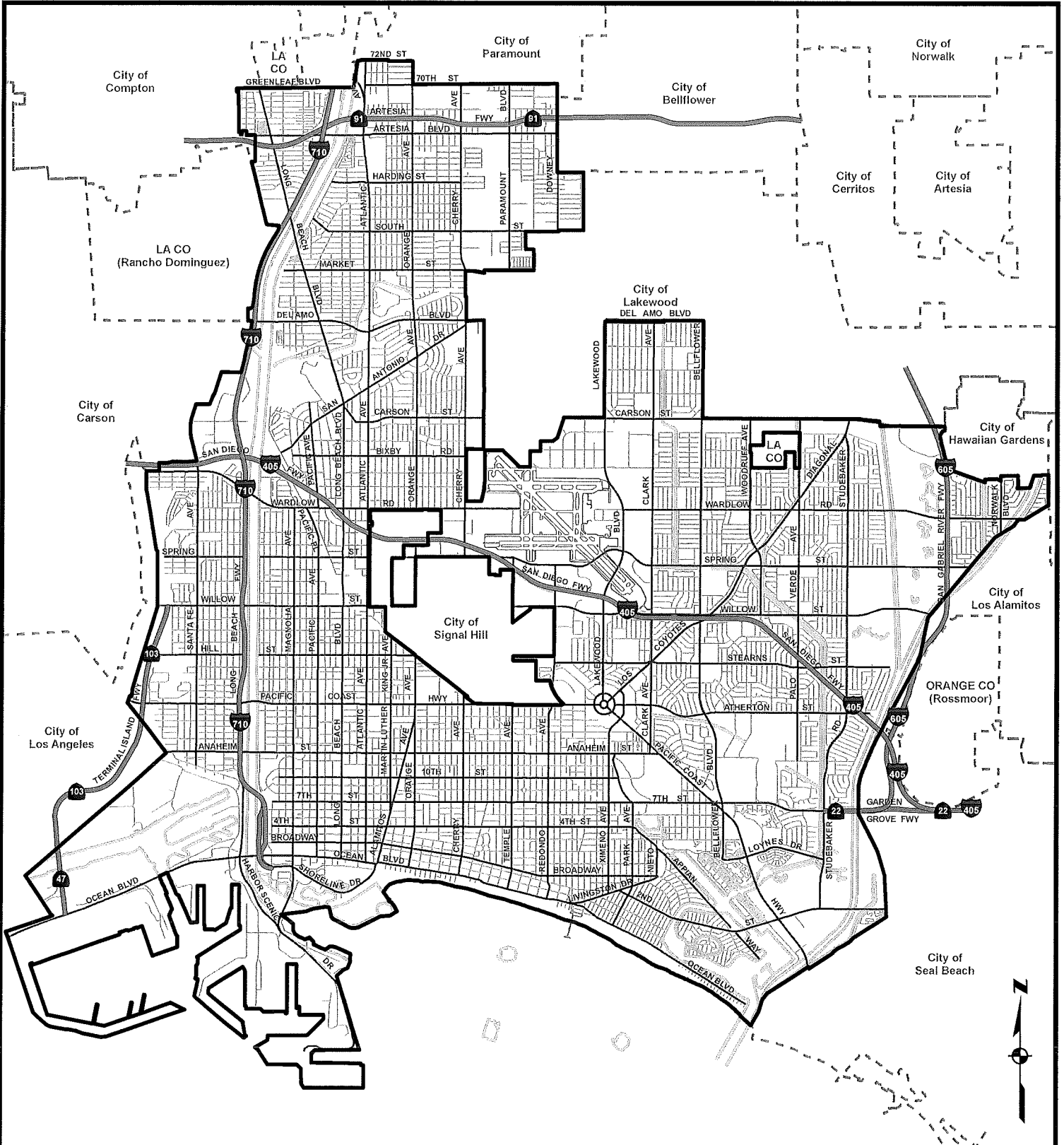
[Signature]
Click here to enter text.
Date: _____
By: _____

Click here to enter text. Click here to enter text.

[END OF SIGNATURES]

EXHIBIT A-1

MODIFIED LICENSE AREA



City of Long Beach, California

City Map



Department of
Technology Services GIS

As of July 2012

Disclaimer
This map from the City of Long Beach is intended for informational purposes only. While reasonable effort has been made to ensure the accuracy of the data, the City assumes no liability or damages arising from errors or omissions. This map is provided without warranty of any kind.