



600 NE Grand Ave.
Portland, OR 97232-2736

Council meeting agenda

Thursday, February 8, 2018

2:00 PM

Metro Regional Center, Council chamber

1. Call to Order and Roll Call

2. Public Communication

3. Consent Agenda

- 3.1 Resolution No. 18-4867, For the Purpose of Approving a Distributed Antenna System (DAS) License Agreement at the Portland Expo Center [RES 18-4867](#)

Attachments: [Resolution No. 18-4867](#)
[Exhibit A to Resolution No. 18-4867](#)
[Staff Report](#)

4. Resolutions

- 4.1 Resolution No. 18-4859, For the Purpose of Authorizing General Obligation Bonds Under the 2006 Natural Areas Measure and the 2008 Oregon Zoo Measure [RES 18-4859](#)

Presenter(s): Tim Collier, Metro

Attachments: [Resolution No. 18-4859](#)
[Staff Report](#)

- 4.2 Resolution No. 18-4865, For the Purpose of Authorizing Full Faith and Credit Bonds [RES 18-4865](#)

Presenter(s): Tim Collier, Metro

Attachments: [Resolution No. 18-4865](#)
[Staff Report](#)

5. Chief Operating Officer Communication

6. Councilor Communication

7. Adjourn

Metro respects civil rights

Metro fully complies with Title VI of the Civil Rights Act of 1964 and related statutes that ban discrimination. If any person believes they have been discriminated against regarding the receipt of benefits or services because of race, color, national origin, sex, age or disability, they have the right to file a complaint with Metro. For information on Metro’s civil rights program, or to obtain a discrimination complaint form, visit www.oregonmetro.gov/civilrights or call 503-797-1536. Metro provides services or accommodations upon request to persons with disabilities and people who need an interpreter at public meetings. If you need a sign language interpreter, communication aid or language assistance, call 503-797-1700 or TDD/TTY 503-797-1804 (8 a.m. to 5 p.m. weekdays) 5 business days before the meeting. All Metro meetings are wheelchair accessible. For up-to-date public transportation information, visit TriMet’s website at www.trimet.org.

Thông báo về sự Metro không kỳ thị của

Metro tôn trọng dân quyền. Muốn biết thêm thông tin về chương trình dân quyền của Metro, hoặc muốn lấy đơn khiếu nại về sự kỳ thị, xin xem trong www.oregonmetro.gov/civilrights. Nếu quý vị cần thông dịch viên ra dấu bằng tay, trợ giúp về tiếp xúc hay ngôn ngữ, xin gọi số 503-797-1700 (từ 8 giờ sáng đến 5 giờ chiều vào những ngày thường) trước buổi họp 5 ngày làm việc.

Повідомлення Metro про заборону дискримінації

Metro з повагою ставиться до громадянських прав. Для отримання інформації про програму Metro із захисту громадянських прав або форми скарги про дискримінацію відвідайте сайт www.oregonmetro.gov/civilrights. або Якщо вам потрібен перекладач на зборах, для задоволення вашого запиту зателефонуйте за номером 503-797-1700 з 8.00 до 17.00 у робочі дні за п'ять робочих днів до зборів.

Metro 的不歧視公告

尊重民權。欲瞭解Metro民權計畫的詳情，或獲取歧視投訴表，請瀏覽網站 www.oregonmetro.gov/civilrights。如果您需要口譯方可參加公共會議，請在會議召開前5個營業日撥打503-797-1700（工作日上午8點至下午5點），以便我們滿足您的要求。

Ogeysiiska takooris la'aanta ee Metro

Metro waxay ixtiraamtaa xuquuqda madaniga. Si aad u heshid macluumaad ku saabsan barnaamijka xuquuqda madaniga ee Metro, ama aad u heshid warqadda ka cabashada takoorista, booqo www.oregonmetro.gov/civilrights. Haddii aad u baahin tahay turjubaan si aad uga qaybqaadatid kullanka dadweynaha, wac 503-797-1700 (8 gallinka hore illaa 5 gallinka dambe maalmaha shaqada) shan maalmo shaqo ka hor kullanka si loo tixgaliyo codsashadaada.

Metro의 차별 금지 관련 통지서

Metro의 시민권 프로그램에 대한 정보 또는 차별 항의서 양식을 얻으려면, 또는 차별에 대한 불만을 신고 할 수 www.oregonmetro.gov/civilrights. 당신의 언어 지원이 필요한 경우, 회의에 앞서 5 영업일 (오후 5시 주중에 오전 8시) 503-797-1700를 호출합니다.

Metroの差別禁止通知

Metroでは公民権を尊重しています。Metroの公民権プログラムに関する情報について、または差別苦情フォームを入手するには、www.oregonmetro.gov/civilrights。までお電話ください。公開会議で言語通訳を必要とされる方は、Metroがご要請に対応できるよう、公開会議の5営業日前までに503-797-1700（平日午前8時～午後5時）までお電話ください。

សេចក្តីជូនដំណឹងអំពីការមិនរើសអើងរបស់ Metro

ការគោរពសិទ្ធិពលរដ្ឋរបស់ ។ សំរាប់ព័ត៌មានអំពីកម្មវិធីសិទ្ធិពលរដ្ឋរបស់ Metro ឬស្នើសុំទទួលបានកម្មប្រព័ន្ធរើសអើងសូមចូលទស្សនាគេហទំព័រ www.oregonmetro.gov/civilrights។ បើលោកអ្នកត្រូវការអ្នកបកប្រែភាសានៅពេលអង្គប្រជុំសាធារណៈ សូមទូរស័ព្ទមកលេខ 503-797-1700 (ម៉ោង 8 ព្រឹកដល់ម៉ោង 5 ល្ងាច ថ្ងៃធ្វើការ) ប្រាំពីរថ្ងៃ ថ្ងៃធ្វើការ មុនថ្ងៃប្រជុំស្នើសុំអោយមានអ្នកបកប្រែសម្រាប់លោកអ្នក ។

إشعار بعدم التمييز من Metro

تحتزم Metro الحقوق المدنية. للمزيد من المعلومات حول برنامج Metro للحقوق المدنية أو لإيداع شكوى ضد التمييز، يُرجى زيارة الموقع الإلكتروني www.oregonmetro.gov/civilrights. إن كنت بحاجة إلى مساعدة في اللغة، يجب عليك الاتصال مقدماً برقم الهاتف 503-797-1700 (من الساعة 8 صباحاً حتى الساعة 5 مساءً، أيام الاثنين إلى الجمعة) قبل خمسة (5) أيام عمل من موعد الاجتماع.

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Iginagalang ng Metro ang mga karapatang sibil. Para sa impormasyon tungkol sa programa ng Metro sa mga karapatang sibil, o upang makakuha ng porma ng reklamo sa diskriminasyon, bisitahin ang www.oregonmetro.gov/civilrights. Kung kailangan ninyo ng interpreter ng wika sa isang pampublikong pulong, tumawag sa 503-797-1700 (8 a.m. hanggang 5 p.m. Lunes hanggang Biyernes) lima araw ng trabaho bago ang pulong upang mapagbigyan ang inyong kahilingan.

Notificación de no discriminación de Metro

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Metro txoj kev ntxub ntxaug daim ntawv ceeb toom

Metro tributes cai. Rau cov lus qhia txog Metro txoj cai kev pab, los yog kom sau ib daim ntawv tsis txaus siab, mus saib www.oregonmetro.gov/civilrights. Yog hais tias koj xav tau lus kev pab, hu rau 503-797-1700 (8 teev saww ntxov txog 5 teev tsaus ntuj weekdays) 5 hnub ua hauj lwm ua ntej ntwam lub rooj sib tham.

Television schedule for Metro Council meetings

<p>Clackamas, Multnomah and Washington counties, and Vancouver, WA Channel 30 – Community Access Network <i>Web site:</i> www.tvctv.org <i>Ph:</i> 503-629-8534 Call or visit web site for program times.</p>	<p>Portland Channel 30 – Portland Community Media <i>Web site:</i> www.pcmtv.org <i>Ph:</i> 503-288-1515 Call or visit web site for program times.</p>
<p>Gresham Channel 30 - MCTV <i>Web site:</i> www.metroeast.org <i>Ph:</i> 503-491-7636 Call or visit web site for program times.</p>	<p>Washington County and West Linn Channel 30- TVC TV <i>Web site:</i> www.tvctv.org <i>Ph:</i> 503-629-8534 Call or visit web site for program times.</p>
<p>Oregon City and Gladstone Channel 28 – Willamette Falls Television <i>Web site:</i> http://www.wftvmedia.org/ <i>Ph:</i> 503-650-0275 Call or visit web site for program times.</p>	

PLEASE NOTE: Show times are tentative and in some cases the entire meeting may not be shown due to length. Call or check your community access station web site to confirm program times. Agenda items may not be considered in the exact order. For questions about the agenda, call the Metro Council Office at 503-797-1540. Public hearings are held on all ordinances second read. Documents for the record must be submitted to the Regional Engagement and Legislative Coordinator to be included in the meeting record. Documents can be submitted by e-mail, fax or mail or in person to the Regional Engagement and Legislative Coordinator. For additional information about testifying before the Metro Council please go to the Metro web site www.oregonmetro.gov and click on public comment opportunities.

Agenda Item No. 3.1

Resolution No. 18-4867, For the Purpose of Approving a
Distributed Antenna

Consent Agenda

Metro Council Meeting
Thursday, February 8, 2018
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING A	)	RESOLUTION NO. 18-4867
DISTRIBUTED ANTENNA SYSTEM (DAS))	
LICENSE AGREEMENT AT THE PORTLAND	)	Introduced by Chief Operating Officer Martha
EXPO CENTER		Bennett in concurrence with Council
		President Tom Hughes

WHEREAS, the Portland Expo Center (Expo) desires to provide the highest level of services, including fast and reliable technology, to Expo clients; and

WHEREAS, in order to provide extended and improved wireless communication services to Expo visitors, on March 13, 2017, the Metropolitan Exposition Recreation Commission issued a Request for Proposals (RFP) for the design, installation, operation and maintenance of a neutral-host Distributed Antenna System (DAS) at the Expo; and

WHEREAS, Insite Wireless Development, LLC was the highest ranked proposer to respond to the RFP; and

WHEREAS, Extended negotiations began on June 5, 2017 between Expo and Insite; and

WHEREAS, Expo staff, with support from the Office of the Metro Attorney, have negotiated the terms of a proposed License Agreement, whereunder Insite Wireless Development will design, install, operate and maintain a neutral-host DAS in the Expo for a period of 10 years, with a right to extend the initial term for two additional five-year periods; and

WHEREAS, on February 7, 2018, the Metropolitan Exposition Recreation Commission adopted Resolution No. 18-02 For the Purpose of Approving a Distributed Antenna System License Agreement at the Portland Expo Center; and

WHEREAS, the Metro Council, as the fee owner of the Portland Expo Center, is required to approve of any contracts for the transfer real property owned by Metro; now therefore

BE IT RESOLVED that the Metro Council authorizes the Metro Chief Operating Officer to enter into a long term License Agreement with Insite Wireless Development, LLC, in a form substantially similar to attached Exhibit A.

ADOPTED by the Metro Council this 8th day of February, 2018.

Tom Hughes, Council President

Approved as to Form:

Alison R. Kean, Metro Attorney

DAS License Agreement

MERC CONTRACT NO. XXXXXX

PORTLAND EXPO CENTER NEUTRAL-HOST DISTRIBUTED ANTENNA SYSTEM LICENSE AGREEMENT

This License Agreement for Distributed Antenna System (the “License” or the “Agreement” herein) is made and entered into as of the _____ day of _____, 2018 (the “Execution Date”) by and between the **Metropolitan Exposition Recreation Commission**, an appointed commission of Metro, a metropolitan service district organized under the laws of the State of Oregon and the Metro Charter (Metro and MERC jointly referred to herein as “Licensor”), and **InSite Wireless Development, LLC**, a Delaware limited liability company (“Licensee”).

RECITALS:

A. Licensor is the governing body that manages the operation of certain real property generally known as the Portland Expo Center (“Expo”) located at 2060 N. Marine Drive, Portland, Oregon, which is more fully described in **Exhibit “A”** (the “Expo Property”); and

B. On March 13, 2017, Licensor issued a formal Request for Proposals (the “RFP”) for the design, installation, operation and maintenance of a neutral-host distributed antenna system (the “DAS”) at the Expo and Licensee submitted a proposal in response to the RFP.

C. Licensor selected the proposal submitted by Licensee and issued a Notice of Intent to Award Contract on June 7, 2017, and it is now the desire of the parties to enter into this Agreement to permit Licensee to design, install, operate and maintain a neutral-host DAS in the Expo to provide extended and improved wireless communication services therein.

D. The parties agree and intend that the DAS will be designed, installed, operated, and maintained so that the Expo visitors and the general public will have improved wireless communications connectivity at the Expo.

E. The parties desire to enter into this Agreement for limited purposes set forth below.

AGREEMENT:

1. Communications Purpose; Grant of License.

DAS License Agreement

MERC CONTRACT NO. XXXXXX

1.1. Licensor hereby grants to Licensee the exclusive right to construct, install, upgrade, own, operate, repair and maintain the DAS Facilities, as defined below, on and in the Property for the Communications Purposes and the right to exclusive use of portions of the Property for the DAS Facilities. As used herein, “Communications Purpose” means to provide wireless voice and data telecommunications service providers and/or other customers and users (“Sub-Licensees”) with access to the DAS for receiving and transmitting radio frequency signals to wireless devices, including without limitation, any transmission of radio frequency signals by Sub-Licensees to their customers using licensed and unlicensed spectrum (whether by using LTE in unlicensed spectrum (LTE-U) or similar technologies). The DAS must be compatible with current (GSM, CDMA, EVDO, UMTS, HSPA+, and LTE) and will distribute those services deployed by the Sub-Licensees. Notwithstanding the forgoing, Licensor reserves to itself the exclusive right to provide wireless services (and the equipment necessary to do so) pursuant to Institute of Electrical & Electronic Engineers (“IEEE”) 802.11(as may be amended or replaced), and any other similar “Wi-Fi” type of service (all of which shall be referred to as “Wi-Fi Services”) to customers and users within the Expo. Licensee (and any of its Sub-Licensees) is not permitted to construct, install, operate or maintain any Wi-Fi Services at the Expo. For the avoidance of doubt, the foregoing prohibition shall not prohibit persons at the Expo from operating mobile hot spots or similar wireless networks using their mobile wireless devices.

1.2. Licensee has the exclusive right and obligation to construct, install, upgrade, own, operate, repair and maintain the DAS and related equipment, wiring, conduit, and cable (collectively, the “DAS Facilities”) on and within certain portions of Expo Property (the “Licensed Premises”) for the Communications Purpose; provided, however, that Licensee agrees it will not operate the DAS using unlicensed spectrum, nor permit the Sub-Licensees to deploy LTE in the unlicensed spectrum (LTE-U) or similar technologies using unlicensed spectrum, without Licensor’s prior written approval, which will not be unreasonably withheld, conditioned or delayed. The Licensed Premises include: (a) an identified equipment room for the DAS Facilities (the “Equipment Room”); (b) identified portions of the interior of the Expo facility for the infrastructure required to support the DAS Facilities, which may include without limitation, antennas, remotes, cables, wiring, conduits, HVAC, fire protection, security systems, spare modules, electric services and other related utility services, and other equipment as determined to be necessary or appropriate by Licensee in the ownership and operation of the DAS Facilities; and (c) identified space on the rooftop of the Expo Property for installation of GPS and/or donor antennae to support operation of the DAS Facilities. The Licensed Premises is more fully described/depicted on Exhibit”B” attached hereto. The DAS Facilities will be designed and constructed to provide extended and improved wireless communication to 100% of the publicly accessed areas within the interior of the Expo (the “DAS Coverage Area”). The DAS Coverage Area is depicted on the map attached hereto as Exhibit ”C”. A secondary effort for exterior expansion, which may include a rooftop macro, will be determined based upon wireless carrier coverage and capacity needs and, based on those findings, such expansion will then be added as an addendum to this agreement following the completion of the internal DAS Coverage Area.

DAS License Agreement

MERC CONTRACT NO. XXXXXX

1.3. Licensor further grants Licensee, and its officers, agents, representatives, employees, contractors, and sub-licensees (collectively, the “Licensee Parties”) a right of ingress and egress to the Licensed Premises throughout the Expo Property as may be required for the purpose of constructing, installing, maintaining, operating and removing a Licensee Party’s equipment in accordance with the provisions of this Agreement with reasonable notice and business appropriate timing for specialized needs that may otherwise affect the standard course of Expo business. Licensor acknowledges that Licensee Parties require seven (7) day per week, twenty-four (24) hour access to their DAS equipment, and Licensor agrees to provide such access subject to the security procedures which shall be added to the Agreement via amendment as **Exhibit “D”** (the “Access Procedures”). During the Term (as defined below) of this Agreement, Licensor has the right to revise the Access Procedures upon not less than sixty (60) days’ prior written notice to the Licensee Parties.

2. Due Diligence Period.

2.1. Licensee shall have ninety (90) days from the Execution Date (the “Due Diligence Period”) to conduct due diligence, including without limitation a technical, environmental, and market feasibility review in connection with the DAS Facilities. In the event Licensee determines, in its sole business judgment, that installing the DAS Facilities and operating the DAS System at the Expo Property is not feasible for Licensee, Licensee shall have the right to terminate this Agreement without penalty by providing written notice to Licensor prior to the expiration of the Due Diligence Period.

2.2. Attached as **Exhibit “E”** is an initial description of the scope of work for the design, construction, installation and deployment of the DAS Facilities to be built and installed by Licensee subject to the terms and conditions of this License at the Expo Property (the “Initial DAS Facilities Design”). During the Due Diligence Period Licensee will provide Licensor with preliminary drawings, design and specifications, based off the Initial DAS Facilities Design (the “DAS Plans and Specifications”). The final DAS Plans and Specifications will be provided to Licensor for review and approval prior to commencement of construction and installation of the DAS Facility. Licensor approval will not be unreasonably withheld, conditioned or delayed. Licensor approval shall in no event be deemed a representation that the DAS Plans and Specifications comply with applicable laws, ordinances, rules or regulations.

2.3. Licensor hereby designates the Expo Operations Manager, as the point of contact with respect to the Expo regarding the development of the DAS. Licensee hereby designates the VP DAS Engineering, as the project manager responsible for the implementation and management of all aspects of the day-to-day operations related to the development of the DAS at the Expo. Either party may change their respective designation above by providing written notice to the other party.

DAS License Agreement

MERC CONTRACT NO. XXXXXX

3. Duties, Rights and Responsibilities of Licensee

3.1. Licensee shall design, construct, operate and maintain the DAS at no cost to Licensor. Licensee's obligations shall include, but are not limited to, design, planning, implementation, management, installation, utility placements and supporting infrastructure, monitoring and maintenance, and marketing and sub-licensing the DAS to broadband wireless carriers (cellular or PCS). For the avoidance of doubt, Licensee is not providing any services directly to Licensor as part of this Agreement, nor will the DAS Facilities interconnect with Licensor's equipment or network. Furthermore, Licensor acknowledges and agrees that operation of the DAS Facilities is contingent on Licensee's agreements with the Sub-Licenses to deploy their equipment on, and make use of, the DAS Facilities on terms and conditions (including, without limitation, payment to Licensee of sub-license fees and capital contributions (as defined below)) acceptable to Licensee in its commercially-reasonable discretion.

3.2. Licensee shall make commercially reasonable efforts to enter into at least two (2) or more communications sub-license agreements with nationally recognized cellular wireless carriers (individually or collectively, as the context may require, the "Sub-License Agreement(s)"). The Sub-License Agreements shall provide that (x) the term of each Sub-License Agreement shall not exceed the maximum Term of this Agreement, and (y) the Sub-License Agreements shall be subject and subordinate to this Agreement in all respects including but not limited to, the indemnification, insurance, access and removal requirements. Licensee shall remain fully liable for compliance with all of the terms and conditions, and fulfillment of all of its covenants contained in this Agreement, notwithstanding the terms of any such Sub-License Agreement. Except in the event of emergencies, Licensee shall be sole the point of contact with respect to all Sub-Licensee Carrier communications. Licensee shall be responsible for all Sub-Licensee Carrier installation and access supervision, DAS monitoring and maintenance, and RF interference management with respect to the DAS Facilities.

3.3. During the Due Diligence Period, Licensee shall coordinate with the City of Portland and its applicable local life safety (Police and Fire) agencies and personnel in order to evaluate the existing radio coverage of the applicable licensed wireless frequencies utilized by such life safety agencies within the Expo. If and to the extent reasonably determined by Licensee and the City of Portland that the existing radio coverage of such life safety licensed wireless frequencies is insufficient to support the operations or emergency response needs of the City of Portland's local life safety agencies within the Expo, then Licensee, in consultation with the City of Portland, shall develop a scope of work for the design, construction, installation and deployment of equipment and infrastructure sufficient to provide adequate radio coverage for the City of Portland's local life safety (Police and Fire) licensed wireless frequencies within the Expo, consistent with the terms and conditions of this Agreement. Such scope of work shall be added to this Agreement via mutual agreement of Licensee and Licensor and Licensee shall thereafter diligently construct and complete the installation and deployment of such equipment and infrastructure, and Licensee shall use all reasonable efforts to perform such construction concurrently with its construction of the DAS Facilities.

DAS License Agreement

MERC CONTRACT NO. XXXXXX

4. Construction and Maintenance of DAS Facilities.

4.1. The parties agree that Licensee's ability to use the Licensed Premises is dependent upon Licensee obtaining, at its sole cost and expense, any and all certifications, licenses, variances, permits, conditional use permits or authorizations required from all applicable federal, state, local government and/or regulatory entities (the "Governmental Approvals" or the "Permits" herein) pertaining to the work to be performed by Licensee in constructing, operating, and maintaining the DAS Facilities and other necessary equipment in the manner authorized by this Agreement. Licensee will act diligently to apply for and obtain such Permits. Licensor hereby agrees to cooperate in good faith with Licensee, at Licensee's cost and expense, in obtaining Governmental Approvals by: (i) allowing Licensee to obtain Governmental Approvals and file such applications, letters and/or documents for zoning and/or building permits as are deemed necessary or appropriate by Licensee in connection with the Communications Use of the Licensed Premises; (ii) promptly executing any documents or applications as requested by Licensee to apply for permits authorizing the construction, use, and operation of the DAS Facilities at the Licensed Premises; and (iii) undertaking any other steps reasonably necessary to obtain any Governmental Approval(s) deemed necessary or appropriate by Licensee.

4.2. Licensee shall commence the construction of the DAS Facilities upon satisfaction of the Commencement Conditions (as defined below). Licensee shall install the DAS in a good and workmanlike manner in accordance with industry standards and practices and the DAS Plans and Specifications approved by Licensor. Licensor will have the right of prior notice of any contractors performing installation, modification or maintenance work on behalf of Licensee or the Sub-Licensees. Licensee will submit the name of each contractor to Licensor prior to such contractor performing any work at the Expo. All construction, installation and improvements placed on the Licensed Premises by Licensee will be installed and made in accordance with the standards, procedures and requirements of all applicable laws, codes and regulations. No monitoring or inspection of any work on the DAS by Licensor representatives will be deemed supervision of any such employees or contractors of the Licensee or any Sub-Licensees. Licensee, and all Sub-Licensees who have entered into Sub-License Agreements, shall monitor and supervise all of their employees, agents, representatives and contractors and will assume full responsibility for them and the expertise and quality of all work and in no event will they rely on Licensor or any of its agents, employees or representatives for all or any portion of the same.

4.3. Licensee agrees that the construction schedule in the form of a Gantt chart (and methodology thereof) will be approved by Licensor before construction of the DAS Facilities commences. Licensee's construction schedule will be coordinated with Licensor and Licensee will promptly notify Licensor of all delays known or anticipated in the construction of the DAS Facility. Licensee will provide Licensor with weekly construction status reports until the DAS is operational. Promptly following the execution of this Agreement, Licensor shall provide Licensee with all applicable warranty instructions related to the Expo roof and Licensee agrees that it will comply with such instructions throughout the term of this Agreement.

DAS License Agreement

MERC CONTRACT NO. XXXXXX

Licensee shall use commercially reasonable efforts to obtain appropriate documentation and/or certification from Licensor's roof installer or manufacturer, as reasonably directed by Licensor, that Licensee's installation of any portion of the DAS Facilities on the Expo rooftop will not nullify or void any existing roof warranty; provided, however, that Licensor agrees that Licensee's use of Licensor's designated roofing contractor to perform any applicable roof penetrations/installation will satisfy Licensee's obligation under this section.

4.4. As part of its installation of fiber optic cable in support of the DAS Facilities, Licensee shall provide, install, and terminate, dark fiber optic cable for Licensor use at the same locations as Licensee installs fiber optic cable in support of the DAS or future expansion of a macro system, as such locations are mutually agreed to between the Parties and added to the Agreement via amendment ("Expo's Fiber"). Expo's Fiber may be installed in existing raceways, as available, and connected to Licensor provided patch panels. Detailed specifications for Expos fiber, including the location thereof and any installation standards reasonably requested by Licensor, shall be added to the Agreement via amendment as **Exhibit "XX"**. Licensee, and any of its Sub-Licensees, will have no obligation or liability with respect to Expo's fiber except that it shall be installed to the standards set forth in Exhibit XX, if any. Following the installation of the Expo's fiber, Licensor's use and maintenance of the Expo Fiber shall be at its sole expense. Upon the expiration or earlier termination of this Agreement, the Expo's Fiber will remain property of Licensor.

4.5. Within sixty (60) days after the post-optimization period for the initial turn-up of the DAS and acceptance of the DAS by each applicable Sub-Licensee. Licensee and any Sub-Licensees will provide the following reports to Licensor via email and such reports shall be updated from time to time in the event of any material changes:

- (a) A complete list of major components showing a description and location for each.
- (b) A complete cable record and wiring diagram identifying all cable system components by location, distribution cable, and key sheet as related to instrument assignments.
- (c) Documentation of technology used for the DAS including, but not limited to, hardware equipment itemizations and configurations, electrical requirements, space requirements, peripheral equipment diagrams, rack profile diagrams, cable plant interconnectivity charts, and wiring diagrams sufficient to facilitate effective operational support of the DAS.
- (d) RF data collection and coverage tests including on site investigation and data gathering of DAS performance parameters.
- (e) Any changes to carrier frequency operations and/or power outputs if applicable.

4.6. Licensee shall bear all costs for maintenance, repair and ongoing operating costs of the DAS Facilities and agrees to maintain the DAS Facilities in accordance with industry standards. Licensee may,

DAS License Agreement

MERC CONTRACT NO. XXXXXX

from time to time during the Term of this License alter, add to, modify, or change such structures for use and/or operation of the DAS Facilities on the Licensed Premises, subject to Licensor's written consent, which consent will not be unreasonably withheld, conditioned, or delayed. During the Term of this License, Licensee shall repair and replace the DAS Facilities as it deems necessary or appropriate. All such repair and maintenance shall be constructed in a workmanlike manner and in compliance with applicable laws, rules, and regulations, including, without limitation, building codes and ordinances.

5. Initial Term.

5.1. This License shall be effective as of the Execution Date. The Initial Term shall expire ten (10) years following the Commencement Date. As used herein, "Commencement Date" means the date on which both of the following conditions have been satisfied and/or waived by Licensee in writing (collectively, the "Commencement Conditions"):

(a) Licensee shall have received all Governmental Approvals necessary to allow Licensee and/or the Sub-Licensees to use the Licensed Premises for the Communications Purpose and to install the DAS Facilities and related equipment as Licensee deems necessary or appropriate in support of the Communications Purpose.

(b) Licensee shall have entered into one or more Sub-License Agreements pursuant to which Sub-Licensee(s) agree to deploy their equipment on, and make use of, the DAS Facilities on terms and conditions (including, without limitation, payment to Licensee of sub-license fees and Capital Contributions (as defined below)) acceptable to Licensee in its commercially-reasonable discretion. As used herein, "Capital Contributions" shall mean the amounts payable by a Sub-Licensee to Licensee as reimbursement for Licensee's costs and expense incurred and services provided in constructing the DAS Facilities, including installation and optimization fees, and exclusive of recurring sub-license fees, DAS Facilities maintenance, monitoring, repairs, and /or customary operating expense reimbursement(s) that become due and payable by the Sub-Licensee.

(c) Upon satisfaction or written waiver by Licensee of the conditions in Section 5.1, as set forth above, Licensee shall send written notice of the Commencement Date of this License to Licensor (the "Commencement Notice").

5.2. If the Commencement Notice has not been provided to Licensor on or before twenty-four (24) months after the Execution of this Agreement, then this Agreement shall automatically terminate.

DAS License Agreement

MERC CONTRACT NO. XXXXXX

6. Renewal Terms.

6.1. Licensee is granted the option to extend the Initial Term of this License for two (2) additional periods of five (5) years (each, a “Renewal Term”) provided that Licensee is not then in Default of its obligations hereunder beyond any applicable notice and cure period. Each Renewal Term shall be deemed to have been automatically exercised except in the event that Licensee sends written notice to Licensor of its intent not to renew this License at least ninety (90) days prior to the end of the Initial Term or any applicable Renewal Term. As used in this Agreement, “Term” includes the Initial Term and any applicable Renewal Term.

6.2. If fewer than two (2) Sub-Licensees are participating in the DAS, Licensor may terminate this Agreement at the end of the Initial Term or any Renewal Term by providing written notice of intent to terminate to Licensor at least ninety (90) days prior to the end of the Initial Term or any applicable Renewal Term.

7. License Fees.

7.1. Licensee shall pay to Licensor the following one-time lump sum payments:

(a) Not later than ninety (90) days following the Execution Date, Licensee shall pay to Licensor the sum of One Hundred Fifty Thousand Dollars (\$150,000.00) via the wire transfer of immediately available funds pursuant to wire transfer instructions to be provided by Licensor (which Licensor will provide in writing to Licensee);

(b) Not later than sixty (60) days following the full execution of each Sub-License Agreement, Licensee shall pay to Licensor the sum of Twenty-Five Thousand Dollars (\$25,000.00) via the wire transfer of immediately available funds pursuant to wire transfer instructions to be provided by Licensor (which Licensor will provide in writing to Licensee); and

7.2. Beginning on the Commencement Date, and continuing for the Term of this License, Licensee shall pay to Licensor a license fee (the “License Fee”) in quarterly payments in accordance with Schedule 7.2 attached hereto and made a part hereof. The License Fee payments shall be due and payable in arrears within thirty (30) days after the end of each calendar quarter. Licensee shall deliver an accounting of its net receipts with each quarterly payment, and, upon Licensor’s request, promptly provide reasonable supporting documentation therefore. The License Fee for any period during the term hereof which is less than one quarter shall be prorated based on the number of days in such applicable quarter.

DAS License Agreement

MERC CONTRACT NO. XXXXXX

7.3. Fees are deemed paid only when Licensor actually receives payment. Any fee payment referenced in this Section 7 not timely paid shall accrue simple interest at the rate of the lesser of one percent (1 %) per month or the legal rate from the date the amount first came due until paid.

8. Taxes; Utilities.

8.1. Licensee is solely responsible for the payment of any and all lawful taxes, fees, and assessments levied upon and assessed against the DAS Facilities, equipment and other personal property owned by Licensee or any Sub-Licensee and installed on the Licensed Premises. Licensee recognizes and understands that its use of Licensor's property may create a possessory interest subject to real property taxation and that Licensee may be subject to the payment of real property taxes levied on such interest.

8.2. Licensor hereby grants to Licensee the right to connect to and use the existing utility systems of the Expo Property in order to operate and service the Licensed Premises and the DAS Facilities. Licensee shall pay all charges to install utilities to the Licensed Premises. Licensee shall install, at its sole cost and expense sub-meters or a separate meter (if permitted by the relevant authorities) to the Licensed Premises and shall reimburse Licensor for the usage of electricity by Licensee reflected thereon. For the avoidance of doubt, Licensee plans on installing separate sub-meters for the DAS, for each Sub-Licensee's equipment, as well as one sub-meter at each representative node (which usage will be extrapolated for the remaining nodes, as applicable). The cost thereof is to be computed at utility rates as the same are in effect from time to time. Licensor shall read the sub-meters monthly and shall invoice Licensee on a quarterly basis (including providing commercially reasonable supporting information therefore) without mark-up. If Licensor deploys an Alerton Building Automation System (BAS) or similar, Licensee shall cooperate with Licensor to integrate Licensee's sub-meters for viewing/tracking through such system, to the extent technically feasible. The license granted pursuant to this Agreement includes the right of ingress, egress, and access as may be required for construction, installation and operation by the appropriate electric and telephone companies for the purpose of servicing the DAS Facilities and equipment; provided, however, that the manner of such ingress, egress and access shall be in accordance with the Access Procedures. Licensor acknowledges that the DAS Facilities require electrical power to operate and must operate twenty-four hours per day, seven days per week. Notwithstanding the foregoing, Licensee recognizes that in order to service Expo electrical equipment Licensor may need to cut power to the Expo Property and Licensed Premises. Licensor will provide Licensee with notice of any scheduled interruptions during which power will be cut for an extended period of time. Except for Licensor's gross negligence or willful misconduct, Licensor will not be liable to Licensee for damages related to the interruption or discontinuance of electrical power.

9. As Is, With All Faults; Hazardous Substances.

9.1. Except as otherwise provided herein, Licensee accepts the Licensed Premises in its **AS IS, WITH ALL FAULTS** condition and understands and agrees that Licensor is under no obligation to make

DAS License Agreement

MERC CONTRACT NO. XXXXXX

any improvements, perform any work, or provide any materials to prepare the Licensed Premises for Licensee or the Sub-Licensees. Licensor hereby disclaims, and Licensee on behalf of itself and all future participating Sub-Licensees hereby waives, any and all warranties of any kind whatsoever, whether statutory, express, or implied with respect to the Licensed Premises.

9.2. If Licensee or any of its sub-licensees, contractors or agents encounters any environmentally hazardous substances in the Licensed Premises, Licensee will immediately notify Licensor of such discovery and take all reasonable precautions to avoid handling or disturbing any such environmentally hazardous substances. Licensee shall not transport to, possess or locate any hazardous substances at the Expo Property, except as may be required for Licensee's operation of the DAS Facility. Licensee shall indemnify, defend and hold harmless Licensor from and against all liabilities arising out of or relating to the existence at, on, above, below or near the Licensed Premises of any hazardous substance to the extent deposited, spilled or otherwise caused by Licensee or any of its sub-licensees, contractors or agents, except to the extent deposited, spilled or otherwise caused by Licensor or any of its contractors or agents.

10. Duties, Rights and Responsibilities of Licensor

10.1. All areas of the Licensed Premises, including without limitation any area of the facilities used in the operation of Licensee, shall be subject to entry upon by Licensor at reasonable times for the purposes of conducting inspections or performing required maintenance in the Licensed Premises, providing Licensor does not interfere with Licensee's operations and a representative of Licensee has an opportunity to be present during any such entry.

10.2. Licensor reserves the right, at its sole expense, to alter, expand, reduce, or require Licensee to relocate, all or any of the Licensed Premises to other areas or facilities at the Expo Property after no less than ninety (90) days' notice to Licensee, provided, however, that the relocation space is reasonably acceptable to Licensee and does not detrimentally impact Licensee's regular business operations or the performance of the DAS. To the extent any Sub-Licensees are required to relocate in accordance with the terms hereunder, Licensor shall also reimburse all reasonable expenses incurred by Licensee or any such Sub-Licensees arising from such relocation.

10.3. This Agreement is intended to convey limited rights and interests as set forth herein. This Agreement is not a warranty of title or interest in the Expo Property or any other property owned by Licensor. This Agreement does not deprive Licensor of any powers, rights or privileges it now has, or may later acquire in the future, to use, perform work on or to regulate the use of and to control the Expo Property. Licensee's use of the Licensed Premises or any other portion of the Expo Property is subject to the existing uses and prior and continuing right of Licensor to use such areas for convention purposes or any other municipal purposes desired by Licensor.

DAS License Agreement

MERC CONTRACT NO. XXXXXX

11. Insurance; Indemnity.

11.1. During the Term of this License, Licensee, at its sole cost and expense, shall procure and maintain in full force and effect (i) commercial general liability insurance coverage with a limit of not less than two million dollars (\$2,000,000) per claim for bodily injury, insuring against liability arising out of Licensee's use or occupancy of the Property; (ii) automobile liability insurance with limits not less than \$1,000,000 each occurrence combined single limit for bodily injury and property damage, including coverages for owned, non-owned, and hired vehicles, including loading and unloading operators, and (iii) workers' compensation insurance as required by the laws of the State in which the Property is located and employer's liability with limits of not less than \$1,000,000 for each accident or disease. The commercial general liability and auto insurance shall name the Licensor as additional insured. Licensee shall provide at least thirty (30) days prior written notice to Licensor of the cancellation thereof. Such insurance shall be on an occurrence basis and shall be primary and not contributory with any other valid and collectible insurance that Licensor may carry. Licensee shall provide Licensor with a certificate or certificates of insurance evidencing the insurance required by this paragraph on or before the Commencement Date and promptly upon the request of Licensor thereafter. Claims made policies are not acceptable and do not constitute compliance with Licensee's obligations under this paragraph.

11.2. Licensor is a self insured governmental entity. During the term of this Agreement, Licensor will carry the following insurance with customary coverage and exclusions: (i) Excess liability insurance relating to Licensor's operation of the Property, for personal and bodily injury and death, and damage to others' property, in the amount of at least \$2,000,000 per claim; and (ii) All-risk property insurance relating to the Property, in the amount of at least 80% of the replacement value of the Property.

11.3. Licensor and Licensee mutually covenant and agree that in connection with insurance policies required to be furnished in accordance with the terms and conditions of this Agreement, or in connection with insurance policies which they obtain insuring such insurable interest as Licensor or Licensee may have in its own properties, whether personal or real, hereby expressly waive any right of subrogation on the part of the insurer against the Licensor or Licensee, as applicable, which right, to the extent not prohibited or violative of any such policy. In accordance with the waiver of subrogation in the preceding sentence, Licensor and Licensee each mutually agree to seek recovery based solely on the policies referenced in this Section 9, and waive all right of recovery against each other, their agents, or employees for any loss, damage or injury of any nature whatsoever to property or person, except to the extent either party is required by this Agreement to carry insurance with respect thereto.

11.4. Licensee will indemnify, defend, and hold harmless Licensor, including, but not limited to, its elected and appointed officials, officers, employees, representatives, and agents (the "Licensor Parties") from and against all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of actions, liability and suits of any kind and nature to the extent relating to,

DAS License Agreement

MERC CONTRACT NO. XXXXXX

directly or indirectly, a claim by a third-party related to any of the following: (i) breach of any representation, warranty, covenant, or agreement of Licensee in this License; (ii) negligence, gross negligence, willful misconduct, or other wrongful act or omission of Licensee or any Sub-Licensee or any person acting on behalf of or under the direction or control of Licensee or any Sub-Licensee; (iii) infringement or other violation of any intellectual property right of any third-party; (iv) a Licensee induced condition, event, or other activity that gives rise to a third-party claim (including any, or accusation of any, libel, slander, invasion of privacy, improper trade practice, or breach of warranty or any unsafe, hazardous, or defective good or service) of or at the Expo; The foregoing indemnities shall not apply to the extent that any such claims arise from the gross negligence or willful misconduct of the Indemnified Licensor Parties. Subject to the limitations and conditions of the Oregon Tort Claims Act, ORS chapter 30, and the Oregon Constitution, Licensor shall indemnify, defend, settle or otherwise hold the Licensee Parties harmless against (x) any damage to a Licensee Party's real or tangible personal property located at the Property or personal injury or death, caused by the negligence or willful misconduct of the Licensor Parties; or (y) the gross negligence or willful misconduct of any Licensor Parties. The foregoing indemnities shall not apply to the extent that any such claims arise from the gross negligence or willful misconduct of the Licensee Parties. Except for each party's foregoing indemnification obligations, neither party shall be liable for any punitive, exemplary, treble, and/or consequential damages as the result of non-performance of any obligation contained in this Agreement. As used in this Section 11 (Indemnification; Limitation of Liability), an "affiliate" of a party means any entity that controls, is controlled by, or is under common control with such party. The provisions of this Paragraph shall survive the termination or expiration of this Agreement.

12. Estoppel, Non-Disturbance and Attornment.

From time to time during the Term of this License, each parties each agrees, upon not less than ten (10) days prior written notice from the other, to execute, acknowledge and deliver a written estoppel certificate (an "Estoppel") certifying that as of the date of the certification: (i) the License is a valid and enforceable agreement and is in full force and effect; (ii) that neither party is not in default under any of the terms, conditions, or covenants of the License beyond or any applicable cure period or, if applicable, truthfully specifying any default by such applicable party hereunder and the cure period applicable thereto; (iii) the commencement and expiration dates of the then-current term, hereof together with any remaining Renewal Term(s); and (iv) a true and correct copy of the License and all amendments thereto shall be attached to the Estoppel.

13. Rights to Personal Property Owned by Licensee on the Licensed Premises.

The DAS Facilities, including, without limitation, any and all property, machinery, equipment and trade fixtures installed by Licensee, shall remain the personal property of Licensee notwithstanding the fact that such property, machinery, equipment and trade fixtures may be affixed or attached to the Expo Property. Licensee is obligated at its sole cost to remove from the Licensed Premises said property, machinery, equipment, wiring and cabling, and trade fixtures installed and/or owned by Licensee on the Licensed

DAS License Agreement

MERC CONTRACT NO. XXXXXX

Premises upon the expiration or earlier termination of this License, provided, however, that Licensee may leave any wiring, conduit, and cable at the Licensed Premises to the extent it is affixed to real property and cannot be removed without doing substantial damage to the Licensed Premises or the Expo Property. Upon the expiration or earlier termination of this License, Licensee shall return the Licensed Premises to its original condition, including the removal of DAS Facility system mounting pads or other support structures. In no case shall Licensee's removal of the DAS Facility affect the integrity of the Expo building facility, including but not limited to the Expo roof. Licensee shall leave the Licensed Premises in neat and clear order and repair any damage caused by said removal, normal wear and tear excepted. Unless otherwise agreed upon in writing by the parties and subject to the terms of this section, any of Licensee's personal property remaining on the Licensed Premises or Expo Property thirty (30) days after the expiration or ninety (90) days after the earlier termination of this License shall become the property of Licensor, free of any claim by Licensee or any person claiming through Licensee, and Licensor has the right to dispose of such property as Licensee deems fit and charge Licensee for the cost of such disposal.

14. Compliance with Law.

Licensee shall, at its sole cost and expense, comply with the requirements of applicable municipal, county, state and federal authorities and with Licensee's rules and regulations now in force, or which hereafter may be in force, pertaining to Licensee's construction, installation, maintenance, and operation of the DAS Facilities.

15. Default.

A party's failure to comply with any term, covenant, or condition of this License to be performed by it pursuant to this Agreement, which failure is not remedied within thirty (30) days after such party receives written notice from the other party specifying the failure of performance shall be deemed to constitute a "Default" under this Agreement. Notwithstanding the foregoing, in the event a non-monetary failure is not reasonably susceptible of cure within the aforementioned thirty (30) day period, a party shall not be deemed to be in Default hereunder if such party commences to cure the failure in performance within such thirty (30) day period and thereafter diligently prosecutes the cure to completion. In the event of a Default by Licensee hereunder, Licensor, at its option, may cancel and terminate this License and all of Licensee's rights hereunder in and to the Licensed Premises upon written notice to Licensee. Termination for Default by a party will not waive any claim or remedies such party may have against the other party.

DAS License Agreement

MERC CONTRACT NO. XXXXXX

16. RF Compliance/Interference Management.

16.1. Licensee shall require that its Sub-Licensees comply with applicable regulations of the FCC governing radio frequency (RF) emissions and interference. Licensee is solely responsible for ensuring that all Sub-Licensees using the DAS are frequency compatible and Licensee shall take all commercially reasonable steps necessary to correct or eliminate any interference among its users.

17. Termination.

In addition to the other events permitting termination hereunder, Licensee shall have the right, but not the obligation, to terminate this License by giving ninety (90) days written notice of its intention to do so upon the occurrence of any of the following events: (i) any damage to or destruction of fifty percent (50%) or more of the DAS Facilities or the Licensed Premises, or material damage to or destruction to the Expo Property under circumstances rendering it impractical or uneconomical, in Licensee's sole discretion, to repair or replace the DAS Facilities or (ii) the condemnation or other taking of any part of the Licensed Premises, the DAS Facilities or the Expo Property by any governmental agency of appropriate jurisdiction, which condemnation or other taking materially interferes with Licensee's rights hereunder.

18. Assignment.

18.1. Licensee shall have the right, upon written notice to Licensor but without Licensor's consent, to assign Licensee's interest in this License to any affiliate or subsidiary of Licensee, or to any person or entity that purchases all or substantially all of the assets of Licensee whether by sale, merger, or other reorganization. Licensee shall have the right to sub-license any portion of the Licensed Premises in connection with Licensee's permitted use of the Licensed Premises by its Sub-Licensees without the prior consent of Licensor. Any other assignment by Licensee shall require the prior written consent of Licensor, which consent shall not be unreasonably withheld, conditioned or delayed.

18.2. Licensor shall have the right, upon written notice to Licensee but without Licensee's consent, to assign Licensor's interest in this License to any affiliate or subsidiary of Licensor, or to any person or entity that purchases all or substantially all of the assets of Licensor, or all or substantially all of Licensor's interest in the Expo Property, whether by sale, merger, or other reorganization. Any other assignment by Licensor shall require the prior written consent of Licensee, which consent shall not be unreasonably withheld, conditioned or delayed.

18.3. Licensor shall use good faith efforts to obtain for Licensee from the holder of any mortgage and/or deed of trust now or hereafter encumbering the Expo Property a non-disturbance and attornment agreement in a form reasonably satisfactory to Licensee, which agreement shall provide that as long as Licensee is not in default of any of its material obligations under this Agreement beyond any applicable cure

DAS License Agreement

MERC CONTRACT NO. XXXXXX

period, its rights as Licensee hereunder shall not be terminated and its access to and possession of the Licensed Premises shall not be disturbed by the mortgagee or trustee, as the case may be, or by any proceedings on the debt which any such mortgage or deed of trust secures, and that any sale at foreclosure shall be subject to this Agreement.

18.4. Licensors consent to Licensee's pledging of its interest in this Agreement (but not to any interest in the Expo Property) to its lender(s) as reasonably required by Licensee in the ordinary course of conducting its business upon reasonable written notice to Licensors. Licensors agree to notify Lender in writing (at any address designated in writing by Licensee from time to time) of any breach or default by Licensee of its obligations under the Agreement. In the event of any breach or default of this Agreement by Licensee, Licensors will permit Licensee's lender to cure and correct such breach or default within the applicable cure period and with the same effect as if such cure had been made or performed by Licensee; and thereafter permit Licensee's lender to attorn to Licensors under the Agreement and to perform the rights and obligations of Licensee thereunder.

19. Quiet Enjoyment, Authority and Exclusivity.

19.1. At all times during the term of this Agreement, Licensee may peaceably and quietly hold and enjoy the Licensed Premises consistent with Licensee's use of same for the Communications Purpose, free from disturbance by any person claiming by, through or under Licensors, subject only to those matters and conditions set forth in this Agreement.

19.2. Licensors covenants and warrants to Licensee that: (i) Licensors has full right, power and authority to execute this Agreement; (ii) execution and performance of this Agreement by Licensors will not, to the best of Licensors's knowledge, violate any laws, ordinances, covenants, or the provisions of any other agreement binding on Licensors; (iii) Licensors agrees that, during the Term of this Agreement, Licensee will have the sole and exclusive right to install and/or operate a distributed antenna system or similar type of telecommunications network and/or system servicing wireless communications carriers and/or users for the Communications Purpose, such as small cells, remote radio heads, temporary wireless base station facilities (e.g. a cellular-on-wheels (COW) or otherwise (excluding Wi-Fi Services, as set forth in this Agreement), at, within, or upon the Expo Property; (iv) there are no existing macro wireless agreements or agreements that give rights to third parties to provide facilities for the Communications Purpose (excluding Wi-Fi Services, as set forth in this Agreement) at, within, or upon the Property, and (v) during the Term of this Agreement, Licensors shall not enter into any new agreements for macro wireless facilities or agreements that give rights to third parties to provide facilities for the Communications Purpose (excluding Wi-Fi Services, as set forth in this Agreement) at, within, or upon the Property unless mutually agreed by both parties.

20. Notices.

DAS License Agreement

MERC CONTRACT NO. XXXXXX

Any and all notices, demands, consents, approvals, or authorizations required or permitted under this License shall be in writing. They shall be served either personally, by pre-paid certified mail, return receipt requested, or via a nationally-recognized overnight delivery service. If served personally, notice shall be deemed made at the time of service on the individual to whom the notice is addressed. If provided by certified mail, notice shall be deemed to have been given five (5) business days after deposit in the United States mail. If served by facsimile or a nationally recognized overnight delivery service, notice shall be deemed to have been given on the first (1st) business day after the sender's depositing thereof with such service. Notices shall be addressed to the parties at the following addresses, which notice addresses may be changed from time to time by notice given pursuant to this paragraph.

If to Licensor:

Portland Expo Center
Attn: Director
2060 N. Marine Drive,
Portland, Oregon

with a copy to:

Office of the Metro Attorney
600 NE Grand Ave.
Portland, OR 97232-2736

If to Licensee:

InSite Wireless Development, LLC 1199
N. Fairfax Street, Suite 700
Alexandria, VA 22314 Attn:
Legal Department

with a copy to:

InSite Wireless Group, LLC
260 Newport Center Drive, Suite 421 Newport
Beach, CA 92660
Attn: General Counsel

DAS License Agreement

MERC CONTRACT NO. XXXXXX

21. Force Majeure.

Any event or circumstance beyond the reasonable control of and that cannot be reasonably avoided via the exercise of due care by a party shall be deemed to constitute a “Force Majeure Event”. Force Majeure Events include, but are not necessarily limited to, earthquakes, fire, lightning, explosions, floods, wars and insurrections. Neither party shall be liable for the failure to perform hereunder if such failure is the result of the occurrence of an Event of Force Majeure. Any party so affected by a Force Majeure Event shall provide written notice to the other party thereof as soon as reasonably practicable and no later than fifteen (15) business days after the termination or elimination of the Force Majeure Event describing the relevant details thereof. Following the termination or elimination of the Force Majeure Event, the parties shall promptly resume performance hereunder in the ordinary course.

22. Amendment.

Neither this License nor any provision hereof may be waived, modified, amended, discharged, or terminated except by an instrument in writing signed by the party against which the enforcement of such waiver, modification, amendment, discharge, or termination is sought, and then only to the extent set forth in such instrument.

23. Successors.

The covenants and conditions contained in this License shall, subject to the provisions set forth in Section 18 above, apply to and bind the successors and/or assigns of the parties.

24. Application of Law.

The validity, performance and enforcement of this License shall be construed in accordance with the laws of the State of Oregon without reference to principles of conflicts of law.

25. Entirety.

This License including, without limitation, all Exhibits attached hereto, constitutes the entire understanding of the parties with respect to the matters set forth in this document and supersedes all prior or contemporaneous understandings or agreements between the parties with respect to the subject matter hereof, whether oral or written.

DAS License Agreement

MERC CONTRACT NO. XXXXXX

26. No Waiver.

No waiver by either party of any failure, breach, or default of the other party shall be deemed or held to constitute a waiver of any subsequent failure, breach, or default hereunder of whatever kind or nature.

27. Attorneys' Fees.

In the event that any legal action is taken to enforce the provisions of this Agreement or in the event that either party seeks to enforce claims arising out of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees, expert witness fees, and related costs (including, without limitation, court costs).

28. Rejection of License Revocation Doctrine.

The parties specifically waive any applicable law, doctrine, or other legal interpretation or principle that licenses are revocable at the will of the Licensor, with the intent and expectation that this Agreement shall only be revocable as specifically provided for and authorized by this Agreement.

29. Counterparts, Electronic and Facsimile Signatures.

This Agreement may be executed in one or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission or by electronic delivery (in PDF, TIF, or other document format), such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or electronic signature page were an original thereof.

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DAS License Agreement

MERC CONTRACT NO. XXXXXX

IN WITNESS THEREOF, LICENSOR and LICENSEE have caused their duly-authorized representatives to execute this License Agreement for Distributed Antenna System as of the Execution Date set forth above.

LICENSOR:

**The Metropolitan Exposition
Recreation Commission**

By: _____

Name: _____

Title: _____

Date: _____

LICENSEE:

InSite Wireless Development, LLC

By: _____

Name: _____

Title: _____

Date: _____

DAS License Agreement

MERC CONTRACT NO. XXXXXX

EXHIBIT "A" TO LICENSE AGREEMENT

THE PROPERTY

The Expo Property is more fully described as follows:

[See attached]

DAS License Agreement

MERC CONTRACT NO. XXXXXX

MERC Expo Center

LEGAL DESCRIPTION:

PARCEL I:

A tract of land in Section 33, Township 2 North, Range 1 East of the Willamette Meridian, in the City of Portland, County of Multnomah and State of Oregon, described as follows:

Beginning at a point on a line drawn at right angles to the Union Meat Company base line at Station 34+35.04 thereof, said point being 100 feet distant Southerly from said base line; thence Southerly in a course at right angles to said base line South 23°28' West 722 feet to a point; thence Easterly in a course South 66°32' East parallel with said base line 1051 feet to a point; thence Northerly in a course North 23°28' East at right angles to said base line 622 feet to a point which bears 100 feet Southerly and at right angles to said base line; thence North 66°32' West parallel to said base line 1051 feet to the point of beginning.

TOGETHER WITH that portion of a vacated street which inured thereto by Ordinance No. 166754.

EXCEPTING THEREFROM that portion conveyed to the State of Oregon, by and through its Department of Transportation, Highway Division, by instrument recorded August 12, 1993 in Book 2737, Page 968, and re-recorded March 29, 1999 as Recorder's Fee No. 99-062229.

PARCEL II:

A tract of land in Section 33, Township 2 North, Range 1 East of the Willamette Meridian, and in Section 4, Township 1 North, Range 1 East of the Willamette Meridian, in the City of Portland, County of Multnomah and State of Oregon, described as follows:

Beginning at a point which is 88.1 feet Southerly from and at right angles to Station 45+36.04 on the Union Meat Company's base line; running thence South 66°32' East, 707 feet; thence along a curve to the right whose radius is 617.27 feet and whose initial tangent bears South 66°32' East, a distance of 45.76 feet; thence South 23°28' West 630.5 feet; thence North 66°32' West 756.03 feet; thence North 23°28' East 633.9 feet to the point of beginning.

EXCEPTING those portions conveyed to the State of Oregon by Deeds recorded April 19, 1943, in Book 743, Page 332, Deed Records, March 17, 1955, in Book 1711, Page 516, Deed Records, and April 4, 1963, in Book 2161, Page 380, Deed Records.

TOGETHER WITH that portion of a vacated street which inured thereto by Ordinance No. 166754.

FURTHER EXCEPTING THEREFROM that portion deeded to Tri-Met by Deed recorded May 30, 2003, Recorder's Fee No. 2003-125634.

PARCEL III:

A tract of land in Section 33, Township 2 North, Range 1 East of the Willamette Meridian, and Section 4, Township 1 North, Range 1 East of the Willamette Meridian, in the City of Portland, County of Multnomah and State of Oregon, bounded and described as follows:

Beginning at the Southeast corner of that 11 acre tract conveyed to Pacific International Association by the Peninsula Industrial Company by Deed recorded in Book 222, Page 236, Deed Records; running thence South 23°28' West 794.5 feet, more or less, to the North line of that 80 acre tract conveyed to the Oregonian Publishing Company by the Peninsula Industrial Company by Deed recorded August 18, 1936, in Book 350, Page 524, Deed Records; running thence North 82°00' West along said North line 117.0 feet, more or less, to the East line of that 10.33 acre tract conveyed to the Oregonian Publishing Company by the Peninsula Industrial Company by Deed recorded March 5, 1931, in Book 218, Page 118, Deed Records; running thence North 7°44' West along the East line of said 10.33 acre tract, 370.25 feet, more or less, to the Northeast corner of said 10.33 acre tract; thence running North 58°18' West along the North line of that 5.1 acre tract conveyed to the Oregonian Publishing Company by the Kernan Livestock Farms, Inc., by Deed recorded in Book 404, Page 364, Deed Records, 930.0 feet, more or less, to the East line of that 14.13 acre tract conveyed to A.R. Benson and E.L. Pennock by Deed recorded in Book 417, Page 265, Deed Records; running thence North 23°28' East along the East line of said 14.13 acre tract, 276.6 feet, more or less, to the South line of that 100-foot right of way conveyed to the Peninsula Terminal Company by the Peninsula Industrial Company by Deed recorded March 16, 1931, in Book 120, Page 1, Deed Records; running thence South 66°32' East along the South line of said 100-foot right of way, 418 feet, more or less, to the Southeast corner of said 100-foot right of way; thence North 23°28' East along the East line of said 100-foot right of way, 100 feet to the Northeast corner of said 100-foot right of way; thence South 66°32' East running along the South line of said 11 acre tract conveyed to the Pacific International Association by the Peninsula Industrial Company, 806.03 feet, more or less, to the point of beginning.

Continued

Site Name: Portland Expo Center
Site Location: 2060 N. Marine Drive, Portland, Oregon

DAS License Agreement

MERC CONTRACT NO. XXXXXX

EXCEPTING the portion conveyed to King Broadcasting Company by Deed recorded May 14, 1959, in Book 1955, Page 106, Deed Records.

TOGETHER WITH that portion of a vacated street which inured thereto by Ordinance No. 166754.

FURTHER EXCEPTING THEREFROM that portion deeded to Tri-Met by Deed recorded May 30, 2003, Recorder's Fee No. 2003-125634.

FURTHER EXCEPTING THEREFROM that portion deeded to Metro by Deed recorded December 24, 2003, Recorder's Fee No. 2003-299145.

PARCEL IV:

The following described property situated in the Northeast quarter of Section 4, Township 1 North, Range 1 East of the Willamette Meridian, in the City of Portland, County of Multnomah and State of Oregon:

Beginning at the Northeast corner of a certain 10.33 acre tract conveyed by Oregonian Publishing Company to Pioneer Broadcasters, Inc., by Deed recorded in Book 1449, Page 591, Deed Records, said point being South 69°14' West 1,403.24 feet from the Northeast corner of Section 4, Township 1 North, Range 1 East of the Willamette Meridian; thence North 58°18' West 641.24 feet to a point in the East line of a 50-foot easement road; thence along said East line South 23°28' West 101.33 feet; thence South 66°32' East 637.27 feet; thence North 7°44' West 9.80 feet to the point of beginning.

ALSO commencing at the Northeast corner of a certain 10.33 acre tract conveyed by Oregonian Publishing Company to Pioneer Broadcasters, Inc., by Deed recorded in Book 1449, Page 591, Deed Records, said point being South 69°14' West 1403.24 feet from the Northeast corner of Section 4, Township 1 North, Range 1 East of the Willamette Meridian; thence North 58°18' West 691.76 feet to a point in the West line of a 50-foot easement road and the true point of beginning of the tract to be described; thence along said West line South 23°28' West 108.55 feet; thence North 66°32' West 246.75 feet; thence North 28°45' East 142.95 feet; thence South 58°18' East 236.04 feet to the point of beginning.

TOGETHER WITH that portion of a vacated street which inured thereto by Ordinance No. 166754.

EXCEPTING THEREFROM that portion deeded to Metro by Deed recorded December 24, 2003, Recorder's Fee No. 2003-299145.

PARCEL V:

A parcel of land in Section 4, Township 1 North, Range 1 East and Section 33, Township 2 North, Range 1 East of the Willamette Meridian, in the City of Portland, County of Multnomah and State of Oregon, more particularly described as follows:

Beginning at the Northwest corner of the 11.06 acre tract conveyed to the Kernan Livestock Farm, Inc., by the Peninsula Industrial Company by Deed recorded in Deed Book 390, Page 209; running thence South 23°28' West along the West line of said 11.06 acre tract, 578.0 feet, more or less, to the Southwest corner of said 11.06 acre tract which point is also the Northwest corner of the 7.82 acre tract conveyed to the Kernan Livestock Farm by the Peninsula Industrial Company by Deed dated April 30, 1937, and recorded in Deed Book 395, Page 460; and also being the Southeast corner of the 21.60 acre tract conveyed by Peninsula Industrial Company to Portland Union Stock Yards Company, by a Deed recorded May 29, 1926 in Deed Book 1063, Page 15; said point being also described as being 1400 feet Southerly from and at right angles to Station 34+35.04 on the Union Meat Company's baseline at North Portland, Oregon; running thence South 23°28' West, 717 feet; thence South 66°32' East 363.7 feet, more or less, to the Northwest corner of the 80 acre tract conveyed by said Peninsula Industrial Company to Oregon Publishing Company by Deed recorded August 18, 1936 in Deed Book 350, Page 524; running thence North 60°23' East along said North line, 333.0 feet, more or less, to the Southwest corner of the 5.1 acre tract conveyed to the Oregon Publishing Company by the Kernan Livestock Farm, by Deed recorded June 24, 1937 in Deed Book 404, Page 364; running thence North 28°45' East along the West line of said tract 754.8 feet, more or less, to the Northwest corner of said tract; thence running North 23°28' East 276.6 feet, more or less, to the North line of said 11.0 acre tract; thence North 66°32' West along the North line of said 11.06 acre tract 633.0 feet, more or less, to the point of beginning.

EXCEPTING THAT portion in North Force Road described in Deed recorded August 1, 1958 in Book 1910, Page 138.

Continued

DAS License Agreement

MERC CONTRACT NO. XXXXXX

FURTHER EXCEPTING THEREFROM that portion deeded to the Port of Portland by Deed recorded December 24, 2003, Recorder's Fee No. 2003-299144.

PARCEL VI:

A parcel of land situated in the Southeast quarter of Section 33, Township 2 North, Range 1 East of the Willamette Meridian, in the City of Portland, County of Multnomah and State of Oregon, more particularly described as follows:

Commencing at Station 34+35.04 on the Union Meat baseline (the bearing of which is South 66°32' East); thence South 23°28' West 822.00 feet; thence South 66°32' East 6.30 feet to the point of beginning, being a point in the East line of N. Force Avenue, County Road No. 2720; thence South 66°32' East 1044.70 feet; thence North 23°28' East 100.00 feet; thence North 66°32' West 622.74 feet; thence South 23°28' West 17.00 feet; thence North 66°32' West 421.96 feet to the East line of N. Force Avenue, County Road No. 2720; thence South 23°28' West along said East line 83.00 feet to the point of beginning.

AND

A parcel of land situated in the Southeast quarter of Section 33, Township 2 North, Range 1 East of the Willamette Meridian, in the City of Portland, County of Multnomah and State of Oregon, more particularly described as follows:

Commencing at Station 34+35.04 on the Union Meat baseline (the bearing of which is South 66°32' East); thence South 23°28' West 722.00 feet; thence South 66°32' East 6.30 feet to the point of beginning, being a point in the East line of N. Force Avenue, County Road No. 2720; thence continuing South 66°32' East 421.96 feet; thence South 23°28' West 17.00 feet; thence North 66°32' West 421.96 feet to a point in the East line of N. Force Avenue, County Road No. 2720; thence along said East line North 23°28' East 17.00 feet to the point of beginning.

TOGETHER WITH that portion of a vacated street which inured thereto by Ordinance No. 166754.

PARCEL VII:

A parcel of land, being a portion of that certain tract of land described as Parcel I in Deed to Multnomah County recorded August 9, 1965 in Book 353, Page 11 of the Multnomah County Deed Records and located within Section 33 of Township 2 North, Range 1 East, of the Willamette Meridian, in the City of Portland, County of Multnomah and State of Oregon and more particularly described as follows:

Commencing at the intersection of the Union Meat Company Baseline as described in said Multnomah County deed and the Northwesterly line of said Multnomah County tract of land described as Parcel II in Deed recorded August 9, 1965 in Book 353, Page 11; thence tracing said Northwesterly line and its Southerly projection South 24°55'31" West 88.2 feet to the Southwesterly right of way line of North Portland Road (a.k.a. North Marine Drive); thence tracing said Southwesterly right of way line South 65°04'29" East 6.31 feet to the Southeasterly right of way line of Force Avenue and the true point of beginning; thence tracing said Southwesterly right of way line of North Portland Road with said line being common with the Northeasterly line of said Parcel I described in said deed to Multnomah County South 65°04'29" East 1044.43 feet to the Southeasterly line of said Parcel I; thence leaving said Southwesterly right of way line of North Portland Road and tracing said Southeasterly line of Parcel I South 24°55'31" West 27.79 feet; thence leaving said Southeasterly line North 65°07'45" West 10.43 feet to a point of curvature; thence tracing the arc of a 5.039.00 foot radius curve to the right through a central angle of 01°40'01" an arc distance of 146.60 feet (the long chord bears North 64°14'11" West 146.60 feet) to a point of tangency; thence North 63°24'11" West 723.64 feet to a point of curvature; thence tracing the arc of a 594.00 foot radius curve to the left through a central angle of 12°32'44" an arc length of 130.06 feet (the long chord bears North 69°40'33" West 129.80 feet) to a point of compound curvature; thence tracing a 44.00 foot radius curve to the left through a central angle of 22°21'42" an arc length of 17.17 feet (the long chord bears North 87°07'45" West 17.06 feet); thence South 12°13'10" East 6.02 feet; thence South 77°46'50" West 6.00 feet; thence North 12°13'10" West 6.02 feet to a point of non-tangent curvature (the radial center bears South 16°07'45" East); thence tracing the arc of a 44.00 foot radius curve to the left through a central angle of 10°21'48" an arc length of 7.96 feet (the long chord bears South 68°41'21" West 7.95 feet) to a point of non-tangency; thence South 34°19'47" East 6.07 feet; thence South 55°40'13" West 12.00 feet; thence North 34°19'47" West 6.07 feet to a point of non-tangent curvature (the radial center bears South 42°10'02" East); thence tracing the arc of a 44.00 foot radius curve to the left through a central angle of 10°40'07" an arc length of 8.19 feet (the long chord bears South 42°29'54" West 8.18 feet) to a point of cusp on the Southeasterly right of way line of Force Avenue; thence tracing said Southeasterly right of way line North 24°55'31" East

Continued

DAS License Agreement

MERC CONTRACT NO. XXXXXX

48.84 feet to the true point of beginning.

PARCEL VIII:

A parcel of land, being a portion of that certain tract of land described as Parcel II in Deed to Multnomah County recorded August 9, 1965 in Book 353, Page 11 of the Multnomah County Deed Records and located within Section 33 of Township 2 North, Range 1 East of the Willamette Meridian, in the City of Portland, County of Multnomah and State of Oregon and more particularly described as follows:

Commencing at the intersection of the Union Meat Company Baseline as described in said Multnomah County Deed and the Northwesterly line of said Multnomah County tract of land described as Parcel II in Deed recorded August 9, 1965 in Book 353, Page 11; thence tracing said Northwesterly line South 24°55'31" West 28.2 feet to the Northeasterly right of way line of North Portland Road (a.k.a. North Marine Drive) and the true point of beginning; thence retracing said Northwesterly line North 24°55'31" East 16.67 feet; thence leaving said Northwesterly line and tracing the arc of a 5,038.00 foot radius curve to the right (the radius point bears South 25°35'12" West) through a central angle of 01°00'49" an arc distance of 89.12 feet (the long chord bears South 63°54'35" East 89.12 feet) to a point of tangency; thence South 63°24'11" East 509.25 feet to said Northeasterly right of way line of said North Portland Road; thence tracing said Northeasterly right of way line North 65°04'29" West 598.13 feet to the true point of beginning.

PARCEL IX:

A tract of land in Section 33, Township 2 North, Range 1 East of the Willamette Meridian, in the City of Portland, County of Multnomah and State of Oregon, described as follows:

Beginning at Station 44+86.04 on the Union Meat Company's base line at North Portland, Oregon, said station being on the West line of that 15 acre tract conveyed to the Kernan Live Stock Farm, Inc., by the Peninsula Industrial Company by Deed recorded December 13, 1934, in Book 274, Page 377, Deed Records; running thence South 23°28' West along said West line, 28.1 feet, more or less, to the North line of the right of way of the North Portland Road, No. 1284-A; running thence North 66°32' West along the North side of said North Portland Road, a distance of 1,051.0 feet; thence North 23°28' East 190 feet, more or less, to low water line of North Portland harbor; thence upstream along low water line of North Portland harbor, 1,051.3 feet, more or less, to the West line of said 15 acre tract conveyed to the Kernan Live Stock Farm, Inc., by the Peninsula Industrial Company; thence South 23°28' West, 106.3 feet, more or less, to the point of beginning.

EXCEPTING THEREFROM the ownership of the State of Oregon in that portion lying below the line of mean highwater.

FURTHER EXCEPTING THEREFROM that portion described as Parcel 2 in Deed to Metro recorded March 29, 1999, Recorder's Fee No. 99-062228.

DAS License Agreement

MERC CONTRACT NO. XXXXXX

EXHIBIT B TO LICENSE AGREEMENT

LICENSED PREMISES-DAS FACILITIES

Licensor and Licensee shall mutually review and approve the initial layout of the portion of the Licensed Premises applicable to the DAS Facilities, including the space for the Equipment Room, which mutual approval shall be confirmed in writing and which design shall be deemed to have been incorporated into this Exhibit B.

DAS License Agreement

MERC CONTRACT NO. XXXXXX

EXHIBIT C TO LICENSE AGREEMENT

INITIAL DAS FACILITIES DESIGN

Licensor and Licensee shall mutually review and approve the initial design of the DAS Facilities, which mutual approval shall be confirmed in writing and which design shall be deemed to have been incorporated into this Exhibit C.

DAS License Agreement

MERC CONTRACT NO. XXXXXX

EXHIBIT XX TO LICENSE AGREEMENT

Expo's Fiber Specifications/Locations/Installation Standards

[To be added via amendment]

DAS License Agreement

MERC CONTRACT NO. XXXXXX

EXHIBIT D TO LICENSE AGREEMENT

ACCESS PROCEDURES

1. For scheduled maintenance activities post-installation: Insite will have access to the Expo Center Monday through Friday, 7:30 am to 4:00 pm.
2. All work will be scheduled 24 hours in advanced.
3. Once onsite, contact our front desk in Administration at 503-736-5200 and notify the Operations Manager. Any questions can be directed to the above number or by email at info@expoctrcenter.org.
4. Vendor access keys to be signed out at the Expo Admin office and are required to be returned each day before leaving site.

DAS License Agreement

MERC CONTRACT NO. XXXXXX

SCHEDULE 7.2

LICENSE FEES

The License Fee amounts payable to Licensor during the Term will be equal to the below-designated percentage of the Sub-License Fee Income Stream (as hereafter defined) actually received by Licensee during the applicable period from each Sub-Licensee Carrier pursuant to the terms of a fully-executed and commenced Sub-License Agreement with Licensee authorizing the Sub-Licensee’s use of the DAS Facilities for the Communications Purpose (“Licensor’s Allocated Percentage”). As used in this Schedule 7.2, the term “Sub-Licensee Income Stream” means the monthly recurring Sub-License Fees actually received by Licensee (including applicable annual escalations thereof) pursuant to a fully-executed Sub-License Agreement with any Sub-Licensee. As used in this Agreement, “Sub-Licensee Income Stream” shall not be deemed to include any of the following: (i) any sales, use or similar tax required to be collected by Licensee from the Sub-Licensees; (ii) routine costs for maintenance and repairs of the DAS Facilities; (iii) utility costs not paid directly to Licensor by Sub-Licensees; (iv) system monitoring expenses; (v) additional payments, if any, by Sub-Licensees for reimbursement of capital, equipment, and/or construction costs, whether paid in lump sum or through a capital License payment/paid installment, or similar; and (vi) other normal and customary operating expenses, including insurance costs incurred by Licensee.

<u>Sub-Licensee(s)</u>	<u>Licensor’s Allocated Percentage</u>
For each Sub-Licensee	50% of the applicable Sub-Licensee Income Stream

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 18-4867, FOR THE PURPOSE OF APPROVING A DISTRIBUTED ANTENNA SYSTEM (DAS) LICENSE AGREEMENT AT THE PORTLAND EXPO CENTER

Date: February 8, 2018

Prepared by: Chuck Dills
503-736-5204

BACKGROUND

The Expo is an event facility that hosts hundreds of consumer public shows, tradeshow, conferences, meetings, concerts and other events throughout each year. Currently, the building's infrastructure unintentionally disrupts the transmission of cellular information throughout the building. As society's reliance on technology increases, this interference in cellular communication has become problematic for attendees, guests and clients. The Expo often receives customer complaints due to disrupted cellular service. Installation of the DAS system will enable multiple cell phone carriers to enhance their connectivity to attendees, guest and clients while at the Expo.

On March 13, 2017, Expo asked for proposals from bidders to finance, design, install, activate, operate and maintain a success Distributed Antenna System (DAS). Expo received seven responses to the RFP and extended in-person interviews to three of these companies. InSite was selected based on their overall experience with convention centers and the overall financial package to Expo. Extended negotiations began on June 5, 2017 between Expo and Insite. InSite will design, install and implement the system and ensure that the Expo has a fully installed and functional DAS by summer of 2018. This proposal will provide a permanent resolution to customer service issues at no cost to the Expo, while providing a positive financial impact through upfront payments to the Expo and ongoing revenue sharing. At a time in the future, a second phase can be added to this agreement by way of addendum that will allow for a negotiated extension and financial incentive for outdoor coverage enhancement as well.

The Metropolitan Exposition Recreation Commission (MERC) previously approved the DAS License, by resolution, at its meeting on February 7, 2018.

ANALYSIS/INFORMATION

1. **Known Opposition** None
2. **Legal Antecedents** None
3. **Anticipated Effects** This proposal will provide a permanent resolution to customer service issues at no cost to the Expo, while providing a positive financial impact through upfront payments to Expo and ongoing revenue sharing.
4. **Budget Impacts** The Expo will have no cost to the facility and experience a positive impact on the budget as a result of the InSite contract. InSite has agreed to an upfront payment of \$150,000 to Expo within ninety days of an executed agreement. InSite will provide an additional \$25,000 payment to Expo within sixty days of full execution of any carrier agreement between InSite and the wireless carriers. Ongoing, they will pay Expo 50% of monthly revenues, not including capital contributions

or payment of ongoing pass through expenses for utilities, taxes, monitoring, insurance and maintenance paid by the carriers.

RECOMMENDED ACTION

Staff recommends that the Metro Council, by Resolution 18-4867, approve the contract award and written license (attached hereto) to InSite for the Expo Distributed Antenna System and delegate authority to the General Manager of Visitor Venues to execute the contract. The ten-year DAS License allows InSite the opportunity to extend the license term for two additional periods, each period for a span of five years and the option for offers on outdoor coverage enhancement.

Agenda Item No. 4.1

Resolution No. 18-4859, For the Purpose of Authorizing
General Obligation Bonds Under the 2006 Natural Areas
Measure and the 2008 Oregon Zoo Measure

Resolutions

Metro Council Meeting
Thursday, February 8, 2018
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF	)	RESOLUTION NO. 18-4859
AUTHORIZING GENERAL)	
OBLIGATION BONDS UNDER THE	)	Introduced by Martha Bennett, Chief
2006 NATURAL AREAS MEASURE	)	Operating Officer with the concurrence
AND THE 2008 OREGON ZOO	)	of Council President Tom Hughes
MEASURE)	

WHEREAS, voters in the Metro region approved a \$227,400,000 bond measure in 2006 (the “Natural Areas Measure”) to preserve natural areas, protect fish and wildlife, and improve water quality, and other capital costs, as described in the ballot title for the Natural Areas Measure; and,

WHEREAS, Metro has issued \$199,295,000 of bonds under the authority of the Natural Areas Measure and has \$28,105,000 of authority remaining under the Natural Areas Measure; and,

WHEREAS, voters in the Metro region approved a \$125,000,000 bond measure in 2008 (the “Zoo Measure”) to protect animal health and safety, and conserve and recycle water; and,

WHEREAS, Metro has issued \$115,000,000 of bonds under the authority of the Zoo Measure and has \$10,000,000 of authority remaining under the Zoo Measure; and,

WHEREAS, it is now desirable to authorize the sale of up to \$28,105,000 of bonds under the authority of the Natural Areas Measure and up to \$10,000,000 of bonds under the authority of the Zoo Measure; and,

WHEREAS, Oregon Revised Statutes (“ORS”) Section 268.520 limits the amount of the Metro’s outstanding general obligation bonds to ten percent (10%) of the real market value of taxable property within the Metro region and issuing the bonds authorized under this resolution will not cause Metro to exceed its debt limit;

BE IT RESOLVED by the Metro Council as follows:

Section 1. Bonds Authorized.

The Metro Council hereby authorizes the issuance of up to \$28,105,000 of the general obligation bonds that were authorized by the Natural Areas Measure (the “Natural Areas Bonds”) and \$10,000,000 of the general obligation bonds that were authorized by the Zoo Measure (the “Zoo Bonds”). The bonds authorized by this Section 1 (the “Bonds”) shall be sold and issued as provided in this resolution pursuant to ORS Section 268.520 and the applicable provisions of ORS Chapter 287A. Proceeds of the Natural Areas Bonds shall be used for the purposes authorized in the Natural Areas Measure and costs related to the Natural Areas Bonds. Proceeds of the Zoo Bonds shall be used for the purposes authorized in the Zoo Measure and costs related to the Zoo Bonds.

Section 2. Delegation.

The Chief Operating Officer or the person designated by the Chief Operating Officer to act under this resolution (the "Metro Official"), on behalf of Metro and without further action by Metro Council, may:

- 2.1 Issue the Bonds in one or more series that may be sold at different times.
- 2.2 Apply for ratings for each series of Bonds, determine whether to purchase municipal bond insurance or obtain other forms of credit enhancements for each series of Bonds, enter into agreements with the providers of credit enhancement, and execute and deliver related documents.
- 2.3 Prepare, execute and deliver a bond declaration for each series of Bonds specifying the terms under which each series of Bonds is issued, and entering into covenants for the benefit of Bondowners.
- 2.4 Issue any qualifying series of Bonds as "tax-exempt bonds" bearing interest that is excludable from gross income under the Internal Revenue Code of 1986, as amended, (the "Code") and enter into covenants for the benefit of the owners of those series to maintain the excludability of interest on those series from gross income under the Code.
- 2.5 Issue any series of Bonds as "taxable bonds" bearing interest that is includable in gross income under the Code.
- 2.6 Participate in the preparation of, authorize the distribution of, and deem final the preliminary and final official statements and any other disclosure documents for each series of the Bonds.
- 2.7 Undertake to provide continuing disclosure for each series of the Bonds in accordance with Rule 15c2-12 of the United States Securities and Exchange Commission.
- 2.8 Engage the services of and enter into agreements with paying agents, registrars, and any other professionals and service providers that the Metro Official determines are desirable in connection with the Bonds.
- 2.9 Solicit competitive bids for the purchaser of each series of Bonds and award their sale to the bidder offering the most favorable terms to Metro, or select one or more underwriters or lenders, negotiate the terms of the sale of each series of Bonds, and sell that series.
- 2.10 Establish the final principal amounts, maturity schedules, interest rates, sale prices, redemption terms, payment terms and dates, record date and other terms of each series of the Bonds.
- 2.11 Issue, sell and deliver the Bonds and execute any documents and take any other action in connection with the Bonds that the Metro Official finds will be advantageous to Metro in accordance with this resolution.

Section 3. Security For Bonds.

Metro hereby pledges its full faith and credit to pay the Bonds. Metro hereby covenants for the benefit of the Owners to levy a direct ad valorem tax upon all of the taxable property within Metro which is sufficient, after taking into consideration discounts taken and delinquencies that may occur in the payment of such taxes, to pay all Bond principal and interest when due. Metro covenants to levy this tax each year until all the Bonds are paid. This tax shall be in addition to all other taxes of Metro, and this tax shall not be limited in rate, amount or otherwise, by Sections 11 or 11b of Article XI of the Oregon Constitution.

Section 4. Effective Date.

This resolution shall take effect on the date of its passage by the Metro Council.

ADOPTED by the Metro Council this 8th day of February, 2018.

Tom Hughes, Council President

Approved as to Form:

Alison R. Kean, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 18-4859, FOR THE PURPOSE OF AUTHORIZING GENERAL OBLIGATION BONDS UNDER THE 2006 NATURAL AREAS MEASURE AND THE 2008 OREGON ZOO MEASURE

Date: February 8, 2018

Presented by:
Tim Collier, Director of Finance and Regulatory Services

BACKGROUND

The purpose of this resolution is to authorize the sale of general obligation bonds in May 2018. The resolution was prepared with the assistance of Metro's bond counsel Hawkins, Delafield & Wood, LLP and Metro's financial advisor, Piper Jaffray.

Oregon Zoo Infrastructure and Animal Welfare Bonds:

In November 2008 Metro's voters authorized \$125 million in general obligation bonds for new construction, renovation and innovation at the Oregon Zoo to improve animal welfare, increase sustainability and expand opportunities for conservation education. To date, Metro has sold four issues totaling \$115 million. This proposed \$10 million issuance will be the final issuance authorized under the November 2008 vote.

As a result of the four prior bond issuances, Metro has successfully completed projects including construction of a Veterinary Medical Center, the on-site Elephant Habitat and related infrastructure, the Condor Habitat, the Education Center, the penguin life support system upgrade, related storm water projects, and completion of a 20 year Comprehensive Capital Master Plan. This issuance will provide funding for the completion of the Polar Passage, Primate Forest, and the Rhino habitats.

Natural Areas Bonds:

In November 2006 Metro's voters authorized \$227.4 million in general obligation bonds to acquire natural areas, land for parks and property adjacent to streams to preserve habitat, enhance water quality, grow the region's network of trails, and provide greater access to nature. To date, Metro has sold two issues totaling \$199.3 million to date. This proposed \$28.1 million issuance will be the final issuance authorized under the November 2006 vote.

As a result of the two prior bond issuances, Metro has acquired several regionally significant natural areas, the construction of three nature parks, local shares to cities counties and park providers and a Nature in Neighborhoods Capital Grant program. Projects slated for completion with the proposed \$28.1 million issuance include continuing acquisition of key properties and construction of two additional nature parks and several smaller regional trail projects.

Combined Issuing

Metro believes that by combining these sales into a larger issue we can generate higher buyer interest in the marketplace, thereby securing the very best rate for our taxpayers. Issuing debt can be an expensive task, and while each element of the sale will have costs, a combined sale allows for the sharing of these costs and a more efficient work effort for staff. Preparing a single preliminary official statement and official statement, making a single ratings presentation, and preparing related sales documents only once

all contribute to a reduced cost. Although the elements will be combined, the sale will be structured to offer clear transparency and accountability for the separate elements, including meeting the promises to the voters of a maximum 19 cents per thousand of assessed value stated in the Natural Areas measure and the 9 cents per thousand of assessed value stated in the Oregon Zoo Infrastructure measure.

Ratings Review

In 2017 Metro maintained its Aaa/AAA (“double triple” A) bond rating, the gold standard, when Moody’s confirmed our rating for issuance of the Oregon Convention Center Hotel General Revenue Bonds. For a sale of this size, Metro will need to be reviewed by a ratings agency prior to the sale, a significant work effort for the entire agency, from financial, program and executive staff, to the Council. We are confident that Metro’s financial discipline and adherence to our financial policies will be seen favorably and result in confirmation of our highest ratings. Piper Jaffray, our financial advisor, will assist us in preparing for the ratings meeting which is scheduled for this April.

Impact to Taxpayers

Metro’s tax bill for bonded debt has remained relatively low compared with other governmental agencies. While the final levy cannot be determined until after the sale, we estimate that the maximum increase for our taxpayers over the current year, including the new issues and the adjustment for all other scheduled debt, will be about an additional 8 cents per thousand of assessed value. For a property assessed at \$200,000, the average metropolitan property amount, this would be an additional \$16 per year, less than \$2 per month, all within the parameters described to the voters at the time of the respective elections.

ANALYSIS/INFORMATION

1. **Known Opposition** – None.
2. **Legal Antecedents** – Metro may issue general obligation bonds pursuant to the authority granted by Metro Charter Section 10 and ORS 268.520 and pursuant to the voters’ approval of Measure 26-80 at the general election held on November 7, 2006 and approval of Measure 26-96 at the general election held on November 4, 2008.
3. **Anticipated Effects** – This action authorizes the issuance of up to \$28.1 million in general obligation bonds for Natural Areas under the November 2006 authorization and up to \$10 million in general obligation bonds for Oregon Zoo Infrastructure and Animal Welfare bonds under the November 2008 authorization. It also authorizes the Chief Operating Officer or her designee to negotiate and sign all documents and conduct the sale and issuance of the bonds.
4. **Budget Impacts** – The issuance of the bonds will generate additional funding for both the Natural Areas bond program and the Oregon Zoo Infrastructure and Animal Welfare bond program. No additional budget appropriation or action is necessary in the current fiscal year. The FY 2018-19 budget to be proposed in April will include the bond proceeds generated by this action and the associated related expenditures estimated for that fiscal year. Debt service payments on the new issues will begin in FY 2018-19. The debt payments will be structured not to exceed the \$0.19 per thousand of assessed value projected in the Natural Areas measure and the \$0.09 per thousand of assessed value projected in the Oregon Zoo Infrastructure measure. The general obligation bond debt service property tax levy will be sized to include the additional debt payments from the two new issues.

RECOMMENDED ACTION

The Chief Operating Officer recommends Council adoption of Resolution No. 18-4589.

Agenda Item No. 4.2

Resolution No. 18-4865, For the Purpose of Authorizing Full
Faith and Credit Bonds

Resolutions

Metro Council Meeting
Thursday, February 8, 2018
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF	)	RESOLUTION NO. 18-4865
AUTHORIZING FULL FAITH AND)	
CREDIT BONDS	)	Introduced by Martha Bennett, Chief
	)	Operating Officer, with the concurrence
	)	of Council President Tom Hughes

WHEREAS, Metro is authorized by Oregon Revised Statutes (“ORS”) Section 271.390 to enter into loan agreements to finance real or personal property that the Metro Council determines is needed and to authorize certificates of participation in the right to receive the payments due from Metro under those loan agreements; and,

WHEREAS, the estimated weighted average life of a loan agreement shall not exceed the estimated dollar weighted average life of the real or personal property to be financed by such loan agreement; and,

WHEREAS, the Metro Council finds that renovations to the Metro Regional Center and renovations and repairs to Metro’s Lone Fir Cemetery (collectively, the “Project”) are needed;

WHEREAS, it appearing that the total cost of the Project to be financed, plus costs of the financing, will not exceed \$15,250,000;

BE IT RESOLVED by the Metro Council as follows:

Section 1. Financing Authorized.

The Metro Council hereby determines the Project is needed and the financing authorized by this Section 1 shall be sold and issued as provided in this resolution pursuant to ORS 271.390 and the applicable provisions of ORS Chapter 287A, including ORS 287A.315.

Section 2. Delegation.

The Chief Operating Officer or the person designated by the Chief Operating Officer to act under this resolution (the “Metro Official”), on behalf of Metro and without further action by Metro Council, may:

- 2.1 Negotiate, execute and deliver one or more loan agreements or financing agreements (the “Financing Agreements”) in an aggregate principal amount of not more than \$15,250,000 to finance the costs of the Project and to pay estimated costs of financing. Pursuant to ORS 287A.315, the Metro Official may pledge Metro’s full faith and credit and taxing power within the limitations of Sections 11 and 11b of Article XI of the Oregon Constitution, and any and all of Metro’s legally available funds, to make the payments due under the Financing Agreements. Subject to the limitations of this resolution, the Financing Agreements may be in such form and contain such terms as the Metro Official may approve.

- 2.2 Negotiate, execute and deliver one or more escrow agreements or similar documents (the “Escrow Agreements”) which provide for the issuance of one or more series of “certificates of participation” or “full faith and credit obligations” (the “Obligations”) which represent ownership interests in the financing payments due from Metro under the Financing Agreements. Subject to the limitations of this resolution, the Escrow Agreements and each series of Obligations may be in such form and contain such terms as the Metro Official may approve.
- 2.3 Apply for ratings for each series of Obligations, determine whether to purchase municipal bond insurance or obtain other forms of credit enhancements for each series of Obligations, enter into agreements with the providers of credit enhancement, and execute and deliver related documents.
- 2.4 Enter into covenants for the benefit of the purchasers of the Obligations which the Metro Official determines are desirable to obtain more favorable terms for the Financing Agreements.
- 2.5 Issue any qualifying Financing Agreement as a “tax-exempt bond” bearing interest that is excludable from gross income under the Internal Revenue Code of 1986, as amended, (the “Code”) and enter into covenants to maintain the excludability of interest on those Financing Agreements from gross income under the Code.
- 2.6 Issue any Financing Agreement as a “taxable bond” bearing interest that is includable in gross income under the Code.
- 2.7 Participate in the preparation of and authorize the distribution of a preliminary official statement for each series of Obligations, authorize the preparation and distribution of a final official statement or other disclosure document for each series of Obligations.
- 2.8 Undertake to provide continuing disclosure for each series of Obligations in accordance with Rule 15c2-12 of the United States Securities and Exchange Commission.
- 2.9 Engage the services of and enter into agreements with escrow agents, trustees, and any other professionals and service providers that the Metro Official determines are desirable in connection with the Obligations.
- 2.10 Solicit competitive bids for the purchase of each series of Obligations and award their sale to the bidder offering the most favorable terms to Metro, or select one or more underwriters or lenders, negotiate the terms of the sale of each series of Obligations, and sell that series.
- 2.11 Establish the final principal amounts, maturity schedules, interest rates, sale prices, redemption terms, payment terms and dates, record dates and other terms of each series of Obligations.
- 2.12 Issue, sell, and deliver the Obligations and execute any documents and take any other action in connection with the Obligations that the Metro Official finds will be advantageous to Metro in accordance with this resolution.

Section 3. Effective Date.

This resolution shall take effect on the date of its passage by the Metro Council.

ADOPTED by the Metro Council this 8th day of February, 2018.

Tom Hughes, Council President

Approved as to Form:

Alison R. Campbell, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 18-4865, FOR THE PURPOSE OF AUTHORIZING FULL FAITH AND CREDIT BONDS

Date: February 8, 2018

Presented by:
Tim Collier, Director of Finance and Regulatory Services

BACKGROUND

The purpose of this resolution is to authorize the sale of full faith and credit bonds in May 2018. The resolution was prepared with the assistance of Metro's bond counsel Hawkins, Delafield & Wood, LLP and Metro's financial advisor, Piper Jaffray.

The proceeds of the proposed \$15.25 million bond issuance will be used to fund renovations, upgrades and repairs to two Metro properties; the MRC building and the Lone Fir cemetery as well as financing costs not to exceed \$250,000. The MRC work will be driven by the MRC facility master plan which outlines projects designed to continue the building's useful life for another twenty years. Ongoing projects include a roof replacement, exterior building upgrades and an HVAC system overhaul. New projects will include modernization of elevators, concrete and steel repairs, kitchen and bathroom upgrades, lighting and tenant improvement projects and MRC IS infrastructure such as cabling. Lone Fir Cemetery projects include a retaining wall replacement and various fencing, security and safety upgrades.

Issuance Date to Align with General Obligation Bonds Issuances

The Full Faith and Credit Bonds' issuance is planned to coincide with Metro's two General Obligation Bond issuances also scheduled for May 2018. Metro believes this timing will make more efficient use of staff time, allow for preparation of similar Preliminary Official Statements and a single ratings presentation thereby reducing issuance costs.

Ratings Review

In 2017 Metro maintained its Aaa/AAA ("double triple" A) bond rating, the gold standard, when Moody's confirmed our rating for issuance of the Oregon Convention Center Hotel General Revenue Bonds. As noted above, Metro intends to make a single ratings presentation for these bonds and the General Obligation bonds also being issued in May. We are confident that Metro's financial discipline and adherence to our financial policies will be seen favorably and result in confirmation of our highest ratings. Piper Jaffray, our financial advisor, will assist us in preparing for the ratings meeting which is scheduled for this April.

Debt Service

Metro will make principal and interest payments on the bonds through our existing revenues. The costs of the MRC building projects will be allocated to the various departments based on their shared use of the facilities. The Lone Fir Cemetery projects will be absorbed by the General Fund.

ANALYSIS/INFORMATION

1. **Known Opposition** – None.
2. **Legal Antecedents** – Metro may issue full faith and credit bonds pursuant to the authority granted by Metro Code Title VII, Chapter 7.02.020 and ORS Section 271.390.
3. **Anticipated Effects** – This action authorizes the issuance of up to \$15.25 million in full faith and credit bonds for use in renovating the Metro Regional Center building and Lone Fir Cemetery. It also authorizes the Chief Operating Officer or her designee to negotiate and sign all documents and conduct the sale and issuance of the bonds.
4. **Budget Impacts** – The issuance of the bonds will generate funding for use in renovating the Metro Regional Center building and Lone Fir Cemetery. No additional budget appropriation or action is necessary in the current fiscal year. The FY 2018-19 budget to be proposed in April will include the bond proceeds generated by this action and the associated related expenditures estimated for that fiscal year. Debt service payments on the new issue will begin in FY 2018-19.

RECOMMENDED ACTION

The Chief Operating Officer recommends Council adoption of Resolution No. 18-4865.