CITY OF CORAL GABLES, FLORIDA

RESOLUTION NO. 2019-27

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF CORAL GABLES, FLORIDA AUTHORIZING THE GRANTING OF AN EASEMENT TO VERIZON WIRELESS PERSONAL COMMUNICATIONS LP D/B/A VERIZON WIRELESS FOR UTILITIES AND ACCESS ON, OVER, AND ACROSS A PORTION OF THE FIRE STATION III PROPERTY LOCATED AT 11911 OLD CUTLER ROAD, CORAL GABLES, FLORIDA 33156.

- WHEREAS, Verizon Wireless Personal Communications LP d/b/a Verizon Wireless ("Verizon") leases space on the City's telecommunications tower at the Fire Station III property located at 11911 Old Cutler Road, Coral Gables, Florida 33156 ("Fire Station III"); and
- WHEREAS, Verizon requires an area for utilities and access on, over, and across a portion of the Fire Station III property; and
- WHEREAS, the City agrees to grant Verizon a non-exclusive easement as described in and for the purposes set forth in the Easement Agreement, attached as Exhibit A; and
- **WHEREAS**, the Easement Agreement provides that the term of the easement extends for the same term as Verizon's lease for the tower; and
- WHEREAS, the Easement Agreement recognizes the City's use of the property as a fire station and that Verizon's use of the easement cannot interfere with the City's use of the fire station; and
- **WHEREAS**, in furtherance of the City's interest in establishing an underground utility corridor, the Easement Agreement provides that Verizon will install, at its cost and expense, two additional conduit within the Easement for use by other communications providers authorized by the City;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF CORAL GABLES:

- **SECTION 1.** The foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution upon adoption hereof.
- **SECTION 2.** That the City Commission does hereby authorize the granting of an easement, as described in the attached Easement Agreement, to Verizon Wireless, for utilities and access at Fire Station III and that the City Manager is authorized to execute the Easement Agreement, in substantially the form attached as **Exhibit A**, with such modifications as approved by the City Manager and the City Attorney, consistent with the intent of the City Commission.

SECTION 3. That this Resolution shall become effective upon the date of its passage and adoption herein.

PASSED AND ADOPTED THIS TWENTY-SECOND DAY OF JANUARY, A.D., 2019.

(Moved: Quesada / Seconded: Lago)

(Unanimous Voice Vote) (Agenda Item: D-5)

APPROVED:

RAÚL VALDÉS-FAULI MAYOR

ATTEST:

BILLY Y. URQUIA

APPROVED A\$ TO FORM AND LEGAL SUFFICIENCY:

MIRIAM SOLER RAMOS

CITY ATTORNEY

Grantee Site Name: Coral Gables Fire Station / 68215

Upon Recording, Return to:		
Rogers Lewis Jackson Mann & Quinn, l P.O. Box 11803 Columbia, SC 29211	LLC	
STATE OF FLORIDA)	·
COUNTY OF MIAMI-DADE)	Easement Agreemen

THIS EASEMENT AGREEMENT ("Agreement") is made and executed between the City of Coral Gables, a Florida Municipal corporation, having a mailing address of P.O. Box 141549, Coral Gables, Florida 33114, hereinafter designated GRANTOR, and Verizon Wireless Personal Communications LP d/b/a Verizon Wireless, with its principal offices at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920, hereinafter designated GRANTEE.

WHEREAS, GRANTEE requires an area for utilities and access, as set forth more fully below, on, over, and across a portion of that certain parcel of property owned by GRANTOR and located at 11911 Old Cutler Road, Coral Gables, Florida 33156 in Miami-Dade County, Florida, as further described as Folio No. 03-5107-003-0010 and as further described in that certain Warranty Deed recorded in Book 15488, Page 2196, in the official records of Miami-Dade County, Florida (hereinafter the "GRANTOR's Property").

WHEREAS, GRANTEE's area for utilities and access, will be along a variable width easement extending to the public right of way from the points shown on Exhibit A, and under GRANTOR's Property.

WITNESSETH:

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that GRANTOR for and in consideration of the sum set forth on Exhibit B attached hereto, which may be removed for recording purposes, has granted, bargained, and released, and does grant, bargain, and release, unto GRANTEE, its successors and assigns, a non-exclusive easement (the "Easement"), for the purpose of ingress and egress, 7 days a week, 24 hours a day (subject to the requirements and limitations set forth below), on foot or motor vehicle, including trucks, and for the installation and maintenance of utility wires, cables, conduits, and pipes for all necessary electrical, telephone, fiber, and other similar support services under, or along a variable width \820000\1 - # 5334564 v1

easement and covering that real property being as described on **Exhibit A**, attached hereto and incorporated herein. Any revisions by GRANTEE to Exhibit A shall require the GRANTOR's written consent. It is expressly acknowledged and agreed that independent third party providers of utility services, including but not limited to, fiber, electric and telephone, may utilize the above-referenced Easement for the installation of underground equipment and necessary appurtenances, necessary for the operation of GRANTEE's facilities without the execution of any further documentation. However, if required by the third-party provider, GRANTOR agrees to execute a separate recordable document evidencing such rights without the payment of additional consideration.

PROVISIONS:

- 1. It is the intent of this Agreement to convey to GRANTEE a non-exclusive easement for the purposes as set forth herein over the entire Easement. However, to the extent the grant made hereby shall fail in any respect, or is held to be invalid, in whole or in part, including but not limited to the effectiveness of the grant made hereby, this Agreement shall continue in full force and effect to the full extent of GRANTOR's interest in and to any part of the Easement.
- 2. GRANTEE, its agents, independent contractors, licensees, utility providers, and invitees shall have the use of the Easement as described herein for the installation and maintenance of underground utility wires, cables, conduits, and pipes for all necessary electrical, telephone, fiber, and other similar support services under, or along the Easement, and after providing reasonable notice to GRANTOR to allow GRANTOR to supervise construction, may access the Easement seven (7) days a week, twenty-four (24) hours a day, on foot or motor vehicle, to construct, reconstruct, maintain and repair the improvements. Notice to GRANTOR shall be provided via telephone at 305-733-0315 or via email at it@coralgables.com at least 72 hours in advance of planned construction. The foregoing notwithstanding, no notice shall be required to be provided to GRANTOR in the event of an emergency. However, GRANTEE shall provide notice to GRANTOR afterward as soon thereafter as reasonably practical. GRANTEE will obtain, at its sole cost and expense, all permits required for its construction and maintenance within the Easement and shall comply with applicable codes, including the City of Coral Gables, Florida Code of Ordinances and Zoning Code, as they may be amended. GRANTEE shall not apply for permits or commence construction until GRANTEE provides GRANTOR with the payment required in Exhibit B.
- 3. With the exception of that portion of the Easement which have heretofore been improved and/or paved, if any, GRANTEE shall pay for all costs incurred in connection with the creation of the Easement. Subsequent to GRANTEE'S initial improvements as provided for herein, the responsibility for all necessary maintenance and improvements in the Easement shall be equitably allocated between GRANTOR and GRANTEE, or any third parties utilizing the Easement, based upon actual usage of the Easement. GRANTEE shall be responsible for the costs of all utilities GRANTEE may utilize on GRANTOR's property related to the Easement, and GRANTEE shall not install any backup power facilities or store fuel on GRANTOR's

property without further approval of GRANTOR which may be withheld in its sole discretion.

- 4. GRANTEE shall be responsible for payment of all taxes that may be assessed or incurred as a result of GRANTEE's Easement or use of GRANTOR's property, including but not limited to, ad valorem taxes. GRANTEE shall not allow any liens to be placed on GRANTOR's property and will promptly discharge any liens, after notice of such, at its sole cost and expense. Should GRANTEE fail to discharge any liens within 10 days after notice, GRANTOR may discharge the liens at GRANTEE's expense.
- 5. GRANTOR and GRANTEE hereby memorialize that GRANTOR's Property is used as a fire station which provides emergency, police, and fire station services ("GRANTOR Services"). GRANTEE shall take all steps necessary to ensure that GRANTEE's use of the Easement does not interfere with, limit, or restrict the GRANTOR Services at any time. GRANTOR, within its reasonable discretion, may restrict GRANTEE's access, upon prior notice to GRANTEE, if GRANTOR determines such restriction is necessary to avoid interference with GRANTOR Services. Such prior notice from GRANTOR to GRANTEE shall not be required in the event of an emergency.

6. GRANTEE shall:

- (i) comply with construction requirements as set forth herein, including proper placement and use of steel plates during construction;
- (ii) adhere to reasonable rules and regulations which GRANTOR may impose ("GRANTOR Rules"), provided that such GRANTOR Rules are provided to GRANTEE;
- (iii) hand dig in all areas requested by GRANTOR;
- (iv) coordinate construction of the Easement with the Director of Information Technology (305-733-0315; <u>it@coralgables.com</u>) to find a mutually agreeable schedule for construction and to provide notice to GRANTOR;
- (v) provide and install, at GRANTEE's cost and expense, for GRANTOR's use, handholds and one (1) two-inch (2") conduit ("GRANTOR Equipment") which shall run underground across GRANTOR's Property and terminate at the building, as shown on **Exhibit A**, attached hereto and incorporated herein. After GRANTOR's acceptance of GRANTOR Equipment, the GRANTOR Equipment shall be owned and maintained thereafter by GRANTOR, at GRANTOR's sole cost and expense; and
- (vi) provide and install, at GRANTEE's cost and expense, two (2) additional conduit within the Easement for use by other communications providers authorized by GRANTOR.
- 7. The term of this Agreement shall commence the first (1st) day of the month following full execution of this Agreement (the "Commencement Date") and shall be for a term of 25 years. GRANTEE may terminate this Agreement any time upon 30 days' prior notice to GRANTOR. If GRANTOR determines that GRANTEE's use of the Easement shall be inconsistent with or

shall interfere with GRANTOR's use of the Property, specifically including the GRANTOR Services as defined above, GRANTOR and GRANTEE shall undertake good faith efforts to resolve such interference to GRANTOR's reasonable satisfaction. If after good faith efforts to resolve such interference the Parties are unable to agree upon a resolution, GRANTOR may terminate this Agreement upon 180 days' prior notice to GRANTEE. Relocation of GRANTEE's facilities shall be at GRANTEE's cost and expense and shall require an amendment of Exhibit A. If GRANTEE is in default under this Agreement for a period of (a) twenty (20) days with respect to a monetary default; or (b) thirty (30) days with respect to a default which may not be cured solely by the payment of money, then, in either event, after an additional thirty (30) days written notice to GRANTEE and opportunity to cure by GRANTEE, GRANTOR may pursue any remedies available to it against GRANTEE under applicable law, including, but not limited to, the right to terminate this Agreement and to restrict or to prohibit GRANTEE's access to the Property until the default is cured. If GRANTEE's default may not reasonably be cured within a thirty (30) day period, this Agreement may not be terminated if GRANTEE commences action to cure the default within such thirty (30) day period and proceeds with due diligence to fully cure the default.

8. The Parties recognize that GRANTEE is the Lessee of a Lease Agreement, dated September 9, 2008, as may have been or may be amended (collectively, the "Lease") for GRANTEE's installation of communications equipment on the GRANTOR Property and that the term of this Agreement shall terminate should the Lease expire or terminate for any reason. The Parties acknowledge that neither Party is in default with respect to such Lease. The Parties additionally agree that all indemnification and insurance obligations and requirements GRANTEE has, as set forth in the Lease, shall be applicable and controlling to this Agreement and to the Easement granted herein. In addition to such obligations, GRANTEE additionally agrees that it shall indemnify and hold harmless the GRANTOR, and/or any successors and/or assignees thereof, against (i) any and all claims of liability or loss from personal injury or property damage resulting from or arising out of the negligence or willful misconduct of the GRANTEE, its employees, contractors or agents, except to the extent such claims or damages may be due to or caused by the negligence or willful misconduct of GRANTOR, or its employees, contractors or agents, and (ii) reasonable attorney's fees, expense, and defense costs incurred by the GRANTOR. GRANTEE additionally agrees that at its own cost and expense, it will maintain commercial general liability insurance with limits of \$2,000,000 for bodily injury (including death) and property damage each occurrence throughout the term of this Agreement and shall provide applicable certificates of insurances and copies of endorsements to GRANTOR. GRANTEE agrees to include GRANTOR as an additional insured on a primary and noncontributory basis with a waiver of subrogation in favor of GRANTOR as its interest may appear under this Agreement. GRANTEE shall also maintain an Auto Liability Policy with limits of \$1,000,000 per accident and a Workers Compensation Policy in compliance with the statutory requirements of the State of Florida and Employer's liability with limits \$1,000,000 per accident, disease, and employee with a waiver of subrogation in favor of the GRANTOR. GRANTEE shall provide a 30 day cancellation notice endorsement for all required coverages. Upon such expiration of termination of the Lease for whatever reason, GRANTEE's rights as set forth herein shall simultaneously expire or terminate without the need for execution of any additional documentation between GRANTOR and GRANTEE.

- 9. If at the end of the 25 year term this Agreement has not been terminated by either Party by giving to the other written notice of an intention to terminate it at least three (3) months prior to the end of such term, this Agreement shall continue in force upon the same covenants, terms and conditions for a further terms of one (1) year thereafter until terminated by either Party by giving to the other written notice of its intention to so terminate at least three (3) months prior to the end of such term. The initial term and all extensions shall be collectively referred to herein as the "Term".
- 10. Upon termination or expiration of this Agreement, GRANTEE shall have thirty (30) calendar days thereafter to remove all utility wires, cables, conduits, pipes, electrical, telephone, fiber, and other similar support services equipment from the Easement, at GRANTEE's sole cost and expense. In the event GRANTEE fails to remove all wires, cables, conduits, pipes, electrical, telephone, fiber, and other similar support services equipment within such time period, at its option, and after an additional thirty (30) days written notice and additional time to cure, GRANTOR may remove any or all of such equipment and charge the costs of such removal to GRANTEE, or alternatively, GRANTOR may assume ownership of any or all of such equipment without any liability or further consideration to GRANTEE. If requested, GRANTEE shall execute appropriate documentation transferring ownership to GRANTOR.
- 11. Without any approval or consent from GRANTOR, this Agreement may be sold, assigned or transferred by GRANTEE to (i) an entity in which GRANTEE directly or indirectly holds an equity or similar interest; (ii) an entity which directly or indirectly holds an equity or similar interest in GRANTEE; or (iii) an entity directly or indirectly under common control with GRANTEE. GRANTEE may assign this Agreement to any entity which acquires all or substantially all of GRANTEE's assets in the market defined by the FCC in which the property is located by reason of a merger, acquisition or other business reorganization without approval or consent of GRANTOR. As to other parties, this Agreement may not be sold, assigned or transferred without the written consent of GRANTOR, which such consent will not be unreasonably withheld, delayed or conditioned. No change of stock ownership, partnership interest or control of GRANTEE or transfer upon partnership or corporate dissolution of GRANTEE shall constitute an assignment hereunder.
- 12. Nothing contained herein is intended to replace or release GRANTEE's existing easement or lease rights over, under, or along the GRANTOR's Property under any other instrument, specifically including but not limited to GRANTEE's existing easement rights for ingress, egress, and utilities as contained in the Lease.
- 13. GRANTOR covenants that it is seized of good and sufficient title and interest to the Easement and has full authority to enter into and execute this Agreement. GRANTOR further covenants that there are no other liens, judgments or impediments of title on the Easement or

affecting GRANTOR's title to the same and that there are no covenants, easements or restrictions which prevent the use of the Easement by GRANTEE as set forth above.

- 14. It is agreed and understood that this Agreement contains all agreements, promises and understandings between GRANTOR and GRANTEE and that no verbal or oral agreements, promises or understandings shall be binding upon either Party in any dispute, controversy or proceeding at law, and any addition, variation or modification to this Agreement shall be void and ineffective unless made in writing and signed by the Parties.
- 15. This Agreement and the performance thereof shall be governed, interpreted, construed, and regulated by the laws of Florida.
- 16. This Agreement shall extend to and bind the successors and assigns of the Parties hereto.

TOGETHER with all and singular the Rights, Members, Hereditaments and Appurtenances to the Easement belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all the interests, rights, and privileges herein granted in and to the Easement before described unto the GRANTEE, its Successors and Assigns, for the term as stated herein.

THE GRANTOR does hereby bind the GRANTOR and the GRANTOR'S successors or executors and administrators, to warrant and forever defend all and singular the said Easement unto the GRANTEE and the GRANTEE'S Successors and Assigns against the GRANTOR and the GRANTOR'S Heirs and against every person whomsoever lawfully claiming or to claim the same, or any part thereof.

Any reference in this instrument to the plural shall include the singular, and vice versa. Any reference to one gender shall include the others; including the neuter. Such words of inheritance shall be applicable as are required by the gender of the GRANTEE or GRANTOR.

(Signatures to Follow)

under seal effective as of the da	GRANTOR and GRANTEE have executed this instrument by of 20
WITNESSES:	GRANTOR:
	City of Coral Gables
By:	Bv:
Name:	By: Peter J. Iglesias
	City Manager
By: Name:	Date:
Name:	
Date:	
Attest: Billy Y. Urquia, City Clerk	
Approved as to Form and Legal Suffici	ency:
Miriam Soler Ramos, City Attorney	
WITNESSES:	GRANTEE:
	Verizon Wireless Personal
	Communications LP
	d/b/a Verizon Wireless
By:	By:
Name:	Name: Niraj Patel
	Title: Executive Director – Network Field
D	Engineering
By:	Date:

STATE OF FLORIDA)
COUNTY OF) ACKNOWLEDGEMENT)
I,, a that person the of the Cirexecuted the foregoing instrument on	Notary Public for said County and State, do hereby certify nally came before me this day and acknowledged that s/he is ty of Coral Gables, and that s/he, being authorized to do so a its behalf.
WITNESS my hand and offic	cial Notarial Seal, this day of, 20
	Notary Public
My Commission Expires on theSEAL:	_ day of, 201
•	
STATE OF) ACKNOWLEDGMENT)
Director – Network Field Engineer	Notary Public for said County and State, do hereby certify fore me this day and acknowledged that he is the Executive ring of Verizon Wireless Personal Communications LF he, being authorized to do so, executed the foregoing
WITNESS my hand and offic	cial Notarial Seal, this day of, 20
	Notary Public
My Commission Expires on theSEAL:	_day of, 20
\820000\1 - # 5334564 v1	

EXHIBIT A

Description of Subject Property:

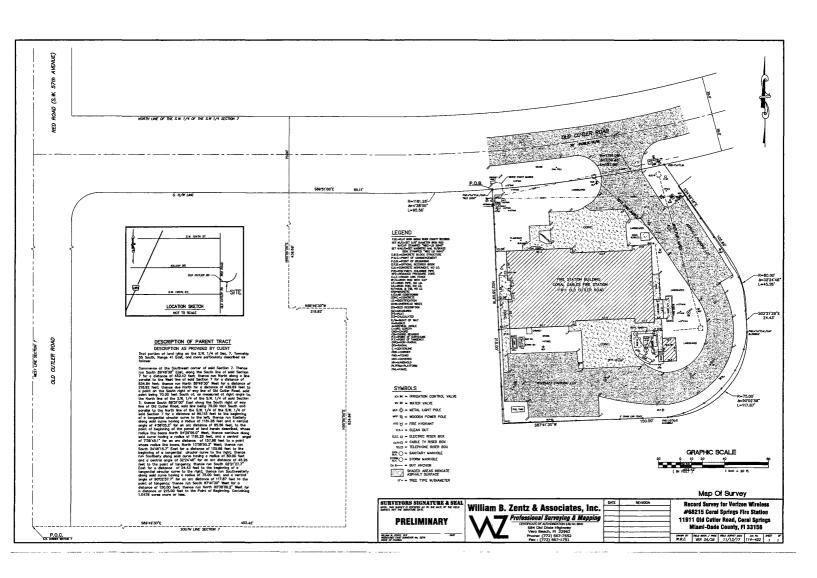
DESCRIPTION OF PARENT TRACT

DESCRIPTION AS PROVIDED BY CLENT That portion of land lying on the S.M. 1/4 of Sec. 7, Township 55 South, Range 41 East, and more particularly described as follows:

SS South, Ronge 41 East, and more particularly described as follows:

Deministrated at the Southwest somer of add Section 7. There are no Seath 89/96/30° East, slong the South line of add Section 7 for a distance of 452.42 feet; thereon are feath along a fire partial to the West line of add Section 7 for a distance of 834.84 feet; thence are North 99/49/30° Real for a distance of 834.84 feet; thence are North 99/49/30° Real for a distance of 834.84 feet; thence are North 99/49/30° Real for a distance of 435/28 feet to a point on the South right of real forms of 435/28 feet to a point on the South right of the South 1/4 of the South 1/4 of seld Section 7. Thence south 93/290° East doing the South right of very line of Old Cutter Road, sold line being 70.00 feet South 97/10° East doing the South right of very line of Old Cutter Road, sold line being 70.00 feet South 97/40° Cont doing the South right of very line of Old Cutter Road, sold line being 70.00 feet South 97/40° and sonafiel be the New Life of the South 1/4 of seld Section 7 for a distance of 95.115 feet to the Septiming of a languaritie director curve to the left; there is no Easterly clong sold curve having a radius of 1181.28 feet on a centeral cargie of 43/29/02 for on or distance of 95.56 feet, to the point of beginning of the general of land servin based curve bordeg a radius of 1181.28 feet, and a central curve to the Beauty North 02/29/52/20 West, thereis continue roses radius line bears, Roth 12/29/52/20 West, thereis continue roses and section of 1181.95 feet to go point whose radius line bears, Roth 12/29/52/20 West, thereis continue roses and south 34/40/12/7. East for a distance of 105.85 feet to the beginning of a tangential circular curve to the right; thence numbered circular curve to the spirit of the control congle of 105.00 feet to the point of the spirit of the control congle of 105.00 feet to the point of the spirit plance of 118.20 feet to the point of the spirit plance of 118.20 feet to the point of the spirit plance of 118.20 feet

Description of Easement: See Attached Legal Description and Survey



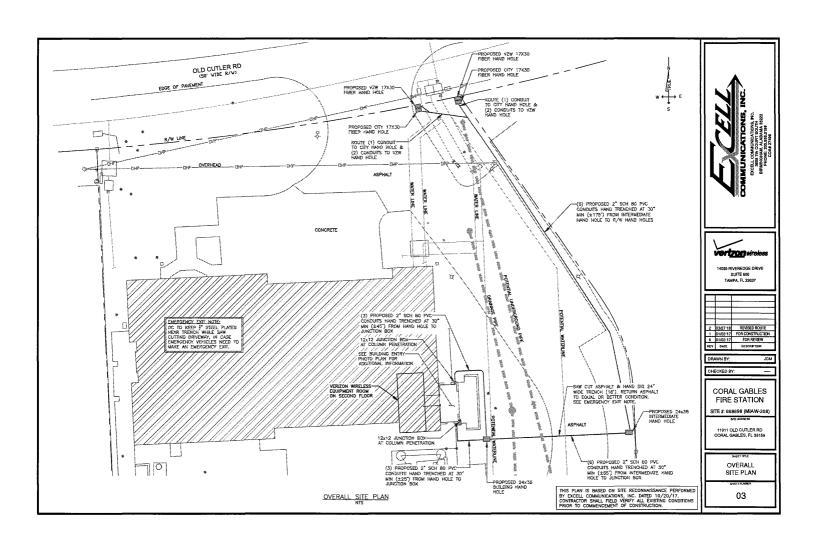


EXHIBIT B

As additional consideration for this Agreement:

1. GRANTEE shall pay to GRANTOR a one-time, non-refundable, lump-sum capital contribution of \$25,000.00, for the Easement, which shall be paid to GRANTOR within ninety (90) days of full execution of this Agreement.