

## **Small Cell Wireless Communications Facilities Master License Agreement**

This Small Cell Wireless Communications Facilities Master License Agreement (“Agreement”) is entered into this day of \_\_\_\_\_, 20\_\_ (“Effective Date”) by and between the Board of County Commissioners of Boulder County, a body corporate and politic, of the State of Colorado (“County”) and SQF, LLC dba Tilson Infrastructure (“Licensee”). The County and Licensee may at times be referred to herein collectively as the “Parties” or individually as the “Party.”

### **Recitals**

This Agreement is made with reference to the following Recitals, each of which is deemed to be a material term and provision of this Agreement.

WHEREAS, the County owns and/or controls the public rights-of-way (“ROW”) under its jurisdiction and is the owner of certain public infrastructure, including but not limited to, street lighting, traffic signals, or other traffic control devices (“County Infrastructure”) located in the ROW and situated within unincorporated Boulder County, Colorado; and

WHEREAS, Article 27 of Title 29, at sections 401 *et seq.*, and Article 5.5. of Title 38, at Section 101, *et seq.* of the Colorado Revised Statutes, allows for location of small cell wireless facilities (“SCWF”) within County ROW; and

WHEREAS, the Licensee desires to place, construct, modify, maintain, and repair SCWF, as defined in section 29-27-402(1)(4), CRS, and section 38-5.5-102(7), CRS, consisting of cabinets, nodes, antennas, fiber optic cables, coaxial cables, wires, frequencies, technology, conduits, pipes, poles and associated appurtenant equipment consistent with small cell technology for the provision of personal wireless services (individually, the “Facility” and collectively, the “Facilities”) within the ROW or on County Infrastructure within the ROW in accordance with federal regulation and

WHEREAS, provided that the presence of the Facility or Facilities within the ROW does not interfere with the use of the ROW for intended road and travel purposes and does not unreasonably interfere with the repair, maintenance, or operation of the ROW, the road, County Infrastructure, or other public infrastructure within the ROW, and does not otherwise cause a hazard or threat to the public health or safety, the County is willing to consent to and license Licensee’s Facilities in the ROW subject to the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the foregoing recitals and the mutual agreements, terms, and conditions stated in this Agreement, the County and Licensee agree as follows:

### **1. License and Required Site Supplemental Application**

A. The County hereby grants to Licensee and its successors and assigns a general license as provided in this Agreement to place, construct, install, remove, replace or reinstall, modify, maintain, and repair improvements for Facilities at such locations within the ROW as are identified and approved by individual Site Supplemental Application (“Site Application”). The Site Application is required for each new SCWF that will occur within the ROW, or attached to County infrastructure within the ROW. However, Licensee may bundle up to twenty (20) Facilities per Site Application. The defined area for a Facility identified in an approved Site Application is referred to in this Agreement as the (“Site Area”).

Licensee may also, pursuant to this Agreement, place, construct, install, remove, replace or reinstall, modify, maintain, and repair Facilities within the ROW that are entirely located on infrastructure or poles owned and controlled by public utilities or other third parties that the County has previously permitted or authorized to be in the ROW (“Third Party Infrastructure”), subject to Licensee providing documentation of authorization to use the Third Party Infrastructure and applicable permits.

B. For all proposed Facilities in the County ROW or on County Infrastructure, Licensee shall submit to the Boulder County Community Planning and Permitting Department, for County approval, a Site Application identifying the specific location proposed for the Facility and all the other information required per Article 3-202.15: Small Cell Wireless Facility Supplemental Site Application, of the Boulder County Land Use Code (“Code”). The County’s review and approval decision for each Site Application shall be completed within the earlier of (i) ninety (90) days of submission of a complete application, or (ii) such other amount of time as is mandated by federal or Colorado state law.

Licensee shall pay all applicable Community Planning & Permitting and Public Works Department permitting fees pursuant to the then current fee schedule as established by the Boulder County Board of County Commissioners to cover the administrative costs to the County for such Review. The Site Application for each new Facility shall include appropriate engineering plans and specifications showing such detail of the Facility and its location as is reasonably required by the County to evaluate the impacts of the Facility to the ROW and County Infrastructure.

C. For Facilities to be installed on Third-Party Infrastructure and that do not involve any ground-based equipment or otherwise increase the footprint of the Third-Party Infrastructure, a Site Application shall not be required. However, prior to Licensee entering the ROW to install, place, or attach the Facility, Licensee shall furnish to the County written documentation from the individual utility or property owner responsible, in a form acceptable to the County, that authorizes Licensee’s use of the Third-Party Infrastructure for the Facility. Additionally, prior to Licensee entering the ROW to install, place, or attach the Facility, Licensee shall obtain, from the County, a Utility Construction Permit (UCP), and any applicable building or electrical permits.

D. Nothing in this Agreement or by the privileges and authorizations contained herein is intended to, or shall be interpreted to, convey any ownership interest in any of the County’s ROW underlying or surrounding a Facility. Nothing in this Agreement is intended to limit any rights or obligations Licensee may have under the federal or Colorado state laws, or under the Boulder County Land Use Code, or other applicable County ordinance, resolution, or regulation.

E. Licensee acknowledges, understands, and agrees that the primary purpose of the ROW is to accommodate the traveling public and that the location and maintenance of any of the Facilities authorized in accordance to this Agreement or Site Application are subject to the public use, improvement, repair, operation, and maintenance of the ROW for road purposes.

F. Licensee, its employees, contractors, successors and approved assigns (as may be required under this Agreement) shall have the right of access, ingress, and egress on, in, over, under, through, and about the Site Area to its Facility, twenty-four (24) hours a day, seven (7) days a week, for the purpose of installation, replacement, repair, maintenance, and modification of the Facility. However, Licensee shall provide County with reasonable advance notice of any such intended activity within the ROW; and, where such activity will require any excavation or disruption of vehicle or pedestrian traffic within the ROW, Licensee shall first obtain a UCP from the Public Works Department. At all times when working within the ROW, Licensee shall implement appropriate and approved traffic safety and control measures. County reserves the right to halt, delay or stop work within the ROW under the authority of the UCP if conditions cause a hazard or threat to the public health or safety until such conditions are mitigated.

G. Licensee shall coordinate its installation of each Facility with any and all other utility providers having utility facilities or other infrastructure located in the same area of the ROW prior to installation of the Facility and prior to any replacement, repair, maintenance, or modification that may impact such other utility providers' facilities or infrastructure.

H. Licensee shall maintain each Facility in good repair and condition such that it does not create or constitute a hazard or threat to public safety.

## **2. Term of Agreement and Site Supplemental Applications**

A. This Agreement shall be in effect for a period of twenty (20) years commencing on the Effective Date and expiring on the twentieth (20<sup>th</sup>) anniversary of the Effective Date ("Term"). After the expiration of this Agreement, its terms and conditions shall survive and govern with respect to any remaining Site Approval (as defined below) in effect until their expiration or termination.

B. Each Site Application approval ("Site Approval") shall be in effect for a period of ten (10) years commencing on the "Commencement Date" determined in accordance with each Site Application, and expiring on the day before the tenth (10<sup>th</sup>) anniversary of the Commencement Date, unless sooner cancelled or terminated as provided herein (the "Supplement Term"). Provided that Licensee is not in breach of a Site Approval or this Agreement as it relates to the Site Approval location, a Site Supplement Term and the license provided for herein will continue uninterrupted, and will automatically be extended for up to two (2), successive, five (5) year periods (each a "Renewal Term"), with the first five year extension of the Supplement Term commencing immediately upon the expiration of the initial period of the Supplement Term, and each additional five-year extension of the Supplement Term commencing immediately upon the expiration of the preceding additional period of the Term, unless notice of non-extension is provided to the County by the Licensee prior to the commencement of the succeeding Renewal Term.

C. In the event the County provides the Licensee with notice of a breach of a provision of a Site Approval or of this Agreement, as it relates to the Site Approval location, prior to the commencement of a Renewal Term, such Site Approval shall not be renewed until the matter of the breach is corrected to the County's satisfaction, or the Site Approval may be terminated in accordance with Section 14 of this Agreement. All of the provisions of this Agreement shall be in effect during the Supplement Term and extension of the Supplement Term; provided, however, that Site Applications approved during the last three (3) years of the Term of the Agreement (18, 19, and 20) will have only a Supplement Term of five (5) years and will not automatically renew at the end of such five (5) year Supplement Term.

### **3. Use**

A. The Licensee agrees that it shall utilize the ROW as authorized under this Agreement for the placement, construction, modification, repair, and operation of small cell facilities (as permitted pursuant to sections 29-27-401, *et seq.*, C.R.S. and 38-5.5-102, *et seq.*, C.R.S.) and for no other purpose, and Licensee agrees not to use the ROW or any Site Area for any purpose prohibited by federal, Colorado, or other applicable local law or regulation.

### **4. Reservation for County Use**

A. The County reserves the right to make full use of the ROW as may be reasonably necessary or convenient in the operation of the public streets, walks, drainage facilities or drainage ways, or other public infrastructure under control of the County, and the County retains all rights to operate, maintain, install, repair, improve, remove or relocate any of its facilities or infrastructure within the ROW or adjacent property. The County further reserves the right to require Licensee, upon ninety (90) days' notice to Licensee, to relocate, at Licensee's sole expense, any Facility licensed under this Agreement or Site Approval as necessary to accommodate any County capital improvement, maintenance, repair, or other County project or operation affecting the ROW. In the event that any of Licensee's Facilities should impede the use and operation of the ROW or interfere with County Infrastructure, Licensee shall, upon ninety (90) days' notice, or such reasonable notice as is appropriate in event of exigent or emergency need that may affect public health or safety, and a request by the County and at Licensee's sole expense, relocate, alter, or remove the Facility so as to not interfere with the County's use of its property or impede the ROW. In the event of any required removal under this subparagraph (A), the County and Licensee agree to work cooperatively, in good faith, and promptly to identify a new location for the Facility and shall further cooperate in good faith to facilitate transition to the new location without undue interruption in the provision of personal wireless services by the Licensee.

B. Licensee shall be given 48 hours advance notice, or in the event of an emergency health or safety need, such reasonable notice as is practicable, by a call to Licensee's Network Operations Center: (866) 706-1775; [tilsonnoc@tilsontech.com](mailto:tilsonnoc@tilsontech.com), if any repair, capital improvement, or maintenance project by the County or other condition affecting public health or safety will likely require the temporary disconnection or removal or relocation of a licensed Facility. During such time that any County activity will likely require any temporary or emergency disconnection or

removal of any of Licensee's Facilities, County and Licensee shall work cooperatively to reduce interference with the Facility, or to make appropriate arrangements, modifications, or temporary relocation of the Facility to a County approved location in order to promote its uninterrupted use.

C. When Licensee is required by County to relocate or otherwise take any measures concerning a Facility as are necessary to accommodate a County road improvement or maintenance project under this Section 4, Licensee shall act diligently and promptly to commence and complete such work so as to not delay the County's project schedule.

## **5. No Warranties of Title**

A. The rights granted to this Licensee under this Agreement, or any individual Site Approval, are granted without any covenant of title or warranty of quiet possession. These rights are further subject to any prior agreements, licenses, easements, conveyances, recorded or unrecorded, and it shall be the Licensee's sole responsibility to determine the existence of any other rights, uses or facilities affecting or conflicting with the Licensee's use of the County's ROW; provided that, if the County is aware of any unrecorded agreement, license, easement or conveyance that may adversely impact Licensee's Facilities, the County will disclose such information to Licensee within a reasonable time of the County obtaining such knowledge.

## **6. Alterations, Additions and Maintenance**

A. Subject to the provision of Section 6(C) below, Licensee shall have the right to replace, repair, add or otherwise modify its utilities, equipment, antennas or conduits or any portion thereof by which a Facility operates, whether the equipment, antennas or conduits or frequencies are specified on any Site Approval, without prior notice or permission. However, the Licensee agrees not to make or permit any material or substantial modifications, alterations or additions to a Facility authorized pursuant to a Site Approval under this Agreement, without obtaining prior administrative approval from the County pursuant to Article 4-700 of the Boulder County Land Use Code. As used herein, the term "material" shall not include any changes to equipment inside the equipment space; routine maintenance; like for like swap of antennas and related equipment, or other additions, replacements, upgrades or alterations of a Facility in whole or in part within the confines of the Site Area, that do not change the external physical appearance of the site.

B. Licensee agrees, at Licensee's sole cost and expense, to keep all Facilities in good repair at all times, and that it shall maintain such improvements in a manner so as not to interfere with the use of the ROW, or in any manner that may constitute a hazard or threat to the safety of traffic or pedestrians using the ROW. The Licensee shall be responsible for the repair and maintenance of the Licensee's Facility within the County's ROW and shall also be responsible for payment of all expenses for any electrical or other services required for the operation of the Facility.

C. Notwithstanding any provision to the contrary in this Section 6 or otherwise in this Agreement, in the event that any installation, maintenance, repair, replacement or any other work performed by the Licensee with respect to a Facility in the Site Area in the ROW is reasonably expected to cause a disruption in the free flow of vehicular or pedestrian traffic, or require cutting

of any hard surface or excavation within the County ROW, Licensee shall first obtain a UCP permit, as same may be revised, amended, or superseded.

## **7. Successors and Assigns**

A. Without any approval or consent of the County, this Agreement and any Site Approval may be sold, assigned, or transferred by Licensee to (i) any entity in which the Licensee directly or indirectly holds an equity or similar interest; (ii) any entity which directly or indirectly holds an equity or similar interest in the Licensee; or (iii) any entity directly or indirectly under common control with the Licensee. Licensee may assign this Agreement or any Site Approval to any entity that acquires all or substantially all of Licensee'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 the County. Licensee shall provide written notice to the County of such transactions and of the new entity within seven (7) days following the occurrence of such transaction.

B. This Agreement or any Site Approval or Facility may not be sold, assigned, or transferred to other parties without the County's written consent, which consent shall not be unreasonably withheld, delayed, or conditioned. No change of stock ownership, partnership interest or control of Licensee, or transfer upon partnership or corporate dissolution of the Licensee, shall constitute an assignment hereunder.

## **8. Clean Up of Right of Way and Damages**

A. Upon completion of construction of a Facility or upon performance of any maintenance, repair, alteration, or modification of a Facility, the Licensee shall remove all construction debris from the County's ROW and restore such area to its pre-existing condition, with the exception of the presence of the installed Facility, as nearly as may be possible, within thirty (30) days from the date of completion.

B. At no time shall any construction debris or materials be stored or allowed to remain within the traveled surface of the ROW or otherwise in any manner that creates a hazard to pedestrians or traffic.

C. Licensee shall be responsible for the cost to repair any damages to the ROW, public infrastructure, County Infrastructure, or other County property caused by any of Licensee's activity with respect to the installation, replacement, repair, modification, or operation of the Facility or Facilities. If a Facility is damaged by the negligent actions of the County, the County shall pay for the prompt repair of the Facility. If a Facility is damaged by the actions of a third party, the County will promptly cooperate with Licensee to permit its repair in order to allow for uninterrupted service to the public.

## **9. Plans and Permits**

Prior to any construction for, or the installation of a Facility, or any construction within the ROW pursuant to a Site Approval, the Licensee agrees to submit to the County, for its review and approval, the plans and permits for the Facility as outlined in Article 3-202.15 of the Code.

#### **10. Improvements in Accordance with Approved Plans**

The Licensee shall construct its Facilities in accordance with the County approved plans. The Licensee shall be responsible to pay for the cost of the repairs for any damage to the roads, sidewalks, or any other County property or infrastructure caused by the construction, installation, replacement, repair, or maintenance of the Facility or Facilities authorized by this Agreement and each individual Site Approval.

#### **11. Liability and Indemnification**

A. To the extent permitted by law, the Licensee hereby agrees to defend, indemnify, and hold harmless the County, its elected officials, officers, employees, and agents against any liability, loss, damage, demand, action, cause of action, or expense of whatever nature, including court costs and attorney fees, which may result from any loss, injury, death or damage caused by the Licensee's negligence or willful misconduct, or which arises out of or is caused by any work done or omission made by the Licensee, its officers, employees, or agents, in the construction, operation, repair, maintenance, modification, replacement, or removal of any Facility or Facilities or any other related improvements or equipment authorized under this Agreement or any Site Approval. The County agrees that Licensee has no obligation to indemnify or hold the County harmless for the liability, loss, damage, demand, action, cause of action, or expense of whatever nature due or caused by the negligence or willful misconduct of the County or its employees, contractors, or agents.

B. Licensee agrees that Licensee, its contractors, subcontractors and agents, will not use, generate, store, produce, transport, or dispose of any hazardous substance on, under, about, or within the Site Area or the ROW, in violation of any applicable local, state, or federal laws. Except to the extent of negligence or intentional misconduct of the County, Licensee will pay, indemnify, defend, and hold the County harmless against and to the extent of any loss or liability incurred by reason of any hazard substance produced, disposed of, or used by Licensee pursuant to this Agreement. Licensee will ensure that any on-site or off-site storage, treatment, transportation, disposal or other handling of any hazardous substance in compliance with all local, state, and federal laws, will be performed by persons who are properly trained, authorized, licensed and otherwise permitted to perform those services. The Parties recognize that Licensee is only using a small portion of the ROW and that Licensee shall not be responsible for any environmental condition or issue except to the extent resulting from Licensee's, its agents' or contractors' specific activities and responsibilities under this Agreement.

C. In no event shall either Party be liable to the other party for any special, consequential or indirect damages (including by way of illustration, lost revenues and lost profits) arising out of this Agreement or any obligation arising there under, whether in action for or arising out of breach of contract, tort or otherwise. Neither Party shall be liable for any damages to the

extent those damages are caused by the intentional misconduct or negligent acts or omissions of the other Party.

## **12. Insurance**

Prior to any construction for, or the installation of a Facility, or any construction within the ROW pursuant to a Site Approval, Licensee will provide a Certificate of Insurance to the County demonstrating adequate insurance coverage as required by this paragraph. All policies evidencing coverage required by the Agreement will be issued by insurance companies with A&M Best or equivalent rating system of at least A-: VII.

A. For the entire duration of this Agreement including any extended or renewed terms, and longer as may be required by this Agreement, Licensee shall procure and maintain at its own expense, and without cost to the County, the following kinds and minimum amounts of insurance to insure the liability risks that Licensee has assumed under this Agreement:

(i). Commercial General Liability

This coverage should be provided on an Occurrence Form, ISO CG001 or equivalent, with Minimum limits of \$1,000,000 Each Occurrence, \$2,000,000 General Aggregate and \$2,000,000 Products Completed Operations Aggregate.

(ii). Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of the Agreement. Minimum limits \$1,000,000 Each Accident.

(iii). Workers' Compensation and Employer's Liability

Workers' Compensation must be maintained with the statutory limits. Employer's Liability is required for minimum limits of \$100,000 Each Accident/\$500,000 Disease-Policy Limit/\$100,000 Disease-Each Employee.

B. Boulder County as Additional Insured: Boulder County shall be named as an additional insured for General Liability as designated in this Agreement. Additional insured shall be endorsed to the policy.

**THE ADDITIONAL INSURED WORDING SHOULD BE AS FOLLOWS:** *County of Boulder, State of Colorado, a body corporate and politic, is named as Additional Insured.*

C. Notice of Cancellation: Each insurance policy required by this Agreement shall provide the required coverage and provide thirty (30) days' prior written notice of cancellation be given to the County except when cancellation is for non-payment of premium, then ten (10) days' prior notice may be given. If any insurance company refuses to provide the required notice, Licensee or its insurance broker shall notify the County of any cancellation, suspension, or nonrenewal of any insurance policy within seven (7) days of receipt of insurers' notification to that effect.



D. Insurance Obligations of County: County is not required to maintain or procure any insurance coverage beyond the coverage maintained by the County in its standard course of business. Any insurance obligations placed on the County shall be null and void.

E. Deductible: Any and all deductibles contained in any insurance policy shall be assumed by and at the sole risk of Contractor.

F. Primacy of Coverage: Coverage required of Licensee and its subcontractors, if any, shall be primary over any insurance or self-insurance program carried by the County.

G. Subrogation Waiver: All insurance policies in any way related to this Agreement secured or maintained by Licensee as required herein shall include clauses stating that each carrier shall waive all rights of recovery, under subrogation or otherwise, against County, its organizations, officers, agents, employees, and volunteers.

### **13. Abandonment**

The Licensee may be deemed to have abandoned a Facility or Facilities by any actions or omissions reasonably evidencing Licensee's intent to abandon the Facility or Facilities. Upon abandonment of any right or privilege granted herein, the right of the Licensee to that extent shall terminate, but its obligation to indemnify and hold harmless the County, its officers, employees, and agents shall not terminate, in any event, for actions or omissions which took place prior to or at the time of abandonment or prior to or at the time of the actual removal of the Facility or Facilities from the public ROW, whichever is the latter.

### **14. Termination**

A. The license for a Facility to occupy the Site Area for any Site Approval in accordance with this Agreement may be terminated as provided in this Section 14.

B. The County may terminate any Site Approval in its sole discretion if the County has determined that the public health or safety requires such termination or that termination of a Site Approval is necessary because the Facility at that location interferes with the public use or maintenance of the ROW or with the operation of County Infrastructure. The County shall provide reasonable advance notice to Licensee of its intent to terminate a Site Approval for public health or safety concern(s) or for such interference issue(s). The notice shall identify the public health or safety concern(s) or interference issue(s) and establish a date by which the concern(s) or issue(s) shall be addressed or mitigated. Following issuance of this notice of intent to terminate:

(i). If Licensee fully addresses and resolves the County's public health or safety concern(s) or interference issue(s) to the County's satisfaction, by such date, or has implemented appropriate mitigation measures to the County's satisfaction that fully abate the concern(s) or issue(s), the license to occupy the Site Area may continue without need for further action by either Party.

(ii). If Licensee fails or is unable to address the concerns to the County's satisfaction by such date, the County may take such actions as are reasonably necessary to secure the Facility and mitigate the public health or safety concern(s) or interference issue(s), and Licensee shall be responsible for the cost thereof. In the event that the exigent public health or safety concern(s) associated with the Facility are such as to require immediate measures with respect to the Facility to protect the public safety, without waiting for the date specified in the notice of intent to terminate, the County may immediately take such actions or implement such measures as are reasonably necessary for protection of the public and may assess the costs of such actions or measures to the Licensee.

(iii). Provided that Licensee or the County has implemented temporary measures that are sufficient in the County's judgment to protect the public health or safety or mitigate any interference issue, as applicable, prior to any termination under this Section 14(B) due to public health or safety concern(s) or interference issue(s), the County shall conduct an administrative review to determine whether the public health or safety concern(s) necessitate termination of the Site Approval. If the result of such review is that the Site Approval is terminated, then Licensee shall remove such Facility from the ROW within sixty (60) days of such determination provided that any safety concern or hazardous condition of the Facility or interference issue remains mitigated to the County's satisfaction pending removal of the Facility. If termination of the Site Approval for a public health or safety reason or interference issue that cannot be reasonably abated at the Site Area is the sole basis for revocation, the County agrees to work cooperatively with Licensee to identify an alternate location to which the Facility can be moved and to which County and Licensee can agree to in a new Site Application.

C. If the Licensee has failed to comply with any of the terms or conditions of this Agreement with respect to any one or more of the Site Approval locations, not related to the protection of the public health or safety or otherwise interfering with the public use or maintenance of the ROW, for more than sixty (60) days after the County has provided written notice to the Licensee, or if the failure cannot be reasonably cured within such sixty (60) days, and the Licensee fails to commence to cure the failure within such sixty (60) days and fails to cure within one hundred and twenty (120) days, then the BOCC, by Resolution duly adopted at a public meeting, may terminate the Site Approval(s).

D. Upon termination of a Site Approval for the Licensee's failure to comply with the terms and conditions of this Agreement, Licensee shall have sixty (60) days from the date of approval of the termination Resolution to remove the Facility or Facilities from the ROW. In the event that the Licensee fails to remove the Facility(s) within such time, the County, without incurring any liability, may remove the Facility(s) and charge the reasonable costs of removal to the Licensee.

E. Licensee may terminate any Site Approval as provided in such Site Approval or on its initiative, but shall provide the County thirty (30) days' advance written notice of its intent to terminate the Site Approval. Upon such termination, Licensee shall remove the Facility(s) within sixty (60) days of the termination date. The work to remove any Facility(s) shall be performed in accordance with all appropriate provisions of this Agreement relating to access to

the ROW, traffic control, clean-up, repair of or payment for damages, and indemnification obligations.

#### **15. Waiver**

No waiver of any breach or default under this Agreement shall be a waiver of any other or subsequent breach or default.

#### **16. Venue**

For the resolution of any dispute arising hereunder, venue shall be in the state or federal courts having jurisdiction over Boulder County, State of Colorado.

#### **17. Notices**

Any notices to be provided under this Agreement or any Site Approval shall be given in writing and either delivered by hand or deposited in the United States mail with sufficient postage to the addresses set forth below:

To the County:

Boulder County Attorney  
1325 Pearl Street  
PO Box 471  
Boulder, CO 80306

And

Dave Webster, P.E., County Engineer  
Boulder County Public Works Department  
2525 13<sup>th</sup> Street  
PO Box 471  
Boulder, CO 80306

To the Licensee:

SQF, LLC dba Tilson Infrastructure  
16 Middle Street, 4<sup>th</sup> Floor  
Portland, ME 04101  
Attn: Legal

[legal@tilsoninfrastructure.com](mailto:legal@tilsoninfrastructure.com)

With a copy to: N/A

#### **18. Counterparts**

This Agreement may be executed in duplicate counterparts and/or electronically.

## **19. Headings for Convenience**

All headings, captions, and titles are for convenience and reference only and of no meaning in the interpretation or effect of this Agreement.

## **20. Provisions Construed as to Their Fair Meaning**

The provisions of this Agreement shall be construed as to their fair meaning and not for or against any Party based upon any attribution to such Party of the source of the language in question.

## **21. No Third-Party Beneficiaries**

None of the terms or conditions in this Agreement shall give or allow any claim, benefit, or right of action by any third person not a party hereto. Any person other than the County or the Licensee receiving services or benefits under this Agreement shall be only an incidental beneficiary.

## **22. Relationship of the Parties**

It is mutually agreed and understood that nothing contained in this Agreement is intended or shall be construed as in any way establishing the relationship of co-partners or joint ventures between the Parties hereto or as construing Licensee, including its agents and employees, as an agent of the County. Licensee shall remain an independent and separate entity.

## **23. Severability**

If any one or more of the provisions of this Agreement become void, voidable, or unenforceable for any reason, such provisions shall be deemed severable from the remaining provisions of this Agreement and shall not affect the legality, validity, or constitutionality of the remaining portions of this Agreement.

## **24. Extent of Agreement**

This Agreement and any Site Approvals represents the entire integrated agreement between the Parties and supersedes all prior negotiations, representations, or agreements, either written or oral.

## **25. Amendments**

Any amendments to this Agreement shall be in writing and signed by both parties.

## **26. Attorney Fees**

In the event of litigation between the Parties hereto to enforce the terms of this Agreement, the prevailing party in such litigation shall be entitled to its own cost, including reasonable attorney fees and expert witness fees, from the opposing party.

#### **27. Governmental Immunity**

Nothing in this Agreement waives or is intended to waive the limitations on liability which are provided to the Parties under the Colorado Governmental Immunity Act § 24-10-101 et seq., C.R.S., as amended.

#### **28. Colorado Open Records Act**

The County may disclose any records that are subject to public release under the Colorado Open Records Act, C.R.S. § 24-72-101, *et seq.*

#### **39. Effective Dates**

This Agreement shall be in force from \_\_, 20\_\_ through \_\_, 20\_\_.

Executed this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

**LICENSEE:**

SQF, LLC dba Tilson Infrastructure, a limited liability company

By: Joshua Broder

Name: Joshua Broder

Title:CEO and President

**BOULDER COUNTY:**

Chair, Board of County Commissioners

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Date

ATTEST:

Clerk to the Board

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Date

State of \_\_\_\_\_ )  
 ) ss.  
County of \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, \_\_

by \_\_\_\_\_.  
(Name of person acknowledged, i.e. signing agreement)

Witness my hand and official seal.

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Notary Public

My Commission expires \_\_\_\_\_.