

**FIRST AMENDMENT TO NON-EXCLUSIVE LICENSE AGREEMENT BETWEEN
THE CITY OF SAN MARCOS AND ATC OUTDOOR DAS, LLC
FOR THE USE OF PUBLIC RIGHTS-OF-WAY
AMERICAN TOWER SITE NO. 346132**

This FIRST AMENDMENT NON-EXCLUSIVE LICENSE AGREEMENT BETWEEN THE CITY OF SAN MARCOS AND ATC OUTDOOR DAS, LLC FOR THE USE OF PUBLIC RIGHTS-OF-WAY (“**First Amendment**”) made as of the latter of the two signature dates below (“**First Amendment Effective Date**”) between the **CITY OF SAN MARCOS**, a municipal corporation and home-rule municipality of the State of Texas (“**Licensor**” or “**City**”), and **ATC OUTDOOR DAS, LLC**, a limited liability company. (“**Licensee**” or “**ATC**”).

RECITALS

WHEREAS, the City and ATC entered to a certain Non-Exclusive License Agreement dated October 18, 2011 (“**License Agreement**”), for the purpose of ATC installing, maintaining and operating a DAS Network as defined in the License Agreement and pursuant to state and federal laws; and

WHEREAS, the term of the License Agreement was for five (5) years, commencing on October 18, 2011; and

WHEREAS, the term of the License Agreement expired on October 17, 2016; and

WHEREAS, notwithstanding the expiration of the License Agreement, the License Agreement has continued in full force and effect on a month-to-month basis from October 18, 2016 through the First Amendment Effective Date; and

WHEREAS, the City and ATC desire to amend and modify the License Agreement as set forth in this First Amendment.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the City and ATC agree as follows:

1. **Recitals True.** The recitals set forth above are agreed to be correct and are incorporated herein. All capitalized terms used and not otherwise defined in this First Amendment, but defined in the License Agreement, shall have the meaning set forth in the License Agreement.

2. **Term.**

(a) Section 1(l) of the License Agreement is hereby deleted in its entirety and replaced with the following provisions:

“Term” means the period of time commencing of the First Amendment Effective Date and ending five (5) years later.

(b) Section 4 of the License Agreement is hereby deleted in its entirety and replaced with the following provision:

The License Term and the rights, privileges and authority hereby granted shall be in force and effect for a term beginning upon the First Amendment Effective Date, and shall continue in effect for a term of five (5) years (the "Term").

3. **License Renewal Procedures.** Section 26 of the License Agreement is hereby deleted in its entirety and replaced with the following provision:

The License Agreement will be automatically renewed for successive five (5) years terms, unless either party has given written notice to the other party at least ninety (90) days prior to the expiration of the then current term of that party's intention not to renew the License Agreement.

4. **Miscellaneous.**

(a) **All Other License Agreement Terms in Effect.** Except to the extent the License Agreement is modified by this First Amendment, all other terms and conditions of the License Agreement will continue in full force and effect, and are hereby ratified and confirmed. In the event of a conflict between the terms of the License Agreement and the terms of this First Amendment, the terms of this First Amendment shall prevail. All captions are for reference purposes only and shall not be used in the construction or interpretation of this First Amendment.

(b) **Entire Agreement.** This First Amendment represents the entire agreement of the City and ATC with respect to the subject matter hereof, and the terms hereof shall not be amended or changed by any oral representation or agreement. To be effective, any amendments to the License Agreement shall be in writing and shall be executed by both parties hereto.

(c) **Counterparts.** This First Amendment may be executed in counterparts, including counterparts transmitted by electronic mail, each of which shall be deemed an original, but all of which, together, shall constitute one amendment.

(d) **Authority.** Each signatory of this First Amendment represents that he or she has the authority to execute and deliver the same on behalf of the party hereto for which such signatory is acting.

[Signatures on following page.]

IN WITNESS WHEREOF the parties hereto have executed this First Amendment as of the date aforesaid.

CITY:

CITY OF SAN MARCOS

By: _____

Name: _____

Title: _____

Date: _____

ATC:

ATC OUTDOOR DAS, LLC

By: _____

Name: John Rasweiler

Title: Senior Vice President, Managed Networks

Date: _____