

## **SUPPLEMENTAL SITE LICENSE AGREEMENT**

THIS SUPPLEMENTAL SITE LICENSE AGREEMENT, is entered into this \_\_\_\_ day of \_\_\_\_\_, 2022 (“Effective Date”) between the City of Brighton, Colorado (“City”) and ALLO Brighton, LLC (“Grantee”) (collectively, the “Parties”).

Section 1. Supplemental Site License. The City grants to Grantee a non-exclusive, revocable Supplemental Site License to locate, construct, operate, control and maintain the Equipment, as contemplated and defined in that certain Master License Agreement For Fiber Network in connection with the operation of Grantee’s Network, between City and Grantee dated \_\_\_\_\_, 2022 (the “License Agreement”), within the Right Of Way (“ROW”) (as defined in the License Agreement) segment shown in **Exhibit A**, attached hereto and incorporated herein by this reference (“Equipment Location”).

The grant of this Supplemental Site License indicates that at the time of its execution, Grantee is materially compliant with all other Supplemental Site Licenses granted by the City for grids which are under construction at time of application or have been completed immediately prior to application. Should Grantee be in violation of any material term of any Supplemental Site License granted by the City, City shall provide Grantee written notice of such violation and the City shall have the option to deny Grantee’s Supplemental Site License applications which are subject to the City’s approval at the time the City informed Grantee of the applicable violations. In the event the City denies the issuance of new Supplemental Site Licenses pursuant to the provisions of this Section 1, City and Grantee shall promptly meet and negotiate in good faith to determine the obligations Grantee must fulfill prior to the issuance of new Supplemental Site Licenses. If Grantee and City mutually agree on the obligations Grantee must perform, Grantee shall promptly undertake performance of such obligations and so as long as Grantee is diligently pursuing performance and notwithstanding the fact the obligations have not been fulfilled, City shall have the option to commence the issuance of new Supplemental Site Licenses.

Section 2. Incorporation of Agreement. All of the terms and conditions of the License Agreement are incorporated herein by reference and made a part hereof without the necessity of repeating or attaching the License Agreement. In the event of a contradiction, modification or inconsistency between the terms of the License Agreement and this Supplemental Site License, the terms of this Supplemental Site License shall govern. This Supplemental Site License shall, when executed, be attached as part of Exhibit C to the License Agreement. Capitalized terms used in this Supplemental Site License shall have the same meaning described for them in the License Agreement unless otherwise indicated herein.

Section 3. Plan Sets. Plans detailing the horizontal profiles for the construction and installation of the applicable Equipment at the Equipment Location based on City GIS information and documenting variances from the standard depth or running line based on City GIS information due to conflicts with existing facilities shall be submitted to and approved by the City in writing before beginning any work within the ROW or public utility easements or other easements benefiting the City within the City or installation of such Equipment. Plans in up to 1,200 roof top increments shall show Grantee’s drawings of Equipment as compiled in accordance with City’s

practices and procedures as they are in effect from time to time, as well as any information required by Applicable Law. “As-Built” drawings with respect to the Equipment will be provided to the City within ninety (90) days after completion of installation of the applicable grid. Depths of the existing City utilities will be detailed using the existing City GIS records available to Licensee. If the location and/or depth of the existing City utility is unknown, Grantee or its contractor will provide locates and/or pothole at the time of Equipment placement and provide a new plan and depth to the City in the form of a redline after construction.

Section 4. Equipment. The Equipment to be installed at the Equipment Location is described in **Attachment 1, Table 1**, attached hereto and incorporated herein by this reference.

Section 5. Term of Supplemental Site License. The term of this Supplemental Site License shall be as set forth in Section 2 of the License Agreement.

Section 6. Commencement Date of Supplemental Site License. The commencement date of this Supplemental Site License is the date Grantee completes installation of the applicable Equipment at the Equipment Location and receives final approval of the installation from the City (“Installation Date”).

Section 7. Approvals. It is understood and agreed the Grantee’s ability to install its Equipment in the ROW is contingent upon its obtaining all of the appropriate certificates, permits and other approvals (collectively the “Governmental Approvals”) that may be required under Applicable Law (as defined in the License Agreement), and such approval which shall not be unreasonably withheld, conditioned, or delayed by the City. In the event that (i) any of such applications for such Governmental Approvals should be finally rejected; (ii) any Governmental Approval issued to Grantee is canceled, expires, lapses, or is otherwise withdrawn or terminated by governmental authority; or (iii) Grantee determines the Equipment Location is no longer technically compatible or financially feasible for its use, Grantee shall have the right to terminate all or part of this Supplemental Site License. Notice of Grantee’s exercise of its right to terminate shall be given to the City in writing by certified mail, return receipt requested, and shall be effective upon the mailing of such notice by Grantee, or upon such later date as designated by Grantee. All standard and customary permit fees paid to said termination date shall be retained by the City, regardless of whether a permit has been issued. Upon such termination, all or part of this Supplemental Site License, as applicable, shall be of no further force or effect except to the extent of the representations, warranties and indemnities made by each party to the other hereunder and in the License Agreement and the City’s obligation to pay any fees which Grantee may have accrued and which are subject to reimbursement under the applicable Supplemental Site License.

Section 8. Non-Liability. Grantee acknowledges that the City’s review and approval of the plans for the Equipment is done in furtherance of the general public health, safety and welfare and that no specific relationship with, or duty of care to Grantee or third parties is assumed by such review approval, or immunity waived, as is more specifically set forth in the Colorado Governmental Immunity Act.

Section 9. Hold Harmless. Grantee agrees to indemnify, defend and hold the City harmless from any claims brought by any third party against the City which are attributable to any

act of Grantee, its employees, agents, contractors, subcontractors, and consultants with respect to: (i) the construction and installation of the Equipment at the Equipment Location; and (ii) any activities undertaken pursuant to this Supplemental Site License. This indemnification does not extend to claims of willful misconduct or negligence brought by any third party against the City which is attributable to any act or omission of the City.

Section 10. Notice and Communications. All notices, requests, and demands to or upon any party to this Supplemental Agreement shall be in writing addressed to the person designated below for the Parties at the indicated address. A Party may by notice in writing change its address for the purpose of this Supplemental Agreement, which address shall thereafter be used in place of the former address. Each notice, demand, request, or communication which shall be mailed to any of the aforesaid shall be deemed sufficiently given, served, or sent for all purposes hereunder (i) two business days after it shall be mailed by United States certified mail, postage prepaid and return receipt requested, in any post office or branch post office regularly maintained by the United States Postal Service, (ii) upon personal delivery via electronic mail or otherwise, or (iii) one business day after deposit with any recognized commercial air courier or express service.

Grantee

ALLO Brighton, LLC  
330 S. 21st Street  
Lincoln, Nebraska 68510  
Attention: Brad Moline, President  
Email: \_\_\_\_\_

ALLO Brighton, LLC  
121 S. 13<sup>th</sup> Street, Suite 100  
Lincoln, Nebraska 68508  
Attn: Legal Department  
Email: \_\_\_\_\_

City

City of Brighton  
500 S. 4<sup>th</sup> Ave.  
Brighton, Colorado 80601  
Attn: City Manager  
Email: \_\_\_\_\_

City of Brighton  
500 S. 4<sup>th</sup> Ave.  
Brighton, Colorado 80601  
Attn: City Attorney  
Email: \_\_\_\_\_

Section 11. Governmental Immunity. The City and its officers, attorneys and employees are relying on, and do not waive or intend to waive by any provision of this Supplemental Site License, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the City and its officers, attorneys or employees.

Section 12. Incorporation of Exhibits. All Exhibits to this Agreement are hereby incorporated into this Agreement by reference.

CITY OF BRIGHTON, COLORADO:

\_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_

ALLO Brighton, LLC

\_\_\_\_\_  
Name/Title: Bradley A. Moline, President