

**INTERLOCAL AGREEMENT  
FOR THE USE OF CITY OF LAS VEGAS POLES FOR  
LAS VEGAS VALLEY WATER DISTRICT AUTOMATED METER READING FACILITIES**

THIS INTERLOCAL AGREEMENT, made and entered into by and between the City OF LAS VEGAS, a Nevada municipal corporation (the "City") and the LAS VEGAS VALLEY WATER DISTRICT, a political subdivision of the State of Nevada, (the "District"). The City and District are sometimes collectively referred to herein as the "Parties".

This Agreement is effective on the later of the date approved by the Las Vegas City Council or the Las Vegas Valley Water District Board of Directors, so long as approval by one is within thirty (30) calendar days of approval by the other (the "Effective Date").

**RECITALS**

WHEREAS, the Parties are authorized to enter into agreements pursuant to Nevada Revised Statute ("NRS") 277.080 through 277.180;

WHEREAS, the District is engaged in the business of distributing potable water in the City of Las Vegas, Nevada, and portions of the County of Clark, Nevada;

WHEREAS, the City, as part of its municipal functions, owns, operates, maintains, and replaces streetlight and traffic signal poles in City Right-of-Way ("City ROW") individually and collectively, a "City Pole" and the "City Poles";

WHEREAS, the District is undertaking an Advanced Metering Infrastructure ("AMI") project;

WHEREAS, the District desires to install and maintain, at its sole cost and expense the required AMI collectors and repeaters and any related appurtenances (individual and collectively, an "AMI Facility" or the "AMI Facilities") for the purpose of automated meter reading throughout the City; and

WHEREAS, the City desires to allow the District to install and operate the non-standard AMI Facilities, mounted on City Poles, pursuant to the City's requirements and subject to the District performing all of the terms, conditions and provisions hereinafter set forth and required of the District.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, it is agreed as follows:

**AGREEMENT**

**1. GRANT OF LICENSE.**

By mutual execution of this Agreement, the City hereby grants to the District, subject to the terms and conditions in this Agreement, a revocable license (the "License") to use install, operate, and maintain the AMI Facilities on City Poles. The District's use of the City Poles shall not interfere with the City's, or any public or quasi-public body governed by the City, or any others who have rights on the City ROW, ability to install, maintain, or use existing and future improvements, including, but not limited to, street lighting system, traffic control system, sidewalks, water supply and distribution system, sanitary sewer collection system, and storm water collection and conveyance. Further, the District acknowledges that the City has granted licenses and other rights to third parties prior to this Agreement. The District accepts

this License subject to all existing superior rights of any party to the City ROW, and is made without covenant by the City of any title to or for quiet enjoyment of the City ROW. Further, the District agrees to not sublet this License.

2. TERM.

- a. The term of this grant of license shall be perpetual (the “**Term**”). This Agreement may be terminated by either party, with or without cause and regardless of the nature of the improvement made by the District, upon sixty (60) calendar days’ written notice to the District. Upon termination, the District shall remove the AMI facilities pursuant to the terms of this Agreement.
- b. Either party may terminate this Agreement in the event the other party hereto fails to observe and perform any provision, condition, covenant, restriction, or agreement herein and where such failure continues for thirty (30) calendar days after notice thereof from the non-breaching party, provided, however, that if the nature of the failure is such that it cannot reasonably be cured within thirty (30) calendar days, no default will be deemed to have occurred if the breaching party, within the initial thirty (30) calendar day period, commences to cure and thereafter diligently prosecutes the same to completion, but in no event for longer than thirty (30) calendar days after written notice to breaching party (provided the time periods set forth in this Section shall be extended for the period of any Force Majeure event as defined in this Agreement. The waiver by the non-breaching party of the breach of any condition, covenant, restriction or agreement herein shall in no way impair the right of the non-breaching to enforce its rights upon any subsequent breach thereof.

3. LICENSE FEE.

- a. Licensee Fee. The District shall pay to the City a license fee (the “**License Fee**”) comprised of the cost of the annual power charge for the AMI Facilities and the cost of any trouble shooting/technical support provided by the City to the District.
  - i. To calculate the annual electric power usage charge, the City will measure the actual maximum daily electric power draw for one (1) device, after installation, which will be multiplied by the total number of devices installed. The rates for the electric power usage will be calculated using the City’s Nevada Energy or other electric provider electric power rates in effect at the time the License Fee is assessed. The cost of the annual power charged to the District shall not exceed Ten Thousand Dollars and 00/100 (\$10,000.00) per year (the “**Electric Charge**”). The Electric Charge shall increase annually in January of the applicable year based on the previous year’s published increase to the Consumer Price Index for all Urban Consumers, U.S. City Average, All Items, Not Seasonally Adjusted, published by the U.S. Bureau of Labor Statistics (the “CPI-U”). If the CPI-U for a year is negative, the not to exceed figure shall not be subject to adjustment and shall remain the same as the previous year.
  - ii. To calculate the cost of any trouble shooting/technical support provided by the City to the District, the City will bill the District the overtime hourly rate of any City employees providing troubleshooting/technical support to the District. The overtime hourly rate will be calculated using the overtime hourly chargeable rates

in effect at the time the License Fee is assessed. The City shall bill the District for actual time only, prorated to the nearest 15-minute increment, with no minimum billing times for labor or travel times. The City shall not provide troubleshooting/technical support to the District in excess of Forty Thousand Dollars and 00/100 (\$40,000.00) per year (the "City Service Charge") without written consent of the Parties. The City Service Charge shall increase annually in January of the applicable year based on the previous year's CPI-U. If the CPI-U for a year is negative, the not to exceed figure shall not be subject to adjustment and shall remain the same as the previous year.

- b. The License Fee shall be billed to the District quarterly, with the City sending the bill to the District within five (5) business days after each calendar quarter.
- c. The License Fee shall be due and payable not later than thirty (30) calendar days after each calendar quarter.
- d. City represents and covenants that City owns all City Poles for the use of which it is collecting from the District.
- e. License Fee Payment. The License Fee shall be paid by check mailed or delivered to City of Las Vegas, Finance Department-4th Floor-Cashier, 495 South Main, Las Vegas, Nevada 89101, with a transmittal referencing this Agreement. The place and time of payment may be changed at any time by City upon thirty (30) calendar days' written notice to District. Mailed payments shall be deemed paid upon the date such payment is postmarked by the postal authorities. If postmarks are illegible to read, the payment shall be deemed paid upon actual receipt by the City. The District assumes all risk of loss and responsibility for late payment charges if payments are made by mail.
- f. Delinquent Payment. If the District fails to pay any amounts due for License Fees within thirty (30) calendar days after each calendar quarter, the District will pay, in addition to the unpaid fees, a sum of money equal to two percent (2%) of the amount due, including penalties and accrued interest, for each month and/or fraction thereof during which the payment is due and unpaid.

4. **CONDITIONS OF OCCUPANCY.**

- a. Limited Use. The license granted herein is subject to the District complying with all terms and conditions of this Agreement, including, but not limited to, the proper operation, maintenance and/or repair of the AMI Facilities. The District shall not engage in any activities or improvements on the City Poles or in the City ROW that is not authorized in this Agreement.
- b. Reserved Right. The City reserves the right to utilize the City ROW or allow others to utilize the City ROW as the City deems appropriate, in its sole discretion. The City further reserves the right to excavate, lay, construct, erect, install, use, operate, repair, replace, remove, relocate, re-grade, widen, realign, perform civil work, or maintain the surface or subsurface improvements located within or under the City ROW, including, without limitation to, roads, streets, water mains, traffic signal conduits, sanitary and/or storm sewers, subways, viaducts, bridges, underpasses, or overpasses. The City may further develop the City ROW over or under which the license is granted which may require future

excavation, construction, roadways, roadway construction, use, repairs, re-grading, widening, realigning, maintenance, civil work, and other activities which may require the District to adjust, reinstall, modify, remove, repair or relocate any or all of its AMI Facilities. In the event that the City chooses to further develop the City ROW in a manner in which the AMI Facilities need to be relocated, reinstalled, modified, or removed the County will provide the District noticed as further defined in this Agreement.

- c. No Property Interest. The District shall not acquire or assert any vested right or interest in any City Poles or the City ROW under this grant of license.
- d. The District shall not install any equipment that exceeds the scope of the AMI Facilities allowed under this Agreement (e.g. a mesh network), without an amendment to this Agreement, including by way of example and not limitation, the Term and License Fee.

5. AMI FACILITIES.

The AMI Facilities shall be installed pursuant to the plans and specifications attached hereto as Exhibit A, and incorporated herein by this reference (the “Plans and Specifications”). Any deviation from the Plans and Specifications must be approved in writing by the City. The installation locations on City Poles shall be separately approved by the City as part of the City’s permitting process for the installation as further detailed herein.

6. PERMITS.

The District shall comply with all applicable federal, State, and City technical specifications and requirements and all applicable State and local codes related to the construction, installation, operation, maintenance, and control of the AMI Facilities installed on the City Poles.

- a. Obtaining Required Permits. The attachment, installation, location, removal, or relocation of the AMI Facilities on the City Poles shall require permits from the City (individually and collectively, a “City Permit” and the “City Permits”). The District shall apply for the appropriate City Permit and pay any standard and customary permit fees. The District shall be allowed to apply for up to fifty (50) City Permits (in a single City inspector area map) within a single City Permit application. Should the City have difficulty in managing the volume of City Permits, the City shall have the right to reduce the number of permits allowed under a single permit application to no more than ten (10) City Permits (in a single City inspector area map). The City shall promptly respond to the District’s requests for a City Permit and shall otherwise cooperate with the District in facilitating the deployment of the AMI Facilities in a reasonable and timely manner. City Permit conditions may include, without limitation: (i) approval by the City of traffic control plans prepared by the District for AMI Facilities installation work; (ii) approval by the Nevada Department of Transportation (“NDOT”) of traffic control plans prepared by the District for work within right-of-way controlled by NDOT; and (iii) adherence to time restrictions for work in streets as specified by the City and/or NDOT.
- b. Location of AMI Facilities. The proposed locations of the District’s planned initial installation of AMI Facilities shall be provided to the City in the form of a map or on an annotated aerial photograph, either of which must be in a format acceptable to the City, promptly after the District’s field review of available City Poles and prior to deployment

of the AMI Facilities. Prior to commencement of installation of the AMI Facilities, District shall obtain a City Permit. The City may approve or disapprove a location and installation, based upon reasonable factors, including but not limited to, the ability of the City Poles to structurally support the AMI Facilities, the location of other present communication facilities, efficient use of scarce physical space to avoid premature exhaustion of capacity, potential interference with other communication facilities and services, public safety, and other critical services. Within thirty (30) calendar days after inspection of each AMI Facilities installation, the District shall furnish to the City an as-built map or annotated aerial photograph (which must be in a format acceptable to the City) and a current City Pole list showing the exact location of the AMI Facilities in the City ROW or third-party facilities prior to the close out of the City Permit.

- c. Deficient City Pole. If the District selects a City Pole that the City determines is structurally or electrically inadequate to accommodate the AMI Facilities, the District may proceed at its sole cost and expense to replace the City Pole. A replacement City Pole that the District includes in the City Permit application shall be acceptable to and approved by the City. The District shall dedicate such Pole to the City as a City owned municipal asset. A replacement City Pole shall accommodate all of the District's cabling to the AMI Facilities attached to the City Pole inside the City Pole from the ground up to the point that the cabling exits the City Pole to connect to the AMI Facilities.

7. **INSTALLATION AND OPERATION.**

- a. Commencement of Installation. The District shall commence installation of its AMI Facilities consistent with the terms of the City Permit. If the AMI Facilities are not installed within the time frame authorized by the City Permit, the District shall apply for a new City Permit.
- b. Electrical Service. To reduce the disruption to City Poles, the District may power its AMI Facilities by using the power sources that service the existing City Poles and its components. The power used by AMI Facilities shall be determined by the usage identified on the specifications for the AMI Facilities installed pursuant to this Agreement, provided that the City may verify the actual power consumed by the AMI Facilities using measurements of the power consumed prior to the installation of the AMI Facilities compared to the power consumed after the installation of the AMI Facilities. All electrical work and installations related to the power-sharing authorized by this subsection shall be performed by a licensed contractor and in a manner that is approved by the City. The District shall make all requests for power sharing arrangements pursuant to this subsection in advance and in writing. District shall reimburse the City, as provided in this Agreement, for the increased power costs that the City incurs as a result of any power-sharing authorized by this subsection.
- c. Damages Caused by the District. The District shall, at its sole cost and expense and to the satisfaction of the City: (i) remove, repair or replace any of its AMI Facilities that is damaged, becomes detached or has not been used for a period of more than ninety (90) calendar days; and/or (b) repair any damage to the City Poles, the City ROW, and other improvements, whether public or private, caused by the District, its employees, contractors, or agents in their actions relating to attachment, operation; repair or maintenance of the AMI Facilities. If the District does not remove, repair, or replace such damage to its AMI

Facilities or the City Poles, City ROW, or other public or private property within thirty (30) calendar days after receipt of the City's written notice to do so, the City shall have the option, upon fifteen (15) calendar days' prior written notice to the District, to perform or cause to be performed such removal, repair or replacement on behalf of the District and shall charge the District for the actual costs incurred by the City. If such damage causes a public health or safety emergency, as determined by the City, the City may immediately perform reasonable and necessary repair or removal work (but not any technical work on the AMI Facilities on behalf of the District and will notify the District as soon as practicable. Upon the receipt of a demand for payment by the City, the District shall within thirty (30) calendar days after such receipt reimburse the City for such costs. The terms of this provision shall survive the expiration, completion or earlier termination of this Agreement.

- d. The AMI Facilities shall be and remain the exclusive property of District to use, modify, or to dispose of as District deems appropriate and shall become a part of District's general water distribution system after completion of the installation.

8. **EMERGENCY; RELOCATION OF AMI FACILITIES.**

- a. Emergency. In the event of an emergency or to protect the public health or safety, prior to the City accessing or performing any work on a City Pole on which the District has installed AMI Facilities, the City may require the District to deactivate such AMI Facility if any of City employee, contractor, or agent must move closer to the AMI Facilities than the recommended minimum distance. In such case, City will contact the District at the contact telephone number referenced in this Agreement to request immediate deactivation. If the District fails to respond in a timely manner, depending on the nature of the emergency, City may deactivate said AMI Facility to perform necessary work with no liability to City.
- b. Relocation. The District understands and acknowledges that upon ninety (90) calendar days' written notice (or with less notice that is reasonable in event of an emergency), the City may require the District to relocate one or more AMI Facilities. The District shall, at City's direction, relocate such AMI Facility at the District's sole cost and expense whenever the City reasonably determines that the relocation is needed for any of the following purposes: (i) if required for the construction, modification, completion, repair, relocation, or maintenance of a City or other public agency project; (i) because the AMI Facility is interfering with or adversely affecting proper operation of the City Poles, City communications, or other City facilities; or (iii) to protect or preserve the public health or safety. In any such case, the City shall use reasonable efforts to afford the District a reasonably equivalent alternate location within such ninety (90) calendar day period. If the District shall fail to relocate any AMI Facility Equipment as requested by the City within ninety (90) calendar days after receipt of the City's notice in accordance with the foregoing provision, or an additional reasonable time under the circumstances, City shall be entitled to remove or relocate the AMI Facilities at the District's sole cost and expense, upon ten (10) calendar days' written notice to the District. The District shall pay to the City actual costs and expenses incurred by the City in performing any removal work and any storage of the AMI Facilities after removal within thirty (30) calendar days after the date of a written demand for this payment from the City. To the extent the City has actual knowledge thereof, the City will attempt promptly to inform District of the displacement or removal

of any City Pole on which any AMI Facilities are located. If the City Pole is damaged or downed for any reason, and as a result is not able to safely hold the AMI Facilities, the City will attempt promptly to inform the District but otherwise shall have no obligation to repair or replace such City Pole for the use of the District. The District shall bear all risk of loss as a result of damaged or downed City Pole as further described in this Agreement, and may choose to replace such City Poles pursuant to the terms of this Agreement.

- c. Relocations at the District's Request. In the event the District desires to relocate any AMI Facility from one City Pole to another, the District shall so advise the City. The City will use reasonable efforts to accommodate the District by making another reasonably equivalent City Pole available for use in accordance with and subject to the terms and conditions of this Agreement.

9. REMOVAL OF AMI FACILITIES.

Upon receipt of notice of termination of this Agreement, the District shall promptly, safely and carefully commence removal of the AMI Facilities from all City Poles. Upon written request, the City's Public Works Director will consider an extension of time to remove the AMI Facilities. The District shall commence the removal work within sixty (60) calendar days (or as otherwise approved by the City) and diligently prosecute the removal of the AMI system, within a timeframe mutually agreeable to the Parties upon receipt of the notice of termination. If the District fails to do so, then the City, upon written notice to the District, shall have the right at the City's sole election, but not the obligation, to perform this removal work and charge the District for the actual costs and expenses, including, without limitation, reasonable administrative costs. The District shall pay to the City actual costs and expenses incurred by the City in performing any removal work and any storage of District's personal property after removal within thirty (30) calendar days after the date of a written demand for this payment from the City. After the City receives the reimbursement payment from District for the removal work performed by the City, the City shall promptly make available to the District the District's personal property removed by the City pursuant to this Section at no liability to the City. If the City does not receive reimbursement payment from the District within such thirty (30) calendar days, or if City does not elect to remove such items at the City's cost after District's failure to so remove prior to sixty (60) calendar days subsequent to the issuance of notice pursuant to this Section, or if the District does not remove the AMI Facilities within thirty (30) calendar days after the District's personal property having been made available by the City after the District's payment of removal reimbursement as described above, any items of District's personal property remaining on or about the City Poles, City ROW, or stored by the City after the City's removal thereof may, at the City's option, be deemed abandoned and the City may dispose of such District personal property in any manner by law. Alternatively, the City may elect to take title to abandoned District personal property, and the District shall submit to the City an instrument satisfactory to the City transferring to the City the ownership of such District personal property. The provisions of this Section shall survive the expiration or earlier termination of this Agreement.

10. RISK OF LOSS.

The District acknowledges and agrees that the District bears all risks of loss or damage or relocation or replacement of the AMI Facilities and materials installed on the City Poles or in the City ROW pursuant to this Agreement from any cause, and the City shall not be liable for

any cost of replacement or of repair to damaged AMI Facilities, including, without limitation, damage caused by the City's removal of the AMI Facilities, except to the extent that such loss or damage was caused by the negligence or willful misconduct the City, including, without limitation, its elected officials, officers, employees, contractors, and agents, subject to the limitation of liability provided in this Agreement.

11. LIABILITY AND INDEMNIFICATION.

- a. The District, or its successors in interest, shall require its contractor to indemnify, defend, and hold harmless the City and or the State of Nevada, their elected officials, officers, employees, and agents, against and from any and all liability, loss, damage, fines, claims, demands, lawsuits, causes of action, awards, litigation, costs and expenses, judgments, of whatever nature, whether false, groundless or fraudulent, including, but not limited to, investigation costs, attorneys' fees and expenses, expert witness fees, analysis and expenses and all court or arbitration or other alternative dispute resolution costs, which may result from injury to or death of any person, or against and from damage to or loss or destruction of property whatsoever when such injury, death, loss, destruction or damage is due to or arising from or as a result of or connected to: (i) the AMI Facilities (ii) any work, action or inaction in connection with the AMI Facilities and this Agreement; (iii) the design, construction, installation, use, operation, maintenance, demolition, removal, repairs, remodeling, relocation, or modification of the MI Facilities; and (iv) work, actions, inactions and/or occurrences, related to or connected to the AMI Facilities, and/or the design, construction, installation, use, maintenance, repair, replacement, or operation thereof.
- b. The District will be responsible for any loss, damage, liability, cost or expense, except those exempted by law, caused by the actions or inactions of its employees, consultants, contractors, or agents arising under this Agreement. Without waiving the limitations on governmental liability set forth in NRS Chapter 41, as amended, the District shall protect, indemnify, and hold the City, its elected officials, officers, employees, and agents harmless from and against any and all claims, damages, losses, expenses, suits, actions, judgments, and awards including attorney's fees and court costs which may be brought against it or them as a result of or by reason of or arising out of or as a consequence of the installation, operation, maintenance or repair activities of the Improvements. The District also agrees to repair and/or restore, to the reasonable satisfaction of the City, any damage sustained to private property and the public property, including, but not limited to, City ROW, caused by the District.
- c. Notwithstanding any other provision herein, the District agrees that the City will not be liable or responsible for any damage or injury to the AMI Facilities, whether caused by the District, the City or any other person or entity, or a natural cause. Additionally, the District understands and agrees that the City will not be liable and/or responsible for any damages whatsoever to person(s) or property relating to, arising out of or resulting from the AMI Facilities, damages to the AMI Facilities, damages caused by the AMI Facilities, and/or operation or maintenance of the AMI Facilities.
- d. This Section survives termination of this Agreement.

12. INSURANCE.

- a. The District, which self-insures its own insurance requirements required herein, at its own cost and expense, shall, in addition, require its contractor(s) to obtain and maintain commercial general liability insurance naming the City and NDOT, and their elected officers, employees, and agents as additional insured's for the duration of this Agreement. Commercial general liability insurance coverage must be provided either on a commercial general liability form or a broad form comprehensive general liability form. No exceptions to the standard coverage provided by such forms are permitted. Policies must include, but need not be limited to, coverage for bodily injury, personal injury, broad form comprehensive general liability, property damage, premises operations, severability of interest, products and completed operations, and contractual and independent contractors.
- b. The District shall require that its contractor(s) maintain at all times limits of no less than One Million and 00/100 Dollars (\$1,000,000.00) combined single limit per occurrence for bodily injury (including death), personal injury, and property damage. Said insurance coverage must (a) be effective at the time of the issuance of an encroachment permit, (b) provide for a 30 calendar day notice to the City before implementation of a proposal to suspend, void, cancel or reduce in coverage, or in limits, the required insurance coverage, and (c) list the "City of Las Vegas" as an additional insured. This notice requirement does not waive the insurance requirements contained herein. The District shall provide the City with the District contractor's ACORD 25 Certificate of Liability Insurance form (ACORD 25 2009-09) concurrent with the submission of any permit application to perform work under this Agreement.
- c. The certificates and endorsements for any and all insurance policies required by this Agreement are to be signed by a person authorized by the insurer and licensed by the State of Nevada. The insurance obligation does not in any way limit the District's liability obligations to the City.

13. MISCELLANEOUS.

- a. Non-Discrimination. The Parties promises, and it is a condition to the continuance of this Agreement, that there will be no discrimination against, or segregation of, any person or group of persons on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, creed, national origin, ancestry, or any other legally protected status in the performance of this Agreement. Such non-discrimination shall include, by way of example and not limitation, the following: employment; upgrading; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In accordance with the Immigration Reform and Control Act of 1986, the Parties agree that it will not employ unauthorized aliens in the performance of this Agreement.
- b. Force Majeure. Neither party hereto shall be in breach of this Agreement if it fails to perform as required hereunder due to labor disputes, civil commotion, war, warlike operation, terrorist acts, sabotage, governmental regulations or control, fire or other casualty, inability to obtain any materials, epidemics or pandemics, government imposed quarantine restrictions, or other causes beyond such party's reasonable control (financial

inability excepted); provided, however, that nothing contained herein shall excuse the District from the prompt payment of any charge required of the District hereunder.

- c. Notice. All notices required or permitted under this Agreement shall be given in writing and shall be deemed effectively given (a) upon personal delivery to the party to be notified, (b) three (3) business days after deposit with the United States Post Office, by registered or certified mail, postage prepaid and addressed to the party to be notified at the address for such party, (c) one (1) business day after deposit with a nationally recognized air courier service such as FedEx; or (d) an electronic record sent by e-mail pursuant to NRS 719.240. Either party hereto may change its address by giving ten (10) business days advance notice to the other party as provided herein. Phone and fax numbers, if listed, are for information only.

If to City:                      Director of Finance  
City of Las Vegas  
Attn: Franchise Administration  
495 South Main Street, 4<sup>th</sup> Floor  
Las Vegas, NV 89101

With a copy to:                Director of Public Works  
City of Las Vegas  
333 N. Rancho Drive, 9<sup>th</sup> Floor  
Las Vegas, NV 89106  
(702) 229-6272

If to District:                 Attn: Director, Infrastructure Management  
Las Vegas Valley Water District  
1001 South Valley View Boulevard  
Las Vegas, NV 89153  
(702) 258-3976

With a copy to:                General Counsel  
(excluding invoices)        Las Vegas Valley Water District  
1001 South Valley View Blvd., MS 475  
Las Vegas, Nevada 89153  
(702) 258-3288  
generalcounsel@lvvwd.com

- d. Binding on Permitted Successors and Assigns. The terms, provisions, covenants and conditions contained in this Agreement shall apply to, bind and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives and permitted successors and assigns.
- e. Partial Invalidity. If any term, covenant or condition of this Agreement, or any application thereof, should be held by a court of competent jurisdiction to be invalid, void or unenforceable, all terms, covenants and conditions of this Agreement, and all applications thereof, not held invalid, void or unenforceable, shall continue in full force and effect and

shall in no way be affected, impaired or invalidated thereby. The Parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this clause shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

- f. Entire Agreement. This Agreement contains the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written. No supplement, modification, waiver or termination of this Agreement shall be binding unless executed in writing by the party to be bound. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions, whether or not similar, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.
- g. No Partnership or Joint Venture. Nothing contained herein shall be deemed to create any partnership, joint venture, agency, or other relationship between the Parties.
- h. Captions. The captions are descriptive only and for convenience in reference to this Agreement and in no way whatsoever define, limit or describe the scope or intent of this Agreement nor in any way affect this Agreement.
- i. Governing Law; Venue; Waiver of Jury Trial. The laws of the State of Nevada shall govern the validity, construction, performance and effect of this Agreement, without giving effect to its conflict of law provisions. Each party hereto consents to, and waives any objection to, the State courts located in the County of Clark, State of Nevada as the proper and exclusive venue for any disputes arising out of or relating to this Agreement or any alleged breach thereof. The Parties hereby waive trial by jury in any action, proceeding or counterclaim brought by either of them against the other on any matters whatsoever arising out of or in any way connected with this Agreement, the relationship of Parties the District's use or occupancy of the City right-of-way and City Poles, and/or any claim of injury or damage.
- j. Recordation. This Agreement shall not be recorded.
- k. Authorization. All necessary actions shall have been taken under the Parties' organizational documents to authorize the individuals signing this Agreement on their respective behalves to do so.
- l. Interpretation. Masculine or feminine pronouns shall be substituted for the neuter form and vice versa, and the plural shall be substituted for the singular form and vice versa, in any place or places herein in which the context requires such substitution(s). Whenever in this Agreement any words of obligations or duty are used in connection with either party, such words shall have the same force and effect as though framed in the form of express covenants on the part of the party obligated. This Agreement shall not be construed either for or against either party hereto, but this Agreement shall be interpreted in accordance with the general tenor of its language. Any reference to "business days" herein shall mean any day except Friday (the City is closed on Fridays), Saturday, Sunday and any day which is a legal holiday as defined in NRS 236.015, as it may be amended from time to time.

- m. Third Parties. Nothing in this Agreement, expressed or implied, is intended to confer upon any person, including, without limitation, any entity, other than the parties hereto any rights or remedies under or by reason of this Agreement.
- n. Expenses. Except as otherwise provided in this Agreement, each party shall bear its own expenses incurred by it in connection with the negotiation, execution and delivery of this Agreement, including, without limitation, the fees and expenses of each party's legal counsel.
- o. Further Assurances. Each party shall, from time to time after the execution of this Agreement, execute and deliver such instruments, documents and assurances and take such further acts as the other party may reasonably request to carry out the purpose and intent of this Agreement without undue delay.
- p. Non-Appropriation. The Parties acknowledge that the other party is a governmental entity and the Agreement validity is based upon the availability of public funding under its authority. In the event that public funds are unavailable and not appropriated for the performance of either party's obligations under this Agreement, then the party shall have the right to terminate this Agreement at any time after written notice to the other party of the unavailability and non-appropriation of public funds. It is expressly agreed that neither party shall exercise this non-appropriation provision for its convenience or to circumvent the requirements of this Agreement, but only as an emergency fiscal measure.
- q. Official, Agent and Employees of Each Party Not Personally Liable. It is agreed by and between the parties of this Agreement, that in no event shall any official, officer, employee, or agent of the City or District in any way be personally liable or responsible for any covenant or agreement therein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this Agreement.
- r. Conflict of Interest. An official of either party hereto, who is authorized on behalf of their respective party to negotiate, make, accept or approve, or take part in negotiating, making, accepting, or approving this Agreement, payments under this Agreement, or work under this Agreement, shall not be directly or indirectly interested personally in this Agreement or in any part hereof. No officer, employee, architect, attorney, engineer or inspector of, or for either party hereto, who is authorized on behalf of the respective party, to exercise any legislative, executive, supervisory or other similar functions in connection with this Agreement, shall become directly or indirectly interested personally in this Agreement or in any part hereof.
- s. Public Records. The City and the District are public agencies as defined by state law. As such, the City and District are subject to the Nevada Public Records Law (Chapter 239 of the Nevada Revised Statutes). The City's and District's records are public records, which are subject to inspection and copying by any person (unless declared by law to be confidential). This Agreement and all supporting documents are deemed to be public records.
- t. Counterparts; Electronic Delivery. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same

instrument. This Agreement shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the parties reflected hereon as the signatories. Executed copies hereof may be delivered by facsimile or e-mail and upon receipt will be deemed originals and binding upon the parties hereto, regardless of whether originals are delivered thereafter.

*- signatures on following page -*

IN WITNESS WHEREOF, the Parties have entered into this Interlocal Agreement on the Effective Date as defined herein.

**CITY OF LAS VEGAS**

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

Carolyn G. Goodman, Mayor

Date of Approval by Las Vegas City Council: \_\_\_\_\_

Attest:

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

LuAnn D. Holmes, MMC, City Clerk

Approved as to Form: John S. Ridilla  
Deputy City Attorney

By: John S. Ridilla 12/01/2020  
Deputy City Attorney Date

**LAS VEGAS VALLEY WATER DISTRICT**

By: Marilyn K Kirkpatrick

Marilyn Kirkpatrick, President  
Board of Directors

Date of Approval by LVVWD Board: Dec 1, 2020

Approved as to Form:

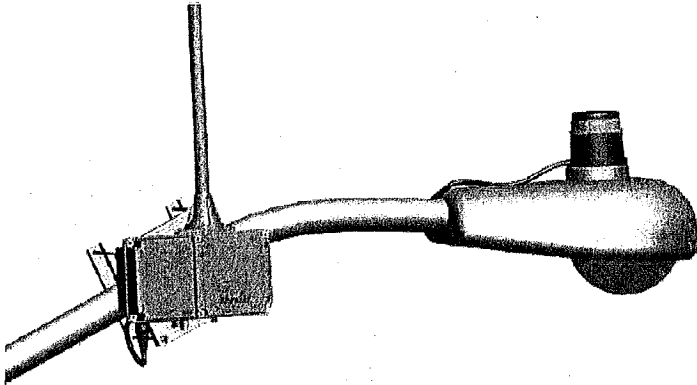
By: Gregory J. Walch for \_\_\_\_\_

Gregory J. Walch, Esq.  
General Counsel for the Las Vegas Valley Water District

## **EXHIBIT A**

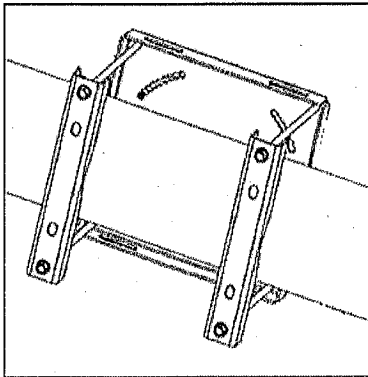
### **Davit Arm Mount**

The figure below illustrates a typical utility pole or street light pole installation. The CCU/Repeater is mounted on a davit arm or the street light arm. Two types of power connections are typical. A photocell adapter cable may be used when the CCU/Repeater is mounted on a street light arm. This cable plugs into the photocell sensor of the street light. Use of the photocell adapter requires that the CCU/Repeater be grounded using the grounding lug on the bottom of the CCU/Repeater. If the CCU/Repeater is mounted on a davit arm with no street light, the power cable must be connected according to local electrical codes.



#### ***To mount the CCU/Repeater on a davit arm***

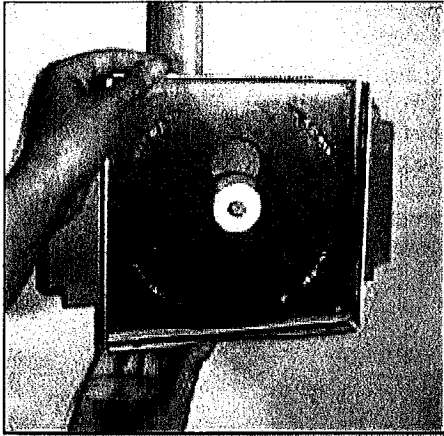
1. Using the two mounting brackets and four bolts, attach the mounting plate to the davit arm.



2. Attach the mounting disc to the back of the CCU with the included parts in the following order.

CCU > mounting disk > flat washer > lock washer > bolt

3. Insert the mounting disc into the mounting plate keyhole. The following photos are shown off the davit arm for clarity.



4. Using the provided set screws, secure the CCU to the mounting plate with the antenna in the upright position.

