

ATTACHMENT F

AGREEMENT TO CONDUCT DUE DILIGENCE INVESTIGATIONS ON BOARD-OWNED LAND

THIS AGREEMENT TO CONDUCT DUE DILIGENCE INVESTIGATIONS ON BOARD-OWNED LAND ("Agreement"), is made and entered into this _____ day of _____ 20____, by and between **THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA**, a body corporate and politic organized under the laws of the State of Florida ("Board"), and _____ ("Bidder"), authorizing Bidder to conduct certain due diligence investigations on Board-owned land, directly relating to and limited by the Board's Invitation to Bid No. 029-LL10 ("ITB"), attached hereto by reference. Bidder does hereby agree to the following terms and conditions:

Bidder, its agents, employees and representatives shall be authorized to access only those portions of Southwest Senior High School, located at 8855 SW 50 Terrace, Miami, Florida 33155 (the "Site"), that Bidder is investigating for the possible placement and co-location of Bidder's telecommunications equipment. Bidder's access thereto shall be for the expressed and limited purpose of (1) conducting a structural analysis of the existing cell tower located on the Site ("Cell Tower") to verify that the Cell Tower is structurally able to accommodate the additional weight and windload resulting from the Bidder's co-location of its telecommunications equipment on the Cell Tower, and (2) performing any pre-construction surveys, inspections and testing that Bidder reasonably determines is necessary to prepare preliminary site plans and/or final plans for this work, including site surveys, geotechnical testing, radio frequency testing and other related tests or examinations, necessary solely to determine the ability of the Site to meet Bidder's engineering specifications and operational criteria (hereinafter referred to as the "Due Diligence Investigations"). The Bidder shall not, in the course of such entry, make any invasive tests, alterations or improvements to the balance of the parent tract owned by the Board, except with the express written consent of the Board's designee. No subterranean testing of any type or nature may be conducted on the Site that is not specifically required to determine the ability of the Site to meet the Bidder's system design requirements, and the Bidder shall in all cases coordinate such excavations with the Board or its designee prior to initiating these activities. Any damage to underground improvements or utility lines caused by Bidder, its contractors, employees or agents, shall be repaired by Bidder, at Bidder's expense.

Prior to undertaking the Due Diligence Investigations, and subject to any other requirements or conditions of this Agreement, the Bidder shall provide the Board, or its designee, with a proposed schedule for such work at the Site, to be approved by the Board, or its designee, such approval not to be unreasonably withheld. Any and all costs and expenses incurred by either the Bidder or the Board in connection with the Bidder's Due

Diligence Investigations shall be at the Bidder's sole cost and expense, and any activities that take place on or immediately adjacent to the Site shall be performed in a manner not to unreasonably interfere with the educational activities or operations taking place at the Site. Whenever possible, the Bidder shall conduct its Due Diligence Investigations during other than school hours. For purposes of this Agreement, "school hours" shall be considered to be the hours between 7:00 a.m. and 3:30 p.m., Monday through Friday, with the exception of those days during which school is either in recess or observing a legal holiday. In the event that the Bidder needs to carry out any of its Due Diligence Investigations during school hours, the Bidder shall first secure the approval of the Board or its designee, and shall coordinate said work with the Site administrator.

The Bidder's Due Diligence Investigations at the Site shall conform at all times to the safety criteria established with and approved by the Site administrator, and shall neither unreasonably disrupt or interfere with the Site's educational activities or operations. Such work shall be done in compliance with all applicable rules, statutes, codes and regulations, including, without limitation, the Board's design criteria, the State Requirements for Educational Facilities, the Florida Building Code and the Jessica Lunsford Act, as the same may be amended from time to time. If the Board, or its designee, requests that the Bidder cease any of its Due Diligence Investigations due to unreasonable interference with Site operations, violation of any applicable rules and regulations or the Board's safety criteria, then the Bidder shall immediately discontinue its activities and shall proceed only after the Board, or its designee, has reviewed the scheduling of the activities in question and has authorized the Bidder to continue. At the conclusion of the work, the areas where work was conducted on the Site shall be restored to a safe and secure condition, as good or better as existed prior to any such investigations, as determined solely by the Board and at the sole cost and expense of the Bidder.

The Bidder, its agents, contractors and representatives shall hold harmless, indemnify and defend the Board, its members, officers and employees, against any claim, action, loss, damage, injury, liability, cost or expense of whatsoever kind or nature including, but not by way of limitation, attorneys' fees and court costs, at trial level and through all appeals, arising out of bodily injury to persons including death, or damage to tangible property arising out of or incidental to the performance of this Agreement (including goods and services provided thereto) by or on behalf of the Bidder, whether or not due to or caused in part by the negligence or other culpability of the Board, its members, officers and employees, excluding only the sole negligence or culpability of the Board, its members, officers and employees.

In addition, on or before the Effective Date of this Agreement (as defined below), the Bidder shall provide certificates of insurance to the Board which evidence insurance coverages and limits meeting, at a minimum, the following requirements: 1) Commercial General Liability Insurance in an amount not less than \$1 Million combined single limit per occurrence for bodily injury and property damage, 2) Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the operations of

the Bidder, in an amount not less than \$1 million combined single limit per occurrence for bodily injury and property damage, and 3) Workers' Compensation Insurance for all employees of the Bidder as required by Florida Statutes. "The School Board of Miami-Dade County, Florida and its members, officers and employees" shall be an additional insured on all liability coverages except Workers' Compensation insurance. The insurance coverage required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operations of the Bidder.

The following shall be pre-conditions to commencement of the Bidder's Due Diligence Investigations, subject to the terms and conditions of this Agreement: (1) the Bidder may conduct Due Diligence Investigations on the Site only if the Bidder has been designated by the School District as the Successful Bidder as required under this ITB, (2) all insurance certificates required under this Agreement have been received and approved by the Board, (3) the Bidder's proposed schedule for the Due Diligence Investigations has been coordinated with and approved by the Site administrator, including identifying the specific portions of the Site upon which such Due Diligence Investigations will be conducted, and (4) this Agreement has been executed by the Bidder and Board, and a copy of same has been received by the Board.

This Agreement shall be effective as of the above date ("Effective Date"), and continue and remain in full force and effect covering the Site until the earlier of the following occurs: (1) a lease agreement is entered into by the Bidder and the Board for the Site, and the effective date under such lease agreement has been reached, or (2) the Bidder and/or the Board make a determination that the Site is no longer to be pursued as a possible location to site the Bidder's telecommunications equipment, as provided for under this ITB.

Notwithstanding the above, the Board, in its sole discretion, may terminate this Agreement at any time, by providing written notice to the Bidder.

This Agreement shall be construed and enforced according to the laws of the State of Florida and the venue for any disputes shall be Miami-Dade County, Florida.

In the event of any litigation between the parties under this Agreement, each party shall be responsible for its own attorney's fees and court costs through trials and appellate levels. The provisions of this paragraph shall survive the termination or cancellation of this Agreement.

IN WITNESS WHEREOF, the Board and the Bidder have caused this Agreement to be executed by their respective and duly authorized officers the day and the year first hereinabove written.

BIDDER:

BOARD:

THE SCHOOL BOARD OF MIAMI-DADE
COUNTY, FLORIDA

By:_____

Print Name:_____

Title:_____

By:_____

Alberto M. Carvalho

Superintendent of Schools

**TO THE BOARD: APPROVED AS TO
FORM AND LEGAL SUFFICIENCY:**

School Board Attorney