

Prepared by:
S. Karno, Esq.
AT&T
208. S. Akard St.
29th Floor
Dallas, TX 75202

GRANT OF NON-EXCLUSIVE UTILITY EASEMENT

KNOW ALL MEN BY THESE PRESENTS that the **CITY OF ORLANDO, FLORIDA**, a Florida municipal corporation, whose address is 400 S. Orange Avenue, Orlando, FL, 32802, and **ORLANDO SOCCER STADIUM, LLC**, whose address is 618 E. South Street, Orlando, FL, 32801, collectively known as Grantor, in consideration of the sum of ONE DOLLAR (\$1.00) and other valuable consideration, receipt of which is hereby acknowledged, does hereby grant to **BELLSOUTH TELECOMMUNICATIONS, LLC, d/b/a AT&T FLORIDA**, a Georgia limited liability company (the "**Grantee**") with an address at 450 N. Goldenrod, 0125, Orlando, FL 32807, and to its successors and assigns, a non-exclusive perpetual easement ("**Easement**") for the installation, maintenance, replacement and repair of communications facilities (the "**Facilities**") under and upon a parcel of land owned by the Grantor.

The location of the Easement (the "**Easement Area**") is defined on the drawing attached hereto as **Exhibit "A"**. The property on which the Easement Area is located is the "**Property**."

1. **Use; Access:** Grantee's use of the Easement shall at all times be in compliance with all Federal, State and local laws, regulations, ordinances and statutes. The Facilities, which will not be placed above ground level (except cable markers and flush to ground manhole lids, if manholes are within the Easement), may consist of a conduit system, including manholes, and cables and related equipment therein, and cable markers, and the conduit system as initially installed ("Conduit System") may not be expanded absent written amendment to this Easement. Grantee shall have the right to repair and/or replace the Facilities and/or install of additional facilities within the Conduit System, and the same shall not constitute an expansion, as such term is used in the foregoing sentence. Upon written notice to Grantor, as provided herein and subject to the terms of this Easement, Grantee shall have full right of ingress to and egress from the Easement Area for personnel and vehicles. Grantee acknowledges that a stadium, "Stadium," will be constructed on the Property, and that the Easement Area is within the Stadium site, but outside the primary Stadium structure. Grantee further acknowledges that Grantor's use of the Easement Area will include construction/operation of permitted improvements, as hereinafter described, attendant to the primary Stadium structure. Except in the case of an emergency, Grantee shall provide written notice to the Grantor prior to conducting activities within the Easement Area and shall reasonably coordinate all such activities with Grantor. In the case of an emergency, Grantee shall notify the Grantor of Grantee's entry upon the Easement Area as soon as possible after Grantee becomes aware of the emergency condition. After initial construction/installation of the Facilities is complete, Grantee's maintenance and repair activities on any portion of the Easement Area shall be conducted in such a manner as to not unreasonably disrupt the operation and/or maintenance of the Stadium site.

2. Grantor and Third Party Use of Easement Area; Repair by Grantee.

(a) Grantor shall not, and shall not allow any third parties to (1) construct any vertical improvements within the Easement Area or (2) or construct any non-permitted improvements within the Easement Area. Grantor and Grantee agree that Grantor may construct the improvements shown on **Exhibit "B"** (collectively, "Permitted Improvements") within the Easement Area and that the Permitted Improvements will not unreasonably interfere with Grantee's use of this Easement. Improvements, structures or obstructions within the Easement Area other than Permitted Improvements are "non-Permitted Improvements." Grantee shall promptly repair any damage to the Easement Area and Permitted Improvements located therein caused by Grantee exercising its rights under this Easement. Grantee shall not be responsible for repairing any damage to non-Permitted Improvements; in such case, Grantee may remove or relocate such non-Permitted Improvements, as per subparagraph (b) below, and subparagraph (b) below will apply.

(b) Should there be any non-Permitted Improvements on the Property or Easement Area that interfere with Grantee's use of the Easement Area as contemplated herein, Grantor shall promptly remove or relocate them at Grantee's written request. Should Grantor not do so within 10 days of such written request, Grantee may remove or relocate them, and Grantor shall reimburse Grantee for any costs of removal or relocation incurred by Grantee within 10 days following receipt of an invoice therefor evidencing such costs.

(c) Grantor, shall indemnify and hold harmless Grantee from and against any costs, damages, liabilities or claims arising from damage to, or interference with access to, Grantee's Facilities to the extent caused by the acts or omissions (whether arising from any Permitted Improvement or otherwise) of Grantor or its employees, agents or contractors within or surrounding the Easement Area. Grantee shall indemnify and hold harmless Grantor from and against any costs, damages, liabilities or claims arising from damage to, or interference with access to, the Permitted Improvements to the extent caused by the acts or omissions (whether arising from any Grantee improvement or otherwise) of Grantee or its employees, agents or contractors within or surrounding the Easement Area. Neither Grantor nor Grantee shall be liable for any special, indirect, punitive, exemplary, incidental or consequential loss or damages of any nature howsoever caused; and whether based on contract, tort (including negligence), indemnity, strict liability or any other theory of law, provided that the foregoing shall not shall not impact recovery of loss of use damages.

3. Restoration. In the event that Grantee, its employees, agents or contractors cause damage to the Easement Area and any Permitted Improvements located therein, in the exercise of the privilege granted herein, Grantee agrees to restore the Easement Area and said Permitted Improvements so damaged to a condition substantially similar to its condition and grade prior to such damage. Grantor agrees to comply with the "Underground Facility Damage Prevention and Safety Act" (F.S.§556) in connection with any excavation in the Easement Area. Nothing in this Agreement operates as a waiver of the Grantor's grant of sovereign immunity or the limits of Grantor's liability established under Florida law, if and to the extent applicable, which limits remain in full force and effect.]

4. **Entire Agreement.** This Grant of Easement constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof. This Grant of Easement may not be changed, altered or modified except by an instrument in writing signed by the party against whom enforcement of such change would be sought. This Grant of Easement shall be binding upon the parties hereto and their respective successors and assigns.

5. **Notices.** Notices to a party hereunder shall be written and sent to the address for each party identified below or such other address of which the party may notify the other party by written notice in the future:

Grantee: Bellsouth Telecommunications, LLC
d/b/a AT&T Florida
Attn: Area Manager
450 N. Goldenrod, 0124
Orlando, FL 32807

Copy to: AT&T Florida
Attention: Network Attorney, FL, Sharon Karno
Legal Department
208 S. Akard St. – 29th Floor
Dallas, TX 75202

Grantor: City of Orlando Florida
Attn: City Attorney's Office
400 S. Orange Avenue
Orlando, FL 32802

Grantor: Orlando Soccer Stadium, LLC
618 E. South Street, Ste. 510
Orlando, FL 32801

6. **Other.** Grantor represents and warrants that Grantor is the true owner of record of Easement Area, except for the portion of the property owned by OSS, including the City Services Easement Area is located (as that area is defined on **Exhibit "A"**), and that any other parties with an interest in the Property that may adversely affect Grantee's interest hereunder, including without limitation any mortgagees on the property on which the Easement Area is located, have signed a consent and joinder to this Agreement. **Orlando Soccer Stadium, LLC**, a Florida limited liability company ("OSS"), represents and warrants that it is the true owner of record of a portion of the property, including where the City Services Easement Area is located, and signs and agrees to this Easement to grant the Easement herein as it relates to such area; for purposes of such area, OSS is the Grantor. OSS represents and warrants that any other parties with an interest in such area that may adversely affect Grantee's interest hereunder, including without limitation any mortgagees, have signed a consent and joinder to this Agreement. Grantor further represents and warrants that it and has the full right, power and authority to grant this Easement and perform its obligations hereunder. Grantor shall pay when due all real property, personal property, and other taxes, fees and assessments

attributable to the Property, including the Easement Area. Grantee shall be solely liable for any personal property or other taxes assessed against Grantee's Facilities in the Easement Area. To the extent that non-compliance would adversely affect Grantee's rights hereunder, Grantor shall comply with applicable law in connection with use of the Grantor's Property. In the event that either party pursues legal action against the other party to enforce the terms of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs from the non-prevailing party. The terms and conditions of this Agreement shall constitute covenants running with the land, and all rights and privileges granted herein shall be appurtenant to the lands herein described; provided the covenants and obligations herein are only enforceable against a party owning title to said land at the time any liability or claim arising under this Agreement shall have accrued, it being intended that conveyance of title by a party shall relieve said party from any liability hereunder for any claim accruing after the date of such conveyance.

IN WITNESS WHEREOF, the Grantor has executed this Grant of Non-Exclusive Utility Easement this ____ day of _____, 2016.

ATTEST:

GRANTOR:

By: _____
Celeste T. Brown, City Clerk

CITY OF ORLANDO, FLORIDA, a municipal corporation, organized and existing under the laws of the State of Florida

By: _____
Mayor / Mayor Pro Tem

Date: _____

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing was acknowledged before me this ____ day of _____, 2016 by _____, Mayor Pro Tem and _____, City Clerk, who is personally known to me who did (did not) take an oath.

Name
Notary Public
Serial Number: _____
My Commission Expires: _____
_____, 2016

Signatures Continue Next Page

ORLANDO SOCCER STADIUM, LLC, a
Florida limited liability company

By: _____

Date: _____

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing was acknowledged before me this ____ day of _____, 2016
by _____, _____, as _____ of Orlando Soccer Stadium,
LLC, who is personally known to me who did (did not) take an oath.

Name
Notary Public
Serial Number: _____
My Commission Expires: _____
_____, 2016

MORTGAGEE JOINDER AND CONSENT TO
NON-EXCLUSIVE UTILITY EASEMENT

_____ (“Lender”) is the holder of that certain Mortgage dated as of _____ and recorded as in Book _____ Page _____ in the Public Records of Orange County, Florida, encumbering the Grantor’s Property referenced in the Non-Exclusive Utility Easement to which this Joinder and Consent to Easement is attached. Lender, for itself and its successors and assigns, hereby consents to the terms and provisions of the Non-Exclusive Utility Easement. Lender further agrees that its lien shall be subordinate to the Easement herein granted, and that any foreclosure of Lender’s lien on the property or any portion thereof, whether such lien presently exists or is created in the future, or any conveyance in lieu of foreclosure, shall not extinguish, terminate, cut off, alter or otherwise affect the Easement, which shall continue in full force and effect in accordance with the terms of the Easement Agreement.

IN WITNESS WHEREOF, the undersigned has caused this instrument to be executed on the _____ day of _____ 2016.

Signed, sealed and in the presence of:

LENDER:

Witness
(Print Name) _____

By: _____
Print Name: _____
Title: _____
Attest: _____

Witness
(Print Name) _____

Address: _____

State of _____
County of _____

I HEREBY CERTIFY that _____ personally appeared before me and acknowledged that he/she was the same. The foregoing instrument was acknowledged before me this _____ day of _____, 2016, by _____ (name and title of officer) of _____ on behalf of _____ and who did/did not take an oath.

Witness my hand and official seal in the County and State aforesaid, this _____ day of _____, 2016.

My Commission Expires: _____
Notary Public
(Print Name) _____

Commission Number _____