

RESOLUTION NO. 31949

A RESOLUTION AUTHORIZING THE MAYOR OR HIS DESIGNEE TO ENTER INTO A FIRST AMENDMENT TO TOWER AND GROUND SPACE LICENSE AGREEMENT WITH TENNESSEE RSA #3 LIMITED PARTNERSHIP, IN SUBSTANTIALLY THE FORM ATTACHED, TO ALLOW THE LICENSE AGREEMENT TO BE RENEWED FOR SIX (6) ADDITIONAL TERMS OF FIVE (5) YEARS EACH, WITH THE INITIAL TERM ENDING ON JUNE 30, 2016, THE SECOND RENEWAL IS AUTHORIZED THROUGH JUNE 30, 2026, AND TO AUTHORIZE AUTOMATIC RENEWALS IN THE FUTURE UNLESS INTENT TO TERMINATE IS PROVIDED BY LICENSEE TO LICENSOR AT LEAST ONE HUNDRED TWENTY (120) DAYS BEFORE EXPIRATION OF THE TERM.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That it is hereby authorizing the Mayor or his designee to enter into a First Amendment to Tower and Ground Space License Agreement with Tennessee RSA #3 Limited Partnership, in substantially the form attached, to allow the License Agreement to be renewed for six (6) additional terms of five (5) years each, with the initial term ending on June 30, 2016, the second renewal is authorized through June 30, 2026, and to authorize automatic renewals in the future unless intent to terminate is provided by Licensee to Licensor at least one hundred twenty (120) days before expiration of the term.

ADOPTED: January 30, 2024

/mem

FIRST AMENDMENT TO TOWER AND GROUND SPACE LICENSE AGREEMENT

This First Amendment to Tower and Ground Space License Agreement (“First Amendment”) made and entered into the day of _____, is by and between Tennessee RSA #3 Limited Partnership, a Tennessee limited partnership, with an address of Attention: Real Estate Lease Administration, 8410 West Bryn Mawr Avenue, Chicago, Illinois 60631 (“Licensor”), and City of Chattanooga, having a principal place of business at 100 East 11th Street, Suite 101, Chattanooga, Tennessee 37402 (“Licensee”).

WHEREAS, Licensor and Licensee entered into that certain Tower and Ground Space License Agreement dated April 18, 2011, (the “License Agreement”); and

WHEREAS, the Agreement expired on June 30, 2021 and both parties have determined that the Agreement needs to be amended to extend the term of the License Agreement; and

WHEREAS, both parties agree that the License Agreement has remained in force;

NOW THEREFORE, in consideration of these presents, the parties hereby agree that the License Agreement is now modified as follows:

I. Notwithstanding anything to the contrary, this License Agreement is in full force.

II. Effective upon full execution of this First Amendment, License Agreement Section 3, Duration, is hereby deleted and replaced with the following:

3. Duration. The initial term of this License Agreement will be five (5) years, commencing on July 1, 2011. The License Agreement can be renewed for up to (6) additional terms of five (5) years each. This License Agreement will automatically renew for an additional term unless Licensee gives Licensor written notice of Licensee’s intention to terminate the License Agreement at least one hundred and twenty (120) days before the expiration of then term.

III. Section 14 is hereby deleted and replaced with the following:

14. Third Party Claims. Subject to the provisions of the Tennessee Governmental Tort Liability Act, T.C.A. § 29-20-101 *et seq.* (“TGTLA”), Licensee shall defend, and if found liable, be responsible for paying damages, subject to the limits of liability pursuant to the TGTLA, arising from third party claims, suits, liabilities and judgments for personal injuries or damage to property or financial loss, caused by the negligent acts or omissions of Licensee’s employees arising out of this License Agreement, excepting to the extent any such injury, damage or loss is caused, in whole or part, by the negligence or fault of the Licensor.

IV. Section 29(b) is hereby deleted and replaced with the following:

29(b) Duty of Licensee. Licensee shall not cause or permit the use, storage, generation, escape, disposal or release of any Hazardous Substances or Hazardous Wastes in any manner not sanctioned by law.

Licensee shall, subject to the provisions of the TGTLA, defend, and if found liable, be responsible for paying damages, subject to the limits of liability pursuant to the TGTLA, arising from third party claims, suits, liabilities and judgments or personal injuries or damage to property or financial loss, caused by the negligent acts or omissions of Licensee's employees, excepting to the extent any such injury, damage or loss is caused, in whole or party, by the negligence or fault of the Licensor.

- V. Each party agrees that the execution and delivery of this First Amendment by facsimile or electronic signature shall be legal and binding and shall have the same force and effect as delivery of original signatures and that each party may use such facsimile or electronic signature as evidence of the execution.
- VI. In all other respects the License Agreement is hereby ratified and affirmed without change.

[SIGNATURES FOLLOW]

IN WITNESS WHEREOF, the parties have caused their properly authorized representatives to execute this First Amendment as of the day and year first above written.

LICENSOR:

Tennessee RSA #3 Limited Partnership

By: _____

Name: _____

Title: Vice President

Date: _____

LICENSEE:

City of Chattanooga

By: _____

Name: _____

Title: _____

Date: _____

In-Bound Collocation Document Summary

Site Specialist: Lisa DiMartino (x 8843)

Site Number: 860308

Site Name: Buttermilk I-40 Split West

Site Address: 212B Smith Waller Lane, Lenoir City, Roane County, TN

Market: TN 3

Type of Document: Inbound Collocation (Tower and Ground Space License Agreement)

Licensor (Entity name): Tennessee RSA #3 Limited Partnership, a Tennessee limited partnership

Licensee: City of Chattanooga

Ground Space: 9' x 12', plus 4' x 9' for propane generator, and 4' x 12' for propane tank

Tower Space: (i) Two (2) TX RX Systems, Inc. 101-83B-09-0-03/03N omni antennas, with two (2) runs of 0.6" coax, at 240' AGL;
(ii) One (1) PL6-65 six foot (6') microwave, with one (1) run of 2" EW63 coax, at 85' AGL


Term of Lease: One (1) year commencing upon the earlier of install or July 1, 2011

Renewal Options: 9 additional automatic 1-year terms

Base Rent: Zero (\$0)
-- Lifetime contract value = \$0

Increase in Rent (escalation): N/A

Options to Terminate: Licensee may terminate at any time upon 30 days prior written notice

Note: Par 15-Special insurance provision  **Entered** AUG 15 2011

- Approved by Legal (3/23/11)
- Approved by Kevin Howell 4/18/11 (Email attached)
- Executed by Tom Weber 4/18/11

TOWER AND GROUND SPACE LICENSE AGREEMENT

This Tower and Ground Space License Agreement ("License Agreement") is made and entered into the 18th day of April, 2011, by and between **Tennessee RSA #3 Limited Partnership**, a Tennessee limited partnership, with a mailing address of Attention: Real Estate, 8410 West Bryn Mawr Avenue, Suite 700, Chicago, Illinois 60631 (hereinafter referred to as "Licensor") and the **City of Chattanooga** (hereinafter referred to as "Licensee").

WHEREAS, Licensor has a leasehold interest in certain real property located at 212B Smith Waller Lane, Lenoir City, Roane County, TN, at coordinates 35° 52' 31" North, 084° 21' 30" West (the "Site"). The Site is legally described on Exhibit A attached hereto and incorporated herein by reference; and

WHEREAS, Licensee desires to occupy, and Licensor is willing to provide, attachment locations upon the Tower (the "Tower") for the placement of Licensee's antennas, cabling and ancillary equipment (the "Tower Space") as well as certain space on the ground adjacent to the Tower (the "Ground Space"), collectively the Tower Space and the Ground Space shall be referred to hereinafter as the "Licensed Space", for Licensee's public safety radio system base station.

NOW, THEREFORE, in consideration of the mutual promises, conditions, and other good and valuable consideration of the parties hereto, it is covenanted and agreed as follows:

1. License Conferred. Licensor hereby confers upon Licensee, and Licensee hereby receives and accepts from Licensor, a license and privilege, which shall be irrevocable for the stated duration hereof unless otherwise stated herein, to do all of the following:

(a) Occupy attachment locations upon the Tower Space with two (2) TX RX Systems, Inc. 101-83B-09-0-03/03N omni type antennas, with two (2) runs of 0.6" coax, at a centerline height of two hundred forty (240) feet above ground level; and one (1) PL6-65 six foot (6') microwave antenna, with one (1) run of 2" EW63 coax, at a centerline height of eighty-five (85) feet above ground level; more particularly described in Exhibit B, oriented in such directions as shall be in accordance with Licensee's needs, subject to existing attached devices of other users;

(b) Occupy a 9' x 12' area of ground space adjacent to the Tower with Licensee's public safety radio system base station (also referred to as the "Equipment Shelter") and associated equipment, a 4' x 9' area of ground space adjacent to the Tower with a propane generator, and a 4' x 12' area of ground space adjacent to the Tower with a propane tank, all upon poured concrete foundations, as shown in attached Exhibit C. Licensee's cabinet, transmission lines, radio communications facilities, including without limitation utility lines, transmission lines, electronic equipment, radio transmitting and receiving antennas and

supporting equipment and structures thereto, shall be collectively referred to as "Licensee's Equipment."

(c) Extend and connect lines for signal carriage and amplifier power between Licensee's antennas upon the Tower and Licensee's Equipment upon the ground;

(d) Extend and connect utility lines and related infrastructure between Licensee's Equipment and suitable utility company service connection points;

(e) Traverse the Site as reasonably necessary to accomplish Licensee's purpose contemplated herein; and

(f) Licensor's right of access to the Site is an easement granted in the underlying Prime Lease between Licensor and the owner of the Site. Licensee has read this underlying Prime Lease agreement and is satisfied with the easement rights Licensor is able to grant to Licensee. Licensor makes no representations regarding rights to access the Site.

2. Improvements and Purpose.

(a) Use. Licensee shall be permitted to use the Site and the Tower to install, operate, and maintain thereon public safety radio base station equipment, including system networking, station control and performance monitoring functions, and for no other use or purpose. Licensee's installation of Licensee's Equipment on the Tower and the Site shall be limited to the antennas and other equipment and frequencies agreed upon in advance by Licensor. Licensee's Equipment shall at all times comply with and conform to all laws and regulations applicable thereto, and shall be subject to Licensor's review and approval which shall not be unreasonably withheld, conditioned or delayed, regarding Licensee's placement of equipment, method of installation, and all other matters which Licensor deems, in Licensor's reasonable opinion, to affect Licensor's own operations or interests.

(b) Plans and Specifications. Licensee, at the Licensee's expense and prior to commencing the installation of Licensee's Equipment, shall submit to Licensor the following: (i) detailed site plans and specifications setting forth the proposed antennas and other equipment, the height and location of such equipment, and the construction, installation, and other work to be performed on the Tower and the Site, (ii) a structural analysis of the Tower addressing the installation of additional antennas and other equipment on the Tower by the Licensee and demonstrating that the installation of such equipment shall not exceed the load capacity of the Tower, and (iii) a list of all known frequencies licensed or assigned to Licensee by the Federal Communications Commission (the "FCC") to be used at the leased Site. Licensee shall not install any equipment or commence any work on the Tower or Site until Licensor approves, in writing, Licensee's site plan, plans and specifications, structural analysis and frequencies, such approval to be given in Licensor's reasonable/sole and absolute discretion. If Licensor does not approve Licensee's site plan, plans and specifications, structural analysis or frequencies, Licensee may not install or construct Licensee's Equipment on the Tower or the Site.

(c) Limited Use of Tower. Licensee's installation of Licensee's Equipment on the Tower and the Site shall be limited to the portion of the Tower structure for which Licensee has been granted a license and the portion of the Site for which Licensee has been granted a license, and Licensee shall not have the right to use Licensor's Equipment or other portions of the Tower or the Site.

(d) Time of Installation. Licensee's installation of Licensee's Equipment on the tower and the Site shall be performed on dates and at times and within time frames approved by Licensor in writing and shall not interrupt or interfere with the operation of Licensor's communications system or Licensor's Equipment unless Licensor agrees to such interruption or interference in writing.

(e) Compliance with Laws. Licensee's installation of Licensee's Equipment shall be in compliance with all present and future laws, regulations, and requirements of all federal, state or local authorities, and Licensee shall deliver to Licensor, prior to installing Licensee's Equipment on the Tower and the Site or structurally enhancing the Tower, all certificates, permits, licenses and other approvals required by any federal, state or local authority to install Licensee's Equipment or structurally enhance the Tower.

3. Duration. The initial term of this License Agreement shall be one (1) year, commencing on the earlier of Licensee's installation or July 1, 2011 and expiring on June 30, 2012. Thereafter, provided that it has faithfully performed its obligations under this License Agreement, Licensee shall have the option to extend its occupation of the Licensed Space, continuing all the same conditions and provisions hereof, for nine (9) additional terms of one (1) year each. This License Agreement shall automatically renew unless Licensee shall notify Licensor, in writing, of Licensee's intention not to renew this License Agreement, at least one hundred twenty (120) days prior to the expiration of the initial term, or as applicable, any additional term.

4. Intentionally Deleted.

5. Utilities. Licensee shall solely and independently be responsible for the separate metering, billing, and payment of utility services consumed by Licensee's operations. Licensor agrees to grant Licensee or its designated utility provider easements reasonably required for the delivery of electricity and telephone services to Licensee's operations.

6. Mechanic's Liens. Licensee shall keep the Tower and the Site free and clear of all mechanic's and materialmen's liens arising from or relating to the installation, repair, maintenance, or removal of the Licensee's Equipment on or from the Tower or the Site and Licensee's structural enhancement of the Tower, if any, and for a one hundred twenty (120) day period after completion of the installation, repair, maintenance, or removal of the Licensee's Equipment on or from the Tower or the Site or any structural enhancements to the Tower. If a mechanic's or materialmen's lien is filed against the Tower or the Site as a result of Licensee's

installation, repair, maintenance, or removal of the Licensee's Equipment on or from the Tower or the Site or structural enhancement of the Tower, Licensee shall cause any such lien to be bonded or discharged of record within twenty (20) days of being notified of the lien. If Licensee fails to bond or discharge the lien within such twenty (20) day period, Licensor, in addition to any other rights or remedies available at law or equity, shall have the right to discharge the lien by paying the amount claimed to be due or to bond the lien. Any amount paid by Licensor in discharging or bonding any lien together with all costs and expenses, including, without limitation, attorneys fees and costs, shall be immediately due and payable by Licensee upon demand from Licensor and Licensee agrees to indemnify and hold Licensor harmless from all such amounts.

7. Taxes. Licensor shall be responsible for payment of all personal and real property taxes assessed directly upon and arising solely from the Tower and Licensor's Equipment or use of Licensor's communications system on the Site; provided, however, if Licensor's personal or real property taxes increase as a result of Licensee's Equipment or any improvements constructed by Licensee on the Site, Licensee shall be responsible for payment of the increase in Licensor's personal and real property taxes to the extent permitted by law. Licensee shall be responsible for payment of all personal property and any other taxes assessed directly upon and arising from Licensee's Equipment or the Licensee's use of Licensee's Equipment on or about Tower or the Site to the extent permitted by law.

8. Maintenance and Repairs.

(a) Tower and Licensor's Equipment. Licensor shall be responsible for proper maintenance of the Tower, and Licensor covenants to keep the Tower in good condition and repair, and in compliance with rules and regulations enforceable by the Federal Communications Commission, the Federal Aviation Administration, and other governmental authorities, provided, however, in the event Licensee's Equipment cause increased maintenance, repairs, or replacements to the Tower, Licensee shall pay the cost of the increased maintenance, repairs and replacements to Licensor within thirty (30) days of receipt of written notice and copy of an itemized invoice from Licensor. Licensee shall be responsible for the proper maintenance of Licensee's Equipment.

(b) Licensee's Equipment. Licensee, at Licensee's expense, shall maintain, repair and replace Licensee's Equipment during the term or any renewal terms of this License Agreement provided that any alterations, modifications, repairs or replacements to Licensee's Equipment do not increase the number of antennas, cables or other equipment in the Tower Space, or increase the size or weight thereof, or materially alter the location or appearance thereof without prior written approval from Licensor. In order to protect the integrity of the Tower, Licensee agrees that any maintenance, repair and/or replacement performed on the Licensee's Equipment on the Tower or Site shall be done in a workmanlike manner and all work shall be performed in a manner consistent with Licensor's high quality construction standards. Further, any maintenance, repair or replacement work performed on the Licensee's Equipment shall not interrupt or interfere with the operation of Licensor's communications system or

Licensors' Equipment unless Licensor agrees to such interruption or interference in writing. Prior to the commencement of any maintenance, repair or replacement work on the Licensee's Equipment, Licensee shall submit detailed plans and specifications of the maintenance, repair and replacement work to be performed to Licensor for Licensor's written approval. Licensor shall have the right to approve the plans, specifications and contractor prior to the commencement of any maintenance, repair or replacement work on the Licensee's Equipment, all at Licensee's expense. Licensee shall have twenty-four (24) hour access for routine maintenance of bay station equipment. Licensee shall provide Licensor with at least forty-eight (48) hours notice prior to any maintenance, repair or replacement that requires access to the Tower unless an emergency exists, in which case notice shall be provided to Licensor at least twenty-four (24) hours after access to the Tower or Site has occurred. Licensor shall have the right to have a representative present during any maintenance, repair or replacement on the Licensee's Equipment that requires access to the Tower or the Site.

9. Access. Licensee shall at all times have unrestricted access to Licensee's equipment; provided, however, that its access to the Tower shall be limited to the installation, removal, and periodic maintenance of Licensee's antennas and lines at Licensee's sole expense by a qualified tower services contractor approved in advance by Licensor, which approval shall not be unreasonably withheld, conditioned or delayed.

10. Interference. Licensee agrees not to allow any use of Licensee's Equipment, the Tower, or the Site that may cause interference with or cause the improper operation of the Tower, Licensor's related equipment, Licensor's communications signal or system, or any third party's equipment or communications system located on the Tower prior to Licensee's use of the Tower. In the event Licensee's Equipment or Licensee's use of the Tower or the Site causes measurable interference with or the improper operation of the Tower, Licensor's related equipment or communications system or any third party's equipment or communications system located on the Tower prior to Licensee's use of the Tower, Licensee, upon notification of such interference, agrees to promptly remedy such interference at Licensee's cost and, if necessary, agrees to cease operations (other than tests) until such interference is corrected to Licensor's sole satisfaction. Licensor agrees not to allow any subsequent third party's use of equipment, the Tower, or the Site that may cause interference with or cause the improper operation of the Tower, the Licensee's related equipment, or the Licensee's communications signal or system. In the event any subsequent third party causes measurable interference with or the improper operation of the Tower, Licensee's related equipment or communications system, Licensor, upon notification of such interference, agrees to promptly remedy such interference to Licensee's sole satisfaction, at Licensor's cost.

11. Interruptions. Licensor and Licensee agree that Licensor shall have no responsibility or liability whatsoever for interruptions, disruptions, or failures in the Licensee's Equipment or the operation of the Licensee's Equipment including, without limitation, equipment failures, utility failures, structural failures, or otherwise. Licensor shall not give any unauthorized access to Licensee's Equipment; however, Licensor shall not be responsible to Licensee for any unauthorized access thereto. In all maintenance, repair, or replacement work

performed by Licensor on Licensor's Equipment or the Tower, Licensor shall take all reasonable steps to not interrupt or interfere with the operation of Licensee's communications system or equipment without Licensee's written agreement.

12. Compliance with Laws. Licensee shall comply with all present and future laws, regulations, and requirements of all federal, state, and local governments and their agencies as they relate to the use, operation, maintenance, repair, replacement, and occupancy of the Tower, the Site, and the Licensee's Equipment, as the case may be. Without limiting the foregoing, the Licensee shall at all times use, operate, maintain, repair, replace, and occupy the Tower, and the Site, and the Licensee's Equipment, as the case may be, in accordance with all FCC, FAA, and all other regulations, ordinances or laws.

13. Compliance with FCC Radio Frequency Emissions Requirements.

(a) It shall be the responsibility of the Licensee to ensure that Licensee's use, installation, or modification of Licensee's radios, signal carriage devices and antennas ("Licensee's Equipment") at the Site does not cause radio frequency exposure levels of all the existing equipment located at the Site and in the surrounding vicinity including the Licensee's Equipment, Licensor's equipment and all other transmitting equipment in the vicinity to exceed those levels permitted by the Federal Communications Commission ("FCC"). Licensor shall require other communications users of the Site to bear the same responsibility.

(b) If it is determined that the radio frequency levels at the Site and surrounding vicinity exceed exposure levels set by the FCC and the responsible party causing such exposure cannot be identified, then Licensee shall reconfigure Licensee's Equipment, including but not limited to reducing power levels, as reasonably directed by Licensor, and shall equitably share in all expenses incurred by Licensor as are necessary in order to meet FCC compliance levels.

(c) Licensee shall reimburse Licensor, within 30 days following receipt of an invoice from Licensor, for reasonable expenses or costs incurred by Licensor to perform FCC RF compliance tests for human exposure to RF radiation as a result of the installation, existence or subsequent modification of Licensee's Equipment at the Site.

(d) Licensee agrees that in the event that there is any change to applicable rules, regulations, and procedures governing exposure to radio frequency radiation which place the Site in non-compliance, Licensee will cooperate with Licensor and other users of the Site to bring the Site into compliance, which cooperation shall include, but not be limited to, sharing pro rata the costs associated with bringing the Site into compliance provided however that Licensee may terminate this license agreement in lieu of sharing any costs. Licensee shall remove its equipment no later than thirty (30) days from the date Licensor notifies Licensee of such requirements.

(e) Licensee acknowledges and agrees that, upon reasonable prior notice (except for emergency situations), Licensee shall reduce operating power or cease operation of Licensee's Equipment when it is necessary to prevent the overexposure of workers on the Tower to RF radiation.

14. Licensee's Hold Harmless of Licensor. (a) Up to the limits of liability established by the Tennessee Governmental Tort Liability Act, T.C.A. § 29-20-101, *et seq.*, such as may exist from time to time, or to the fullest extent permitted by law, Licensee shall hold harmless, defend and indemnify Licensor and its employees, agents, and contractors (collectively "Licensor's Indemnified Parties") from and against all losses, damages, causes of action, claims, costs, expenses, liabilities or demands arising from or connected with injury to or the death of any person, or physical damages to any property, resulting from any act, omission, condition, or other matter related to or occurring in, on, or about the Licensed Space and Site unless due solely to the negligence of any of Licensor's Indemnified Parties. To the fullest extent permitted by law, Licensee shall hold harmless, defend and indemnify Licensor and its employees, agents, and contractors (collectively "Licensor's Indemnified Parties") from and against all losses, damages, causes of action, claims, costs, expenses, liabilities, or demands arising from or connected with any material breach by Licensee of any provision of this Agreement. Licensee shall not be responsible for any claim, loss, cause of action, demand or liability arising from any claim to the extent attributable to any acts or omissions of Licensor, its employees, agents, or contractors, or to other third parties (the term "third parties" shall not refer to Licensee's agents, or contractors or those for which Licensee has legal responsibility and/or control) at the Tower or Site.

(b) Licensor's Hold Harmless of Licensee. Licensor, to the fullest extent permitted by law, shall indemnify, defend, and hold harmless Licensee against all losses, damages, causes of action, claims, costs, expenses, liabilities or demands arising from: (1) the negligence, willful misconduct or strict liability of Licensor, or its agents, employees, or contractors; or (2) any material breach by Licensor of any provision of this Agreement. Licensor shall not be responsible or liable to Licensee for any loss, claim, damage, cause of action or liability arising from any claim to the extent attributable to any acts or omissions of Licensee or to other third parties at the Tower or Site.

15. Insurance. Licensee shall have adequate insurance at all times at Licensee's expense which coverages shall include but are not limited to the coverages set forth herein. Licensee shall have at all times at Licensee's expense Commercial General Liability Insurance with a minimum combined single limit of \$5,000,000 covering personal injury and property damage, completed operations, independent contractors and contractual liability (which may be provided in any combination of primary and excess coverage. The foregoing insurance shall be issued on an occurrence basis, shall be primary with respect to any liability assumed by Licensee hereunder, shall specifically name Licensor as an additional insured, and include a waiver of subrogation in favor of Licensor. Licensee shall provide Licensor with certificates of insurance evidencing the required coverage and shall give Licensor thirty (30) days written notice if the coverage represented in these certificates is reduced or canceled.

In addition to the above described coverages, Licensee maintains a self-funded insurance plan under the provisions of the Tennessee Governmental Tort Liability Act, T.C.A. § 29-20-101, *et seq.*, which establishes the limits of liability for governmental entities in the State of Tennessee. Additionally, City has elected not to participate in the Tennessee Worker's Compensation program pursuant to T.C.A. § 50-6-106(1)(B)(6) and has implemented an injury-on-duty program to provide certain benefits for its employees who sustain a job-related injury, illness or occupational disease arising out of the course and scope of employment.

Requirements regarding Licensee's installation, removal, repair, replacement, and maintenance of Licensee's Equipment:

Notwithstanding any provision to the contrary in this License Agreement, the following terms and conditions shall control and Licensee represents and warrants that it shall strictly comply with all terms and conditions of this provision:

A. Licensee's employees may perform only maintenance work on the Equipment Shelter such as painting and general maintenance to the outside of the Equipment Shelter and may perform maintenance to/on the transmitting and receiving equipment located inside the Equipment Shelter. Licensee's employees are hereby prohibited from performing any electrical work at the Site or Premises.

B. Licensee shall contract with a 3rd party or 3rd parties (hereinafter referred in the singular or plural, as "Licensee's Vendor", said 3rd party(ies) to be designated by Licensor or otherwise approved by Licensor), to install, remove, repair, replace, perform maintenance on, Licensee's Equipment located on the Site, Tower or Premises.

C. Except as expressly provided in subsection A above, Licensee shall not install, remove, repair, replace, perform maintenance on, any of Licensee's Equipment located on the Site, Tower or Premises. Except as provided for in subsection A above, wherever it is expressly stated or contemplated in the License Agreement that Licensee will be performing any activities pertaining to installing, removing, repairing, replacing, performing maintenance on, any of Licensee's Equipment located on the Site, Tower or Premises, said activities shall be conducted only by Licensee's Vendor and not by Licensee.

D. Insurance. Prior to performing any work on the Site, Tower or Premises, and for the duration of the License Agreement, Licensee shall ensure that Licensee's Vendor shall have adequate insurance at all times at Licensee's expense (or Licensee Vendor's expense) which coverages shall include but are not limited to the following: Commercial Workers' Compensation Insurance as required by law, Commercial General Liability Insurance with a minimum combined single limit of \$5,000,000 covering personal injury and property damage, completed operations, Licensee Vendor's independent licensees

and contractual liability (which may be provided in any combination of primary and excess coverage); Employer's Liability Insurance with a minimum combined single limit of \$1,000,000; and Commercial Automobile Liability Insurance for any motor vehicle, covering bodily injury and property damage with a minimum combined single limit of \$1,000,000. The foregoing insurance shall be issued on an occurrence basis, shall be primary with respect to any liability assumed by Licensee hereunder, shall specifically name Licensor as an additional insured, and include a waiver of subrogation in favor of Licensor. Licensee's Vendor shall provide Licensor with certificates of insurance evidencing the required coverage and shall give Licensor thirty (30) days written notice if the coverage represented in these certificates is reduced or canceled.

Notwithstanding the foregoing, neither Licensee's Vendor nor any employee, contractor, subcontractor or agent of Licensee's Vendor shall allow any person to enter upon or climb on the Tower without inclusion of such person under its insurance policy coverage as required hereunder or without ensuring that such person is adequately insured and using appropriate preventive fall protection.

E. In the event that Licensor determines, in Licensor's absolute and sole discretion, that Licensee or Licensee's Vendor has failed to comply with this provision, Licensor may, in addition to Licensor's rights regarding Licensee default found in paragraph 20 of the Agreement, as well as such rights as may be available to Licensor in equity and in law, immediately terminate the Agreement and remove from the Tower, Site and Premises, at Licensee's expense, Licensee's Equipment.

16. Transfer of Licensee's Interest. Licensee's interest under this License Agreement shall be assignable by Licensee, without the necessity of obtaining Licensor's consent, in connection with the transfer to the named holder of a FCC license or to an affiliate, subsidiary or partner of Licensee, provided, however, no such assignment shall relieve Licensee of any obligation under this License Agreement and Licensee and any assignee shall be jointly and severally liable under this License Agreement. Any other assignment of this License Agreement by Licensee shall require Licensor's prior written consent.

17. Multiple Users. Licensee shall not sublet or otherwise subdivide the Licensed Space or any portion thereof, or permit the Licensed Space to be occupied by multiple simultaneous users claiming through or under Licensee.

18. Removal of Licensee's Property. Licensee's Equipment are agreed to be Licensee's personal property, and Licensee shall at all times be authorized to create security interests in said property specifically itemized, and to remove said property from the Licensed Space free from any lien of Licensor. Upon the expiration or earlier termination of this License Agreement, Licensee (i) shall remove Licensee's Equipment in a good, efficient, and workmanlike manner and in compliance with all applicable legal requirements, (ii) shall repair any damage caused to the Tower and the Site caused by such removal, (iii) shall not interrupt or interfere with the operation of Licensor's communications system or Licensor's Equipment in

removing Licensee's Equipment, and (iv) shall surrender the Tower and the Site in good condition, ordinary wear and tear excepted. In the event Licensee fails to remove any of Licensee's Equipment from the Tower or the Site within thirty (30) days of the expiration or earlier termination of this License Agreement, Licensee shall be deemed to have abandoned Licensee's Equipment and Licensor shall be free to remove and dispose of Licensee's Equipment in any manner determined by Licensor, in Licensor's sole and absolute discretion, and without any liability to Licensee therefor. If Licensee is deemed to have abandoned Licensee's Equipment to Licensor, pursuant to the preceding sentence, Licensee shall reimburse Licensor within five (5) days of Licensee's receipt of an invoice from Licensor, for all costs incurred by Licensor in removing and disposing of Licensee's Equipment, such obligation to reimburse Licensor to survive the termination of this License Agreement. Notwithstanding the foregoing, Licensee shall not have the right to, and may not, remove any structural enhancements to the Tower, such structural enhancements becoming the property of Licensor upon the expiration or earlier termination of this License Agreement.

19. Default.

(a) Event of Default. The occurrence of one (1) or more of the following events shall constitute an "Event of Default" hereunder:

(i) Monetary Default. The failure by Licensee to make any payment required to be made by Licensee hereunder, as and when due, where such failure shall continue for a period of ten (10) days after written notice thereof is received by Licensee from Licensor.

(ii) Other Default. The failure by a party to observe or perform any of the covenants or provisions of this License Agreement to be observed or performed by such party, where such failure shall continue for a period of fifteen (15) days after written notice thereof is received from the other party; provided, however that it shall not be deemed an Event of Default by a party if the other party commences to cure such failure within such fifteen (15) day period and thereafter diligently prosecutes such cure to completion.

(b) Termination. If there occurs an Event of Default by Licensee, in addition to any other remedies available to Licensor at law or in equity, Licensor shall have the right to terminate this License Agreement and all rights of Licensee hereunder. If there occurs an Event of Default by Licensor or if any permit or any approval of any federal, state or local government entity is cancelled, expires, terminated or withdrawn, or in addition to any other remedies available to Licensee at law or in equity, Licensee shall have the right to terminate this License Agreement without further obligation under this License Agreement other than the removal of Licensee's Equipment.

(c) Licensor's Right to Terminate. Licensor shall have the right to cancel and terminate this License Agreement without penalty upon 180 day written notice to Licensee and provided that Licensor gives Licensee the opportunity to purchase the permanent improvements at their original cost and assume Licensor's obligations at the Site. THIS 180

DAY TERMINATION PROVISION ONLY APPLIES IF THE LICENSOR, ITS SUCCESSORS OR ASSIGNS ELECTS TO ABANDON THE SITE OR OTHERWISE DISCONTINUE DOING BUSINESS AT THIS LOCATION. THIS PROVISION DOES NOT APPLY TO NORMAL SALE OF THE FACILITY OR BUSINESS, TRANSFER OF OWNERSHIP, OR OTHER TRANSACTIONS THAT ARE NOT INTENDED TO TERMINATE USE OF THE SITE.

(d) Licensee's Right to Terminate. Licensee shall have the right to terminate this License Agreement at any time upon thirty (30) days prior written notice by Licensee.

20. Destruction. If the Tower is totally or substantially destroyed, Licensor, in Licensor's sole and absolute discretion, may terminate this License Agreement or may rebuild the Tower at Licensor's expense. If Licensor or Licensee elects to terminate this License Agreement, all rights and obligations of Licensor and Licensee arising after the termination date shall terminate.

21. Condemnation.

(a) Permanent and Entire Condemnation. In the event the Tower and the Site are permanently and entirely taken or condemned for public purposes or sold to a condemning authority under threat of condemnation, this License Agreement shall terminate on the date of condemnation or sale. Upon termination of this License Agreement, all rights and obligations of Licensor and Licensee arising after the termination date shall terminate.

(b) Temporary or Partial Condemnation. In the event the Tower and the Site are temporarily taken or condemned in their entirety or in the event a portion of the Tower or the Site is temporarily or permanently taken or condemned, Licensor shall have the right to terminate this License Agreement by giving Licensee written notice thereof or to provide alternative space to Licensee, such alternative space to be acceptable to Licensee in Licensee's sole and absolute discretion. If the alternative space is unacceptable to Licensee, Licensee shall give Licensor written notice thereof and, upon Licensor's receipt of such written notice, this License Agreement shall terminate. If either Licensor or Licensee elects to terminate this License Agreement, all rights and obligations of Licensor and Licensee arising after the termination date shall terminate, except for the parties' obligations concerning termination.

(c) Condemnation Award. Licensor shall receive the entire condemnation award for the Tower, Licensor's Equipment and the leasehold interest in the Site and Licensee hereby assigns to Licensor any and all right, title and interest of Licensee in and to such award. Licensee shall have the right to recover from such authority, but not from Licensor, any compensation awarded to Licensee on account of Licensee's Equipment, Licensee's moving and relocation expenses, and Licensee's license interest.

22. Quiet Enjoyment. Licensor covenants that Licensee shall have quiet enjoyment of the Licensed Space throughout the duration of the License Agreement, as the same may be

renewed and extended, and that Licensor will not intentionally disturb Licensee's occupation thereof as long as Licensee is not in default under this License Agreement.

23. Attorney's Fees. In any action at law or in equity, the substantially prevailing party shall be entitled to recover the reasonable costs and expenses of its successful case, including reasonable attorney's fees and costs of appeal from the non-prevailing party.

24. Binding Effect. All of the covenants, conditions, and provisions of this License Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

25. Entire Agreement. This License Agreement constitutes the entire contract between the parties, and supersedes any prior understanding or oral or written agreements between them respecting the within subject matter.

26. Modifications. This License Agreement may not be modified, except in writing signed by the party against whom such modification is sought to be enforced.

27. Severability. If any term of this License Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of this License Agreement, which shall continue in full force and effect. The parties shall agree that if any provisions are deemed not enforceable, they shall be deemed modified to the extent necessary to make them enforceable.

28. Authority. The persons who have executed this License Agreement represent and warrant that they are duly authorized to execute this License Agreement in their individual or representative capacity as indicated.

29. Environmental.

(a) Definitions. For purposes of this License Agreement, the Term "Hazardous Substances" shall be defined in the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Sections 9601 et seq., and any regulations promulgated pursuant thereto, and as used to define, "Hazardous Wastes" in the Resource Conservation and Recovery Act, 42 U.S.C. Sections 6901 et seq., and any regulations promulgated thereto. For purposes of this License Agreement, the term "Environmental Laws" shall mean any and all local, state and Federal statutes, regulations or ordinances pertaining to the environmental or natural resources.

(b) Duty of Licensee. Licensee shall not (either with or without negligence) cause or permit the use, storage, generation, escape, disposal or release of any Hazardous Substances or Hazardous Wastes in any manner not sanctioned by law.

In all events, Licensee shall indemnify and hold Licensor harmless to the extent allowed by law and up to the limits of liability established by the Tennessee Governmental Tort Liability Act, T.C.A. § 29-20-101, *et seq.*, such as may exist from time to time, from any and all claims, damages, fines, judgments, penalties, costs, liabilities or losses (including, without limitation, any and all sums paid for settlement of claims, attorney's fees, and consultants' and experts' fees) from the presence or release of any Hazardous Substances or Hazardous Wastes on the Lease Premises if caused solely by Licensee or persons acting under the direction and control of Licensee. Licensee shall execute such affidavits, representations and the like from time to time as Licensor may reasonably request concerning Licensee's best knowledge and belief as to the presence of Hazardous Substances or Hazardous Wastes on the Leased Premises.

(c) Licensor shall not (either with or without negligence) cause or permit the use, storage, generation, escape, disposal or release of any Hazardous Substances or Hazardous Wastes in any manner not sanctioned by law. In all events, Licensor shall indemnify and hold Licensee harmless, to the extent allowed by law, from any and all claims, damages, fines, judgments, penalties, costs, liabilities or losses (including, without limitations, any and all sums paid for settlement of claims, attorney's fees, and consultants' and experts' fees) from the presence or release of any Hazardous Substances or Hazardous Wastes on the Leased Premises if caused solely by Licensor or person acting under the direction and control of Licensor. Licensor shall execute such affidavits, representations and the like from time to time as Licensee may reasonably request concerning Licensor's best knowledge and belief as to the presence of Hazardous Substances or Hazardous Wastes on the Property.

(d) Effect of Mutual Indemnification: To the extent permitted by law, the indemnifications contained in this Section specifically include costs incurred in connection with any investigation of site conditions by either party or third parties or any cleanup remedial, removal or restoration work required by any governmental authority. Notwithstanding any other provisions in this License Agreement, the provisions of this Section will survive the expiration or termination of this License Agreement and either party shall have the right to summarily terminate this License Agreement, without giving notice required under this License Agreement, in the event of default of the other under this Section.

30. Relationship of Agreement to the Prime Lease. The parties acknowledge that Licensor's interest in and right to use and occupy the Site are derived from and governed by the provisions of the Prime Lease. Licensee understands and agrees that this License Agreement is subject to and subordinate to the provisions of the Prime Lease. Licensor and Licensee acknowledge and agree that in the event Licensor's rights to occupy and use the Site are terminated as a result of the termination or expiration of the Prime Lease, this License Agreement shall terminate upon the effective termination date of said Prime Lease. In the event of any conflict in or between the terms and conditions of this License Agreement and the Prime Lease, the parties agree that the terms, provisions and conditions of the Prime Lease shall control. Licensor and Licensee each covenants to comply with the terms and provisions of said Prime Lease and to take such steps as shall be necessary to prevent its actions or those of its employees, agents or contractors from resulting in a breach of said Prime Lease.

31. Applicable law. This License Agreement shall be construed, performed and enforced in accordance with the laws of the State of Tennessee.

32. Notices. Any notice, request or demand required or permitted to be given pursuant to this License Agreement shall be in writing and shall be deemed sufficiently given if delivered by messenger at the address of the intended recipient, sent prepaid by Federal Express (or a comparable guaranteed overnight deliver service), or deposited in the United States first class mail (registered or certified, postage prepaid, with return receipt requested), addressed to the intended recipient at the address set forth below or at such other address as the intended recipient may have specified by written notice to the sender in accordance with the requirements of this paragraph. Any such notice, request, or demand so given shall be deemed given on the day it is delivered by messenger at the specified address, on the day after deposit with Federal Express (or a comparable overnight delivery service), or on the day that is two (2) days after deposit in the United States mail, as the case may be.

LICENSOR: Tennessee RSA #3 Limited Partnership
Attention: Real Estate Department
8410 West Bryn Mawr Avenue
Suite 700
Chicago, Illinois 60631

LICENSEE: City of Chattanooga
General Services
100 E. 11th Street, Suite 101
Chattanooga, TN 37402

Copy to: City Attorney
101 E. 11th Street, Suite 200
Chattanooga, TN 37402

33. Waiver of Compliance. Any failure of the Licensee to comply with any obligation, covenant, agreement or condition herein may be expressly waived by Licensor, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

34. Survival. The representations, warranties, and indemnifications contained herein shall survive the termination or expiration of this License Agreement.

35. Other. The submission of this License Agreement for examination and negotiation does not constitute an offer to license space, or a reservation or option, and this License Agreement shall become effective and binding only upon the execution and delivery hereof by both the Licensor and Licensee.

END OF AGREEMENT - SIGNATURE PAGE TO FOLLOW

Signature Page

IN WITNESS WHEREOF, the parties hereto bind themselves to this *Tower and Ground Space License Agreement* as of the day and year first above written.

LICENSEE

City of Chattanooga

By: Paul R. Page

Printed: PAUL R. PAGE

Title: DIRECTOR OF GENERAL SERVICES

LICENSOR

Tennessee RSA #3 Limited Partnership

By: United States Cellular Operating
Company of Knoxville

Its: General Partner

By: Thomas S. Weber

Printed: Thomas S. Weber

Title: Vice President

ACKNOWLEDGEMENTS

STATE OF TENNESSEE)
)
COUNTY OF ROANE)

I, the undersigned, a Notary Public in and for the State of Tennessee, hereby certify that [name] PAUL R. PAGE, [title] DIRECTOR OF GENERAL SERVICES of the **City of Chattanooga**, known to me to be the same person who signed the foregoing "Tower and Ground Space License Agreement," personally appeared before me this day and acknowledged that, pursuant to his/her authority, s/he signed the said Agreement as his/her free and voluntary act on behalf of said corporation for the uses and purposes therein stated.

Witness my hand and official seal the day 11 day of April, 2011.



Gail Hart

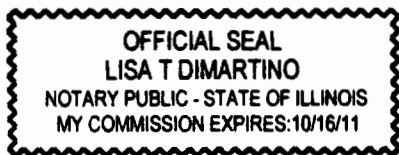
Notary Public

My Commission Expires
March 4, 2014

STATE OF ILLINOIS)
)
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for the State of Illinois, hereby certify that Thomas S. Weber, Vice President of **Tennessee RSA #3 Limited Partnership**, known to me to be the same person who signed the foregoing "Tower and Ground Space License Agreement," personally appeared before me this day and acknowledged that, pursuant to his/her authority, s/he signed the said Agreement as his/her free and voluntary act of said corporation, for the uses and purposes therein stated.

Witness my hand and official seal the day 18th day of April, 2011.



Lisa Dimartino

Notary Public

EXHIBIT A

Legal Description

Attached Hereto and Incorporated Herein

Legal description of a portion of the Diane McMillin property located in the Third Civil District, Roane County, Tennessee and more particularly described as follows:

Beginning at a metal fence post, said post being S.56 12'59"E. a distance of 246.0 feet from a 14" Elm at a fence corner in the southwestern line of the McMillin property and being the southeast corner of the Rose and J.C. Johnson property and the northernmost corner of the Bob Young property and said post being the northeast corner of the property herein described; thence along new severance lines dividing the McMillin property the following courses and distances: S.24°51'45"E., 100.00 feet to a metal fence post; S.65°08'15"W., 100.00 feet to a metal fence post; N.24°51'45"W., 100.00 feet to a metal fence post; N.65°08'15"E., 100.00 feet to the point of beginning, containing 10,000.0 square feet or 0.230 acres and being a portion of the property described in Warranty Deed Book L-18, Page 40 in the Register's Office, Roane County, Tennessee.

There is made a part of this conveyance a 30 foot perpetual easement for the purpose of ingress and egress along and 15 feet on each side parallel to a centerline as described as follows:

Beginning at a point in the southern margin of the Old Buttermilk Road, said point being N.81°22'51"E. a distance of 1319.3 feet from a 16" Elm at a fence corner and the northeast corner of the Rose and J.C. Johnson property and said point being the northernmost end of the easement herein described; thence along the centerline of said 30 foot easement the following courses and distances:
S.37°30'28"W., 121.44 feet; S.42°05'48"E., 85.02 feet;
S.12°15'03"E., 138.84 feet; S.16°29'43"W., 80.81 feet;
S.00°35'38"E., 104.06 feet; S.07°33'42"W., 56.56 feet;
S.14°12'57"W., 70.28 feet; S.10°59'33"W., 34.33 feet;
S.19°10'12"W., 175.07 feet; S.01°36'22"E., 79.66 feet;
S.14°37'02"W., 32.36 feet; S.25°36'03"W., 65.46 feet;
S.27°58'38"E., 377.06 feet; S.61°29'54"W., 111.24 feet;
N.85°55'59"W., 102.21 feet; N.53°21'44"W., 124.55 feet;
N.70°08'14"W., 94.41 feet; S.77°43'19"W., 293.83 feet to a point in the eastern line of the property described above and being S.24°51'45"E. a distance of 50.00 feet from a metal fence post at the northeast corner of the property described above and also being the southwestern end and terminus of the easement herein described and being on and across the property of Diane McMillin described in Warranty Deed Book L-18, Page 40 in the Register's Office, Roane County, Tennessee.

EXHIBIT

tabbles

A

EXHIBIT B

U S Cellular Tower Co-Location Application Form

Attached Hereto and Incorporated Herein

U S Cellular

Tower Co-Location Application Form

Applicant: <u>City of Chattanooga</u>	USCC Site Name: <u>Buttermilk I-40 Split West</u>
RF Engineering Contact: <u>Brian Maholic</u>	USCC Site Number: <u>860308</u>
Contact's Phone #: <u>423-643-5236</u>	Market Name: <u>TN 3</u>
Applicant Site Name: <u>Roane County</u>	
Applicant Site Number: <u>Zone 2 Site 16</u>	
Latitude (Nad 27): <u>N35-52-31</u>	Ground Elev. (in feet): <u>1200</u>
Longitude (Nad 27): <u>W084-21-30</u>	Tower Height (in feet): <u>290</u>
Existing Structure Type: <u>SST</u>	

Antenna Configuration

** Note: If site request is for omni configuration, complete Sector 1 only.

	Sector 1	Sector 2	Sector 3
Desired Rad Center (Feet AGL)	240' (mounted 235' upright)	240' (mounted 235' upright)	
Antenna Quantity	1	1	
Antenna Manufacturer	TX RX Systems Inc.	TX RX Systems Inc.	
Antenna Model (Please attach ant. pattern)	101-83B-09-0-03/03N	101-83B-09-0-03/03N	
Weight (per antenna)	45 lbs	45 lbs	
Antenna Height	10 foot	10 foot	
Antenna Gain (dB)	9 DBd	9 DBd	
Antenna Azimuth	Omni	Omni	
Mechanical Tilt	0	0	

Modulation Type (ie CDMA, TDMA, FM, etc)	FM
Transmit Frequencies (all)	769.53125, 770.55625, 772.03125, 772.53125, 774.20625
Recieve Frequencies (all)	799.53125, 800.55625, 802.03125, 802.53125, 804.20625
Total Number of Coax Runs for all Sectors:	2
Coax Diameter:	0.6"
Weight of Coax per Run:	145lbs @ 0.53*270
Manufacturer of Coax:	Trilogy
Total Number of Channels Desired for Site:	2
Desired ERP (watts/channel):	200

Antennas (microwave)

** Note: If Microwave dish is of grid type, please specify under Diameter.

Desired Radiation Center (Feet AGL):	85
Antenna Quantity:	1
Antenna Manufacturer:	PL6-65
Diameter:	6 feet
Number of Runs of Coax:	1
Coaxial/Waveguide Diameter:	2" EW63
Weight of Coax per Run:	44 lbs @ 0.51*85
Manufacturer of Coax:	Andrew
Transmit Frequency:	6.695GHz
Recieve Frequency:	6.855GHz
Modulation Type:	QPRS
Channel Band Width:	10MHz

Final Path study reduced dish size to 6 ft
Assuming channel Pair is acceptable

Radio Equipment

Manufacturer: Motorola
Model: GTR8000 ESS

Microwave Radio Equipment

Manufacturer: Harris
Model: DVM-XT-16TMHS

Shelter Information

Concrete Slab Dimensions: 8'6" x 10'
Power Requirements: 117 VDC Single Phase
Shelter Manufacturer: VFP
Shelter Dimensions: 8'6"X10,0"X9'2"

Generator: 4 x 9
Propane Tank: 4 x 12

EXHIBIT C

Site Plan

Attached Hereto and Incorporated Herein

