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Issue # 95235

LESSOR: St. Petersburg . . . . . LESSEE: Pinellas County

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**LEASE AGREEMENT  
(City as Owner/Landlord)  
(GROUND LEASE)**

THIS LEASE AGREEMENT ("Lease"), made and entered into this 9<sup>th</sup> day of September, 1996, by and between the City of St. Petersburg, a Municipal Corporation, existing by and under the laws of the State of Florida, ("City"), whose post office address is Post Office Box 2842, St. Petersburg, Florida 33731, Pinellas County, and Pinellas County, a political Subdivision of the State of Florida, ("Lessee"), whose post office address is 201 Rogers Street, Clearwater, Florida 34616, collectively (the "Parties")

WITNESSETH:

WHEREAS, the City and the Lessee entered into that certain Agreement dated and executed on November 7, 1995 whereby the City agrees to transfer ownership of certain equipment, facilities and buildings to Pinellas County, excluding all real property (land), and;

WHEREAS, the City and Lessee desires to terminate and release Pinellas County from that certain Lease Agreement dated October 6, 1987, First Amendment dated February 16, 1988, and Addendum to First Amendment to Lease dated February 16, 1988, and;

WHEREAS, the City and Lessee desires to replace that aforementioned certain Lease Agreement with a ground lease for the lands owned by the City located at 150 14th Street North, St. Petersburg, situated in Pinellas County, Florida further described as a portion of City parcel 811, Public Safety Complex Replat, Block 1, Lot 1.

NOW, THEREFORE, for and in consideration of the covenants and promises contained herein and other good and valuable consideration, the receipt and adequacy which is hereby acknowledged, the Parties hereto agree as follows:

1. **PREMISES:** The City leases to the Lessee and the Lessee leases from the City the following described property ("Premises") subject to the terms, provisions, conditions, and limitations set forth and described in this Lease, to wit:

150 14th Street North (a.k.a. 1430 2nd Avenue North)  
St. Petersburg, Pinellas County, Florida

That portion of City Parcel 811, Public Safety Complex Replat, Block 1, Lot 1, as shown on Exhibit A attached.

2. **TERM AND RENTAL:**

a. The term of this Lease ("Term") shall be for an initial term of fifteen (15) years commencing upon the date of final execution of this Lease by all Parties and shall automatically renew in five (5) year increments, unless terminated by either Party as described in Paragraph 3.

b. This Lease is in effect as long as the Agreement dated November 7, 1995 between Pinellas County and the City of St. Petersburg to Provide Radio Communications Services for Public Safety and non-public safety radio communications users is in effect.

c. Lessee shall pay to the City the rent of \$1.00 per year, plus applicable tax, the receipt of which is hereby acknowledged.

3. **TERMINATION:** Either Party may terminate this Lease with written notice of intent to terminate, but termination shall not become effective for a period of one (1) year from date of receipt of such termination notice.

4. **USE OF PREMISES:** This Lease is made on the express condition that the Premises shall be used by the Lessee to provide radio communications services for public safety and non public safety communications only in conformance with applicable laws and ordinances, for Pinellas County use and for no other purpose or purposes, without the written consent of the City. All rights of Lessee hereunder may be terminated by the City in the event that any other use be made thereof.

5. **CONDITION OF PREMISES:** Lessee has inspected the Premises and accepts the condition of the Premises in an "as is" condition. The City has made no representations, statements, or warranties, either expressed or implied, as to the condition

of the Premises, or as to its fitness for a particular use. The City and its respective agents and employees shall not be responsible or liable at any time for (a) any defects, latent or otherwise, in any building or improvements in the Premises or any of the equipment, machinery, utilities, appliances or apparatus therein, or (b) for any loss of life, or injury or damage to any person or to any property or business of Lessee or those claiming by, through or under Lessee, caused by, or resulting from, the bursting, breaking, leaking, running, seeping, overflowing or backing up of water, steam, gas, sewage, snow or ice in any part of the Premises or caused by or resulting from, acts of God or the elements, or resulting from any negligence in the occupancy, construction, operating or use of any buildings or improvements in the Premises, or any of the equipment, fixtures, machinery, appliances or apparatus therein.

6. **POSSESSION:** Lessee shall be granted possession of the Premises immediately upon the commencement date of this Lease and shall be entitled to full use of said Premises. All terms and conditions set forth herein shall immediately commence upon the signing of this Lease by all Parties.
7. **ASSIGNMENT OR SUBLET:** Lessee shall not have the right to assign, transfer, convey, sublet or otherwise dispose of the Premises or this Lease or any part thereof, or of its right, title or interest therein or its power to execute this Lease or any amendment or modification thereto, to any person, company or corporation, except a successor organization whose purpose is substantially the same as Lessee. Such assignment shall require the prior written consent of the City. Any other attempted assignment or sublease shall be void and shall be deemed a default of this Lease and cause for immediate termination.
8. **UTILITIES:** Lessee agrees to promptly pay all commercial charges for electricity or gas, as determined by meter, and telephone installation and service supplied to the Premises. City shall not be liable in any manner for damages to Lessee, or for any other claim by Lessee, resulting from any interruption in utility services, unless the interruption is caused by the City. The City will provide and pay for water consumption and sewer charges, as well as for trash collection.
9. **LESSEE'S MAINTENANCE OBLIGATIONS:** Lessee shall keep said Premises free of all trash and rubbish and maintain the same in a clean, neat, orderly and sanitary condition and shall be responsible for all maintenance.
10. **SIGNS:** Lessee may install signage at Lessee's expense to the interior and exterior of building. Upon termination of Lease, Lessee will remove signage at Lessee's expense and repair any damages to building caused by signage, if any.
11. **INSURANCE:** Lessee shall provide City with a letter evidencing that Lessee is self-insured if City so requests.
12. **LIABILITY OF CITY AND LESSEE:** All property of any kind that may be brought on site or owned by Lessee on the Premises during the continuance of the Lease shall be at the sole risk of Lessee except that City shall be liable for damage to Property of Lessee caused by failure of City to adequately perform any of City's duties specified herein. All property of any kind that may be brought on site or owned by City on the Premises during the continuance of the Lease shall be at the sole risk of City except that Lessee shall be liable for damage to Property of City caused by failure of Lessee to adequately perform any of Lessee's duties specified herein.
13. **TERMINATION OF PRIOR LEASE AGREEMENT:** This Lease executed by both Parties releases the City and Pinellas County from the Lease Agreement dated October 6, 1987, First Amendment dated February 16, 1988, and Addendum to First Amendment to Lease Agreement dated February 16, 1988.
14. **RETURN OF PREMISES AND OWNERSHIP OF IMPROVEMENTS UPON EXPIRATION, TERMINATION OR CANCELLATION:** Lessee shall, on or before the expiration date of this Lease or any renewal or extension thereof, or its earlier termination as provided herein, return the building to the City and, at the City's option, all equipment transferred to it from the City by the Agreement to Provide Radio Communication Services for Public Safety and Non-Public Safety Radio Communications Users dated November 7, 1995, that is still in service as of the date of the termination notice, peacefully and without notice, and in good order and condition. The Lessee further agrees to vacate the facilities and towers transferred to it from the City, but the City agrees that the Lessee shall have the level of access of towers and facilities existing at the signing of this Agreement aforementioned. In such event the Parties agree to endeavor to negotiate a new agreement.
15. **PROHIBITED USE:** The Premises shall not be used for the manufacture or storage of flammable, explosive or hazardous materials, nor shall any occupation or other use be allowed which, in the sole discretion of the City, is deemed hazardous to persons or to the Premises or which will increase the City's cost for insurance. Exception is made for the fuel tanks for the auxiliary generators required to operate the site in an emergency.
16. **HAZARDOUS MATERIALS DEFINED:** Hazardous materials shall mean any contaminant, chemical, waste, irritant,



petroleum product, waste product, radioactive material, flammable or corrosive substance, explosive, poly-chlorinated biphenyls, asbestos, hazardous toxic substance, material or waste of any kind, or any other substance which is regulated by any environmental law. Hazardous materials shall include, but not be limited to, substances defined as "hazardous substances", "hazardous materials", or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq.; the Hazardous Materials Transportation Act, 39 U.S.C. Section 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq.; all applicable state and local laws; and in the regulations adopted and publications promulgated pursuant to said laws or any amendments or addendums thereto.

17. **HAZARDOUS CONTAMINATION DUTIES OF PARTIES:**

A. With respect to City's use of the Premises prior to this Lease, City, represents to Lessee that, at the commencement of the Lease, the Premises is in compliance with all federal, state and local laws, regulations and standards relating to the use, occupancy, production, storage sale, disposal or transportation of any hazardous materials ("Hazardous Substance Laws"), including oil or petroleum products or their derivatives, solvents, PCB's, explosive substances, asbestos, radioactive materials or waste, and any other toxic, ignitable, reactive corrosive, contaminating or polluting materials ("hazardous substances") which are now or in the future subject to any governmental regulations.

B. Lessee shall have the right to conduct testing upon the property. If Lessee determines that the property contains any toxic water or chemical contamination, or has been used as a hazardous waste or chemical storage facility or dumpsite or as a garbage dump or landfill site, Lessee may elect to terminate this Lease, except for such contamination as solely caused by Lessee during the term of this Lease.

C. City shall promptly give Lessee written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Premises of which City has actual knowledge. If City learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any hazardous substance affecting the Premises is necessary, City shall, at its own cost and expense, promptly take all necessary remedial actions in accordance with applicable environmental laws, except for any contamination caused by Lessee which contamination shall be remediated at Lessee's cost and expense. In the event that hazardous substances found on the Premises pose a health risk to Lessee's employees, in Lessee's sole judgment, Lessee shall have the right to terminate this Lease with thirty (30) days written notice to City.

D. Except with respect to substance or conditions described as exceptions below, City shall give written notice to Lessee within five (5) business days after the date on which City learns or first has reason to believe that:

- (I) There has or will come to be located on or about the Premises any hazardous substance;
- (ii) Any release, discharge or emission of any hazardous substance has occurred on or about the Premises.

E. City shall, upon completion of any environmental sampling and testing of the Premises, the surrounding soil in any adjacent areas, any groundwater located under or adjacent to the Premises and/or any adjoining property, provide Lessee at its request with copies of all reports of the results of such environmental audits.

F. In the event that the Premises become untenable due to hazardous substances contamination, Lessee's sole remedy shall be termination of this Lease. City shall not be liable to Lessee for any costs and expense of Lessee's move or for any actual, compensatory, punitive, or consequential damages arising out of Lessee's termination or the contamination.

18. **RADON GAS:** Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of Radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding Radon and Radon testing may be obtained from your county public health unit.

19. **REPLACEMENT FACILITY:** The City is under no obligation to locate or provide a replacement facility under any circumstances, including but not limited to, substantial damage to the existing improvements by fire, flood, hurricane, tornado, earthquake or other form of natural disaster, or termination.

20. **IMPROVEMENTS TO PREMISES:** Lessee shall not make or permit to be made any alterations, additions, improvements or changes in the Premises without, in each case, first obtaining the written consent of the City. All improvements made to the Premises by either party shall immediately become the property of the party responsible for the improvement and shall remain during the Term of this Lease and upon expiration or termination thereof, all improvements made by the Lessee shall become the property of the Lessor.

21. **SUBSTANTIAL DAMAGES:** If the Premises are damaged substantially by fire, flood or other cause so as to render the Premises untenable, either party may terminate this Lease without further liability other than those liabilities existing at termination.

22. **RIGHT OF ENTRY:** The City shall have the right, at all reasonable times, to enter and inspect the leased Premises and the operation being conducted thereon at any reasonable time after notice and in the presence of Lessee for the purpose of inspecting or conducting tests upon the same, or for making repairs to the demised Premises or to any property owned or controlled by City therein. Such repairs shall not unduly interfere with Lessee's business except as is naturally necessitated by the nature of the repairs being effected. In addition, City may be conducting its own operations on the Premises and shall be provided access to the Premises for such purposes.

23. **INDEMNITY:** Lessee agrees to defend, hold and save the City harmless, to the extent permitted by s.768.28 F.S., from any and all damages, loss, or liability occurring by reason of any injury of any person or property occasioned by an act or omission, neglect, or wrongdoing of the Lessee or any of its officers, agents, representatives, guests, employees, invitees, or persons contracting with the Lessee, and Lessee will, at its own cost and expense, including but not limited to, attorneys fees and costs at trial or on appeal defend and protect the City against any and all such claims or demands which may be claimed to have arisen as a result of, or in connection with, the occupancy or use of the said Premises by the Lessee or Lessee's failure to comply and conform with any law, statute, ordinance or regulation now or hereinafter in force including, but not limited to, violations of the Americans with Disabilities Act of 1990 (ADA) and any amendments thereto. The purchase of insurance coverage required by this Lease, or otherwise shall not relieve Lessee of any duties set forth in this paragraph.

24. **LIENS:** Lessee shall never, under any circumstances, have the power or authority to subject the estate, reversion or other estate of City in the premises herein demised or on the building or other improvements thereon to any mechanic's or materialman's lien or other lien of any kind. Lessee is hereby charged with the responsibility of notifying all material men, contractors, artisans, mechanics and laborers and other persons contracting with Lessee with respect to the demised Premises or any part thereof, that such persons must look to Lessee to secure payment of any bill for work done or material furnished to the Lessee or for any other purpose during the term of this Lease.

25. **DEFAULT:** The Parties covenant and agree that if either party shall materially violate any of the covenants of this Lease, the other party shall provide written notice to the defaulting party and the defaulting party shall have 10 days from receipt of notice to correct same. If the defaulting party fails to correct default, the other party shall be entitled to any and all remedies available in law and equity.

26. **FISCAL FUNDING:** In the event funds are not appropriated by the Lessee in any succeeding fiscal year for purposes described herein, then this Lease shall be deemed to terminate at the expiration of the last fiscal year for which funds were appropriated and expended.

27. **SUCCESSORS AND ASSIGNS:** The covenants, provisions, and agreements herein contained shall in every case be binding upon and inure to the benefit of the Parties hereto respectively and their respective successors and assigns.

28. **NOTICES:** All notices, requests, demands or other communications hereunder shall be in writing, and shall be deemed to have been duly given if delivered in person, or within seven (7) days after deposit in the United States Mail, postage prepaid, certified with return receipt requested, or otherwise actually delivered, to:

**LESSEE:**  
Pinellas County  
Real Estate Management Division  
Attention: Ellyn Kadel  
201 Rogers Street  
Clearwater, Florida 34616

**CITY:**  
City of St. Petersburg, Department of  
Property Management and Realty Services  
Attention: Don Crawford  
Post Office Box 2842  
St Petersburg, FL 33731-2842

Refer to Property Management and Realty Services File No. LS.105 when making any inquiries to the City concerning this Lease.

29. **RELATIONSHIP BETWEEN PARTIES:** The relationship between the Parties is that of Landlord and Tenant.

30. **COMPLIANCE WITH REGULATIONS:** The Lessee will obtain, at its own expense, all required and necessary licenses and permits and comply with all laws and regulations of the United States of America, the State of Florida, County of

Pinellas, and the City of St. Petersburg, Florida, as may pertain to its use of the leased Premises.

31. **APPLICABLE LAWS AND VENUE:** This Lease shall be governed by and interpreted in accordance with the laws of the State of Florida. Venue for any action brought in state courts shall be in Pinellas County, St. Petersburg Division. Venue for any action brought in Federal Court shall be in the Middle District of Florida, Tampa Division, unless a division shall be created in St. Petersburg or Pinellas County, in which case the action shall be brought in that division.

32. **CONDEMNATION:** If the whole or any part of the Premises hereby leased shall be taken by any public authority under the power of eminent domain, then the Term of this Lease shall cease on the part so taken from the day the possession of that part shall be required for any public purpose, and if such portion of the demised Premises is so taken as to destroy the usefulness of the Premises for the purpose for which the Premises were leased, then, from that day the Lessee shall have the right either to terminate this Lease and declare the same null and void or to continue in the possession of the remainder of the same under the terms herein provided. If the Lessee shall fail to terminate this Lease as aforesaid within thirty (30) days after notice of said taking, said failure shall be regarded as a waiver of its right to cancel, whereupon this Lease shall continue for the then balance of the Term. If Lessee fails to exercise its right to cancel, City shall, at its own cost and expense, make the repairs made necessary to said partial taking. The Parties agree that City shall give Lessee notice of the filing of an action in eminent domain within 10 days of their initiation, even if the action has been filed by Lessee.

33. **QUIET ENJOYMENT:** City covenants and agrees that upon Lessee performing all of the covenants and conditions aforesaid on Lessee's part to be observed and performed, the Lessee shall and may peaceably and quietly have, hold and enjoy the Premises for the Term aforesaid.

34. **SEVERABILITY:** Should any section or any part of any section of this Lease be rendered void, invalid, or unenforceable by any court of law, for any reason, such determination shall not render void, invalid, or unenforceable any other section or any part of any section in this Lease.

35. **NON-DISCRIMINATION:** Lessee shall not illegally discriminate against anyone in the use of said Premises.

36. **HEADINGS:** The section headings are inserted herein for convenience and reference only, and in no way define, limit or otherwise describe the scope or intent of any provisions hereof.

37. **ENTIRE AGREEMENT:** This Lease, including attachments hereto, if any, constitutes the entire agreement between the City and Lessee. No change will be valid, unless made by supplemental written agreement, executed and approved by the principal Parties.

38. **RECORDABILITY:** This Lease shall not be recorded in the public records by either party.

39. **APPROVAL:** This Lease is subject to approval by the Mayor or his Designee, (or Mayor and City Council) as the City policies and procedures require, as well as the approval of the Board of County Commissioners.

40. **NO CONSTRUCTION AGAINST PREPARER OF LEASE:** This Lease has been prepared by the City and reviewed by the Lessee and its professional advisors. The City, Lessee and Lessee's professional advisors believe that this Lease expresses their agreement and that it should not be interpreted in favor of either the City or Lessee or against the City or Lessee merely because of their efforts in preparing it.

41. **DUE AUTHORITY:** Each party to this Lease represents and warrants to the other party(ies) that (I) they are duly organized, qualified and existing entities under the laws of the State of Florida, and (ii) all appropriate authority exists so as to duly authorize the persons executing this Lease to so execute the same and fully bind the party(ies) on whose behalf they are executing.

42. **AMERICANS WITH DISABILITIES ACT OF 1990:** Lessee assumes all responsibility, including but not limited to, financial, construction and physical modification costs, provision of auxiliary aids, services and legal costs, for ensuring compliance with all aspects of the Americans with Disabilities Act of 1990 (ADA) and any amendments thereto, including Title II, Structural and Title III, Programmatic Accessibility Standards as well as any future additions.

43. **WAIVER:** One or more waivers of any covenant or condition by either party shall not be construed as a waiver of a subsequent breach of the same covenant or conditions by the other party, and the consent or approval by either party to or of any act by the other party requiring consent or approval shall not be construed as consent or approval to or of any subsequent similar act by the other party.

IN WITNESS WHEREOF, the parties to this Lease have set their hands and seals as of the date(s) specified hereinafter.

WITNESSES:

Anne S. Haskins  
Anne S. Haskins

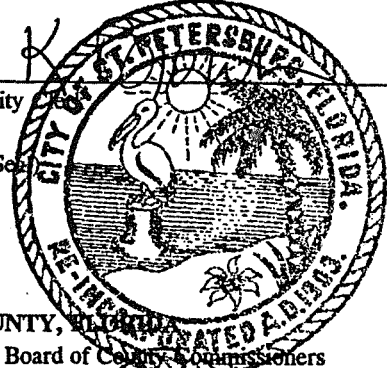
Bonnie J. Douglass  
Bonnie J. Douglass

CITY OF ST. PETERSBURG, FLORIDA  
a municipal corporation

David J. Fisoher  
David J. Fisoher, Mayor

ATTEST:

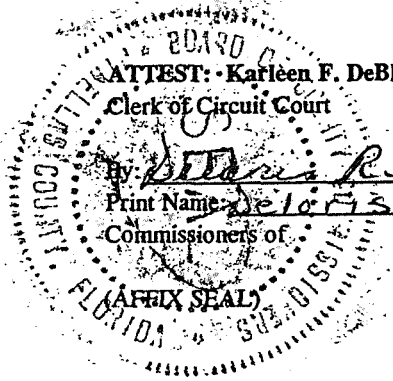
Jane K. Brown  
Jane K. Brown, City Clerk  
(Affix Corporate Seal)



LESSEE:

PINELLAS COUNTY, FLORIDA  
By and through its Board of County Commissioners

By: Sallie Parks  
Sallie Parks, as Chairman of the Board of County  
Pinellas County, Florida



ATTEST: Karleen F. DeBlaker  
Clerk of Circuit Court

By: Deloris R. Barnes  
Print Name: Deloris R. Barnes  
Commissioners of

APPROVED AS TO  
FORM AND CONTENT

Richard B. Badgley  
Richard B. Badgley, Senior Assistant City Attorney

APPROVED AS TO FORM

OFFICE OF THE COUNTY ATTORNEY  
SUBJECT TO PROPER EXECUTION  
BY ST. PETERSBURG  
By: Sarah Richardson  
Assistant County Attorney

OK ZCS EEWelb



# Exhibit A

