

Market: IL/W1  
Cell Site Number: IL0643  
Cell Site Name: Glenwood  
Fixed Asset Number: 12564846

## TOWER CONSTRUCTION AND LEASE AGREEMENT

THIS TOWER CONSTRUCTION AND LEASE AGREEMENT ("**Agreement**"), dated as of the latter of the signature dates below (the "**Effective Date**"), is entered into by Village of Glenwood, an Illinois Municipality, having a mailing address of One Asselborn Way, Glenwood, Illinois 60425 ("**Landlord**" or "**Village**") and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 12555 Cingular Way, Suite 1300, Alpharetta, GA 30004 ("**Tenant**").

### BACKGROUND

A. VILLAGE is the owner in fee simple of a parcel of land legally described on the attached Exhibit A with a common address of 120 North Main Street, Glenwood, Illinois, in the County of Cook (the "Property").

B. VILLAGE and TENANT desire to contract as provided herein for the development and construction of a one hundred ninety foot (190 ft.) monopole communications tower; for the conveyance of said monopole communications tower facilities to the VILLAGE after construction by the TENANT; and for the leasing to TENANT of a portion of the Property and space on the Tower for TENANT's telecommunications antennas and equipment in connection with its federally licensed communications business, all as provided in this Agreement.

NOW THEREFORE, in consideration of the mutual promises, terms, conditions and covenants contained herein and intending to be legally bound hereby, the Parties hereto agree as follows:

### ARTICLE ONE: CONSTRUCTION OF TOWER FACILITIES

1.1 CONSTRUCTION OF TOWER. TENANT agrees to construct on the Property a one hundred-ninety foot (190 ft.) monopole communications tower (the "Tower"). The Tower shall be designed, engineered and constructed to hold the antennas and related equipment for up to at least five (5) wireless carriers (including TENANT) and be constructed based on what the structural requirements of AT&T/Cingular Wireless would be for installation of a tower meeting these parameters, all as depicted in the site plan attached as Exhibit B (Site Plan) and the construction plans attached as Exhibit C (Construction Plans) in accordance with the general construction schedule, as mutually agreed by the parties, attached as Exhibit C-1. The Tower shall be located on the Property at the location set forth in the Site Plan. If the final construction plans and construction schedule are not yet completed and approved at the time this Agreement is signed, the parties agree that the final construction drawings and plans and the construction schedule shall be incorporated as Exhibits C and C-1 upon their submission by TENANT and approval by VILLAGE.

1.2 AGREEMENT SUBJECT TO GOVERNMENT APPROVALS. It is understood and agreed that TENANT's ability to construct the Tower and to use the Property as provided herein is

contingent upon its obtaining after the execution date of this Agreement all of the certificates, permits and other approvals (individually and collectively referred to as "Governmental Approvals") that may be required by any Federal, State or Local authorities, as well as satisfactory soil boring tests and structural analysis which will permit TENANT to construct the Tower.

1.3 CONSTRUCTION OF TOWER. The Tower shall be of construction as depicted in Exhibit C. The TENANT'S antennas shall be mounted at the 150 foot level on the Tower.

1.4 INSURANCE. TENANT shall obtain and keep in force policies of liability and casualty insurance described in Section 7 of Article TWO at all times during: (1) the construction of the Tower; (2) the construction of the TENANT's facilities on the Leased Premises as described in Exhibit D attached hereto; and (3) the duration of any interest the TENANT may have in any portion of the Property including, but limited to, any interest created by lease, easement, license, or contract. The TENANT shall also require that all of its contractors, subcontractors, suppliers or anyone else directly or indirectly utilized by TENANT to perform or furnish any work on the Property have and maintain the same insurance required of the TENANT. The VILLAGE and its officers, agents and employees shall be named as an additional insured on all the insurance required from: (1) the TENANT; and (2) the TENANT's contractors, subcontractors, suppliers and by anyone directly or directly employed by any of them to perform or furnish any of such work on the Property.

1.5 CONSTRUCTION OF TOWER. TENANT shall cause the Tower to be designed, constructed and installed on the Property pursuant to the Site Plan in a first class and workmanlike manner, in accordance with the final construction drawings and plans approved by the VILLAGE and incorporated as Exhibit C to this Agreement, without the attachment of any construction liens, and in accordance with all applicable statutes, standards, ordinances, rules, regulations and Governmental Approvals.

1.6 RESTORATION OF PROPERTY. Any damage done to the Property during construction of the Tower and the Shelter shall be repaired or replaced as soon as physically practical at TENANT's expense and to the VILLAGE's reasonable satisfaction.

1.7 TRANSFER OF TITLE. Within thirty (30) days following completion of the construction of the Tower in accordance with this Agreement, TENANT shall transfer clear and merchantable title to the Tower to VILLAGE, free and clear of all liens, security interests, encumbrances, mortgages or other conditions adversely affecting or encumbering title to the facilities. TENANT shall deliver an executed bill of sale to the VILLAGE transferring title of the Tower to VILLAGE, together with lien releases or other evidence reasonably satisfactory to the VILLAGE that all liens, security interests, encumbrances, mortgages or other conditions adversely affecting or encumbering title to the Tower, or Property have been terminated, released or waived as appropriate. TENANT agrees to promptly cure any defects in the construction of the Tower prior to the transfer of title to VILLAGE.

1.8 AS-BUILT DRAWINGS. Within Thirty (30) days following completion of the Tower, TENANT shall provide the VILLAGE with as-built drawings of the Tower and related improvements installed on the Property. Said drawings shall also show the actual location of all Antenna Facilities and equipment and improvements on the Tower consistent with Exhibits B and C.

## ARTICLE TWO: LEASE OF GROUND AND TOWER SPACE

### 1. OPTION TO LEASE.

(a) Landlord grants to Tenant an option (the "**Option**") to lease a certain portion of the Property containing approximately 1,200 \_\_\_\_\_ square feet including the air space above such ground space (except any air space above the ground space shall not be included to the extent antennas and/or equipment are located within the air space above the ground space), as described on attached **Exhibit D** (the "Equipment Space"), for the placement of Tenant's Communication Facility.

(b) During the Option Term, and during the term of this Agreement, Tenant and its agents, engineers, surveyors and other representatives will have the right to enter upon the Property to inspect, examine, conduct soil borings, drainage testing, material sampling, radio frequency testing and other geological or engineering tests or studies of the Property (collectively, the "**Tests**"), to apply for and obtain licenses, permits, approvals, or other relief required of or deemed necessary or appropriate at Tenant's sole discretion for its use of the Premises and include, without limitation, applications for zoning variances, zoning ordinances, amendments, special use permits, and construction permits (collectively, the "**Government Approvals**"), initiate the ordering and/or scheduling of necessary utilities, and otherwise to do those things on or off the Property that, in the opinion of Tenant, are necessary in Tenant's sole discretion to determine the physical condition of the Property, the environmental history of the Property, Landlord's title to the Property and the feasibility or suitability of the Property for Tenant's Permitted Use, all at Tenant's expense. Tenant will not be liable to Landlord or any third party on account of any pre-existing defect or condition on or with respect to the Property, whether or not such defect or condition is disclosed by Tenant's inspection. Tenant will restore the Property to its condition as it existed at the commencement of the Option Term, reasonable wear and tear and loss by casualty or other causes beyond Tenant's control excepted.

(c) In consideration of Landlord granting Tenant the Option, Tenant agrees to pay Landlord the sum of One Thousand and No/100 Dollars (\$1,000.00) within thirty (30) business days of the Effective Date. The Option will be for an initial term of six (6) months commencing on the Effective Date (the "**Initial Option Term**") and may be renewed by Tenant for one additional six (6) month term (the "**Renewal Option Term**") upon written notification to Landlord and the payment of an additional One Thousand and No/100 Dollars (\$1,000.00) no later than five (5) days prior to the expiration date of the Initial Option Term. The Initial Option Term and any Renewal Option Term are collectively referred to as the "**Option Term.**"

(d) The Option may be sold, assigned or transferred at any time by Tenant to an Affiliate (as that term is hereinafter defined) of Tenant or to any third party agreeing to be subject to the terms hereof. Otherwise, the Option may not be sold, assigned or transferred without the written consent of Landlord, such consent not to be unreasonably withheld, conditioned or delayed. From and after the date the Option has been sold, assigned or transferred by Tenant to an Affiliate or a third party agreeing to be subject to the terms hereof, Tenant shall immediately be released from any and all liability under this Agreement, including the payment of any rental or other sums due, without any further action.

(e) During the Option Term, Tenant may exercise the Option to proceed with all of its obligations under this Agreement, including the construction of the Tower, by notifying Landlord in writing. If Tenant exercises the Option then TENANT shall complete all of its obligations under Article 1 and the VILLAGE shall grant TENANT all the lease, easement and other rights set forth in this Agreement. If Tenant does not exercise the Option during the Initial Option Term or any extension thereof, this Agreement will terminate and the parties will have no further liability to each other.

(f) If during the Option Term, or during the term of this Agreement if the Option is exercised, Landlord decides to subdivide, sell, or change the status of the zoning of the Premises, Property or any of Landlord's contiguous, adjoining or surrounding property (the "**Surrounding Property,**") or in the event of foreclosure, Landlord shall immediately notify Tenant in writing. Landlord agrees that during the Option Term,

or during the Term of this Agreement if the Option is exercised, Landlord shall not initiate or consent to any change in the zoning of the Premises, Property or Surrounding Property or impose or consent to any other use or restriction that would prevent or limit Tenant from using the Premises for the Permitted Use. Any and all terms and conditions of this Agreement that by their sense and context are intended to be applicable during the Option Term shall be so applicable.

**1.5 LEASE.** If TENANT timely exercises its Option during the Option Term, then effective on the date that TENANT transfers ownership of the Tower to the VILLAGE pursuant to Section 1.7 of Article One, VILLAGE grants to TENANT the following rights in the Property consisting of:

(i) a lease of approximately 1,200 square feet of ground space, including the air space above the ground space (except any air space above the ground space shall not be included to the extent antennas and/or equipment are located within the air space above the ground space), as described in the attached **Exhibit D**, for the placement of TENANT'S ground equipment, enclosures and structures that are related to TENANT'S use of the rights granted to it in the Property under this Agreement for the Permitted Use ("**Equipment Space**");

(ii) a lease of a certain portion of the space on the Tower as depicted on Exhibit B (the "**Tower Space**") where TENANT shall have the right to install, operate and maintain its antennas and other cables and equipment as depicted on Exhibits B and C;

(iii) a non-exclusive right over and through that portion of the Property where TENANT'S conduits, wires, cables, cable trays and other necessary connections are located between the Equipment Space and the Tower Space and between the Equipment Space and the necessary electric power, telephone, and fuel sources (hereinafter collectively referred to as the "**Connection Space**") as identified in Exhibits B and C;

(iv) a non-exclusive right over and through the Property (the "**Right of Way**") for reasonable ingress and egress, seven (7) days a week, twenty-four (24) hours a day, on foot or motor vehicle, including trucks, for the installation and maintenance of, such equipment, antennas, utility wires, poles, cables, conduits, and pipes within the Equipment Space, Tower Space and Connection Space extending to the nearest public right-of-way as depicted in Exhibit G.

The Tower Space, Equipment Space, Connection Space, and Right of Way are substantially described in Exhibits B, C, D, and G are collectively referred to hereinafter as the "**Premises**". VILLAGE agrees that TENANT shall have the non-exclusive right to install connections between TENANT'S equipment in the Equipment Space and Tower Space; and between TENANT'S equipment in the Equipment Space and the electric power, telephone, and fuel sources for the Premises. VILLAGE further agrees that TENANT shall have the right to install, replace and maintain utility lines, wires, poles, cables, conduits, pipes and other necessary connections over or along any right-of-way extending from the public right-of-way adjacent to the Premises.

**2. PERMITTED USE.** Tenant may use the Premises for the transmission and reception of communications signals and the installation, construction, maintenance, operation, repair, replacement and upgrade of its communications fixtures and related equipment, cables, accessories and improvements, which may include a suitable support structure, associated antennas, equipment shelters or cabinets and fencing and any other items necessary to the successful and secure use of the Premises (collectively, the "**Communication Facility**"), as well as the right to test, survey and review title on the Property; Tenant further has the right but not the obligation to add, modify and/or replace equipment in order to be in compliance with any current or future federal, state or local mandated application, including, but not limited to, emergency 911 communication services, at no additional cost to Tenant or Landlord (collectively, the "**Permitted Use**"). Landlord and Tenant agree that any portion of the Communication Facility that may be conceptually described on **Exhibits B and C** will not be deemed to limit Tenant's Permitted Use. If **Exhibit B and C** includes drawings of the initial installation of the Communication Facility, Landlord's execution of this Agreement will signify Landlord's approval of **Exhibits B and C**. For a period of ninety (90) days following the start of construction, Landlord

grants Tenant, its subtenants, licensees and sublicensees, the right to use such portions of Landlord's contiguous, adjoining or Surrounding Property as described on **Exhibit A** as may reasonably be required during construction and installation of the Communication Facility and Tower. Tenant has the right to install and operate transmission cables from the equipment shelter or cabinet to the antennas, electric lines from the main feed to the equipment shelter or cabinet and communication lines from the Property's main entry point to the equipment shelter or cabinet, and to make other improvements, alterations, upgrades or additions appropriate for Tenant's Permitted Use, including the right to construct a fence around the Premises and undertake any other appropriate means to secure the Premises at Tenant's expense. Tenant has the right to modify, supplement, replace, upgrade, expand the equipment, or relocate the Communication Facility within the Premises at any time during the term of this Agreement, except TENANT shall not be allowed to increase the number of antennas installed on the Tower or change the location/height of the antennas installed on the Tower without the VILLAGE'S approval and an adjustment to the rent. Tenant will be allowed to make such alterations to the Property in order to ensure that Tenant's Communication Facility complies with all applicable federal, state or local laws, rules or regulations. In the event Tenant desires to modify or upgrade the Communication Facility, in a manner that requires additional Equipment Space (the "**Additional Premises**") for such modification or upgrade, Landlord, to the extent such Additional Property has not been leased, optioned or contracted for by another entity agrees to lease to Tenant the Additional Premises, upon the same terms and conditions set forth herein, except that the Rent shall increase, in conjunction with the lease of the Additional Premises by the amount equivalent to the then-current per square foot rental rate charged by Landlord to Tenant times the square footage of the Additional Premises. Landlord agrees to take such actions and enter into and deliver to Tenant such documents as Tenant reasonably requests in order to effect and memorialize the lease of the Additional Premises to Tenant.

### 3. **TERM.**

(a) The initial lease term will be five (5) years (the "**Initial Term**"), commencing on the effective date that TENANT transfers ownership of the Tower to the VILLAGE pursuant to Section 1.7 of Article One (the "**Term Commencement Date**"). The Initial Term will terminate on the fifth (5<sup>th</sup>) anniversary of the Term Commencement Date. Tenant shall not operate its Communications Facility until ownership of the Tower is transferred to the Village.

(b) This Agreement will automatically renew for four (4) additional five (5) year term(s) (each five (5) year term shall be defined as an "**Extension Term**"), upon the same terms and conditions unless Tenant notifies Landlord in writing of Tenant's intention not to renew this Agreement at least sixty (60) days prior to the expiration of the Initial Term or then-existing Extension Term.

(c) Unless (i) Landlord or Tenant notifies the other in writing of its intention to terminate this Agreement at least six (6) months prior to the expiration of the final Extension Term, or (ii) the Agreement is terminated as otherwise permitted by this Agreement prior to the end of the final Extension Term, then upon the expiration of the final Extension Term, this Agreement shall continue in force upon the same covenants, terms and conditions for a further term of one (1) year, and for annual terms thereafter ("**Annual Term**") until terminated by either party by giving to the other written notice of its intention to so terminate at least six (6) months prior to the end of any such Annual Term. Monthly rental during such Annual Terms shall be equal to the Rent paid for the last month of the final Extension Term. If Tenant remains in possession of the Premises after the termination of this Agreement, then Tenant will be deemed to be occupying the Premises on a month-to-month basis (the "**Holdover Term**"), subject to the terms and conditions of this Agreement except the monthly rent during any Holdover Term shall be 1.5 times the last monthly rent payable prior to any Holdover Term.

(d) The Initial Term, any Extension Terms, any Annual Terms and any Holdover Term are collectively referred to as the Term (the "**Term**"). The one-year period beginning on the Term Commencement Date and on each subsequent anniversary of the Term Commencement Date shall be a Term Year.

4. **RENT.**

(a) Within forty-five (45) days after the Term Commencement date Tenant will pay Landlord annual rent for the first year of the Initial Term, in advance, the amount of Thirty Thousand and No/100 Dollars (\$30,000.00) (the "**Rent**"), at the address set forth above.

(b) In year two (2) of the Initial Term, and each year thereafter, including throughout any Extension Terms exercised, the annual Rent will increase by two percent (2 %) over the annual Rent paid during the previous year. In year two (2) of the Initial Term, and each year thereafter, including throughout any Extension Terms, Annual Terms and Holdover Terms the annual Rent shall be paid in advance on or before the beginning of the Term Year.

(c) In consideration of Tenant's agreement to construct the Tower for Landlord and transfer of legal title to the Improvements, Landlord agrees that Tenant shall receive a Rent abatement equal to One Hundred Fifty Thousand Dollars (\$150,000.00) which shall be applied as a credit to Tenant's annual Rent payments. Tenant shall not receive any interest upon the \$150,000.00 Rent abatement amount.

5. **APPROVALS.**

(a) Landlord agrees that Tenant's ability to use the Premises is contingent upon the suitability of the Premises and Property for Tenant's Permitted Use and Tenant's ability to obtain and maintain all Government Approvals. Landlord authorizes Tenant to prepare, execute and file all required applications to obtain Government Approvals for Tenant's Permitted Use under this Agreement and agrees to reasonably assist Tenant with such applications and with obtaining and maintaining the Government Approvals.

(b) Tenant has the right to obtain a title report or commitment for a leasehold title policy from a title insurance company of its choice and to have the Property surveyed by a surveyor of its choice.

(c) Tenant may also perform and obtain, at Tenant's sole cost and expense, soil borings, percolation tests, engineering procedures, environmental investigation or other tests or reports on, over, and under the Property, necessary to determine if Tenant's use of the Premises will be compatible with Tenant's engineering specifications, system, design, operations or Government Approvals.

6. **TERMINATION.** This Agreement may be terminated, without penalty or further liability, as follows:

(a) by either party on thirty (30) days prior written notice, if the other party remains in default under Section 15 of this Agreement after the applicable cure periods;

(b) by Tenant upon written notice to Landlord, if Tenant is unable to obtain or maintain, any required approval(s) or the issuance of a license or permit by any agency, board, court or other governmental authority necessary for the construction or operation of the Communication Facility as now or hereafter intended by Tenant; or if Tenant determines, in its sole discretion that the cost of or delay in obtaining or retaining the same is commercially unreasonable;

(c) by Tenant, upon written notice to Landlord, if Tenant determines, in its sole discretion, due to the title report results or survey results, that the condition of the Premises is unsatisfactory for its intended uses;

(d) by Tenant upon written notice to Landlord for any reason or no reason, at any time prior to commencement of construction by Tenant; or

(e) by Tenant upon sixty (60) days' prior written notice to Landlord for any reason or no reason, so long as Tenant pays Landlord a termination fee equal to three (3) months' Rent, at the then-current rate, provided, however, that no such termination fee will be payable on account of the termination of this Agreement by Tenant under any termination provision contained in any other Section of this Agreement, including the

following: 5 Approvals, 6(a) Termination, 6(b) Termination, 6(c) Termination, 6(d) Termination, 11(d) Environmental, 18 Condemnation, or 19 Casualty.

7. **INSURANCE.**

(a) During the Term, Tenant will carry, at its own cost and expense, the following insurance: (i) workers' compensation insurance as required by law; and (ii) commercial general liability (CGL) insurance with respect to its activities on the Property, such insurance to afford protection of up to Three Million Dollars (\$3,000,000) per occurrence and Six Million Dollars (\$6,000,000) general aggregate, based on Insurance Services Office (ISO) Form CG 00 01 or a substitute form providing substantially equivalent coverage. Tenant's CGL insurance shall contain a provision including Landlord as an additional insured. Such additional insured coverage:

(i) shall be limited to bodily injury, property damage or personal and advertising injury caused, in whole or in part, by Tenant, its employees, agents or independent contractors;

(ii) shall not extend to claims for punitive or exemplary damages arising out of the acts or omissions of Landlord, its employees, agents or independent contractors or where such coverage is prohibited by law or to claims arising out of the gross negligence of Landlord, its employees, agents or independent contractors; and

(iii) shall not exceed Tenant's indemnification obligation under this Agreement, if any.

The Certificates of Insurance shall name the VILLAGE and its officers, employees, and agents as additional insureds on all Comprehensive General Liability Coverages. Before commencing any work, activities or use of the Premises/Property, the VILLAGE shall be furnished an Accord form 25 naming the VILLAGE and its officers, employees, and agents as additional insureds. The additional insureds shall be insured to the same extent as the primary insured. The Certificates of Insurance shall provide that the coverages identified therein shall not be cancelled or allowed to expire unless the additional insureds are given thirty (30) days advance notice of such cancellation or expiration in writing by certified mail, return receipt requested.

All the insurance required of the Tenant shall state that the coverage afforded to the additional insureds shall be primary insurance of the additional insureds with respect to claims arising out of operations performed on the Premises/Property. If an additional insured has other insurance or self-insured coverage which is applicable to the loss, it shall be on an excess or contingent basis.

All insurance required shall provide that the insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

Under no circumstances shall the VILLAGE be deemed to have waived any of the insurance requirements of this Agreement by (1) allowing any work to commence before receipt of certificates of insurance or additional insured endorsements; (2) by failing to review any certificates or documents received; or (3) by failing to advise anyone that any certificate of insurance or additional insured endorsement fails to contain all of the required insurance provisions or is otherwise deficient in any manner. The obligation to provide the insurance required by these documents is solely the responsibility of the person or entity required to provide insurance hereunder the obligation of which cannot be waived by any act or omission of the VILLAGE.

Nothing contained in this Agreement is to be construed as limiting the liability of the entity required to provide the insurance. The VILLAGE, does not, in any way, represent that the coverage or limits of insurance specified are sufficient or adequate to protect the VILLAGE, or anyone else, but are merely minimums. The obligations to purchase insurance shall not, in any way, limit any entities obligations to the VILLAGE in the event the VILLAGE should suffer an injury or loss in excess of the amount recoverable through insurance, or any loss or portion of a loss which was not covered by the insurance required in this Agreement.

In the event any entity fails to furnish and maintain the insurance required by this contract, the VILLAGE may, but is not obligated to, purchase such insurance on their behalf and at their expense.

(b) Notwithstanding the foregoing, Tenant shall have the right to self-insure the coverages required in subsection (a). In the event Tenant elects to self-insure its obligation to include Landlord as an additional insured, the following provisions shall apply (in addition to those set forth in subsection (a)):

- (i) Landlord shall promptly and no later than thirty (30) days after notice thereof provide Tenant with written notice of any claim, demand, lawsuit, or the like for which it seeks coverage pursuant to this Section and provide Tenant with copies of any demands, notices, summonses, or legal papers received in connection with such claim, demand, lawsuit, or the like;
- (ii) Landlord shall not settle any such claim, demand, lawsuit, or the like without the prior written consent of Tenant; and
- (iii) Landlord shall fully cooperate with Tenant in the defense of the claim, demand, lawsuit, or the like.

## 8. INTERFERENCE.

(a) Prior to or concurrent with the execution of this Agreement, Landlord has provided or will provide Tenant with a list of radio frequency user(s) and frequencies used on the Property as of the Effective Date. Tenant warrants that its use of the Premises will not interfere with those existing radio frequency uses on the Property, as long as those existing radio frequency user(s) operate and continue to operate within their respective frequencies and in accordance with all applicable laws and regulations.

(b) TENANT agrees that its Communications Facility, and any subsequently installed new or replacement equipment, will be installed, operated and maintained so as not to cause material interference, measurable in accordance with then existing industry standards, to any emergency public safety communications equipment or wireless communications equipment of VILLAGE, or to the wireless communications facilities of other tenants installed on the Property. VILLAGE agrees that such other tenants will be required to make the same covenant for the benefit of TENANT.

(c) TENANT agrees to make commercially reasonable efforts to cooperate with other future tenants that are installing equipment on the Tower or on the Property to ensure that interference issues are avoided. In an effort to prevent possible interference issues, TENANT agrees to provide to VILLAGE and other tenants, technical, radio frequency and tower location information related to the equipment to be installed by TENANT at the Premises as may be reasonably required to resolve technical interference issues among the Parties and other tenants. TENANT agrees to make commercially reasonable efforts to consult with VILLAGE and any future tenants on the Property regarding the selection of equipment to avoid such interference. TENANT shall cooperate with other Tenants to resolve any interference requirements pursuant applicable federal rules.

VILLAGE agrees that any other tenants on the Property will be required to make the same covenants for the benefit of TENANT.

(d) For the purposes of this Agreement, "interference" may include, but is not limited to, any use on the Property or Surrounding Property that causes electronic or physical obstruction with, or degradation of, the communications signals from the Communication Facility.

## **9. INDEMNIFICATION.**

(a) Tenant agrees to indemnify, defend and hold Landlord harmless from and against any and all injury, loss, damage or liability (or any claims in respect of the foregoing), costs or expenses (including reasonable attorneys' fees and court costs) arising directly from the installation, use, maintenance, repair or removal of the Communication Facility by TENANT and TENANT'S contractors, subcontractors, suppliers or anyone else directly or indirectly utilized by TENANT to perform or furnish any work or operations on the Property or Tenant's breach of any provision of this Agreement, except to the extent attributable to the negligent or intentional act or omission of Landlord, its employees, agents or independent contractors. In any claims by any person or entity indemnified under this Section 9 by an employee of TENANT, an employee of any of TENANT'S contractors, subcontractors, or by an employee of anyone directly or indirectly employed by any of them, the indemnification obligation of this Section 9(a) shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the TENANT, contractor, subcontractor, supplier or anyone else directly or indirectly utilized by TENANT to furnish or perform any work or operations on the Property under any workers' compensation acts, disability benefit acts or other employee benefit acts.

(b) Landlord agrees to indemnify, defend and hold Tenant harmless from and against any and all injury, loss, damage or liability (or any claims in respect of the foregoing), costs or expenses (including reasonable attorneys' fees and court costs) arising directly from the actions or failure to act of Landlord, its employees or agents, or Landlord's breach of any provision of this Agreement, except to the extent attributable to the negligent or intentional act or omission of Tenant, its employees, agents or independent contractors.

(c) The indemnified party: (i) shall promptly provide the indemnifying party with written notice of any claim, demand, lawsuit, or the like for which it seeks indemnification pursuant to this Section and provide the indemnifying party with copies of any demands, notices, summonses, or legal papers received in connection with such claim, demand, lawsuit, or the like; (ii) shall not settle any such claim, demand, lawsuit, or the like without the prior written consent of the indemnifying party; and (iii) shall fully cooperate with the indemnifying party in the defense of the claim, demand, lawsuit, or the like. A delay in notice shall not relieve the indemnifying party of its indemnity obligation, except (1) to the extent the indemnifying party can show it was prejudiced by the delay; and (2) the indemnifying party shall not be liable for any settlement or litigation expenses incurred before the time when notice is given.

## **10. WARRANTIES.**

(a) Tenant and Landlord each acknowledge and represent that it is duly organized, validly existing and in good standing and has the right, power and authority to enter into this Agreement and bind itself hereto through the party set forth as signatory for the party below.

(b) Landlord represents, warrants and agrees that: (i) Landlord solely owns the Property as a legal lot in fee simple; (ii) the Property is not and will not be encumbered by any liens, restrictions, mortgages, covenants, conditions, easements, leases, or any other agreements of record or not of record, which would adversely affect Tenant's Permitted Use and enjoyment of the Premises under this Agreement; (iii) as long as Tenant is not in default then Landlord grants to Tenant sole, actual, quiet and peaceful use, enjoyment and possession of the Equipment Space and the Tower Space and non-exclusive use, enjoyment and possession of the Connection Space and Right of Way, all without hindrance or ejection by any persons lawfully claiming under Landlord; (iv) Landlord's execution and performance of this Agreement will not violate any laws, ordinances, covenants or the provisions of any mortgage, lease or other agreement binding on Landlord; and (v) if the Property is or becomes encumbered by a deed to secure a debt, mortgage or other security interest,

Landlord will provide promptly to Tenant a mutually agreeable subordination, non-disturbance and attornment agreement executed by Landlord and the holder of such security interest.

**11. ENVIRONMENTAL.**

(a) Landlord represents and warrants that it has not introduced any hazardous substances, including asbestos-containing materials and lead paint to the Property since it has owned the Property, and (ii) that while owned by the VILLAGE, the Property has never been subject to any contamination or hazardous conditions resulting in any environmental investigation, inquiry or remediation. As the VILLAGE has only owned the Property for a short period of time, TENANT shall be solely responsible for making its own determination on the environmental condition of the Property. TENANT'S decision to exercise its option under this Agreement be deemed to be a representation by Tenant that it finds the environmental condition of the Property to be satisfactory for its Permitted Use. TENANT agrees that the VILLAGE shall not be responsible to TENANT for any environmental or other condition of the Property which pre-existed the VILLAGE'S ownership of the Property and that the VILLAGE makes no representation or warranty on the environmental condition of any portion of the Property. Landlord and Tenant agree that each will be responsible for compliance with any and all applicable governmental laws, rules, statutes, regulations, codes, ordinances, or principles of common law regulating or imposing standards of liability or standards of conduct with regard to protection of the environment or worker health and safety, as may now or at any time hereafter be in effect, to the extent such apply to that party's activity conducted in or on the Property.

(b) Landlord and Tenant agree to hold harmless and indemnify the other from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of the indemnifying party for, payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding ("Claims"), to the extent arising from that party's breach of its obligations or representations under Section 11(a). Landlord agrees to hold harmless and indemnify Tenant from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of Landlord for, payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any Claims, to the extent arising from subsurface or other contamination of the Property with hazardous substances from such contamination caused by the acts or omissions of Landlord during the Term. Tenant agrees to hold harmless and indemnify Landlord from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of Tenant for, payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any Claims, to the extent arising from hazardous substances brought onto the Property by Tenant.

(c) The indemnifications of this Section 11 specifically include reasonable costs, expenses and fees incurred in connection with any investigation of Property conditions or any clean-up, remediation, removal or restoration work required by any governmental authority. The provisions of this Section 11 will survive the expiration or termination of this Agreement.

(d) In the event Tenant becomes aware of any hazardous substances on the Property, or any environmental, health or safety condition or matter relating to the Property, that, in Tenant's sole determination, renders the condition of the Premises or Property unsuitable for Tenant's use, or if Tenant believes that the leasing or continued leasing of the Premises would expose Tenant to undue risks of liability to a government agency or other third party, Tenant will have the right, in addition to any other rights it may have at law or in equity, to terminate this Agreement upon written notice to Landlord.

**12. ACCESS.** At all times throughout the Term of this Agreement, and at no additional charge to Tenant, Tenant and its employees, agents, and subcontractors, will have twenty-four (24) hour per day, seven (7) day per week pedestrian and vehicular access ("Access") to and over the Property, from an open and improved public road to the Premises, for the installation, maintenance and operation of the Communication Facility and any utilities serving the Premises. As may be described more fully in **Exhibit G**, Landlord grants to Tenant an easement for such Access and Landlord agrees to provide to Tenant such codes, keys and other instruments

necessary for such Access at no additional cost to Tenant. Upon Tenant's request, Landlord will execute a separate recordable easement evidencing this right. Landlord shall execute a letter granting Tenant Access to the Property substantially in the form attached as **Exhibit H**; upon Tenant's request, Landlord shall execute additional letters during the Term. Landlord acknowledges that in the event Tenant cannot obtain Access to the Premises for any reason which is within the VILLAGE'S control, Tenant shall incur significant damage. If Landlord fails to provide the Access granted by this Section 12, such failure shall be a default under this Agreement. In connection with such default, in addition to any other rights or remedies available to Tenant under this Agreement or at law or equity, Landlord shall pay Tenant, as liquidated damages and not as a penalty, \$200.00 per day up to a maximum amount that shall not exceed one-twelfth of the then payable annual Rent in consideration of Tenant's damages until Landlord cures such default. Landlord and Tenant agree that Tenant's damages in the event of a denial of Access are difficult, if not impossible, to ascertain, and the liquidated damages set forth above are a reasonable approximation of such damages.

**13. REMOVAL/RESTORATION.** Except for the Tower facilities transferred to the VILLAGE pursuant to Section 1.7 of Article One, all portions of the Communication Facility brought onto the Property by Tenant will be and remain Tenant's personal property and, at Tenant's option, may be removed by Tenant at any time during or after the Term. Landlord covenants and agrees that, except for the Tower facilities transferred to the VILLAGE pursuant to Section 1.7 of Article One, no part of the Communication Facility constructed, erected or placed on the Premises by Tenant will become, or be considered as being affixed to or a part of, the Property, it being the specific intention of Landlord that all improvements of every kind and nature constructed, erected or placed by Tenant on the Premises, except for the Tower facilities transferred to the VILLAGE pursuant to Section 1.7 of Article One, will be and remain the property of Tenant and may be removed by Tenant at any time during or after the Term. Tenant will repair any damage to the Property resulting from Tenant's removal activities. Any portions of the Communication Facility that Tenant does not remove within one hundred twenty (120) days after the later of the end of the Term and cessation of Tenant's operations at the Premises shall be deemed abandoned and owned by Landlord. Notwithstanding the foregoing, Tenant will not be responsible for the replacement of any trees, shrubs or other vegetation.

**14. MAINTENANCE/UTILITIES.**

(a) Tenant will keep and maintain the Equipment Space and all of its personnel property installed on the Tower Space, Connection Space and the Right of Way in good condition, reasonable wear and tear and damage from the elements excepted. Landlord will maintain and repair the Tower and other portions of the Property over which it has exclusive control and access thereto and all areas of the Premises where Tenant does not have exclusive control, in good and tenantable condition, subject to reasonable wear and tear and damage from the elements. Landlord will be responsible for maintenance of landscaping on the Property, including any landscaping installed by Tenant as a condition of this Agreement or any required permit.

(b) Tenant will be responsible for arranging for and paying on a monthly or quarterly basis all utilities charges for electricity, telephone service or any other utility used or consumed by Tenant on the Premises. Landlord acknowledges that Tenant provides a communication service which requires electrical power to operate and must operate twenty-four (24) hours per day, seven (7) days per week. If the interruption is for an extended period of time, in Tenant's reasonable determination, Landlord agrees to allow Tenant the right to bring in a temporary source of power for the duration of the interruption. Landlord will not be responsible for interference with, interruption of or failure, beyond the reasonable control of Landlord, of such services to be furnished or supplied by Landlord.

(c) Landlord hereby grants to any company providing utility or similar services, including electric power and telecommunications, to Tenant an easement over the Property, from an open and improved public road to the Premises, and upon the Premises, for the purpose of constructing, operating and maintaining such lines, wires, circuits, and conduits, associated equipment cabinets and such appurtenances thereto, as such companies may from time to time require in order to provide such services to the Premises. Upon Tenant's or the service company's request, Landlord will execute a separate recordable easement evidencing this grant, at no

cost to Tenant or the service company. Any such easement shall terminate upon the expiration of this Agreement.

**15. DEFAULT AND RIGHT TO CURE.**

(a) The following will be deemed a default by Tenant and a breach of this Agreement: (i) non-payment of Rent if such Rent remains unpaid for more than thirty (30) days after written notice from Landlord of such failure to pay; or (ii) Tenant's failure to perform any other term or condition under this Agreement within forty-five (45) days after written notice from Landlord specifying the failure. No such failure, however, will be deemed to exist if Tenant has commenced to cure such default within such period and provided that such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of Tenant. If Tenant remains in default beyond any applicable cure period, Landlord will have the right to exercise any and all rights and remedies available to it under law and equity.

(b) The following will be deemed a default by Landlord and a breach of this Agreement: (i) Landlord's failure to provide Access to the Premises as required by Section 12 of this Agreement within twenty-four (24) hours after written notice of such failure; (ii) Landlord's failure to cure an interference problem caused by the Landlord's equipment within twenty-four (24) hours after written notice of such failure; or (iii) Landlord's failure to perform any term, condition or breach of any warranty or covenant under this Agreement within forty-five (45) days after written notice from Tenant specifying the failure. No such failure, however, will be deemed to exist if Landlord has commenced to cure the default within such period and provided such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of Landlord. If Landlord remains in default beyond any applicable cure period, Tenant will have: (i) the right to cure Landlord's default and to deduct the costs of such cure from any monies due to Landlord from Tenant, and (ii) any and all other rights available to it under law and equity.

**16. ASSIGNMENT/SUBLEASE.** Tenant will have the right to assign this Agreement or sublease the Premises and its rights herein, in whole or in part, without Landlord's consent only to an assignee that agrees in writing to accept all the TENANT'S obligations to the VILLAGE. TENANT shall provide the VILLAGE written notice of the name and contact information for the assignee and the assignee's written agreement to accept all the TENANT'S obligations to the VILLAGE. Upon notification to Landlord of such assignment and full compliance with all the requirements of this Section 16, Tenant will be relieved of all future performance, liabilities and obligations under this Agreement to the extent of such assignment.

**17. NOTICES.** All notices, requests and demands hereunder will be given by first class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notices will be addressed to the parties as follows:

If to Tenant:                   New Cingular Wireless PCS, LLC  
  Attn: Network Real Estate Administration  
  Re: Cell Site #\_IL0643; Cell Site Name: Glenwood, IL  
  Fixed Asset No.: 12564846  
  12555 Cingular Way, Suite 1300  
  Alpharetta, GA 30004

With a copy to:                   New Cingular Wireless PCS, LLC  
  Attn: Legal Department  
  Re: Cell Site #IL0643; Cell Site Name: Glenwood,IL.  
  Fixed Asset No.: 12564846

15 East Midland Ave.  
Paramus, NJ 07652

The copy sent to the Legal Department is an administrative step which alone does not constitute legal notice.

If to Landlord: Village of Glenwood  
Attn: Village President  
One Asselborn Way  
Glenwood, IL 60425

Either party hereto may change the place for the giving of notice to it by thirty (30) days' prior written notice to the other as provided herein.

**18. CONDEMNATION.** In the event Landlord receives notification of any condemnation proceedings affecting the Property, Landlord will provide notice of the proceeding to Tenant within forty-eight (48) hours. If a condemning authority takes all of the Property, or a portion sufficient, in Tenant's sole determination, to render the Premises unsuitable for Tenant, this Agreement will terminate as of the date the title vests in the condemning authority. The parties will each be entitled to pursue their own separate awards in the condemnation proceeds, which for Tenant will include, where applicable, the value of its Communication Facility, moving expenses, prepaid Rent, and business dislocation expenses. Tenant will be entitled to reimbursement for any prepaid Rent on a prorata basis.

**19. CASUALTY.** Landlord will provide notice to Tenant of any casualty or other harm affecting the Property within forty-eight (48) hours of the casualty or other harm. If any part of the Communication Facility or Property is damaged by casualty or other harm as to render the Premises unsuitable, in Tenant's sole determination, then Tenant may terminate this Agreement by providing written notice to Landlord, which termination will be effective as of the date of such casualty or other harm. Upon such termination, Tenant will be entitled to collect all insurance proceeds payable to Tenant on account thereof and to be reimbursed for any prepaid Rent on a prorata basis. Landlord agrees to permit Tenant to place temporary transmission and reception facilities on the Property, but only until such time as Tenant is able to activate a replacement transmission facility at another location; notwithstanding the termination of the Agreement, such temporary facilities will be governed by all of the terms and conditions of this Agreement, including Rent. If Landlord or Tenant undertakes to rebuild or restore the Premises and/or the Communication Facility, as applicable, Landlord agrees to permit Tenant to place temporary transmission and reception facilities on the Property at no additional Rent until the reconstruction of the Premises and/or the Communication Facility is completed. If Landlord determines not to rebuild or restore the Property, Landlord will notify Tenant of such determination within thirty (30) days after the casualty or other harm. If Landlord does not so notify Tenant, and Tenant decides not to terminate under this Section, then Landlord will promptly rebuild or restore any portion of the Property interfering with or required for Tenant's Permitted Use of the Premises to substantially the same condition as existed before the casualty or other harm. Landlord agrees that the Rent shall be abated until the Property and/or the Premises are rebuilt or restored, unless Tenant places temporary transmission and reception facilities on the Property.

**20. WAIVER OF LANDLORD'S LIENS.** Landlord waives any and all lien rights it may have, statutory or otherwise, concerning the Tenant's Communication Facility or any portion thereof. The tenant's Communication Facility shall be deemed personal property for purposes of this Agreement, regardless of whether any portion is deemed real or personal property under applicable law; Landlord consents to Tenant's right to remove all or any portion of the tenant's Communication Facility from time to time in Tenant's sole discretion and without Landlord's consent.

**21. TAXES.**

(a) The VILLAGE has obtained an exemption from property taxes for the Property. TENANT shall have the responsibility to pay any personal property, real estate taxes, assessments, or charges owed on the Premises and any tax imposed on the rent (except to the extent that TENANT is or may become exempt from the payment of tax in the jurisdiction in which the Property is located), including any increase in real estate taxes at the Property that arises from the TENANT's improvements and/or TENANT's use of the Premises. TENANT shall be responsible for the payment of any taxes, levies, assessments and other charges imposed including franchise and similar taxes imposed upon the business conducted by TENANT at the Property. Notwithstanding the foregoing, TENANT shall not have the obligation to pay any tax, assessment, or charge that TENANT is disputing in good faith in appropriate proceedings prior to a final determination that such tax is properly assessed provided that no lien attaches to the Property.

(b) In the event Landlord receives a notice of assessment with respect to which taxes or assessments are imposed on Tenant's leasehold improvements on the Premises, Landlord shall provide Tenant with copies of each such notice immediately upon receipt, but in no event later than thirty (30) days after the date of such notice of assessment TENANT shall pay any tax assessed on its interest in the Property.

(c) For any tax amount for which Tenant is responsible under this Agreement, Tenant shall have the right to contest, in good faith, the validity or the amount thereof using such administrative, appellate or other proceedings as may be appropriate in the jurisdiction, and may defer payment of such obligations, pay same under protest, or take such other steps as Tenant may deem appropriate. This right shall include the ability to institute any legal, regulatory or informal action in the name of Landlord, Tenant, or both, with respect to the valuation of the Premises. Landlord shall cooperate with respect to the commencement and prosecution of any such proceedings and will execute any documents required therefor but shall not be required to support the TENANT'S claim. The expense of any such proceedings shall be borne by Tenant and any refunds or rebates secured as a result of Tenant's action shall belong to Tenant, to the extent the amounts were originally paid by Tenant.

(d) Tenant shall have the right but not the obligation to pay any taxes due by Landlord hereunder if Landlord fails to timely do so, in addition to any other rights or remedies of Tenant. In the event that Tenant exercises its rights under this Section 21(e) due to such Landlord default, Tenant shall have the right to deduct such tax amounts paid from any monies due to Landlord from Tenant as provided in Section 15(b), provided that Tenant may exercise such right without having provided to Landlord notice and the opportunity to cure per Section 15(b).

(e) Any tax-related notices shall be sent to Tenant in the manner set forth in Section 17 and, in addition, of a copy of any such notices shall be sent to the following address. Promptly after the Effective Date of this Agreement, Landlord shall provide the following address to the taxing authority for the authority's use in the event the authority needs to communicate with Tenant. In the event that Tenant's tax addresses changes by notice to Landlord, Landlord shall be required to provide Tenant's new tax address to the taxing authority or authorities.

New Cingular Wireless PCS, LLC  
Attn: Network Real Estate Administration -- Taxes  
Re: Cell Site #IL0643; Cell Site Name: Glenwood, IL. Fixed Asset No: 12564846 \_\_\_\_\_  
5405 Windward Parkway  
Alpharetta, GA 30004

(f) Notwithstanding anything to the contrary contained in this Section 21, Tenant shall have no obligation to reimburse any tax or assessment for which the Landlord is reimbursed or rebated by a third party.

**22. SALE OF PROPERTY**

(a) Landlord shall not be prohibited from the selling, leasing or use of any of the Property or the Surrounding Property except as provided below.

(b) If Landlord, at any time during the Term of this Agreement, decides to rezone or sell, subdivide or otherwise transfer all its ownership interest in any part of the Premises, or all or any part of the Property or Surrounding Property, to a purchaser other than Tenant, Landlord shall promptly notify Tenant in writing, and such rezoning, sale, subdivision or transfer shall be subject to this Agreement and Tenant's rights hereunder. In the event of a change in ownership, transfer or sale of the Property, within ten (10) days of such transfer, Landlord or its successor shall send the documents listed below in this subsection (b) to Tenant. Until Tenant receives all such documents, Tenant shall not be responsible for any failure to make payments under this Agreement and reserves the right to hold payments due under this Agreement. Nothing contained in this Agreement shall affect the VILLAGE'S ability to lease, license or otherwise grant rights to any other party to any portion of the Property other than those portions of the Premises to which the TENANT has been granted exclusive use.

- i. Old deed to Property
- ii. New deed to Property
- iii. Bill of Sale or Transfer
- iv. Copy of current Tax Bill
- v. New IRS Form W-9
- vi. Completed and Signed AT&T Payment Direction Form
- vii. Full contact information for new Landlord including phone number(s)

(c) Landlord agrees not to sell, lease or use any areas of the Property or Surrounding Property for the installation, operation or maintenance of other wireless communications facilities unless the requirements imposed on the TENANT in Section 8 to resolve any interference pursuant to federal rules are also included in any instrument transferring any VILLAGE interest in the Property

**23. RENTAL STREAM OFFER.** If at any time after the date of this Agreement, Landlord receives a bona fide written offer from a third party seeking an assignment or transfer of Rent payments associated with this Agreement ("Rental Stream Offer"), Landlord shall immediately furnish Tenant with a copy of the Rental Stream Offer. Tenant shall have the right within twenty (20) days after it receives such copy to match the Rental Stream Offer and agree in writing to match the terms of the Rental Stream Offer. Such writing shall be in the form of a contract substantially similar to the Rental Stream Offer. If Tenant chooses not to exercise this right or fails to provide written notice to Landlord within the twenty (20) day period, Landlord may assign the right to receive Rent payments pursuant to the Rental Stream Offer, subject to the terms of this Agreement. If Landlord attempts to assign or transfer Rent payments without complying with this Section, the assignment or transfer shall be void. Tenant shall not be responsible for any failure to make payments under this Agreement and reserves the right to hold payments due under this Agreement until Landlord complies with this Section.

**24. MISCELLANEOUS.**

(a) **Amendment/Waiver.** This Agreement cannot be amended, modified or revised unless done in writing and signed by Landlord and Tenant. No provision may be waived except in a writing signed by both parties. The failure by a party to enforce any provision of this Agreement or to require performance by the other party will not be construed to be a waiver, or in any way affect the right of either party to enforce such provision thereafter.

(b) **Memorandum/Short Form Lease.** Contemporaneously with the execution of this Agreement, the parties will execute a recordable Memorandum or Short Form of Lease substantially in the form attached as Exhibit \_\_\_\_\_. Either party may record this Memorandum or Short Form of Lease at any time during the Term, in its absolute discretion. Thereafter during the Term of this Agreement, either party will, at any time upon fifteen

(15) business days' prior written notice from the other, execute, acknowledge and deliver to the other a recordable Memorandum or Short Form of Lease.

(c) **Limitation of Liability.** Except for the indemnity obligations set forth in this Agreement, and otherwise notwithstanding anything to the contrary in this Agreement, Tenant and Landlord each waives any claims that each may have against the other with respect to consequential, incidental or special damages, however caused, based on any theory of liability.

(d) **Compliance with Law.** Tenant agrees to comply with all federal, state and local laws, orders, rules and regulations ("Laws") applicable to Tenant's use of the Communication Facility on the Property. Landlord agrees to comply with all Laws relating to Landlord's ownership and use of the Property and any improvements on the Property.

(e) **Bind and Benefit.** The terms and conditions contained in this Agreement will run with the Property and bind and inure to the benefit of the parties, their respective heirs, executors, administrators, successors and assigns.

(f) **Entire Agreement.** This Agreement and the exhibits attached hereto, all being a part hereof, constitute the entire agreement of the parties hereto and will supersede all prior offers, negotiations and agreements with respect to the subject matter of this Agreement. Exhibits are numbered to correspond to the Section wherein they are first referenced. Except as otherwise stated in this Agreement, each party shall bear its own fees and expenses (including the fees and expenses of its agents, brokers, representatives, attorneys, and accountants) incurred in connection with the negotiation, drafting, execution and performance of this Agreement and the transactions it contemplates.

(g) **Governing Law.** This Agreement will be governed by the laws of the state in which the Premises are located, without regard to conflicts of law. Venue shall be in any State or Federal Court located in Cook County, Illinois.

(h) **Interpretation.** Unless otherwise specified, the following rules of construction and interpretation apply: (i) captions are for convenience and reference only and in no way define or limit the construction of the terms and conditions hereof; (ii) use of the term "including" will be interpreted to mean "including but not limited to"; (iii) whenever a party's consent is required under this Agreement, except as otherwise stated in this Agreement or as same may be duplicative, such consent will not be unreasonably withheld, conditioned or delayed; (iv) exhibits are an integral part of this Agreement and are incorporated by reference into this Agreement; (v) use of the terms "termination" or "expiration" are interchangeable; (vi) reference to a default will take into consideration any applicable notice, grace and cure periods; (vii) to the extent there is any issue with respect to any alleged, perceived or actual ambiguity in this Agreement, the ambiguity shall not be resolved on the basis of who drafted the Agreement; (viii) the singular use of words includes the plural where appropriate and (ix) if any provision of this Agreement is held invalid, illegal or unenforceable, the remaining provisions of this Agreement shall remain in full force if the overall purpose of the Agreement is not rendered impossible and the original purpose, intent or consideration is not materially impaired.

(i) **Affiliates.** All references to "Tenant" shall be deemed to include any Affiliate of New Cingular Wireless PCS, LLC using the Premises for any Permitted Use or otherwise exercising the rights of Tenant pursuant to this Agreement. "Affiliate" means with respect to a party to this Agreement, any person or entity that (directly or indirectly) controls, is controlled by, or under common control with, that party. "Control" of a person or entity means the power (directly or indirectly) to direct the management or policies of that person or entity, whether through the ownership of voting securities, by contract, by agency or otherwise.

(j) **Survival.** Any provisions of this Agreement relating to indemnification shall survive the termination or expiration hereof. In addition, any terms and conditions contained in this Agreement that by their sense and context are intended to survive the termination or expiration of this Agreement shall so survive.

(k) **W-9.** As a condition precedent to payment, Landlord agrees to provide Tenant with a completed IRS Form W-9, or its equivalent, upon execution of this Agreement and at such other times as may be reasonably requested by Tenant, including, any change in Landlord's name or address.

(l) **Execution/No Option.** The submission of this Agreement to any party for examination or consideration does not constitute an offer, reservation of or option for the Premises based on the terms set forth herein. This Agreement will become effective as a binding Agreement only upon the handwritten legal execution, acknowledgment and delivery hereof by Landlord and Tenant. This Agreement may be executed in two (2) or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties. All parties need not sign the same counterpart.

(m) **Attorneys' Fees.** In the event that any dispute between the parties related to this Agreement should result in litigation, the prevailing party in such litigation shall be entitled to recover from the other party all reasonable fees and expenses of enforcing any right of the prevailing party, including without limitation, reasonable attorneys' fees and expenses. Prevailing party means the party determined by the court to have most nearly prevailed even if such party did not prevail in all matters. This provision will not be construed to entitle any party other than Landlord, Tenant and their respective Affiliates to recover their fees and expenses.

(n) **WAIVER OF JURY TRIAL.** EACH PARTY, TO THE EXTENT PERMITTED BY LAW, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ITS RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING UNDER ANY THEORY OF LIABILITY ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR THE TRANSACTIONS IT CONTEMPLATES.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have caused this Agreement to be effective as of the last date written below.

**"LANDLORD"**

Village of Glenwood

By: \_\_\_\_\_  
Print Name: Kerry Durkin  
Its: Village President  
Date: \_\_\_\_\_

**"TENANT"**

New Cingular Wireless PCS, LLC,  
a Delaware limited liability company

By: AT&T Mobility Corporation  
Its: Manager

By: \_\_\_\_\_  
Print Name: Jeffrey Adducci  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

**[ACKNOWLEDGMENTS APPEAR ON THE NEXT PAGE]**



## EXHIBIT A

### DESCRIPTION OF PROPERTY

Page 1 of 1

to the Tower Construction and Lease Agreement dated \_\_\_\_\_, 20\_\_, by and between the Village of Glenwood, a municipal corporation, as Landlord, and New Cingular Wireless PCS, LLC, a Delaware limited liability company, as Tenant.

The Property is legally described as follows:

That part of the Northeast Quarter of the Southeast Quarter of Section 4, Township 35 North, Range 14, East of the Third Principal Meridian, described as beginning at the center of Wagon Road at a point 45 rods and 15 feet (757.5 feet) West of and 23 rods and 3 feet 3 inches (382.75 feet) South of the Northeast corner of the Southeast Quarter of Section 4 aforesaid; thence West at right angles to said center of Wagon Road, 9.68 feet to a point in the center line of Main Street, as now located through said Southeast Quarter in the Village of Glenwood, Illinois; thence North along said center line of Main Street, 0.75 feet to a point which is 382.0 feet South of the North line of said Southeast quarter; thence Northwesterly along a straight line which makes an angle of 95 degrees and 23 minutes with said center line of Main Street when turned from the South to the West, a distance of 212.70 feet to a point; thence South along a straight line which makes an angle of 84 degrees and 08 minutes with the last-described line when turned from the east to the South, a distance of 60 feet to a point; thence Southeasterly along a straight line, a distance of 212.02 feet to the center line of the aforesaid Main Street, said point 442 feet South of the North line of said Southeast Quarter; thence continuing Southeasterly along last-described line to point of intersection with the center line of Wagon Road; thence North along the center line of Wagon Road, to the place of beginning, in Cook County, Illinois.

Commonly known as 120 N. Main St., Glenwood, Illinois  
PIN: 32-04-400-009-0000

**EXHIBIT B**  
**(SITE PLAN)**

**EXHIBIT C**

(CONSTRUCTION PLANS)

**EXHIBIT C-1**

(CONSTRUCTION SCHEDULE)

**EXHIBITS E AND F**

[EXHIBITS E AND F HAVE BEEN INTENTIONALLY OMITTED]

**EXHIBIT G**

(UTILITY EASEMENT AND INGRESS/EGRESS EAEMENT)

**EXHIBIT H**  
**STANDARD ACCESS LETTER**  
**[FOLLOWS ON NEXT PAGE]**

[Landlord Letterhead]

DATE

Building Staff / Security Staff  
Landlord, Lessee, Licensee  
Street Address  
City, State, Zip

Re: Authorized Access granted to AT&T

Dear Building and Security Staff,

Please be advised that we have signed a lease with AT&T permitting AT&T to install, operate and maintain telecommunications equipment at the property. The terms of the lease grant AT&T and its representatives, employees, agents and subcontractors (“representatives”) 24 hour per day, 7 day per week access to the leased area.

To avoid impact on telephone service during the day, AT&T representatives may be seeking access to the property outside of normal business hours. AT&T representatives have been instructed to keep noise levels at a minimum during their visit.

Please grant the bearer of a copy of this letter access to the property and to leased area. Thank you for your assistance.

---

Landlord Signature

**EXHIBIT I**

**MEMORANDUM OF LEASE**

**[FOLLOWS ON NEXT PAGE]**

MEMORANDUM OF LEASE

**Prepared by:**

SAC NAME R. Scott MacClure

SAC FIRM ACMB GROUP

FIRM ADDRESS 1530 Greenwood Avenue

CITY, STATE ZIP Deerfield, IL 60015

**Return to:**

AT&T Mobility

c/o Nsoro

3100 Tollview Drive

Rolling Meadows, IL 60008

Re: Cell Site #IL0643; Cell Site Name: Glenwood Fixed Asset #12564846

State: Illinois

County: Cook

MEMORANDUM  
OF  
LEASE

This Memorandum of Lease is entered into on this \_\_\_\_ day of \_\_\_\_\_, 2013, by and between Village of Glenwood, an Illinois Municipality, having a mailing address of One Asselborn Way, Glenwood, Illinois, 60425 (hereinafter referred to as "**Landlord**") and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 12555 Cingular Way, Suite 1300, Alpharetta, GA 30004 (hereinafter referred to as "**Tenant**").

1. Landlord and Tenant entered into a certain Option and Lease Agreement ("**Agreement**") on the \_\_\_\_ day of \_\_\_\_\_, 2013, for the purpose of installing, operating and maintaining a communications facility and other improvements. All of the foregoing is set forth in the Agreement.
2. The initial lease term will be five (5) years commencing on the effective date of written notification by Tenant to Landlord of Tenant's exercise of its option, with four (4) successive five (5) year options to renew.
3. The portion of the land being leased to Tenant and associated easements are described in **Exhibit 1** annexed hereto.
4. This Memorandum of Lease is not intended to amend or modify, and shall not be deemed or construed as amending or modifying, any of the terms, conditions or provisions of the Agreement,

all of which are hereby ratified and affirmed. In the event of a conflict between the provisions of this Memorandum of Lease and the provisions of the Agreement, the provisions of the Agreement shall control. The Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, successors, and assigns, subject to the provisions of the Agreement.

**IN WITNESS WHEREOF**, the parties have executed this Memorandum of Lease as of the day and year first above written.

**"LANDLORD"**

Village of Glenwood

By: \_\_\_\_\_  
Print Name: Kerry Durkin  
Its: Village President  
Date: \_\_\_\_\_

**"TENANT"**

New Cingular Wireless PCS, LLC,  
a Delaware limited liability company  
By: AT&T Mobility Corporation  
Its: Manager

By: \_\_\_\_\_  
Print Name: Jeffrey Adducci  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

**[ACKNOWLEDGMENTS APPEAR ON THE NEXT PAGE]**



**EXHIBIT 1**

**DESCRIPTION OF PREMISES**

Page \_\_\_ of \_\_\_

to the Memorandum of Lease dated \_\_\_\_\_, 20\_\_\_, by and between \_\_\_\_\_, a  
\_\_\_\_\_, as Landlord, and New Cingular Wireless PCS, LLC, a Delaware limited liability  
company, as Tenant.

The Property is legally described as follows:

The Premises are described and/or depicted as follows:

**EXHIBIT J**

**W-9 FORM**

[FOLLOWS ON NEXT PAGE]

## Request for Taxpayer Identification Number and Certification

Give Form to the  
 requester. Do not  
 send to the IRS.

Print or type See Specific Instructions on page 2.	Name (as shown on your income tax return)	
	Business name/disregarded entity name, if different from above	
	Check appropriate box for federal tax classification: <input type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate  <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____  <input type="checkbox"/> Other (see instructions) ▶ _____	
	<input type="checkbox"/> Exempt payee	
	Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
City, state, and ZIP code		
List account number(s) here (optional)		

### Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number									

**Note.** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Employer identification number									

### Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

<b>Sign Here</b>	Signature of U.S. person ▶	Date ▶
------------------	----------------------------	--------

### General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

#### Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

**Note.** If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.



**PROJECT INFORMATION**

**AT&T MOBILITY**  
 930 NATIONAL PARKWAY, 4TH FLOOR  
 SCHAMUNBERG, IL 60173

**ADDRESS:**  
 120 NORTH MAIN STREET  
 GLENWOOD, IL 60425  
 COOK COUNTY

**CONTACT:**  
 VILLAGE OF GLENWOOD  
 ONE ASSELBORN WAY  
 GLENWOOD, IL 60425  
 CONTACT: TBD  
 PH: (708) 753-2400

**TOWN:**  
 VILLAGE OF GLENWOOD  
 B-1

**SECTION:**  
 41'-32" 55,208" NAD 83  
 -87° 37' 12.216" NAD 83

**RES:**  
 120 NORTH MAIN STREET  
 GLENWOOD, IL 60425 (TEMP E911 ADDRESS)

**NUMBER:**  
 23-04-400-009-0000

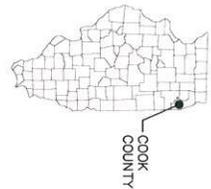
**IN (AMSL):**  
 TELECOMMUNICATIONS FACILITY (NEW)  
 621'

**COMPANY:**  
 COMED  
 PH: (866) 639-3532

**NEW COMPANY:**  
 AT&T  
 PH: (800) 257-0902



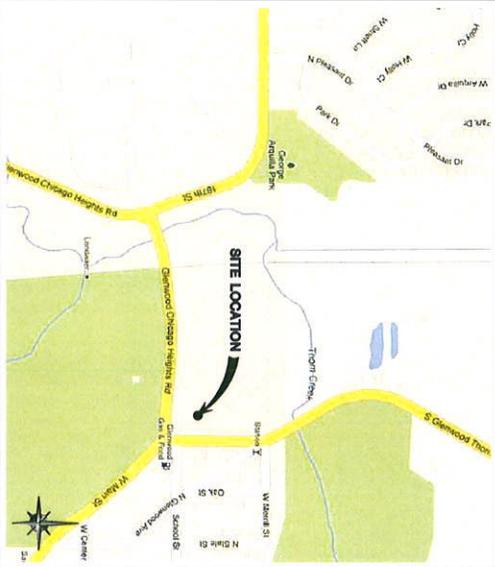
THESE DRAWINGS ARE PREPARED  
 BASED ON RFD'S DATED: 01.23.13  
 REVISION: 03A, 04A, 05A TO VERIFY  
 GENERAL PROPOSED TO VERIFY  
 ALL INFORMATION AND MOST RECENT  
 VERSION OF RFD'S WITH "NSORO"  
 PRIOR TO CONSTRUCTION.



**SITE NAME: GLENWOOD**  
**SITE NUMBER: IL0643**  
**FA CODE: 12564846**

**INSTALL (12) NEW AT&T ANTENNAS ON NEW 190'-0" MONOPOLE AND NEW EQUIPMENT SHELTER INSTALLED WITHIN NEW FENCED COMPOUND**

**VICINITY MAP**



**DRIVING DIRECTIONS**

DEPART CHICAGO O'HARE INTERNATIONAL AIRPORT ONTO I-190 E. TAKE EXIT 1D TOWARD I-294 S./INDIANA/S. TOLLWAY. MERGE ONTO I-294 S. MERGE ONTO I-80 E. EXIT ONTO I-1 S/S HALSTED STREET. TURN LEFT ONTO 187TH STREET. TURN LEFT ONTO CHICAGO HEIGHTS GLENWOOD RD./GLENWOOD CHICAGO HEIGHTS ROAD. TAKE THE FIRST LEFT ONTO MAIN STREET. ARRIVE AT 120 NORTH MAIN STREET, GLENWOOD, IL 60425 ON LEFT.

**AT&T APPROVALS**

SITE ACQUISITION MANAGER	DATE	NSORO COMPLIANCE MANAGER	DATE
NSORO CONSTRUCTION MGR.	DATE	AT&T RF PROJECT MANAGER	DATE
NSORO SA PROJECT MANAGER	DATE	AT&T PROJECT MANAGER	DATE
NSORO SA SPECIALIST	DATE		

**APPROVALS FOR CONSTRUCTION**

NETWORK OPERATIONS	DATE	CONSTRUCTION	DATE
RF	DATE	PROPERTY OWNER	DATE
SITE ACQUISITION	DATE		

**APPLICABLE BUILDING CODES AND STANDARDS**

SUBCONTRACTOR'S WORK SHALL COMPLY WITH ALL APPLICABLE NATIONAL, STATE, AND LOCAL CODES AS ADOPTED BY THE LOCAL AUTHORITY HAVING JURISDICTION (AHJ) FOR THE LOCATION. THE EDITION OF THE AHJ ADOPTED CODES AND STANDARDS IN EFFECT ON THE DATE OF CONTRACT AWARD SHALL GOVERN THE DESIGN.

SUBCONTRACTOR'S WORK SHALL COMPLY WITH THE LATEST EDITION OF THE FOLLOWING STANDARDS:

- AMERICAN CONCRETE INSTITUTE (ACI) 318: BUILDING CODE REQUIREMENTS FOR STRUCTURAL CONCRETE
- AMERICAN INSTITUTE OF STEEL CONSTRUCTION (AISC): MANUAL OF STEEL CONSTRUCTION (ASD), NINTH EDITION
- TELECOMMUNICATIONS INDUSTRY ASSOCIATION TIA/EIA-222-G: STRUCTURAL STANDARDS FOR STEEL, ANTENNA, TOWER, AND ANTENNA SUPPORTING STRUCTURES
- TIA 607: COMMERCIAL BUILDING GROUNDING AND BONDING REQUIREMENTS FOR TELECOMMUNICATIONS
- INSTITUTE FOR ELECTRICAL AND ELECTRONICS ENGINEERS (IEEE) 81: GUIDE FOR MEASURING EARTH RESISTIVITY, GROUND IMPEDANCE, AND EARTH SURFACE POTENTIALS OF A GROUND SYSTEM
- (IEEE) 1100: (1999) RECOMMENDED PRACTICE FOR POWERING AND GROUNDING OF ELECTRONIC EQUIPMENT
- (IEEE) C82.41: RECOMMENDED PRACTICES ON SURGE VOLTAGES IN LOW VOLTAGE AC POWER CIRCUITS (FOR LOCATION CATEGORY "C3" AND "HIGH SYSTEM EXPOSURE")
- TELECORDIA GR-1275, GENERAL INSTALLATION REQUIREMENTS
- TELECORDIA GR-1503, COAXIAL CABLE CONNECTIONS
- ANSI T1.311, FOR TELECOM - DC POWER SYSTEMS - TELECOM, ENVIRONMENTAL PROTECTION

FOR ANY CONFLICTS BETWEEN SECTIONS OF LISTED CODES AND STANDARDS REGARDING MATERIAL, METHODS OF CONSTRUCTION, OR OTHER REQUIREMENTS, THE MOST RESTRICTIVE REQUIREMENT SHALL GOVERN. WHERE THERE IS CONFLICT BETWEEN A GENERAL REQUIREMENT AND A SPECIFIC REQUIREMENT, THE SPECIFIC REQUIREMENT SHALL GOVERN.

EQUIPMENT AREA IS UNMANNED AND NOT FOR HUMAN HABITATION. HANDICAPPED ACCESS REQUIREMENTS AND PLUMBING FACILITIES ARE NOT REQUIRED.

BUILDING CODE: INTERNATIONAL BUILDING CODE 2009  
 ELECTRIC CODE: NATIONAL ELECTRICAL CODE 2011

**DESIGN TEAM**

TEAM	NAME	COMPANY	NUMBER
A/E	JEFF WORKMAN	W-T COMMUNICATION DESIGN GROUP, LLC	(224) 293-6408
REAL ESTATE	SCOTT MACCLOURE	ACOMB GROUP	(847) 275-8080
RF	DORU BUCUR	AT&T	(847) 782-2259
PM	STEPHEN PALA	NSORO	(866) 545-1782
REGULATORY	LAURA PYLE	NSORO	(866) 545-1782
CM	NICK STAPLETON	NSORO	(866) 545-1782



1100 TOLLWAY ONE  
 SCHAMUNBERG, IL 60173  
 OFFICE: (847) 545-8023



**W-T COMMUNICATION DESIGN GROUP, LLC.**  
 WIRELESS INFRASTRUCTURE

3075 Palmyra Avenue  
 Schaumburg, IL 60195  
 PH: (224) 293-6333 FAX: (224) 293-6444  
 WWW.WTDESIGNGROUP.COM  
 L.L. LARSEN, P.E. (312) 771-1199 FAX: 312-771-1191

CARRISA WRIGHT RA  
 LICENSED ARCHITECT  
 STATE OF ILLINOIS  
 LICENSE NO. 0000000000  
 EXPIRES: 11/29/14

**GLENWOOD**

IL0643

120 NORTH MAIN STREET  
 GLENWOOD, IL 60425  
 COOK COUNTY



930 NATIONAL PARKWAY  
 4TH FLOOR  
 SCHAMUNBERG, IL 60173

NO.	DATE	REVISIONS	DESIGNED BY	CHECKED BY	DATE
1	06/17/13	REVISED	JSM	JW	PMA
2	04/22/13	REVISED	SC	JW	PMA
3	04/22/13	REVISED PER LANDSCAPE COMMENTS	BS	JW	PMA
4	02/13/13	LEADER EXHIBIT	BS	JW	PMA
5		REVISIONS	BT	CHK	APP'D

SCALE: AS SHOWN

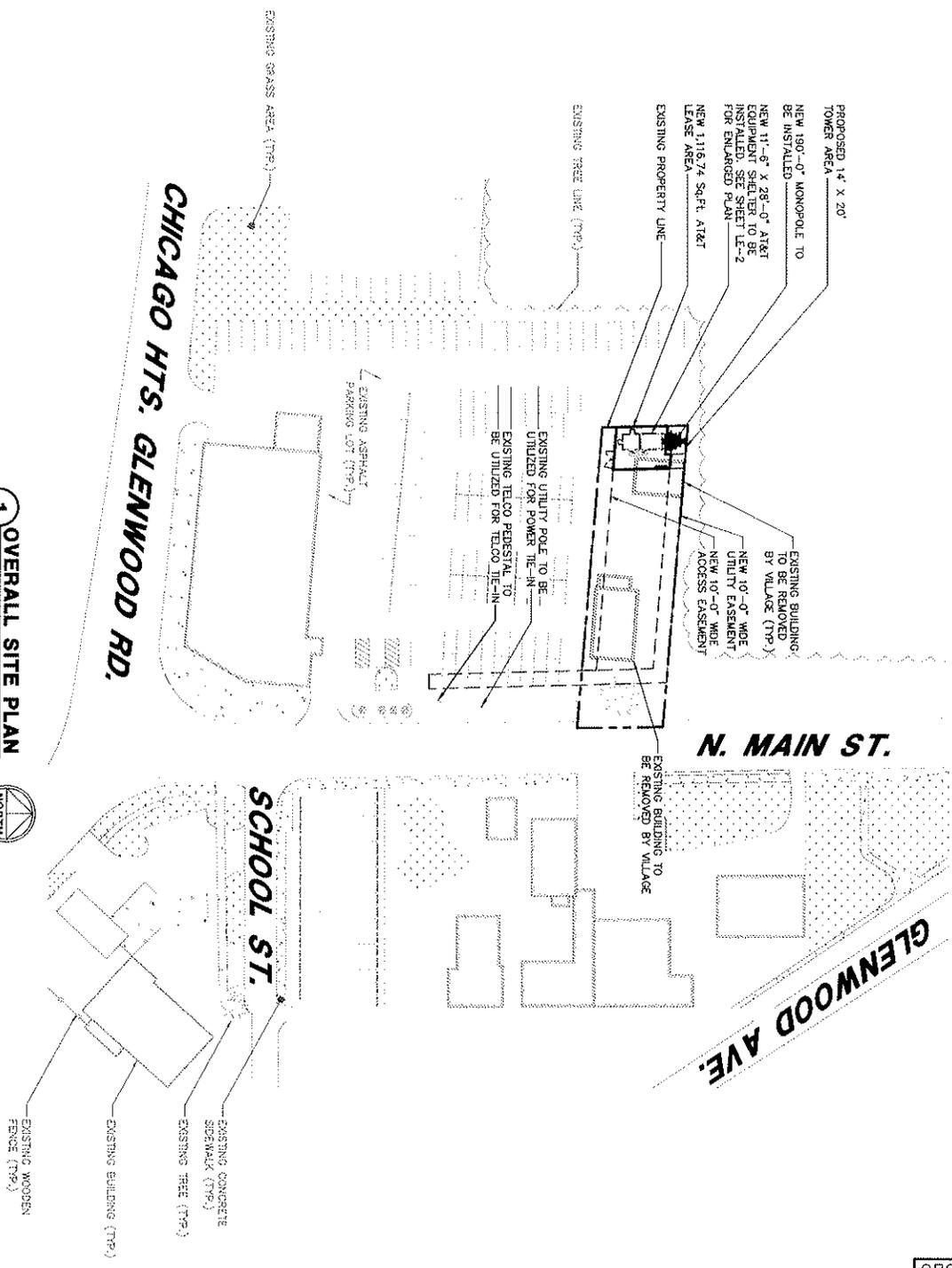
PROJECT NUMBER  
 T130138

**TITLE SHEET**

DRAWING NUMBER

IL0643-LE-T1

CONTRACTOR SHALL RESTORE AND REPAIR ANY DAMAGED AREAS CAUSED BY CONSTRUCTION TO ORIGINAL OR BETTER CONDITION



**1 OVERALL SITE PLAN**  
SCALE: 1" = 80'-0"



**nsoro**  
It's just good business.

3100 TOLSON BLVD  
ROCKVILLE, MD 20850  
OFFICE (301) 890-8073

**WT**

**W-T COMMUNICATION DESIGN GROUP, LLC.**  
WIRELESS INFRASTRUCTURE

2075 S. State Street  
Chicago, IL 60608  
Tel: (773) 233-1100  
www.wtdesign.com  
12 Lakeside Ave. Ste. 200  
Chicago, IL 60606  
COMMERCIAL DESIGN AND CONSTRUCTION DESIGN GROUP, LLC.

**GLENWOOD**

**IL0643**

120 NORTH MAIN STREET  
GLENWOOD, IL 60425  
COOK COUNTY



530 MADISON PARKWAY  
4TH FLOOR  
SCHMIDGALL, IL 60173

NO.	DATE	REVISIONS	DESIGNED BY: PMA	DRAWN BY: SS
0	06/17/13	ISSUED		
1	07/24/13	REVISED		
2	08/06/13	REVISED PER LANDLORD COMMENTS		
3	08/13/13	LEASE EXHIBIT REVISIONS		

**OVERALL SITE PLAN**

**IL0643-LE-01**

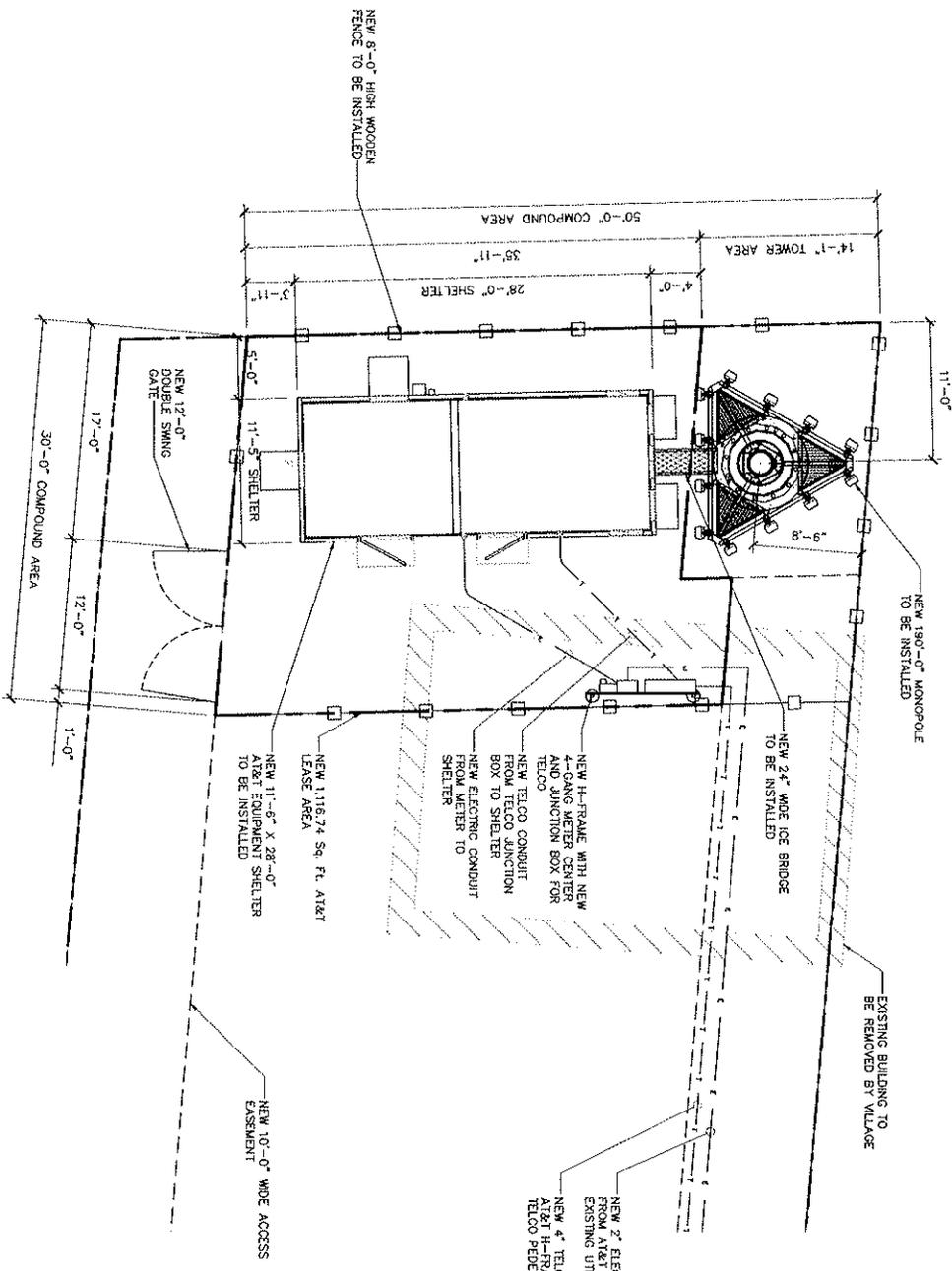
PROJECT NUMBER  
1130138

DRAWING TITLE

DRAWING NUMBER

W-T'S SCOPE OF WORK DOES NOT INCLUDE A STRUCTURAL EVALUATION OF THIS TOWER OR STRUCTURE. NEW ANTENNAS SHOWN ON THIS PLAN HAVE NOT BEEN EVALUATED TO VERIFY THE TOWER OR STRUCTURE HAS THE CAPACITY TO ADEQUATELY SUPPORT THESE ANTENNAS. PER TO ANTENNA INSTALLATION, A STRUCTURAL EVALUATION OF THE TOWER OR STRUCTURE SHOULD BE PERFORMED.

CONTRACTOR SHALL RESTORE AND REPAIR ANY DAMAGED AREAS CAUSED BY CONSTRUCTION TO ORIGINAL OR BETTER CONDITION.



**1 ENLARGED SITE PLAN**  
SCALE: 1" = 10'-0"



**nsoro**

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3108 TOLLIVER DRIVE  
ROLLING MEADOWS, IL 60008  
OFFICE (847) 870-8773

**W-T**

**W-T COMMUNICATION DESIGN GROUP, LLC.**  
WHEELERS INFRASTRUCTURE

2025 Project Address  
10000 W. 111th Street, Suite 100  
Overland Park, KS 66213  
Tel: (913) 646-1111  
www.wtcommunications.com  
2. License No. 14-201016-0001-0001  
COMPONENT © 2010 W-T COMMUNICATION DESIGN GROUP, LLC.

**GLENWOOD**

**IL0643**

120 NORTH MAIN STREET  
GLENWOOD, IL 60425  
COOK COUNTY



390 NATIONAL PARKWAY  
4TH FLOOR  
SCARBOROUGH, IL 60113

NO.	DATE	REVISIONS	BY	CHECKED
D	06/17/13	REVISED	SW	JM
C	04/24/13	REVISED	SC	JM
B	04/28/13	REVISED PER LANDSCAPE COMMENTS	BS	JM
A	02/13/13	LDGE EXHIBIT	BS	JM
NO.	DATE	REVISIONS	BY	CHECKED

**ENLARGED SITE PLAN**

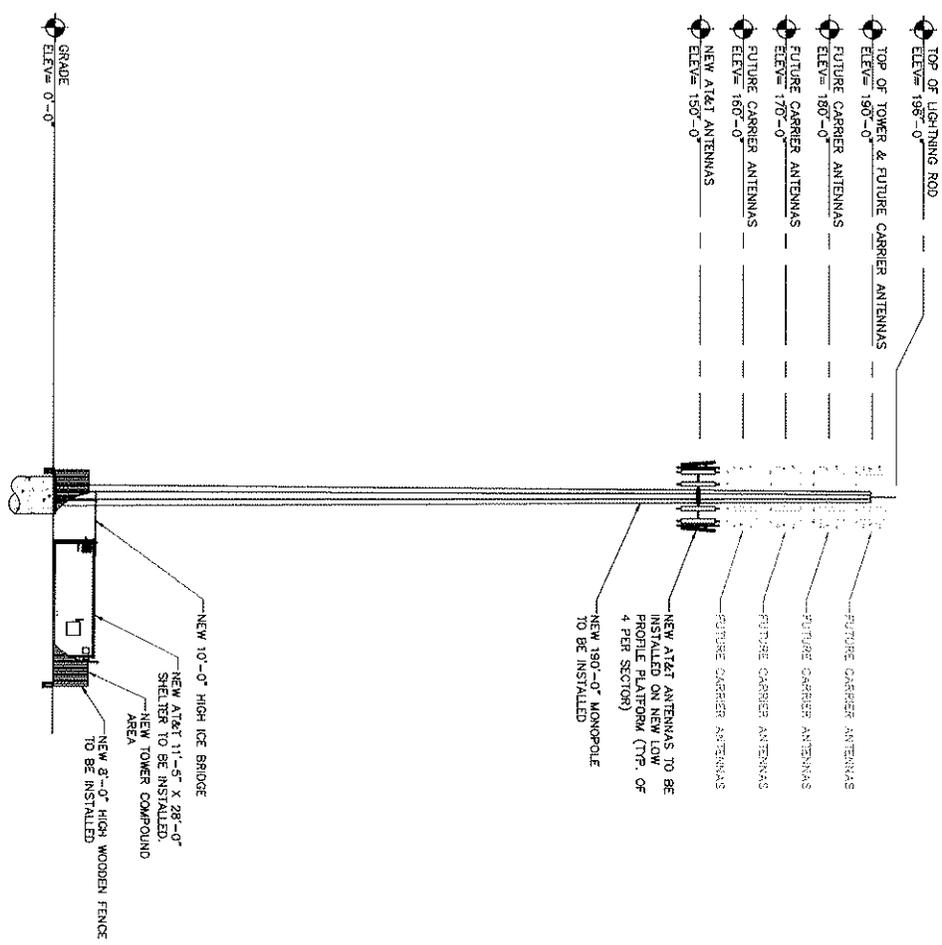
**IL0643-LE-02**

PROJECT NUMBER  
11.101.13B

DRAWING TITLE

DRAWING NUMBER

W-T'S SCOPE OF WORK DOES NOT INCLUDE A STRUCTURAL EVALUATION OF THIS TOWER OR STRUCTURE. NEW ANTENNAS SHOWN ON THIS PLAN HAVE NOT BEEN EVALUATED TO VERIFY THE TOWER OR STRUCTURE HAS THE CAPACITY TO ADEQUATELY SUPPORT THE ANTENNAS. THE CLIENT IS RESPONSIBLE FOR OBTAINING THE NECESSARY PERMITS AND INSTALLATION. STRUCTURAL EVALUATION OF THE TOWER OR STRUCTURE SHOULD BE PERFORMED.



**1 TOWER ELEVATION**  
SCALE: 1" = 30'-0"

**NSORO**  
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3100 281<sup>ST</sup> AVENUE  
SHELBY COUNTY, IL 60088  
618-252-1000 (FAX) 618-252-1001

**W-T**

**W-T COMMUNICATION DESIGN GROUP, LLC.**  
WIRELESS INFRASTRUCTURE

2007 Palmer Avenue  
Suite 100  
P.O. Box 200  
www.wtcomm.com  
Tel: 609-426-2222 Fax: 609-226-2244  
1000 Lakeside Drive  
Suite 100  
Princeton, NJ 08540

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CLASSIC REPORT NO. 110303  
LICENSED PROFESSIONAL ENGINEER  
STATE OF ILLINOIS  
LICENSE # 001-020818  
EXPIRES 1/30/14

**GLENWOOD**  
**IL0643**  
120 NORTH MAIN STREET  
GLENWOOD, IL 60425  
COOK COUNTY



330 NATIONAL PARKWAY  
4TH FLOOR  
SPRINGFIELD, IL 62773

NO.	DATE	REVISIONS	DESIGNED BY:				
0	06/17/13	REVISED					
1	06/23/13	REVISED					
2	06/23/13	REVISED					
3	06/23/13	REVISED					
4	06/23/13	REVISED					
5	06/23/13	REVISED					
6	06/23/13	REVISED					
7	06/23/13	REVISED					
8	06/23/13	REVISED					
9	06/23/13	REVISED					
10	06/23/13	REVISED					

PRODUCT NUMBER: 1130136  
DRAWING TITLE: TOWER ELEVATION  
DRAWING NUMBER: IL0643-LE-03

VIDEO GAMING TERMINAL USE AGREEMENT

THIS VIDEO GAMING TERMINAL AGREEMENT ("Agreement"), entered into on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, is made by and between

Fair Share Gaming, LLC (the "Terminal Operator") and \_\_\_\_\_  
\_\_\_\_\_ the "Establishment").

IT IS HEREBY AGREED THAT:

1. Defined Terms. Capitalized terms used in this Agreement and not otherwise defined in this Agreement shall have the same meanings ascribed to them in the Illinois Video Gaming Act (the "Act").

2. Licensing. Terminal Operator represents that it has been issued a "terminal operator" license (a "Terminal Operator License") by Illinois Gaming Board (the "IGB") and under and in accordance with provisions set forth in the Act and the rules and regulations adopted thereunder (collectively, the "Video Gaming Law"). Establishment represents that it is: (i) has been issued a license as a "licensed establishment," "licensed fraternal establishment," "licensed veterans establishment" or "licensed truck stop," respectively (a "Establishment License"), by the IGB and under and in accordance with provisions set forth in the Video Gaming Law; or (ii) agrees that it will use commercially reasonable efforts to become so licensed. Each of Terminal Operator License and Establishment License are referred to herein as a "License." Terminal Operator and Establishment agree with the other to maintain its respective License during the Term (as hereinafter defined). The date on which the last of Terminal Operator and Establishment is so licensed is referred to hereinafter as the "Licensing Date". The Establishment represents and warrants to the Terminal Operator that it either operates a licensed retail establishment where alcoholic liquor is drawn, poured, mixed or otherwise served for consumption on the premises or is at least a three-acre facility with a convenience store, separate diesel islands for fueling commercial motor vehicles and parking spaces for commercial motor vehicles (as defined in Section 18b-101 of the Illinois Vehicle Code) and sells at retail more than 10,000 gallons of diesel or biodiesel fuel per month (met by showing that estimated future sales or past sales average at least 10,000 gallons per month).

3. Exclusivity; Access. Establishment agrees that during and throughout the Term, Terminal Operator shall have the exclusive right to install, service, maintain and replace Video Gaming Terminals and all ancillary equipment at the Premises. To conduct such activities, Establishment will allow Terminal Operator and its agents access to the Premises (as hereinafter defined) during normal business hours of Establishment. Establishment agrees to allow Terminal Operator to place Video Gaming Terminals in a prominent, mutually agreed upon location that complies with the Video Gaming Law.

4. Placement. Terminal Operator agrees that no earlier than the Licensing Date, it shall install, maintain and service up to the maximum number of Video Gaming Terminals permitted by the Video Gaming Law, together with ancillary equipment thereto, on the premises (the "Premises") located at:

Street Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Terminal Operator shall have the right to select and, from time to time, rotate and/or replace the Video Gaming Terminals installed at the Premises. Subject to the Video Gaming Law, Terminal Operator shall at all times have the unilateral right to determine the number of Video Gaming Terminals installed at the Premises. For purposes of this Agreement, such Video Gaming Terminals, central communications system link, any software updates or enhancements, any ancillary equipment installed by Terminal Operator and all parts inventory related thereto shall be defined as the "Equipment".

5. Term. This Agreement shall commence on the date hereof and remain in effect for a term of \_\_\_\_ ( ) years following the date the first Video Gaming Terminal is installed and becomes operational at the Premises, or such shorter period as may be required by the IGB (the "Initial Term"), and for successive periods of \_\_\_\_ ( ) years each, or such shorter period as may be required by the IGB, (each, a "Renewal Term") unless Establishment or Terminal Operator notifies the other in writing of its election to terminate this Agreement no fewer than forty-five (45) nor more than ninety (90) days prior to the end of the Initial Term and each successive Renewal Term, or unless terminated earlier pursuant to the terms hereof (the "Term"). Notwithstanding the foregoing, Terminal Operator reserves the right to terminate this Agreement immediately if such termination is required for any reason by the IGB.

6. Default. Any one of the following events shall constitute an “Event of Default” hereunder:

- (a) Establishment shall fail to pay when due any amount due hereunder within ten (10) days after the due date or shall deny or impede Terminal Operator’s access to the cash receipts associated with the Video Gaming Terminals;
- (b) either party shall fail to observe any other agreement to be observed or performed by such party hereunder and such failure shall continue for thirty (30) days after the date such party is given written notice thereof;
- (c) Establishment or any guarantor of the Agreement shall cease doing business as a going concern or make an assignment for the benefit of creditors;
- (d) Establishment or any guarantor of the Agreement shall voluntarily file, take any action to authorize the filing, or have filed against it involuntarily, a petition for liquidation reorganization, adjustment of debt or similar relief under any federal or state bankruptcy or insolvency law;
- (e) a trustee, receiver, or liquidator is appointed for Establishment, any guarantor of the Agreement, or for all or a substantial part of the assets of Establishment or any guarantor, unless such appointment is set aside within sixty (60) days; or
- (f) Establishment announces that it is closing for business, abandons or vacates the Premises or without notice to and the consent of Terminal Operator fails to remain open for business for any continuous five (5) day period; or
- (g) either party surrenders its License or has its License terminated, cancelled or revoked by the IGB.

7. Remedies. Upon the occurrence and during the continuance of an Event of Default:

- (a) by either party, the non-defaulting party may terminate this Agreement as to any portion or all of the Equipment;
- (b) by the Establishment, the Terminal Operator may take possession of any or all of the Equipment, wherever situated, together with any cash receipts associated with the Video Gaming Terminals and for such purpose enter upon the Premises without liability for so doing;
- (c) by the Establishment, the Terminal Operator may recover all reasonable costs and expenses incurred by Terminal Operator in any repossession, recovery, storage, repair, sale, re-lease or other disposition of the Equipment, including but not limited to costs of transportation, possession, storage, refurbishing, advertising and broker’s fees together with all reasonable attorney’s fees and cost incurred in connection therewith or otherwise resulting from Establishment’s default (including any at trial, on appeal or any other proceeding);
- (d) by the Establishment, the Terminal Operator may exercise any other remedy permitted by law, equity or any other agreements with Establishment or any guarantor of this Agreement;
- (e) by the Terminal Operator pursuant to Section 6(g), this Agreement shall automatically terminate.

No remedy given in this Section 7 is intended to be exclusive and each shall be cumulative. No express or implied waiver by Terminal Operator of any Event of Default shall constitute a waiver of any subsequent Event of Default. Notwithstanding the termination of this Agreement, Sections 7(b), 7(c), 7(d), 8, 9, 14(e), 14(f), 17, 18, 19(d) and 21 of this Agreement shall survive termination hereof.

8. Liquidated Damages. In addition to any other damages or remedies to which the Terminal Operator may be entitled, including, but not limited to injunctive relief or specific performance, in the Event of Default by the Establishment, the Terminal Operator and the Establishment agree that the Establishment shall pay the Terminal Operator as liquidated damages as follows:

- (a) From the date of the Agreement through the twelfth (12th) month following the Go Live Date (as hereinafter defined): the sum of Forty Dollars (\$40.00) per day, per each Video Gaming Terminal, for the remainder of the Term, which amount is based upon the Net Terminal Income, per each Video Gaming Terminal, the Illinois State budget projects the Terminal Operator will earn plus Five Dollars (\$5.00) per day to cover overhead. The purpose of this Section 8(a) is to apply the liquidated damages formula set forth herein until such time that there has been twelve (12) consecutive months of Net Terminal Income; or,

- (b) Liquidated damages following twelve (12) consecutive months of Net Terminal Income through the remainder of the Term: the sum of the daily average of the previous twelve (12) months' Net Terminal Income distributed to the Terminal Operator, per each Video Gaming Terminal, for the remainder of the Term (the "Liquidated Damages").

For purposes hereof, the "Go Live Date" shall mean the date the first Video Gaming Terminal is installed at the Premises and is approved by the IGB for operation by the public. The Terminal Operator and the Establishment agree that the Liquidated Damages represents a reasonable estimate of the damages that will or may be sustained by the Terminal Operator upon an Event of Default by the Establishment. The Terminal Operator and the Establishment acknowledge, understand, and agree that: (1) it would be extremely difficult to accurately determine the amount of damages suffered by the Terminal Operator as a result of an Event of Default by the Establishment; (2) the amount of Liquidated Damages, as defined above, is a fair and reasonable amount to be made to the Terminal Operator as agreed and liquidated damages upon an Event of Default by the Establishment under this Agreement; and (3) payment of the Liquidated Damages, as defined above, to the Terminal Operator upon an Event of Default by the Establishment shall not constitute a penalty or forfeiture.

9. Distribution of Net Income. Pursuant to the Act, a tax (currently thirty percent (30%)) is imposed on Net Terminal Income and collected by the IGB. The remainder of the Net Terminal Income will be split equally between the Terminal Operator and the Establishment in accordance with the Video Gaming Law. Such splitting of Net Income shall not be construed as creating any partnership, joint venture or agency between the Establishment and Terminal Operator. Terminal Operator shall have the right to deduct from the Establishment's share of Net Terminal Income any costs and expenses to be borne in whole or in part, or payments to be made, by Establishment under this Agreement.

10. Minimum Revenue. In the event that during any consecutive thirty (30) day period Terminal Operator's share of Net Terminal Income (i.e., the amount to which the Terminal Operator is entitled after the tax imposed under the Act) is less than an average of Forty Dollars (\$40.00) per day per Video Gaming Terminal installed at the Premises, Terminal Operator, at its option, has the unilateral right in its sole discretion to terminate this Agreement.

11. Compliance with Video Gaming Law. Establishment agrees to comply with the Video Gaming Law including, but not limited to, abiding by hours of operation of Video Gaming Terminals, prohibitions on play of Video Gaming Terminal by minors, location of Video Gaming Terminals within the Premises, obtaining and maintaining insurance on any Video Gaming Terminals located on its Premises as determined by the IGB and maintaining an adequate video gaming fund with the amount to be determined by the IGB. Establishment hereby indemnifies and holds harmless Terminal Operator and its employees and agents for any claim, loss or expense (including but not limited to reasonable attorneys' fees) suffered or incurred by such indemnitees on account of any failure of Establishment to comply with any Video Gaming Law.

12. Additional Agreements by Terminal Operator. Terminal Operator agrees to:

- (a) Create and maintain a separate bank account used solely for the deposit of revenues generated from the play of Video Gaming Terminals (the "Account");
- (b) Deposit revenues generated from the play of Video Gaming Terminals in the Account;
- (c) Report and remit to the IGB the State of Illinois' percentage of Net Terminal Income (i.e., the tax) within 15 days after the 15<sup>th</sup> of the month and within 15 days after the end of each month; and
- (d) Keep a record of Net Terminal Income in the form required by the IGB.

13. Maintenance. During the Term, Terminal Operator agrees, at Terminal Operator's sole cost, to provide routine maintenance and repair services for the Equipment in order to keep the Equipment in good working order in accordance with generally accepted standards of the video gaming industry. Such services shall not include repairs due to the negligence of, or misuse of the Equipment by, the Establishment, its employees, invitees, customers or patrons or any accident caused in whole or part by any of the foregoing or on account of a breach of this Agreement by Establishment ("Non-routine Repairs"). Establishment agrees to pay for Non-routine Repairs and any related materials and parts at customary rates charged by Terminal Operator to all Establishments in which Terminal Operator has installed Equipment, except to the extent otherwise prohibited by the IGB.

14. Equipment.

- (a) Throughout the Term, the Equipment is and shall remain the sole personal property of Terminal Operator. The Equipment shall never be a fixture or become by agreement, act of law or otherwise, security for any obligation of or property of Establishment. Terminal Operator shall have the right to affix a badge or other marking to the Equipment to identify Terminal Operator as the owner of the Equipment. Establishment agrees not to alter, remove or cover such badge or other marking.

- (b) Terminal Operator represents and warrants to Establishment that the Equipment at the time it is installed at the Premises and tested by Terminal Operator will meet all criteria then imposed by the Video Gaming Law. Terminal Operator's sole obligation with respect to a breach of its foregoing warranty shall be to repair or replace the Equipment giving rise to the breach of warranty at Terminal Operator's sole cost and expense. If Terminal Operator is unable to so repair or replace such Equipment within three (3) business days after being notified by Establishment of a breach of such warranty, which period shall be extended for causes beyond the control of Terminal Operator, then Establishment's sole remedy is to terminate this Agreement in accordance with its provisions. Under no circumstances shall Terminal Operator be responsible for any lost profits, consequential or incidental damages for breach of the foregoing warranty. **TERMINAL OPERATOR MAKES NO OTHER WARRANTIES, EXPRESSED OR IMPLIED, WITH REGARD TO THE EQUIPMENT. TERMINAL OPERATOR EXPLICITLY DISCLAIMS ALL WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE.**
- (c) Terminal Operator agrees to update any Equipment as may be necessary from time to time to conform to additional or modified criteria established under the Video Gaming Law. In addition, Terminal Operator shall have the right to install software updates, enhancements and/or support devices for or to the Equipment (e.g., cash handling devices) which, upon installation, shall be deemed "Equipment". Establishment and Terminal Operator shall share equally the cost of such updates, enhancements and/or support devices, including labor, at customary costs and rates charged by Terminal Operator to all Establishments in which Terminal Operator has installed Equipment except to the extent otherwise prohibited by the IGB. Establishment and Terminal Operator shall share equally all (i) third-party expenses incurred by Terminal Operator in connection with the operation of Equipment such as but not limited to any charge for use of the communications link to the IGB and operating supplies, and (ii) Video Gaming Terminal license fees.
- (d) Establishment agrees that it (i) will not, and will not permit any third party to, alter, repair, modify, tamper with or attempt to alter, repair or modify, tamper with any of the Equipment; (ii) will notify Terminal Operator immediately upon any malfunction of any of the Equipment; (iii) will not, and will not permit any third party to, interfere with the operation of the Equipment in anyway; (iv) will not, and will not permit any third party to, move or change the location of the Equipment; (v) will permit the operation of the Video Gaming Terminals at the Premises during normal business hours of the Establishment and without hindrance or interruption; (vi) will provide a secure premise for the placement, operation and play of the Video Gaming Terminals; and (vii) will promptly notify Terminal Operator, in writing, if its liquor license for the Premises is suspended or revoked.
- (e) Damage to the Equipment caused in whole or in part by Establishment or any employee, invitee, customer or patron of Establishment shall be the sole responsibility of Establishment. Terminal Operator shall have the right to repair and/or replace such damaged Equipment at Establishment's sole cost and expense in accordance with Section 13 of this Agreement.
- (f) Nothing in this Agreement shall be construed to mean that Terminal Operator assumes any liability on account of accidents or damages to persons or property, except those directly due to the negligent acts of Terminal Operator. Establishment hereby indemnifies and holds harmless Terminal Operator and its employees and agents for any claim, loss or expense (including but not limited to reasonable attorneys' fees) suffered or incurred by such indemnitees on account of any accidents or damage to any persons or property on account of any intentional or negligent acts of the Establishment, its employees, invitees, customers or patrons. Establishment shall be solely responsible for all lost or stolen money from the Video Gaming Terminals or any ancillary support devices (e.g. cash handling devices).
- (g) The Equipment shall be insured against all perils for its full replacement value for the benefit of Terminal Operator. The cost of such insurance shall be paid by either the Establishment or the Terminal Operator as provided by the Video Gaming Law. If such insurance is obtained by the Establishment, (i) Establishment shall designate Terminal Operator (and at Terminal Operator's request, Terminal Operator's lender) as an additional named insured on such policies of insurance, and (ii) prior to the delivery of Video Gaming Terminals to the Premises, Establishment shall furnish Terminal Operator with a certificate of insurance evidencing such policies.

15. No Inducements. Both Terminal Operator and Establishment each acknowledge that Terminal Operator did not offer Establishment, and Establishment did not accept, anything of value, including but not limited to loan or financing arrangements, to incent or induce the execution of this Agreement or the placement or operation of Video Gaming Terminals at the Premises.

16. Sole Agreement. Establishment represents and warrants to Terminal Operator that Establishment has not executed, entered into or agreed to execute or enter into any other agreement, written or oral, with respect to the placement of Video Gaming Terminals in or at the Premises. Establishment hereby indemnifies and holds harmless the Terminal Operator and each of its

successors, assigns and holders of any security interest in this Agreement for any loss, cost or expense (including but not limited to reasonable attorneys' fees) suffered or incurred by such indemnitees on account of a breach of the foregoing representations and warranties.

17. Cooperation. Establishment agrees to fully cooperate with the IGB in connection with any inquiries or investigations it conducts involving Terminal Operator. In addition, Establishment agrees to cooperate with any Equipment manufacturer, lender or financing company providing Equipment financing to Terminal Operator and agrees to: (i) allow such parties access to the Premises during normal business hours; (ii) execute and deliver any documents reasonably required by such parties provided such documents do not impose any financial obligations upon Establishment; and (iii) modify and amend this Agreement as reasonably required by such parties.

18. Entire Agreement; Amendment. This Agreement including all Exhibits and Schedules, if any, attached hereto constitutes the entire agreement of the parties, supersedes any prior understandings, whether oral or written, relating to the subject matter hereof and may only be amended, modified or supplemented by a writing signed by all of the parties hereto.

19. Miscellaneous.

- (a) In the event that Establishment experiences a Change in Control/Location, Terminal Operator, at its option, has the unilateral right to terminate this Agreement. For purposes of this Agreement, "Change in Control/Location" means the (i) sale, gift, assignment or other transfer of more than 50% of the ownership of Establishment or all or substantially all of Establishment's assets or (ii) Establishment moves its business from the Premises to a new location. Provided Terminal Operator does not so terminate this Agreement, then upon a Change in Control/Location, Establishment agrees to deliver to Terminal Operator either (x) in the case of a transfer of ownership of an Establishment that is a corporation, limited liability company, trust or partnership, an acknowledgement of the new owner(s) that this Agreement is in full force and effect (y) in the case of a Change in Control/Location not involving such a transfer of ownership or a change in location, a written agreement of the transferee agreeing to be bound by the terms and conditions of this Agreement; or (z) in the case of a change in location, an amendment to this Agreement reflecting such change.
- (b) This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and permitted assigns. Prior to Terminal Operator being licensed as a "terminal operator" pursuant to the Video Gaming Law, Terminal Operator may freely assign and/or transfer this Agreement and its rights and/or obligations hereunder, subject to the Video Gaming Law. After Terminal Operator becomes a licensed terminal operator, Terminal Operator may not assign and/or transfer this Agreement and its rights and/or obligations hereunder except: (i) to another licensed terminal operator; or (ii) as may otherwise be permitted by the Video Gaming Law. Establishment may not assign or otherwise transfer this Agreement or any of its rights or obligations hereunder, whether by law or otherwise, and any attempt at such assignment will be void without the prior written consent of Terminal Operator and in accordance with the Video Gaming Law.
- (c) A party's failure to enforce its rights with respect to any single or continuing breach of this Agreement will not act as a waiver of a right of that party to later enforce any such rights or to enforce any other or subsequent breach.
- (d) Establishment shall be responsible for all of Terminal Operator's costs, charges and expenses, including reasonable attorney's fees, incurred by Terminal Operator in enforcing Establishment's obligations hereunder.
- (e) All notices and other communications required or permitted under this Agreement must be in writing and will be deemed given when: delivered personally; two (2) days after deposit in the U.S. Mail if sent by registered or certified mail, return receipt requested; transmitted by facsimile confirmed by first class mail; or next day after being sent by overnight courier.
- (f) The invalidity or unenforceability of any particular provision of this Agreement will not invalidate the remaining provisions hereof and this Agreement will be construed in all respects as if such invalid or unenforceable provisions were omitted and deleted. Notwithstanding anything herein to the contrary, if any particular term of this Agreement conflicts with the Video Gaming Law, the Video Gaming Law shall prevail and the parties shall comply at all times with the Video Gaming Law.
- (g) Each party hereto warrants to the other that all corporate or other necessary organizational acts have been taken to approve the terms of this Agreement and the signatories hereto are duly authorized and empowered to execute this Agreement as a binding and legally enforceable contract.

- (h) This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- (i) This Agreement shall be governed by and construed and enforced in accordance with the internal laws of the State of Illinois, without regard to conflicts of laws principles. Venue for any dispute related to this Agreement shall be in the Circuit Court of Cook County, Illinois.

20. IGB Approval; Changes. The parties hereto acknowledge that the obligations of Terminal Operator and Establishment hereunder are subject to and contingent upon the IGB's consent to the use of this Agreement. To that end, the parties hereto agree to promptly submit this Agreement to the IGB and to cooperate with each other in obtaining such consent. Terminal Operator and Establishment agree to maintain a copy of this Agreement on file at their respective places of business and to make it available for inspection to all individuals who are authorized by the IGB. The parties agree to modify and amend this Agreement to comply with the requirements of the IGB or any change in the Video Gaming Law. In the event of any conflict between the terms and provisions of this Agreement and the Video Gaming Law, the Video Gaming Law shall prevail.

21. Indemnification of the State, et al. The parties hereto hereby severally indemnify and hold harmless the State of Illinois, the IGB and their respective agents for any loss, cost or expense (including but not limited to reasonable attorneys' fees) suffered or incurred by such indemnitees on account of or arising under this Agreement.

**[Signature Page to Follow]**

IN WITNESS WHEREOF, Terminal Operator and Establishment have duly executed this Agreement as of the date first written above.

**"TERMINAL OPERATOR"**

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

Printed Name: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

Address: 8052 West 186<sup>th</sup> Street  
Tinley Park, IL 60487

**"ESTABLISHMENT"**

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

Printed Name: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

**Guaranty**

*[To be signed by the individual owner(s) if Establishment is a corporation, limited liability company or limited partnership]*

In order to induce Terminal Operator to enter into this Agreement, the undersigned (jointly and severally if more than one) unconditionally guarantees the punctual performance of the Establishment's obligations under and with respect to the Agreement. The undersigned agrees that the obligations of the undersigned hereunder shall not be affected by (i) the failure of the Terminal Operator to assert any claim or demand or to enforce any right or remedy against the Establishment under the provisions of the Agreement; (ii) any extension or renewal of the Agreement; or (iii) any waiver, amendment or modification of the Agreement. The undersigned further agrees that, with respect to any claim by Terminal Operator for payment of amounts due and owing under the Agreement, this guaranty by the undersigned constitutes a guaranty of payment and not of collection. Capitalized terms used in this guaranty shall have the same meanings ascribed to them in the Use Agreement to which this guaranty is appended.

Dated: \_\_\_\_\_

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

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

I206322\_1

**VILLAGE OF GLENWOOD**

**COOK COUNTY, ILLINOIS**

**RESOLUTION NO. 2013 - \_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE VILLAGE OF GLENWOOD TO REQUEST  
THAT IT BE GRANTED THE RIGHT TO OBTAIN A TAX DEED FOR CERTAIN  
PROPERTY PURSUANT TO THE COOK COUNTY NO CASH BID PROGRAM FOR  
TAX DELINQUENT PROPERTIES**

(PIN: 32-04-102-070-0000)

ADOPTED BY THE PRESIDENT AND  
BOARD OF TRUSTEES OF THE  
VILLAGE OF GLENWOOD  
THIS 18<sup>TH</sup> DAY OF JUNE, 2013

**RESOLUTION NO. 2013 - \_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE VILLAGE OF GLENWOOD TO REQUEST  
THAT IT BE GRANTED THE RIGHT TO OBTAIN A TAX DEED FOR CERTAIN  
PROPERTY PURSUANT TO THE COOK COUNTY NO CASH BID PROGRAM FOR  
TAX DELINQUENT PROPERTIES**

(PIN: 32-04-102-070-0000)

WHEREAS, the parcel of property located in the Village of Glenwood which is described as follows is vacant:

Volume 09

PIN#: 32-04-102-070-0000

(hereinafter "Subject Property");

WHEREAS, Cook County has made a preliminary determination that the Subject Property may be eligible for the Cook County No Cash Bid Program at the 2013 scavenger sale because of the failure to pay real property taxes;

WHEREAS, the property is located in an area where the Village has sewers located in the rear of the lots and the Subject Property would provide the Village access from the public street to the rear of the lots where the sewers are located;

WHEREAS, the Village's Board of Trustees finds that the public health and welfare of the Village requires that the Village utilize the Cook County No Cash Bid Program for Tax Delinquent Properties to obtain ownership of the Subject Property so that the Village can use the Subject Property to provide access to sewers that are located in the rear of the lots;

**NOW, THEREFORE, BE IT RESOLVED,** by the Village President and Board of Trustees of the Village of Glenwood pursuant to its home rule powers as follows:

**SECTION 1. Recitals.**

The foregoing recitals are a material part of this resolution and are incorporated into this Section by reference as if they were fully set forth herein.

**SECTION 2. Authorization to submit an application to Cook County requesting that the Village receive the right to pursue a tax deed for the Subject Property pursuant to Cook County's No Cash Bid Program for Tax Delinquent Properties.**

The Village of Glenwood herein authorizes the Village staff and the Village Attorney to submit an application under the Cook County No Cash Bid Program for Tax Delinquent Properties for the property identified by PIN 32-04-102-070-0000 (Volume 09) to request that the Village of Glenwood be given the right to proceed to obtain a tax deed for said described Subject Property. The application submitted shall comply with all the requirements of the Cook County No Cash Bid Program for Tax Delinquent Properties.

**SECTION 3. Authorization to direct the Village Attorney to obtain a tax deed in the name of the Village of Glenwood for the Subject Property.**

Upon Cook County's approval of the Village's No Cash Bid Program application for the Subject Property, the Village herein directs that the Village Attorney shall take all the necessary steps and procedures that are required by law to obtain a tax deed for the Village of Glenwood for the Subject Property. The Village of Glenwood shall bear all legal and other costs associated with the acquisition of the Subject Property.

**SECTION 4. Tax exempt status.**

After first obtaining a tax deed for the Subject Property, the Village herein directs that the Village Attorney shall take all the necessary steps and procedures that are required to apply for an exemption from property taxes for the Subject Property and maintain such tax exempt status until such time that the Subject Property may be transferred to a private business/use.

**SECTION 5. Submission of annual reports to the Cook County Office of Economic Development.**

Upon Cook County's approval of the Village's No Cash Bid Program application for the Subject Property, the Village herein directs that the Village's staff shall submit annual reports to the Cook County Office of Economic Development for a period of 5 years or until the development of the Subject Property is completed, whichever occurs last. The annual report shall be prepared utilizing the County forms and shall provide the County with all the information they may request concerning the status of the development of the Subject Property.

**SECTION 6. Development intent for Subject Property.**

The Village herein sets forth its intent to utilize the Subject Property for municipal purposes as it will provide access from the public street to Village sewers that are located in the rear of the lots. The Village herein represents that it does not have any agreements or proposals from any developer, organization or other private entity pertaining to the development, transfer, sale or use of the Subject Property.

**SECTION 7: Home Rule.**

This Resolution and each of its terms, shall be the effective legislative act of a home rule municipality without regard to whether such Resolution should: (a) contain terms contrary to the provisions of current or subsequent non-preemptive state law; or (b) legislate in a manner or

regarding a matter not delegated to municipalities by state law. It is the intent of the corporate authorities of the Village of Glenwood that to the extent that the terms of this Resolution should be inconsistent with any non-preemptive state law, this Resolution shall supersede state law in that regard within its jurisdiction.

**SECTION 8:           Effective date.**

This Resolution shall be effective immediately upon its passage and approval.

PASSED by roll call vote this 4th day of June, 2013.

AYES:

NAYS:

ABSENT:

ABSTAIN:

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Kerry Durkin, Village President

ATTEST:

\_\_\_\_\_  
Ernestine Dobbins, Village Clerk

**VILLAGE OF GLENWOOD**

**COOK COUNTY, ILLINOIS**

**RESOLUTION NO. 2013 - \_\_\_\_\_**

**AMENDED RESOLUTION AUTHORIZING THE VILLAGE OF GLENWOOD TO  
REQUEST THAT IT BE GRANTED THE RIGHT TO OBTAIN A TAX DEED FOR  
CERTAIN PROPERTY PURSUANT TO THE COOK COUNTY NO CASH BID  
PROGRAM FOR TAX DELINQUENT PROPERTIES**

(PIN: 32-05-219-010-0000)

ADOPTED BY THE PRESIDENT AND  
BOARD OF TRUSTEES OF THE  
VILLAGE OF GLENWOOD  
THIS 18<sup>TH</sup> DAY OF JUNE, 2013

**RESOLUTION NO. 2013 - \_\_\_\_\_**

**AMENDED RESOLUTION AUTHORIZING THE VILLAGE OF GLENWOOD TO  
REQUEST THAT IT BE GRANTED THE RIGHT TO OBTAIN A TAX DEED FOR  
CERTAIN PROPERTY PURSUANT TO THE COOK COUNTY NO CASH BID  
PROGRAM FOR TAX DELINQUENT PROPERTIES**

(PIN: 32-05-219-010-0000)

WHEREAS, the parcel of property located in the Village of Glenwood which is described as follows is vacant:

Volume 09

PIN#: 32-05-219-010-0000

(hereinafter "Subject Property");

WHEREAS, Cook County has made a preliminary determination that the Subject Property may be eligible for the Cook County No Cash Bid Program at the 2013 scavenger sale because of the failure to pay real property taxes;

WHEREAS, the Subject Property does not have any structures located on it and is unimproved;

WHEREAS, the Village's Board of Trustees finds that there is a need for the creation of additional job opportunities within the Village as well as a need to attract additional businesses and economic development into the Village;

WHEREAS, the Village's Board of Trustees finds that the public health and welfare of the Village requires that the Village utilize the Cook County No Cash Bid Program for Tax Delinquent Properties to obtain ownership of the Subject Property so that the Village can hold

the Subject Property for municipal purposes including public infrastructure, possible future road expansion and/or open space purposes;

**NOW, THEREFORE, BE IT RESOLVED**, by the Village President and Board of Trustees of the Village of Glenwood pursuant to its home rule powers as follows:

**SECTION 1. Recitals.**

The foregoing recitals are a material part of this resolution and are incorporated into this Section by reference as if they were fully set forth herein.

**SECTION 2. Authorization to submit an application to Cook County requesting that the Village receive the right to pursue a tax deed for the Subject Property pursuant to Cook County's No Cash Bid Program for Tax Delinquent Properties.**

The Village of Glenwood herein authorizes the Village staff and the Village Attorney to submit an application under the Cook County No Cash Bid Program for Tax Delinquent Properties for the property identified by PIN 32-05-219-010-0000 (Volume 09) to request that the Village of Glenwood be given the right to proceed to obtain a tax deed for said described Subject Property. The application submitted shall comply with all the requirements of the Cook County No Cash Bid Program for Tax Delinquent Properties.

**SECTION 3. Authorization to direct the Village Attorney to obtain a tax deed in the name of the Village of Glenwood for the Subject Property.**

Upon Cook County's approval of the Village's No Cash Bid Program application for the Subject Property, the Village herein directs that the Village Attorney shall take all the necessary steps and procedures that are required by law to obtain a tax deed for the Village of Glenwood for the Subject Property. The Village of Glenwood shall bear all legal and other costs associated with the acquisition of the Subject Property.

**SECTION 4. Tax exempt status.**

After first obtaining a tax deed for the Subject Property, the Village herein directs that the Village Attorney shall take all the necessary steps and procedures that are required to apply for an exemption from property taxes for the Subject Property and maintain such tax exempt status until such time that the Subject Property may be transferred to a private business/use.

**SECTION 5. Submission of annual reports to the Cook County Office of Economic Development.**

Upon Cook County's approval of the Village's No Cash Bid Program application for the Subject Property, the Village herein directs that the Village's staff shall submit annual reports to the Cook County Office of Economic Development for a period of 5 years or until the development of the Subject Property is completed, whichever occurs last. The annual report shall be prepared utilizing the County forms and shall provide the County with all the information they may request concerning the status of the development of the Subject Property.

**SECTION 6. Development intent for Subject Property.**

The Village herein sets forth its intent to utilize the Subject Property for municipal purposes including public infrastructure possible future road widening and/or open space. The Village herein represents that it does not have any agreements or proposals from any developer, organization or other private entity pertaining to the development, transfer, sale or use of the Subject Property.

**SECTION 7: Home Rule.**

This Resolution and each of its terms, shall be the effective legislative act of a home rule municipality without regard to whether such Resolution should: (a) contain terms contrary to the provisions of current or subsequent non-preemptive state law; or (b) legislate in a manner or

regarding a matter not delegated to municipalities by state law. It is the intent of the corporate authorities of the Village of Glenwood that to the extent that the terms of this Resolution should be inconsistent with any non-preemptive state law, this Resolution shall supersede state law in that regard within its jurisdiction.

**SECTION 8:           Effective date/Repealer.**

This Resolution shall be effective immediately upon its passage and approval. Prior Resolution 2013-15 shall be repealed.

PASSED by roll call vote this 18th day of June, 2013.

AYES:

NAYS:

ABSENT:

ABSTAIN:

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Kerry Durkin, Village President

ATTEST:

\_\_\_\_\_  
Ernestine Dobbins, Village Clerk

1. Project Sponsor: Village of Glenwood

2. Project Title: Arquilla Park Development

The Village of Glenwood hereby certifies and acknowledges that it has 100% of the funds necessary (includes cash and value of donated land) to complete the pending OSLAD/LWCF project within the timeframes specified herein for project execution, and that failure to adhere to the specified project timeframe or failure to proceed with the project because of insufficient funds or change in local recreation priorities is sufficient cause for project grant termination which will also result in the ineligibility of the local project sponsor for subsequent Illinois DNR outdoor recreation grant assistance consideration in the next two (2) consecutive grant cycles following project termination.

Acquisition and Development Projects

It is understood that the project should be completed within the timeframe established in the project agreement and the Final Billing reimbursement request will be submitted to IDNR as soon as possible after project completion.

The Village of Glenwood further acknowledges and certifies that it will comply with all terms, conditions and regulations of 1) the Open Space Lands Acquisition and Development (OSLAD) program (17 IL Adm. Code 3025) or federal Land & Water Conservation Fund (LWCF) program (17 IL Adm. Code 3030), as applicable, 2) the federal Uniform Relocation Assistance & Real Property Acquisition Policies Act of 1970 (P.L. 91-646) and/or the Illinois Displaced Persons Relocation Act (310 ILCS 40 et. seq.), as applicable, 3) the Illinois Human Rights Act (775 ILCS 5/1-101 et.seq.), 4) Title VI of the Civil Rights Act of 1964, (P.L. 83-352), 5) the Age Discrimination Act of 1975 (P.L. 94-135), 6) the Civil Rights Restoration Act of 1988, (P.L. 100-259) and 7) the Americans with Disabilities Act of 1990 (PL 101-336); and will maintain the project area in an attractive and safe conditions, keep the facilities open to the general public during reasonable hours consistent with the type of facility, and obtain from the Illinois DNR written approval for any change or conversion of approved outdoor recreation use of the project site prior to initiating such change or conversion; and for property acquired with OSLAD/LWCF assistance, agree to place a covenant restriction on the project property deed at the time of recording that stipulates the property must be used, in perpetuity, for public outdoor recreation purposes in accordance with the OSLAD/LWCF programs and cannot be sold or exchanged, in whole or part, to another party without approval from the Illinois DNR.

BE IT FURTHER PROVIDED that the Village of Glenwood certifies to the best of its knowledge that the information provided within the attached application is true and correct.

This Resolution of Authorization has been duly discussed and adopted by the Village of Glenwood at a legal meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Authorized Signature)

\_\_\_\_\_  
(title)

ATTESTED BY: \_\_\_\_\_  
\_\_\_\_\_  
(title)



**Laborers' District Council  
Labor-Management Cooperation Committee  
(Chicago and Vicinity - LDCLMCC)**



**Cook, Lake, DuPage, Will, Grundy, Kendall, Kane, McHenry and Boone Counties, Illinois.**

**999 McClintock Drive, Suite 301 • Burr Ridge, IL 60527  
Phone: 630-655-9525 • Fax: 630-655-9263 • www.ldclmcc.org**

Honorable Mayor Durkin  
And Members of the City Council  
Village of Glenwood  
One Asselborn Way  
Glenwood, IL 60425

June 7, 2013

**RE: KLF Excavating  
2300 West 167<sup>th</sup> Street  
Markham, Illinois 60428**

Dear Mayor Durkin and Council Members:

I have been informed that KLF Excavating is the apparent low bidder on the proposed Annie Lee Demolition project for which bids were accepted on June 6, 2013. Competitive bidding statutory provisions require the Village to award the work to the low responsive and responsible bidder.

We wish to call to your attention that KLF has been removed from the city of Chicago's Demolition Projects because KLF has been performing the demolition in a dangerous and hazardous manner posing a threat to the health and safety of its own employees as well as the general public, along with numerous osha violations and environmental infractions, therefore KLF is no longer considered a responsible bidder.

In our opinion, we believe that the Village should not award this contract to KLF Excavating as they fail to meet the definition of "responsible" under competitive bidding requirements. We suggest that the Village award the project to the second low bidder or re-bid the entire project.

I would like to attend the Village Board meeting when this issue will appear on the agenda. Could you please advise me when the Board will be meeting to address this issue? Thank you for your assistance.

Sincerely,

  
Scott McFedries  
LDC-LMCC

**MICHAEL D. KLEINIK**  
Executive Director

**JAMES P. CONNOLLY**  
LMCC Chairman, Laborers' District Council

**CHARLES V. LOVERDE III**  
Laborers' District Council

**JOSEPH COCONATO**  
Laborers' District Council

**DAN BREJC**  
Laborers' Local 149

**ANTONIO CASTRO**  
Laborers' Local 1

**SCOTT PAVLIS**  
Laborers' Local 75



DEPARTMENT OF PROCUREMENT SERVICES  
CITY OF CHICAGO

January 25, 2013

Kelly Bracken  
KLF Trucking Company d/b/a KLF Excavating  
2300 West 187th Street  
Markham, Illinois 60426

Re: Notice of Default  
Contract No. 26183, Term Agreement for Demolition Services

Dear Ms. Bracken,

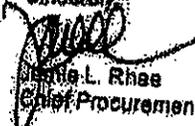
On January 23, 2013, the City of Chicago sent KLF Trucking Company d/b/a KLF Excavating ("KLF") a Notice of Default regarding the contract referenced above. Although KLF has not formally responded to the Notice of Default, it has inquired about the status of projects that the City has already awarded to it.

Due to the safety risks posed to the citizens of Chicago by hazardous buildings, the City will allow KLF to perform those jobs that have been awarded and which, per the Department of Buildings, KLF has already received demolition permits. The City will not award further demolition work to KLF pending resolution of the issues addressed herein. KLF may proceed on the following projects:

1. 5724 S. Hoyna
2. 317-21 N. Pulaski
3. 4816 S. Indiana
4. 4349 S. Honore
5. 1256 N. Mayfield
6. 1834 W. Armitage
7. 5067 W. West End
8. 5475 W. Lake
9. 712 N. Troy
10. 4581 N. Melvina
11. 4843 W. Van Buren
12. 1936 S. Christiana

However, notwithstanding the above, KLF must respond to the Notice of Default. Until such time as KLF satisfies the City that the allegations stated in the Notice are not true, KLF is no longer considered a responsible bidder and no new demolition bids from KLF will be accepted. Please forward evidence of compliance with the Prevailing Wage Act to James McIsaac, Deputy Procurement Officer, and direct any questions regarding this matter to Mr. McIsaac or David Winters, Chief Assistant Corporation Counsel.

Sincerely,

  
Leslie L. Rhee  
Chief Procurement Officer

cc: Michael Merchant  
Marlene Hopkins  
James McIsaac  
David Winters

121 NORTH LASALLE STREET, ROOM 408, CHICAGO, ILLINOIS 60602



DEPARTMENT OF PROCUREMENT SERVICES  
CITY OF CHICAGO

January 31, 2013

Kelly Bracken  
KLF Trucking Company d/b/a KLF Excavating  
2300 West 167th Street  
Markham, Illinois 60426

Re: Notice of Default  
Contract No. 26183, Term Agreement for Demolition Services

Dear Ms. Bracken:

On January 23, 2013, the City of Chicago sent KLF Trucking Company d/b/a KLF Excavating ("KLF") a Notice of Default regarding the contract referenced above. Although KLF has not formally responded to the Notice of Default, it inquired about the status of projects that the City has already awarded to it. In response to that inquiry, the City transmitted a letter to KLF on January 25, 2013 stating that KLF may proceed on certain projects named in that letter.

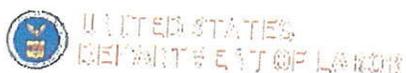
However, since then, the City has been informed that KLF has been performing the demolitions in a dangerous and hazardous manner, posing a threat to the health and safety of its own employees as well as the general public. As a result of this, it is in the best interests of the City to rescind the notices of award listed below for the work orders issued to KLF under Contract No. 26183:

1. 1256 N. Mayfield
2. 1834 W. Armitage
3. 5057 W. West End
4. 8475 W. Lake
5. 712 N. Troy
6. 4581 N. Melvina
7. 4943 W. Van Buren
8. 1938 S. Christiana

Any and all work at the sites listed above is to cease immediately. KLF is no longer considered a responsible bidder and no new demolition bids from KLF will be accepted. Please forward evidence of compliance with the Prevailing Wage Act to James Moisaac, Deputy Procurement Officer, and direct any questions regarding this matter to Mr. Moisaac or David Winters, Chief Assistant Corporation Counsel.

  
James L. Rhee  
Chief Procurement Officer

cc: Michael Merchant  
Mariana Hopkins  
James Moisaac  
David Winters



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**Inspection: 329281.015 - K.L.F. Trucking Co.**

**Inspection Information - Office: Calumet City**

Nr: 329281.015	Report ID:0521700	Open Date: 04/03/2012
K.L.F. Trucking Co. 278 East 12th Street Chicago Heights, IL 60411 SIC: NAICS: 238910/Site Preparation Contractors Mailing: 2300 W. 167th St., Markham, IL 60428		Union Status: NonUnion
Inspection Type: Planned	Scope: Partial	Advanced Notice: N
Ownership: Private	Safety/Health: Health	Close Conference: 04/03/2012
Emphasis: N:Silica,L:Fall,L:Piv		Close Case:

**Violation Summary**

	Serious	Willful	Repeat	Other	Unclass	Total
Initial Violations	3					3
Current Violations	3					3
Initial Penalty	4400					4400
Current Penalty	3080					3080
FTA Amount						

**Violation Items**

#	ID	Type	Standard	Issuance	Abate	Cur#	Init\$	Fta\$	Contact	LastEvent
1.	<a href="#">01001</a>	Serious	19260020 B02	07/13/2012	04/05/2012	\$840	\$1200	\$0		I - Informal Settlement
2.	<a href="#">01002</a>	Serious	19260501 B01	07/13/2012	04/04/2012	\$1400	\$2000	\$0		I - Informal Settlement
3.	<a href="#">01003</a>	Serious	19260600 A05	07/13/2012	04/14/2012	\$840	\$1200	\$0		I - Informal Settlement

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Inspection: 865223.015 - K.L.F. Enterprises, Inc.

Inspection Information - Office: Calumet City		
Nr: 865223.015	Report ID:0521700	Open Date: 01/29/2013
K.L.F. Enterprises, Inc. 4816 S. Indiana Chicago, IL 60615		Union Status: NonUnion
SIC: NAICS: 238990/All Other Specialty Trade Contractors Mailing: 2300 W. 167th St., Markham, IL 60426		
Inspection Type: Planned Scope: Partial Ownership: Private Safety/Health: Safety Emphasis: L:Fall		Advanced Notice: N Close Conference: 01/29/2013 Close Case: 05/06/2013

	Violation Summary					Total
	Serious	Willful	Repeat	Other	Unclass	
Initial Violations			2			2
Current Violations			2			2
Initial Penalty			8800			8800
Current Penalty			4400			4400
FTA Amount						

Violation Items										
#	ID	Type	Standard	Issuance	Abate	Curr\$	Init\$	Fta\$	Contest	LastEvent
1.	01001	Repeat	19260020 B02	04/01/2013	04/03/2013	\$1320	\$2640	\$0		I - Informal Settlement
2.	01002	Repeat	19260501 B01	04/01/2013	04/03/2013	\$3080	\$6160	\$0		I - Informal Settlement

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**Inspection: 890575.015 - K.L.F. Enterprises, Inc.**

Inspection Information - Office: Chicago North		
Nr: 890575.015	Report ID:0524200	Open Date: 02/14/2013
K.L.F. Enterprises, Inc. W. Belmont Ave. & N. Western Ave. Chicago, IL 60618		
		Union Status: NonUnion
SIC: NAICS: 237110/Water and Sewer Line and Related Structures Construction Mailing: 2300 W. 167th Street, Markham, IL 60428		
Inspection Type: Planned		Advanced Notice: N
Scope: Partial		
Ownership: Private		
Safety/Health: Health		Close Conference: 02/14/2013
Emphasis: N:Silica		Close Case:

	Violation Summary					Total
	Serious	Willful	Repeat	Other	Unclass	
Initial Violations	2					2
Current Violations	2					2
Initial Penalty	2040					2040
Current Penalty	2040					2040
FTA Amount						

Violation Items										
#	ID	Type	Standard	Issuance	Abate	Curr\$	Init\$	Fta\$	Contest	LastEvent
1.	<a href="#">01001</a>	Serious	19101200 H01	04/15/2013		\$1020	\$1020	\$0		-
2.	<a href="#">01002</a>	Serious	19260102 A01	04/15/2013		\$1020	\$1020	\$0		-

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**Inspection: 890443.015 - K.L.F. Enterprises, Inc.**

Inspection Information - Office: Chicago North		
Nr: 890443.015	Report ID:0524200	Open Date: 02/14/2013
K.L.F. Enterprises, Inc. W. Belmont Ave. & N. Western Ave. Chicago, IL 60618		
SIC:		Union Status: NonUnion
NAICS: 237110/Water and Sewer Line and Related Structures Construction		
Mailing: 2300 W. 167th Street, Markham, IL 60428		
Inspection Type: Planned		Advanced Notice: N
Scope: Partial		
Ownership: Private		
Safety/Health: Safety		Close Conference: 02/14/2013
Emphasis: N:Trench		Close Case:

	Violation Summary					Total
	Serious	Willful	Repeat	Other	Unclass	
Initial Violations	4					4
Current Violations	4					4
Initial Penalty	7200					7200
Current Penalty	3600					3600
FTA Amount						

Violation Items										
#	ID	Type	Standard	Issuance	Abate	Curr\$	Init\$	Fta\$	Contest	LastEvent
1.	<a href="#">01001</a>	Serious	19260200 G01	03/20/2013 02/14/2013	02/14/2013	\$800	\$1600	\$0		I - Informal Settlement
2.	<a href="#">01002</a>	Serious	19260651 C02	03/20/2013 02/14/2013	02/14/2013	\$800	\$1600	\$0		I - Informal Settlement
3.	<a href="#">01003</a>	Serious	19260651 K01	03/20/2013		\$800	\$1600	\$0		I - Informal Settlement
4.	<a href="#">01004</a>	Serious	19260652 A01	03/20/2013 02/14/2013	02/14/2013	\$1200	\$2400	\$0		I - Informal Settlement

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www.chicagotribune.com/news/local/southsouthwest/ct-met-markham-dumping-0109-20110109,0,5865866.story

**chicagotribune.com**

## State EPA targets Markham businessman

**Owner of waste removal service, who won \$6 million contract with city of Chicago in 2009, called a 'chronic' violator of regulations**

By Joel Hood, Tribune reporter

January 9, 2011

Promising to crack down on those who illegally dump garbage in poor, urban pockets of southern Cook County, the Illinois Environmental Protection Agency is targeting a prominent Markham businessman who in 2009 scored a \$6 million waste removal contract with the city of Chicago.

EPA officials describe Jim Bracken, owner of Brackenbox Inc. Dumpster service as well as a transfer and recycling center in Markham, as a "chronic" violator of environmental regulations, and referred his case to the state attorney general's office to seek compliance.

Records show Bracken has been cited at least nine times since 2009 with various environmental infractions, from illegally dumping crushed drywall in an open field to improperly accepting household hazardous waste, garbage and landscaping debris at his Markham transfer station.

Although Bracken's offenses carry a relatively low risk to the environment, officials said, they represent such "a pattern of disregard" for the state's licensing process that they've become worrisome to the state's top environmental agency.

"It's an insult to the program when a guy repeatedly violates the rules of how we must operate," said Paul Purseglove, a manager of field operations for the EPA in Cook County. "Here is his name surfacing over and over again in these reports, and we felt like we needed to step in."

What's remarkable about the Bracken case, officials say, is not just his position in the waste removal industry, but that inspectors caught anybody at all. All too often, they say, illegal dumping goes unpunished in this corner of the south suburbs, where the vacant lots and abandoned warehouses from a once-thriving manufacturing empire now provide ample space for those looking to dump their trash on the cheap.

Bracken's violations came months after his family business secured a \$6.1 million, three-year agreement with the city of Chicago for trash removal. Shannon Andrews, a city spokeswoman, said Chicago



officials were unaware of Bracken's recent trouble with the EPA and that environmental violations are among the reasons a company might not be awarded city contracts, but that in this case the notices came after the contract was granted.

Bracken and his companies have also donated nearly \$15,000 to Markham Mayor David Webb's re-election campaigns since 2006, raising eyebrows in a community where residents and even the EPA say city officials aren't doing enough to stop pervasive illegal dumping.

"It's disturbing that you often see a certain amount of apathy or a lack of knowledge or acceptance about these big piles of garbage that build up for so long," Purseglove said.

Bracken said he feels unfairly singled out, but he will address the problems cited by the EPA. He called his offenses "minor" and, indeed, they are not the most egregious violations the EPA confronts in these working-class communities where car dealerships, machining plants and auto parts stores are routinely tagged for mishandling or illegally disposing of used oil, tires and waste products.

But they come at a time when the EPA is stepping up enforcement against environmental polluters across southern Cook County, challenging the public, local law enforcement and civic leaders to help put a stop to this escalating problem.

The catalyst came in June, when the EPA was alerted to what some have called the largest illegal dumping ground ever uncovered in Illinois. A secluded 12-acre property near 159th Street and Dixie Highway in Markham was found to contain more than 56,000 tires, 10,000 tons of construction debris and household garbage, about 40 damaged boat hulls, auto parts and drums of unknown liquids. State officials said the property may have been operating as an unlicensed dump for decades.

Despite working for months with the attorney general's office and local law enforcement, the EPA has yet to hold anyone responsible for the dump. The \$1 million cleanup cost is almost equal to what the EPA typically spends in an entire year to clean up dump sites across Illinois. And the price could rise as officials try to determine whether hazardous chemicals have leaked into the soil.

Though the environmental risks are often low, residents say these dumps are "black eyes" on their communities and say they've become frustrated by city officials who seem to look the other way.

"There's no point in calling police or calling the city about it. Nothing ever gets done," said longtime Markham resident Tina Hawkins, who last summer called the EPA about an illegal dump behind her mother's home. "I told (the EPA) that we were going to have to lean on them because calling City Hall is pointless."

Mayor Webb has not responded to repeated requests by the Tribune to talk about these issues. The Illinois attorney general's office said the mayor has been cooperating in cleanup efforts.

Webb "has always been concerned, and he makes sure we are out there taking care of what we can," Markham city attorney Steve Miller said.

It was a Markham property owner who alerted the EPA to Bracken's waste haulers dumping material onto open land across from a forest preserve. Jesse Arreola, who owns land a block away, said he became concerned when he saw dozens of large trucks dumping unknown waste over six weeks in late 2009.

Arreola first called local police, but said he was told Markham officials were aware of the dumping and

had approved it. Messages left with the Markham Police Department were not returned.

Arreola's story is supported by a letter sent to the EPA by the builder who had bought hundreds of yards of crushed drywall from Bracken, thinking it would improve the condition of the soil on the very lot where Arreola had witnessed the dumping.

"I was assured of this by Mr. Bracken, and I was told the city officials were aware of it, and I was under the impression I was improving the property," Martin Cahill, president of C&T Builders, wrote to the EPA.

The EPA considers broken drywall an environmental risk because it may contain lead-based paints and because gypsum can react to certain environmental conditions to create hydrogen sulfide, which can be toxic in high levels. Frustrated by what police told him, Arreola said he called the EPA.

Bracken said Markham officials were not aware of how he was disposing of drywall. But he called the mixture "harmless" and said he takes great care to protect the environment.

"I'm not trying to fight with the EPA," Bracken said. "The problems will get fixed."

[ihood@tribune.com](mailto:ihood@tribune.com)

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02/27/2013 12:39

4349 S. Honore



JAN 21 2013

21 10:04 AM

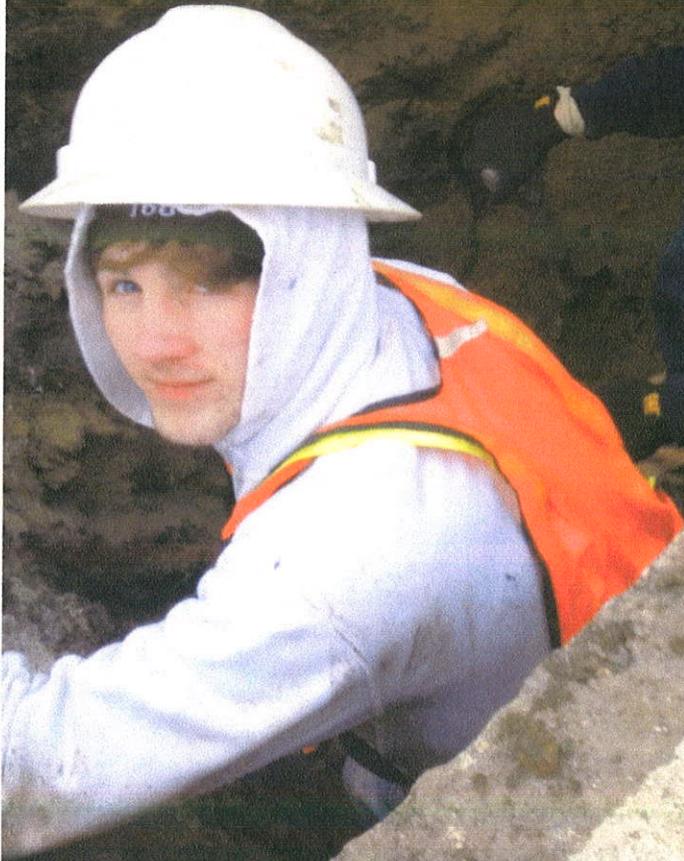
4349 S. Honore



JAN 21 2013

21 9:32 AM

3167 N Clybe  
2 hrs after  
OSHA visit

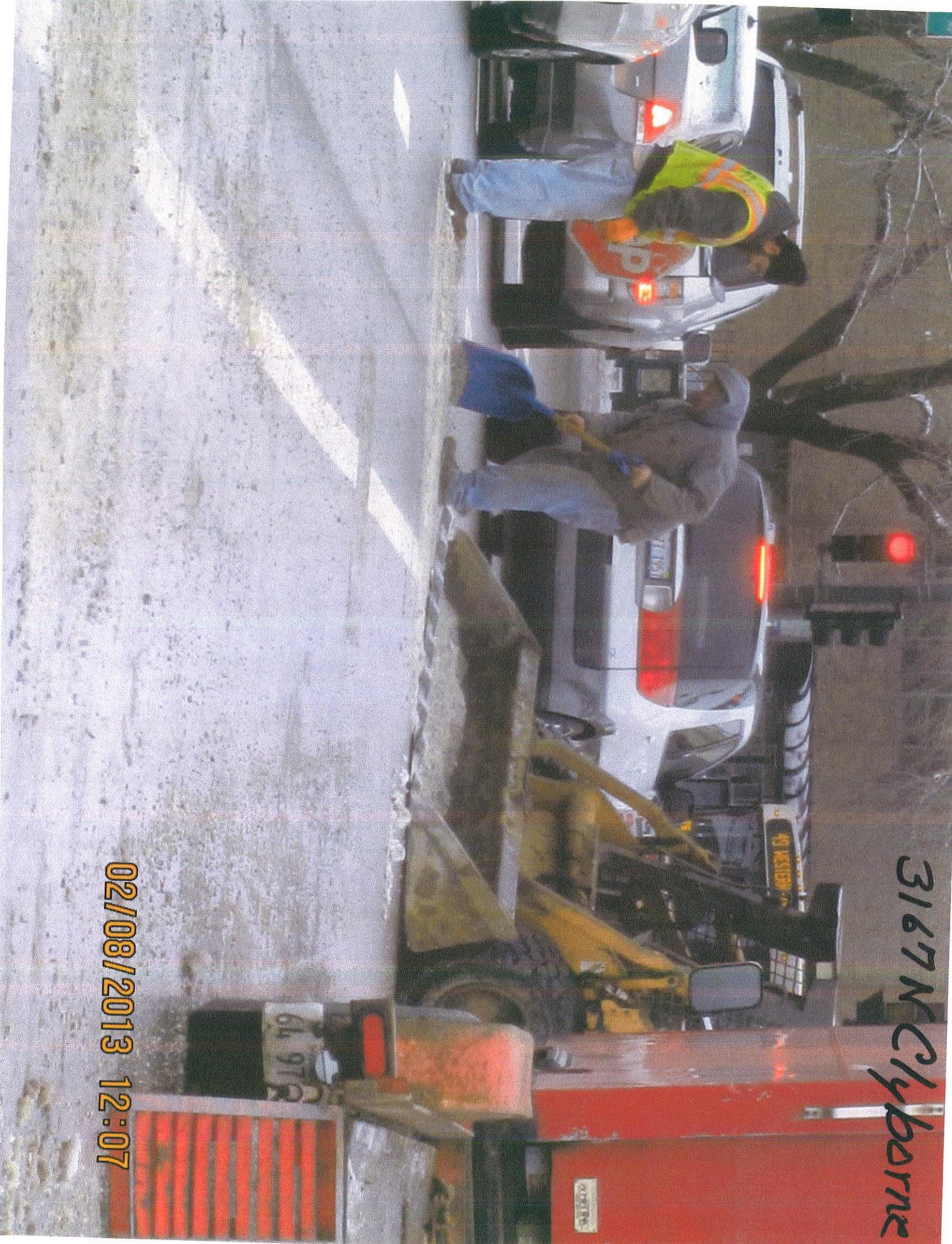


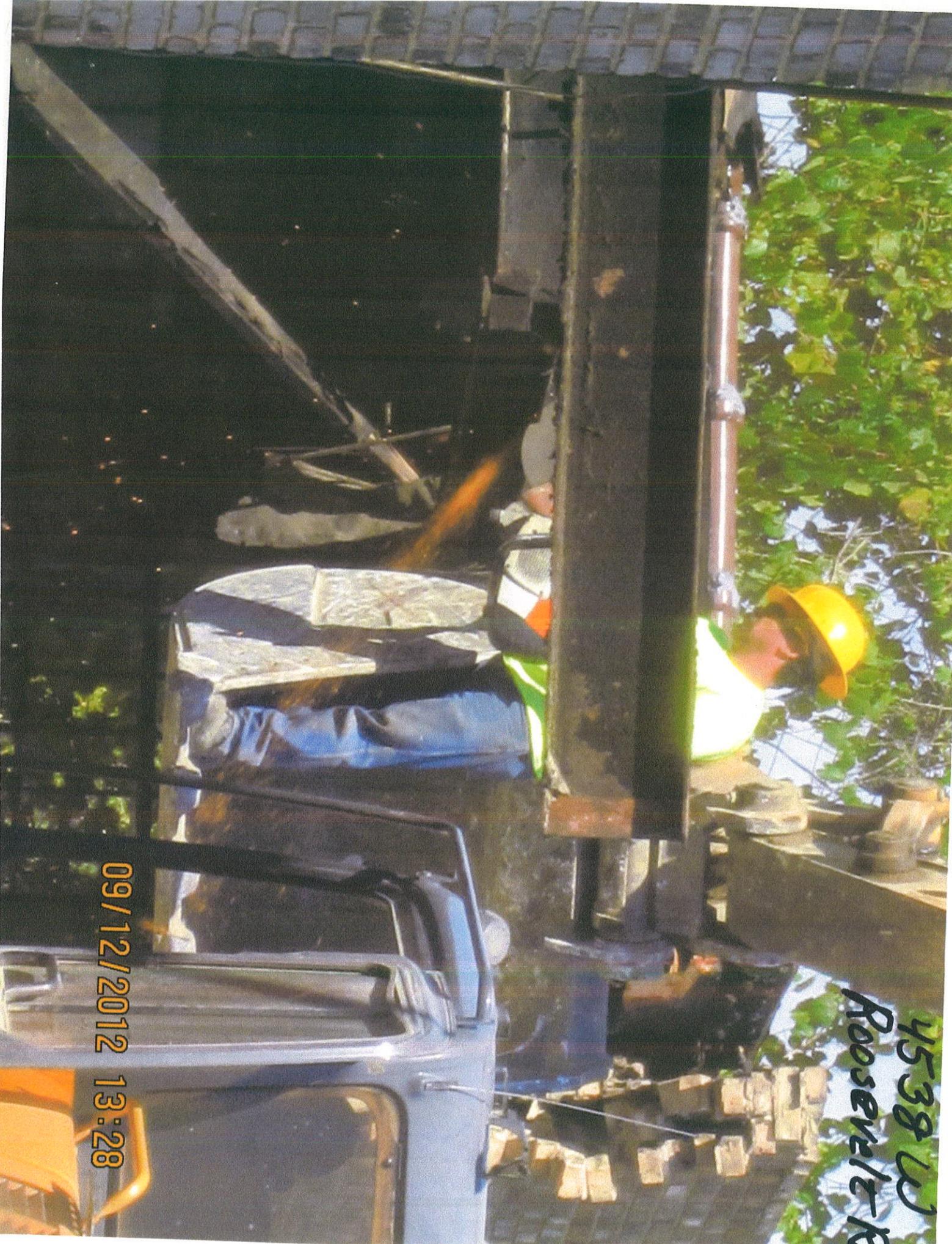
FEB 14 2013

14 2:02 PM

3167N Clyborne

02/08/2013 12:07





4538 W  
Roosevelt K

09/12/2012 13:28

10427  
Torrence Ave



10/18/2012 11:43

104275  
Torrence Ave

10/12/2012 12:40



*Midlothian  
Park*



*Midlothian  
Park*



07/30/2012 12:34

Midlothian Park



10/08/2012 16:09

*Garvin Elementary  
Schook*



03/30/2012 15:10

# Communications Services Contract

This 4<sup>th</sup> day of June, 2013, GovernmentComm, Co., (“GC”) and the Village of Glenwood, agrees as follows:

## 1. Services and Costs

- a. Services Provided. GC, shall design and configure GlenwoodComm, a network communications system (“system”) for the administrative offices, police department, fire department and department of public works, shall install the necessary equipment, shall integrate the Village’s computers and cell/smart phones into the system, shall train Village personnel on the use of the system, shall periodically conduct system checks and maintenance reviews of the system, and shall assist with the governmental and administrative requirements regarding necessary laws, ordinances and resolutions. GC may provide some of its services through a subcontract between GC American Wireless Broadband LLC (“AWB”),

GC and Village shall consult with the Village regarding its entry into and its implementation of a future agreement between the Village and AT&T for the construction of a new monopole (“monopole”) on the Village’s 120 N. Main St. property and shall advise the Village on how this monopole can be used to implement the system. Prior to the construction of the monopole, GC shall within 30 days construct, install and implement the system for the Village’s Public Works Department by utilizing Village locations (other than the monopole). The system for the Village’s Public Works Department shall provide wireless communications between the various Public Works Department facilities and offices including, but not limited to lift stations, water pumping stations, wet wells, water storage facilities (both elevated and ground storage tanks), Department offices and after hours dialers for the purpose of wirelessly transmitting alarms and monitoring information between and among such facilities as required for the proper operation of the Village’s public works water and sewer systems.

After the implementation of the system for the Public Works Department, GC shall begin construction and implementation of the system for other Village Departments as requested by the Village by utilizing Village locations other than the monopole. Then, upon completion of the monopole, GC shall incorporate the monopole into the Village’s system and move such equipment as required to the monopole and otherwise complete, construct and implement the system for all Village departments. The entire system shall be complete and accepted by the Village by a date which is not more than 180 days months after the date the monopole has been constructed.

- b. Performance Standards and Expectations. GC shall review the Village's needs and the needs of each department and construct and implement a wireless communications system with equipment that is sufficient to meet the needs of each of the Village's departments. Performance of the system will be in accordance with the specifications established by the equipment manufacturers. The system will provide: secure wireless communications among the Village's personnel and departments anywhere within the Village; provide for the wireless transmission of alarm and other monitoring information as necessary for the Village's operations; provide for emergency notification of Village personnel; secure internal access to Village databases; secure mobile access to departments and databases; and access to technical support. **The equipment to be used for the system and its specifications are described in Appendix A.**

GC shall discuss the needs of each Village department through their chiefs and others and shall maintain a regular liaison with each, and shall implement such needs to the extent practicable. GC shall maintain a regular liaison with the Mayor regarding all aspects of this Communications Services Contract, and specifically regarding the AT&T monopole contract including all legal documentation necessary to accomplish the communications network.

- c. Consideration. In consideration of the work and services as provided for in the above paragraphs 1(a) and 1(b), the Village of Glenwood agrees to pay GC a sum estimated as approximately \$35,000.00 which shall not be in excess of \$50,000.00.

GC shall pay all fees and costs due AWB up to the time of complete installation and acceptance and satisfaction by Village of Glenwood.

For additional work on the project, if ordinary and necessary, then GC shall charge only costs; if extra, extraordinary or unexpected work, or per *force majeure*, then in an amount to be negotiated;

Future maintenance and repair to be negotiated separately;

If the Village establishes a revenue stream through use, sale, or resale of the GlenwoodComm system, then GC and Village may negotiate a percentage of such revenue stream to pay or to offset payments due GC from the Village.

Payment shall be due as follows: 50% of the estimated total cost at the time of equipment installation, with the remaining 50% upon the satisfaction by the Village of Glenwood that the system is operational within reasonable expectations. The final payment shall be made within 30 days after GC's submittal of: (1) a contractor's sworn statement; (2) all waivers of lien from any entity performing any of the Work; (3) certified payroll documentation in compliance with the Illinois Prevailing Wage Act; (4) warranties; (5) any as-

built drawings and (5) such other documentation as reasonably required by the Village.

## **2. Warranties**

GC acts as a conduit for any and all equipment warranties. No party shall be liable for any indirect, special, incidental, punitive or consequential damages, including but not limited to loss of data, business interruption, or loss of profits, arising out of the use of or the inability to use the equipment. Upon receipt of a warranty claim, GC shall immediately service any warranty claim within the limitations of the equipment manufacturers. Problems occurring outside any warranty promptly shall be serviced under reasonable terms.

## **3. Governing Law**

This Agreement shall be interpreted and construed according to, and governed by, the laws of Illinois, and venue shall be in Cook County.

## **4. Dispute Resolution**

In the event any dispute or controversy arises out of or relating to this Agreement, the parties agree to exercise their best efforts to resolve the dispute as soon as possible. In the event that the parties by exercise of their best efforts cannot resolve the dispute, they shall submit the dispute to mediation by a mutually agreed upon mediator. The parties shall, without delay, continue to perform their respective obligations under this Agreement which are not affected by the dispute. The invoking party shall give to the other party written notice of its decision to require mediation which shall include a description of the issues subject to the dispute and a proposed resolution thereof. Designated representatives of both parties shall attempt to resolve the dispute within 60 days after such notice.

## **5. Force Majeure**

Neither party shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including, but not limited to, Acts of God, Government restrictions, wars, insurrections, criminal acts, and/or any other cause beyond the reasonable control of the party whose performance is affected.

## **6. Other Legal Recitations**

This Agreement constitutes the entire agreement of the parties and supersedes all prior communications, understandings and agreements relating to the subject matter hereof, whether oral or written. No modification or claimed waiver of any provision of this Agreement shall be valid except by written amendment signed by authorized representatives of GC and the Village of Glenwood. If any provision or provisions of this Agreement shall be held to be invalid, illegal, unenforceable or in conflict with the law of

any jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. Waiver of any provision herein shall not be deemed a waiver of any other provision herein, nor shall waiver of any breach of this Agreement be construed as a continuing waiver of other breaches of the same or other provisions of this Agreement. All notices given pursuant to this Agreement shall be in writing and may be hand delivered, or shall be sent by registered or certified mail, return receipt requested or by delivery service with receipt. Notices shall be sent to:

Mayor Durkin, Village of Glenwood  
Glenwood Village Hall  
One Asselborn Way  
Glenwood, IL 60425

Mark A. Rudis  
GovernmentComm, Co.  
POB 69  
Monee, IL 60449

## **7. Risk of Loss**

The Village hereby assumes and shall bear the entire risk of loss and damage to the equipment upon installation. Installation means all equipment is in place and operational. Loss does not impair nor discount the obligation to pay GC. Upon loss, Village shall contact GC immediately to discuss and arrange repair or replacement pursuant to new terms. The value of the loss shall be determined jointly by GC and the Village of Glenwood.

## **8. Non-Disclosure**

GC and its affiliates are engaged in development of municipal communications and related business services and consulting which utilize information, laws, procedures, and technology methods that are not generally known in the industry or industries in which GC is or may become engaged. GC's proprietary information may without limitation include information relating to research, development, inventions, manufacture, purchasing, analysis, procedures, accounting, computerization, marketing, merchandising and selling. GC utilizes, installs and sells generally available equipment and specially manufactured equipment. All such matters and materials are secrets as defined under the Illinois Trade Secrets Act. GC shall identify all documentation received by the Village that it believes are trade secrets by placing an appropriate notice on the document. GC recognizes that the Village is bound by the Illinois Freedom of Information Act and that the Village would be required to comply with any decisions of the Court or the Public Access Counselor regarding the release of any documents or information in its possession and the Village shall not in any manner be liable for the release of any information or documents that received from GC if such release is required by the Illinois Freedom of Information Act.

Village of Glenwood shall provide access to its computers and communications equipment in complete confidence with GC and AWB. All such access, interface and information shall belong solely to the Village of Glenwood.

The use of the secret information by, or its disclosure to, any person or organization other than GC and AWB would be highly detrimental and damaging to GC and AWB and/or its affiliates, and/or its principals; and, the use and disclosure to any person outside GC and AWB of any of the Village of Glenwood's confidential information, utilities, law enforcement and administrative protocols, equipment, configurations, and any related matter would be highly detrimental and damaging to the Village of Glenwood.

Therefore, GC, AWB, and the Village of Glenwood hereby agree that each party will prevent the disclosure of any of the information and related matters described herein to any person or entity except as is necessary to complete the GlenwoodComm project. Any violation of this paragraph shall result in payment to the injured party in an amount decided, if possible, by a mutually agreed mediator, or if not possible, thereafter, in court in Cook County.

9. **Plan/permit Approval.** To extent Village permits and approvals and/or the approval of any other governmental agency are required for the completion of the Work required by this Agreement, GC shall be responsible for submitting the necessary applications and obtaining the permits and approvals required.
10. **Construction Work.** GC shall expeditiously construct or cause to be constructed the work in a good and workmanlike manner in accordance with all applicable federal, state and local laws, ordinances and regulations, including, but not limited to any applicable Illinois Prevailing Wage requirements. GC shall not cause or permit any deviation from any approved engineering and construction plans and specifications without the Village's prior consent.
11. **Prevailing wage.** GC shall require that all construction activities are performed in compliance with all the provisions of the Illinois Prevailing Wage Act, 820 ILCS 130/01 *et seq.*, and shall pay not less than the prevailing rate of wages as found by the public body, Illinois Department of Labor or as determined by the court on review to all laborers, workers, and mechanics performing work on the project. GC as a condition to receiving payment, comply with the certified payroll requirements of the Illinois Prevailing Wage Act, 820 ILCS 130/5.
12. **No Liens.** No mechanics' or other liens shall be established against the Property or any Village funds in connection with any work for labor or materials furnished in connection with any acquisition, demolition, site preparation, construction, additions, modifications, improvements, repairs, renewals or replacements so made as part of the Work; provided, however, that GC shall not be in default hereunder if mechanics' or other liens are filed or established and GC contests in good faith said mechanics' liens. In

such event the mechanics' or other liens may remain undischarged and unsatisfied during the period of such contest and any appeal therefrom, GC shall not be in violation of this Section if it posts a bond or a letter of credit in an amount sufficient to cover any liens, and sends written notice to the Village advising of the type and amount of the security posted for such liens.

### **13. Indemnification**

GC shall indemnify, defend and hold harmless the Village and its officials, employees and agents (collectively referred to as "Indemnities") and each of them from and against all loss, cost, penalties, fines, damages, claims, expenses (including attorney's fees) or liabilities (collectively referred to as "Liabilities") by reason of any injury to or death of any person or damage to or destruction or loss of any property arising out of, resulting from, or in connection with GC's performance or nonperformance of any work which is, or is alleged to be, directly or indirectly caused, in whole or in part, by any act, omission, default or negligence (whether active or passive) of GC or its employees, agents, or subcontractors (collectively referred to as "GC") except to the extent such Liabilities is, or is alleged to be, caused in whole or part (whether joint, concurrent, or contributing) by any act, omission, default or negligence (whether active or passive) of the Indemnities. The indemnification obligations of this paragraph shall survive the completion of this agreement.

### **14. Insurance.**

GC shall obtain the insurance required by this section with financially sound insurance companies rated at least A:VII by Bests. The insurance companies chosen by GC shall be subject to the Village's approval which shall not be unreasonably withheld. The insurance required shall be written for not less than limits of liability specified in this Agreement or required by law, whichever coverage is greater. Coverages, shall be maintained on an occurrence basis without interruption from date of commencement of the Work under this Agreement until the termination of any coverage required to be maintained after termination.

All insurance shall be written on Insurance Service Office (ISO) forms. The required insurance set forth below shall be written for not less than the following minimum limits or greater if required by law:

1. Workers' Compensation, Occupational Disease and Employer's Liability Insurance:
  - A. State of Illinois - Statutory limits.
  - B. Applicable Federal (if any) - Statutory limits.
  - C. Employer's Liability:
    - Bodily Injury by Accident - \$500,000 each accident.

Bodily Injury by Disease - \$500,000 each employee;  
\$500,000 policy limit.

2. Commercial General Liability Insurance including as minimum coverages:

Premises - Operations Liability  
Independent Contractor's Protective Liability  
Products and Completed Operations Liability  
Contractual Liability  
Property Damage  
Personal Injury, with Employment Exclusion deleted

A. Limits of Liability:

i. Bodily Injury and Property Damage: \$1,000,000 each occurrence and \$1,000,000.00 aggregate

B. The contractual liability coverage shall at a minimum protect the Village to the extent of the following Hold Harmless Agreement:

GC shall defend, indemnify and hold harmless the Village, and its officials, employees and agents (collectively referred to as "Indemnities") and each of them from and against all loss, cost, penalties, fines, damages, claims, expenses (including attorney's fees) or liabilities (collectively referred to as "Liabilities") by reason of any injury to or death of any person or damage to or destruction or loss of any property arising out of, resulting from, or in connection with GC's performance or nonperformance of any work contemplated by this Agreement which is, or is alleged to be, directly or indirectly caused, in whole or in part, by any act, omission, default or negligence (whether active or passive) of GC or its employees, agents, or subcontractors (collectively referred to as "GC"), regardless of whether it is, or is alleged to be, caused in whole or part (whether joint, concurrent, or contributing) by any act, omission, default or negligence (whether active or passive) of the Indemnities, or any of them. GC expressly agrees to defend, indemnify and hold harmless the Indemnities, or any of them, from and against all liabilities which may be asserted by an employee or former employee of GC, as provided above, for which GC's liability to such employee or former employee would otherwise be

limited to payments under state Workers' Compensation or similar employee benefit laws.

3. Comprehensive Automobile Liability Insurance including owned, hired and non-owned vehicles.

A. Limits of Liability: Combined single limit - \$1,000,000

B. Special Requirements:

- i. All owned, hired, or non-owned vehicles including the loading and unloading thereof.
- ii. No vehicles which are not covered by the within specified insurance, whether owned, borrowed or leased shall be in use in the performance of the any services under the contract.

GC's Certificates of Insurance shall name the Village, and its officials, employees and agents as additional insureds on all Comprehensive General Liability, Automobile Liability, and any additional Umbrella Liability Coverages GC may have. Before commencing any services under this contract, GC shall furnish a copy of the additional insured endorsement to the Village. As an additional insured, the Village, and its officials, employees and agents shall be insured to the same extent as GC. The Certificates of Insurance and additional insured endorsements are to be received by the Village before any work commences. The Certificates of Insurance shall provide that the coverages identified therein shall not be cancelled or allowed to expire unless the additional insureds are given thirty (30) days advance notice of such cancellation or expiration in writing by certified mail, return receipt requested.

All the insurance required of GC shall state that the coverage afforded to the additional insureds shall be primary insurance of the additional insureds with respect to claims arising out of operations performed by or on their behalf. If the "additional insureds" have other insurance or self-insured coverage which is applicable to the loss, it shall be on an excess or contingent basis.

All insurance required of GC shall provide that the insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

Under no circumstances shall the Village be deemed to have waived any of the insurance requirements of this contract by (1) allowing any services to commence before receipt of certificates of insurance or additional insured endorsements; (2) by failing to review any certificates or documents received; or (3) by failing to advise GC that any certificate of insurance or additional insured endorsement fails to contain all of the required insurance

provisions or is otherwise deficient in any manner. GC agrees that the obligation to provide the insurance required by these documents is solely its responsibility and that its obligations cannot be waived by any act or omission of the Village.

Nothing contained in this Contract is to be construed as limiting the liability of GC. The Village, does not, in any way, represent that the coverages or limits of insurance specified are sufficient or adequate to protect the Village and its officials, employees and agents, but are merely minimums. The obligations of GC to purchase insurance shall not, in any way, limit its obligations to the Village in the event the Village should suffer an injury or loss in excess of the amount recoverable through insurance, or any loss or portion of a loss which was not covered by GC's Insurance.

GC shall be responsible for assuring that the insurance certificates required in conjunction with this Section remain in force until the completion of the work. If insurance certificates are scheduled to expire prior to completion of the work, GC shall be responsible for submitting new or renewed insurance certificates to the Village at a minimum of ten (10) calendar days in advance of such expiration.

**15. Time of Essence.**

Time is of the essence of this Agreement. The Parties will make every reasonable effort to expedite the subject matters hereof.

**16. Default.**

(a) A Party shall be deemed in default and be in breach of this Agreement if it fails to materially perform, observe or comply with any of its covenants, agreements or obligations hereunder or breaches or violates any of its representations contained in this Agreement.

(b) Before any failure of any Party to this Agreement to perform its obligations under this Agreement shall be deemed to be a breach of this Agreement, the Party claiming such failure shall notify, in writing, the Party alleged to have failed to perform of the alleged failure and shall demand performance. No breach of this Agreement may be found to have occurred if performance has commenced to the reasonable satisfaction of the complaining Party within seven (7) days of the receipt of such notice.

(c) A default shall also exist upon: (1) the filing or execution or occurrence of a petition filed by either Party seeking any nature of debtor relief, the making of an assignment for the benefit of creditors by either Party, either Party's execution of any instrument for the purpose of effecting composition of the Party's creditors or if either Party files for bankruptcy; or (2) the cessation of either Party conducting business in the normal course or any admission writing of its inability to meet its debts as they become due.

(d) If and when any Default shall occur, and not be cured as set forth in this Agreement, the non-defaulting party may, at its option, in addition to all other rights and remedies given hereunder, or otherwise available by law or equity, including suit for accounting or damages, terminate this Agreement by giving written notice of termination to the other party. Except as otherwise set forth herein, no action taken by a Party pursuant to the provisions of this Section or pursuant to the provisions of any other Section of this Agreement shall be deemed to constitute an election of remedies and all remedies set forth in this Agreement shall be cumulative and non exclusive of any other remedy either set forth herein or available to any Party at law or in equity.

**17. Illinois Law.** This Agreement shall be construed its accordance with the laws of the State of Illinois.

**18. Interpretations.** This Agreement has been jointly negotiated by the Parties and shall not be construed against a Party because that Party may have primarily assumed responsibility for the drafting of this Agreement.

**19. Independent Contractors.** The Parties shall be and act as independent contractors, and under no circumstances shall this Agreement be construed as one of agency, partnership, joint venture or employment between the Parties. The Parties shall each be solely responsible for the conduct of their respective officers, employees and agents in connection with the performance of their obligations hereunder.

**20. Rights of Third Parties.** This Agreement does not create any rights on the part of any person or other entity who is not a Party to this Agreement.

**21. Counterparts.** This Agreement may be executed in one or more counterparts, all of which together shall be construed to constitute one in the same.

IN WITNESS WHEREOF, the parties executed the foregoing Agreement on the date first shown above.

\_\_\_\_\_  
Village of Glenwood, by Mayor Kerry Durkin

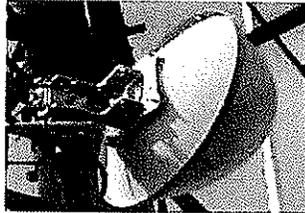
Date: \_\_\_\_\_

\_\_\_\_\_  
GovernmentComm Co., by president Mark A. Rudis

Date: \_\_\_\_\_

## APPENDIX A – EQUIPMENT LIST AND LOCATIONS

### AWB Backhaul Antenna on Water Tower



**WLAN Standard** Proprietary  
**Frequency Range** Adjustable  
**Channel Size** 5/10/20/40 MHz  
**RF Output Power** 23 dBm Peak – Adjustable  
**Operating Mode** Point-to-Point  
**Operating Environment** Temperature: -45C ~ 65C  
 Humidity: 0 ~ 95% (non-condensing)  
**Certification** FCC/IC/CE  
**Quantity** (2)  
**Location** Water Tower

#### Antenna Mechanical and Environmental Specifications

Length x Width X Depth	15.2in X 15.2in X 1.12in (386mm x 386mm x 28.4mm)
Weight	3.6 Lbs (1.66kg)
Backplane	Aluminum
Radome	UV stabilized ABS plastic, gray
Wind Survivability	125mph (201kph)
Wind Load	1.6ft <sup>2</sup> (0.148m <sup>2</sup> )
Operating Temperature Range	-49°F to 149°F (-45°C to 65°C)
Pole Mount Diameter Range	0.75in to 3.0in (19mm to 76mm)

**Power System** Power over Ethernet, 9-48V DC 24V/0.8 A  
 Integrated PoE Power Supply Included Dual-layer Ethernet surge protection.



### AWB Sector Antenna on Water Tower



**WLAN Standard** Proprietary  
**Frequency Range** Adjustable  
**Channel Size** 5/10/20/40 MHz  
**RF Output Power** 16 dBm Peak – Adjustable  
**Operating Mode** Point-to-Multi Point  
**Operating Environment** Temperature: -20C ~ 65C  
 Humidity: 0 ~ 95% (non-condensing)  
**Certification** FCC/IC/CE  
**Quantity** (3)  
**Location** Water Tower

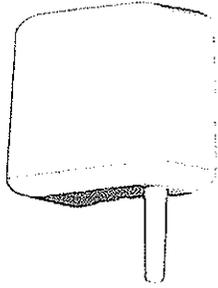
#### Antenna Mechanical and Environmental Specifications

Length x Width X Depth	24.6in X 2.7in X 1.7in (625mm x 69mm x 43mm)
Weight	2.0 Lbs (1.3kg)
Backplane	Aluminum
Radome	UV stabilized ABS plastic, gray
Wind Survivability	125mph (201kph)
Wind Load	1.4ft <sup>2</sup> (0.146m <sup>2</sup> )
Operating Temperature Range	-49°F to 149°F (-45°C to 65°C)
Pole Mount Diameter Range	0.75in to 3.5in (19mm to 89mm)

**Power System** Power over Ethernet, 9-48V DC 24V/0.8 A  
 Integrated PoE Power Supply Included Dual-layer Ethernet surge protection.



**AWB Antenna for Remote Locations**



**WLAN Standard** Proprietary  
**Frequency Range** Adjustable  
**Channel Size** 5/10/20/40 MHz  
**RF Output Power** 23 dBm Peak – Adjustable  
**Operating Mode** Point-to-Multi Point  
**Operating Environment** Temperature: -45C ~ 65C  
 Humidity: 0 ~ 95% (non-condensing)  
**Certification** FCC/IC/CE  
**Quantity** (10) or as needed  
**Location** Remote facilities within Glenwood

Length x Width X Depth	6.2in X 6.2in X 2 in
Weight	2.5 Lbs (1.66kg)
Backplane	Aluminum
Radome	N/A
Wind Survivability	125mph (201kph)
Wind Load	1.6ft <sup>2</sup> (0.148m <sup>2</sup> )
Operating Temperature Range	-49°F to 149°F (-45°C to 65°C)
Pole Mount Diameter Range	0.75in to 3.0in (19mm to 76mm)

**Power System** Power over Ethernet, 9-48V DC 24V/0.8 A  
 Integrated PoE Power Supply Included Dual-layer Ethernet surge protection.



**AWB Flat Panel Antenna**



**WLAN Standard** Proprietary  
**Frequency Range** Adjustable  
**Channel Size** 5/10/20/40 MHz  
**RF Output Power** 23 dBm Peak – Adjustable  
**Operating Mode** Point-to-Multi Point  
**Operating Environment** Temperature: -45C ~ 65C  
 Humidity: 0 ~ 95% (non-condensing)  
**Certification** FCC/IC/CE  
**Quantity** (3) or as needed  
**Location** City Hall / Fire Station / Public Works

Length x Width X Depth	15.2in X 15.2in X 1.12in (386mm x 386mm x 28.4mm)
Weight	3.6 Lbs (1.66kg)
Backplane	Aluminum
Radome	UV stabilized ABS plastic, gray
Wind Survivability	125mph (201kph)
Wind Load	1.6ft <sup>2</sup> (0.148m <sup>2</sup> )
Operating Temperature Range	-49°F to 149°F (-45°C to 65°C)
Pole Mount Diameter Range	0.75in to 3.0in (19mm to 76mm)

**Power System** Power over Ethernet, 9-48V DC 24V/0.8 A  
 Integrated PoE Power Supply Included Dual-layer Ethernet surge protection.



## 24 Port AWB Manage Switch



Quantity (1) or as needed

Location City Hall Telco Room

### Standard Compliance

- IEEE 802.3 10Base-T Ethernet
- IEEE 802.3u 100 Base-Tx Ethernet
- IEEE 802.3ab 1000 Base-T Ethernet
- IEEE 802.3z
- IEEE 802.3x Flow control
- IEEE 802.1d Spanning tree protocol
- IEEE 802.1w Rapid Spanning tree protocol
- IEEE 802.1p Class of service, priority protocols
- IEEE 802.1Q VLAN tagging
- IEEE 802.1x Port Authentication
- IEEE 802.3ad LACP aggregation

### Performance

- 8.8Gbps non-blocking switching fabric
- Flexible design for both Gigabit copper and Gigabit fiber connectivity 1488000pps forwarding rate for 1000Base-T/1000Base-X connectivity, 148800pps forwarding rate for 100Base-TX connectivity
- Wire-speed performance

### Hardware Specification

- Ports: 20 10/100Base-T, auto-negotiation and Eight dual-personality Gigabit interface (RJ-45 or SFP open slots)

### Physical Specification

- Dimensions: 17.24" (W) x 6.8" (D) x 1.75" (H) / 438 (W) x 173 (D) x 44.5 (H) mm
- Weight: 6.8lbs / 3.1 Kg

### Power Requirement

- Input voltage of AC:100-240VAC, 50/60Hz
- Max power rating of AC:21 Watt

## AWB Firewall / Router



Quantity (1) or as needed

Location City Hall Telco Room

### General Specifications

- **Firewall and NAT**  
packet filtering, source and destination NAT, source MAC, addresses, ports, protocols, protocol options, interfaces.
- **Routing**  
RIP 1 / 2, OSPF v2, BGP v4,  
Equal cost multi-path routing, Policy based routing,  
firewall marked packet routing
- **Bridging**  
spanning tree protocol, multiple bridge interfaces,  
bridge firewalling
- **Bandwidth Management**  
per IP / protocol / subnet / port, CBQ, RED, SFC,  
byte limited queue, packet limited queue
- **Point-to-Point Links**  
ISDN dial-out, ISDN dial-in, RADIUS  
authentication/accounting, onboard serial ports,  
PPTP encrypted tunnel (VPN), PPTP Access  
Concentrator, PPPoE client, PPPoE Access  
Concentrator (server), modem pool
- **VLAN**  
Virtual LAN support
- **DHCP**  
DHCP server per interface, DHCP client
- **Monitoring/Accounting**  
IP traffic accounting, firewall actions logging
- **DNS client**  
name resolving for local use, Dynamic DNS Client

### Hardware Specifications

- 2x Gigabit Ethernet LAN ports
- Supports 10BASE-T, 100BASE-TX, and 1000BASE-T, RJ45 output (Supports up to 6 Gigabit connections)

### Power Requirements

- Internal, auto-ranging transformer:  
100 - 240VAC, 50 - 60 Hz
- Maximum Current: 0.5A max. @110V, 0.25A max.  
@240V