

**DATE:** October 19, 2016

**TO:** Honorable Mayor John Rey  
City Council

**FROM:** Anne Marie Gaura, City Manager  
Gene Lowery, Chief of Police  
Dean Frieders, City Attorney

**SUBJECT:** Authorizing a Communications Site Lease Agreement with GTE Wireless of the Midwest Incorporated, d/b/a Verizon Wireless, for Space on the Police Department Telecommunications Tower Located at 700 West Lincoln Highway.

## **I. Summary**

GTE Wireless, the land leasing subsidiary of Verizon Wireless, seeks to enter into a colocation agreement with the City to obtain authorization to install wireless cellular communications antennae on the existing Police Department telecommunications tower located at the Police Station at 700 W. Lincoln Highway. Below is a summary of the main points of the terms and conditions of the proposed lease agreement:

1. The initial term shall be for five years at a total annual rental of \$30,000, payable in equal monthly installments.
2. The rent for each successive year shall be an amount equal to 102% of the rent for the immediately preceding year.
3. The agreement shall automatically extend for five additional five-year terms unless Verizon terminates the lease at the end of the current term by giving the City written notice of the intent to terminate at least 90 days prior to the end of the then-current term.

These terms are consistent with other colocation agreements the City has entered into in recent history.

## **II. Background**

When the Police Station was constructed, a radio capability analysis was performed to determine the optimal height for the City's telecommunications tower to be located at the facility in order to ensure consistent public safety radio communications throughout

the City. Once the optimal height was determined, the City undertook an investigation to ascertain the most economical means of purchasing a tower that met the minimum height. The City ultimately located a new cellular communications antenna tower that had been manufactured but not sold, and available for purchase at a discounted price. This antenna tower was purchased and installed, and among the key benefits of the tower was the availability of additional tower space for future colocation of public or private communications facilities. The tower obtained all required zoning approvals for installation at the Police Station (and of note, colocation of cellular facilities on the existing tower is a permitted use under the City's Unified Development Ordinance). The City's existing telecommunications radio equipment is housed in a small, self-contained shed at the Police Station that was obtained by the City, used, for free.

Verizon Wireless proposes to co-locate cellular communications antennae on the City's existing tower, and have agreed to the terms of the City's standard colocation lease agreement, providing a 30 year term with rent payments of \$30,000 per year, plus a 2% per year escalator in rent. This lease agreement deviates from the City's other lease agreements in that the City has to address the existing telecommunications shed at the Police Station. Verizon has agreed that it will pay to purchase a new, stand-alone communications closet for the City's radio equipment, and will pay for all costs of installation of that closet (inclusive of the costs of moving radios with a vendor selected by the City who is qualified to perform the radio relocation while maintaining any applicable warranty coverage). Verizon has also agreed to pay for the costs of relocating the existing shed to the City's Public Works facilities, where it will be used for secure storage of signage and related materials. In addition, Verizon will construct the foundation required for their new telecommunications shed, and pay all costs of installing their telecommunications equipment.

This arrangement results in the City minimizing clutter at the Police Station by maintaining only a *single telecommunications shed at the site*, and also upgrades the quality of the structure housing the City's radio equipment to a purpose-built radio telecommunications closet that is properly sized for the City's equipment. The resolution authorizing the lease also contemplates authorizing staff to approve of the final site layout for the facilities to be installed. The site layout has not yet been finalized, as Verizon needs to remove the existing shed to determine optimal conditions for its future facilities.

Of note, there is additional space on the telecommunications tower for future colocation opportunities, and the City is vigorously pursuing any available options.

### **III. Community Groups/Interested Parties Contacted**

This item is anticipated to be discussed at the City Council meeting to be conducted on October 24, 2016 to provide an opportunity for public input. As a component of this work, the City would be coordinating with the Voluntary Action Center to relocate their radio equipment that is currently housed within the existing telecommunications shed.



#### **IV. Legal Impact**

The City has the legal authority to enter into a colocation agreement of this nature, subject to City Council approval.

#### **V. Financial Impact**

The City will not incur any costs in this project, and will derive \$30,000 of annual revenue (plus a 2% escalator in rent) on an annual basis for 30 years. Over the term of the lease, this will generate over \$1,200,000 in revenue to the City.

#### **VI. Options**

1. City Council may elect to approve the resolution authorizing the execution of the lease agreement to allow the colocation at the Police Station telecommunications tower to occur, generating in excess of \$1,200,000 in revenue to the City.
2. City Council may elect to not approve the resolution, which would result in the City continuing to use the existing (used) telecommunications shed and not receiving any additional revenue.

#### **VII. Recommendation**

Approval of the resolution is recommended.



**RESOLUTION 2016-**

**AUTHORIZING A COMMUNICATIONS SITE LEASE WITH GTE WIRELESS OF THE MIDWEST D/B/A VERIZON WIRELESS FOR SPACE ON THE TELECOMMUNICATIONS TOWER LOCATED AT THE CITY OF DEKALB POLICE STATION AT 700 WEST LINCOLN HIGHWAY.**

**WHEREAS**, the City of DeKalb is authorized to lease land pursuant to applicable laws; and,

**WHEREAS**, the City is the owner of that real property located at 700 W. Lincoln Highway comprising the site of the DeKalb Police Station, inclusive of the telecommunications tower located therein; and,

**WHEREAS**, the City Council has determined that it is necessary and advantageous and promotes the public safety and interest to permit colocation of cellular antenna equipment upon the above-referenced tower, to enable greater communication opportunities for residents of the City of DeKalb and to improve the quality of cellular service (and relating commerce) within the City;

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF DEKALB, ILLINOIS:**

**Section 1.** The Mayor of the City of DeKalb is authorized and directed to execute the Lease Agreement attached hereto as Exhibit A and the Rider A to Lease Agreement, subject to such changes as shall be acceptable to him with the recommendation of City staff. Further, the Mayor is authorized to append to such Lease Agreement such additional exhibits as shall be required to effectuate its purpose, including but not limited to a final site plan for the proposed installations, after such plans have been reviewed and approved by City Staff. City staff is authorized and directed to take all such actions as shall be necessary to effectuate this authority, including reviewing and approving site plans, executing further documentation, or otherwise as shall be appropriate.

**Section 2:** That the City Clerk of the City of DeKalb, Illinois be authorized and directed to attest the Mayor's Signature and shall be effective thereupon.

**PASSED BY THE CITY COUNCIL** of the City of DeKalb, Illinois, at a regular meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, 2016, and approved by me as Mayor on the same day.

**ATTEST:**

\_\_\_\_\_  
**JENNIFER JEOP JOHNSON**, City Clerk

\_\_\_\_\_  
**JOHN A. REY**, Mayor

## SITE LEASE AGREEMENT

This **SITE LEASE AGREEMENT** (this "**Agreement**") is effective the date of the last signature on this Agreement (the "**Effective Date**") by and between the City of DeKalb, Illinois, an Illinois municipality ("**Landlord**") and GTE Wireless of the Midwest Incorporated d/b/a Verizon Wireless, an Indiana corporation ("**Tenant**").

Landlord and Tenant agree to the following:

- 1. Property Description.** Landlord is the owner of the real property located at 700 W. Lincoln Highway, City of DeKalb, DeKalb County, Illinois 60115, as further described on **Exhibit A** (the "**Property**"). The Property includes the premises which is comprised of approximately 600 square feet (20' x 30' area) plus any additional portions of the Property which Tenant may require for the use and operation of its facilities as generally described on **Exhibit B**, which includes the right to use positions on an existing monopole tower ("**Tower**") also located at Property (collectively, the "**Premises**"). Tenant reserves the right to update the description of the Premises on **Exhibit B** to reflect any modifications or changes.
- 2. Effective Date.** The Agreement shall be effective on the date of full execution by the parties.
- 3. Landlord Cooperation.** During the Term (as defined below), Landlord shall cooperate with Tenant's due diligence activities, which shall include, but not be limited to, access to the Property for inspections, testing, permitting related to the Permitted Uses (as defined below). Landlord authorizes Tenant to file, submit and obtain all zoning, land use and other applications for permits, licenses and approvals required for the Permitted Uses from all applicable governmental and quasi-governmental entities (collectively, the "**Governmental Approvals**"). Landlord's cooperation shall include the prompt execution and delivery of any documents necessary to obtain and maintain Government Approvals or utility services. Tenant acknowledges that Landlord will cooperate, at no cost to Landlord with Tenant to obtain certain Governmental Approvals, and acknowledges that Landlord shall adhere to its obligations in fully and fairly considering such matters.
- 4. Antenna Facilities and Permitted Uses.** Tenant leases the Premises for its equipment, personal property and improvements associated with Tenant's wireless communications business (the "**Antenna Facilities**"). The Premises may be used for the construction, installation, operation, maintenance, repair, addition, upgrading, removal or replacement of any and all Antenna Facilities (the "**Permitted Uses**") for no fee or additional consideration, consistent with the terms of this Agreement. Such Permitted Uses shall consist solely of facilities supporting Tenant's operations and shall not be deemed to include, under any circumstances, any subletting of space or facilities to any third parties. The Antenna Facilities shall remain the exclusive property of Tenant and shall not be considered fixtures. Tenant, at its expense, may use any and all reasonable means as Tenant deems necessary to control, secure or restrict access to the Antenna Facilities, subject to Landlord's approval, which shall not be unreasonably withheld. Tenant shall not construct any security measures that restrict Landlord's ability to access Landlord's premises or other non-Tenant improvements thereupon. Landlord hereby waives any and all lien rights it may have concerning the Antenna Facilities. If necessary to maintain service, Tenant shall have the right to locate a cell-on-wheels, or other temporary antenna facility on the Property. Landlord shall cooperate with the placement of the temporary facility at a mutually acceptable location. If such temporary antenna facility is required by virtue of an action of Landlord, there shall be no additional charge for such facility. If such temporary facility is required by virtue

of any other reason, the Landlord and Tenant shall negotiate and agree to a supplemental charge for such additional area required for the temporary facility in good faith prior to the location of any such facility.

## 5. Lease Term.

a) The Initial Term of the Lease shall be five (5) years commencing on the first day of the month following Tenant's commencement of installation of the Antenna Facilities but in no event later than June 1, 2017 (the "**Commencement Date**"), and ending at 11:59 p.m. on the day immediately preceding the fifth anniversary of the Commencement Date (the "Initial Term"). The Initial Term together with any Renewal Terms are referred to collectively as the "**Term.**" The parties will acknowledge, in writing, the Commencement Date. The first payment of rent due under this Agreement will be due within thirty (30) days following receipt of the written commencement acknowledgement.

b) The Initial Term shall automatically renew for five (5) successive renewal terms of five (5) years each (each a "**Renewal Term**"), provided, however, that Tenant may elect not to renew by providing not less than ninety (90) days' notice prior to the expiration of the then current Term.

## 6. Rent/Other Charges.

a) Upon the Commencement Date, Tenant shall pay Landlord rent in the amount of two thousand five hundred and No/100 Dollars (\$2,500.00) per month (the "**Rent**"). Tenant shall deliver Rent to Landlord at the address specified in Section 15, or by electronic payment. The first Rent payment shall be due within twenty business (20) days after the Commencement Date. Subsequent Rent shall be payable by the fifth day of each month.

b) The Rent for each successive year shall be an amount equal to one hundred and two percent (102%) of the Rent for the immediately preceding year. The Rent shall continue to be paid on a monthly basis.

c) Rent for any partial month shall be prorated on a per day basis, based on the number of days in the month in question. Landlord shall cooperate with Tenant regarding the use of any electronic rent payment systems or the provision of any associated documentation. Tenant may condition payment of Rent and any other sums payable under this Agreement upon Tenant's receipt of a duly completed IRS form W-9, or similar governmental form.

d) Any charges payable under this Agreement other than Rent shall be billed by Landlord to Tenant within twelve (12) months from the date the charges were incurred or due; otherwise the charges shall be deemed time-barred and forever waived and released by Landlord.

7. Interference. Tenant shall not interfere with the radio frequency communications of Landlord or any of Landlord's existing tenants as of the Effective Date. After the Effective Date, Landlord shall not install, or permit any third party to install, any equipment or structures that interfere with or restrict the operations of Tenant. Any such interference shall be deemed a material breach of this Agreement by Landlord and Landlord shall remove the cause of the interference within forty-eight (48) hours of notice. Tenant shall have the right to exercise all legal and equitable rights and remedies to end the interference. Tenant agrees and acknowledges that Landlord may install or may permit third parties to install other communications equipment or structures at the Property; provided that such equipment or structures are in compliance with

applicable FCC guidelines, and such third parties are operating within their FCC licensed spectrum, such equipment shall not be deemed to violate any provision of this Lease.

## **8. Utility Services and Construction.**

a) Tenant shall have the right to connect to, maintain, repair, upgrade, remove or replace existing utility related equipment and shall have the right to install new utility related equipment to service its Antenna Facilities, or cell-on-wheels on, or serving the Property (collectively, the "**Utility Facilities**"). The utility areas in which Tenant may use are generally described in Exhibit B.

b) Tenant shall be responsible for all utilities charges for electricity, or any other utility service used by Tenant on the Premises. Tenant shall install separate meters for Tenant's utility usage.

c) Tenant shall be responsible for providing plans and stamped drawings for any installations or future modification of equipment or any utilities. The rental contemplated herein shall constitute the rental associated with improvements that are authorized during the first Governmental Approvals sought during the Option Period. Following the initial round of Governmental Approvals, any upgrades of equipment other than like-kind equipment changes or swaps shall be subject to all required Governmental Approvals and shall trigger a renegotiation of rental fees between the parties, in good faith. Tenant acknowledges that any such future Governmental Approvals shall be subject to the provisions of Section 3 of this Agreement.

d) Tenant shall be responsible for all permitting fees associated with any improvements proposed for construction or installation at the Property by Tenant. Tenant shall also be responsible for all costs incurred by the Landlord in reviewing, inspecting or approving any proposed or installed improvements, including all fees or costs incurred in plan and permit review, construction supervision or post-construction inspection, and inspection of antenna installations up to four thousand and No/100 Dollars (\$4000.00). Said fee shall be due and payable within thirty (30) days after receipt of invoice from Landlord.

e) All Tenant facilities installed on-site shall be color-matched to the Landlord's existing facilities, including but not limited to the use of color-matching conduits, raceways, antennae, and boxes/housing, and also including color-matching, unpainted cables and wiring. Tenant acknowledges that the Landlord maintains a specific paint/coating system on the Landlord's facilities at the Property in accordance with applicable Illinois Environmental Protection Agency requirements, and Tenant shall be responsible for any costs incurred by the Landlord in having a paint/coating contractor selected by the Landlord prepare and paint/coat any point where Tenant's facilities contact Landlord's facilities, so as to preserve the integrity of Landlord's facilities' paint/coating, and so as to preserve any paint/coating warranties applicable to Landlord's facilities. All of Tenant's cutting, welding or attachment points to Landlord's facilities shall be subject to review and approval by Landlord in Landlord's sole and exclusive discretion. Tenant shall be responsible for the construction of a screening element as depicted on Exhibit B. Tenant shall also be responsible for any repair or replacement costs for Landlord Property incurred by the Landlord as a result of any Tenant (or Tenant-contractor) work performed on the Property or any Tenant installation or improvement on the Property.

f) Tenant acknowledges that the Landlord does presently and shall continue to offer the Property to other tenants for use in similar endeavors, so long as tenants not in existence as of the Effective Date do not cause interference with Tenant's Antenna Facilities or Tenant's Permitted Use under this

Agreement. Tenant shall cooperate in good faith with any coordination of design or installation of other equipment or facilities at the Property.

## **9. Access and Easements.**

a) Landlord shall furnish unimpeded and secure access to the Premises on a 24-hours-a-day, 7-days-a-week basis to Tenant and Tenant's employees, agents, contractors and other designees. Such access shall be without charge if conducted during Landlord's normal hours of operation at the Property, which are considered Monday through Friday, 8:00 am to 5:00 pm, excluding national holidays. After-hours access shall be available to Tenant upon notice to Landlord. Tenant acknowledges that Landlord maintains public utilities at the Property, and shall have the right to require that Landlord's personnel be present at the Property at the time of any after-hours access by Tenant, at Tenant's cost. Landlord represents that the current hourly charge imposed for such access is \$65.00 (two hour minimum) with said charge subject to reasonable increases during the term of this Agreement.

b) Landlord grants Tenant, at no additional Rent or charge, easements on, over, under and across the Property for ingress, egress, communications, power and other utilities, construction, demolition and access to the Premises and any Utility Facilities at locations and in a fashion reasonably acceptable to the Landlord (collectively, the "Easements"). Notwithstanding the foregoing, Landlord and Tenant agree that the Easements that Tenant shall be permitted to use as part of the initial installation are in locations depicted in Exhibit B. Landlord shall not modify, interrupt or interfere with any communications, electricity, or other utility equipment and easements serving the Property, except with the prior written approval of Tenant.

**10. Termination.** Tenant may terminate this Agreement without further liability, upon ninety (90) days prior written notice to Landlord, for any of the following reasons: (i) changes in local or state laws or regulations which adversely affect Tenant's ability to operate; (ii) a Federal Communications Commission ("**FCC**") ruling or regulation that is beyond the control of Tenant; (iii) technological reasons (iv) if Tenant is unable to obtain any Governmental Approval required for the construction or operation of Tenant's Antenna Facilities; or (v) upon expiration of the second five year renewal term provided Tenant is not in default hereunder beyond applicable notice and cure periods, Tenant shall have the right to terminate this Agreement upon the annual anniversary of the Commencement Date provided that six (6) months' prior notice is given to Landlord and payment of the equivalent of six (6) months' of the then-current rent. At the time of lease termination for any reason, Tenant shall remove all of its equipment and installations from the Property, inclusive of all utilities, underground improvements, foundations, footings, and facilities (unless Landlord agrees, in writing, to permit all or some portion thereof to remain), and shall restore the Premises to its condition prior to Tenant's installation, reasonable wear, tear and casualty from the elements excepted. All removal shall be performed by a contractor reasonably acceptable to the City, and shall be subject to the paint/coating restoration language included herein, at Tenant's sole cost.

**11. Casualty and Condemnation.** If the Premises or Antenna Facilities are damaged or destroyed by wind, fire or other casualty, Tenant shall be entitled to negotiate, compromise, receive and retain all proceeds of Tenant's insurance and other claims and Tenant may terminate the Lease by written notice to Landlord. If the Premises, any Easements or Antenna Facilities are taken or condemned by power of eminent domain or other governmental taking, then: (a) Tenant shall be entitled to negotiate, compromise, receive and retain all awards attributable to (i) the Antenna Facilities, (ii) Tenant's leasehold interest in the Property, (iii) any moving or relocation benefit available to Tenant and (iv) any other award available to Tenant that is not attributable to Landlord's title to or interest in the Property. If the Antenna Facilities are not operational due to casualty or

condemnation, Tenant shall have the right to abate the Rent for that period time and Tenant may terminate the Lease by written notice to Landlord.

**12. Default and Right to Cure.** A party shall be deemed in default under this Agreement if it fails to make any payment, or to perform any obligation required of it within any applicable time period specified and does not commence curing such breach within thirty (30) days after receipt of written notice of such breach from the non-defaulting party ("**Default**") provided either party shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and the party that commits the breach commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. This Agreement, or Tenant's rights of possession shall not be terminated due to any Tenant Default unless: (a) the Default is material; (b) Landlord shall have given Tenant not less than thirty (30) days prior written notice, after the expiration of the cure period described above, and Tenant fails to cure or commence the cure of such Default within the second thirty (30) day notice period.

**13. Taxes.** Landlord shall pay when due all real estate taxes and assessments for the Property, including the Premises. Notwithstanding the foregoing, Tenant shall reimburse Landlord for any tax paid for by Landlord which is solely and directly attributable to the presence or installation of Tenant's Antenna Facilities during the Term. Landlord shall provide prompt and timely notice of any tax or assessment for which Tenant is liable. Tenant shall have the right to challenge any tax or assessment associated with its improvements and Landlord shall cooperate with Tenant regarding such challenge.

**14. Insurance and Subrogation and Indemnification.**

a) During the Term, Tenant and Landlord each shall maintain Commercial General Liability Insurance in amounts of Two Million and no/100 Dollars (\$2,000,000.00) per occurrence and Two Million and no/100 Dollars (\$2,000,000.00) aggregate. Each party may satisfy this requirement by obtaining the appropriate endorsement to any master insurance policy such party may maintain. Tenant and Landlord shall each maintain "all risk" or "special causes of loss" property insurance on a replacement cost basis for their respectively owned real or personal property. Tenant shall include Landlord, as its interests may appear under this Agreement, as an additional. Tenant's policy shall be primary and non-contributory with any insurance or program of self-insurance that may be maintained by Landlord. Landlord shall include the Tenant as an additional insured as their interest may appear under this Agreement.

b) Landlord and Tenant hereby mutually release each other (and their successors or assigns) from liability and waive all right of recovery against the other for any loss or damage covered by their respective first party property insurance policies for all perils insured thereunder. In the event of an insured loss, neither party's insurance company shall have a subrogated claim against the other party.

c) Subject to the property insurance waivers set forth in the preceding subsection (b), Landlord and Tenant each agree to indemnify and hold harmless the other party from and against any and all administrative and judicial actions and rulings, claims, causes of action, demands and liabilities, including reasonable attorneys' fees, to the extent caused by or arising out of: (i) any negligent acts or omissions or willful misconduct in the operations or activities on the Property by the indemnifying party or the employees, agents, contractors, licensees, tenants or subtenants of the indemnifying party, (ii) any spill or other release of any Hazardous Substances (as defined below) on the Property by the indemnifying party or the employees, agents, contractors, licensees, tenants or subtenants of the indemnifying party, or (iii) any breach of any

obligation of the indemnifying party under this Agreement. The indemnifying party's obligations under this subsection are contingent upon its receiving prompt written notice of any event giving rise to an obligation to indemnify the other party and the indemnified party's granting it the right to control the defense and settlement of the same.

d) The provisions of subsections (b) and (c) above shall survive the expiration or termination of this Agreement.

**15. Notices.** All notices, requests, demands and other communications shall be in writing and shall be effective three (3) business days after deposit in the U.S. mail, certified, return receipt requested or upon receipt if sent via a nationally recognized courier to the addresses set forth below. Landlord or Tenant may from time to time designate any other address for this purpose by providing written notice to the other party.

**If to Tenant, to:**

GTE Wireless of the Midwest  
Incorporated  
d/b/a Verizon Wireless  
180 Washington Valley Road  
Bedminster, New Jersey 07921  
Attention: Network Real Estate

**If to Landlord, to:**

City of Dekalb  
200 S. Fourth Street  
Dekalb, IL 60115

**Per the W-9 Form Rent is to be paid to:**

City of Dekalb  
200 S. Fourth Street  
Dekalb, IL 60115

**16. Quiet Enjoyment, Title and Authority.** Landlord covenants and warrants that: (a) Landlord has full right, power and authority to execute and perform this Agreement and to grant Tenant the leasehold interest and Easements contemplated under this Agreement; (b) Landlord has good and unencumbered title to the Property, free and clear of any liens or Mortgages (defined below) which shall interfere with Tenant's Lease or any rights to or use of the Premises; (c) the execution and performance of this Agreement shall not violate any laws, ordinances, covenants, or the provisions of any Mortgage, lease, or other agreement binding on Landlord; (d) Tenant's use and quiet enjoyment of the Premises shall not be disturbed; and (e) Landlord shall be responsible, at its sole cost and expense, for maintaining all portions of the Property in good order and condition and in compliance with all applicable laws, including without limitation, the roof, any support structure owned by Landlord, HVAC, plumbing, elevators, landscaping and common areas (except to the extent of Tenant's obligation to reimburse Landlord for certain costs as described herein).

**17. Environmental Laws.** Landlord and Tenant shall comply with all applicable federal, state and local laws in connection with any substances brought onto the Property that are identified by any law, ordinance or regulation as hazardous, toxic or dangerous (collectively, the "**Hazardous Substances**"). Tenant agrees to be responsible for all losses or damage caused by any Hazardous Substances that it may bring onto the Property and will indemnify Landlord for all such losses or damages. Landlord agrees to be responsible for all losses or damage caused by any Hazardous Substances that it may bring onto the Property and will indemnify Tenant for all such losses or damages. Landlord represents that it has no knowledge of any Hazardous Substances on

the Property. Tenant shall comply with all applicable laws or regulations regarding RF emissions, including those promulgated by the FCC.

## **18. Assignment.**

a) Tenant shall have the right to assign or otherwise transfer this Agreement, upon written notice to Landlord, to any parent, subsidiary or affiliate of Tenant or Tenant's parent without the necessity of obtaining prior consent from Landlord. For any other type of assignment, Tenant shall obtain prior consent from Landlord, not to be unreasonably withheld, conditioned or delayed. If Landlord consents to an assignment, Tenant and its assignee shall remain jointly and severally responsible for the performance of all duties and obligations of the Tenant under this Agreement. Upon approval of a receipt of a written request from Tenant, Landlord shall execute an estoppel certificate. However, this right of assignment shall be solely limited to assignments to successor owners of the Tenant's facilities, and shall not include the right to sublease.

b) Landlord shall have the right to assign and transfer this Agreement only to a successor owner of the Property. Only upon Tenant's receipt of written verification of a sale, or transfer of the Property shall Landlord be relieved of all liabilities and obligations and Tenant shall look solely to the new landlord for performance under this Agreement. Landlord shall not attempt to assign, or otherwise transfer this Agreement separate from a transfer of ownership of the Property (the "**Severance Transaction**"), without the prior written consent of Tenant, which consent may be withheld or conditioned in Tenant's sole discretion. If Tenant consents to a Severance Transaction, Landlord and its successors and assigns shall remain jointly and severally responsible for the performance of all duties and obligations of the Landlord under this Agreement.

**19. Relocation.** Landlord must provide Tenant at least one-hundred twenty (120) days written notice of any repairs, maintenance or other work (the "**Work**") during the Term of the Lease which would require the temporary relocation of the Antenna Facilities. If the scheduled service or maintenance of Landlord's Tower will prevent Tenant's operation and use of its Antenna Facilities, then Tenant shall have the right to install and operate a temporary antenna facility (including a cell-on-wheels) at a mutually acceptable location on the Property. Upon completion of such Work, Tenant shall be permitted to return to utilizing its original location from any such temporary location. The cost of relocating Tenant's Antenna Facilities ("**Relocation Costs**") shall be paid by Tenant, but Landlord may only request Tenant to relocate its Antenna Facilities once every five (5) years. Otherwise, Landlord will be responsible for the Relocation Costs. The Relocation Costs shall include the cost of the removal and re-installation of Tenant's Antenna Facilities on the Tower.

**20. Marking and Lighting Requirements.** Landlord represents that Landlord's Tower currently meets all applicable marking and lighting requirements of the Federal Aviation Administration and FCC. If the Tower or any tower or other support structure for Tenant's Antenna Facilities owned by Landlord requires additional lighting or marking by virtue of Tenant's installations, Tenant shall reimburse Landlord for such required modifications or shall have the option to terminate this Agreement upon prior written notice to Landlord. Tenant shall indemnify and hold Landlord harmless from any fines or other liabilities caused by Tenant's failure to comply with these requirements.

## **21. Miscellaneous.**

a) This Agreement constitutes the entire agreement and understanding of the parties, and supersedes all offers, negotiations and other agreements with respect to the subject matter and Property. Any amendments to this Agreement must be in writing and executed by both parties.

b) Landlord agrees to cooperate with Tenant in executing any documents which Tenant deems necessary to insure, protect Tenant's rights in, or use of, the Premises. Landlord shall execute and deliver: (i) a Memorandum of Lease in substantially the form attached as Exhibit C; and (ii) if the Property is encumbered by a deed, mortgage or other security interest (each, a "Mortgage"), a subordination, non-disturbance and attornment agreement using Tenant's form.

c) This Agreement shall be construed in accordance with the laws of the state or territory in which the Property is located, without regard to the principles of conflicts of law.

d) If any term of this Agreement is found to be void or invalid, the remaining terms of this Agreement shall continue in full force and effect. Any questions of particular interpretation shall be interpreted as to their fair meaning.

e) Each party hereby represents and warrants to the other that this Agreement has been duly authorized, executed and delivered by it, and that no consent or approval is required by any lender or other person or entity in connection with the execution or performance of this Agreement.

f) If either party is represented by any broker or any other leasing agent, such party is responsible for all commission fee or other payment to such agent.

g) This Agreement and the interests granted herein shall run with the land, and shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives and assigns.

**LANDLORD:** City of DeKalb, Illinois, an Illinois municipality

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

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

Title: \_\_\_\_\_

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

**TENANT:** GTE Wireless of the Midwest Incorporated d/b/a Verizon Wireless, an Indiana corporation

\_\_\_\_\_

Printed Name: Jacque Vallier

Title: Executive Director

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

**EXHIBIT A**  
**Legal Description**

**The Property is legally described as follows:**

Lot 1 and Outlot A in DeKalb Law Enforcement Center P.U.D., being a resubdivision of part of Lots 4, 5, 6 & 7 in Normal Park Addition to the City of DeKalb, according to the plat thereof recorded April 4, 2013 as document number 2013004274, in DeKalb County, Illinois.

**EXHIBIT B**

**1 of 3**

Subject to the terms and conditions of this Agreement, the location of the Premises is generally described and depicted as shown below or in the immediately following attachment(s).

*(final sketch to be added upon approval of the parties)*

**EXHIBIT B**  
**Page 2 of 3**

Site Number: 288435  
Site Name: Annie Glidden South  
Market: Great Lakes

**EXHIBIT B**  
**Page 3 of 3**

## EXHIBIT C

### Memorandum of Lease

[CONFIRM HEADING/MARGINS/FORMAT CONFORM TO STATE AND LOCAL REQUIREMENTS]

After Recording, Mail To:

Ginsberg Jacobs LLC  
300 South Wacker Drive  
Suite 2750  
Chicago, Illinois 60606  
Attn: Steven F. Ginsberg, Esq.  
(Site Name: Annie Glidden South)

APN: 0823280033

### MEMORANDUM OF LEASE

A Site Lease Agreement (the "Agreement") by and between the City of DeKalb, Illinois, an Illinois municipality ("Landlord") GTE Wireless of the Midwest Incorporated d/b/a Verizon Wireless, an Indiana corporation ("Tenant") was made regarding a portion of the following property (as more particularly described in the Agreement, the "Premises"):

See Attached **Exhibit A** incorporated herein for all purposes.

Without limiting the terms and conditions of the Agreement, Landlord and Tenant hereby acknowledge the following:

1. Capitalized terms used, but not otherwise defined herein, shall have the meanings ascribed to such terms in the Agreement.
2. The Agreement shall constitute a lease (the "Lease"), the term of which shall initially be for five (5) years and will commence on the date set forth in the Agreement (the "Commencement Date").
3. Tenant shall have the right to extend the lease for five (5) additional five-year terms.
4. This memorandum is not a complete summary of the Lease. It is being executed and recorded solely to give public record notice of the existence of the Lease with respect to the Premises. Provisions in this memorandum shall not be used in interpreting the Lease provisions and in the event of conflict between this memorandum and the said unrecorded Lease, the unrecorded Lease shall control.
5. This memorandum may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto were upon the same instrument.

**IN WITNESS WHEREOF**, the parties hereto have respectively executed this memorandum effective as of the date of the last party to sign.

**LANDLORD:** the City of DeKalb, Illinois, an Illinois municipality

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

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

Title: \_\_\_\_\_

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

**TENANT:** GTE Wireless of the Midwest Incorporated d/b/a Verizon Wireless, an Indiana corporation

\_\_\_\_\_

Printed Name: Jacque Vallier

Title: Executive Director

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





**Memorandum of Lease - Exhibit A**  
**Legal Description**

**The Property is legally described as follows:**

Lot 1 and Outlot A in DeKalb Law Enforcement Center P.U.D., being a resubdivision of part of Lots 4, 5, 6 & 7 in Normal Park Addition to the City of DeKalb, according to the plat thereof recorded April 4, 2013 as document number 2013004274, in DeKalb County, Illinois.

**Rider A  
to Site Lease Agreement**

This Rider shall become a part of and be incorporated into that certain Site Lease Agreement (“Agreement”) by and between by and between the City of DeKalb (hereafter, “Landlord”) and GTE Wireless of the Midwest Incorporated d/b/a Verizon Wireless (hereafter, “Tenant”, and collectively as “the Parties”). Any capitalized term not defined herein shall have the meaning ascribed to it in the Agreement. In the event of a conflict between terms of the Agreement and the Rider, the terms of the Rider shall govern and control.

- 1) *Relocation of existing communications equipment at Property and within existing communications equipment shed owned by Landlord (“Existing Shed”):* Landlord agrees to remove all existing equipment presently located within the Existing Shed. Landlord further agrees that it shall, at its sole option, either dispose of the Existing Shed, or relocate the Existing Shed to an alternate location (“Existing Shed Removal”) specified by the Landlord, within the corporate limits of the Landlord. Upon completion of the Existing Shed Removal by Landlord, Tenant agrees to reimburse for all reasonable costs incurred by Landlord directly associated with such action by Landlord, with such costs not to exceed \$\_\_\_\_\_ (“Existing Shed Removal Cost Reimbursement”). Tenant shall pay the Existing Shed Removal Cost Reimbursement to Landlord as additional consideration for entering into the Agreement. Landlord shall provide an itemized invoice to Tenant listing the costs incurred in connection with the Existing Shed Removal and Tenant shall make said Existing Shed Removal Cost Reimbursement within thirty (30) days of presentation by Landlord.
  
- 2) *Purchase/Installation of New Landlord Radio Facilities:* As further consideration for entering into the Agreement, Tenant also agrees to purchase and install a radio cabinet (“New Landlord Radio Facilities”) as described in the attached Exhibit A-1 to this Rider (or such other cabinet as shall be reasonably acceptable to the Parties), and to connect the same to existing utilities at the Premises, and to reinstall the radio equipment as further contemplated in said Exhibit A-1. As the radio facilities are utilized by the City for emergency telecommunications, the schedule for relocation/replacement of the radio facilities shall be subject to approval by the City, which shall not be unreasonably withheld, and shall be conducted in such a fashion as to minimize any interruption in radio service to the greatest extent possible.
  
- 3) *Location of New Tenant Equipment Platform:* Tenant shall provide a new base station equipment platform and installation for Tenant purposes and use, as contemplated in Exhibit B to the Agreement. Tenant may, in its sole discretion, either remove the existing concrete pad and install a new concrete pad, or may reuse the existing concrete pad. Tenant shall locate and configure the platform and all supporting equipment associated therewith as contemplated by Exhibit B to the Agreement, with revisions thereto requiring the approval of the Parties. Tenant shall be permitted to utilize the existing ice-bridge at the site, and shall comply with the terms of the Agreement with regard to the configuration, installation and maintenance of the facilities.

As part of Tenant’s equipment installation, Tenant agrees to remove the grounding ring that serves the Existing Shed. Tenant will install a new grounding ring which will serve the Tenant equipment and the New Landlord Radio Facilities. Tenant agrees that it will not disturb the existing radio tower grounding ring as currently installed at property.

Entered into and approved this \_\_\_\_ day of \_\_\_\_\_, 2016.

**LANDLORD:** City of DeKalb, Illinois, an Illinois municipality

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

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

Title: \_\_\_\_\_

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

**TENANT:** GTE Wireless of the Midwest Incorporated d/b/a Verizon Wireless, an Indiana corporation

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

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

Title: \_\_\_\_\_

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

Exhibit A-1

New Landlord Radio Facilities

**Rider A  
to Site Lease Agreement**

This Rider shall become a part of and be incorporated into that certain Site Lease Agreement (“Agreement”) by and between by and between the City of DeKalb (hereafter, “Landlord”) and GTE Wireless of the Midwest Incorporated d/b/a Verizon Wireless (hereafter, “Tenant”, and collectively as “the Parties”). Any capitalized term not defined herein shall have the meaning ascribed to it in the Agreement. In the event of a conflict between terms of the Agreement and the Rider, the terms of the Rider shall govern and control.

- 1) *Relocation of existing communications equipment at Property and within existing communications equipment shed owned by Landlord (“Existing Shed”):* Landlord agrees to remove all existing equipment presently located within the Existing Shed. Landlord further agrees that it shall, at its sole option, either dispose of the Existing Shed, or relocate the Existing Shed to an alternate location (“Existing Shed Removal”) specified by the Landlord, within the corporate limits of the Landlord. Upon completion of the Existing Shed Removal by Landlord, Tenant agrees to reimburse for all reasonable costs incurred by Landlord directly associated with such action by Landlord, with such costs not to exceed \$7,500.00 (“Existing Shed Removal Cost Reimbursement”). Tenant shall pay the Existing Shed Removal Cost Reimbursement to Landlord as additional consideration for entering into the Agreement. Landlord shall provide an itemized invoice to Tenant listing the costs incurred in connection with the Existing Shed Removal and Tenant shall make said Existing Shed Removal Cost Reimbursement within thirty (30) days of presentation by Landlord.
  
- 2) *Purchase/Installation of New Landlord Radio Facilities:* As further consideration for entering into the Agreement, Tenant also agrees to assume the costs of acquisition and installation of a radio cabinet (“New Landlord Radio Facilities”) as described in the attached Exhibit A-1 to this Rider (or such other cabinet as shall be reasonably acceptable to the Parties), and the connection of the same to existing utilities at the Premises, and to reinstall the radio equipment as further contemplated in said Exhibit A-1. Tenant shall also be responsible for the costs to install the concrete foundation or pad required for such installation. As the radio facilities are utilized by the Landlord for emergency telecommunications, the schedule for relocation/replacement of the radio facilities shall be subject to approval by the Landlord, which shall not be unreasonably withheld, and shall be conducted in such a fashion as to minimize any interruption in radio service to the greatest extent possible. Tenant shall also assume the cost of installation of all conduits and wiring necessary to power such facilities. Tenant acknowledges that the Landlord has warranties on the existing equipment that require the installation services to be provided by a specified vendor, Dixon-Ottawa

Communications of Dixon, Illinois (“the Approved Vendor”). The Landlord has obtained a cost estimate and list of equipment and services to be rendered by the Approved Vendor, a copy of which is attached hereto as Exhibit A-1. The parties acknowledge that the total cost for said work shall not to exceed Twenty-Three Thousand Dollars (\$23,000.00). The Landlord shall contract with the Approved Vendor to source the equipment and perform the radio relocation as contemplated in this Paragraph 2. Landlord shall pay the Approved Vendor directly for services rendered and submit a detailed invoice to Tenant for reimbursement. Tenant agrees to reimburse Landlord for said costs within thirty (30) days of receipt of detailed invoice showing the equipment purchased and services rendered by the Approved Vendor, with the total cost not to exceed Twenty-Three Thousand Dollars (\$23,000.00).

- 3) *Location of New Tenant Equipment Platform:* Tenant shall provide a new base station equipment platform and installation for Tenant purposes and use, as contemplated in Exhibit B to the Agreement. Tenant may, in its sole discretion, either remove the existing concrete pad and install a new concrete pad, or may reuse the existing concrete pad. Tenant shall locate and configure the platform and all supporting equipment associated therewith as contemplated by Exhibit B to the Agreement, with revisions thereto requiring the approval of the Parties. Landlord shall utilize the existing ice-bridge at the site. Tenant shall be permitted to construct a new ice-bridge at the site, in configuration reasonably acceptable to the City, and shall comply with the terms of the Agreement with regard to the configuration, installation and maintenance of the facilities.

As part of Tenant’s equipment installation, Tenant agrees to remove the grounding ring that serves the Existing Shed. Tenant will install a new grounding ring which will serve the Tenant equipment and the New Landlord Radio Facilities. Tenant agrees that it will not disturb the existing radio tower grounding ring as currently installed at property.

Entered into and approved this \_\_\_ day of \_\_\_\_\_, 2016.

**LANDLORD:** City of DeKalb, Illinois, an Illinois municipality

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

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

Title: \_\_\_\_\_

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

**TENANT:** GTE Wireless of the Midwest Incorporated d/b/a Verizon Wireless, an Indiana corporation

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

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

Title: \_\_\_\_\_

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

# DIXON/OTTAWA COMMUNICATIONS

## Proposal

1139 Franklin Grove Rd  
Dixon, IL 61021  
(815) 288-5315

CUSTOMER Dekalb Police Dept PHONE 815-748-8400 DATE 5/10/2016  
 STREET \_\_\_\_\_ CITY/STATE Dekalb, Il. ZIP \_\_\_\_\_  
 FAX \_\_\_\_\_ E-MAIL Tsmith@cityofdekalb.com CONTROL Tracy Smith

We hereby submit specifications and estimates for **Outdoor Cabinets Installation**

2-	80 by 25 by 34 heat and air cabinet	\$8,250.00	\$16,500.00
4-	Ground Rods	\$50.00	\$200.00
100-	Coax	\$1.08	\$108.00
20-	N connectors	\$25.00	\$500.00
40-	Labor	\$90.00	\$3,600.00
10-	Cad Welds	\$25.00	\$250.00
50-	Ground Wire	\$4.50	\$225.00
2-	Ground bars	\$48.00	\$96.00
20-	#2 Ground Connectors	\$3.50	\$70.00
75-	Cat 3 25 pair telco line	\$3.50	\$262.50
			\$21,811.50

*We Propose* herby to furnish all work - complete in accordance with above specifications, for the sum of:

**Twenty One Thousand Eight Hundered Eleven Dollars and Fifty Cents** \$21,811.50

Payment to be made as follows:

**NET 30 DAYS**

Authorized

Signature **Kevin Nicholson**

Proposal good for: 30 days.

**Acceptance of Proposal** - The above prices, specifications and conditions are satisfactory and accepted.

You are authorized to do the work as specified. Payment will be made as outlined above.

Signature \_\_\_\_\_

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

Signature \_\_\_\_\_