

City of Clearwater, Florida

EDACS® ProVoice System



April 2002

tyco / Electronics

MACOM

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SCHEDULE A

STATEMENT OF WORK

OVERVIEW

This project is divided into three phases. Phase 1, Transition, is the controlled transition of management of this system from the CITY OF CLEARWATER to M/A-COM. Phase 2, M/A-COM Management and Maintenance, is the daily management and maintenance of the system with the CITY OF CLEARWATER as the only user of the system. Phase 3, Marketing of Tower Space, covers the sales, marketing, and engineering necessary to add additional users onto the towers.

PHASE 1: TRANSITION

To ensure a smooth and timely transition between CITY OF CLEARWATER managing the 800 MHz trunked radio system to M/A-COM managing and maintaining the system, a detailed plan must be drafted, agreed upon, and implemented. Phase 1 covers the following:

1. Forming of a Transition Team consisting of personnel from CITY OF CLEARWATER and M/A-COM.
2. Preparing a Transition Plan that addresses the method and schedule by which the management of the system will be transitioned from CITY OF CLEARWATER to M/A-COM.
3. Documenting the processes and preparing the policies and procedures that M/A-COM will follow in their management and maintenance of the system.
4. Training personnel and implementing the M/A-COM procedures.
5. Evaluating the effectiveness of the Transition Phase to ensure a seamless transfer between processes.
6. Agreeing on moving from the Transition Phase to the M/A-COM Management and Maintenance Phase.

Responsibilities – M/A-COM

During the Transition Phase, M/A-COM has the following responsibilities:

1. Assign qualified personnel to the Transition Team.
2. Develop the Transition Plan.
3. Develop a thorough understanding of CITY OF CLEARWATER'S existing processes.

4. Document the processes and prepare the policies and procedures to be used by M/A-COM for the management and maintenance of the system.
5. Train personnel on the new policies and procedures.
6. Implement the new policies and procedures.
7. Manage and maintain the system in parallel with CITY OF CLEARWATER.
8. Assist with the determination of moving from the Transition Phase to the M/A-COM Management and Maintenance Phase.

Responsibilities – CITY OF CLEARWATER

During the Transition Phase, CITY OF CLEARWATER has the following responsibilities:

1. Assign qualified personnel to the Transition Team.
2. Assist with the development of the Transition Plan.
3. Educate M/A-COM on CITY OF CLEARWATER existing processes.
4. Assist with documenting the processes and prepare the policies and procedures to be used by M/A-COM for the management and maintenance of the system.
5. Assist with the training of personnel on the new policies and procedures.
6. Assist with the implementation of the new policies and procedures.
7. Manage the system in parallel with M/A-COM.
8. Evaluate the Transition Phase effectiveness.
9. Assist with the determination of moving from the Transition Phase to the M/A-COM Management and Maintenance Phase.

PHASE 2: M/A-COM MANAGEMENT AND MAINTENANCE

Upon mutual agreement between CITY OF CLEARWATER and M/A-COM, the project will move into Phase 2, M/A-COM Management and Maintenance. This phase includes M/A-COM managing and maintaining the 800 MHz EDACS system to provide an agreed upon grade of service.

Responsibilities – M/A-COM

During the M/A-COM Management and Maintenance Phase, M/A-COM has the following responsibilities:

1. Assign an individual qualified to manage the daily maintenance of the system.
2. Maintain records and information for input to the performance evaluation.
3. Manage and maintain the system at an agreed upon grade of service.

Responsibilities – CITY OF CLEARWATER

During the M/A-COM Management and Maintenance Phase, CITY OF CLEARWATER has the following responsibilities:

1. Communicate problems discovered with the system by using the procedures and policies that are implemented.
2. Own and maintain the frequencies currently licensed for the system.
3. Pay an access fee to M/A-COM for the management of the system.
4. Provide M/A-COM reasonable access to all sites, buildings, and structures associated with the system in accord with § 4.7 of the Service Agreement.

PHASE 3: MARKETING OF TOWER SPACE

Phase 3 consists of the marketing of tower space to third parties. This phase will run concurrently with Phase 2, M/A-COM Management and Maintenance. This phase consists of the following:

1. M/A-COM continuing to manage and maintain the system to provide the agreed upon grade of service to CITY OF CLEARWATER
2. M/A-COM performing the sales, marketing, and engineering services necessary to add new Third-Party Tower Tenants onto the towers, provided the CITY OF CLEARWATER'S grade of service is not effected.
3. M/A-COM providing equipment necessary to ensure the agreed upon grade of service is provided to CITY OF CLEARWATER.
4. M/A-COM implementing procedures and policies for billing, revenue sharing, service, maintenance, and problem resolution associated with the addition of other users.

Responsibilities – M/A-COM

During this Phase M/A-COM has the following responsibilities:

1. Develop the proposals required to add users to the towers.
2. Prepare the procedures and policies required for billing, revenue sharing, service, and problem resolution associated with the addition of other users on the towers.

Responsibilities – CITY OF CLEARWATER

During this Phase CITY OF CLEARWATER has the following responsibilities:

1. Approve and concur to the terms of the agreement.

SYSTEM DESCRIPTION

DETAILED RADIO SYSTEM INFRASTRUCTURE

The CITY OF CLEARWATER currently owns and operates an eleven channel 800 MHz M/A-COM, Enhanced Digital Access System (EDACS®). The system includes a main site with a 300-foot tower, building, and generator located on Missouri Ave. as well as a full backup site that includes a 300-foot tower, building and generator. These two sites are connected via a city- owned 2 GHz microwave system. A receiver voting system is in place that votes the best audio from the main site, backup site, and two additional receiver sites. The main dispatch center and system manager terminal are located within the Police Department headquarters. The 6ghz Microwave Radio System is County owned and the County shall continue to own and be responsible for all required on-going maintenance. Maintenance responsibility for the 2ghz Microwave System shall reside with M/A-COM.

The following are the elements, which comprise the Communications System as defined in the Service Agreement.

The following two tower sites in the Communications System to which M/A-COM shall be given free and unfettered access will be licensed to M/A-COM by the CITY OF CLEARWATER for consideration and transfer of user gear and system enhancements as defined in the Service Agreement.

Main Site:

Missouri Ave (FDOT property)

27 56 42

82 47 13

66 ft AMSL

300 ft SSV tower

North Site (backup site):

Water Treatment Plant

28 01 56

82 42 17

35ft AMSL

300 ft SSV tower

Free and unfettered access to and use of the following elements of the Communications System shall be granted to M/A-COM.

Qty Description

Main Site:

10 Mastr II RF Channels
1 Mastr III RF Channel
1 Multicoupler
1 Tower Pre Amp
11 Voter System
1 Site Controller
4 Multiplexer Shelves
1 Harris 2ghz Microwave Radio System
3 Interconnected RF Channels
1 Lot of Antennas & cable

WPC North:

10 Mastr II RF Channels
1 Mastr III RF Channel
1 Site Controller
1 Tower Pre Amp
3 Multiplexer Shelves
1 Harris 2ghz Microwave Radio System
1 CC Monitor
1 TX / RX Biampfier
1 Lot of Antennas & Cable

Tarpon Springs:

11 Satellite Receivers
1 CC Monitor

Toytown:

11 Satellite Receivers
1 CC Monitor

Police Dispatch, Clearwater Gas, Radio Shop:

1 System Manager
1 CEC Switch (includes Uplink/Downlink)
9 C3 Maestro Consoles
3 C3 Maestro Consoles (remote)
1 CEC Manager
1 Database Management
1 Multiplexer Shelf
10 DVIU

1 TX / RX Biampifier (jail)

Countryside Mall, Countryside HighSchool:

3 TX / TX Biampifier

TRANSITION PLAN

Schedule A, Statement of Work, identifies three phases. The first phase, Transition, is the controlled transition of managing the Communications System from CITY OF CLEARWATER to M/A-COM. The Transition Plan will be jointly developed by a Transition Team consisting of qualified individuals from both M/A-COM and CITY OF CLEARWATER. The plan will be drafted, approved, and implemented to ensure that a smooth, seamless transition occurs.

The steps required to develop and implement the Transition Plan are:

1. Forming of a Transition Team consisting of personnel from CITY OF CLEARWATER and M/A-COM.
2. Preparing a Transition Plan that addresses the method and schedule by which the management of the Communications System will be transitioned from CITY OF CLEARWATER to M/A-COM.
3. Documenting the processes and preparing the policies and procedures that M/A-COM will follow in their management and maintenance of the system.
4. Evaluating the effectiveness of the Transition Phase to ensure a seamless transfer between processes.
5. Agreeing on moving from the Transition Phase to the M/A-COM Management and Maintenance Phase.
6. Agreeing on a specific, mutually acceptable schedule for backbone and hardware replacements and upgrades pursuant to Section 3.7 of the Service Agreement.

The attributes of the Transition Plan to be developed by the Transition Team are:

1. Preventive and corrective maintenance plans.
2. Trouble ticket processing.
3. Emergency response procedures.
4. Level of spares to be maintained.
5. Problem communication and resolution processes.
6. Radio programming and talk group allocation.
7. Organizational structure.
8. Prioritizing resource allocations.
9. Training requirements.

MAINTENANCE PLAN

OVERVIEW

The CITY OF CLEARWATER Communications System is currently maintained by Communications International Inc. During the Transition Phase, M/A-COM and CITY OF CLEARWATER, using this existing Service Contract, will jointly develop the Maintenance Plan that will describe the method by which M/A-COM will assure Communication System availability in full compliance with the Service Agreement. The Maintenance Plan will cover both M/A-COM and CITY OF CLEARWATER responsibilities as applicable. It will encompass on-site support, M/A-COM depot repair, and 24x7x365 technical assistance. This plan will be implemented by M/A-COM personnel.

Although the final Maintenance Plan will be jointly developed and approved by M/A-COM and CITY OF CLEARWATER, the following paragraphs outline what is expected to be included in the plan.

SYSTEM INFRASTRUCTURE/FIXED EQUIPMENT MAINTENANCE

Trained EDACS technicians will be assigned to monitor and maintain the EDACS system during normal working hours. They will provide 24x7x365 support for system failures and malfunctions. Additionally, during normal working hours, they will monitor system operation when not performing preventive or remedial maintenance activities.

All problem resolution activity will be tracked using a work ticket tracking database provided by M/A-COM at no expense to the CITY OF CLEARWATER. Upon resolution, before the work ticket is closed, all pertinent information associated with the event will be recorded in the database.

Field technicians will be provided with the necessary service vehicle, test equipment, and tools by M/A-COM. Additionally, all required material, repair parts, transportation, and shipping required to maintain the Communications System will be provided by M/A-COM.

M/A-COM will supply all parts, labor and software needed to perform maintenance on the towers, and Communications System, at no charge to the CITY OF CLEARWATER.

This maintenance plan is designed to meet an on-site response time of two hours from notification for critical system communication failures and six hours from notification for Communications System restoration time. A critical system communication failure is defined as a failure resulting in loss of communication ability such as a site off the air, a dispatch console failure at a location with no backup console, IMC failure, inability of the system to trunk calls, a site link failure, 50% or more failed repeaters at an EDACS trunked

site, or a failed repeater at EDACS trunked sites with four or less channels. Non-critical service requests will be responded to within one working day. In the event of a critical system failure, M/A-COM will notify designated CITY OF CLEARWATER personnel to advise them of the failure and the actions being taken to resolve the problem.

M/A-COM will provide an escalation contact list to designated CITY OF CLEARWATER personnel. This list will include the name, phone number, and location of the M/A-COM service team members that should be contacted if escalation of an issue is deemed appropriate. This list will contain the following:

- Toll free service number
- On-call technician for the service area
- Service area manager
- CITY OF CLEARWATER Field Service Manager
- Regional Service Manager
- Director of Field Service

M/A-COM field technicians or the approved service provider will have 24x7x365 second tier technical support from M/A-COM's Technical Assistance Center (TAC) located in Lynchburg, Virginia. The TAC has access to all Lynchburg Engineering staff as well as other US-based technicians located at M/A-COM service facilities should they be needed.

The following system performance reports will be provided monthly:

- Number of system service requests
- Service call response times for critical and non-critical service requests
- Service call restoration times for critical and non-critical service requests
- Total number of push-to talk (PTTs)
- Number of queued calls/average time in queue
- Total air time usage
- Service report providing details of any critical system failure and their resolution and corrective action.

Semi-Annual Testing

Twice yearly, M/A-COM will perform extensive system testing on the EDACS system. This testing will include the following listed system related items:

1. Physical Site

- Site environmental inspection.
- HVAC operation.
- Cleaning of floors, air filters, and exposed equipment.
- Visual inspection of physical shelter.
- Fencing, grounding resistance, ground level tower visual.
- Paint, lighting, and heliax cable visual from ground level.
- UPS operation (where installed) battery condition.
- Generator oil, fuel, and transfer switch (load) test. *If applicable*

2. RF System Critical Measurement

- Antenna system (system analyzer printout).
- Individual RF station specification test.
- Clean cabinet air filters, cabinets, and equipment.

3. Mux Equipment

- Multiplex equipment operation verification.

4. Dispatch Hardware

- Console position CRT's, keyboards, mouse.
- Hardware inspection and technical cleaning of console positions.
- Headset jacks.
- Speakers.
- Logging recorder operation.
- Alarm system verification.

DISASTER EMERGENCY RESPONSE

Upon notification by CITY OF CLEARWATER of the potential for severe weather or natural disasters, M/A-COM will implement a pre-disaster preparedness plan. M/A-COM will inspect all sites for access and integrity. This will include ensuring all generator fuel tanks are full, shelters are secure, antenna cables are properly mounted, and site access is clear. Service technicians will be alerted and put on stand-by for dispatching to pre-assigned locations mutually agreed to by CITY OF CLEARWATER and M/A-COM.

DETERMINATION OF SERVICE LEVELS

M/A-COM agrees to maintain the CITY OF CLEARWATER existing or subsequently upgraded Communications System for the duration of this Service Agreement subject to the following assumptions and conditions.

1. Assessment of Existing CITY OF CLEARWATER Coverage

M/A-COM will, upon signing the Service Agreement, begin to assess the existing coverage provided by each site in the CITY OF CLEARWATER Communications System.

M/A-COM will visit each radio site and perform an audit to verify that the Existing System equipment is operating properly. The audits will verify transmit and receive antenna subsystem configurations, antenna and cable installations, and power into the antenna. Corrective actions will be made as necessary to bring the equipment up to FCC license requirements at each site.

M/A-COM will then use industry standard Wireless Measurement System (WMS) equipment manufactured by Grayson Electronics to measure talk-out (base station to mobile field unit) coverage. The WMS equipment measures the received signal strength from each radio site and provides an accurate, statistically valid, objective, and repeatable method to assess coverage. A drive route will be developed and WMS measurements made at a statistically significant number of locations within the service area of each site.

The WMS measurement data will be analyzed and plotted on a map to show areas where there was sufficient signal level to support a Delivered Audio Quality of 3.0 (DAQ3.0) for mobile analog voice operations. DAQ3.0 is defined in Telecommunications Industry Association (TIA) Telecommunications System Bulletin TSB88-A and is equivalent to the Circuit Merit 3 analog voice quality provided by the Existing System. Sections of the drive route that are plotted as "black" represent areas where the measured receive signal levels equal or exceed -110 dBm required for DAQ3.0 voice quality. Sections plotted as "red" represent areas where measured signal levels are less than -110 dBm. This does not mean that there is no coverage in the "red" areas, rather it indicates areas with less than DAQ3.0 voice quality and multiple repeats may be required. Furthermore, the measurement data and its representation on a map does not guarantee coverage at a specific point location, but rather, due of the probabilistic nature of RF propagation, represents expected coverage in an area.

Upon execution of this agreement M/A-COM shall take measured mobile talk-out signal strength data for each site and will depict the results on maps provided as Exhibits in an Addendum to this Service Agreement, hereafter referred to as the *baseline coverage*.

2. Coverage Prediction Maps

M/A-COM will also provide coverage prediction maps of expected coverage from the Existing System. The maps, both individual site maps and composite CITY OF CLEARWATER system-wide coverage maps will be based upon information obtained during the audit of each site. These coverage maps also assume the land use (agricultural, open land, residential, urban, industrial, etc) as indicated in the current USGS Land Use Land Clutter (LULC) database, and absence of towers, buildings or other obstructions that will impact RF propagation near the site or at specific locations throughout the coverage service area of a site.

The coverage prediction maps will be provided as Exhibits in an Addendum to this Service Agreement as reference information only, and indicate where mobile and portable outdoor coverage is expected, both talk-out (base station to field unit) and talk-back (field unit to base station).

3. Coverage Maintenance - Reporting and Corrective Action Process

M/A-COM will, as described in the maintenance plan of Schedule A, continue to utilize the Communications International center located in Tampa Fl. If CITY OF CLEARWATER users experience coverage problems they will forward them as "trouble reports" to the CII. Trouble reports will include: (1) the name of the person submitting the report, (2) the location of the coverage problem (i.e. at the intersection of 5th Ave and Main St, or in the southern section of the Pleasant Valley subdivision); and (3) the type of problem, whether mobile or portable operations, and problem description (i.e. can hear dispatcher but dispatcher cannot hear me, or communication is spotty and requires multiple repetitions, or can no longer communicate from this area).

M/A-COM will establish a database that will be used to track these reported coverage problems and identify trends, both in location and type. A trend analysis will be used to determine if further analysis or corrective actions are required. Multiple trouble reports received in a short period of time for problems in the same location or area, or for the same type of problem over a larger area may indicate an immediate response is necessary. Occasional trouble reports received over an extended period will be analyzed to identify potential field unit problems, operational problems, subtle changes in coverage propagation assumptions, or whether or not the problems are simply due to the probabilistic nature of RF propagation.

M/A-COM responses to coverage problems can, dependent on the trend analysis, include:

- a) Review the *baseline coverage* to determine if coverage was or was not provided by the Existing System.
- b) Visit the problem radio site and perform an audit to verify that the radio system is operating properly. The audits will verify transmit and receive antenna subsystem configurations, antenna and cable installations, and power into the antenna. Corrective actions will be made as necessary.

CITY OF CLEARWATER, FLORIDA

- c) Visit the site to determine changes in the land use of the area around the site or the presence of new buildings or obstructions near the site that would impact coverage.
- d) Visit the problem area or location to determine changes in the land use of the area or presence of new buildings or obstructions in the area that would impact coverage.
- e) WMS measurement of coverage of the problem area.
- f) Field unit tests at the problem area to replicate the trouble reports
- g) WMS measurements that are different from the *baseline coverage*, and that are due to changes in land use and/or obstructions, will be evaluated for potential corrective action.
- h) A report to CITY OF CLEARWATER describing the reported coverage problem and the recommended problem resolution.
- i) Discussions between M/A-COM and CITY OF CLEARWATER to determine if further actions are warranted.
- j) Update RF coverage prediction maps for the problem site based on the site visit, the site audit, the visit to the problem area, and updates to the LULC database.

City Of Clearwater Equipment Maintenance Contract

Communications International, Inc.

**4450 US Highway 1
P.O. Box 6670
Vero Beach, FL 32961-6670**

**561-569-5355 888-Ask-4CII
Fax: 561-567-2292
(Local service center - 813-887-1888)**

AGREEMENT

This agreement, made and entered into this 1st day of October, 1998 by and between The City Of Clearwater, Clearwater, Florida and Communications International, Inc. a Florida Corporation, hereinafter referred to as "CII".

WITNESSETH

Whereas, the City Of Clearwater desires to contract with CII to provide maintenance and other services for the communications systems throughout The City Of Clearwater.

This contract supersedes any / all prior maintenance contracts between Communications International, Inc. and The City Of Clearwater.

Whereas, the parties hereby desire to enter into this agreement to set forth, in writing, their respective rights, duties and obligations hereunder.

Now, therefore, in consideration of the premises, mutual promises, and conditions contained herein, it is mutually agreed between the parties as follows:

SECTION 1: TERMS:

This agreement shall commence on October 1, 1998, and terminate on September 30, 1999; provided, however, that the terms of this agreement may be extended, on an annual basis, by mutual agreement of the parties in writing, for a one (1) year period. In the event that either party desires to exercise this option to extend the agreement, one shall notify the other in writing at least ninety (90) days prior to the date of termination of the terms then current.

Any extension of this agreement shall be under the same terms and conditions as the initial agreement terms, compensation to CII shall be modified under the terms and procedures set forth in attached "Exhibit A" Section #7; and which is incorporated herein by this reference.

SECTION 2: SCOPE OF SERVICE:

CII hereby agrees to perform all services identified in the "Exhibit A" as well as the optional services as requested on "Exhibit B" and incorporated herein by this reference and to include all backbone RF equipment. "Exhibit B" is to include a list from the customer of LID's and serial numbers of equipment to be maintained.

SECTION 3: COMPENSATION:

In full consideration of the services rendered hereunder by CII, The City Of Clearwater agrees to pay CII those sums as set forth by "Exhibit B". Payment shall be made pursuant to the invoicing provisions set forth in Section 9 of "Exhibit A".

SECTION 4: INDEMNIFICATIONS:

CII hereby agrees that I shall indemnify and save harmless The City Of Clearwater from any and all liability, claims, damages, expenses, including attorney's fees, proceedings, and causes of action of every kind and nature, including losses incurred or suffered in consequences either of bodily injury to any person or damage to any property, arising out of or connected with any act or omission of CII, its agents, employees, or any of its subcontractors, in connection with or pursuant to this agreement. CII further agrees that it shall, at its own expense, defend any and all claims, suits, or proceedings, which may be brought against The City Of Clearwater in connection with CII. This includes, such acts or omissions of any of its employees, agents or subcontractors, and shall satisfy, pay and discharge any and all judgments that may be entered against The City Of Clearwater in any such action or proceeding.

SECTION 5: INCORPORATION BY REFERENCE:

All terms and provisions of "Exhibit A" and "Exhibit B"; et al not inconsistent with the specific terms of provisions set forth herein, are hereby incorporated by this reference and made part of this agreement.

SECTION 6: BACKGROUND INVESTIGATION:

Law Enforcement operations are particularly sensitive due to the nature of the work and require special handling to ensure the security of information and safety of officers involved. Consequently all CII employees, subcontractor employees or agents shall be expected to comply with the following:

- A) Employee shall be required to undergo a City Of Clearwater background investigation prior to acceptance on the Project. The City Of Clearwater reserves the right to reject any employee or Contractor agent if it is determined that the Contractor or any of its employees have been convicted of a felony or misdemeanor involving "moral turpitude" or has been released or discharged under, other than honorable conditions, from any of the Armed Forces of the United States.
- B) At the Contractor's expense, the fingerprints of the contractor and its employees must be on file with The City Of Clearwater during the term of this agreement.
- C) Background investigations shall be conducted on an ongoing basis on the Contractor and its employees who perform this Agreement.

SECTION 7: TERMINATION OF AGREEMENT:

Either party reserves the right to terminate the agreement for breach of contract. Contract may be canceled with sixty (60) days written notice if documentation indicates failure to perform as specified. Notice is to include specific violations and what attempts were made to correct the violations.

SECTION 8: LITIGATION:

Venue regarding litigation involving this agreement shall be in The City Of Clearwater, and the laws of Florida shall prevail in any contract interpretation.

EXHIBIT A

SPECIFICATIONS

SECTION 1: SITE OF WORK:

Fixed equipment maintenance shall occur at the site of the equipment installation where located in The City Of Clearwater, Florida. Mobile and portable equipment will be repaired at the agreed upon repair facility.

SECTION 2: SERVICE:

Service shall be defined as repairs to ^{fast service} ~~operational~~ ^{- Not "agreed} ~~operational~~ ^{upon facility"} ~~operational~~ failures. ~~operational~~ ^{rein} as a result of normal operational failures.

The communications equipment covered by this contract will not be limited to any brand of manufacturer's equipment. It shall cover full maintenance of all communications type equipment identified herein that is owned and purchased and listed for maintenance coverage on attached "Exhibit B".

CII shall not be liable for costs incurred for repair and/or replacement of equipment that becomes inoperative due to negligence on the part of the user, liquid intrusion, lightning damage, user installations, user removals, and/or acts of God. Any component parts replaced because of abuse on the part of the user shall be returned to The City Of Clearwater for examinations.

CII shall not be liable for costs incurred for correcting and/or repairing backbone damage and/or data corruption caused by improper operations or failure of associated systems. Associated systems are defined as any equipment used in the operations of the 800 MHz Radio System that is not directly maintained by CII.

CII shall not be liable for costs incurred by maintenance that is being performed on associated systems that cause damage and/or failure of backbone operations.

SECTION 3: CONTRACTOR FACILITIES:

CII shall also maintain properly equipped mobile service units capable of diagnostics and repairs. Maintenance and repair work from the mobile service units will normally be limited to fixed equipment, but shall be capable of services to mobile units in field locations when deemed necessary.

SECTION 4: ADDITIONS AND SELECTIONS:

The quantity of units to be maintained/serviced may be added to or subtracted from the contract while the contract is in force. New units purchased in any given budget year may be added to the contract in the month following the expiration date of the manufacturer's warranty.

All units added to or removed from service in a particular month, will be added to or dropped from charges to the user the following month. A letter of authorization will be required to add to or delete from the "Exhibit B". All units are to be identified with LID#, serial number, and property number.

SECTION 5: INSTALLATION AND REMOVALS:

All installations and removals of equipment will be made in accordance with good engineering practices, as specified by the original equipment manufacturer. All installations and removals will be accomplished at CII provided facilities during normal business operating hours. Exceptions to aforementioned hours to installation or removal of fixed equipment, aircraft units, disabled vehicles, or units deemed as special need by The City Of Clearwater.

SECTION 6: COSTING AND HOURS OF SERVICE:

Maintenance pricing is to be based on:

- A) Preventative maintenance/repair work to be accomplished during the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday (excluding holidays). Repair or maintenance may be accomplished at other times as deemed necessary by CII and agreed to by The City Of Clearwater.
- B) All fixed equipment considered to be necessary to maintain public safety and listed on "Exhibit B" with twenty-four (24) hour coverage, will be maintained twenty-four (24) hours a day, seven (7) days a week.
- C) Repair work shall be performed as required and will take precedence over normal equipment preventative maintenance (preventative maintenance on backbone site excluded).
- D) Preventative maintenance and repair work will normally be accomplished at the CII facility, with the exception of fixed equipment which will be maintained/repared at various locations throughout The City Of Clearwater, Florida. Other exceptions would be any user equipment on "Exhibit B" having on site maintenance/repair.
- E) Repairs, installations, or removals on non-essential equipment performed after normal operating hours to be billed at fixed hourly rates or quoted pre-negotiated rates. All non-essential maintenance and repairs to be contingent on CII scheduling and CII personnel availability.

F) Costs of preventative maintenance and repair work shall include all parts, labor, and travel required. The following are not included as part of the maintenance/service contract: tower work, coax, installations, removals, or batteries.

*No Antenna
renewal:*

G) Repair of a trouble condition of a critical nature shall not have work interrupted during a business day of 5:00pm.

SECTION 7: CONTRACT EXTENSION OR CANCELATION:

This shall be a one (1) year contract with a four (4) year renewal option upon mutual consent of The City Of Clearwater and CII in writing, ninety (90) days prior to each one (1) year expiration date. If no documentation is received from The City Of Clearwater prior to the renewal date, the contract will automatically renew for the next one (1) year period. The basis for this extension will be the consumer price index (CPI) for all urban consumers of the Bureau of Labor Statistics most recent publication prior to contract renewal. The adjustment factor used to create price adjustments up or down for each unit price proposed is as follows:

$$\frac{\text{NEW CPI}}{\text{OLD CPI}} = \text{ADJUSTMENT FACTOR} \times \text{TOTAL}$$

SECTION 8: EMERGENCY SERVICES:

During a natural disaster, civil disturbance, or other county declared emergency, CII will be required to respond within one (1) hour after notification (nature of emergency permitting) by the Emergency Management Department and in accordance with ESF directives. Cost of service will be at the fixed after hours rate.

SECTION 9: INVOICING:

CII invoices will indicate a transaction number, person performing work, and summary of work performed. Invoices will indicate, (as available) equipment types, serial numbers, property numbers, and all charges identified. Invoices shall be submitted to The City Of Clearwater on a monthly basis. The City Of Clearwater shall submit payment within thirty (30) days of receipt of invoices. Any disputed invoices shall be addressed in writing to CII immediately upon receipt of invoice(s) in question.

SECTION 10: DEFINITION OF WORK:

CII shall repair, maintain, service, and perform preventative maintenance on all units as are listed on the "Exhibit B" as necessary and required to meet requirements of The City Of Clearwater and factory specifications.

For those pieces of communications equipment necessary to support public safety and listed on "Exhibit B" as being maintained twenty-four (24) hours a day, CII guarantees a two (2) hour response time for covered equipment, from the time a request is received from authorized personnel.

CII takes responsibility for diagnosing system problems and taking corrective action. CII will be a "one call" point of contact to provide all services required to support the citywide RF system.

CII will provide to The City Of Clearwater, Radio System Manager, a monthly report detailing repairs and maintenance performed on the primary system equipment over the previous thirty (30) days. CII will also provide to The City Of Clearwater Radio System Manager, a copy of the preventative maintenance schedule, which will be performed on the primary system equipment.

This agreement entered by the following representatives of each agency as stated:

Communications International, Inc.

The City Of Clearwater

Signature

Signature

Title

Title

Printed Signature and Title

Printed Signature and Title

Date

Date

EXHIBIT B

CLEARWATER MAIN SITE

<u>Qty</u>	<u>Description</u>	<u>Unit Price</u>	<u>Extended Price</u>
11	R.F. Channels	\$106.00	\$1,166.00
3	Telephone Interconnect	\$25.00	\$75.00
1	Site Controller	\$250.00	\$250.00
1	Tower Top PreAmp	\$150.00	\$150.00
1	Receiver MultiCoupler	\$25.00	\$25.00
11	Voters	\$30.00	\$330.00
		TOTAL	\$1,996.00

CLEARWATER BACKUP SITE

<u>Qty</u>	<u>Description</u>	<u>Unit Price</u>	<u>Extended Price</u>
11	R.F. Channels	\$106.00	\$1,166.00
1	Site Controller	\$250.00	\$250.00
1	Tower Top PreAmp	\$150.00	\$150.00
1	Receiver MultiCoupler	\$25.00	\$25.00
		TOTAL	\$1,591.00

TARPON SATELLITE RECEIVER SITE

<u>Qty</u>	<u>Description</u>	<u>Unit Price</u>	<u>Extended Price</u>
11	Satellite RX Channels	\$25.00	\$275.00
		TOTAL	\$275.00

TOY TOWN SATELLITE RECEIVER SITE

<u>Qty</u>	<u>Description</u>	<u>Unit Price</u>	<u>Extended Price</u>
11	Satellite RX Channels	\$25.00	\$275.00
		TOTAL	\$275.00

EXHIBIT B

POLICE DEPARTMENT DISPATCH CENTER

<u>Qty</u>	<u>Description</u>	<u>Unit Price</u>	<u>Extended Price</u>
1	System Manager	\$235.00	\$235.00
1	CEC / IMC Switch	\$335.00	\$335.00
1	Database Management (Optional)	\$1,000.00	\$1,000.00
12	Maestro Consoles	\$120.00	\$1,440.00
10	DVIU	\$25.00	\$250.00
		TOTAL	\$3,260.00

MICROWAVE AND MULTIPLEXER

<u>Qty</u>	<u>Description</u>	<u>Unit Price</u>	<u>Extended Price</u>
2	Microwave Radio	\$775.00	\$1,550.00
8	T1 / MUX	\$20.00	\$160.00
		TOTAL	\$1,710.00

Monthly Backbone Total of Above **\$9,107.00**

Annual Backbone Total of Above **\$109,284.00**

RECEIVED
DEC 10 1996
BY: _____

*file with
Lieber for May*
City of Clearwater
Interdepartment Correspondence Sheet

TO: Frank Bowler, Chief Communications Technician

FROM: Earl Barrett, Real Estate Services Manager *EB*

COPIES: Fred Belzel, Controller, General Services

SUBJECT: PCS PrimeCo license agreement

DATE: November 21, 1996

Attached is a copy of the above referenced license agreement dated April 8, 1996, and a copy of the related First Amendment To License Agreement dated October 18, 1996. *ONLY 12/9/96 EB*

The original agreement licenses three City-owned sites to PrimeCo's use; the amendment reduces the number to one site: the Northeast WPC plant. A lesson has been learned here.

As you suggested, I am sending a copy to Fred Belzel for General Services administrative files. Give me a call if you get any more "out of the blue" calls from a wireless company; or if I may be of any other assistance.

LICENSE AGREEMENT

THIS LICENSE AGREEMENT is made and entered into this 8th day of April, 1996, by and between the CITY OF CLEARWATER, FLORIDA, Florida Municipal Corporation (herein, "City", or "Licensor"), and PC PRIMECO, L.P., a limited partnership pursuant to Delaware Revised Uniform Limited Partnership Act, having its general offices at 8875 Hidden River Parkway, Suite 350, Tampa, Florida 33637 (herein, "Primeco" or "Licensee")

1. Premises: The City hereby grants to PrimeCo and PrimeCo hereby accepts from the City a nonexclusive license to use not more than 37 square feet of land area situated within the chain link fenced boundaries enclosing each of the City's two (2) existing radio communications towers and one (1) water tank now operational at the following locations:

(a) Communications Tower - operational upon the grounds of the City's Northeast Water Pollution Control Plant, 3290 S.R. 580 and McMullen Booth Road (herein, "WPC site") located at Latitude 28°01'54" North and Longitude 82°42'16" West, and;

(b) Communications Tower - operational at 1400 Young Street upon the grounds of park property under lease by the City from the Florida Department of Transportation by virtue of that certain 99 year lease dated January 19, 1976 and that certain Modification of Lease dated January 26, 1986, all being recorded in O.R. Book 6275, Pages 1880 through 1888, in the Public Records of Pinellas County, Florida, located at Latitude 27°56'42" North, and Longitude 82°47'13" West (herein, "Missouri site"), and;

(c) North Water Tank - operational upon the grounds of the at the City-owned Kings Highway Recreation Center, 1751 Kings Highway (herein "North Water Tank") located at Latitude 27°59'09" North and Longitude 82°46'43" West;

Together with space on the communication towers and on the water tank balcony hand rail to mount Personal Communications Systems (herein "PCS") antenna arrays as specified in Paragraph 2 below and depicted in Exhibit "A" as to the WPC site and in Exhibit "B" as to the Missouri site, and upon the railing of the North water tank site, as depicted in Exhibit "C", each being attached hereto and by reference made a part hereof. The land areas and the communications towers and water tank mounting spaces are referred herein as the "Licensed Premises." Final site specific engineering plans and load factor calculations regarding the respective sites are subject to final approval by authorized City officials prior to commencement of any construction or installation of any communications equipment by PrimeCo, its employees, agents or contractors.

2. Communications Equipment: The City hereby grants permission to PrimeCo to install and operate the following described PCS communications equipment, building, generator and associated equipment on and within each of the Licensed Premises:

(a) Three arrays of three antennas each (Antel Model SDA 185090/12), or equivalent, to be installed upon each of the City communications towers with the centerline of mounting each array at 115 feet above ground level (A.G.L.). The exact locations of all antennas shall be supplied to the City in the form of as-built drawings after installation. No alterations shall be made thereafter without prior written approval by the City and acceptance thereof by PrimeCo.

(b) Three arrays of three antennas each (Antel Model SDA 185090/12, or equivalent, to be installed with the antennas to be mounted on the North Water Tank balcony hand rail assembly, at 120 feet A.G.L., more or less. The exact locations of all antennas shall be supplied to the City in the form of as-built drawings after installation. No alterations shall be made thereafter without prior written approval by the City and acceptance thereof by PrimeCo.

(c) Flexible coaxial transmission lines between antennas and PCS communications equipment which shall be anchored and installed on the respective communications towers and North Water Tank structures in accordance with good and accepted engineering practices.

(d) Radio communications equipment consisting of transmitters, receivers and accessories to be installed in an equipment building located in accordance with approved final site plans identified as Exhibits "A", "B" and "C" attached hereto. The ground space at each site shall be 15' X 25", more or less, within the fenced enclosures at the respective sites.

In this agreement, all of PrimeCo's equipment, buildings, panels, generators, cables, wires, antennas, and accessories are referred to collectively as "Communications Equipment" or "Communications Centers."

3. Term: The primary term of this Agreement shall be for five (5) years commencing on MAY 1, 1996 (the "Commencement Date") and terminating at Midnight, April 30, 2001, subject to extensions as set forth in Paragraph 8 below. The Commencement Date as set forth herein shall coincide and be identical with the first day of the first month in which PrimeCo intends to enter upon the Licensed Premises to commence construction of any of its Communications Centers, but in no event later than 60 days following the date of this agreement as first above written. PrimeCo shall provide written notice of the intended Commencement Date to the office of the City Attorney, 112 South Osceola Avenue, Clearwater, Florida 34616 not later than ten (10) business days prior to said Commencement Date.

4. Rent: During the primary term of this Agreement, as rental for the Licensed Premises, PrimeCo will pay the City the initial year annual sum of THIRTY SEVEN THOUSAND EIGHT HUNDRED AND---NO/100'S---DOLLARS (\$37,800.00), payable in a single annual installment in advance upon the Commencement Date of this agreement. The annual rental during the primary term and any renewal

five year term(s) will be adjusted upward by four percent (4%) annually effective and payable upon each anniversary during the primary term and any extensions thereof. The total initial year annual rent due hereunder is calculated for each of the three licensed premises as follows:

Site A - 3290 State Road 580.....	\$12,420
Site B - 1400 Young Street.....	\$12,420
Site C - 1751 Kings Highway.....	\$12,960
TOTAL INITIAL YEAR ANNUAL RENT.....	\$37,800

5. Use: PrimeCo will use the Licensed Premises for the purpose of constructing and operating Communications Centers as provided herein. PrimeCo will abide by all local state and federal laws and obtain all permits and licenses necessary to operate its systems. PrimeCo shall use the Licensed Premises for no other purposes without the prior written consent of the City.

6. Access: PrimeCo shall have reasonable ingress and egress to the Licensed Premises on a 24-hour basis for the purposes of maintenance, installation, repair and removal of said Communications Equipment. Provided, however, that only authorized engineers or employees of PrimeCo, or persons under PrimeCo's direct supervision, will be permitted to enter the said Licensed Premises, and their entry shall be for the purpose of installing, removing, or repairing PrimeCo's Communications Equipment and for no other purpose. PrimeCo shall notify the City in advance of its need to install, remove, or repair its Communications Equipment located on the Licensed Premises, except in the case of an emergency in which event notification shall be given as soon as reasonably possible. Access requiring entrance into or onto the communications towers shall be coordinated with the General Services Department of the City with respect to the communications towers, and with the Public Works Department, Water Division, with respect to the North Water Tank.

7. Utilities at PrimeCo's Cost: PrimeCo shall be solely responsible for and promptly pay all charges for electricity, telephone, and any other utility used or consumed by PrimeCo on the Licensed Premises. The City shall advise PrimeCo and fully cooperate with any utility company requesting an easement over and across the Licensed Premises or other lands owned by the City in order that such utility company may provide service to PrimeCo. If additional easement is required to provide such utility services to the Missouri site, the City will cooperate with PrimeCo in seeking the grant of such easement from the State Department of Transportation. PrimeCo shall have an electrical current meter installed at the Licensed Premises and have the right to run underground or overhead utility lines directly from the utility source to PrimeCo's Communications Equipment. The cost of such meter and of installation, maintenance and repair thereof shall be paid by PrimeCo. PrimeCo and the utility company providing services to PrimeCo shall have access to all areas of the Licensed Premises, or other lands of the City, necessary for installation, maintenance and repair of such services; provided, that access requiring entrance into or onto the communications towers shall be coordinated with the General Services Department of the City.

8. Extensions: PrimeCo shall have the option to extend this License by a series of four (4) additional terms of five (5) years each so long as it has abided by the terms and conditions of the License and is not currently in default hereunder. If written notice to the contrary is not delivered to the City by PrimeCo not less than ninety (90) days prior to the expiration of the primary term or any extension thereof, as the case may be, it will be deemed that PrimeCo has elected to exercise its option to extend this license for an additional term, and the license term shall automatically extend for an additional five (5) year term as provided herein. The annual rental amount shall also automatically adjust as provided in Paragraph 4.

9. Holding Over: If PrimeCo should remain in possession of the Licensed Premises after expiration of the primary term or any extension of this License, without the exercise of an option or the execution by the City and PrimeCo of a new license, then PrimeCo shall be deemed to be occupying the Licensed Premises as a tenant-at-sufferance on a month-to-month basis, subject to all the covenants and obligations of this License and at a monthly rental calculated at one and one-quarter (1.25) times the annual rental scheduled to be paid as provided in Paragraph 4 divided by twelve (12). The payment of such monthly rental amount shall be due and payable by the first day of the month succeeding the expiration of the final month of the License term previously granted by the City.

10. Notices: (a) Any notice shall be in writing and shall be delivered by hand or sent by United States registered or certified mail, postage prepaid, addressed as follows:

CITY:
City Manager
City of Clearwater
P. O. Box 4748
Clearwater, Fl. 34618-4748

PRIMECO
PCS PrimeCo
8875 Hidden River Parkway
Suite 350
Tampa, Florida 33637

However, where coordination with the General Services Department of the City or the City's Public Works Department, Water Division, is required by this agreement, notice shall be given by telephone, facsimile transmission or by hand delivery at either of the following mailing addresses or physical addresses and telephone numbers:

General Services Director
City of Clearwater
P. O. Box 4748
Clearwater, Fl. 34618-4748

Telephone: (813) 462-6777
24 Hr. Emergency: (813) 462-6633
Fax Number: (813) 462-6457

Physical Address: 1900 Grand Avenue, Clearwater, Fl. 34625

Water Superintendent
Public Works Department
City of Clearwater
P. O. Box 4748
Clearwater, Fl. 34618-4748

Telephone: (813) 462-6848
24 Hr. Emergency: (813) 462-6633
Fax Number: (813) 462-6561

Physical Address: 1650 North Arcturas Avenue, Clearwater, Fl. 34625

(b) Either party may change its address and telephone number(s) to which notice shall be given by delivering notice of such change as provided above. Notice shall be deemed given when delivered if delivered by hand, or when postmarked if sent properly by mail.

11. Liability and Indemnity: PrimeCo agrees to indemnify and hold the City harmless from all claims (including costs and expenses of defending against such claims) arising or alleged to arise from the negligence or willful misconduct of PrimeCo or PrimeCo's agents, employees or contractors occurring during the term of this License or any extensions in or about the Licensed Premises. PrimeCo agrees to use and occupy the Licensed Premises at its own risk and hereby releases the City, its agents and employees, from all claims for any damage or injury brought on by PrimeCo to the full extent permitted by law. The City agrees to indemnify and save PrimeCo harmless from all claims (including cost and expenses of defending against such claims) arising or alleged to arise from the negligence or willful misconduct of the City or the City's agents, employees, contractors or other licensees or tenants of the City occurring during the term of this License, subject to any defense or limitation pursuant to Section 768.28, Florida Statutes.

12. Termination:

(a) Either party shall have the right to terminate this License at any time as follows:

1. By either party, if the approval of any agency, board, court, or other governmental authority necessary for the construction or operation of the Communications Equipment cannot be obtained, or is not obtained after due diligence, or is revoked.

2. By either party, in the event of a material breach of any of the provisions of this agreement, subject to Paragraph 13 below.

3. By PrimeCo, if PrimeCo determines that the cost of obtaining or retaining the approval of any agency, board, court, or other governmental authority necessary for the construction or operation of the Communication Equipment is prohibitive, or if PrimeCo determines that the property is not appropriate for its Communications Equipment for technological reasons, including, but not limited to, signal interference.

4. By PrimeCo, in the event that any government or public body shall take all or such part of the Licensed Premises thereby making it physically or financially infeasible for the Licensed Premises to be used in the manner it was intended to be used by this Agreement. However, if only a portion of the Licensed Premises is taken, and PrimeCo does not elect to terminate this License under this provision, then rental payments provided under this License shall be abated proportionally as to the portion taken which is not then usable by PrimeCo and this License shall continue.

5. By the City, if the City determines that the installation or operation of the Communications Equipment is detrimental to the operation of the City's communications equipment within and upon the respective License Premises, or the communications equipment of any other party with whom the City has previously entered into a lease or licensing agreement specifically for the construction, operation and maintenance of communications equipment

(b) The party terminating this agreement shall give written notice of termination to the other party not less than thirty (30) days in advance of the effective date of termination. Upon termination, neither party will owe any further obligation under the terms of this License, except that PrimeCo shall be responsible for removing all of its Communications Equipment from the Licensed Premises and for restoring the areas occupied by PrimeCo to its original conditions as near as practicable, save and except normal wear and tear and acts beyond PrimeCo's control.

(c) Upon termination of this License, the term hereby granted and all rights, title and interest of PrimeCo in the premises shall end and the City may re-enter upon and take possession of the premises. Such termination shall be without prejudice to the City's right to collect from PrimeCo any rental or additional rental which has accrued prior to such termination together with all damages, including, but not limited to, the damages specified in subparagraph (1) of this paragraph which are suffered by the City because of PrimeCo's breach of any covenant under this License.

13. Defaults and Remedies:

(a) Notwithstanding anything in this License to the contrary, PrimeCo shall not be in default under this License until:

1. In the case of a failure to pay rent or other sums due under this License, fifteen (15) days after receipt of written notice thereof from the City; or

2. In the case of any other default, thirty (30) days after receipt of written notice thereof from the City; provided, however, where any such default cannot reasonably be cured within thirty (30) days, PrimeCo shall not be deemed to be in default under the License if PrimeCo commences to cure such default within said thirty (30) day period and thereafter diligently pursues such cure to completion.

(b) In the event of PrimeCo's default in the payment of rentals or PrimeCo's failure to comply with any other material provision of this License, the City may, at its option, terminate this License without affecting its right to sue for all past due rentals, and any other damages to which the City may be entitled. Should the City be entitled to collect rentals or damages and be forced to do so through its attorney, or by other legal procedures, the City shall, upon receipt of a favorable ruling, be entitled to its reasonable costs and attorneys' fees thereby incurred upon said collection.

14. Taxes: PrimeCo shall pay annually any and all taxes that may be levied and assessed upon the Licensed Premises attributable to any improvement thereto made by PrimeCo, the Communications Equipment installed thereon, or upon this agreement. If any such tax is paid by the City, PrimeCo shall reimburse the City for the amount of any such tax payments within sixty (60) days of receipt of sufficient documentation indicating the amount paid and the calculation of PrimeCo's pro-rata share. Upon written request by PrimeCo, the City shall furnish evidence of payment of all such taxes.

15. Insurance: PrimeCo, at its expense, shall maintain in force during the terms of this License, and provide the City a certificate, or certificates, of insurance covering the entire term of the License, or any extension thereof, a combined single limit policy of bodily injury and property damage insurance, with a limit of not less than \$1,000,000 insuring the City and PrimeCo against all liability arising out of the ownership, use, occupancy or maintenance of the Licensed Premises and appurtenant areas, which policy shall name City as an additional insured. The City's Risk Manager may require PrimeCo to provide any or all of the following additional Insurance Endorsements upon determination of any additional risks inherent to the City as party to this License Agreement:

- a. Contractual liability coverage.
- b. Personal Injury Liability coverage.
- c. Broad Form Property Damage Coverage.

All insurance coverages herein provided shall:

- a. Be written on an "Occurrence" basis.
- b. Shall not be suspended, voided, canceled or modified except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City's Risk Management Office at the following mailing address: Risk Manager, City of Clearwater, P. O. Box 4748, Clearwater, Fl. 34618-4748.
- c. Certificates of Insurance meeting the specific required insurance provisions of this License Agreement shall be forwarded to the City's Risk Management Office and approved prior to the start of any work or possession of the Licensed Premises.
- d. All insurance policies required within this agreement shall provide full coverage from the first dollar of exposure unless otherwise stipulated. No deductibles will be accepted without prior approval from the City.

16. Environmental:

- a. Following execution of this agreement by the City PrimeCo shall, at its expense, contract the services of a qualified environmental firm or individual to perform to current ASTM standards, a commercial Phase I environmental audit of the license Premises as described in Paragraph 1(a),

(b) and (c) to determine if there is any basis for suspecting that hazardous materials or waste have been deposited or released in or upon said premises. If the results of the Phase I investigation reveal to PrimeCo a potential hazardous materials or waste situation, then PrimeCo shall be entitled, at PrimeCo expense and option, to perform a Phase II environmental investigation meeting applicable current ASTM standards consisting of, but not limited to, the sampling and analysis of soil, ground water, air, building and structural components, and any other materials that may be upon or in the property. It is mutually agreed between the parties that should the environmental investigations herein described reveal to PrimeCo a potential or actual problem concerning hazardous materials or waste in or about the license Premises, PrimeCo upon providing copies of the environmental reports at a reasonable written notice to the City, shall be entitled to terminate this agreement.

b. If PrimeCo does not terminate this agreement as provided above, it shall provide the City with copies of all environmental reports resulting from investigations of the license Premises not later than thirty (30) days preceding the Commencement Date as defined in Paragraph 3. The City shall have the privilege of reviewing and independently verifying the findings and conclusions contained in each and all of the reports provided by PrimeCo prior to the Commencement Date, and at its sole option, may reject the reports in their entirety, and by written notice to PrimeCo as provided herein, may terminate this agreement. If the City elects not to terminate this agreement under this provision, it shall be deemed thereafter that the conclusions as defined in the report(s) shall establish the environmental baseline for the license Premises, and the City shall defend and hold PrimeCo harmless from any pollution or hazardous substances or wastes established at the environmental baseline, subject to any defense or limitation available to the City pursuant to Section 768.28, Florida Statutes. PrimeCo shall thereafter indemnify, defend and save harmless the City, its successors, assigns, employees, contractors and agents from and against any legal or administrative proceeding brought against the City; from all demands, claims, fines, penalties, or costs occasioned by subsequent discovery of any other pollution or hazardous substances or waste involving the license Premises whether known or unknown to the City, whether based in federal, state, or local environmental or other laws; strict liability or common law; from any damage, claim, liability or loss connected to any condition in, on, or of the license Premises as of the date of the written report(s), the results of the evaluations and conclusions contained therein; as well as during PrimeCo's occupancy of the license Premises and afterward as to any continuing violations after PrimeCo's occupancy if such violations can reasonably be determined to have been caused directly by PrimeCo, its employees, agents, contractors, or any person or entity acting for or on behalf of PrimeCo. These covenants by PrimeCo to indemnify, defend and hold harmless the City and its successors, assigns, employees, contractors and agents shall extend to and include any obligations of the City to perform remedial work ordered or recommended by any governmental or administrative agencies. PrimeCo shall be solely responsible for responding to such governmental or administrative agencies claims relating to contamination of the Premises as may be directly attributable to PrimeCo, its employees, agents, contractors, or any person or entity acting for or on behalf of PrimeCo during the term of this license, or any extension thereof, or after termination.

C. Upon expiration or termination of this license, PrimeCo shall, at its expense, procure an environmental audit, or audits, through an environmental firm or individual mutually agreeable between PrimeCo and the City, in conformity with City of Clearwater Environmental Audit and Property Assessment Guidelines as may be in existence at the time of expiration or termination. Should the results of such studies and tests reveal any environmental contamination of the premises in amounts and/or concentrations exceeding minimum acceptable levels as then established by applicable governmental authorities, or in excess of the baseline environmental condition of the Premises as established at the license Commencement Date, whichever shall define the lowest limits of environmental contamination then present in, on, or of the license Premises, PrimeCo shall pay all costs associated with environmental remediation of such contamination exceeding the lowest limits established using the aforementioned criteria if such contamination is found to be directly attributable to PrimeCo, its employees, agents, contractors, or any person or entity acting for or on behalf of PrimeCo during the term of or any extension of this license, or after termination.

d. PrimeCo agrees to provide the City within seven (7) days of execution by PrimeCo, copies of all registrations, reports, closure assessments and certifications of financial responsibility forms as may be required to be submitted to the State Department of Environmental Protection, or its successors, pursuant to Rules of the Florida Administrative Code.

e. The City and PrimeCo mutually covenant and agree that during the term of this license, or any extension thereto, to fully comply with all Federal, State and Local environmental laws and administrative Rules, and that neither party will use, generate, store or dispose of any Hazardous Material as identified and defined now or during the term or any extension of this license in and by said laws and rules. Each party agrees to hold harmless, defend and indemnify the other, along with their respective successors and/or assigns, partners, affiliates, employees, contractors, agents, and all others acting for or on behalf of either party in any manner or action that may reasonably be determined to be in violation of this provision, subject to any defense or limitation available to the City pursuant to Section 768.28, Florida Statutes.

17. Tests: PrimeCo is hereby given the right to survey, soil test, radio coverage test, and conduct any other investigations needed to determine if the surface and location of the Licensed Premises is suitable for construction and installation of its Communications Equipment prior to the Commencement Date as defined in Paragraph 3. The terms of Paragraph 11 shall also apply.

18. Fixtures: The City covenants and agrees that no part of the improvements constructed, erected or placed by PrimeCo on the Licensed Premises or other real property owned by the City shall be or become, or be considered as being, affixed to or a part of the City's real property, any and all provisions and principles of law to the contrary notwithstanding. All improvements of every kind and nature constructed, erected or placed by PrimeCo on the Licensed Premises shall be and remain the property of PrimeCo.

19. Assignment and Subletting: PrimeCo may assign or sublet the Licensed Premises or any part thereof without the consent of the City only if PrimeCo remains liable for fulfillment of payments under this License and the nature of the use is not changed or the assignment is made to an affiliate of PrimeCo. All other assignments shall require the City's prior written consent, which consent shall not be unreasonably withheld.

20. Memorandum of License Agreement: Following the execution of this License, either party, at its sole expense, shall be entitled to file the Memorandum of License Agreement (attached as Exhibit "D") of record in the public records of Pinellas County, Florida.

21. Other Conditions:

(a) The City acknowledges that following the execution of this License, PrimeCo will contact appropriate local governmental agencies for the purpose of obtaining all building permits and approvals, zoning changes and approvals, variances, use permits and other governmental permits and approvals ("Local Permits") necessary for the construction, operation and maintenance of the Communications Equipment on the Licensed Premises. The City agrees to fully cooperate with PrimeCo in obtaining the Local Permits and, without limiting the generality of the foregoing, to execute any applications, maps, certificate or other documents that may be required in connection with the Local Permits.

(b) Whenever under the License the consent or approval of either party is required or a determination must be made by either party, no such consent or approval shall be unreasonably withheld or delayed, and all such determinations shall be made on a reasonable basis and in a reasonable manner.

(c) The City covenants that PrimeCo shall, upon paying the rent and observing the other covenants and conditions herein upon its part to be observed, peaceably and quietly hold and enjoy the Licensed Premises during the term of this License or as it may be extended without hindrance or ejection by the City, any person or persons claiming under the City, or any other licensee or tenant of the City.

(D) PrimeCo covenants and agrees that PrimeCo Communications Equipment and installation, operation and maintenance will:

(1) Not irreparably damage either the WPC or Missouri communications towers, nor the North Water Tank structure, and accessories thereto.

(2) Not interfere with the operation of the City's radio or other communications equipment, or that of other licensees or tenants currently utilizing the towers or licensed or leased premises for such purposes within 100 yards of the License Premises. In the event there is interference by PrimeCo, PrimeCo will promptly take all steps necessary to correct and eliminate same with a reasonable period of time. If PrimeCo is unable to eliminate such interference caused by it within a reasonable period of time, PrimeCo agrees to remove its antennas from the City's property and this Agreement shall terminate.

(3) Comply with all applicable rules and regulations of the Federal Communications Commission and the ordinances of the City, including but not limited to the building and electrical codes of the City.

(e) If the Licenses Premises is damaged for any reason so as to render it substantially unusable for PrimeCo's use, rent shall abate for such period not in excess of ninety (90) days while the City, at its expense, restores the City's towers and/or buildings to its condition prior to such damage. Provided, however, in the event the City fails to repair the Licensed Premises with the said ninety (90) day period, PrimeCo shall have the right to terminate this License with no further obligations hereunder.

(f) During the term of this License, the City will not grant a similar license to any other party if such grant would in any way interfere with PrimeCo's use of its Communications Equipment. In the event of any interference arising from the installation or operation of communications equipment at the towers sites by any other party subsequent to the Commencement Date of this agreement, the City shall take all steps reasonably necessary to correct and eliminate such interference within a reasonable period of time. If the City is unable to eliminate the interference within a reasonable period of time, the City shall be obligated to remove the communication equipment of the other party from the towers sites. PrimeCo shall not change the frequency, power or character of its equipment without first obtaining the written consent of the City, which shall not be unreasonably withheld. Notwithstanding any provisions of this paragraph to the contrary, any communications equipment within or upon the Licensed Premises previously authorized to the use of any other party by the City shall not require removal.

22. Radon Gas Notification. as required by Section 404.056(8), Florida Statutes, PrimeCo shall take notice of the following:

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

23. Entire Agreement and Binding Effect: This License and any attached exhibits signed or initialed by the parties constitute the entire agreement between the City and PrimeCo. No prior written or prior contemporaneous or subsequent oral promises or representations shall be binding. This License shall not be amended or changed except by written instrument signed by both parties. Paragraph captions herein are for convenience only, and neither limit nor amplify the provisions of this License. The provisions of this License shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties, but this provision shall in no way alter the restriction hereon in connection with assignment and subletting by PrimeCo.

IN WITNESS WHEREOF, the parties hereto have executed this License as of the date and year first above written.

PCS PRIMECO, L.P.

Kevin A. Karr
WITNESS

Print Name KEVIN D. KARR

K C Beck
WITNESS

Print Name KEVIN C BECKER

Daniel Behuniak
Daniel Behuniak
Chief Operating Officer and
President, Southeast Region

STATE OF FLORIDA :
COUNTY OF HILLSBOROUGH :

BEFORE ME, the undersigned, personally appeared Daniel Behuniak, Chief Operating Officer and President, Southeast Region, PCS PrimeCo, L.P., a Delaware Limited Partnership, who acknowledged the foregoing instrument on behalf of the partnership.

K C Beck
Notary Public
Print/type name: KEVIN C. BECKER



KEVIN C. BECKER
My Commission CC342234
Expires Jan. 13, 1998
Bonded by HAI
800-422-1555

Personally known OR
Provided Identification _____
Type of Identification Provided _____

Countersigned:

CITY OF CLEARWATER, FLORIDA

Rita Garvey
Rita Garvey, Mayor-Commissioner

By: Elizabeth M. Deptula
Elizabeth M. Deptula, City Manager

Approved as to form and
legal sufficiency:

Attest:

John C. Carassas
John C. Carassas
Assistant City Attorney

Cynthia E. Goudeau
Cynthia E. Goudeau, City Clerk

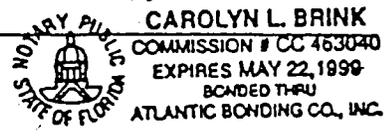
STATE OF FLORIDA :
COUNTY OF PINELLAS :

BEFORE ME, the undersigned, personally appeared Rita Garvey, Mayor-Commissioner of the City of Clearwater, Florida, who executed the foregoing instrument and acknowledged the execution thereof to be her free act and deed for the use and purposes herein set forth, and who is personally known to me.

WITNESS my hand and seal this 9th day of April, 1996.

Carolyn L. Brink

Notary Public
Print/type name:



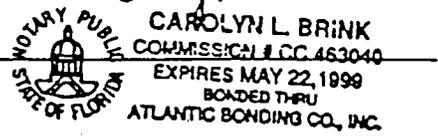
STATE OF FLORIDA :
COUNTY OF PINELLAS :

BEFORE ME, the undersigned, personally appeared Elizabeth M. Deptula, City Manager of the City of Clearwater, Florida, who executed the foregoing instrument and acknowledged the execution thereof to be her free act and deed for the use and purposes herein set forth, and who is personally known to me.

WITNESS my hand and seal this 9th day of April, 1996.

Carolyn L. Brink

Notary Public
Print/type name:



IN WITNESS WHEREOF, the parties hereto have executed this License as of the date and year first above written.

BellSouth Mobility, Inc.

Kristy Smithwick

WITNESS
Print Name Kristy Smithwick

Steve Gray

Steve Gray
Vice President and General Manager

Charles T. Clark, Jr.

WITNESS
Print Name CHARLES T. CLARK JR

STATE OF FLORIDA :
COUNTY OF HILLSBOROUGH :

BEFORE ME, the undersigned, personally appeared Steve Gray Vice president and General Manager, BellSouth Mobility, Inc., a Georgia Corporation, who acknowledged the foregoing instrument on behalf of the Corporation.

Charles T. Clark, Jr.

Notary Public
Print/Type Name: CHARLES T. CLARK JR



CHARLES T. CLARK, JR.
MY COMMISSION # CC410156 EXPIRES
September 27, 1998
BONDED THRU TROY FAIR INSURANCE, INC.

Personally known OR
Provided Identification Type of Identification Provided DL

Countrysigned:
Rita Garvey
Rita Garvey, Mayor-Commissioner

CITY OF CLEARWATER, FLORIDA

By: Michael Roberto
Michael Roberto, City Manager

Approved as to form and
legal sufficiency:

Attest:

John C. Carassas
John C. Carassas
Assistant City Attorney

Cynthia E. Goudeau
Cynthia E. Goudeau, City Clerk

STATE OF FLORIDA :
COUNTY OF PINELLAS :

BEFORE ME, the undersigned, personally appeared Rita Garvey, Mayor-Commissioner of the City of Clearwater, Florida, who executed the foregoing instrument and acknowledged the execution thereof to be her free act and deed for the use and purposes herein set forth, and who is personally known to me.

WITNESS my hand and seal this 25th day of Feb, 1998.

Carolyn L. Brink

Notary Public

Print/Type Name: _____



CAROLYN L. BRINK
COMMISSION # CC 463040
EXPIRES MAY 22, 1999
BONDED THRU
ATLANTIC BONDING CO., INC.

STATE OF FLORIDA :
COUNTY OF PINELLAS :

BEFORE ME, the undersigned, personally appeared Michael Roberto, City Manager of the City of Clearwater, Florida, who executed the foregoing instrument and acknowledged the execution thereof to be her free act and deed for the use and purposes herein set forth, and who is personally known to me.

WITNESS my hand and seal this 25th day of Feb, 1998.

Carolyn L. Brink

Notary Public

Print/Type Name: _____



CAROLYN L. BRINK
COMMISSION # CC 463040
EXPIRES MAY 22, 1999
BONDED THRU
ATLANTIC BONDING CO., INC.



CLEARWATER CITY COMMISSION
Agenda Cover Memorandum

Item # _____
Meeting Date _____

SUBJECT: License Agreement for Personal Communications Systems installations.

RECOMMENDATION/MOTION: Approve a License Agreement with PCS PrimeCo, L.P., a Delaware Limited Partnership, licensing to its non-exclusive use City communications towers at 3290 State Road 580 and 1400 Young Street, and the North Water Tank at 1751 Kings Highway, for the purposes of installing and operating Personal Communications Systems ("PCS") equipment for an initial 5 year term, with the option to automatically extend for 4 additional terms of 5 years each, unless the City is timely notified to the contrary, providing for initial year lump sum annual rent payment of \$37,800 payable upon the License commencement date, increasing 4% annually thereafter, due and payable in single annual installments upon each anniversary of the commencement date, and that the appropriate officials be authorized to execute same.

SUMMARY:

► PCS PrimeCo, L. P. ("PrimeCo") is a consortium of major communications companies: Bell Atlantic PCS, Inc., NYNEX PCS, Inc., Airtouch Communications and U.S. West, Inc. PrimeCo proposes to install PCS equipment on three City structures: the communications towers at the Northeast Treatment Plant, the communications tower just east of Missouri Avenue at 1400 Young Street on land under 99 year lease to the City by the Florida Department of Transportation until 2075, and on the City's North Water Tank at the Kings Highway Recreation Center, 1751 Kings Highway.

Installation at each site will include ground base communications equipment on a concrete pad not to exceed 15' X 25' (375 square feet) linked by coaxial cable to 9 antennae in 3 arrays at structure elevations of 115 to 120 feet (Exhibits "A" - "C"). The City would provide 24 hour access to the sites if PrimeCo coordinates with the responsible City departments.

► The initial 5 year term of the License will commence not later than 60 days following City Commission approval. PrimeCo shall establish the commencement date by providing written notification to the office of the City Attorney at least 10 days before it wishes to access the sites to commence construction.

► The License will automatically extend for up to 4 additional 5 year terms unless PrimeCo gives the City written notice to the contrary not less than 30 days prior to expiration of the then current term.

(continued)

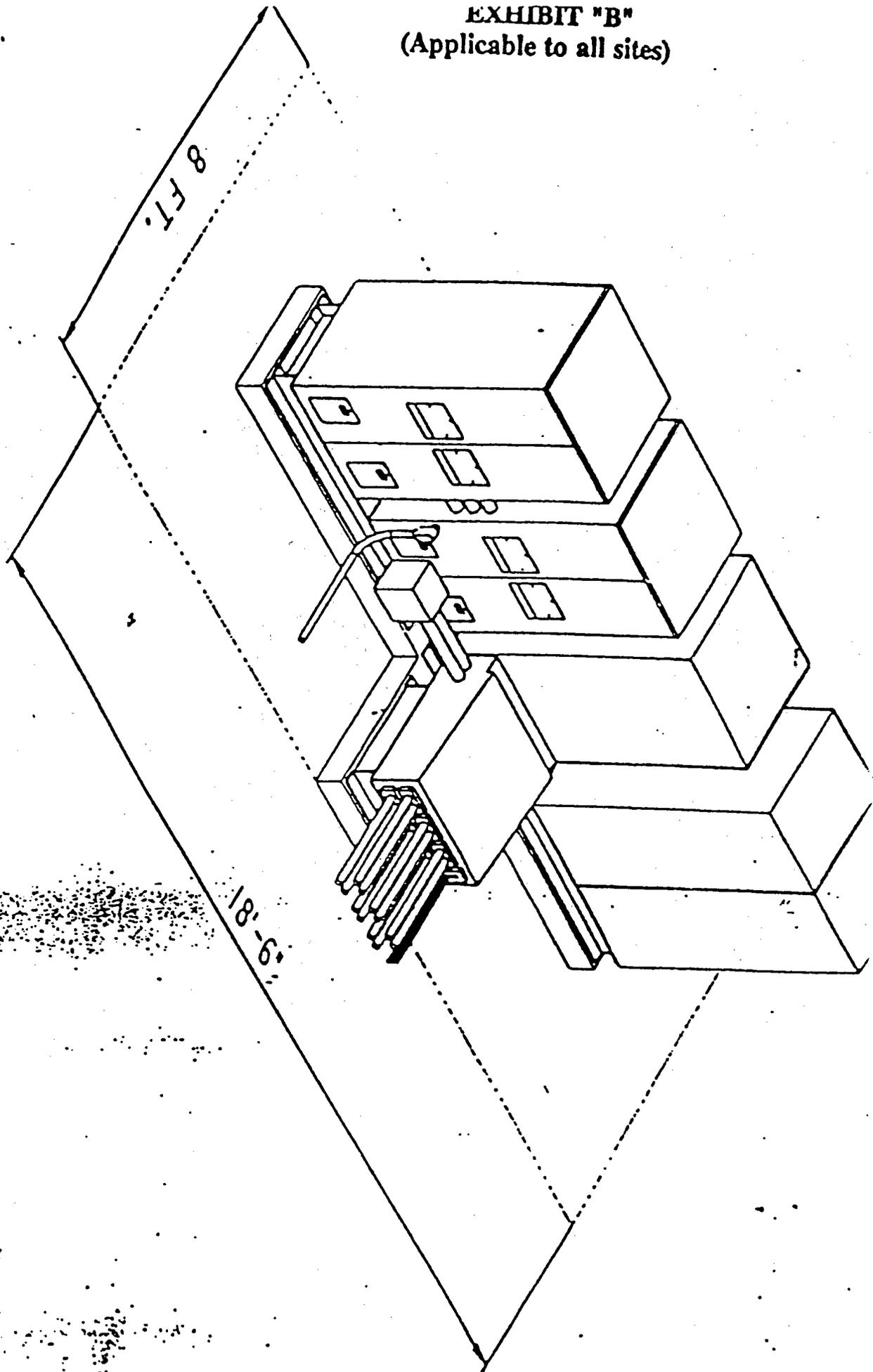
Reviewed by: Legal <u> <i>gc</i> </u> Budget <u> N/A </u> Purchasing <u> N/A </u> Risk Mgmt. <u> <i>RS</i> </u> IS <u> N/A </u> ACH <u> </u> ENG. <u> <i>RS</i> </u> OTHER <u> </u> Submitted by: City Manager	Originating Dept. Engineering <u> <i>RS</i> </u> User Dept. General Services <u> <i>WOB</i> </u> Public Works <u> <i>RS</i> </u> Advertised: Date: _____ Paper: _____ Not required <u> X </u> Affected parties notified _____ Not required <u> X </u>	Costs: <u> N/A </u> (Current FY) _____ Funding Source: Capt. Imp. _____ Operating _____ Other _____ Appropriation Code(s) _____ _____	Commission Action Approved _____ Approved w/conditions _____ Denied _____ Cont'd to _____ Attachments: License Agreement with Exhibits "A" through "D" Locator Map - all sites
--	--	---	--

Under the License Agreement, rent is payable in an annual lump sum installment due upon commencement, and upon each anniversary thereafter. Initial year rent is established at \$37,800 based on \$12,240 for each communications site and \$12,960 for the North Water Tank site, each calculated at \$1.00 per foot above ground level per month for each installed antennae, with installation of antennae at approximately 115 feet on each of the communications towers and antennae at approximately 120 feet on the water tank. The annual rent adjustment established in the License is 4%. Total rent due the City during the initial 5 year term is \$204,736.99. Should PrimeCo exercise all extension options for a full 25 years, total rent to the City will be \$1,574,215.10.

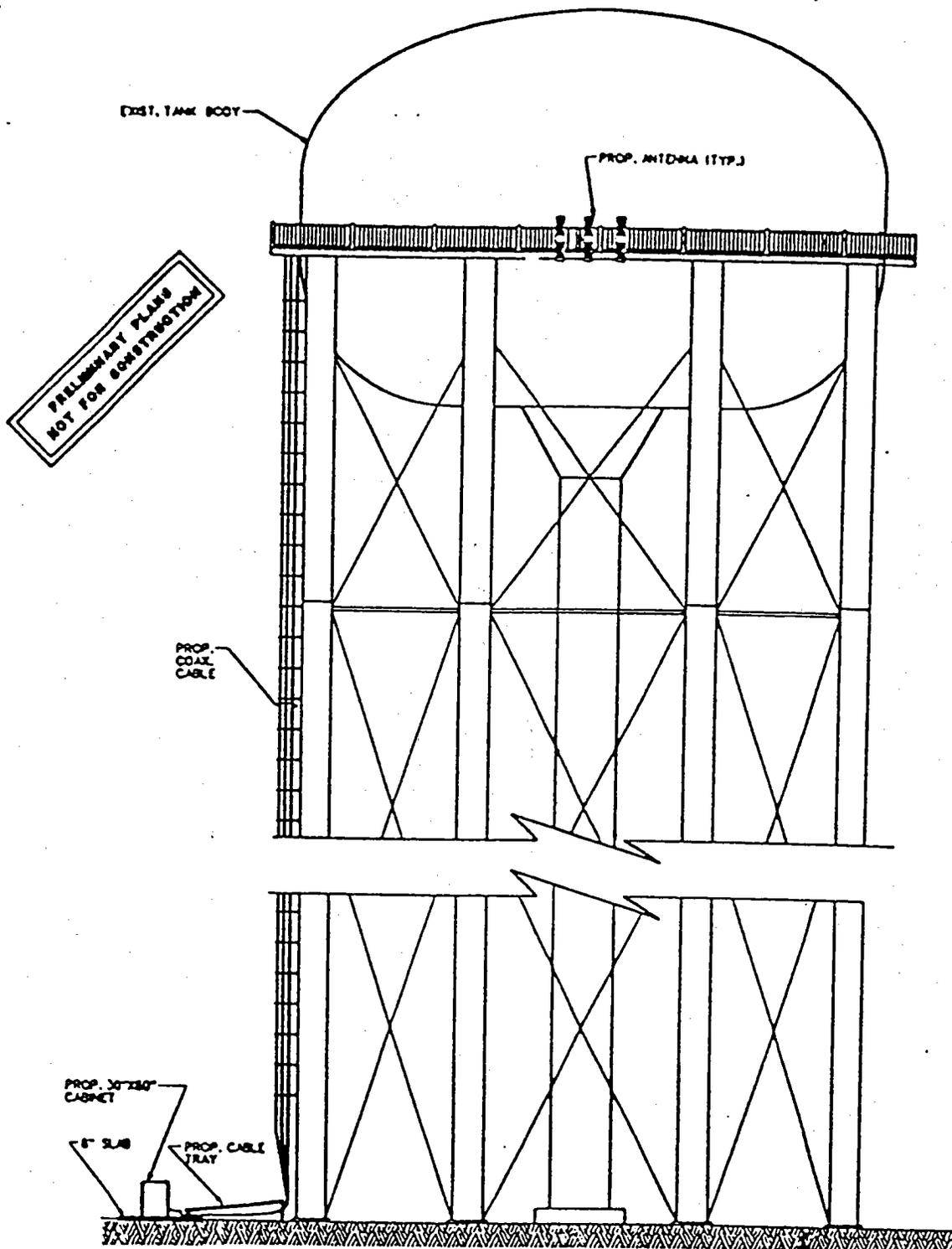
Other key provisions of the License include:

- ◆ PrimeCo will be responsible for all maintenance and utilities related to its installations, all taxes either the License or the PCS improvements may create, combined single limit bodily injury and property damage insurance of not less than \$1,000,000 with the City as additional insured, performing environmental audits prior to commencement and upon final termination with responsibility for any degradation attributable to its installations during the License term.
- ◆ PrimeCo covenants that its installations will not interfere with any City communications equipment, or that of others currently operating under any agreement with the City.
- ◆ The City will be responsible for maintaining its communications towers and the North Water Tank during the License term, and any extensions; and agrees not to license their use for any other communications installations that would interfere with PrimeCo operations.
- ◆ PrimeCo may terminate the License if governmental approvals are denied, or later revoked; if it determines construction or operational costs are prohibitive, for technological reasons such as, but not limited to, signal interference, or in the event of condemnation to the extent operations would no longer be feasible.
- ◆ The City may terminate the License only upon material unremedied default of any License provisions by PrimeCo.
- ◆ The City agrees it will cooperate as appropriate to obtain governmental approvals and permits necessary for construction and operations.
- ◆ PrimeCo is responsible for removing all of its equipment upon final License termination, and for site restoration.
- ◆ Either party may record a Memorandum of License upon the public records (by the City, as per Exhibit "D")

EXHIBIT "B"
(Applicable to all sites)



(APPLICABLE TO TOWER WATER TANK)



PRELIMINARY PLANS
NOT FOR CONSTRUCTION

ELEVATION
SCALE - NOT TO SCALE

NOTE:
THIS SKETCH IS FOR SOLEICATE PURPOSES
ONLY. DO NOT USE THIS FOR DIMENSIONS.

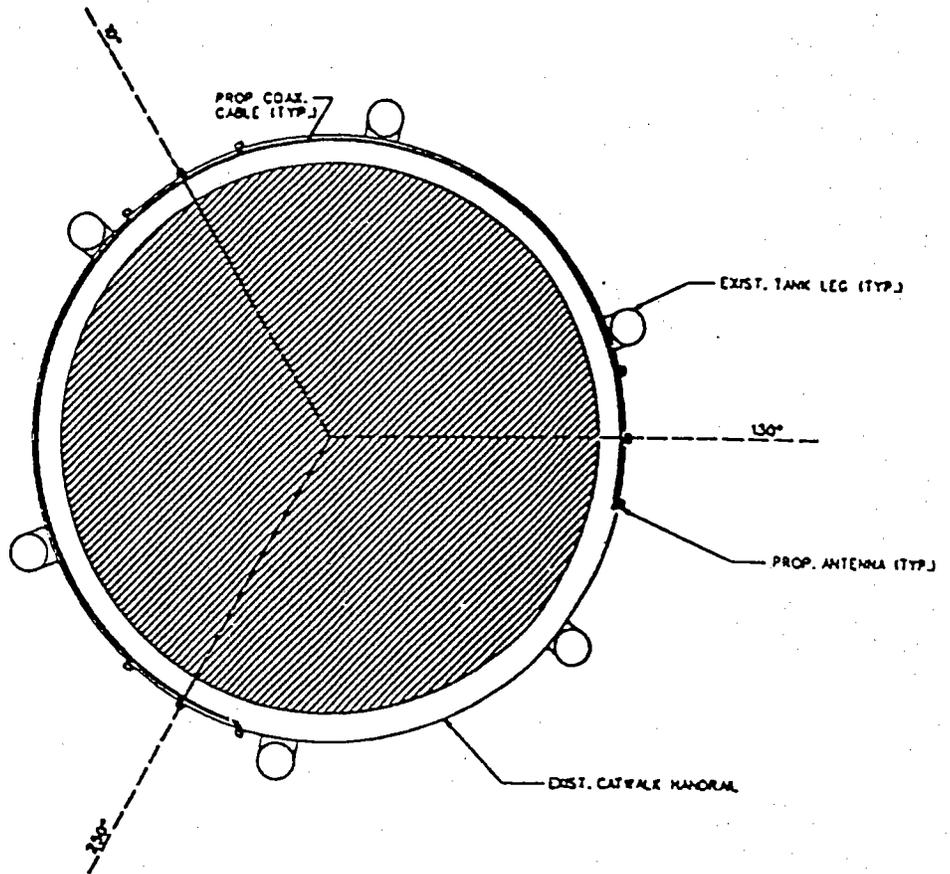


ANTENNA INSTALLATION
WATER TANK SKETCH
ELEVATION

PCS
PrimeCo, LP
8875 HOOKER AVE. PORT
SUITE 350
TAMPA, FLORIDA 33637
PrimeCo

BY: DJK

03-07-96



PLAN VIEW
SCALE - NOT TO SCALE

PRELIMINARY PLANS
NOT FOR CONSTRUCTION

NOTE:
THIS SKETCH IS FOR SCHEMATIC PURPOSES
ONLY. DO NOT USE THIS FOR DIMENSIONS.



ANTENNA INSTALLATION
WATER TANK SKETCH
PLAN VIEW



PCS
PCS PrimeCo, L.P.
8875 HIDDEN RIVER PKWY
SUITE 350
TAMPA, FLORIDA 33637

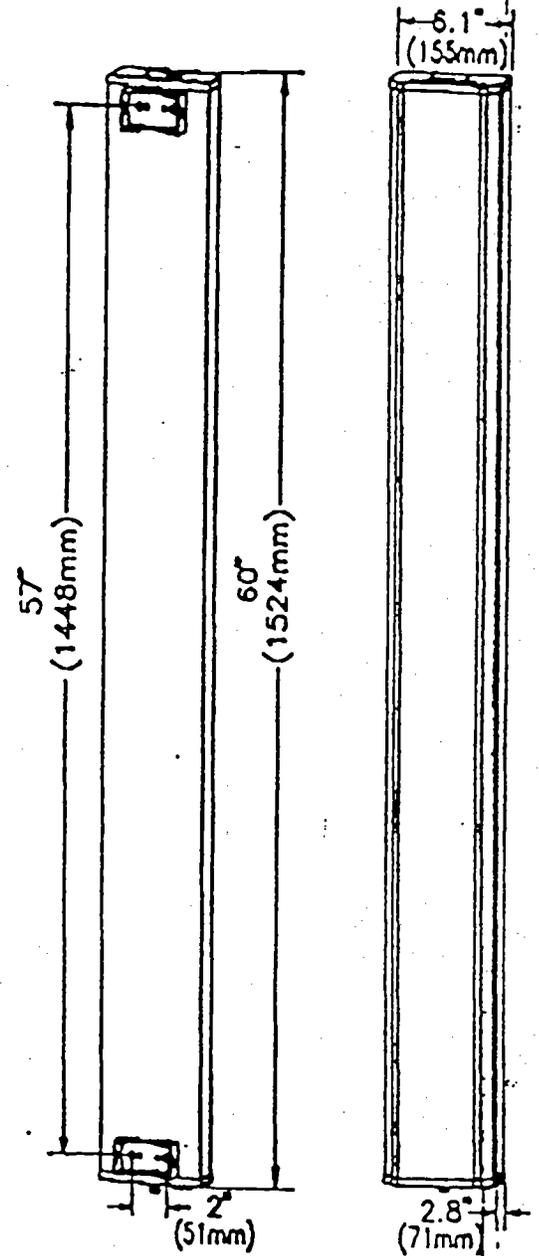
BY: D.J.K

03-07-96

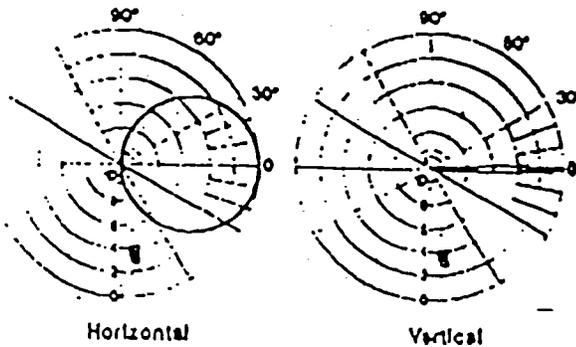
DB980H90(E) - { -KL: 1710-1880 MHz -M: 1850-1990 MHz

90°, 15 dBd Directional Antenna

Model Number	DB980H90-KLM	DB980H90E-KLM
Termination	Type N-Female	7/16 DIN
Frequency Range	-KL: 1710 - 1880 MHz -M: 1850 - 1990 MHz	
Gain	15 dBd or 17.1 dBi	
Null FW	First lower null is less than 18 dB down from max. First upper side lobe suppressed.	
VSWR	< 1.5:1	
Beamwidth (3dB from max)	Horizontal 90° ± 7.0° Vertical 5.5° ± 0.5°	
Front to Back Ratio	> 25 dB	
Polarization	Vertical	
Max. Input Power	250 Watts	
Application	PCN, PCS, DCS1800	
Weight	8.5 lbs (4.0 kg)	
Wind Area	3.3 m² (31 m²)	
Wind Load	131 lbf (582N) 59.4 kp (at 200 mph)	
Max. Wind Speed	165 mph (260 km/h)	
Material	Reflector Screen: Pass. Aluminum Radiators: Brass Radome: PVC, UV Resistant Mtg. Hardware: Pass. Aluminum, Stainless Steel	
Color	Normal: Gray	
Mounting	Band clamps included.	
Downhill Brackets (Optional)	DB5095	
Weather Protection	Fully protected by backplate and radome.	
Lightning Protection	All metal parts grounded.	
Packing Size	72" x 7" x 6"	
Shipping Weight	13.2 lbs (6 kg)	



Radiation Patterns (Relative Field Strength) Bandwidth



15 dBd (17.1 dBi) Gain Directional Antenna with 90° horizontal 3 dB beamwidth -KL: 1710-1880 MHz or -M: 1850-1990 MHz.

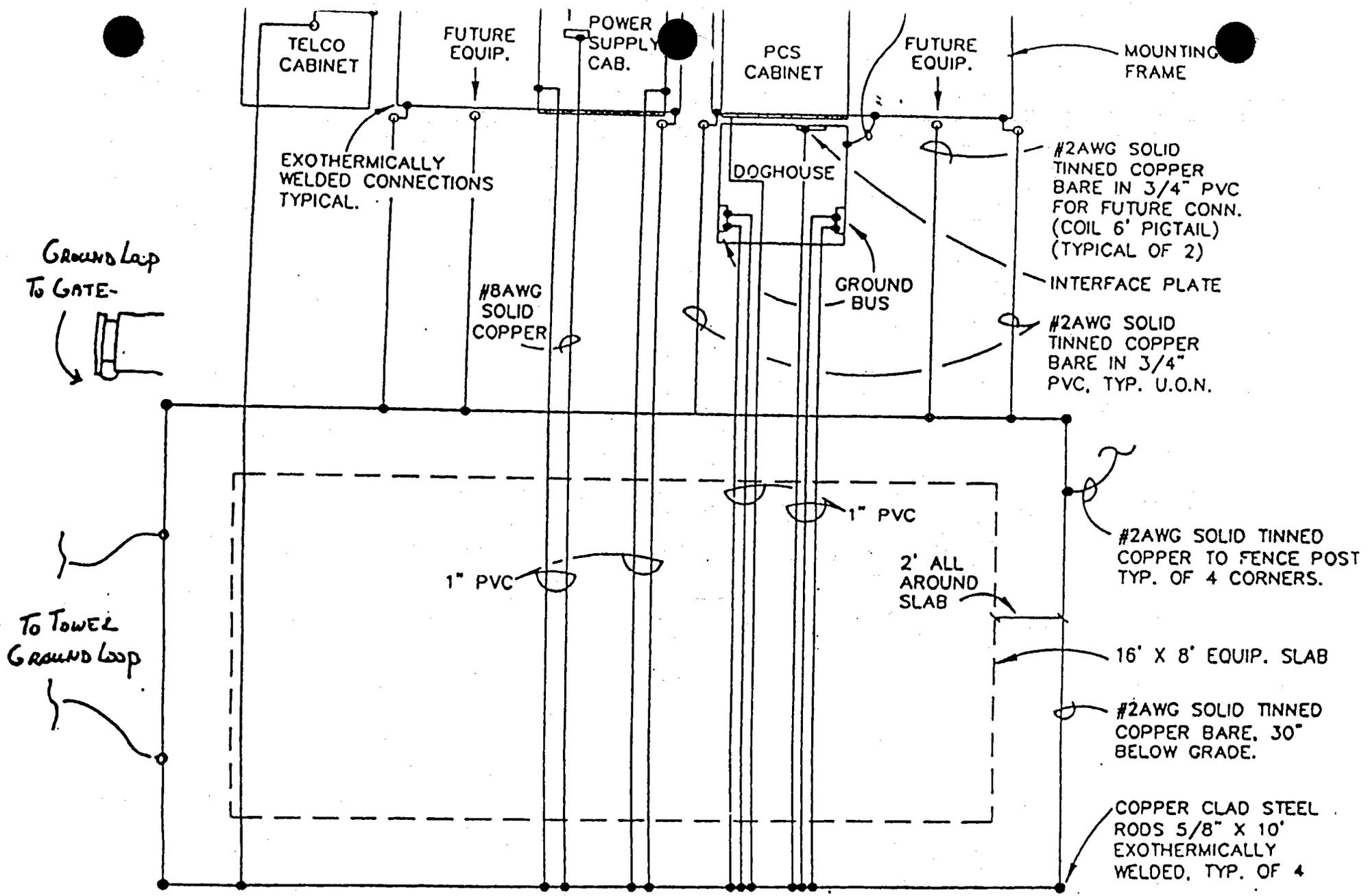
099045-000-F: 10/95



DECIBEL PRODUCTS
A Division of the ALLEN TELECOM GROUP

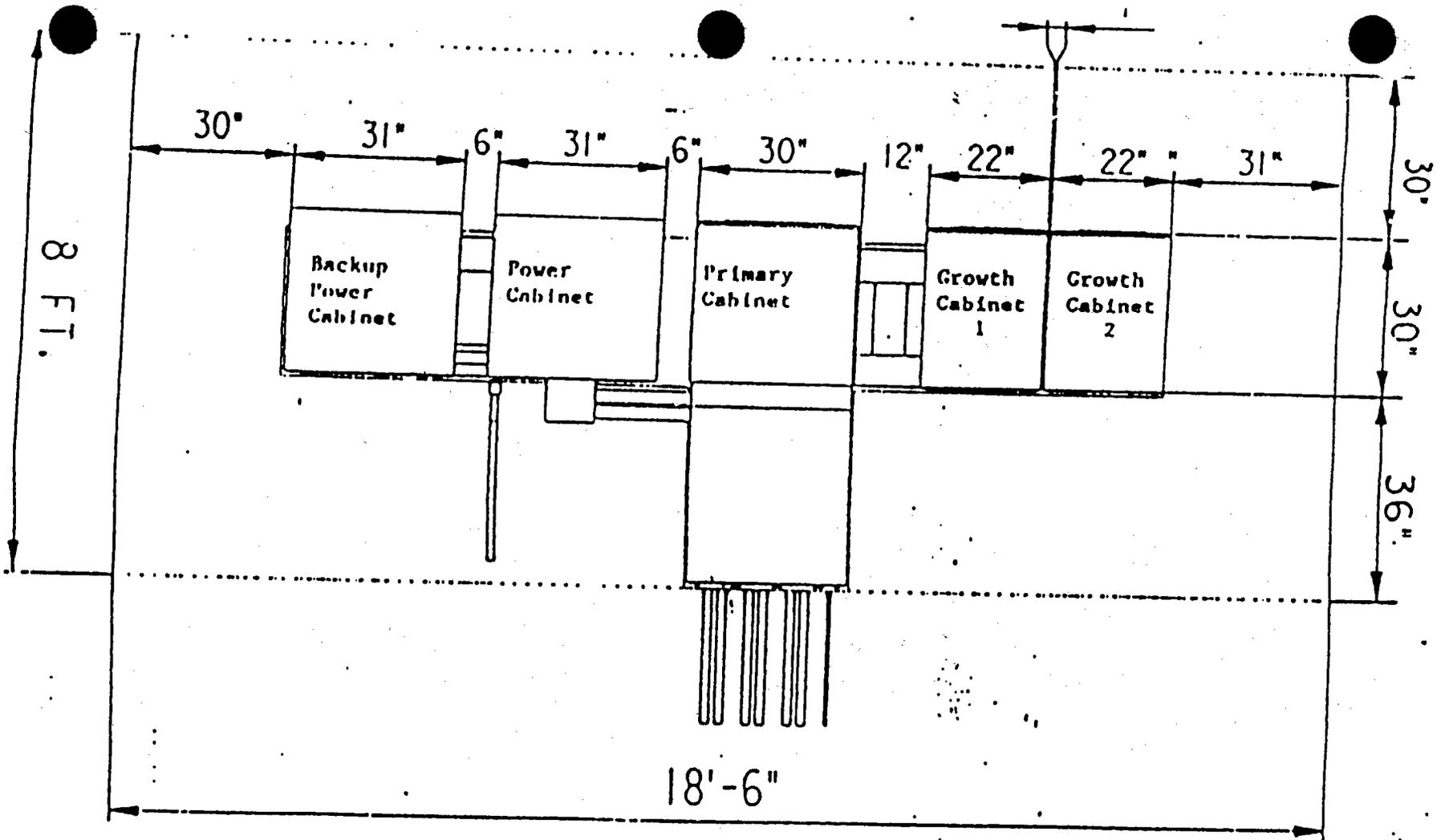
8635 Stemmons Freeway • P. O. Box 569610 • Dallas, Texas 75268-9610
214/631-0310 • Fax: 214/631-4706

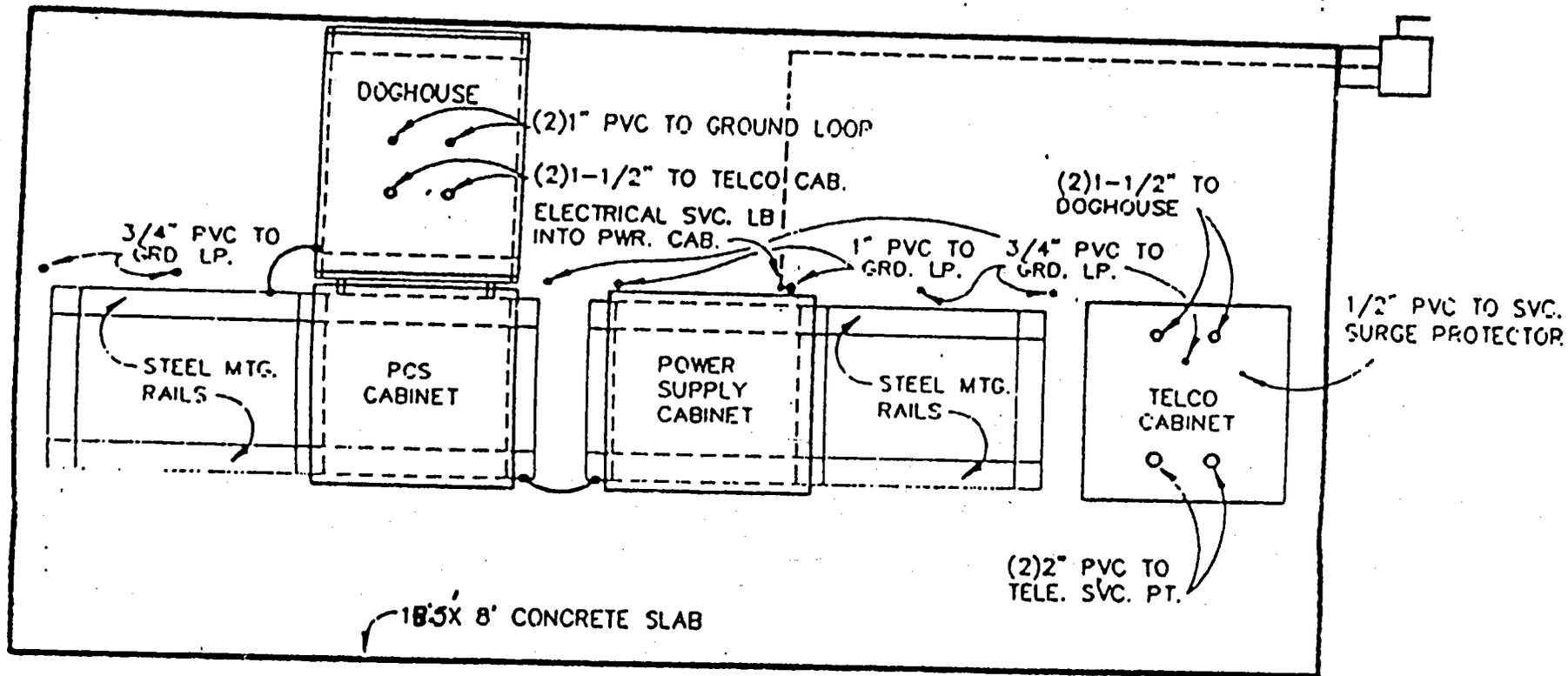




GROUNDING DIAGRAM

N.T.S.





SLAB DETAIL

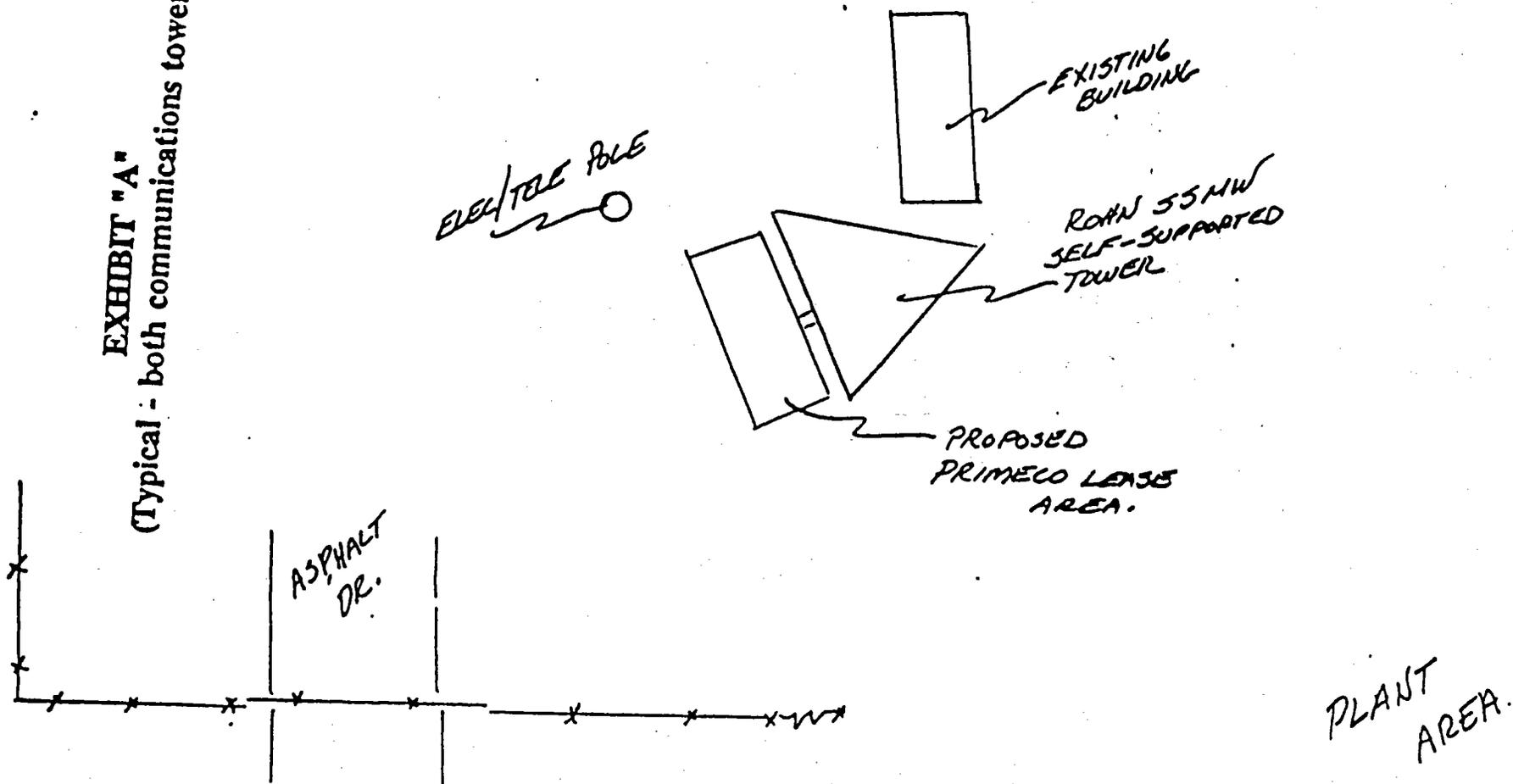
SCALE: 1/2" = 1'-0"

#2 CU JUMPER

PANEL GROUND BAR

CITY OF CLEARWATER
NORTH COUNTY WASTE WATER
TREATMENT PLANTS
N.T.S.

EXHIBIT "A"
(Typical - both communications tower sites)



Prepared by & return to:
Earl Barrett
Engineering Administration
City of Clearwater
P. O. Box 4748
Clearwater, Fl. 34618-4748

EXHIBIT "D"

MEMORANDUM OF LICENSE

KNOW ALL MEN BY THESE PRESENTS THAT:

THIS MEMORANDUM OF LICENSE is made this _____ day of _____, 1996, by the CITY OF CLEARWATER, FLORIDA, a Florida Municipal Corporation.

W I T N E S S E T H:

WHEREAS, the CITY OF CLEARWATER, FLORIDA ("City"), whose address is P. O. Box 4748, Clearwater, Florida 34618-4748 has licensed to PCS PRIMECO, L.P., a Delaware Limited Partnership, whose address is 8875 Hidden River Parkway, Suite 350, Tampa, Florida 33637 ("PrimeCo"), and PrimeCo has accepted a license from the City, upon and subject to the terms, covenants, conditions, limitations and restrictions contained in that certain License Agreement dated _____, 1996 ("License") between the parties, that certain real property situated in Clearwater, Pinellas County, Florida, more particularly described in Exhibit A attached hereto ("Licensed Premises").

The Term of the License is for five (5) years, commencing on _____, 1996, and ending _____, 2001, subject to PrimeCo's option to extend the term for four (4) additional periods of five (5) years each upon the terms and conditions set forth in the License.

The Rent and other obligations of the City and PrimeCo are set forth in the License, to which reference is made for further particulars. In the event of any conflict between the terms and provisions of the License and those contained in this Memorandum, those contained in the License shall govern and be controlling.

IN WITNESS WHEREOF, the City has executed and acknowledged this Memorandum as of the date first above written.

Countersigned:

CITY OF CLEARWATER, FLORIDA

Rita Garvey
Mayor-Commissioner

By: _____
Elizabeth M. Deptula
City Manager

Approved as to form and legal sufficiency:

Attest:

John Carassas
Assistant City Attorney

Cynthia E. Goudeau
City Clerk

STATE OF FLORIDA :
COUNTY OF PINELLAS :

BEFORE ME, the undersigned authority, personally appeared Rita Garvey, as Mayor-Commissioner of the City of Clearwater, Florida, who executed the foregoing instrument and acknowledged the execution thereof to be her free act and deed for the use and purposes therein set forth, and who is personally known to me.

WITNESS my hand and seal this _____ day of _____, 1996.

Notary Public - State of Florida
Print/type name: _____

STATE OF FLORIDA :
COUNTY OF PINELLAS :

BEFORE ME, the undersigned authority, personally appeared Elizabeth M. Deptula, as City Manager of the City of Clearwater, Florida, who executed the foregoing instrument and acknowledged the execution thereof to be her free act and deed for the use and purposes therein set forth, and who is personally known to me.

WITNESS my hand and seal this _____ day of _____, 1996.

Notary Public - State of Florida
Print/type name: _____

EXHIBIT A
License Premises

RE: AGREEMENT BY & BETWEEN THE CITY OF CLEARWATER, FLORIDA AND PRIMECO, L.P.

Non-exclusive use of not more than 375 square feet of land in the immediate vicinity of structures described below, situate and being within the chain link fenced boundaries enclosing each of the said facilities owned and/or controlled by the City of Clearwater, Pinellas County, Florida:

1. COMMUNICATIONS TOWER - Operational upon the grounds of the City's Northeast Water Pollution Control Plant, 3290 S.R. 580 and McMullen Booth Road, Clearwater, Florida, located at Latitude 28°01'54" North and Longitude 82°42'16" West.
2. COMMUNICATIONS TOWER - Operational upon grounds under lease to the City of Clearwater by the Florida Department of Transportation at 1400 Young Street, Clearwater, Florida, located at Latitude 27°56'42" North, and Longitude 82°47'13" West.
3. NORTH WATER TANK - Operational upon the grounds of the City's Kings Highway Recreation Center, 1751 Kings Highway, Clearwater, Florida, located at Latitude 27°59'09" North and Longitude 82°46'43" West.

LICENSE AGREEMENT

THIS LICENSE AGREEMENT is made and entered into this 2nd day of MARCH, 1998, by and between the CITY OF CLEARWATER, FLORIDA, a Florida Municipal Corporation (herein, "City", or "Licensor"), and BellSouth Mobility, Inc., a Georgia Corporation, having its general offices at 5201 Congress Avenue, Boca Raton, Florida 33487 (herein, "BellSouth Mobility" or "Licensee").

1. Premises: The legal description of the site is attached as exhibit "A". Measured from ground level, BellSouth Mobility, Inc. will have reserved for it the space on the structure from 235 feet to 245 feet above ground level (A.G.L.). If required for technological reasons, BellSouth Mobility, Inc. must first obtain written approval from the City to move its location on the structure to space other than this area reserved for it if such other space has not been rented to a different tenant who is using it.

Together with space on the communication tower to mount Personal Communications Systems (herein "PCS") antennae arrays as specified in paragraph 2 below and depicted in Exhibit "A", each being attached hereto and by reference made a part hereof. The land area and the communication tower are referenced herein as the "Licensed Premises". Final site specific engineering plans and load factor calculations regarding the respective site is to be provided by BellSouth Mobility, Inc., at BellSouth Mobility, Inc.'s expense and is subject to final approval by authorized City officials prior to commencement of any construction or installation of any communications equipment by BellSouth Mobility, Inc., its employees, agents, or contractors.

2. Communications Equipment: The City hereby grants permission to BellSouth Mobility, Inc. to install and operate the following described BellSouth Mobility, Inc. communications equipment, building, generator and associated equipment on and within the Licensed Premises:

(a) Three arrays of two antennas each (Andrew model PCS19HA-11015-2DG), or equivalent, to be installed upon the City communications tower with the centerline of mounting the array at 240 feet above ground level (A.G.L.). The exact locations of all antennas shall be supplied to the City in the form of as-built drawings after installation. No alterations shall be made thereafter without prior written approval by the City and acceptance thereof by BellSouth Mobility, Inc.

(b) Radio communications equipment consisting of transmitters, receivers and accessories to be installed in an equipment building located in accordance with approved final site plans. The ground space shall be 15' X 25', more or less, within the fenced enclosures at the respective sites.

In this agreement, all of BellSouth Mobility, Inc.'s equipment, buildings, panels, generators, cables, wires, antennas, and accessories are referred to collectively as "Communications Equipment" or "Communications Centers."

3. Term: The primary term of this Agreement shall be for five (5) years commencing on MARCH 2, 1998 (the "Commencement Date") and terminating at Midnight, MARCH 1, 2003, subject to extensions as set forth in Paragraph 8 below. The Commencement Date as set forth herein shall coincide and be identical with the first day of the first month in which BellSouth Mobility, Inc. intends to enter upon the Licensed Premises to commence construction of any of its Communications Centers, but in no event later than 60 days following the date of this agreement as first above written. BellSouth Mobility, Inc. shall provide written notice of the intended Commencement Date to the office of the City Attorney, 112 South Osceola Avenue, Clearwater, Florida 33756 not later than ten (10) business days prior to said Commencement Date.

4. Rent: During the primary term of this Agreement, as rental for the Licensed Premises, BellSouth Mobility, Inc. will pay the City the initial year annual sum of TWENTY ONE THOUSAND SIX HUNDRED AND--00/100'S--DOLLARS (\$21,600.00), payable in four equal installments of FIVE THOUSAND FOUR HUNDRED AND--00/100's--DOLLARS (\$5,400.00) in advance upon the Commencement Date of this agreement. The annual rental during the primary term and any renewal five year term(s) will be adjusted upward by four percent (4%) annually effective upon each anniversary during the primary term and any extensions thereof and payable in quarterly installments. The total initial year annual rent due hereunder for the communication tower at 3290 State Road 580 and McMullen Booth Road, Clearwater, Florida is \$21,600.00

5. Use: BellSouth Mobility, Inc. will use the Licensed Premises for the purpose of constructing and operating a Communications Center as provided herein. BellSouth Mobility, Inc. will abide by all local, state and federal laws and obtain all permits and licenses necessary to operate its system. BellSouth Mobility, Inc. shall use the Licensed Premises for no other purposes without the prior written consent of the City.

6. Access: BellSouth Mobility, Inc. shall have reasonable ingress and egress to the Licensed Premises on a 24-hour basis for the purpose of maintenance, installation, repair and removal of said Communications Equipment. Provided, however, that only authorized engineers or employees of BellSouth Mobility, Inc., or persons under BellSouth Mobility, Inc.'s direct supervision, will be permitted to enter the said Licensed Premises, and their entry shall be for the purpose of installing, removing, or repairing its Communications Equipment and for no other purpose. BellSouth Mobility, Inc. shall notify the City in advance of its need to install, remove, or repair its Communications Equipment located on the Licensed Premises, except in the case of an emergency in which event notification shall be given as soon as reasonably possible. Access requiring entrance into or onto the communications towers shall be coordinated with the General Services Department of the City.

7. Utilities at BellSouth Mobility, Inc.'s Cost: BellSouth Mobility, Inc. shall be solely responsible for and promptly pay all charges for electricity, telephone, and any other utility used or consumed by BellSouth Mobility, Inc. on the Licensed Premises. The City shall advise BellSouth Mobility, Inc. and fully cooperate with any utility company requesting an easement over and across the Licensed Premises or other lands owned by the City in order that such utility company may provide service to BellSouth Mobility, Inc. BellSouth Mobility, Inc. shall have electrical current meter installed at the Licensed Premises and have the right to run underground or overhead utility lines directly from the utility source to BellSouth Mobility, Inc.'s Communications Equipment. The cost of such meter and of installation, maintenance and repair thereof shall be paid by BellSouth Mobility, Inc. BellSouth Mobility, Inc. and the utility company providing services to BellSouth Mobility, Inc. shall have access to all areas of the Licensed Premises, or other lands of the City, necessary for installation, maintenance and repair of such services; provided, that access requiring entrance into or onto the communications towers shall be coordinated with the General Services Department of the City.

8. Extensions: BellSouth Mobility, Inc. shall have the option to extend this License by a series of four (4) additional terms of five (5) years each so long as it has abided by the terms and conditions of the License and is not currently in default hereunder.

City or BellSouth Mobility, Inc. may at any time after the expiration of the first renewal term terminate this agreement for convenience by giving the other party one hundred eighty (180) days written notice.

BellSouth Mobility, Inc. agrees to provide City written notice of its intent to extend this agreement no less than 90 days prior to the expiration of the primary term or any extension thereof. The annual rental amount shall also automatically adjust as provided in Paragraph 4.

9. Holding Over: If BellSouth Mobility, Inc. should remain in possession of the Licensed Premises after expiration of the primary term or any extension of this License, without the exercise of an option or the execution by the City and BellSouth Mobility, Inc. of a new license, BellSouth Mobility, Inc. shall be deemed to be occupying the Licensed Premises as a tenant-at-sufferance on a month-to-month basis, subject to all the covenants and obligations of this License and at a monthly rental calculated at one and one-quarter (1.25) times the annual rental scheduled to be paid as provided in Paragraph 4 divided by twelve (12). The payment of such monthly rental amount shall be due and payable by the first day of the month succeeding the expiration of the final month of the License term previously granted by the City.

10. Notices: (a) Any notice shall be in writing and shall be delivered by hand or sent by United States registered or certified mail, postage prepaid, addressed as follows:

CITY:
City Manager
City of Clearwater
P.O. Box 4748
Clearwater, Florida 34618-4748

BellSouth Mobility, Inc.
5201 Congress Avenue
Boca Raton, Florida, 33487
Attn.: Network R. E. Manager

~~(362)~~
(561) 367-0157

Terran Ferris (561) 995-3503
Budget Administrator

Tom Fiege (561) 995-3948

However, where coordination with the General Services Department of the City is required by this agreement, notice shall be given by telephone, facsimile transmission or by hand delivery at either of the following mailing addresses or physical addresses and telephone numbers:

General Services Director
City of Clearwater
P.O. Box 4748
Clearwater, FL 33758-4748

Telephone: (813) 462-6777
24 Hr. Emergency: (813) 462-6633
Fax Number: (813) 462-6457

Physical Address: 1900 Grand Avenue, Clearwater, FL 33765

(b) Either party may change its address and telephone number(s) to which notice shall be given by delivering notice of such change as provided above. Notice shall be deemed given when delivered if delivered by hand, or when postmarked if sent properly by mail.

11. Liabilities and Indemnity: BellSouth Mobility, Inc. agrees to indemnify and hold the City harmless from all claims (including costs and expenses of defending against such claims) arising or alleged to arise from the negligence or willful misconduct of BellSouth Mobility, Inc. or BellSouth Mobility, Inc.'s agents, employees or contractors occurring during the term of this License or any extensions in or about the Licensed Premises. BellSouth Mobility, Inc. agrees to use and occupy the Licensed Premises at its own risk and hereby releases the City, its agents and employees, from all claims for any damage or injury brought on by BellSouth Mobility, Inc. to the full extent permitted by law. The City agrees to indemnify and save BellSouth Mobility, Inc. harmless from all claims (including costs and expenses of defending against such claims) arising or alleged to arise from the negligence or willful misconduct of the City or the City's agents, employees, contractors or other licensees or tenants of the City occurring during the term of this License, subject to any defense or limitation pursuant to Section 768.28, Florida Statutes.

12. Termination:

(a) Either party shall have the right to terminate this License at any time as follows:

1. By either party, if the approval of any agency, board, court, or other governmental authority necessary for the construction or operation of the Communications Equipment cannot be obtained after due diligence, or is revoked.

2. By either party, in the event of a material breach of any of the provisions of this agreement, subject to Paragraph 13 below.

3. By BellSouth Mobility, Inc., if BellSouth Mobility, Inc. determines that the cost of obtaining or retaining the approval of any agency, board, court, or other governmental authority necessary for the construction or operation of the Communication Equipment is prohibitive, or if BellSouth Mobility, Inc. determines that the property is not appropriate for its Communications

Equipment for technological reasons, including, but not limited to, signal interference.

4. By BellSouth Mobility, Inc., in the event that any government or public body shall take all or such part of the Licensed Premises thereby making it physically or financially infeasible for the Licensed Premises to be used in the manner it was intended to be used by this Agreement. However, if only a portion of the Licensed Premises is taken, and BellSouth Mobility, Inc. does not elect to terminate this License under this provision, then rental payments provided under this License shall be abated proportionally as to the portion taken which is not then usable by BellSouth Mobility, Inc. and this License shall continue.

5. By the City, if the City determines that the installation or operation of the Communications Equipment is detrimental to the operation of the City's communications equipment within and upon the respective Licensed Premises, or the communications equipment of any other party with whom the City has previously entered into a lease or licensing agreement specifically for the construction, operation and maintenance of communications equipment.

(b) The party terminating this agreement shall give written notice of termination to the other party not less than thirty (30) days in advance of the effective date of termination. Upon termination, neither party will owe any further obligation under the terms of this License, except that BellSouth Mobility, Inc. shall be responsible for removing all of its Communications Equipment from the Licensed Premises and for restoring the areas occupied by BellSouth Mobility, Inc. to its original conditions as near as practicable, save and except normal wear and tear and acts beyond BellSouth Mobility, Inc.'s control.

(c) Upon termination of this License, the term hereby granted and all rights, title and interest of BellSouth Mobility, Inc. in the premises shall end and the City may re-enter upon and take possession of the premises. Such termination shall be without prejudice to the City's right to collect from BellSouth Mobility, Inc. any rental or additional rental which has accrued prior to such termination together with all damages, including, but not limited to, the damages specified in subparagraph (1) of this paragraph which are suffered by the City because of BellSouth Mobility, Inc.'s breach of any covenant under this License.

13. Defaults and Remedies:

(a) Notwithstanding anything in this License to the contrary, BellSouth Mobility, Inc. shall not be in default under this License until:

1. In the case of a failure to pay rent or other sums due under this License, fifteen (15) days after receipt of written notice thereof from the City; or

2. In the case of any other default, thirty (30) days after receipt of written notice thereof from the City; provided, however, where any such default cannot reasonably be cured within thirty (30) days, BellSouth Mobility, Inc. shall not be deemed to be in default under the License if BellSouth Mobility, Inc. commences to cure such default within said thirty (30) day period and

thereafter diligently pursues such cure to completion.

(b) In the event of BellSouth Mobility, Inc.'s default in the payment of rentals or BellSouth Mobility, Inc.'s failure to comply with any other material provision of this License, the City may, at its option, terminate this License without affecting its right to sue for all past due rentals, and any other damages to which the City may be entitled. Should the City be entitled to collect rental or damages and be forced to do so through its attorney, or by other legal procedures, the City shall, upon receipt of a favorable ruling, be entitled to its reasonable costs and attorney's fees thereby incurred upon said collection.

14. Taxes: BellSouth Mobility, Inc. shall pay annually any and all taxes that may be levied and assessed upon the Licensed Premises attributable to any improvement thereto made by BellSouth Mobility, Inc., the Communications Equipment installed thereon, or upon this agreement. If any such tax is paid by the City, BellSouth Mobility, Inc. shall reimburse the City for the amount of any such tax payments within sixty (60) days of receipt of sufficient documentation indicating the amount paid and the calculation of BellSouth Mobility, Inc.'s pro-rata share. Upon written request by BellSouth Mobility, Inc., the City shall furnish evidence of payment of all such taxes.

15. Insurance: BellSouth Mobility, Inc., at its expense, shall maintain in force during the terms of this License, and provide the City a certificate, or certificates, of insurance covering the entire term of the License, or any extension thereof, a combined single limit policy of bodily injury and property damage insurance, with a limit of not less than \$1,000,000 insuring the City and BellSouth Mobility, Inc. against all liability arising out of the ownership, use, occupancy or maintenance of the Licensed Premises and appurtenant areas, which policy shall name City as an additional insured. The City's Risk Manager may require to provide any or all of the following additional Insurance Endorsements upon determination of any additional risks inherent to the City as party to this License Agreement:

- a. Contractual Liability coverage.
- b. Personal Injury Liability coverage.
- c. Broad Form Property Damage Coverage.

All insurance coverages herein provided shall:

- a. Be written on an "Occurrence" basis.
- b. Shall not be suspended, voided, canceled or modified in a way that affects the City of Clearwater except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City's Risk Management Office at the following mailing address: Risk Manager, City of Clearwater, P.O. Box 4748, Clearwater, FL 33758-4748.

c. Certificates of Insurance meeting the specific required insurance provisions of this License Agreement shall be forwarded to the City's Risk Management Office and approved prior to the start of any work or possession of the Licensed Premises.

d. All insurance policies required within this agreement shall provide full coverage from the first dollar of exposure unless otherwise stipulated. No deductibles will be accepted without prior approval from the City.

16. Environmental:

a. Following execution of this agreement by the City, BellSouth Mobility, Inc. shall, at its expense, contract the services of a qualified environmental firm or individual to perform to current ASTM standards, a commercial Phase I environmental audit of the license Premises as described in Paragraph 1(a), (b) and (c) to determine if there is any basis for suspecting that hazardous materials or waste have been deposited or released in or upon said premises. If the results of the Phase I investigation reveal to BellSouth Mobility, Inc. a potentially hazardous materials or waste situation, then BellSouth Mobility, Inc. shall be entitled, at BellSouth Mobility, Inc. expense and option, to perform a Phase II environmental investigation meeting applicable current ASTM standards consisting of, but not limited to, the sampling and analysis of soil, ground water, air, building and structural components, and any other materials that may be upon or in the property. It is mutually agreed between the parties that should the environmental investigations herein described reveal to BellSouth Mobility, Inc. a potential or actual problem concerning hazardous materials or waste in or about the license Premises, BellSouth Mobility, Inc. upon providing copies of the environmental reports and reasonable written notice to the City, shall be entitled to terminate this agreement.

b. If BellSouth Mobility, Inc. does not terminate this agreement as provided above, it shall provide the City with copies of all environmental reports resulting from investigations of the license Premises not later than thirty (30) days preceding the Commencement Date as defined in Paragraph 3. The City shall have the privilege of reviewing and independently verifying the findings and conclusions contained in each and all of the reports provided by BellSouth Mobility, Inc. prior to the Commencement Date, and at its sole option, may reject the reports in their entirety, and by written notice to BellSouth Mobility, Inc. as provided herein, may terminate this agreement. If the City elects not to terminate this agreement under this provision, it shall be deemed thereafter that the conclusions as defined in the report(s) shall establish the environmental baseline for the license Premises, and the City shall defend and hold BellSouth Mobility, Inc. harmless from any pollution or hazardous substances or wastes established as the environmental baseline, subject to any defense or limitation available to the City pursuant to Section 768.28, Florida Statutes. BellSouth Mobility, Inc. shall thereafter indemnify, defend and save harmless the City, its successors, assigns, employees, contractors and agents from and against any legal or administrative proceeding brought against the City; from all demands, claims, fines, penalties, or costs occasioned by subsequent discovery of any other pollution or hazardous substances or waste involving the license Premises caused by BellSouth Mobility, Inc., whether known or unknown to the City, whether based in federal, state, or local environmental or other laws; strict liability

or common law; from any damage, claim, liability or loss connected to any condition in, on, or of the license Premises as of the date of the written report(s), the results, evaluations and conclusions contained therein; as well as during BellSouth Mobility, Inc.'s occupancy of the license Premises and afterward as to any continuing violations after BS's occupancy if such violations can reasonably be determined to have been caused directly by BellSouth Mobility, Inc., its employees, agents, contractors, or any person or entity acting for or on behalf of BellSouth Mobility, Inc.. These covenants by BellSouth Mobility, Inc. to indemnify, defend and hold harmless the City, its successors, assigns, employees, contractors and agents shall extend to and include any obligations of the City to perform remedial work ordered or recommended by any governmental or administrative agencies. BellSouth Mobility, Inc. shall be solely responsible for responding to such governmental or administrative agencies claims relating to contamination of the Premises as may be directly attributable to BellSouth Mobility, Inc., its employees, agents, contractors, or any persons or entity acting for or on behalf of BellSouth Mobility, Inc. during the term of this license, or any extension thereof, of after termination.

c. Upon expiration or termination of this license, BellSouth Mobility, Inc. shall, at its expense, procure an environmental audit, or audits, through an environmental firm or individual mutually agreeable between BellSouth Mobility, Inc. and the City, in conformity with City of Clearwater Environmental Audit and Property Assessment Guidelines as may be in existence at the time of expiration or termination. Should the results of such studies and tests reveal any environmental contamination of the premises in amounts and/or concentrations exceeding minimum acceptable levels as then established by applicable governmental authorities, or in excess of the baseline environmental condition of the Premises as established at the license Commencement Date, whichever shall define the lowest limits of environmental contamination then present in, on, or of the license Premises, BellSouth Mobility, Inc. shall pay all costs associated with environmental remediation of such contamination exceeding the lowest limits established using the aforementioned criteria if such contamination is found to be directly attributable to BellSouth Mobility, Inc., its employees, agents, contractors, or any persons or entity acting for or on behalf of BellSouth Mobility, Inc. during the term of or any extension of this license, or after termination.

d. BellSouth Mobility, Inc. agrees to provide the City within seven (7) days of execution by BellSouth Mobility, Inc., copies of all registrations, reports, closure assessments and certifications of financial responsibility forms as may be required to be submitted to the State Department of Environmental Protection, or its successors, pursuant to Rules of the Florida Administrative Code.

e. The City and BellSouth Mobility, Inc. mutually covenant and agree that during the term of this license, or any extension thereto, to fully comply with all Federal, State and Local environmental laws and administrative Rules, and that neither party will use, generate, store or dispose of any Hazardous Material as identified and defined now or during the term or any extension of this license in and by said laws and rules. Each party agrees to hold harmless, defend and indemnify the other, along with their respective successors and/or assigns, partners, affiliates, employees, contractors, agents, and all others acting for or on behalf of either party in

any manner or action that may reasonably be determined to be in violation of this provision, subject to any defense or limitation available to the City pursuant to Section 768.28, Florida Statutes.

17. Tests: BellSouth Mobility, Inc. is hereby given the right to survey, soil test, radio coverage test, and conduct any other investigations needed to determine if the surface and location of the License Premises is suitable for construction and installation of its Communications Equipment prior to the Commencement Date as defined in Paragraph 3. The terms of Paragraph 11 shall also apply.

18. Fixtures: The City covenants and agrees that no part of the improvements constructed, erected or placed by BellSouth Mobility, Inc. on the Licensed Premises or other real property owned by the City shall be or become, or be considered as being, affixed to or a part of the City's real property, any and all provisions and principals of law to the contrary notwithstanding. All improvements of every kind and nature constructed, erected or placed by BellSouth Mobility, Inc. on the Licensed Premises shall be and remain the property of BellSouth Mobility, Inc..

19. Assignment and Subletting: BellSouth Mobility, Inc. may assign or sublet the Licensed Premises or any part thereof without the consent of the City only if BellSouth Mobility, Inc. remains liable for fulfillment of payments under this License and the nature of the use is not changed or the assignment is made to an affiliate of BellSouth Mobility, Inc.. All other assignments shall require the City's prior written consent, which consent shall not be unreasonably withheld.

20. Memorandum of License Agreement: Following the execution of this License, either party, at its sole expense, shall be entitled to file the Memorandum of License Agreement of record in the public records of Pinellas County, Florida.

21. Other Conditions:

(a) The City acknowledges that following the execution of this License, BellSouth Mobility, Inc. will contact appropriate local governmental agencies for the purpose of obtaining all building permits and approvals, zoning changes and approvals, variances, use permits and other governmental permits and approvals ("Local Permits") necessary for the construction, operation and maintenance of the Communications Equipment on the Licensed Premises. The City agrees to fully cooperate with BellSouth Mobility, Inc. in obtaining the Local Permits and, without limiting the generality of the foregoing, to execute any applications, maps, certificate or other documents that may be required in connection with the Local Permits.

(b) Whenever under the License the consent or approval of either party is required or a determination must be made by either party, no such consent or approval shall be unreasonably withheld or delayed, and all such determinations shall be made on a reasonable basis and in a reasonable manner.

(c) The City covenants that BellSouth Mobility, Inc. shall, upon paying the rent and observing the other covenants and conditions herein upon its part to be observed, peaceably and quietly hold and enjoy the Licensed Premises during the term of this License or as it may be extended without hindrance or ejection by the City, any person or persons claiming under the City, or any other licensee or tenant of the City.

(d) BellSouth Mobility, Inc. covenants and agrees that BellSouth Mobility, Inc. Communications Equipment and installation, operation and maintenance will:

(1) Not irreparably damage the WPC communications tower, nor the accessories thereto.

(2) Not interfere with the operation of the City's radio or other communications equipment, or that of other licensees or tenants currently utilizing the towers or licensed or leased premises for such purposes within 100 yards of the Licensed Premises. In the event there is interference by BellSouth Mobility, Inc., BellSouth Mobility, Inc. will promptly take all steps necessary to correct and eliminate same within a reasonable period of time. If BellSouth Mobility, Inc. is unable to eliminate such interference caused by it within a reasonable period of time, BellSouth Mobility, Inc. agrees to remove its antennas from the City's property and this Agreement shall terminate.

(3) Comply with all applicable rules and regulations of the Federal Communications Commission and the ordinances of the City, including but not limited to the building and electrical codes of the City.

(e) If the Licenses Premises is damaged for any reason so as to render it substantially unusable for BellSouth Mobility, Inc.'s use, rent shall abate for such period not in excess of ninety (90) days while the City, at its expense, restores the City's towers and/or buildings to its condition prior to such damage. Provided, however, in the event the City fails to repair the Licensed Premises within the said ninety (90) day period, BellSouth Mobility, Inc. or the City shall have the right to terminate this License with no further obligations hereunder.

(f) During the term of this License, the City will not grant a similar license to any other party if such grant would in way interfere with BellSouth Mobility, Inc.'s use of its Communications Equipment. In the event of any interference arising from the installation or operation of communications equipment at the towers sites by any other party subsequent to the Commencement Date of this agreement, the City shall take all steps reasonably necessary to correct and eliminate such interference within a reasonable period of time. If the City is unable to eliminate the interference within a reasonable period of time, the City shall be obligated to remove the communication equipment of the other party from the towers sites. BellSouth Mobility, Inc. shall not change the frequency, power or character of its equipment without first obtaining the written consent of the City, which shall not be unreasonably withheld. Notwithstanding any provisions of this paragraph to the contrary, any communications equipment

within or upon the Licensed Premises previously authorized to the use of any other party by the City shall not require removal.

22. Radon Gas Notification: as required by Section 404.056(8), Florida Statutes, BellSouth Mobility, Inc. shall take notice of the following:

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

23. Entire Agreement and Binding Effect: This License and any attached exhibits signed or initialed by the parties constitute the entire agreement between the City and BellSouth Mobility, Inc. No prior written or prior contemporaneous or subsequent oral promises or representations shall be binding. This License shall not be amended or changed except by written instrument signed by both parties. Paragraph captions herein are for convenience only, and neither limit nor amplify the provisions of this License. The provisions of this License shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties, but this provision shall in no way alter the restriction hereon in connection with assignment and subletting by BellSouth Mobility, Inc.

BLANK.WPC

tower.doc

FIRST AMENDMENT TO LICENSE AGREEMENT

THIS FIRST AMENDMENT TO LICENSE AGREEMENT is entered into this 18th day of October, 1996, by and between the CITY OF CLEARWATER, FLORIDA, a Florida Municipal Corporation ("Licensor") and PCS PRIMECO, L.P., a Delaware Limited Partnership, regarding that certain License Agreement between the parties dated April 8, 1996, governing Licensed Premises as described in Paragraph 1 thereof.

W I T N E S S E T H:

WHEREAS, Licensee desires to amend the herein described agreement to forsake and terminate all rights, privileges, and benefits accruing to Licensee's use of Licensor's Communications Tower at 1400 Young Street (License Premises "B") and Licensor's North Water Tank at 1700 Kings Highway (License Premises "C") by virtue of said agreement, together with all costs, obligations, terms and conditions binding Licensee therefore; and,

WHEREAS, Licensor is agreeable to releasing Licensee in all respects from all costs, obligations, terms and conditions associated with the aforesaid portions of the Licensed Premises described in said License Agreement, in exchange for Licensee forsaking and terminating all rights, privileges and benefits accruing to Licensee thereby, under certain terms and conditions as hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual promises made therein, and the mutual benefits being derived by each of the parties thereto, it is agreed that said License Agreement be amended as follows:

A. Henceforth, following the date hereof, the only portion of the Licensed Premises upon which said License Agreement shall be effective is that certain Communications Tower location at 3290 S.R. 580 and McMullen Booth Road (License Premises "A", therein).

B. Licensee henceforth forsakes and terminates all rights, privileges and benefits said License Agreement bestowed to those portions of the Licensed Premises described as License Premises "B" and "C".

C. Licensor henceforth releases Licensee from all future costs, obligations, terms and conditions previously

binding Licensee regarding those certain portions of the Licensed Premises described as License Premises "B" and "C".

D. Contemporaneous with delivery of this First Amendment To License Agreement to Licensor, duly executed by Licensee, Licensee shall deliver the following documents which shall be subject to provisions of the License Agreement:

1. Insurance certificate(s) as required under paragraph 15 of the License Agreement.

2. Environmental report(s) as required under paragraph 16 of the License Agreement.

E. Upon approval of this First Amendment To License Agreement by the Clearwater City Commission, and its proper execution, It is mutually agreed between the parties that the initial year annual rent for the remainder Licensed Premises shall continue unchanged at \$12,420.00, which shall be due and payable to Licensor not later than fifteen (15) days following delivery of this document to Licensee.

F. All annual rent payments, subject to adjustment as provided in the License Agreement, shall be due and payable on or before each succeeding anniversary of the Commencement Date (May 1, 1996) of the License Agreement. A late payment penalty of ten percent (10%) of the annual rent amount shall be due and accompany any payment received by Licensor after the tenth (10th) day following any due date as herein provided.

G. It is mutually agreed by the parties that Paragraph 21(e) of the License Agreement is hereby amended to read as follows:

If the License Premises is damaged for any reason so as to render it substantially unusable for PrimeCo's use, other than damage by or through accident, error, omission, willful misconduct or negligence of Licensee, its employees, agents, contractors or assigns, rent shall abate for such period not in excess of ninety (90) days while the City, at its expense restores the City's ~~towers~~ tower and/or buildings to its condition prior to such damage. Provided, however, in the event the City fails to repair the Licensed Premises within the said ninety (90) day period, PrimeCo shall have the right to terminate this License with no further obligations

hereunder. In the event such damage is in any way attributable to PrimeCo, its employees, agents, contractors or assigns, and PrimeCo fails to repair the Licensed Premises within ninety (90) days of occurrence, the City shall have the right to terminate this License with no further obligations hereunder, or to deem Licensee to be in default of this License Agreement and subject to the remedies as provided in Paragraph 13 hereof.

ALL OTHER TERMS AND CONDITIONS OF SAID LICENSE AGREEMENT REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the day and year first above written.

Signed, sealed and delivered in the presence of:

PCS PRIMECO, L.P.

Sam Watkins
WITNESS
Print Name SAM WATKINS

By: [Signature]
Daniel Behuniak
Chief Operating Officer and
President, Southeast Region

Jill M. Gore
WITNESS
Print Name JILL M. GORE

STATE OF FLORIDA :
COUNTY OF HILLSBOROUGH :

BEFORE ME, the undersigned, personally appeared Daniel Behuniak, Chief Operating Officer and President, Southeast Region, PCS PRIMECO, L.P., a Delaware Limited Partnership, who acknowledged the foregoing instrument on behalf of the partnership.

Janice E. Lopilato
Notary Public - State of Florida
Print/type name: _____



JANICE E. LOPILATO
My Comm Exp. 8/18/00
Bonded By: Service Ins
No. CC5e3276

[Signature] Notary Public

Personally Known
 Produced Identification
Type of Identification Produced _____

COUNTY : Pinellas
SECTION/JOB : 15570-2603
STATE ROAD : S-595-A
PARCELS : 271 & 274

86163431

100070
COCL
37.00
37.00

MODIFICATION OF LEASE AGREEMENT

THAT CERTAIN LEASE AGREEMENT DATED JANUARY 19, 1976, between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, LESSOR, hereinafter called the "DEPARTMENT", and the CITY OF CLEARWATER, FLORIDA, LESSEE, hereinafter called the "CITY" is this day modified.

THE ORIGINAL LEASE IS PRIMARY AND REMAINS IN FULL FORCE AND EFFECT. A copy of the Original Lease is attached with its Original Attachments, marked Exhibits A, B, C, D, E, F, and is made a part of this Modification of Lease Agreement, for reference.

THE PARTIES AGREE AS FOLLOWS:

1. The land area is increased to include that legally described in Exhibit "1", attached hereto. The "CITY" accepts maintenance and liability responsibilities for this additional property.
2. The right of each party to terminate this Agreement upon "30 Days Notice", is extended to a term of "One Year Notice".
3. The "CITY" may erect a free standing transmitter antenna, and a transmitter building. The height of the antenna (approximately 300 feet) will have a 30 ft. x 30 ft. base. The building dimension to be approximately 20 ft. x 20 ft.. The location of the antenna on this property to be longitude 82°47'13" West and latitude 27°56'42" North. Structures shall not interfere with drainage and water retention use and purpose of this property, nor the public park use.
4. In the event of termination by either party prior to the expiration of the term of the lease, the CITY may remove, at its expense, the transmitter antenna, related equipment and all fixtures installed by the CITY.

City of Clearwater, P. O. Box 1788
Clearwater, FL 33516-1788

RECEIVED
JUN 28 1999
FLEET MAINT.

Handwritten signature
CLERK OF THE CIRCUIT COURT
PINELLAS COUNTY, FLORIDA
JUL 17 5 27 PM '99

The "CITY" to indemnify, defend, save, and hold harmless the "DEPARTMENT" from all claims, demands, liabilities and suits of any nature whatsoever arising out of, because of, or due to the construction of these structures, or the use and maintenance of same, now and in the future.

All provisions of the Original Lease apply and, are not affected by this Modification, except as specifically stated herein.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, this 28th day of January, 1986.

WITNESSES:

Edward S. Wilson

Francis K. Payne

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

By: [Signature]

Attest: [Signature] (SEAL)

CITY OF CLEARWATER, FLORIDA

By: [Signature]

Title: City Manager

Countersigned:

[Signature]
Mayor-Commissioner

ATTEST: [Signature] (Seal)

Title: City Clerk

Approved as to Form and Correctness:

[Signature]
City Attorney

Approved:
[Signature]
Attorney - D.O.T.

EXHIBIT F

(Ind. WD)

RECORDED

O.R. 3877 PG 754

DATE 9-14-72

PARCEL NO. 271
SECTION 22
STATE ROAD 17
COUNTY PINELLAS
FAP NO. 1

2000

THIS INDENTURE made this 17th day of August, A. D. 19 72
between F. I. GATES AND HATTIE MAE GATES, HIS WIFE

as part of the first part and the STATE OF FLORIDA, for the use and benefit of the State of Florida Department of Transportation, as party of the second part.

WITNESSETH, That the said part of the first part, for and in consideration of the sum of One Dollar and other valuable considerations, paid, receipt of which is hereby acknowledged, do hereby grant, bargain, sell, and convey unto the party of the second part, its successors and assigns, the following described land, situate, lying and being in the County of Pinellas State of Florida, to-wit:

SECTION 15570-2603

RIGHT OF WAY

PARCEL 271

All of:

That certain tract of land lying and being in Section 22, Township 29 South, Range 15 East; described as follows: Begin at the Northwest corner of Lot 57 (No block given) according to map of replat of Third Addition to Salls Subdivision, as recorded in Plat Book 36, page 31, Pinellas County Records, for a point of beginning; and from the point of beginning thus established run thence Westerly along the East and West center line of Section 22, Township 29 South, Range 15 East to the East boundary of Lot 10 in Block "A" of Second Addition to Salls Subdivision as recorded in Plat Book 35, page 6, Pinellas County records, run thence Southerly along the East boundary of Block "A" of said Second Addition to Salls Subdivision to the Northwest corner of Lot 1 in Block "B" of said Second Addition to Salls Subdivision; run thence Easterly along the North boundary of said Block "B" of said Second Addition to Salls Subdivision; run thence North to the Northwest corner of Lot 59 of said Re-plat of Third Addition to Salls Subdivision; run thence Westerly to the SW corner of Lot 59 of said re-plat of Third Addition to Salls Subdivision; run thence Northerly to the established point of beginning.

Containing 440,310 square feet or 10.11 acres, more or less.

THIS INSTRUMENT WAS PREPARED BY
P. H. HORN
STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION
TALLAHASSEE, FLORIDA
DESCRIPTION APPROVED SEPTEMBER 27, 1971

RECEIVED

JUL 24 1986

CITY CLERK

EXHIBIT A

SECTION: 15570-2000
STATE ROAD: S-595-A
PARCEL: Part Parcel Number 271.

O.P. 6275 PAGE 1883

LEASE AGREEMENT

THIS AGREEMENT, made this 19th day of January, 1976, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, hereinafter called the "Department", and CITY OF CLEARWATER, FLORIDA, hereinafter called the "City":

W I T N E S S E T H :

WHEREAS, the City is prepared to utilize certain Department lands for public park purposes without thereby interfering with the needs of the Department in connection with said lands.

NOW, THEREFORE, in consideration of the premises and the covenants contained herein the parties agree as follows:

1. The Department leases to the City, for use as a public park, the lands described in Exhibit "A", attached hereto and made a part hereof.

2. The lease term shall be for 99 years beginning with the date of execution hereof, subject to the right of each party to terminate this agreement upon 30 days notice.

3. The Department reserves the right to use the leased lands as a water retention area and to overflow said lands and store water thereon to the extent deemed necessary or desirable by the Department.

4. The City will maintain the leased lands, the parties recognizing that the benefit accruing to the Department by reason of such maintenance is greater than the economic rent obtainable for the leasehold interest created by this agreement.

5. The City agrees to indemnify, defend, save, and hold harmless the Department from all claims, demands, liabilities, and suits of any nature whatsoever arising out of, because of, or due to the breach of this agreement by it, its subcontractors, agents, or employees, or due to any act or occurrence of omission or commission of the City, its subcontractors, agents, or employees.

EXHIBIT B

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, the day and year first above written.

WITNESSES:

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

DI: [Signature]
Director of Road Operations

ATTEST: [Signature] (SEA)
Executive Secretary

[Signature]
Betty A. Russell

[Signature]
M. [Signature]

Countersigned:

[Signature]
Mayor-Commissioner

Approved as to form & correctness:

[Signature]
City Attorney

CITY OF CLEARWATER, FLORIDA

BY: [Signature]

TITLE: City Manager

ATTEST: [Signature] (SE)

TITLE: City Clerk

RECEIVED

[Signature]

POOR

ORIGINAL

EXHIBIT C

EXHIBIT "A"

Section 15570-2603
 State Road S-595-A
 Pinellas County
 Part Parcel Number 271.1

That certain tract of land lying and being in Section 22, Township 29 South, Range 15 East; described as follows: Begin at the northwest corner of Lot 57 (no block given) according to map of replat of Third Addition to Salls Subdivision, as recorded in Plat Book 35, page 31, Pinellas County records, for a point of beginning; and from the point of beginning thus established run thence westerly along the east and west centerline of Section 22, Township 29 South, Range 15 East, to the east boundary of Lot 10 in Block "A" of Second Addition to Salls Subdivision as recorded in Plat Book 35, page 6, Pinellas County records, run thence southerly along the east boundary of Block "A" of said Second Addition to Salls Subdivision to the northwest corner of Lot 1 in Block "B" of said Second Addition to Salls Subdivision; run thence easterly along the north boundary of Block "B" of said Second Addition to Salls Subdivision to the west line of Lot 64 of said replat of Third Addition to Salls Subdivision; run thence north to the northwest corner of Lot 50 of said replat of Third Addition to Salls Subdivision; run thence westerly to the southwest corner of Lot 50 of said replat of Third Addition to Salls Subdivision; run thence northerly to the established point of beginning.

Also, and except:

Specifically Lots 102, 103 and 104 of Eldorado Subdivision, in Section 22, Township 29 South, Range 15 East, as per plat thereof recorded in Plat Book 15, page 55, Public Records of Pinellas County, Florida being described as follows: Begin at the SE corner of Lot 4, Block A, Second Addition to Salls Subdivision, in said Section 22, as per plat thereof recorded in Plat Book 35, page 6, Public Records of Pinellas County, Florida, run thence East 20 feet, thence North 138 feet, thence West 20 feet, thence South 138 feet to the Point of Beginning.

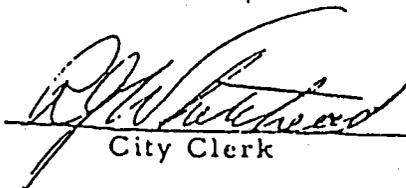
Containing 437,550 square feet or 10.047 acre, more or less.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
 RIGHT OF WAY BUREAU
 DESCRIPTION APPROVED *[Signature]*

EXHIBITE

I, R. G. WHITEHEAD, duly appointed City Clerk of the City of Clearwater, Florida, certify the foregoing to be a true and correct copy of Resolution No. 76 - 8 adopted by the City Commission on the 15th day of January A.D. 1976.

Witness my hand and the seal of the City of Clearwater, this 16th day of January A.D. 1976.



City Clerk

EXHIBIT F

(Ind. 100)

RECORDED

O.R. No. 3877 PG 754-

DATE 9-14-72

PARCEL NO. SECTION STATE ROAD COUNTY MAP NO.

Deed

THIS INDENTURE made this 17th day of August, A. D. 1972 between F. I. GATES and HATTIE MAE GATES, HIS WIFE

as part of the first part and the STATE OF FLORIDA, for the use and benefit of the State of Florida Department of Transportation, as party of the second part.

WITNESSETH, That the said part of the first part, for and in consideration of the sum of One Dollar and other valuable considerations, paid, receipt of which is hereby acknowledged, do hereby grant, bargain, sell, and convey unto the party of the second part, its successors and assigns, the following described land, situate, lying and being in the County of Pinellas State of Florida, to-wit:

SECTION 15570-2603

RIGHT OF WAY

PARCEL 271

All of:

That certain tract of land lying and being in Section 22, Township 29 South, Range 15 East; described as follows: Begin at the Northwest corner of Lot 57 (no block given) according to map of replat of Third Addition to Salls Subdivision, as recorded in Plat Book 36, page 31, Pinellas County Records, for a point of beginning; and from the point of beginning thus established run thence Westerly along the East and West center line of Section 22, Township 29 South, Range 15 East to the East boundary of Lot 10 in Block "A" of Second Addition to Salls Subdivision as recorded in Plat Book 35, page 6, Pinellas County records, run thence Southerly along the East boundary of Block "A" of said Second Addition to Salls Subdivision to the Northwest corner of Lot 1 in Block "B" of said Second Addition to Salls Subdivision; run thence Easterly along the North boundary of said Block "B" of said Second Addition to Salls Subdivision to the West line of Lot 64 of said replat of Third Addition to Salls Subdivision; run thence North to the Northwest corner of Lot 59 of said Re-plat of Third Addition to Salls Subdivision; run thence Westerly to the SW corner of Lot 58 of said re-plat of Third Addition to Salls Subdivision; run thence Northerly to the established point of beginning.

Containing 440,310 square feet or 10.11 acres, more or less.

THIS INSTRUMENT WAS PREPARED BY P. H. HORN STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION BARTON, FLORIDA DESCRIPTION APPROVED SEPTEMBER 27, 1972

RECEIVED

JUL 24 1986

CITY CLERK

SCHEDULE C

REVENUE SHARING AGREEMENT

THIS REVENUE SHARING AGREEMENT, made this ____ day of _____, 2002, by and between **M/A-COM PRIVATE RADIO SYSTEMS, INC.**, a Delaware corporation (hereinafter "M/A-COM"), and **CITY OF CLEARWATER, FLORIDA**, a municipal corporation in the State of Florida (hereinafter "CITY OF CLEARWATER").

WITNESSETH:

WHEREAS, M/A-COM and CITY OF CLEARWATER are Parties ("the Parties") to a Tower Agreement (Tower Agreement) of even date herewith, pursuant to which M/A-COM is to have the sole marketing rights and assume maintenance of two towers from the CITY OF CLEARWATER all as more explicitly defined in the Tower Agreement and its supporting infrastructure currently being utilized by CITY OF CLEARWATER; and

WHEREAS, CITY OF CLEARWATER has agreed as part of the transaction to simultaneously enter into a Service and Access Agreement ("Service Agreement") with M/A-COM to provide management and maintenance of and for the Communications System for a term of twenty (20) years; and

WHEREAS, M/A-COM intends to actively market and solicit additional eligible third-party tenants (the Third-Party Tower Tenants) to the Communications System in order to generate additional revenues; and

WHEREAS, M/A-COM has agreed that CITY OF CLEARWATER shall share in the additional revenues generated by the marketing of the Communications System to Third-Party Tower Tenants; and

WHEREAS, the Parties desire to set forth in writing their understanding regarding the respective rights and obligations pertaining to the sharing of the revenues generated by Third-Party Tower Tenants.

NOW, THEREFORE, in consideration of the mutual premises and intending to be legally bound hereby, the Parties agree as follows:

1. **Marketing Rights**

M/A-COM, with CITY OF CLEARWATER's consent, such consent not to be unreasonably withheld, shall have the right to the future marketing of the tower and site facilities portion of the Communications System to eligible Third-Party Tenants.

2. **Third-Party Lease Negotiations and Reporting**

M/A-COM shall have the sole right to negotiate all leases for all new Third-Party Tower Tenants to the tower and site facilities portion of the Communications System, which must be approved by the CITY OF CLEARWATER in writing in advance prior to execution, such approval not to be unreasonably withheld and to the extent that such leases are lawful under the Communications Act. M/A-COM shall utilize prudent business practices and shall market the tower and site facilities portion of the Communications System consistent with the usual and customary practices and rates. M/A-COM will supply CITY OF CLEARWATER with copies of summaries of any and all leases entered into by Third-Party Tower Tenants within thirty (30) days of the execution date of the lease by such Third-Party Tower Tenants and shall subsequently provide quarterly revenue statements to CITY OF CLEARWATER, reflecting all revenues generated by Third-Party Tower Tenants for the tower and site facilities portion of the Communications System.

3. **Eligible Third Party Tower Tenants Revenue Sharing**

The Gross Revenues generated from Third-Party Tower Tenants of the Communications System shall be divided as follows:

- (a) M/A-COM will receive seventy five percent (75%) of the Gross Revenues from eligible Third Party Tower Tenants and CITY OF CLEARWATER shall receive twenty-five percent (25%).

Pursuant to Section 9.2 of the Access Agreement, at the end of the initial 20- year term, CITY OF CLEARWATER has the option to:

Renew the Term of the Access Agreement, or not renew the Term of the Access Agreement.

The revenue sharing arrangement and percentages will end at the initial Term and may extend beyond the initial Term if approved by the CITY OF CLEARWATER.

The term "Gross Revenues", for purposes of this Section 3, is defined as all new tower rental revenues derived from Third-Party Tower Tenants.

4. **Accounting and Access to Records**

CITY OF CLEARWATER and its duly authorized representatives shall have the right to audit the records of M/A-COM pertaining to Third-Party Tower Tenants for the tower and site facilities portion of the Communications System to determine the accuracy of the amounts paid under this Agreement. M/A-COM agrees to keep accurate books of account and record at its principal place of business covering the transactions relating to this Agreement and the revenues generated from Third-Party Tower Tenants for the tower and site facilities portion of the Communications System and to keep all financial records in accordance with Generally

Accepted Accounting Principles. CITY OF CLEARWATER and its duly authorized representatives at CITY OF CLEARWATER's sole expense, shall have the right at all reasonable hours of a working day and upon reasonable notice, to perform an examination of such books of account and record and of all other documents and material which are relevant to this matter. CITY OF CLEARWATER shall have access thereto for said purposes and for the purpose of making copies therefrom at CITY OF CLEARWATER'S expense. All books of accounts and records shall be kept available for at least one (1) year after the termination of this Agreement.

5. **Payment Terms**

M/A-COM shall either pay or provide a credit pursuant to Section 8.4 of the Service Agreement to CITY OF CLEARWATER its proportionate share of the Revenues as defined herein on a quarterly basis, within thirty (30) days of the end of each calendar quarter and shall provide with each payment, a summary setting forth the name of each Third-Party Tower Tenant, the Revenues received during the calendar quarter and the portion of the Revenues paid to CITY OF CLEARWATER for the calendar quarter.

6. M/A-COM agrees to conduct its services in a safe and lawful manner and to comply with appropriate federal, state, and local laws, ordinances, orders, rules, and regulations that may be applicable to the services being provided to the Third-Party Tower Tenants.

7. Nothing contained in this Agreement shall require M/A-COM to generate any revenues whatsoever and M/A-COM shall only be obligated to utilize only such efforts as it believes prudent to successfully market and solicit eligible Third-Party Tower Tenants for the tower and site facilities portion of the Communications System.

8. CITY OF CLEARWATER acknowledges and agrees that it shall be entitled to share in only those Gross Revenues generated as a result of Third-Party Tower Tenants for the tower and site facilities used within the Communications System and shall not be entitled to any other revenues (Service Access or otherwise) directly or indirectly generated by assets which are not within the Communications System or as may be generated by any different radio telecommunications assets or systems owned by M/A-COM, unless otherwise indicated in the Service Agreement and Schedules A through E incorporated therein.

9. Either party may assign its rights and obligations under this Agreement with the written consent to the other, which consent shall not be unreasonably withheld, provided such assignment shall be binding upon its successors, heirs, assigns, and legal representatives.

10. The terms, covenants, and provisions of this Revenue Sharing Agreement shall extend to and be binding upon the respective executors, administrators, heirs, and permitted assigns of the parties.

11. Any notice given by M/A-COM to CITY OF CLEARWATER or by CITY OF CLEARWATER to M/A-COM shall be in accordance with Article 1.4 of the Service Agreement.

12. This Agreement and the performance thereof shall be governed by Article 11.8 of the Service Agreement.

13. This document constitutes the entire agreement of the Parties as provided in Article 11.7 of the Service Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed and acknowledged this Agreement, the day and year first above written.

ATTEST:

**M/A-COM PRIVATE
RADIO SYSTEMS, INC.**

By: _____

Title: _____

Countersigned:

CITY OF CLEARWATER, FLORIDA

Brian J. Aungst
Mayor-Commissioner

By: _____
William B. Horne II
City Manager

Approved as to form:

Attest:

Assistant City Attorney

Cynthia E. Goudeau
City Clerk

SCHEDULE D TOWER AGREEMENT

THIS TOWER AGREEMENT is made and entered into as of this 1st day of July, 2002, by and between the **CITY OF CLEARWATER, FLORIDA**, a **Florida Municipal Corporation** (herein "City" or "The City"), and **M/A-COM Private Radio Systems, Inc.**, a **Delaware corporation** (herein "M/A-COM"), having its general offices at 3315 Old Forest Road, Lynchburg, Virginia 24501. All terms defined herein shall be for the sole purpose of the Tower Agreement.

1. **Premises:** The City hereby grants to M/A-COM and M/A-COM hereby accepts from the City an exclusive License to use not more than 7219 square feet of land area situated within the chain link fenced boundaries enclosing each of the City's two (2) existing radio communications towers.

(a) Communication Tower – operational upon the grounds of the City's Northeast Water Pollution Control Plant, 3290 S.R. 580 and McMullen Booth Road (herein, "WPC site") located at Latitude 28°01'54" North and Longitude 82°42'16" West, and at

(b) Communication Tower – operational at 1400 Young Street upon the grounds of park property under lease by the City from the Florida Department of Transportation by virtue of that certain 99 year lease dated January 19, 1976 and that certain Modification of Lease dated January 26, 1986, all being recorded in O.R. Book 6275, Pages 1880 through 1888, in the Public Records of Pinellas County, Florida, located at Latitude 27°56'42" North, and Longitude 82°47'13" West (herein, "Missouri site").

The communications towers, together with the land upon which they are located, are referred to herein as the "Premises." Final site specific engineering plans and load factor calculations regarding the respective site is subject to final approval by authorized City officials prior to commencement of any construction or installation of any communications equipment by M/A-COM, its employees, agents or contractors.

2. **Communications Equipment:** The City hereby grants permission to M/A-COM to install and operate such communications equipment, building, electrical generator using propane fuel and associated equipment on and within the Premises as M/A-COM deems appropriate.

In this agreement, all of the equipment, buildings, panels, generators, cables, wires, antennas, and accessories are referred to collectively as "Communications Equipment" or "Communications Centers."

3. **Term:** The primary term ("Primary Term") of this Agreement shall be for twenty (20) years commencing on July 1, 2002 (the "Commencement Date") and terminating at Midnight, September 30, 2022, subject to extensions as set forth in Paragraph 8 below. The Commencement Date as set forth herein shall coincide and be identical with the first day of the first month in which M/A-COM intends to enter upon the Premises, but in no event later than 90 days following the date of this Agreement as first above written. M/A-COM shall provide written notice of the intended Commencement Date to the office of the City Attorney, 112 South Osceola Avenue, Clearwater, Florida 34616 not later than ten (10) business days prior to said Commencement Date.

4. **Consideration.** Contemporaneous with the execution of this License Agreement, the City and M/A-COM are entering into a Service and Access Agreement (the "Service Agreement"). M/A-COM's fulfillment of its obligations pursuant to the Service Agreement and this License Agreement is in total consideration of this License Agreement. There shall be no additional consideration due from M/A-COM to the City.

5. **Use:** M/A-COM will use the Premises for the purpose of constructing and operating Communications Centers as provided herein. M/A-COM will abide by all local, state and federal laws and obtain all permits and licenses necessary to operate the systems. M/A-COM shall use the Premises for no other purposes without the prior written consent of the City.

6. **Access:** M/A-COM shall have ingress and egress to the Premises on a 24-hour basis for the purposes of maintenance, installation, repair and removal of said Communications Equipment. Provided, however, the only authorized engineers or employees of M/A-COM, or persons under M/A-COM's direct supervision, will be permitted to enter the said Premises, and their entry shall be for the purpose of installing, removing, or repairing the Communications Equipment and for no other purpose. M/A-COM shall notify City in advance of its need to install, remove, or repair the Communications Equipment located on the Premises, except in the case of an emergency in which event notification shall be given as soon as reasonably possible. Access requiring entrance into or onto the communications towers shall be coordinated with the General Services Department of the City with respect to the communications towers.

7. **Utilities at M/A-COM's Cost:** M/A-COM shall be solely responsible for and promptly pay all charges for electricity, telephone and any other utility used or consumed by M/A-COM on the Leased Premises. The City shall advise M/A-COM and fully cooperate with any utility company or the City requesting an easement over and across the Premises or other lands owned by the City in order that such utility company may provide service to M/A-COM. If additional easement is required to provide such utility services to the Missouri site, the City will cooperate with M/A-COM in seeking the grant of such easement from the State of Florida Department of Transportation. M/A-COM shall have an electrical current meter installed at the Premises and have the right to run underground or overhead utility lines, in compliance with the City's Land Development Code, directly from the utility source to the Communications Equipment. The cost of such meter and of installation, maintenance

and repair thereof shall be paid by M/A-COM. M/A-COM and the utility company providing services to M/A-COM shall have access to all areas of the Premises, or other lands of the City, necessary for installation, maintenance and repair of such services; provided, that access requiring entrance into or onto the communications towers shall be coordinated with the General Services Department of the City.

8. **Extensions:** M/A-COM and the City must mutually agree to terms to extend this License by one (1) additional term of five (5) years.

9. **Holding Over:** If M/A-COM requires use of the Premises after expiration of the primary term or any extension of this License, without the exercise of an option or the execution by the City and M/A-COM of a new License, then M/A-COM shall be deemed to be occupying the Premises as a tenant-at-sufferance on a month-to-month basis, subject to all the covenants and obligations of this License at monthly rent rate of \$3,125. The payment of such monthly rental amount shall be due and payable by the first day of the month succeeding the expiration of the final month of the License term previously granted by the City.

10. **Notices:**

(a) Any notice shall be in writing and shall be delivered by hand or sent by United States registered or certified mail, postage prepaid, addressed as follows:

CITY
City Manager
City of Clearwater
P. O. Box 4748
Clearwater, FL 34618-4748

M/A-COM
M/A-COM Private Radio
Systems, Inc.
P. O. Box 2000
Lynchburg, VA 24501
Attn: General Manager

Copy to City Clerk:

Copy to: General Counsel

(b) Either party may change its address and telephone number(s) to which notice shall be given by delivering notice of such change as provided above. Notice shall be deemed given when delivered if delivered by hand, or when postmarked if sent properly by mail.

11. **Liability and Indemnity:** M/A-COM agrees to indemnify and hold the City harmless from all claims (including costs and expenses of defending against such claims) arising or alleged to arise from the negligence or willful misconduct of M/A-COM or M/A-COM's agents, employees or contractors occurring during the term of this License or any extensions in or about the Premises. M/A-COM agrees to use and occupy the Premises at its own risk and hereby releases the City, its agents and employees, from all claims for any damage or injury brought on by M/A-COM to the full extent permitted by

law. The City agrees to indemnify and save M/A-COM harmless from all claims (including cost and expenses of defending against such claims) arising or alleged to arise from the negligence or willful misconduct of the City or The City's agents and/or employees occurring during the term of this License, subject to any defense or limitation pursuant to Section 768.28, Florida Statutes.

12. **Termination:**

(a) Either party shall have the right to terminate this License at any time as follows:

(1) By either party, if the approval of any court or other governmental authority necessary for the construction or operation of the Communications Equipment or other infrastructure changes cannot be obtained, or is not obtained after due diligence, or is revoked.

(2) By either party, in the event of a material breach of any of the provisions of this Agreement, subject to Paragraph 13 below.

(3) If either party determines that the cost of obtaining or retaining the approval of any court or other governmental authority necessary to such party for the construction or operation of the Communication Equipment is prohibitive, or if either party determines that the property is not appropriate for its Communications Equipment for technological, planning or environmental reasons, including, but not limited to, signal interference.

(4) If either party in the event that any government or public body shall take all or such part of the Premises thereby making it physically or financially infeasible for the Premises to be used in the manner it was intended to be used by this Agreement.

(b) The party terminating this Agreement shall give written notice of termination to the other party not less than thirty (30) days in advance of the effective date of termination. In the event termination is by the City, the City shall also give such 30 days advance written notice to the State Technology Office, Attention: Contract Manager, State Technology Office, 4030 Esplanade Way, Tallahassee, FL 32339-2301. Upon termination, neither party will owe any further obligation under the terms of this License or the Service Agreement, except that M/A-COM shall be responsible for restoring the areas occupied by M/A-COM to its original conditions as near as practicable, save and except normal wear and tear and acts beyond M/A-COM's control and for making any payments accruing to the date of termination to the City.

(c) Upon termination of this License, the term hereby granted and all rights and interest of M/A-COM in the Premises shall end. Such termination shall be

without prejudice to the City's right to collect from M/A-COM any rental or additional rental which has accrued prior to such termination together with all damages, including, but not limited to, the damages specified in subparagraph (b) of this paragraph which are suffered by the City because of M/A-COM's breach of any covenant under this License.

13. **Defaults and Remedies:**

(a) Notwithstanding anything in this License to the contrary, M/A-COM shall not be in default under this License until thirty (30) days after receipt of written notice thereof from the City; provided, however, where any such default cannot reasonably be cured within thirty (30) days, M/A-COM shall not be deemed to be in default under the License if M/A-COM commences to cure such default within said thirty (30) day period and thereafter diligently pursues such cure to completion.

(b) In the event of M/A-COM's failure to comply with any material provision of this License, the City may, at its option, terminate this License without affecting its right to sue for damages to which the City may be entitled. Should the City be entitled to collect damages and be forced to do so through its attorney, or by other legal procedures, the City shall, upon receipt of a favorable ruling, be entitled to its reasonable costs and attorneys' fees thereby incurred upon said collection.

(c) Notwithstanding anything in this agreement to the contrary, and specifically including the language in 13 (a) hereof, this agreement shall be null and void if M/ACOM or any approved assignee of M/A-COM FILES A VOLUNTARY PETITION IN BANKRUPTCY OR HAS AN INVOLUNTARY PETITION filed against it or makes an assignment for the benefit of creditors.

14. **Taxes:** The CITY shall pay when due any and all taxes or fees that may be levied and assessed upon the Premises attributable to any improvement thereto made by M/A-COM, the Communications Equipment installed thereon, or upon this Agreement. If any such tax is paid by M/A-COM, the CITY shall reimburse M/A-COM for the amount of any such tax payments within sixty (60) days of receipt of sufficient documentation indicating the amount Paid. Upon written request by the CITY, M/A-COM shall furnish evidence of payment of all such taxes.

15. **Early Termination:** Should this License be terminated prior to expiration of the Primary Term for any reason other than default of M/A-COM pursuant to Paragraph 13 hereof, the City shall continue to provide to M/A-COM free and unfettered access to the Premises so that M/A-COM may continue to serve existing Third Party Tower Tenants or add new or additional Third Party Tower Tenants as well as maintaining its equipment mounted on or about the Premises during the Primary Term

16. **Tests:** M/A-COM is hereby given the right to survey, soil test, radio coverage test, and conduct any other investigations needed to determine if the surface and location of the Premises is suitable for construction and installation of the Communications Equipment prior to the Commencement Date as defined in Paragraph 3. The terms of Paragraph 11 shall also apply.

17. **Fixtures:** The City covenants and agrees that no part of the improvements constructed, erected or placed by M/A-COM on the Premises or other real property owned by the City shall be or become, or be considered as being, affixed to or a part of the City's real property, any and all provisions and principles of law to the contrary notwithstanding. All improvements of every kind and nature constructed, erected or placed by M/A-COM on the Premises shall be and remain the property of the CITY

18. **Assignment and Sublicensing:** M/A-COM may assign or sublicense the Premises or any part thereof without the consent of the City but consistent with the Ordinances of the City only if M/A-COM remains liable for fulfillment of all it's obligations under this License and the nature of the use is not changed and the assignment is made to an affiliate of M/A-COM. Notice shall be given to the City by MACOM of the assignment and sublicensing within fifteen days. All other assignments shall require the City's prior written consent, which consent shall not be unreasonably withheld. M/A-COM shall not use the Premises as security for any loans.

19. **Memorandum of License Agreement:** Following the execution of this License, either party, at its sole expense, shall be entitled to file the Memorandum of License Agreement (attached as Exhibit "D") of record in the public records of Pinellas County, Florida.

20. **Other Conditions:**

(a) The City acknowledges that following the execution of this License, M/A-COM will contact appropriate local governmental agencies for the purpose of obtaining all building permits and approvals, zoning changes and approvals, variances, use permits and other governmental permits and approvals ("Local Permits") necessary for the construction, operation and maintenance of the Communications Equipment on the Premises. The City agrees to fully cooperate with M/A-COM in obtaining the local permits and, without limiting the generality of the foregoing, to execute any applications, maps, certificate or other documents that may be required in connection with the local permits.

(b) Whenever under the License the consent or approval of either party is required or a determination must be made by either party, no such consent or approval shall be unreasonably withheld or delayed, and all such determinations shall be made on a reasonable basis and in a reasonable manner.

(c) The City covenants that M/A-COM shall, upon observing the covenants and conditions herein upon its part to be observed, peaceably and quietly hold and enjoy the Premises during the term of this License or as it may be extended without hindrance or ejection by the City, any person or persons claiming under the City, or any other Licensee or tenant of the City.

(d) M/A-COM covenants and agrees that M/A-COM's Communications Equipment and installation, operation and maintenance will:

(1) Not negligently, damage the Communication Towers.

(2) Not interfere with the operation of the City's radio or other communications equipment, or that of other Licensees or tenants currently utilizing the towers or Premises for such purposes within 100 yards of the Premises. In the event there is interference by M/A-COM, M/A-COM will promptly take all steps necessary to correct and eliminate same with a reasonable period of time. If M/A-COM is unable to eliminate such interference caused by it within a reasonable period of time, M/A-COM agrees, subject to the provisions of Sections 12 and 13 hereof, to remove its antennas from the City's property and this Agreement shall terminate.

(3) Comply with all applicable rules and regulations of the Federal Communications Commission and the ordinances of the City, including but not limited to the building and electrical codes of the City.

(e) If the Premises are damaged by reason of the fault or negligence of the City so as to render it substantially unusable for M/A-COM's use, the City, at its expense, shall restore the City's towers and/or buildings to their condition prior to such damage. Provided, however, in the event the City fails to repair the Premises within the said ninety- (90) day period, M/A-COM shall have the right to terminate this License and the Service Agreement with no further obligations hereunder. If the Premises are damaged due to any other reason, it shall be M/A-COM's responsibility, at its expense and option, to restore such Premises.

(f) During the term of this License, the City will not grant a similar license to any other party.

21. **Radon Gas Notification:** As required by Section 404.056(8), Florida Statutes, M/A-COM shall take notice of the following:

RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information

regarding radon and radon testing may be obtained from your county public health unit.

22. **Entire Agreement and Binding Effect:** This Schedule and any attached schedules signed or initialed by the parties together with the Service Agreement constitute the entire agreement between the City and M/A-COM concerning the subject matter hereof and this agreement supersedes and replaces any prior or contemporaneous license, agreement, promise, license, negotiations or writing concerning such subject matter. This License shall not be amended or changed except by written instrument signed by both parties. Paragraph captions herein are for convenience only, and neither limit nor amplify the provisions of this License. The provisions of this License shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties, but this provision shall in no way alter the restriction hereon in connection with assignment and sublicensing by M/A-COM.

CITY OF CLEARWATER, FLORIDA

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the date and year first above written.

M/A-COM PRIVATE RADIO SYSTEMS, INC.

E. Sue Tomlin

By Roger Boucher

WITNESS

Print Name E. Sue Tomlin

Name: Roger Boucher

Suzanne Jones

Title: VP and General Counsel

WITNESS

Print Name Suzanne Jones

STATE OF Virginia :
City OF Lynchburg

BEFORE ME, the undersigned, personally appeared Roger Boucher the June 5, 2007 of M/A-COM Private Radio Systems, Inc., a Delaware corporation, who acknowledged the foregoing instrument on behalf of the corporation.

Kerri L. Sissney

Notary Public

Print/type name: Kerri Sissney

My commission expires: _____

Personally known _____

OR

Provided Identification

Type of Identification Provided D.L.

Kerri L. Sissney
NOTARY PUBLIC
Commonwealth of Virginia
Commission Expires 4/30/04

CITY OF CLEARWATER, FLORIDA

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the date and year first above written.

M/A-COM PRIVATE RADIO SYSTEMS, INC.

E. Sue Tomlin

By Roger Boucher

WITNESS

Print Name E. Sue Tomlin

Name: Roger Boucher

Suzanne Jones

Title: VP and General Counsel

WITNESS

Print Name Suzanne Jones

STATE OF Virginia:
City OF Lynchburg

BEFORE ME, the undersigned, personally appeared Roger Boucher the June 5, 2002 of M/A-COM Private Radio Systems, Inc., a Delaware corporation, who acknowledged the foregoing instrument on behalf of the corporation.

Kerri L. Sissney
Notary Public
Print/type name: Kerri Sissney
My commission expires: _____

Personally known _____

OR

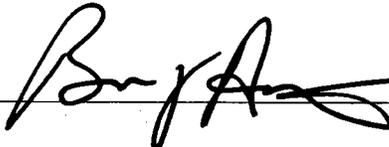
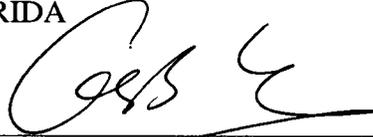
Provided Identification

Type of Identification Provided D.L.

Kerri L. Sissney
NOTARY PUBLIC
Commonwealth of Virginia
My Commission Expires 4/30/04

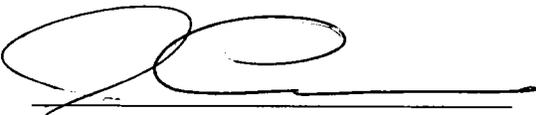
Countersigned:

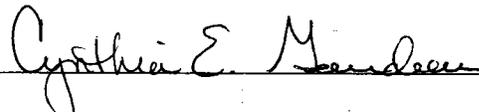
CITY OF CLEARWATER,
FLORIDA

 By 
Name: Brian J. Aungst for Name: William B. Horne II
Title: Mayor-Commissioner Title: City Manager

Approved as to form:

Attest:


Name: John Carassas
Title: Assp. City Attorney


Name: Cynthia E. Goudeau
Title: City Clerk

STATE OF FLORIDA:
COUNTY OF PINELLAS:

BEFORE ME, the undersigned personally appeared Brian Aungst the Mayor of the CITY OF CLEARWATER, Florida, who executed the foregoing instrument and acknowledges the execution thereof to be his/her free act and deed for the use and purposes herein set forth, and who is personally known to me.

WITNESS my hand and seal this 25 day of June, 2002.



Denise A. Wilson
MY COMMISSION # CC914107 EXPIRES
June 18, 2004
BONDED THRU TROY FAIN INSURANCE, INC.

Denise A. Wilson
Notary Public
Print/type name: Denise A. Wilson

STATE OF FLORIDA:
COUNTY OF PINELLAS:

BEFORE ME, the undersigned personally appeared Harrison Brumback the Acting City Manager of the CITY OF CLEARWATER, Florida, who executed the foregoing instrument and acknowledges the execution thereof to be his/her free act and deed for the use and purposes herein set forth, and who is personally known to me.

WITNESS my hand and seal this 24 day of June, 2002.



Denise A. Wilson
MY COMMISSION # CC914107 EXPIRES
June 18, 2004
BONDED THRU TROY FAIN INSURANCE, INC.

Denise A. Wilson
Notary Public
Print/type name: Denise A. Wilson

SCHEDULE E

USER GEAR TRANSFER

M/A-COM shall transfer to the CITY OF CLEARWATER the following types and quantities of User Gear in accordance with Section 7.2 of the Service and Access Agreement.

Up to quantity 300 Jaguar Portable radios
Up to quantity 175 Orion Mobile Radios
Up to quantity 20 Orion Desktop Control Stations

*Programming and installation services are included in the above.

In addition, M/A-COM shall provide a radio trade-in credit of \$480 per radio for each radio the CITY OF CLEARWATER turns in towards the actual purchase of a new radio beyond the above transfers up to a maximum of 450 radios. The credit shall be applied at the time of actual user gear trade-in and is valid for five (5) years from the signing of the Service and Access Agreement.

A letter of understanding will be developed between M/A-COM and the CITY OF CLEARWATER to address the Cities requirements of certain models and options of the radios being transferred. The cost of the radios and options in this letter of understanding will not exceed the cost of the above radios.

SERVICE AND ACCESS AGREEMENT

This SERVICE AND ACCESS AGREEMENT ("**Service Agreement**") effective as of the 1st day of July, 2002, by and between **M/A-COM PRIVATE RADIO SYSTEMS, INC.**, a Delaware corporation ("**M/A-COM**") duly authorized to do business in the State of Florida, and **CITY OF CLEARWATER, FLORIDA**, a Florida municipal corporation (**CITY OF CLEARWATER**).

NOW THEREFORE, in consideration of the premises and mutual covenants hereinafter set forth and intending to be legally bound, the Parties hereto agree as follows:

I. INTERPRETATION

1.1 DEFINITIONS

In this Service Agreement, the following terms shall have the following respective meanings:

"Affiliate" means any other entity or person that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the specified entity or person.

"CITY OF CLEARWATER", "CITY" or "City" means the City of Clearwater, Florida, U.S.A., a municipal corporation in the State of Florida, U.S.A.

"Communications System" means the communications facilities, equipment and other improvements described in Schedule A hereto, under System Description.

"M/A-COM" means M/A-COM Private Radio Systems, Inc., and any successors or assigns thereto as permitted hereunder.

"Connectivity" means City of Clearwater leased or City owned telephone lines or fiber network used to connect equipment to the Communications System.

"Contract Documents" means this Service Agreement and all Schedules incorporated herein.

"Effective Date" means the effective date of this Service Agreement, which is the date set forth in the opening paragraph hereof.

"Existing Contracts" means City of Clearwater contracts and agreements for hardware maintenance, support services and construction as identified in Schedule B hereto.

"Existing System" means all of the assets comprising the existing CITY OF CLEARWATER owned EDACS system but not including any FCC Licenses.

"HVAC" means Heating Ventilation and Air Conditioning.

"Upgrade" means all of the assets comprising the hardware and services associated with an upgrade to the Existing EDACS System.

"FCC" means the Federal Communications Commission, or any other similar or successor agency of the federal government administering the Communications Act.

"FCC Licenses" means the Licenses currently held by CITY OF CLEARWATER or issued in the future to CITY OF CLEARWATER for use of spectrum at 800 MHz to provide radio communications.

"Governmental Authority" means any nation or government, any state or other political subdivision thereof, any municipal, local, city or county government, and any entity exercising executive, legislative, judicial, regulatory or administration functions of or pertaining to government.

"Initial Term" means the initial contract term as defined in Section 2.1.

"Parties" means the parties to this Service Agreement and **"Party"** means either one of them.

"Quarterly Payments" means the fees that CITY OF CLEARWATER agrees to pay four times a year as set forth in Section 7.2 hereto.

"Secured Debt" means any obligations issued by M/A-COM, or its Affiliates, which are secured in whole or in part by payments made by CITY OF CLEARWATER pursuant to this Service Agreement.

"Service Agreement" means this Service and Access Agreement and all Schedules hereto, as the same may be amended and supplemented from time to time as provided herein.

"Term" means the Initial Term and the Term Extension(s) as permitted in Section 2, if any.

"Third Party Tower Tenants" means eligible tower users to which M/A-COM, CITY OF CLEARWATER, or third-party Tower Owner provides equipment space on one or more of the associated towers usually for a fee or other consideration.

"UPS" means Uninterruptible Power Supply.

1.2 OTHER DEFINITIONS

Other terms used in this Service Agreement shall have the respective meanings given such terms herein.

1.3 SCHEDULES

The following is a list of the schedules attached to and incorporated into this Service Agreement and deemed to be a part of this Service Agreement (the "Schedules"):

Statement of Work: Schedule A contains M/A-COM's statement of work that includes the following parts: Overview - an outline of project responsibilities; System Description - a description of the current CITY OF CLEARWATER system. CITY OF CLEARWATER tower sites information is also discussed in this document;

Transition Plan - the transition plan that is suggested by M/A-COM;

Future Maintenance Plan - the maintenance plan that will be followed by M/A-COM; and

Determination of Service Levels - the service levels which M/A-COM agrees to perform.

Existing Contracts: Schedule B describes all contracts and agreements relating to the Existing System.

Revenue Sharing Agreement: Schedule C outlines the terms and conditions associated with the sharing of revenue from existing or future Third Party Tower Tenants and/or Third Party Subscribers described in Section 8.3 herein.

Tower Agreement: Schedule D provides the tower use agreement

User Gear: Schedule E lists the User Gear to be provided by M/A-COM to the CITY OF CLEARWATER at no additional charge.

1.4 PARTIES' ADDRESSES

All notices under this Service Agreement shall be in writing and shall be deemed to have been duly given upon being delivered personally or upon receipt if mailed by certified mail, return receipt requested. Notices shall be sent to the representative's named below or any subsequent representative for whom notice was provided pursuant to this section.

If to M/A-COM, to:

M/A-COM Private Radio Systems, Inc.
3315 Old Forest Road
Lynchburg, Virginia 24501
Fax: 434-385-2182

If to City of Clearwater, to:

City Manager
City of Clearwater
112 S. Osceola Ave
Clearwater, Fl. 33756
Fax: 727-562-4052

1.5 ORDER OF PRECEDENCE

In the event of a conflict between the terms and conditions of any of the Contract Documents, the controlling terms and conditions shall be, in descending order or precedence, those of:

- **The Service Agreement.**
- **The Statement of Work.**
- **The Tower Agreement.**
- **The Revenue Sharing Agreement.**
- **Existing Contracts.**

1.6 TIME

In this Service Agreement, unless otherwise specifically stated in the context of the computation of a period of time from a specified date to a later specified date, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding."

II. TERM

2.1 INITIAL TERM

The Term shall begin on the Effective Date and shall terminate at the end of the CITY OF CLEARWATER'S fiscal year, 20 years after the Effective Date, unless extended in accordance with Section 2.2.

2.2 TERM EXTENSION

The Term of this Service Agreement may be extended by one (1) additional term of five (5) years beyond the Initial Term on such terms and conditions to which the Parties mutually agree. CITY OF CLEARWATER shall notify M/A-COM whether it intends to extend this Service Agreement at least one year prior to the end of the Term.

III. M/A-COM RESPONSIBILITIES

3.1 PROVISION OF SERVICES

In consideration for the fees and charges as set forth in Section 7.0 hereto, subject to the limitations, qualifications and exclusions set forth in this Service Agreement (including the Schedules), M/A-COM shall use its best efforts to provide the following products and services which shall be referred to jointly as the Services:

- access to the Communications System
- the products and services provided herein, including all schedules

3.2 SERVICE LEVELS

M/A-COM shall ensure that its performance of the Services will meet or exceed the applicable Service Levels to be determined in accordance with the procedures set forth in Schedule A hereto.

3.3 EXISTING CITY OF CLEARWATER CONTRACTS

To the extent permitted, CITY OF CLEARWATER shall assign to M/A-COM the Existing Contracts in Schedule A.

- A. M/A-COM may with the exception of the two existing tower leases, at its expense, cancel, substitute, amend, or request CITY OF CLEARWATER to cancel, substitute or amend, any Existing Contracts as long as such change does not result in degradation of Services Levels to CITY OF CLEARWATER, which change must be approved by the CITY OF CLEARWATER prior to execution of a change, and which approval shall not be unreasonably withheld.
- B. CITY OF CLEARWATER will indemnify M/A-COM for any loss M/A-COM may incur relating to the Existing Contracts attributable solely to periods prior to the Effective Date and thereafter if not incurred as a result of any default of M/A-COM.
- C. CITY OF CLEARWATER will continue to pay existing contract obligations as customary when they become due.

3.4 OPERATION

- A. The Communications System shall at all times be operated in accordance with all appropriate rules and regulations, and in such a manner as not to cause interference, of any kind, with present transmissions of radio or television broadcasts in the area of the sites, or the transmission or reception of radio, television, microwave and other communication signals as conducted on the Effective Date of this Service Agreement by existing tower users of CITY OF CLEARWATER. M/A-COM shall not violate or subject the CITY OF CLEARWATER to any violation of any federal, state or local law currently in effect or promulgated including, but not limited to, laws, rules or regulations

pertaining to electromagnetic radiation communications or telecommunications. If the operations conducted by M/A-COM under this Service Agreement shall at any time cause any such interference or violation of law, M/A-COM shall immediately, at M/A-COM's own expense, take all steps necessary to remedy such situation and/or eliminate such interference and will hold the CITY OF CLEARWATER harmless from any such abridgement.

- B. CITY OF CLEARWATER will attempt to mitigate and use its best efforts to manage the resolution of any matter relating to interference with CITY OF CLEARWATER transmission or reception of signals, or damages or related costs arising therefrom caused by others. M/A-COM shall provide CITY OF CLEARWATER all necessary technical assistance in identifying the source of such interference and recommendations as to how to resolve such interference.
- C. M/A-COM shall maintain the Communications System in accordance with the plan described in Schedule A hereto and in accordance with all applicable laws, including the Communications Act, as amended, and FCC rules and regulations.

3.5 M/A-COM AND SUBCONTRACTOR PERSONNEL

- A. M/A-COM shall designate a person to whom all communications from CITY OF CLEARWATER may be addressed and who has the authority to act for M/A-COM in connection with all aspects of this Service Agreement (the "M/A-COM Manager"). M/A-COM may replace the M/A-COM Manager at any time during the Term, upon 30 days prior written notice to CITY OF CLEARWATER. In the event of such replacement, a resume of the replacement person will be provided to CITY OF CLEARWATER for approval, which will not be unreasonably withheld.
- B. M/A-COM shall, at all times, employ qualified and sufficient personnel for completing work in the manner and time required.
- C. CITY OF CLEARWATER shall have the right to review and approve or reject any subcontractor utilized by M/A-COM in the maintenance of or any subsequent construction or upgrade to the Communications System, which approval shall not be unreasonably withheld.
- D. CITY OF CLEARWATER retains the option to require the removal from the City's premises of any employee, subcontractor or other person the CITY OF CLEARWATER deems inappropriate for any reason whatsoever.

3.6 SOFTWARE ENHANCEMENTS

M/A-COM shall provide, at no cost to CITY OF CLEARWATER all applicable standard FX Agreement software enhancements released during the Term of the Service Agreement, and will

implement such upgrades on the Communications System as mutually agreed. Software upgrades timing will not exceed five years. New features, such as but not limited to, Extended Addressing for site equipment, and Secure Key must be purchased separately by the CITY OF CLEARWATER at prices indicated on the State of Florida contract #725-001-01-1 pursuant to which M/A-COM provides Products and services from its catalog at a discount of no less than 25% of their list prices.

All software upgrades will not cause any obsolescence or degradation of any equipment, service or usability of the CITY OF CLEARWATER assets or equipment being used. Otherwise, all upgrades will be backwards compliant as not to degrade or make equipment obsolete. M/A-COM has the right to not implement that part of an upgrade if the software upgrades include new features and functionality that is not supported by the City's existing equipment, or causes obsolescence or degradation to the City's existing equipment. The CITY OF CLEARWATER may at its option and expense, choose to replace equipment to support any new features and functionality if so desired.

3.7 HARDWARE ENHANCEMENTS AND REPLACEMENT

M/A-COM at its expenses will replace only the site communications system equipment (not including towers) as referenced in Schedule A within three years, as needed to maintain the grade of service as called for in this Service Agreement. The twelve (12) existing CITY OF CLEARWATER consoles will be digitally enhanced within ninety (90) days of signing this Service Agreement. The remaining control station consoles (~ twenty-five (25) units) fall under the classification of user equipment and therefore, may be upgraded at the CITY's discretion and expense. These hardware enhancements and replacements are in consideration for the sole marketing rights and use of the two towers, including the termination of payments pertaining to the existing lease for the State of Florida System for the initial 20 year term.

Pursuant to an executed Tower Agreement (Schedule D), tower maintenance shall be performed by M/A-COM at its expense.

IV. CITY OF CLEARWATER RESPONSIBILITIES

4.1 PAYMENTS TO M/A-COM

CITY OF CLEARWATER shall make Quarterly Payments to M/A-COM as provided in Section 7.1 hereof.

4.2 OPERATIONAL PLANS

CITY OF CLEARWATER shall cooperate with M/A-COM in the implementation of all project and operational changes and, where the change requires CITY OF CLEARWATER agreement, consent or approval, such agreement, consent or approval shall be in writing and shall not be unreasonably withheld.

4.3 TOWER AND SITE FACILITIES

- A. **Existing Tower and Site Facilities Equipment:** The City agrees to provide to M/A-COM under Schedule D free and unfettered access to and use of the communications towers and the site facilities equipment (shelters and generators) identified and further described in Schedule A twenty-four (24) hours per day, seven (7) days per week for consideration and transfer of user gear and system enhancements as defined in section 7.2 hereof.

M/A-COM will have the ability to market and share revenues received from these sites, per provisions of Sections 8.3 and 8.4 herein, for a period of not more than the term of this Service Agreement.

During the term of the Service Agreement, the City will use its best efforts to:

- (1) Maintain all underlying ground or other instruments necessary to operate and market the towers;
- (2) Make modifications to the ground leases as the City determines is necessary;
- (3) Execute any reasonable instruments necessary to support the Service Agreement including assignment agreements as the City deems necessary, certificates of estoppel, etc.;
- (4) Have underlying property owners maintain a zero rental or nominal lease rate;

4.4 ACCESS TO SITES

CITY OF CLEARWATER shall provide, at no cost, access for M/A-COM to all lands, buildings or structures (including, without limitation, towers) owned, leased or controlled by CITY OF CLEARWATER as may be necessary for M/A-COM to fulfill its obligations pursuant to this Service Agreement and in compliance with existing leaseholders interests Necessity is to be determined by the CITY OF CLEARWATER.

4.5 CITY OF CLEARWATER SYSTEM MANAGER

CITY OF CLEARWATER shall designate a contact person ("CITY OF CLEARWATER System Manager") who shall be the primary interface with M/A-COM. CITY OF CLEARWATER may designate a new System Manager at any time during the Term upon providing M/A-COM with 30 days prior written notice.

4.6 COMMUNICATIONS SYSTEM USE PLANNING

During the Term of this Service Agreement, CITY OF CLEARWATER shall notify M/A-COM of any CITY OF CLEARWATER sponsored or mandated activities, changes, plans or events that may affect the operations of the Communications System.

4.7 USE OF FACILITIES AND SUPPORT SERVICES

CITY OF CLEARWATER shall, at no charge to M/A-COM:

- A. Provide access to and use of the facility locations described in Schedule A, 24 hours a day, seven days a week
- B. M/A-COM shall comply with all policies and procedures governing access to and use of CITY OF CLEARWATER facilities.
- C. CITY OF CLEARWATER shall maintain the required connectivity, as set forth in Schedule A, in good operating condition.
- D. Upon entering into this Agreement and the Tower Agreement (Schedule D), any and all obligations of M/A-COM to make lease payments to the CITY OF CLEARWATER pursuant to that lease between the CITY OF CLEARWATER and M/A-COM dated _____ shall terminate although such lease shall remain in full force and effect. In no event shall M/A-COM be considered a Third Party Tower Tenant.

4.8 REGULATORY APPROVALS

CITY OF CLEARWATER and M/A-COM shall cooperate to obtain all regulatory licenses, consents and approvals reasonably necessary for the ownership and operation of the Communications System. CITY OF CLEARWATER shall pay all charges, fees and taxes in regard to obtaining such licenses, consents and approvals.

In addition, CITY OF CLEARWATER and M/A-COM shall cooperate in obtaining the use of needed sites including, but not limited to, all zoning and land use permits relating to the Communications System.

CITY OF CLEARWATER, FLORIDA

4.9 CITY OF CLEARWATER DISCLOSURE RESPONSIBILITIES

CITY OF CLEARWATER shall make available to the extent and manner allowed by § 119.01, Florida Statutes, all financial records and other data or information to M/A-COM as related to the terms of this agreement and beyond the scope of this agreement only if needed to satisfy SEC compliance.

V. REPRESENTATIONS

5.1 M/A-COM REPRESENTATIONS

M/A-COM represents and warrants to CITY OF CLEARWATER that:

- A. **Organization:** M/A-COM is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation. M/A-COM is duly registered as a foreign corporation in the State of Florida, is authorized to do business in the State of Florida, and is in good standing in said state.
- B. **Authority:** M/A-COM has full power and authority to enter into this Service Agreement to consummate the transactions contemplated hereby. The execution, delivery and performance by M/A-COM of this Service Agreement have been duly authorized by all requisite corporate action. This Service Agreement has been duly executed and delivered by M/A-COM, and constitutes a valid and binding obligation of M/A-COM, enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization or similar laws affecting creditors' rights generally or by general equitable principles.
- C. **No Violation:** To the best of M/A-COM's knowledge and belief, neither the entering into of this agreement nor the consummation of the transaction contemplated hereby will constitute or result in a violation or breach by M/A-COM of any judgment, order, writ, injunction or decree issued against or imposed upon it, or will result in a violation of any applicable law, order, rule or regulation of any Governmental Authority.
- D. **Litigation:** To the best of M/A-COM's knowledge and belief, there is no pending or threatened litigation which if adversely decided to M/A-COM would have a materially adverse effect upon M/A-COM's ability to meet its obligations pursuant to this Service Agreement.

5.2 CITY OF CLEARWATER REPRESENTATIONS

CITY OF CLEARWATER represents and warrants to M/A-COM that:

- A. **Organization:** CITY OF CLEARWATER is a City duly organized within the State of Florida.
- B. **Authority:** CITY OF CLEARWATER has full power and authority to enter into this Service Agreement to consummate the transactions contemplated hereby. The execution, delivery and performance by CITY OF CLEARWATER of this Service Agreement have been duly authorized by all requisite City action. This Service

CITY OF CLEARWATER, FLORIDA

Agreement has been duly executed and delivered by CITY OF CLEARWATER and constitutes a valid and binding obligation of CITY OF CLEARWATER, enforceable in accordance with its terms.

- C. **No Violation:** To the best of the CITY OF CLEARWATER's knowledge and belief, neither the entering into of this agreement nor the consummation of the transaction contemplated hereby will constitute or result in a violation or breach by CITY OF CLEARWATER of any judgment, order, writ, injunction or decree issued against or imposed upon it, or will result in a violation of any applicable law, order, rule or regulation of any Governmental Authority.
- D. **Litigation:** To the best of the CITY OF CLEARWATER's knowledge and belief, there is no pending or threatened litigation which if adversely decided to CITY OF CLEARWATER would have a materially adverse effect upon CITY OF CLEARWATER ability to meet its obligations pursuant to this Service Agreement.
- E. **Existing System:** The Existing System is in good operating condition with no material coverage problems or material maintenance problems. The Existing System has been maintained by CITY OF CLEARWATER under contract with Communications International in accordance with the manufacturers recommended maintenance including the upgrading of all software to the latest version.

VI. MEETINGS, REPORTING AND RECORDS

6.1 MEETINGS

Within 30 days following the Effective Date, the Parties will mutually determine an appropriate set of periodic meetings to be held between CITY OF CLEARWATER and M/A-COM. At a minimum, these meetings will be quarterly maintenance, performance reviews and management meeting to review M/A-COM's current Service Levels, operating parameters and such other matters as appropriate. All meetings will have a published agenda prepared by M/A-COM issued sufficiently in advance of the meeting to allow meeting participants a reasonable opportunity to prepare for the meeting.

6.2 REPORTING

The Parties will mutually determine an appropriate set of periodic reports to be issued by M/A-COM to CITY OF CLEARWATER. At a minimum, the following reports shall be provided on a quarterly basis:

- A. CITY OF CLEARWATER System usage;
- B. Service request and resolution;
- C. Corrective maintenance;
- D. System outage report;
- E. Service Level performance; and
- F. Third Party Tower and Site Facility utilization.

6.3 RECORDS

- A. M/A-COM shall maintain books, records and other compilations of data pertaining to the requirements of this Service Agreement to the extent and in such detail as shall substantiate claims for payment under this Service Agreement. All such records shall be kept for a period of five years or for such longer period as is specified herein. If any litigation, claim, negotiation, audit or other action involving the records is commenced prior to the expiration of the applicable retention period, all records shall be retained until completion of the action and resolution of all issues resulting therefrom, or until the end of the applicable retention period, whichever is later.
- B. M/A-COM shall make available all financial records and other data and information kept pursuant to paragraph A of this Section, 6.3, or as otherwise needed by the CITY OF CLEARWATER as related to the terms of this agreement.
- C. This provision shall survive the expiration or earlier termination of this Service Agreement.

VII. CHARGES AND EXPENSES

7.1 QUARTERLY PAYMENTS

CITY OF CLEARWATER shall make Quarterly Service & Access Payments in the amount of fifty-thousand dollars (\$50,000) without set-off or withholdings and without demand or notice from M/A-COM. The first payment shall be due on the first business day of the first month after execution of this service agreement and each successive payment shall automatically be due per calendar quarter. Such payment shall be reviewed and adjusted annually to reflect current usage and performance and changes in the Consumer Price Index (CPI) - All Urban Consumers index.

The above Service and Access Payments shall be subject to increase should the system design change or be modified at any time during the term of the agreement as agreed to by both Parties.

The above listed Service and Access Fee is based on a quantity of up to fourteen-hundred fifty (1,450) CITY OF CLEARWATER radios utilizing the communications system. For each radio over fourteen hundred fifty (1,450), CITY OF CLEARWATER will be charged an additional \$15 per month per radio in addition to the cost of the subscriber unit itself.

7.2 SYSTEM ENHANCEMENTS AND USER GEAR TRANSFER

The system enhancements and transfer of user gear are being granted to the CITY OF CLEARWATER from M/A-COM based on the sole marketing rights and use of the two towers, including the termination of payments pertaining to the existing lease for the State of Florida System for the initial 20 year term.

7.2.1 M/A-COM shall transfer ownership of all enhancements or improvements made to the elements of the Communications System together with any enhancements made to the Existing System as required in Sections 3.6 and 3.7 hereof.

7.2.2 M/A-COM shall transfer ownership of the User Gear as set forth on Schedule E on a mutually agreeable schedule to the CITY OF CLEARWATER.

7.3 TOWER AND MAINTENANCE

M/A-COM shall have the sole marketing rights of the two CITY owned towers and associated tower site facilities equipment as more fully described and subject to the limitations set forth in Schedules A and D. During the term of the agreement, M/A-COM shall be responsible for tower maintenance and any enhancements or improvements made to the towers and associated site equipment if needed.

7.4 EVENT OF NON-APPROPRIATION

The CITY shall provide in its budget request that it submits each year a line item providing for Quarterly Payments which shall become due in the next succeeding Fiscal Year. This Service

CITY OF CLEARWATER, FLORIDA

Agreement shall automatically terminate at the end of then current Fiscal Year if a final budget is not approved in accordance with Florida law that appropriates sufficient funds for the line item providing for the Quarterly Payments for the succeeding Fiscal Year. Such action shall constitute an Event of Non- Appropriation. Upon the occurrence of an Event of Non-Appropriation, the CITY will not be obligated to make the Quarterly Payments beyond the then current Fiscal Year. The CITY must deliver notice of the Event of Non-Appropriation to M/A-COM and its assigns within at least thirty business days thereof. Under no circumstances shall the failure of the CITY to appropriate monies to make Quarterly Payments constitute an Event of Default by the City hereunder or require payment of a penalty; provided, however, that the City, at M/A-COM's request, shall promptly transfer ownership of all Communications System backbone equipment including, without limitation, the Radio System Infrastructure listed in Schedule A to M/A-COM and continue to provide to M/A-COM free and unfettered access to and use of the towers and site facilities so that M/A-COM may continue to market the towers, serve then existing Third Party Tower Tenants or add additional or different Third Party Tower Tenants as well as maintain and use M/A-COM's equipment on or about the towers for the remaining period of the initial 20 year term.

In the event of any termination, M/A-COM shall continue to fully perform its maintenance and service obligations under the Service Agreement so long as the CITY continues to pay amounts equivalent to the Quarterly Payments.

7.5 TAXES

Taxes imposed by any taxing authority relating to the Services shall be the responsibility of M/A-COM. CITY OF CLEARWATER shall cooperate with M/A-COM in attempting to obtain any possible exemptions from taxes or reduction in such taxes.

VIII. REVENUE SHARING

8.1 MARKETING RIGHTS

M/A-COM shall have the sole right to market the tower and site facility space of the Communications System to eligible Third-Party Tenants, which must be approved in writing in advance by the CITY OF CLEARWATER, such approval not to be unreasonably withheld. The CITY OF CLEARWATER shall be allowed to occupy space at no fee charged to the CITY OF CLEARWATER and upon notice to M/A-COM and M/A-COM's approval of available space. Such approval shall not be unreasonably withheld.

8.2 THIRD-PARTY LEASE NEGOTIATIONS AND REPORTING

M/A-COM shall have the sole right to negotiate all future leases for all Third-Party Tower Tenants, which must be approved in writing in advance by the CITY OF CLEARWATER, such approval not to be unreasonably withheld. On a quarterly basis, M/A-COM will supply CITY OF CLEARWATER with a summary of all current leases by Third-Party Tower and Tenants. The summary will be in electronic format and will include the Lessee's name, lease expiration date, lease amount, etc. As requested by CITY OF CLEARWATER, M/A-COM will provide copies of individual leases.

8.3 THIRD PARTY TOWER TENANTS REVENUE

The gross revenue generated from existing (as of the contract date) Third Party Tower and Tenants shall not be divided between the parties; instead the City shall receive 100% and M/A-COM shall receive 0%. In addition, the agreement between M/A-COM and the CITY OF CLEARWATER concerning the State of Florida radio system shall be terminated upon entering into this agreement. The gross revenue generated from tower lease payments from new, future Third Party Tower Tenants shall be divided between the parties, with M/A-COM receiving 75% and CITY OF CLEARWATER receiving 25%.

8.4 PAYMENT TERMS

M/A-COM shall pay cash or provide credit in goods and services to CITY OF CLEARWATER, at the City's discretion, for its proportionate share of the revenues on a quarterly basis, within thirty (30) days of the end of each quarter and shall provide with each payment, a summary setting forth the name of each Third-Party Tenant, the revenues received during the quarter and the portion of the revenues paid to CITY OF CLEARWATER for the quarter as provided in VI, 6.2 of this Service Agreement.

8.5 SURVIVAL OF REVENUE SHARING

As appropriate, the provisions of Article 8 and associated provisions of Articles 3 and 10 may survive termination of this Service Agreement if this agreement is extended.

IX. DISPUTE RESOLUTION AND END OF TERM OPTION

9.1 RESOLUTION OF DISPUTES

Should any disputes arise with respect to this Service Agreement, M/A-COM and CITY OF CLEARWATER agree to act immediately to resolve any such disputes. Time is of the essence in the resolution of disputes.

Continuing Responsibilities: The Parties agree that, existence of the dispute notwithstanding, they will continue without delay to carry out all their responsibilities under this Service Agreement that are not affected by the dispute. Should either Party fail to continue to perform its responsibilities under this Service Agreement in the accomplishment of all non-disputed work, any additional costs incurred as a result of such failure to proceed shall be borne by that Party.

9.2 END OF TERM OPTIONS

Following the end of the Initial Term, or any Extended Term CITY OF CLEARWATER shall have the right to:

- A. Extend the Term of this Service Agreement pursuant to Section 2.2 hereof upon additional, mutually agreeable terms and conditions, if any; or
- B. Not renew the Term of this Service Agreement, in which event neither Party shall have any further obligation to the other Party except that the CITY OF CLEARWATER shall extend services to Third Party Tower Tenants.

X. DEFAULTS AND REMEDIES

10.1 CITY OF CLEARWATER EVENTS OF DEFAULT

CITY OF CLEARWATER shall be in default hereunder if any of the following events ("CITY OF CLEARWATER Event of Default") shall occur:

- A. CITY OF CLEARWATER fails to pay any of its obligations under this Service Agreement when such obligation is due pursuant to the Prompt Payment Act, § 218.70, et. seq., Florida; or
- B. CITY OF CLEARWATER initiates a proceeding in any court, seeking the liquidation, reorganization, debt arrangement, dissolution, winding up, appointment of a trustee, receiver, custodian, or the like for all or substantially all of its assets, and such case or proceeding shall continue undismissed, or unstayed and in effect, for a period of 60 consecutive days; or an order for relief shall be entered in an involuntary case under the federal bankruptcy laws or other similar laws now or hereafter in effect.
- C. CITY OF CLEARWATER fails to observe any material term, covenant or condition contained herein and such failure shall remain unremedied for a period of 30 days after written notice is provided by M/A-COM. However, if default is of such a nature that it could not reasonably be performed within 30 days, such 30-day period shall be extended so long as CITY OF CLEARWATER takes corrective action within such 30 days and thereafter diligently and continuously works to cure the default. The provisions of 9.1 will be in effect and supercede this paragraph C.

10.2 M/A-COM EVENTS OF DEFAULT

M/A-COM shall be in default hereunder if any of the following events ("M/A-COM Event of Default") shall occur:

- A. M/A-COM fails to pay any of its obligations under this Service Agreement when such obligation is due and such failure shall remain unremedied for a period of 30 days after written notice is provided by CITY OF CLEARWATER; or
- B. M/A-COM initiates a proceeding in any court, seeking the liquidation, reorganization, debt arrangement, dissolution, winding up, appointment of a trustee, receiver, custodian, or the like for all or substantially all of its assets, and such case or proceeding shall continue undismissed, or unstayed and in effect, for a period of 60 consecutive days; or an order for relief shall be entered in an involuntary case under the federal bankruptcy laws or other similar laws now or hereafter in effect.

- C. M/A-COM fails to observe any material term, covenant or condition contained herein and such failure shall remain unremedied for a period of 30 days after written notice is provided by CITY OF CLEARWATER. However, if default is of such a nature that it could not reasonably be performed within 30 days, such 30-day period shall be extended so long as M/A-COM takes corrective action within such 30 days and thereafter diligently and continuously works to cure the default. The provisions of 9.1 will be in effect and supercede this paragraph C.

10.3 REMEDIES

Upon the occurrence of an Event of Default, the non-defaulting Party may either at law or in equity, by suit, action, mandamus or other proceeding in any court of competent jurisdiction, protect and enforce any and all rights under the laws of the State of Florida, or granted and contained in this Service Agreement, and may enforce and compel the performance of all duties and obligations required by this Service Agreement to be performed by the defaulting Party.

10.4 WAIVER OF DEFAULT

No delay or omission of by either Party to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default, or an acquiescence therein; and every power and remedy given by Section 10.3 may be exercised from time to time, and as often as may be deemed expedient.

XI. OTHER PROVISIONS

11.1 SOFTWARE LICENSE

M/A-COM grants to CITY OF CLEARWATER a non-transferable, nonexclusive, license to use the software necessary to operate the Communications System. CITY OF CLEARWATER agrees not to provide or otherwise make available any licensed program or portion thereof to any third party and to hold such materials in confidence using a strict degree of care to protect the licensed program from unauthorized disclosure.

CITY OF CLEARWATER may make copies of each licensed program provided in machine-readable form as necessary for use and for archival purposes. CITY OF CLEARWATER may make copies of any written materials, such as manuals, diagrams or other documentation, for its own internal use.

11.2 FORCE MAJEURE

M/A-COM shall not be liable for delays in delivery or failure to perform due directly or indirectly to: (1) causes beyond M/A-COM's reasonable control, (2) Acts of God, acts (including failure to act) of any governmental authority (de jure or de facto), wars (declared or undeclared), riots, revolutions, strikes or other labor disputes, fires, floods, sabotage, nuclear incidents, earthquakes, storms, epidemics, (3) M/A-COM's inability to timely obtain necessary materials, items, components or services from suppliers who are affected by the foregoing circumstances, or (4) the failure of CITY OF CLEARWATER to perform its obligations hereunder in a timely manner.

The foregoing shall apply even though any of such causes exists at the time of signing of the Service Agreement by M/A-COM or occurs after delays in M/A-COM's performance of its obligations due to other reasons.

In the event of any delay or failure excused by this Section M/A-COM shall as soon as practical notify CITY OF CLEARWATER and shall at the same time, or at the earliest practical date after such notice, specify the revised delivery and performance dates. In the event of such delay, the time of performance shall be extended for a reasonable time period to compensate for the time lost by CITY OF CLEARWATER by reason of delay.

11.3 INSURANCE AND RISK OF LOSS

A. HOLD HARMLESS

M/A-COM agrees to hold the City, its elected officials, employees, and agents harmless against all fines, penalties, and claims for bodily injury, sickness, disease, death or personal injury or damage to property or loss of use resulting therefrom, arising out of this Agreement unless such claims are a result of the City's negligence.

This provision shall survive the termination of this Agreement.

B. PAYMENT ON BEHALF OF CITY

M/A-COM agrees to pay on behalf of the City, and to pay the cost of the City's legal defense, as may be selected by the City, for all claims described in the Hold Harmless paragraph. Such payment on behalf of the City shall be in addition to any and all other legal remedies available to the City and shall not be considered to be the City's exclusive remedy.

C. LOSS CONTROL/SAFETY

Precaution shall be exercised at all times by M/A-COM for the protection of all persons, including employees, and property. M/A-COM shall be expected to comply with all laws, regulations or ordinances related to safety and health and shall make special effort to detect hazardous conditions and shall take prompt action where loss control/safety measures should reasonably be expected.

The City may order work to be stopped if conditions exist that present immediate danger to persons or property. M/A-COM acknowledges that such stoppage will not shift responsibility for any damages from M/A-COM to the City.

D. BASIC COVERAGES REQUIRED

M/A-COM shall procure and maintain the following described insurance, except for coverage specifically waived by the City, on policies and with insurers acceptable to the City.

These insurance requirements shall not limit the liability of M/A-COM. The City does not represent these types or amounts of insurance to be sufficient or adequate to protect M/A-COM's interests or liabilities, but are merely minimums.

Such coverages shall protect M/A-COM from claims for damages for personal injury, including accidental death, as well as any party directly or indirectly employed by M/A-COM.

Except for workers compensation and professional liability, M/A-COM's insurance policies shall be endorsed to name the City as an additional insured to the extent of the City's interests arising from this Agreement.

Except for workers compensation, M/A-COM waives its right of recovery against the City, to the extent permitted by its insurance policies.

M/A-COM's deductibles/self-insured retentions shall be disclosed to the City and may be disapproved by the City. They shall be reduced or eliminated at the option of the City. M/A-COM is responsible for the amount of any deductible or self-insured retention.

Insurance required of M/A-COM or any other insurance of M/A-COM shall be considered primary but only to the extent of the negligence of M/A-COM in the delivery of services under this contract, and insurance of the City shall be considered excess, as may be applicable to claims which arise out of the Hold Harmless, Payment on Behalf of City, Insurance, Certificates of Insurance and any Additional Insurance provisions of this Agreement. Where no specific limit of coverage is mentioned in this Agreement, the minimum limit of insurance coverage required by the City shall be \$1,000,000.

E. Workers Compensation Coverage

M/A-COM shall purchase and maintain statutory workers compensation insurance for all workers compensation obligations imposed by state law and employers liability limits of at least \$100,000 each accident and \$100,000 each employee/\$500,000 policy limit for disease.

M/A-COM shall also purchase any other coverage required by law for the benefit of employees.

F. General, Automobile, And Excess Or Umbrella Liability Coverage

M/A-COM shall purchase and maintain coverage on forms no more restrictive than the latest editions of the Commercial General Liability and Business Auto policies of the Insurance Services Office.

Minimum limits of \$1,000,000 per occurrence for all liability must be provided, with excess or umbrella insurance making up the difference, if any, between the policy limits of underlying policies and the total amount of coverage required.

G. Commercial General Liability Coverage. Occurrence Form Required

Coverage A shall include bodily injury and property damage liability for premises, operations, products and completed operations, independent contractors, contractual liability covering this Agreement, broad form property damage, and property damage resulting from explosion, collapse or underground (x, c, u) exposures.

Coverage B shall include personal injury.

Coverage C, medical payments, is not required.

M/A-COM is required to continue to purchase products and completed operations coverage, at least to satisfy this Agreement, for a minimum of three years beyond the City's acceptance of any renovation or construction projects.

Minimum limits of \$1,000,000 per occurrence for all liability must be provided, with excess or umbrella insurance making up the difference, if any, between the policy limits of underlying policies and the total amount of coverage required.

H. Business Auto Liability Coverage

Business Auto Liability coverage is to include bodily injury and property damage arising out of ownership, maintenance or use of any auto, including owned, non-owned and hired automobiles and employee non-ownership use.

I. Excess Or Umbrella Liability Coverage

Umbrella Liability insurance is preferred, but an Excess Liability equivalent may be allowed. Whichever type of coverage is provided, it shall not be more restrictive than the underlying insurance policy coverage. Excess or Umbrella Liability insurance shall include bodily injury and property damage coverage.

M/A-COM shall purchase and maintain Excess or Umbrella Liability coverage over and above its other liability coverage in the amount of \$2,000,000.

J. Property Coverage for Tower

M/A-COM has the option but not the obligation to purchase and maintain for the life of the Agreement, all risk/special perils (including sinkhole) property insurance (or its equivalent) to cover loss resulting from damage to or destruction of the tower, and its improvements, and any attached personal property or contents. The policy shall cover 100% replacement cost, and shall include an agreed value endorsement to waive coinsurance. The City shall be named as an additional insured.

K. Professional Liability/Malpractice/Errors or Omissions Insurance

If coverage is available in the insurance market, M/A-COM shall purchase and maintain professional liability or malpractice or errors or omissions insurance commensurate with the type of professional services, if any, to be rendered to the City with minimum limits of \$1,000,000 per occurrence.

If claims made form of coverage is provided, the retroactive date of coverage shall be no later than the inception date of claims made coverage, unless the prior policy was extended indefinitely to cover prior acts.

Coverage shall be extended beyond the policy year either by a supplemental extended reporting period (ERP) of as great duration as available, and with no less coverage

and with reinstated aggregate limits, or by requiring that any new policy provide a retroactive date no later than the inception date of claims made coverage.

L. EVIDENCE/CERTIFICATES OF INSURANCE

Required insurance shall be documented in Certificates of Insurance that provide that the City shall be notified at least 30 days in advance of cancellation, non-renewal or adverse change.

New Certificates of Insurance are to be provided to the City at least 15 days prior to coverage renewals.

If requested by the City, M/A-COM shall furnish complete copies of M/A-COM's insurance policies, forms and endorsements.

For Commercial General Liability coverage M/A-COM shall, at the option of the City, provide an indication of the amount of claims payments or reserves chargeable to the aggregate amount of liability coverage.

Receipt of certificates or other documentation of insurance or policies or copies of policies by the City, or by any of its representatives, which indicate less coverage than required does not constitute a waiver of M/A-COM's obligation to fulfill the insurance requirements herein.

11.4 AMENDMENT AND WAIVER

No supplement, modification, amendment or waiver of this Service Agreement shall be binding unless executed in writing by both Parties. No waiver of any of the provisions of this Service Agreement shall constitute a waiver of any other provision (whether or not similar) nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

11.5 FURTHER ASSURANCES

The Parties shall with reasonable diligence, do all things and provide all reasonable assurances as may be required to complete the transactions contemplated by this Service Agreement, and each Party shall provide such further documents or instruments required by the other Party as may be reasonably necessary or desirable to give effect to this Service Agreement and to carry out its provisions.

11.6 SEVERABILITY

Any provision in this Service Agreement which is held to be illegal or unenforceable in any jurisdiction shall be ineffective to the extent of such illegality or unenforceability without invalidating the remaining provisions and any such illegal or unenforceable provision shall be deemed to be restated to reflect as nearly as possible the original intentions of the Parties in accordance with applicable law.

11.7 ENTIRE AGREEMENT

This Service Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of the Parties and there are no warranties, representations or other agreements between the Parties in connection with the subject matter hereof except as specifically set forth in this Service Agreement.

11.8 GOVERNING LAW

This Service Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

11.9 PUBLIC REGULATION AND FREQUENCY LICENSES

This Service Agreement is subject to all of the terms and conditions associated with all of CITY OF CLEARWATER outstanding FCC Licenses, applications and authorizations from the FCC and other federal, state and local government agencies with respect to the Communications System.

CITY OF CLEARWATER shall retain control over its licensed frequencies at all times as required by Section 310(d) of the Communications Act, as amended, and by FCC rules and policies, and shall carry out all policy decisions, including approving the filing of FCC applications, with respect thereto. Nothing in this Service Agreement shall give M/A-COM, directly or indirectly, the right to control or direct CITY OF CLEARWATER exercise of ultimate authority over its FCC licenses. In providing these services, M/A-COM shall take no action that would cause any of the FCC Licenses to be revoked, or that would result in a transfer of control or assignment of the FCC Licenses without necessary FCC approval. M/A-COM shall cooperate with CITY OF CLEARWATER in providing all information necessary to ensure that all FCC Licenses remain valid and in full force and effect.

This Service Agreement is not intended to convey any FCC license, channel or frequency possessed by CITY OF CLEARWATER. M/A-COM's rights with respect to all such licenses, channels and frequencies shall at all times be strictly limited to the management of any such licenses, channels and frequencies.

11.10 LIMITATIONS OF LIABILITY

- A. The entire liability of M/A-COM, its directors, officers, employees and agents and customer's exclusive remedy with respect to any claim concerning M/A-COM's performance or non-performance of the terms of this Service Agreement or any claim for breach or default or for any other claim arising under or related in any way to this Agreement shall be the recovery of CITY OF CLEARWATER actual direct damages but which shall in no event exceed the greater of (x), the amount of any applicable insurance required by this Service Agreement, or (y), the amount

of the Quarterly Payments made by the CITY OF CLEARWATER to M/A-COM over the 36 months immediately preceding the event giving rise to such claim.

- B. In no event shall M/A-COM be liable for any loss of profits, revenues, customers or contracts, loss of use of equipment, loss of data, business interruption, failure to realize expected cost savings or for any indirect, consequential, incidental, special, punitive or exemplary damages howsoever caused or arising, incurred by CITY OF CLEARWATER even if M/A-COM had been advised of the possibility of same or even if same were reasonably foreseeable.
- C. The provisions of this Section 11.10 shall apply whether the claim sounds in contract, warranty, tort (including negligence and strict liability) or any other statutory, legal or equitable grounds.

11.11 ASSIGNMENT

Each Party may assign its respective rights and obligations under this Service Agreement with the express written consent of the other, which consent shall not be unreasonably withheld.

Notwithstanding anything to the contrary contained herein, CITY OF CLEARWATER acknowledges and agrees that M/A-COM shall have the right, at any time and without the consent of CITY OF CLEARWATER, to sell, transfer or assign all or any portion of its rights to the payments described herein to any Affiliate of M/A-COM. M/A-COM and its permitted assignees shall furthermore have the right, at any time and without the consent of CITY OF CLEARWATER, to collaterally assign all or any portion of its rights to such payments or to other rights to enforce such payments provided herein to any financing party or lender or trustee in regard to Secured Debt.

However any such assignment of payments shall not relieve M/A-COM or M/A-COM'S Surety of their respective responsibilities, obligations, and liabilities under this Agreement.

11.12 NO THIRD PARTY BENEFICIARIES

The Parties acknowledge and agree that this Service Agreement is for the benefit of the Parties hereto and any permitted assignee under Section 11.11. The Service Agreement is not intended to confer any legal rights or benefits on any third party. There are no third party beneficiaries to this Service Agreement or any part or specific provision thereof.

11.13 COUNTERPARTS

This Service Agreement may be executed in any number of counterparts, all of which taken together shall constitute one single agreement between the Parties.

IN WITNESS WHEREOF, the Parties have executed and acknowledged this Service Agreement, the day and year first above written.

ATTEST:

M/A-COM PRIVATE
RADIO SYSTEMS, INC.



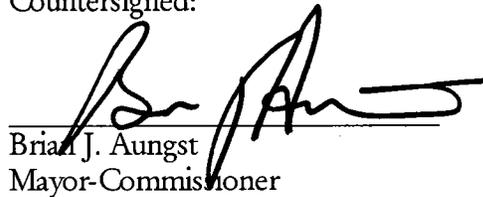
Assistant Corporate Secretary

By: 

Title: VP and General Counsel

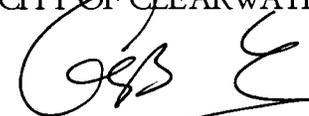
Countersigned:

CITY OF CLEARWATER, FLORIDA



Brian J. Aungst
Mayor-Commissioner

By:



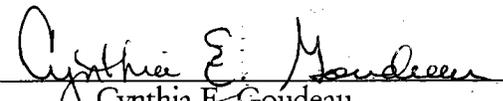
for William B. Home II
City Manager

Approved as to form:

Attest:



Assistant City Attorney



Cynthia E. Goudeau
City Clerk