

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (“Agreement”) is made as of the Effective Date (as defined below) by and between MONTGOMERY COUNTY, MARYLAND, 101 Monroe Street, Rockville, Maryland 20850, a body corporate and politic and a political subdivision of the State of Maryland (hereinafter referred to as the “COUNTY”), and WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY, an interstate compact agency organized pursuant to Public Law 89-774, 80 Stat. 1324; Maryland Acts of General Assembly, Chapter 869-1965; Virginia Acts of Assembly, Chapter 2-1966; and Resolution of D.C. Board of Commissioners adopted November 15, 1966, with offices located at 600 5th Street, NW, Washington, DC, 20001 (hereafter referred to as “LICENSEE or WMATA”), (LICENSEE and the COUNTY hereafter referred to, together, as the “Parties”).

WHEREAS, the County holds a leasehold interest in a portion of the property located at 4301 Brookville Road, Brookville, MD 20833, pursuant to a certain Lease Agreement, by and between the County, as tenant, and Jane Nash Maller, trustee under the unrecorded Jane C. Nash Trust Agreement, as Property Owner (the “Lease Agreement”) where the County operates and maintains a wireless telecommunications facility that includes a telecommunications tower and other appurtenant equipment; and

WHEREAS, WMATA has requested to collocate its communications equipment on the County’s telecommunications tower; and

WHEREAS, the County is willing to allow WMATA to collocate is communications equipment on the County’s telecommunications tower upon term and conditions contained in this Agreement.

WITNESSETH

NOW THEREFORE, for and in consideration of the fees hereinafter reserved and other good and valuable covenants and obligations as hereinafter contained, the Parties agree as follows:

1. (a) COUNTY hereby grants to LICENSEE a non-exclusive license to occupy and use, subject to all of the terms and conditions herein, space for communications equipment listed in **Exhibit A** (“Equipment”) to be installed on the COUNTY’s telecommunications tower (“Tower”), located on property owned by Jane Nash Maller (“Property Owner”) at 4301 Brookeville Road in Brookeville, Maryland, as more particularly depicted on **Exhibit B** attached hereto and made part hereof (“Property”). WMATA has entered into a lease agreement with Property Owner to locate ground level facilities that support the tower Equipment. The location of Licensee’s Equipment on the Tower is generally described as the licensed premises (“Licensed Premises”). No variation will be permitted without the prior written consent of the COUNTY. LICENSEE, its employees, agents, and contractors shall have access at all times (24 hours/day, 7 days/week) in, on, over, across and under the Property to install and maintain utility wires, cables, conduits, circuit boxes, switches, amplifiers, antennas or other accessories and appurtenances for use of its Equipment, on foot or by motor vehicle to the Licensed Premises from the nearest public right-of-way on Brookeville Road, which access route is approximately 490 feet in length and

approximately 8 feet in width, including the existing access driveway to Brookeville Road, and also including an irregular shaped parcel labeled as “Proposed Access Drive Turnaround” abutting the Leased Premises, as is more particularly shown in Exhibit B attached hereto and made a part hereof, subject to the restrictions in this Agreement. LICENSEE, individually and through its employees, agents, and contractors, shall comply with all of County’s security procedures for the Tower, if any at all times. COUNTY must provide LICENSEE with a written copy of security procedures, if any, not later than ten (10) days after executing this License Agreement.

(b) At LICENSEE’s sole cost and expense and with minimal disruption to the COUNTY, LICENSEE may install, erect, maintain and operate the Equipment and supporting accessories thereto on the Licensed Premises. In connection therewith, LICENSEE may complete all work necessary to prepare the Licensed Premises for operation of the Equipment, including but not limited to installation of antennae, bi-directional amplifiers, cables, and appurtenances. LICENSEE shall be responsible for and shall cause the prompt repair of any damage to the Tower, the County’s communications equipment, the Property, or Licensed Premises resulting from the installation, maintenance and/or operation of the Equipment. Notwithstanding affixation to the Licensed Premises, title to the Equipment and all accessories and appurtenances associated therewith installed by LICENSEE shall remain property of LICENSEE. LICENSEE may remove all or part of the Equipment at its sole expense and with minimal disruption to the COUNTY on or before the expiration or earlier termination of this Agreement and shall be responsible for and shall cause any repairs to the Tower, the County’s communications equipment, the Property, or Licensed Premises, normal wear and tear excepted, necessitated by such removal.

(c) Notwithstanding the fact that LICENSEE’s use of the Tower and the Licensed Premises is non-exclusive in that other licensees may use the Tower, LICENSEE shall have the exclusive right to use the Licensed Premises.

2. (a) This Agreement shall be effective as of the date of execution by both Parties (the Effective Date”). The (“Term”) shall be one (1) year and Three Hundred Sixty Four (364) days and the commencement date for the Term shall be the earlier to occur of (i) the first day of the month following the month in which WMATA obtains its final permits and Government Approval (defined below) to construct the Communications Equipment or (ii) the date which is one (1) year after the Effective Date, unless otherwise agreed in writing prior thereto by the COUNTY which shall be the (“Rent Commencement Date”). COUNTY and WMATA agree that they shall execute a written acknowledgement confirming the Rent Commencement Date. In the event that COUNTY or WMATA have not received all necessary approvals for use of the Property within eighteen (18) months from the Effective Date, WMATA may terminate this Agreement immediately without further liability hereunder.

(b) LICENSEE shall pay the License Fee (“Rent”) in the amount of Twenty Thousand Four Hundred Dollars (\$20,400) for the first year, payable annually and Twenty Thousand Nine Hundred Ten Dollars (\$20,910) for the remaining 364-day term, payable annually.

3. Upon the expiration or earlier termination of this Agreement, LICENSEE shall, within ninety (90) days of such expiration or termination, remove all of its Equipment and facilities from the Licensed Premises, returning the Licensed Premises to its condition on the Effective Date, reasonable wear and tear exempted. If LICENSEE fails to remove its Equipment within the period

specified herein, COUNTY may remove the Equipment upon written notice to LICENSEE provided that LICENSEE has not removed its equipment within thirty (30) days of such notice, and charge LICENSEE for the cost of such removal with no liability of the COUNTY to turn over such Equipment and facilities to LICENSEE or for any damage to the Equipment and facilities resulting from such removal.

4. LICENSEE shall use the Licensed Premises for the purpose of transmission and reception of radio communication signals for its 700 MHz Radio Project as mandated by the Federal Communications Commission to support WMATA's public safety and emergency network. All work on the Licensed Premises and improvements thereto, including the plans and specifications for such work, shall be at LICENSEE's expense, and shall be subject to prior written review and approval of the COUNTY. LICENSEE, individually and through its employees, agents, and contractors, will maintain the Licensed Premises in good condition. It is understood and agreed that LICENSEE's ability to use the Licensed Premises is contingent upon its obtaining after the execution date of this Agreement and maintaining throughout the term of this Agreement all certificates, permits, and any other approvals ("Approvals") required by any Federal, state, or local authorities. In the event that any such application should be finally rejected or any Approval is canceled, expires, lapses or is otherwise withdrawn or terminated by government authority, or if LICENSEE in its sole discretion determines that it will be unable to use the Licensed Premises for its intended purposes due to technological reasons, LICENSEE shall have the right to terminate this Agreement. Notice of LICENSEE's exercise of its right to terminate shall be given to COUNTY in accordance with Section 11 herein. LICENSEE represents and warrants that all information furnished to COUNTY required herein including all data contained in specification sheets shall be of sufficient detail to afford any future licensee adequate information to ensure that any licensee avoids interference with LICENSEE'S equipment. COUNTY shall not allow any other licensee to install equipment that would interfere with LICENSEE'S ability to transmit, receive, or otherwise use its equipment.

5. Both COUNTY and LICENSEE are self-insured entities.

(a) LICENSEE shall require its contractor(s) and subcontractor(s) performing services under this License to maintain the following insurance policies:

i. Workers' Compensation Insurance at Maryland statutory limits

ii. Commercial General Liability Insurance (including completed operations and contractual liability) including coverage for cranes and other heavy equipment that may be used to install the equipment, on an occurrence basis in an amount not less than Five Million Dollars (\$5,000,000) per claim combined single limit for bodily injury and property damage. Such policy shall be primary and shall name Montgomery County, MD, its elected and appointed officials, officers, employees and authorized volunteers, and Jane Nash Maller as Additional Insureds; and

iii. Automobile Liability Insurance, in the amount of one million dollars (\$1,000,000) per claim combined single limit, for bodily injury and property damage.

(b) All policies pursuant to this Paragraph 6 shall be written by an insurer having a Best Financial Strength rating of not less than A and licensed to do business in the State of Maryland. All policies, including any renewals thereof, must specify that such coverage shall not be canceled without a minimum of thirty (30) days' prior written notification to the County.

(c) LICENSEE's contractor(s) shall provide County with a certificate of insurance issued to the County address indicated in the notice provisions.

(d) Notwithstanding anything herein to the contrary, LICENSEE has satisfied the insurance requirements of this Paragraph 6 applicable to LICENSEE by providing the County with evidence of self-insurance, attached hereto and made a part hereof as **Exhibit C** that will meet the requirements herein.

6. LICENSEE, upon the expiration and termination of this Agreement, either by lapse of time or otherwise, shall peaceably surrender to COUNTY the Property and Licensed Premises in same condition as when the Property and Licensed Premises were delivered to LICENSEE.

7. It is agreed and understood that this Agreement contains all agreements, promises, and understandings between the COUNTY and LICENSEE, and any addition, variation, or modification to this Agreement shall be void and ineffective unless made in writing and signed by the Parties.

8. This Agreement and the performances thereof shall be governed, interpreted, construed and regulated by the laws of the State of Maryland. The Parties hereby waive their right to a trial by jury.

9. This Agreement may not be sold, assigned or transferred and the LICENSEE shall not permit any other party to use the Licensed Premises, Tower, or Property or any of the COUNTY's equipment.

11. Notices given in connection with this Agreement shall be in writing and shall be sent by: (a) registered or certified mail, return receipt requested; (b) hand delivery; (c) a nationally recognized overnight courier service for next business day delivery; or (d) any telecommunications device capable of creating a written record of such notice and its receipt. Notices and other communications shall be deemed to have been given on the date of actual receipt. Refusal to accept delivery or inability to make delivery because the intended recipient has not provided a correct or current address shall constitute receipt as of the time of attempted delivery. The notice addresses are as follows (or such other address as the party to be notified has designated to the sender by like notice):

COUNTY:

Montgomery County, Maryland
Department of General Services.
Office of Real Estate
101 Monroe Street, 9th Floor
Rockville, Maryland 20850

With a copy that does not constitute notice to:

Office of the County Attorney
Montgomery County, Maryland
101 Monroe Street, 3rd Floor
Rockville, Maryland 20850
Attn: DGS Attorney

LICENSEE:

Vice President, Office of Real Estate and Parking
Washington Metropolitan Area Transit Authority
600 5th Street, NW
Washington, DC 20001

With a copy to:

General Counsel, Office of General Counsel
Washington Metropolitan Area Transit Authority
600 5th Street, NW
Washington, DC 20001

12. It is expressly understood that the COUNTY shall not be construed or held to be a partner, co-venturer, agent or associate of LICENSEE; it being expressly understood that the relationship between the Parties hereto is and shall remain at all times that of the COUNTY and LICENSEE.

13. LICENSEE, individually and through its employees, agents, and contractors, shall operate its Equipment at all times in a manner that will not interfere with radio and/or electrical equipment of any existing licensee on the Property. If any such interference occurs, in the reasonable assessment of the COUNTY or Property Owner as the case may be, based upon verifiable data or testing, and is not corrected by LICENSEE within forty-eight (48) hours after written notification, COUNTY shall have the right to require LICENSEE to shut down and repair LICENSEE's Equipment, except for brief tests (not to exceed 5-10 minutes every hour) to eliminate such interference. COUNTY shall not be held responsible for any interference to LICENSEE's Equipment or operations, provided the COUNTY exercises due care and otherwise complies with this Agreement. Similarly, COUNTY agrees that after execution of this Agreement, no other licensees on the Tower will be permitted to install any radio equipment that is of a type and/or frequency that will cause interference to LICENSEE. In the event future equipment of any licensees on the Tower causes interference to LICENSEE and is not corrected by the interfering party within twenty-four (24) hours of notification, COUNTY shall require the interfering party to

immediately shut down the interfering equipment until the interference is corrected, except for intermittent testing.

14. Either Party shall be considered in default of this Agreement upon the occurrence of any of the following:

(a) Failure to perform any term, covenant or condition of this Agreement and the continuance thereof for fifteen (15) days following receipt of written notice from the non-defaulting party with respect to a default which may be cured solely by the payment of money or for thirty (30) days following receipt of written notice from the non-defaulting party specifying said failure with respect to a default which may not be cured solely by the payment of money. In either event, and after the expiration of said cure periods, the non-defaulting Party may pursue any remedies available to it against the defaulting party under applicable law. In the event either Party is in default more than twice in any calendar year, the non-defaulting Party shall have the right, but not the obligation, to terminate this Agreement.

(b) If the non-monetary default may reasonably be cured within a thirty (30) day period, this Agreement may not be terminated if the defaulting Party commences action to cure the default within such thirty (30) day period and proceeds with due diligence to fully cure the default.

(c) In the event that LICENSEE shall be found in default and shall fail to cure such default after notice given as set forth hereinabove, then LICENSEE's right to the Licensed Premises shall automatically be revoked.

15. LICENSEE acknowledges that it will be solely liable for the clean-up and removal of hazardous substances that it generates, or causes to be placed on the Property and Licensed Premises as required by law. COUNTY represents and warrants that, to its knowledge, the Property and Licensed Premises are free from any hazardous substances or unlawful environmental contamination as of the date of execution of this License.

IN WITNESS WHEREOF, the Parties hereto have set their hand and affixed their respective seals the day and year first above written.

WITNESS:

LICENSEE:

Washington Metropolitan Area Transit Authority

By: JDT
Print Name: John D. Thomas

By: Anabela Talaia
Anabela Talaia, Program Manager
Office of Real Estate and Parking

Date: 05/13/2021

WITNESS:

By: Julie White
Print Name: Julie White

COUNTY:

Montgomery County, Maryland

By: A. Jerome Fletcher
Jerome Fletcher
Assistant Chief Administrative Officer

Date: 5/17/21

Approved for legal form and legality:
Office of the County Attorney

By: Neal Anker

Recommended:

By: Cynthia Brenneman
Cynthia Brenneman, Director
Office of Real Estate

EXHIBIT A
General Scope of Work (Tower)

Montgomery County - Brookeville
4301 Brookeville Road
Brookeville, MD 20833

This proposal is to co-locate on Montgomery County's new 260' Tower (LAT: 39.11.02.8328; LONG: 77.54.0295) located at 4301 Brookeville Road, Brookeville, MD 20833.

New equipment installed on the tower will include (1) New RX 17' Omni Antenna – Model RFI CC807-11, mounted at 200' AGL; and (2) New TX 17' Omni Antenna – Model RFI CC807-11, mounted at 173 AGL Antennas to be mounted on 6' Stand-Off Mounts. Additional equipment installed on the tower is TTA mounted at 200'.

Antenna and Line

- Install new WMATA 17' Whip Antennas Typical of (1) at 200'
- Install new WMATA 17' Whip Antennas Typical of (2) 2 at 173'
- Install new Coax Cable from Antenna on Tower to Shelter Entry Port.
- Install new TTA typical of (1) at 200'
- Waveguide (Standard 12 hole)

Table based on Brookeville Tower Map V05 2019-10-31

Base	Tip	Antenna Description	Antenna Model	Ant. Qty.	Coax Qty. / Size	Mount Desc.	Mount Location
200	217	700 MHz Rx	CC807-11	1	(1) 7/8"	SitePro1 - PSA6	Leg C
200	200	TTA	TTA	1	(1) 1/2"		
173	190	700 MHz TX	CC807-11	2	(2) 1-1/4"	(2) SitePro1 - PSA6	Leg C

EXHIBIT B



GENERAL NOTES:

1. PROPERTY OFFSETS ARE APPROXIMATE. FINAL LOCATION OF COMPOUND TO BE DEVELOPED FROM TOWER ☺
2. THE LOCATION, SIZE & TYPE OF MATERIAL OF EXISTING UTILITIES INDICATED ON THE PLANS IS NOT REPRESENTED AS BEING ACCURATE, SUFFICIENT OR COMPLETE. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO DETERMINE THE ACTUAL LOCATION OF ALL SUCH FACILITIES, INCLUDING THE SERVICE CONNECTIONS TO UNDERGROUND UTILITIES. PRIOR TO CONSTRUCTION THE CONTRACTOR SHALL NOTIFY THE UTILITY COMPANIES OF HIS OPERATIONAL PLANS & SHALL OBTAIN FROM THE RESPECTIVE UTILITY COMPANIES DETAILED INFORMATION & ASSISTANCE RELATIVE TO THE LOCATION OF THEIR FACILITIES & THE WORKING SCHEDULE OF THE COMPANIES FOR REMOVAL OR ADJUSTMENT WHERE REQUIRED. IN THE EVENT AN UNEXPECTED UTILITY INTERFERENCE IS ENCOUNTERED DURING CONSTRUCTION, THE CONTRACTOR SHALL IMMEDIATELY NOTIFY THE UTILITY COMPANY OF JURISDICTION. THE ENGINEER SHALL ALSO BE IMMEDIATELY NOTIFIED. ANY SUCH MANS & SERVICES SHALL BE RESORTED TO SERVICE AT ONCE & PAID FOR BY THE CONTRACTOR AT NO ADDITIONAL COST TO THE CONTRACT.
3. ALL PROPOSED CONSTRUCTION ACTIVITIES & MODIFICATIONS SHALL COMPLY WITH MOTOROLA R-96 STANDARDS, MOST CURRENT REVISION.

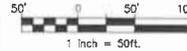
ALL DIMENSIONS ARE APPROXIMATE AND WILL BE VERIFIED WITH A SURVEY.

ANY DISCREPANCIES BETWEEN THIS DRAWING PACKAGE AND EXISTING FIELD CONDITIONS MUST BE REPORTED TO THE ENGINEER OF RECORD PRIOR TO THE COMMENCEMENT OF CONSTRUCTION.



Know what's below.
Call before you dig.
811
CALL YOUR 811 CALL CENTER
OR VISIT 811.MD

1 Site Location Plan



NO	DATE	REVISIONS	BY	CHK	APP'D
B	02-11-19	ADDED ADDRESS / LAT & LONG	JRF	SAH	
A	01-17-19	LEASE EXHIBIT	JRF	SAH	



MOTOROLA SOLUTIONS



SITE LOCATION PLAN
BROOKVILLE
4301 BROOKVILLE ROAD
BROOKVILLE, MD 20833

LE-1
PRINTED AT
24x36

PROFESSIONAL CERTIFICATION: I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, THAT I AM A DAILY LICENSED AND PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND, LICENSE NO. 48894, EXPIRATION DATE 03/14/20. THIS DRAWING IS COPYRIGHTED AND IS THE SOLE PROPERTY OF THE OWNER. IT IS PRODUCED SOLELY FOR USE BY THE OWNER AND ITS AFFILIATES. REPRODUCTION OR USE OF THIS DRAWING AND FOR THE INFORMATION CONTAINED IN IT IS FORBIDDEN WITHOUT THE WRITTEN PERMISSION OF THE OWNER. IT IS A VIOLATION OF LAW FOR ANY PERSON, UNLESS THEY ARE ACTING UNDER THE DIRECTION OF A LICENSED PROFESSIONAL ENGINEER, TO ALTER THIS DOCUMENT.

EXHIBIT C



July 1, 2020

RE: WMATA Self Insurance – period July 1, 2020 to July 1, 2021

To Whom It May Concern:

This is to advise you that the Washington Metropolitan Area Transit Authority (WMATA), like most large organizations with substantial loss expectancies, does not purchase primary liability insurance. As such, WMATA is an authorized self-insurer of its Workers' Compensation and Automobile financial responsibility obligations.

WMATA does purchase Excess Liability insurance which attaches at \$5 million over its Auto Liability, General Liability, Employer's Liability. The \$5 million per occurrence self-insured retention is for all bodily injury and property damage liability. Excess liability insurance above the self-insured retention is placed through multiple carriers on several layers.

WMATA purchases Excess Workers' Compensation insurance which attaches at \$2.5 million per occurrence.

Finally, WMATA also maintains operating property insurance coverage with various deductibles, starting at \$1,000,000 per occurrence. These coverages are continuous and remain in effect.

We trust this information will satisfy your inquiry regarding WMATA's insurance. If you require further information on this matter, feel free to contact me directly on at (202) 962-1236.

Sincerely,

A handwritten signature in blue ink that reads 'Mary Jane F. Johnston'.

Mary Jane F. Johnston, CRM
Insurance Analyst
Office of Risk Management
202-962-1236
mjfjohnston@wmata.com

**Washington
Metropolitan Area
Transit Authority**

600 Fifth Street, NW
Washington, D.C. 20001
202/962-1234

*By Metrorail:
Judiciary Square-Red Line
Gallery Place-Chinatown
Red, Green and
Yellow Lines*

*A District of Columbia
Maryland and Virginia
Transit Partnership*