

**COMMISSIONERS JOURNAL NO. 74 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD MAY 20, 2021**

THE BOARD OF COMMISSIONERS OF DELAWARE COUNTY MET IN REGULAR SESSION ON THIS DATE WITH THE FOLLOWING MEMBERS PRESENT:

Present:

Gary Merrell, President
Barb Lewis, Vice President
Jeff Benton, Commissioner

1

RESOLUTION NO. 21-422

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD MAY 17, 2021:

It was moved by Mrs. Lewis, seconded by Mr. Merrell to approve the following:

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on May 17, 2021; and

WHEREAS, the Clerk of the Board has certified, pursuant to section 305.12 of the Ohio Revised Code, that the entire record of the proceedings at that meeting is completely and accurately captured in the electronic record of those proceedings;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the electronic record of proceedings at the previous meeting.

Vote on Motion	Mrs. Lewis	Aye	Mr. Merrell	Aye	Mr. Benton	Aye
----------------	------------	-----	-------------	-----	------------	-----

2

RESOLUTION NO. 21-423

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0519 AND PROCUREMENT CARD PAYMENTS IN BATCH NUMBER PCAPR0519:

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0519, Procurement Card Payments in batch number PCAPR0519:

Vote on Motion	Mr. Merrell	Aye	Mrs. Lewis	Aye	Mr. Benton	Aye
----------------	-------------	-----	------------	-----	------------	-----

3

RESOLUTION NO. 21-424

SETTING DATE AND TIME AND PLACE FOR THE DELAWARE COUNTY BOARD OF COMMISSIONERS' PUBLIC HEARING TO CONSIDER THE APPROVAL AND ADOPTION OF AMENDMENTS TO THE SUBDIVISION REGULATIONS OF DELAWARE COUNTY, OHIO PURSUANT TO THE OHIO REVISED CODE SECTIONS 711.10, 711.132, and 711.133:

It was moved by Mrs. Lewis, seconded by Mr. Benton to set **Monday June 28, 2021 at 9:45A.M.** at the Office of the Board of County Commissioners, 91 North Sandusky Street Delaware, Ohio as the date, time and place for the Delaware County Board of Commissioners' Public Hearing to consider the approval and adoption of the following Amendments to the Subdivision Regulations of Delaware County, Ohio:

Amendment #1 Section 102.06 Vacating Platted Lots;
Amendment #2 Section 205.06 Minor Amendments to a Recorded Subdivision Plat
Amendment #3 Section 205.07 Major Amendments to a Recorded Subdivision Plat

(the "Amendments"), pursuant to the Ohio Revised Code Sections 711.10, 711.132, and 711.133 [Subdivision Regulations of Delaware County, Ohio are available for review in the Delaware County Regional Planning Office and on the web at <https://regionalplanning.co.delaware.oh.us/wp-content/uploads/sites/17/2021/03/Sub-Regs-2021-amendments.pdf>]

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS, DELAWARE COUNTY, OHIO, THAT:

1. A public hearing on the Amendments shall be held on **Monday June 28, 2021 at 9:45A.M.** at the offices of the Board, 91 North Sandusky Street, Delaware, Ohio.
2. The clerk of this Board is directed to give notice of the public hearing on the Amendments by publication once in The Delaware Gazette, not less than 30 days prior to the hearing.
3. That this Resolution shall be in full force and effect immediately upon its adoption.

**COMMISSIONERS JOURNAL NO. 74 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD MAY 20, 2021**

Vote on Motion Mr. Benton Aye Mr. Merrell Aye Mrs. Lewis Aye

4

RESOLUTION NO. 21-425

IN THE MATTER OF RECOGNIZING EMERGENCY MEDICAL SERVICES WEEK IN DELAWARE COUNTY:

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve the following:

WHEREAS, emergency medical services is a vital public service; and

WHEREAS, the members of Delaware County Emergency Medical Services are ready to provide lifesaving care to those in need 24 hours a day, seven days a week; and

WHEREAS, access to quality emergency care dramatically improves the survival and recovery rate of those who experience sudden illness or injury; and

WHEREAS, emergency medical services has grown to fill a gap by providing important, out of hospital care, including preventative medicine, follow-up care, and access to telemedicine; and

WHEREAS, the emergency medical services system consists of first responders, emergency medical technicians, paramedics, emergency medical dispatchers, firefighters, police officers, educators, administrators, pre-hospital nurses, emergency nurses, emergency physicians, trained members of the public, and other out of hospital medical care providers; and

WHEREAS, the members of emergency medical services teams engage in thousands of hours of specialized training and continuing education to enhance their lifesaving skills; and

WHEREAS, it is appropriate to recognize the value and the accomplishments of emergency medical services providers by designating Emergency Medical Services Week;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners in recognition of this event do hereby proclaim the week of May 16-22, 2021, as EMERGENCY MEDICAL SERVICES WEEK in Delaware County, with the theme, EMS Strong: Committed to Community.

Vote on Motion Mrs. Lewis Aye Mr. Benton Aye Mr. Merrell Aye

5

RESOLUTION NO. 21-426

RESOLUTION OF NECESSITY FOR THE PURCHASE OF MOTOR VEHICLES FOR THE USE OF THE DELAWARE COUNTY EMERGENCY MEDICAL SERVICES DEPARTMENT:

It was moved by Mrs. Lewis, seconded by Mr. Benton to approve the following:

WHEREAS, pursuant to section 307.41 of the Revised Code, the Delaware County Board of Commissioners (the "Board") may find, by resolution of necessity, that it is necessary to expend county monies for the purchase or lease of a new vehicle to be used by the Board, by any county department, board, commission, office or agency, or by any elected county official or his or her employees; and

WHEREAS, the Board has before it a request from the Delaware County Emergency Medical Services Department ("EMS") to expend county monies for the purchase of two new ambulance vehicles; and

WHEREAS, the ambulance vehicles for Delaware County EMS are necessary to ensure that a sufficient number of ambulance vehicles are maintained to provide daily coverage; and

WHEREAS, the Board participates in the State of Ohio's cooperative purchasing program (the "Program"), and the ambulance vehicles are available for purchase through the Program; and

WHEREAS, the ambulance vehicles will require radio communications equipment, electronics, and cots with loading systems; and

WHEREAS, pursuant to section 125.04(C) of the Revised Code, the Board may purchase supplies from another party instead of through participation in Program contracts if the Board can purchase those supplies or services from the other party upon equivalent terms, conditions, and specification but at a lower price than it can through the Program contract; and

WHEREAS, the cot loading systems are available for purchase through the Program (Index STS233, Contract #800840) but can be purchased directly from the manufacturer upon equivalent terms, conditions, and

COMMISSIONERS JOURNAL NO. 74 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD MAY 20, 2021

specifications but at a price lower than the Program price; and

WHEREAS, the remaining cost of the radio communications equipment, electronics, and cots will be below the competitive bidding threshold;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Delaware County, State of Ohio:

Section 1. The Board hereby declares that a necessity exists to purchase two new ambulance vehicles for use by Delaware County Emergency Medical Services.

Section 2. The Board hereby declares that the make and model of the vehicles are two (2) Demers Model MXP170 aluminum body conversion, mounted on a 2021/22 Ford F-Series 4x2 chassis, delivered in accordance with the Ohio STS Pricing Schedule, and attached Selected Modifications, complete and delivered for the sum of \$218,156.00 per unit.

Section 3. The Board hereby declares that the purchase shall be in accordance with the Program, pursuant to the contract and terms and conditions set forth in State of Ohio Index STS233, Contract #800790, which are, by this reference, fully incorporated herein and of which the purchase order approved herein shall be made a part.

Section 4. The Board hereby approves a purchase order in the amount of \$436,312.00 to Penn Care, Inc., an authorized dealer under the Program.

Section 5. The Board hereby approves the purchase and accompanying purchase order for the necessary radio communications equipment from Vasu Communications at a cost of \$5,976.32; and the purchase and accompanying purchase order for the installation of electronics from Hall Public Safety at a cost of \$800.00; and the purchase and accompanying purchase order for two (2) Stryker Power Load ambulance cots and loading systems at a total cost of \$92,493.06.

Section 6. This Resolution shall take immediate effect upon passage.

Vote on Motion Mr. Benton Aye Mrs. Lewis Aye Mr. Merrell Aye

6 RESOLUTION NO. 21-427

IN THE MATTER OF APPROVING A TRANSFER OF APPROPRIATION FOR EMPLOYEE SAFETY:

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve the following:

Table with 2 columns: From (10011302-5001 Employee Safety/Compensation) and To (10011302-5301 Employee Safety/Contracted Professional Services) with a value of 30,000.00.

Vote on Motion Mr. Merrell Aye Mr. Benton Aye Mrs. Lewis Aye

7 RESOLUTION NO. 21-428

IN THE MATTER OF APPROVING A TOWER AND GROUND LEASE AGREEMENT AND MEMORANDUM OF TOWER AND GROUND LEASE AGREEMENT BETWEEN THE DELAWARE COUNTY COMMISSIONERS AND CELLCO PARTNERSHIP (DBA VERIZON WIRELESS):

It was moved by Mrs. Lewis, seconded by Mr. Benton to approve the following:

WHEREAS, the Delaware County Economic Development Director recommends approving the Tower and Ground Lease Agreement and Memorandum of Tower and Ground Lease Agreement between the Delaware County Commissioners and Cellco Partnership (DBA Verizon Wireless);

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners approves the Tower and Ground Lease Agreement and Memorandum of Tower and Ground Lease Agreement between the Delaware County Commissioners and Cellco Partnership (DBA Verizon Wireless):

TOWER AND GROUND LEASE AGREEMENT

THIS TOWER AND GROUND LEASE AGREEMENT ("Agreement") is entered into this 20th day of May 2021, between the Delaware County Commissioners, ("Lessor"), and Cellco Partnership d/b/a Verizon

**COMMISSIONERS JOURNAL NO. 74 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD MAY 20, 2021**

Wireless, with its principal offices at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920 ("Lessee").

1. **Leased Premises.** Subject to the following terms and conditions, Lessor leases to Lessee space on a tower structure ("Tower") owned and operated by Lessor and certain land (collectively referred to as the "Premises") located at 4061 State Route 203, Radnor, OH 43066, said demised space on the Tower being that area used to attach an antenna facility ("Antenna Facility") as shown on Exhibit "A" attached hereto and said demised land being a tract of land upon which a communication shelter is to be built, as depicted on Exhibit "B" attached hereto, together with non-exclusive easements on property adjacent thereto and improvements thereon for access, parking, utilities, inspection, maintenance, installation, construction, operation, repair, removal, and placement at, from, of, and on the Tower and the tract of land for the Antenna Facility, on the real property commonly known as Delaware County EMS Station #4 ("Property") all as more specifically described in this Lease (including but not limited to the non-exclusive Access Easement and Utility Easement described in Section 5 and on Exhibit "A" attached hereto). Lessee's use of the Property shall be limited to that portion of the Property, legally described in attached Exhibit "A" and as further depicted in attached Exhibit "B", together with a utility easement in form and content acceptable to Lessor. Nevertheless, Lessee shall be entitled to lease rights at the Premises of up to 18,000 square inches for future modifications. Additions to, or modification of equipment in Lessee's reserved lease area exceeding what is shown on Lessee's Relocation/Reconfiguration Application, shall require a submission of a new Relocation/Reconfiguration Application, structural analysis, and payment of costs of structural modifications, if required.

2. **Lease Term.** The term of this Agreement shall be ten (10) years commencing on the first day of the month following installation of Lessee's equipment ("Commencement Date") and terminating on the tenth anniversary of the Commencement Date ("Term") unless otherwise terminated as provided herein. This Agreement shall automatically be extended for four (4) additional five (5) year terms unless LESSEE terminates it at the end of the then-current term by giving Lessor written notice of the intent to terminate at least 3 months prior to the end of the then current term. The initial term and all extensions shall be collectively referred to herein as the Term.

3. **Permitted Use.** Lessee has the right to use the Premises for the purpose of installing, constructing, maintaining, repairing, operating, inspecting, and removing a wireless communications facility for services as a telecommunications utility other than cable television, as further described in this Agreement. Lessee, or its agents or contractors, may construct, install, maintain, repair, remove, and operate the following-described telecommunications and associated equipment and communications shelters at, on, under, and/or in the Premises:

- (a) The installation and operation of the Antenna Facilities shall be subject to and must comply with all building and zoning restrictions, conditions and requirements, whether municipal, township or county. Lessee is responsible for obtaining all necessary permits and approvals and paying all associated fees prior to commencing construction of the Antenna Facilities. The Antenna Facilities shall remain the exclusive property of Lessee and are not deemed fixtures.
- (b) The Antenna Facility shall consist of the installation as shown on Exhibit "A"
- (c) Flexible coaxial transmission lines and communications equipment (such as a cable guide and brackets) between each antenna placed by Lessee on the Tower and the below described Communications Shelter, which lines and equipment shall be anchored and installed on the Tower in accordance with good and accepted engineering practices.
- (d) A concrete pad with a communications shelter ("Communications Shelter") placed thereon and containing, without limitation and in Lessee's reasonable discretion, telecommunications equipment consisting of cellular base stations, cellular switches, power supplies, batteries, and accessories.
- (e) Emergency natural gas, LP or diesel generator and shelter therefore (for protection thereof from the elements and otherwise), as shown on Exhibit "B" to be located adjacent to the Communications Shelter and to be used at Lessee's discretion, but in most cases intended to be used only in the event of power failure. Lessee shall obtain all authorizations required for Lessee's said generator prior to installation of said generator.
- (f) Lessee shall remove the Antenna Facilities, at Lessee's sole cost, on or before expiration of the Term or Renewal Terms. Within 90 days following the cancellation or termination of this Agreement prior to the expiration of the Term or Renewal Term, Lessee shall, remove all of Lessee's equipment and the Antenna Facilities and shall surrender the Premises to Lessor in the same or better condition as existed at the Commencement Date of this Agreement, less ordinary wear and tear and other casualty beyond the control of Lessee.
- (g) Lessee shall pay any additional utilities charges due to Lessee's use at the rate charged

**COMMISSIONERS JOURNAL NO. 74 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD MAY 20, 2021**

by the servicing utility company. Lessee shall have the right to install utilities after obtaining all necessary permits and approvals, at Lessee's expense, and to improve the present utilities on the Premises. Lessee shall obtain Lessor's prior consent, which shall not be unreasonably withheld, conditioned or delayed, before installing new utilities or improving the current utilities on the Property. In the event of an emergency or power outage, Lessee has the right to use a standby power generator on the Property.

- (h) Access for construction, routine maintenance and repair and other non-emergency visits shall only be during business hours (defined as Monday through Friday, 7:00 am to 7:00 p.m.). In the event of an emergency, Lessee may access the Premises twenty-four (24) hours per day, seven (7) days per week. Access shall be by foot or motor vehicle.

4. **Rent.**

- (a) **Base Rent.** Within 30 days of the Commencement Date and on the first day of each month thereafter, Lessee shall pay to Lessor as rent One Thousand Eight Hundred and Fifty and no/100 (\$1,850.00) Dollars per month ("Rent"). Rent for any fractional month at the beginning or at the end of the Term or Renewal Term shall be prorated. Rent shall be payable to Lessor, pursuant to Lessor's Wireless Marking Agreement with Cell Site Capital, dated October 15, 2020, in the name of Cell Site Infrastructure, 1491 Polaris Parkway, Suite 190, Columbus, OH 43240.
- (b) **Rent Escalation.** The Rent shall be increased at the commencement of each Renewal Term by Two percent (2%) over the Rent in effect for the previous Term, or Renewal Term.
- (c) **Additional Consideration.** Lessee understands and agrees that, as an additional condition of this Agreement and as further partial consideration for Lessor entering into the Agreement, Lessee shall be required to compensate Lessor for the costs associated with the Lessor's use of its preferred engineering, technical, architectural, legal and/or other technical service firms in providing assistance to Lessor in reviewing and negotiating the terms of this Agreement. Lessee shall, within thirty (30) days of receipt of a written demand letter from Lessor, compensate Lessor for the cost and expense associated with such services being performed, in an amount of Three Thousand Five Hundred Dollars and No Cents (\$3,500.00).

5. **Access and Utilities.** Lessee and its employees, agents, contractors, and utility companies are hereby given and granted a non-exclusive easement for ingress, egress, and regress to and from the Leased Premises and easements over, under, upon, and across the Tower and adjoining lands and rights-of-way owned by Lessor and described on Exhibit "C" on a twenty-four (24) hour daily basis for the purpose of erection, installation, operation, inspection, repair, maintenance, and removal of the Communications Facility and other necessary appurtenances and an easement thereon for telephone lines, power lines, cables, and wires used in connection with the Communications Facility ("Access Easement"). Such easements for ingress, egress, and regress and such easement for utilities shall be over existing roads, parking lots, and/or roads on the property described on Exhibit C. Lessee shall have the right but not the obligation to improve the Access Easement by grading, graveling, or paving it; provided, however that Lessee shall be obligated to repair any damage to such easement property caused by Lessee, or its agents or employees. Lessor grants to Lessee and to such power or telephone company ("Utility Company" or "Utility Companies") as Lessee shall designate, a non-exclusive easement for such utilities as may be reasonably necessary to serve the Leased Premises over that property described on Exhibit "C" (the "Utility Easement"). The Utility Easement shall be for the installation, operation, inspection, maintenance, and repair (whether by Lessee or by Lessee's designated Utility Companies) of necessary utilities from the point of connection with the Utility Companies' distribution networks to the Communications Shelter. The Utility Easement shall be sufficiently wide for providing the applicable utilities to the Leased Premises. It is understood that Lessee and the Utility Companies providing services to Lessee shall have access to all areas of the Leased Premises and other lands and rights-of-way owned or leased by Lessor and described on Exhibits A, B, and C as necessary for installation, operation, inspection, upgrade, maintenance, and/or repair of such services subject to Section 3(h) herein. Lessor shall advise Lessee of any Utility Company requesting an easement under, over, upon and/or across the Leased Premises.

6. **Site Acceptance.**

- (a) Lessee will be deemed to have accepted the Premises at the time Lessee commences installation of the Antenna Facilities pursuant to this Agreement. Conducting feasibility and cost assessment and other inspections on the Premises or Property is not deemed to be acceptance.
- (b) Acceptance of the Premises by Lessee is conclusive evidence that Lessee accepts the Premises as suitable for the purpose for which it is licensed, accepts the Premises and any structure on the Premises "AS IS", and with all faults, and waives all claims against Lessor

**COMMISSIONERS JOURNAL NO. 74 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD MAY 20, 2021**

in respect of defects in the Premises or the Property and its structures and appurtenances, and their suitability for any permitted purpose.

- (c) Lessee shall have the right, after reasonable notice to Lessor, following full execution of this Agreement, to enter upon the Premises for the purpose of conducting appropriate engineering tests, other reasonably necessary tests and after obtained all necessary permits and paying all associated fees, constructing the Antenna Facilities.

7. **Non-Interference.** Lessee shall not use the Premises in any way that materially interferes with the use of the Property by Lessor, or lessees or licensees of Lessor, with installations that predate the Antenna Facilities. With respect to lessees or licensees whose operations commence after installation of the Antenna Facilities, Lessee shall not make any change in its operations that causes or is intended to cause material interference with such lessees or licensees. All operations of Lessee shall be in compliance with all Federal Communications Commission ("FCC") requirements and other applicable laws and regulations.

Lessor shall have the right to permit co-location of other telecommunications equipment on the Property and Lessee consents to the same. In the event that any collocation results in interference with Lessee's operations, and provided that Lessee's actions have not contributed to such interference, Lessor agrees to take reasonable steps to encourage the interfering party to eliminate such interference. In the event that the interference is not eliminated within thirty (30) days of notice to Lessor by Lessee, Lessee may terminate this Agreement upon thirty (30) days prior written notice to Lessor. Termination by Lessee pursuant to this Paragraph 7 shall be the Lessee's sole and exclusive remedy in the event that the interference is not eliminated.

8. **Termination.** This Agreement may be terminated, without any penalty or further liability, on sixty (60) days written notice as follows:

- (a) By either party on default of any covenant or term hereof by the other party, which default is not cured within sixty (60) days following receipt of notice of default.
- (b) By Lessee if any certificate, permit, license or approval affecting Lessee's ability to use the Premises in the manner originally intended by Lessee is rejected through no fault of Lessee and after Lessee has used reasonable efforts to maintain such approvals, or if any previously issued certificate, permit, license or approval is cancelled, expires, lapses, or is otherwise withdrawn or terminated by the applicable governmental agency through no fault of Lessee and after Lessee has used reasonable efforts to maintain such approvals.
- (c) By Lessee if the Premises are or become unacceptable to Lessee under Lessee's design or engineering specification for its Antenna Facilities or for the communications system to which the Antenna Facilities belong or if Lessee elects to terminate this Agreement pursuant to Paragraph 7 due to interference.
- (d) By Lessor, for reasons involving public health, safety, or welfare. In addition, if the public's health, safety or welfare is endangered by the operations of the Antenna Facilities and Lessee fails to discontinue its operations as soon as is reasonably possible after receipt of notice thereof, and thereafter Lessee is unable to cure the conditions causing the endangerment as soon as practicable but no longer than thirty (30) days after receipt of such notice, Lessor may immediately terminate this Agreement.
- (e) Immediately, in the event of an emergency, as determined by Lessor in its reasonable discretion.
- (f) By either party pursuant to paragraph 17, "Relocation", of this Agreement.
- (g) In the event of any termination under this Paragraph, Lessee shall pay Lessor all monies due as of the date of termination, including rent, attorneys' and collection fees and any other damages incurred by Lessor as a result of such termination. In addition, Lessee shall, at its sole expense, return the Premises to the same or better condition than existed on the Commencement Date (normal wear and tear, and casualty beyond Lessee's control, excepted), and shall remove the Antenna Facilities.

9. **Taxes.** Lessee shall pay all personal property taxes, other taxes and assessments, if any, assessed on, or any portion of, the Antenna Facilities or Lessee's use of the Premises. Lessor shall pay, when due, all real property taxes and all other fees and assessments attributable to the Premises. However, Lessee shall reimburse Lessor, as additional Rent, any increase in real property taxes levied against the Premises (excluding any additional taxes that relate to the period prior to the Commencement Date, i.e., roll-back taxes) which is directly attributable to Lessee's use of the Premises, and Lessor agrees to furnish proof, from the taxing authority, of such increase to Lessee.

10. **Insurance and Subrogation.** Lessee shall maintain throughout the Term and any Renewal Term of this Agreement, a policy of liability insurance covering the Lessee, which shall include the Lessor as an additional insured as their interest may appear under this Agreement, in the following amounts with such carriers

COMMISSIONERS JOURNAL NO. 74 - DELAWARE COUNTY
 MINUTES FROM REGULAR MEETING HELD MAY 20, 2021

having a rating of A-: VII or better:

- (a) Commercial General Liability with a limit of Two Million Dollars (\$2,000,000.) per occurrence and Three Million Dollars (\$3,000,000) general aggregate.
- (b) Commercial Automobile Liability with a combined single limit of Three Million Dollars (\$3,000,000) each accident for bodily injury and property damage.

Lessor may review the limits for the insurance policies required by this Agreement at the beginning of any Renewal Term. Policy limits shall be adjusted to proper and reasonable limits as circumstances warrant, as reasonably determined by Lessor, but in no event shall such policy limits be reduced below those stated above.

Each party hereby releases the other party and the other’s employees, agents, customers and visitors from any and all liability for any loss of or damage or injury to person or property occurring in, on or about or to the Premises or Property by reason of fire or other casualty which could be insured against under a standard fire and extended coverage insurance policy, regardless of cause, including the negligence of the other party and its employees, agents, customers and visitors. Notwithstanding the foregoing, Lessee shall bear the sole risk of any loss of or damage to its Antenna Facilities or other personal property of Lessee. Lessee agrees that such insurance carried by Lessee shall contain a clause whereby the insurance company waives its right of subrogation against Lessor. Because the provisions of this Section are intended to preclude the assignment of any claim mentioned herein by way of subrogation or otherwise to an insurance company or any other person, Lessee shall give to each insurance company which has issued to it one or more policies of fire and extended coverage insurance notice of the provisions of this Section and have such insurance policies properly endorsed, if necessary, to prevent the invalidation of such insurance by reason of the provisions of this Section.

11. **Indemnity and Hold Harmless.**

- (a) Disclaimer of Liability. Lessor shall not, at any time, be liable for injury or damage occurring to any person or property from any cause whatsoever arising out of Lessee’s construction, installation, maintenance, repair, use, operation, condition or dismantling of the Premises or the Antenna Facilities and Lessee expressly assumes all such risk.
- (b) Lessee agrees to indemnify and hold Lessor and Lessor’s commissioners, officers, employees, agents, contractors, and invitees harmless from any and all liability, damages or claims, (including without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), arising or alleged to arise from any act or omission of Lessee, its employees, agents, contractors, or subcontractors or which may be in any way connected with the construction, installation, use, maintenance, repair or removal of the Antenna Facilities or use of the Premises, except to the extent attributable to the sole negligent acts or omissions of Lessor, its employees, agents or independent contractors.
- (c) The obligations described in this Paragraph shall survive the expiration or termination of this Agreement.

12. **Notices.** All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, or sent by overnight carrier to the following addresses, or such other address as a party may from time to time advise in writing:

If to Lessor, to:	Cell Site Capital, LLC 1491 Polaris Parkway, Suite 190 Columbus, OH 43240
With a copy to:	Delaware County Board of Commissioners 101 North Sandusky Street Delaware, Oh 43015
If to Lessee, to:	Cellco Partnership d/b/a Verizon Wireless 180 Washington Valley Road Bedminster, New Jersey 07921 Attention: Network Real Estate
With a copy to:	

13. **Quiet Enjoyment, Title and Authority.** Lessor represents and warrants to Lessee that:

- (a) Lessor has full right, power, and authority to execute this Agreement;

**COMMISSIONERS JOURNAL NO. 74 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD MAY 20, 2021**

- (b) Lessor has good and marketable title to the Premises free and clear of any liens or mortgages except those matters which are of public record as of the Commencement Date; and
- (c) There is direct legal ingress and egress to the Premises for Lessee's use for vehicles and pedestrians from a public right-of-way. Subject to Paragraph 7 of this Agreement, Lessee shall have quiet enjoyment of the Premises during the Term of this Agreement and any Renewal Term.

14. **Environmental Laws.**

- (a) Lessee represents, warrants and agrees that its use of the Premises and the Property shall be in compliance with all environmental laws, including those described in Exhibit "D" ("Environmental Laws"). "Hazardous Substances" means asbestos or any hazardous substance, waste or material as defined in any federal, state or local environmental or safety law or regulation including, but not limited to, CERCLA.
- (b) Lessor represents that it has no actual knowledge of Hazardous Substance on the Property. Lessee shall not introduce or use any such substance on the Property in violation of any applicable laws.
- (c) Lessor shall be responsible for, and shall promptly conduct, any investigation and remediation as required by any Environmental Laws or common law, of all spills or other releases of Hazardous Substance, not caused by Lessee, that have occurred or which may occur on the Property and which were caused by Lessor.
- (d) Lessee agrees to defend, indemnify and hold Lessor harmless from and against any and all claims, causes of action, demands and liabilities including, but not limited to, damages, costs, expenses, assessments, penalties, fines, losses, judgments and attorneys' fees that Lessor may suffer due to the existence or discovery of any Hazardous Substance on the Property or the migration of any Hazardous Substance to other properties or released into the environment, to the extent caused by or resulting from Lessee's activities on the Property. Notwithstanding the foregoing or any other provision in this Agreement, Lessee shall not be liable or responsible for any environmental condition, including the release of Hazardous Substances, that existed before the execution of this Agreement, or that otherwise does not result from the activities of Lessee.
- (e) The indemnification in this section specifically includes costs incurred in connection with any investigation of Premises conditions or any cleanup, remedial, removal or restoration work required by any governmental authority.
- (f) The provisions of this Paragraph will survive the expiration or termination of this Agreement.

15. **Assignment and Subleasing.** Lessee may not assign, or otherwise transfer all or any part of its interest in this Agreement or in the Premises without the prior written consent of Lessor; provided, however, that Lessee may, upon providing written notice to Lessor, assign its interest to its parent company, any subsidiary or affiliate of it or its parent company or to any successor-in-interest or entity acquiring fifty-one percent (51%) or more of its stock or assets, subject to any financing entity's interest, if any, in this Agreement as set forth in Paragraph 23 below, subject to the assignee assuming all of Lessee's obligations herein. Lessor may assign this Agreement upon written notice to Lessee, subject to the assignee assuming all of Lessor's obligations herein. Notwithstanding anything to the contrary contained in this Agreement, Lessee may assign, mortgage, pledge, hypothecate or otherwise transfer without consent its interest in this Agreement to any financing entity, or agent on behalf of any financing entity to whom Lessee (i) has obligations for borrowed money or in respect of guaranties thereof, has obligations evidenced by bonds, debentures, notes or similar instruments, or (iii) has obligations under or with respect to letters of credit, bankers acceptances and similar facilities or in respect of guaranties thereof.

16. **Successors and Assigns.** This Agreement shall run with the Property and shall be binding on and inure to the benefit of the parties, and, subject to Paragraph 15, their respective permitted successors, personal representatives and assignees.

17. **Relocation.** In the event Lessor desires to redevelop, modify, remodel or in any way alter the Property and/or any improvements located thereon ("Redevelopment"), Lessor shall in good faith use its best efforts to fully accommodate Lessee's use of the Premises. Should any proposed Redevelopment necessitate the relocation of the Antenna Facilities, Lessee and Lessor shall use best efforts to find a mutually acceptable alternate location for the Antenna Facilities. Lessee shall relocate or make the necessary alterations, at Lessee's sole cost, expense and risk; provided, however that Lessor has provided Lessee with no less than two hundred seventy (270) days prior written notice of Lessor's proposed Redevelopment. In the event that Lessee and Lessor cannot agree on an alternative location for the Antenna Facilities on the Property using best efforts, either party may terminate this Lease, the effective termination date being ninety (90) days after Lessee's receipt of Lessor's notice of the proposed Redevelopment and such termination shall be Lessee's sole remedy. If the parties agree on an acceptable

**COMMISSIONERS JOURNAL NO. 74 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD MAY 20, 2021**

alternate location for the Antenna Facilities, Lessor and Lessee agree to use their best efforts to amend this Agreement to document the new, alternate Antenna Facilities location, and from and after the date Lessee begins installation of its Antenna Facilities at such new location, such new location shall be deemed the Premises (or part thereof, as applicable) herein.

18. **Restoration.** In the event that Lessee causes damage of any kind during the course of installing, operating or maintaining Antenna Facilities, including damage to the Property caused by cutting, boring, jack hammering, excavation or other work, and including latent damage not immediately apparent at the time of the work, Lessee shall repair the damage and restore the Property at its sole cost and expense, without delay or interruption and within the reasonable time period prescribed by Lessor.

19. **Maintenance.**

Lessee shall, at its own expense, maintain the Premises and Antenna Facilities on or attached to the Premises in a safe condition, in good repair and in a manner suitable to Lessor subject to force majeure or unless affected by destruction which is not the result of Lessee's activities or operations. Additionally, Lessee shall keep the Premises free of debris and anything of a dangerous, noxious or offensive nature or which would create a hazard or undue vibration, heat, noise or any interference with Lessee services. Lessee shall have sole responsibility for the maintenance, repair, and security of its Antenna Facilities and leasehold improvements. All tree work shall be done at the direction of a tree service company mutually acceptable by both the Lessor and Lessee to ensure that best management practices are followed.

Lessee shall not be required to make any repairs to the Premises or Property (except as otherwise set forth herein) unless such repairs shall be necessitated by reason of the act, default or neglect of Lessee, its agents, employees, contractors, or invitees. Lessee is required to make all necessary repairs to the Antenna Facilities.

20. **Tower Analysis.**

- (a) Lessor agrees to furnish Lessee, promptly on Lessee's request, with true copies of all tower analyses performed on the Tower within the two (2) years preceding Lessee's possession of space on the Tower. In the absence of said Tower analyses or if the most recent analyses are insufficient for Lessee's needs, Lessor, at Lessee's request, agrees to cooperate with Lessee in acquiring new analyses of the Tower.
- (b) If Lessee requests any new analyses of the Tower, Lessee shall be responsible for coordinating the said new analyses, and the cost of the new analyses shall be paid solely by Lessee. Notwithstanding the foregoing, in the event Lessee determines after reviewing any Tower analyses that the Tower is not structurally appropriate for Lessee's needs, Lessee may, at Lessee's option, either terminate this Lease or with the written consent of the Lessor pay the additional cost of reinforcing or otherwise making the Tower structurally appropriate for Lessee's use, provided all local, State, and Federal laws, rules, and regulations are adhered to at Lessee's expense in the construction process.
- (c) Lessee shall provide Lessor with (i) a complete equipment list, (ii) a current structural, (iii) any proposed future reserved tower loading, (iv) any proposed reserved tower loading, (v) current wind load, (vi) future reserved wind load and (vii) a complete passing structural which contemplates all of the relevant aforementioned requirements.

21. **Survey.** Lessor also hereby grants to Lessee the right to survey the Property and Premises and said survey shall then become Exhibit "E" which shall be attached hereto and made a part hereof and shall control in the event of boundary and access discrepancies between it and Exhibit "A". Cost for such work shall be borne by the Lessee.

22. **Compliance with Laws.** Lessee's use of the Premises is subject to it obtaining all certificates, permits, zoning, and other approvals that may be required by any federal, state or local authority. Lessee shall erect, maintain and operate its Antenna Facilities in accordance with applicable standards, statutes, ordinances, rules and regulations now or hereinafter in effect as may be issued by the Federal Communications Commission. This Agreement and the performance thereof shall be governed, interpreted, construed and regulated by the Laws of the State of Ohio.

23. **Waiver of Lessor's Lien.**

Lessor waives any lien rights it may have concerning the Lessee Facilities which are deemed Lessee's personal property and not fixtures, and Lessee has the right to remove the same at any time without Lessor's consent.

24. **Miscellaneous.**

- (a) Any claim, controversy, or dispute arising out of this Agreement shall be filed in and heard before the courts of Delaware County, Ohio.

**COMMISSIONERS JOURNAL NO. 74 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD MAY 20, 2021**

- (b) Each party agrees to furnish to the other, within thirty (30) business days after request, such truthful estoppel information as the other may reasonably request.
- (c) This Agreement constitutes the entire agreement and understanding of the parties, and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind not set forth herein. Any amendments to this Agreement must be in writing and executed by both parties.
- (d) If either party is represented by a real estate broker in this transaction, that party shall be fully responsible for any fee due such broker and shall hold the other party harmless from any claims for commission by such broker.
- (e) Each party agrees to cooperate with the other in executing any documents necessary to protect its rights or use of the Premises, including but not limited to, a Memorandum of Lease, easement agreements, and attornment to and non-disturbance agreement from any existing or future mortgagee or ground lessor, assuring that Lessee may remain in possession of the Premises without reduction in its rights under this Agreement should Lessor default under said mortgage or ground lease. Such documents shall be commercially reasonable in content and in form suitable for recordation. Each party may record a Memorandum of Agreement in place of this Agreement.
- (f) This Agreement shall be construed in accordance with the laws of Delaware County and the State of Ohio.
- (g) If any term of this Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of this Agreement, which shall continue in full force and effect.
- (h) The parties agree that the terms and conditions of this Agreement are privileged information, and that such information will be treated in full confidence and will not be revealed to other persons, firms or organizations, except as otherwise required pursuant to the Ohio Public Records Act and any other applicable law, discovery request or court order.
- (i) In any case where the approval or consent of one party hereto is required, requested or otherwise to be given under this Agreement, such party shall not unreasonably delay or withhold its approval or consent.
- (j) If the Premises or the Antenna Facilities are damaged, destroyed, condemned or transferred in lieu of condemnation, Lessee may elect to terminate this Agreement as of the date of the damage, destruction, condemnation or transfer in lieu of condemnation by giving notice to Lessor no more than forty-five (45) days following the date of such damage, destruction, condemnation or transfer in lieu of condemnation. If Lessee chooses not to terminate this Agreement, Rent shall be reduced or abated in proportion to the actual reduction or abatement of use of the Premises.
- (k) This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

MEMORANDUM OF TOWER AND GROUND LEASE AGREEMENT

This MEMORANDUM OF TOWER AND GROUND LEASE AGREEMENT is dated this 23rd day of April, 2021, (date of first signature) and made effective this 20th day of May, 2021 (date of last signature) between the Delaware County Commissioners, hereinafter referred to as "LESSOR", and Cellco Partnership d/b/a Verizon Wireless, with its principal office located at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920, hereinafter referred to as "LESSEE". LESSOR and LESSEE are at times collectively referred to hereinafter as the "Parties" or individually as the "Party".

1. LESSOR and LESSEE entered into a Tower and Ground Lease Agreement (the "Agreement") on 20th day of May, 2021 for an initial term of ten (10) years, commencing on the Commencement Date. The Agreement shall automatically be extended for four (4) additional five (5) year terms unless the LESSEE terminates it at the end of the then current term by giving the LESSOR written notice of the intent to terminate at least three (3) months prior to the end of the then current term.
2. LESSOR hereby leases to the LESSEE a portion of that certain space (the "Tower Space") on the LESSOR's tower, hereinafter referred to as the "Tower", located at 4061 State Route 203, Radnor, Ohio 43066 (the entirety of LESSOR's property is referred to hereinafter as the "Property"), together with a parcel of land (the "Land Space") sufficient for the installation of LESSEE's equipment; together with the non-exclusive right (the "Right of Way") for ingress and egress, seven (7) days a week, twenty-four (24) hours a day, on foot or motor vehicle, including trucks, and for the installation and maintenance of utility wires, fiber, poles, cables, conduits, and pipes over, under, or along right-of-way extending from the nearest public right-of-way to the Land Space; and together with any further rights of way (the "Further Rights of Way") over and

COMMISSIONERS JOURNAL NO. 74 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD MAY 20, 2021

through the Property between the Land Space and the Tower Space for the installation and maintenance of utility wires, poles, cables, conduits, and pipes. The Tower Space, Land Space, Right of Way and Further Rights of Way, if any, are substantially described or depicted in Exhibit A, attached hereto and made a part hereof and are collectively referred to hereinafter as the "Premises".

- 3. The Commencement Date of the Agreement, of which this is a Memorandum, shall be the first day of the month following the installation of LESSEE's equipment.
- 4. The terms, covenants and provisions of the Agreement, the terms of which are hereby incorporated by reference into this Memorandum, shall extend to and be binding upon the respective executors, administrators, heirs, successors and assigns of LESSOR and LESSEE.

(Copy exhibits available for review at the Commissioners' Office until no longer of administrative value.)

Vote on Motion Mr. Benton Aye Mrs. Lewis Aye Mr. Merrell Aye

8

ADMINISTRATOR REPORTS

Mike Frommer, County Administrator

- The County will be receiving the first half of the America Rescue Plan funding today.
- Presented at Delaware Rotary with Commissioner Merrell Monday afternoon. Spoke with Judge Shaw who talked about the history of the Historic Courthouse.

9

COMMISSIONERS' COMMITTEES REPORTS

Commissioner Benton

- The America Rescue Plan funding will need to be committed by 2024 and spent by 2026.
- The Land Bank met yesterday.
- The Central Ohio Youth Center Board will meet this afternoon.
- The 23 Centerline Study being done by ODOT will look at Route 23 from Waldo to I270.
- Will be attending the Chambers' Third Thursday lunch today. The topic will be the State Budget.
- In golf news... the second majors started today.

Commissioner Lewis

- Will be on a phone call with CCAO Assistant Executive Director, John Luetz today to discuss TCAP funding. The Buckeye Institute would like it to be mandatory.

Commissioner Merrell

- The 23 Centerline Study will be looking at Route 23 from Toledo to Columbus.
- Happy Birthday to Mike Frommer!

Other Business

RESOLUTION NO. 21-429

IN THE MATTER OF ACKNOWLEDGING RECEIPT OF ANNEXATION PETITION FROM AGENT FOR THE PETITIONER, JENNIFER GALLAGHER, DIRECTOR OF PUBLIC SERVICE OF THE CITY OF COLUMBUS, REQUESTING ANNEXATION OF 0.384 ACRES OF LAND IN ORANGE TOWNSHIP TO THE CITY OF COLUMBUS:

It was moved by Mr. Benton, seconded by Mrs. Lewis to acknowledge that on May 13, 2021, the Clerk to the Board of Commissioners received a petition requesting annexation of 0.384 acres of Land in Orange Township to the City of Columbus.

Vote on Motion Mrs. Lewis Aye Mr. Merrell Aye Mr. Benton Aye

10

RESOLUTION NO. 21-430

IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF APPOINTMENT OF A PUBLIC EMPLOYEE OR PUBLIC OFFICIAL:

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve the following:

WHEREAS, pursuant to section 121.22(G) of the Revised Code, a public body may hold an executive session only after a majority of a quorum of the public body determines, by a roll call vote, to hold an executive session and only at a regular or special meeting for the sole purpose of the consideration of any of the matters specified in section 121.22(G)(1)-(7) of the Revised Code; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Delaware County, State of Ohio:

**COMMISSIONERS JOURNAL NO. 74 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD MAY 20, 2021**

Section 1. The Board hereby adjourns into executive session for consideration of appointment of a public employee or public official.

Vote on Motion Mrs. Lewis Aye Mr. Merrell Aye Mr. Benton Aye

RESOLUTION NO. 21-431

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

It was moved by Mrs. Lewis, seconded by Mr. Benton to adjourn out of Executive Session.

Vote on Motion Mr. Merrell Aye Mrs. Lewis Aye Mr. Benton Aye

RESOLUTION NO. 21-430

IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION THE SALE OF PROPERTY AT COMPETITIVE BIDDING; FOR SECURITY ARRANGEMENTS AND EMERGENCY RESPONSE PROTOCOLS:

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve the following:

WHEREAS, pursuant to section 121.22(G) of the Revised Code, a public body may hold an executive session only after a majority of a quorum of the public body determines, by a roll call vote, to hold an executive session and only at a regular or special meeting for the sole purpose of the consideration of any of the matters specified in section 121.22(G)(1)–(7) of the Revised Code; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Delaware County, State of Ohio:

Section 1. The Board hereby adjourns into executive session for consideration sale of property at competitive bidding; for security arrangements and emergency response protocols.

Vote on Motion Mr. Benton Aye Mr. Merrell Aye Mrs. Lewis Ate

RESOLUTION NO. 21-433

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

It was moved by Mrs. Lewis, seconded by Mr. Benton to adjourn out of Executive Session.

Vote on Motion Mrs. Lewis Aye Mr. Benton Aye Mr. Merrell Aye

Attendance Commissioners' Hearing Room:

- Michael Frommer, County Administrator
- Dawn Huston, Deputy County Administrator
- Aric Hochstettler, Staff Attorney
- Jennifer Walraven, Clerk to the Board Commissioners
- Sarah Dinovo, Assistant Clerk/Administrative Assistant
- Heather Van Hull, Communications/Legal Assistant Board of Commissioners
- Marisa Stith, Communications/Executive Assistant Board of Commissioners
- Patrick Brandt, Director of Emergency Communications
- Jeff Fishel, Director of Emergency Medical Services
- Captain Tim Davis, Delaware County EMS
- Lieutenant Zach Wolfe, Delaware County EMS
- Lieutenant Ryan Strohl, Delaware County EMS
- Krista Garner, Delaware County EMS paramedic
- Libby Wurst, Delaware County EMS paramedic
- Jeff Hanlon, Delaware County EMS paramedic

There being no further business, the meeting adjourned.

COMMISSIONERS JOURNAL NO. 74 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD MAY 20, 2021

Barb Lewis

Jeff Benton

Jennifer Walraven, Clerk to the Commissioners