

**VILLAGE OF DOWNERS GROVE**  
**Report for the Village**  
**10/3/2017**

<b>SUBJECT:</b>	<b>SUBMITTED BY:</b>
Second Amendment to License Agreement for Antenna on Village Property - American Tower	Enza Petrarca Village Attorney

**SYNOPSIS**

A resolution has been prepared authorizing approval of a second amendment to the License Agreement with American Tower Asset Sub, LLC for the continued operation of an antenna tower on Village property located at 5231 Katrine Avenue.

**STRATEGIC PLAN ALIGNMENT**

The goals for 2017-2019 include *Steward of Financial, Environmental and Neighborhood Sustainability*.

**FISCAL IMPACT**

Approval of the proposed second amendment would result in the Village collecting a \$40,000 signing bonus for extending the term 30 years. Effective September 1, 2017 the Village will receive \$2,484.46 in monthly revenue from American Tower (with a 4% increase each year thereafter) and 50% in monthly revenue from any sublessees that operate on the tower.

**RECOMMENDATION**

Approval on the October 3, 2017 consent agenda.

**BACKGROUND**

The Village is the owner of the real estate commonly known as the Katrine well house site located at 5231 Katrine. Smart SMR of IL d/b/a Nextel requested permission to install an antenna tower and construct and maintain an accessory structure on the property for the purpose of providing cellular communication services. In July of 1996, the Village agreed to license and permit installation of a tower for an initial lease term of 15 years. In 2006 American Tower Asset Sub, LLC overtook the rights to the tower and in 2007 signed a First Amendment to the License agreement for a lease term ending August 31, 2021.

American Asset Tower Sub contacted the Village in 2017 and requested a Second Amendment to the License Agreement to extend the lease term past 2021. A one-time payment of \$40,000 for a 30 year extended renewal was proposed to the Village. The Village currently receives \$2,484.46 per month with a 4% increase each year thereafter, plus 50% of sublease revenue for a total of \$4,067.26 (\$1,063.75 from Nextel and \$519.05 from Verizon).

**ATTACHMENTS**

Resolution  
Second Amendment to License Agreement

**RESOLUTION NO. \_\_\_\_\_****A RESOLUTION AUTHORIZING EXECUTION OF A SECOND AMENDMENT  
TO LICENSE AGREEMENT  
BETWEEN THE VILLAGE OF DOWNERS GROVE AND  
AMERICAN TOWER ASSET SUB, LLC**

BE IT RESOLVED by the Village Council of the Village of Downers Grove, DuPage County, Illinois as follows:

1. That the form and substance of a certain Second Amendment to License Agreement ("Agreement"), between the Village of Downers Grove ("Village") and American Tower Asset Sub, LLC ("Licensee") for the maintenance and operation of antenna equipment on Village property located at 5231 Katrine Avenue, Downers Grove, IL, as set forth in the Agreement submitted to this meeting with the recommendation of the Village Manager, is hereby approved.
2. That the Village Manager and Village Clerk are hereby respectively authorized and directed for and on behalf of the Village to execute, attest, seal and deliver the Agreement, substantially in the form approved in the foregoing paragraph of this Resolution, together with such changes as the Manager shall deem necessary.
3. That the proper officials, agents and employees of the Village are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform all obligations and commitments of the Village in accordance with the provisions of the Agreement.
4. That all resolutions or parts of resolutions in conflict with the provision of this Resolution are hereby repealed.
5. That this Resolution shall be in full force and effect from and after its passage as provided by law.

\_\_\_\_\_  
Mayor

Passed:

Attest: \_\_\_\_\_  
Village Clerk

## THE SECOND AMENDMENT TO LICENSE AGREEMENT

This Second Amendment to License Agreement (this "**Amendment**") is made effective as of the latter signature date hereof (the "**Effective Date**") by and between **Village of Downers Grove**, an Illinois Municipal Corporation ("**Landlord**") and **American Tower Asset Sub, LLC**, a Delaware limited liability company ("**Tenant**") (Landlord and Tenant being collectively referred to herein as the "**Parties**").

### RECITALS

**WHEREAS**, Landlord owns the real property described on Exhibit A attached hereto and by this reference made a part hereof (the "**Parent Parcel**"); and

**WHEREAS**, Landlord (or its predecessor-in-interest) and Tenant (or its predecessor-in-interest) entered into that certain License Agreement dated July 1, 1996 (as the same may have been amended from time to time, collectively, the "**License Agreement**"), pursuant to which the Landlord licenses a portion of the Parent Parcel (the "**Licensed Premises**") to the Tenant and the Tenant is the beneficiary of certain easements for access and public utilities, all as more particularly described in the License Agreement, which Licensed Premises and easements are also described on Exhibit A; and

**WHEREAS**, Landlord and Tenant desire to amend the terms of the License Agreement to extend the term thereof and to otherwise modify the License Agreement as expressly provided herein.

**NOW THEREFORE**, in consideration of the foregoing recitals and the mutual covenants set forth herein and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **One-Time Payment.** Tenant shall pay to Landlord a one-time payment in the amount of **Forty Thousand and No/100 Dollars (\$40,000.00)**, payable within thirty (30) days of the Effective Date and subject to the following conditions precedent: (a) Tenant's receipt of this Amendment executed by Landlord; (b) Tenant's confirmation that Landlord's statements as further set forth in this Amendment are true, accurate, and complete, including verification of Landlord's ownership; (c) Tenant's receipt of any documents and other items reasonably requested by Tenant in order to effectuate the transaction and payment contemplated herein; and (d) receipt by Tenant of an original Memorandum (as defined herein) executed by Landlord.
2. **License Term Extended.** Notwithstanding anything to the contrary contained in the License Agreement or this Amendment, the Parties agree the License Agreement originally commenced on September 1, 1996 and, without giving effect to the terms of this Amendment but assuming the exercise by Tenant of all remaining renewal options contained in the License Agreement (each an "**Existing Renewal Term**" and, collectively, the "**Existing Renewal Terms**"), the License Agreement is otherwise scheduled to expire on August 31, 2021. In addition to any Existing Renewal Term(s), the License Agreement is hereby amended to provide Tenant with the option to extend the License Agreement for each of six (6) additional five (5) year renewal terms (each a "**New Renewal Term**" and, collectively, the "**New Renewal Terms**"). Notwithstanding anything to the contrary contained in the License Agreement, (a) all Existing Renewal Terms and New Renewal Terms shall automatically renew unless Tenant notifies Landlord that Tenant elects not to renew the License Agreement at least sixty (60) days prior to the commencement of the next Renewal Term (as defined below) and (b) Landlord shall be able to terminate this License Agreement only in the event of a material default by Tenant, which default is not cured within sixty (60) days of Tenant's receipt of written notice thereof, provided, however, in the event that Tenant has diligently commenced to cure a material default within sixty (60) days of Tenant's actual receipt of notice thereof and reasonably requires additional time beyond the sixty (60) day cure period described herein to effect such cure, Tenant shall have such additional time as is necessary (beyond the sixty [60] day cure period) to effect the cure. References in this Amendment to "**Renewal Term**" shall refer, collectively, to

the Existing Renewal Term(s) and the New Renewal Term(s). The Landlord hereby agrees to execute and return to Tenant an original Memorandum of License Agreement in the form and of the substance attached hereto as **Exhibit B** and by this reference made a part hereof (the "**Memorandum**") executed by Landlord, together with any applicable forms needed to record the Memorandum, which forms shall be supplied by Tenant to Landlord. Tenant may terminate the License Agreement, as hereby amended, upon thirty (30) days prior written notice to Landlord.

3. **Compensation and Escalation.** The Parties hereby acknowledge and agree that all applicable increases and escalations to the rental payments under the License Agreement (the "**Compensation**") shall continue in full force and effect through the New Renewal Term(s). Notwithstanding anything to the contrary contained in the License Agreement, all Compensation and any other payments expressly required to be paid by Tenant to Landlord under the License Agreement and this Amendment shall be paid to **VILLAGE OF DOWNERS GROVE, IL**.
4. **Landlord and Tenant Acknowledgments.** Except as modified herein, the License Agreement and all provisions contained therein remain in full force and effect and are hereby ratified and affirmed. The parties hereby agree that no defaults exist under the License Agreement. To the extent Tenant needed consent and/or approval from Landlord for any (a) construction, repair, maintenance, renewal, or replacement of improvements within the Licensed Premises made prior to the Effective Date of this Amendment, or (b) assignment or sublease of any portion of the Licensed Premises or Tenant's interest in the License Agreement prior to the Effective Date of this Amendment, Landlord's execution of this Amendment is and shall be considered consent to and approval of such activities and uses, provided that such activities and uses are otherwise performed in accordance with the terms of the License Agreement, as modified by this Amendment. Tenant may sublet all or any portion of the Licensed Premises to one or more entities, for telecommunications and related uses only, upon written consent of the Landlord, which consent shall not be unreasonably withheld or delayed. Tenant shall provide a copy of any proposed sublet agreement and any plans or drawings applicable to the sublet along with its application to the Village of Downers Grove for any permit required in connection with such sublet. Notwithstanding anything to the contrary contained in the Lease or this Amendment, Tenant shall have the right to redact any sublet agreement in Tenant's sole discretion, provided that the following information remains unredacted: (i) the identity of the sublessee, (ii) the commencement date of the sublet agreement, (iii) the duration of the sublet agreement, including any options to renew, and (iv) the rental amounts owed to Tenant under the sublet agreement, including any scheduled escalations. Tenant shall continue to submit Fifty percent (50%) of the rental amounts received from the sublessee to the Landlord in accordance with Section 15(c) of the Lease. Section 3 of the License Agreement shall remain in full force and effect. Tenant and Tenant's sublessees and customers shall have vehicular (specifically including truck) and pedestrian access to the Licensed Premises from a public right of way on a 24 hours per day, 7 days per week basis, together with utilities services to the Licensed Premises from a public right of way. Upon request by Tenant and at Tenant's sole cost and expense, Landlord hereby agrees to promptly execute and return to Tenant building permits, zoning applications and other forms and documents, including a memorandum of License Agreement, as required for the use of the Licensed Premises by Tenant and/or Tenant's customers, licensees, and sublessees as expressly provided for in the License Agreement, as modified by this Amendment. The terms, provisions, and conditions of this Section shall survive the execution and delivery of this Amendment.
5. **Limited Right of First Refusal.** Notwithstanding anything to the contrary contained herein, this paragraph shall not apply to any fee simple sale of the Parent Parcel from Landlord to any prospective purchaser that is not a Third Party Competitor (as herein defined). If Landlord receives an offer or desires to offer to: (i) sell or convey any interest (including, but not limited to, leaseholds or easements) in any real property of which the Licensed Premises is a part to any person or entity directly or indirectly engaged in

the business of owning, acquiring, operating, managing, investing in or leasing wireless telecommunications infrastructure (any such person or entity, a "**Third Party Competitor**") or (ii) assign all or any portion of Landlord's interest in the License Agreement to a Third Party Competitor (any such offer, the "**Offer**"), Tenant shall have the right, exercisable in Tenant's sole and absolute discretion, of first refusal to purchase the real property or other interest being offered by Landlord in connection with the Offer on the same terms and conditions. If Tenant elects, in its sole and absolute discretion, to exercise its right of first refusal as provided herein, Tenant must provide Landlord with notice of its election not later than forty-five (45) days after Tenant receives written notice from Landlord of the Offer. If Tenant elects not to exercise Tenant's right of first refusal with respect to an Offer as provided herein, Landlord may complete the transaction contemplated in the Offer with the Third Party Competitor on the stated terms and price but with the express condition that such sale is made subject to the terms of the License Agreement and any amendments thereto. Landlord hereby acknowledges and agrees that any sale or conveyance by Landlord in violation of this Section is and shall be deemed to be null and void and of no force and effect. The terms, provisions, and conditions of this Section shall survive the execution and delivery of this Amendment.

6. **Landlord Statements.** Landlord hereby represents and warrants to Tenant that: (i) to the extent applicable, Landlord is duly organized, validly existing, and in good standing in the jurisdiction in which Landlord was organized, formed, or incorporated, as applicable, and is otherwise in good standing and authorized to transact business in each other jurisdiction in which such qualifications are required; (ii) Landlord has the full power and authority to enter into and perform its obligations under this Amendment, and, to the extent applicable, the person(s) executing this Amendment on behalf of Landlord, have the authority to enter into and deliver this Amendment on behalf of Landlord; (iii) no consent, authorization, order, or approval of, or filing or registration with, any governmental authority or other person or entity is required for the execution and delivery by Landlord of this Amendment; (iv) Landlord is the sole owner of the Licensed Premises and all other portions of the Parent Parcel; and (v) there are no agreements, liens, encumbrances, claims, claims of lien, proceedings, or other matters (whether filed or recorded in the applicable public records or not) related to, encumbering, asserted against, threatened against, and/or pending with respect to the Licensed Premises or any other portion of the Parent Parcel which do or could (now or any time in the future) adversely impact, limit, and/or impair Tenant's rights under the License Agreement, as amended and modified by this Amendment. The representations and warranties of Landlord made in this Section shall survive the execution and delivery of this Amendment.
7. **Notices.** All notices must be in writing and shall be valid upon receipt when delivered by hand, by nationally recognized courier service, or by First Class United States Mail, certified, return receipt requested to the addresses set forth herein: to Landlord at: 801 Burlington Ave., Downers Grove, IL 60515; to Tenant at: Attn: Land Management 10 Presidential Way, Woburn, MA 01801, with copy to: Attn Legal Dept., 116 Huntington Avenue, Boston, MA 02116. Any of the Parties, by thirty (30) days prior written notice to the other in the manner provided herein, may designate one or more different notice addresses from those set forth above. Refusal to accept delivery of any notice or the inability to deliver any notice because of a changed address for which no notice was given as required herein, shall be deemed to be receipt of any such notice.
8. **Counterparts.** This Amendment may be executed in several counterparts, each of which when so executed and delivered, shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument, even though all Parties are not signatories to the original or the same counterpart. Furthermore, the Parties may execute and deliver this Amendment by electronic means such as .pdf or similar format. Each of the Parties agrees that the delivery of the Amendment by electronic means will have the same force and effect as delivery of original signatures and that each of

the Parties may use such electronic signatures as evidence of the execution and delivery of the Amendment by all Parties to the same extent as an original signature.

9. **Governing Law.** Notwithstanding anything to the contrary contained in the License Agreement and in this Amendment, the License Agreement and this Amendment shall be governed by and construed in all respects in accordance with the laws of the State or Commonwealth in which the Licensed Premises is situated, without regard to the conflicts of laws provisions of such State or Commonwealth.
10. **Tenant's Securitization Rights; Estoppel.** Landlord hereby consents to the granting by Tenant of one or more leasehold mortgages, collateral assignments, liens, and/or other security interests (collectively, a "***Security Interest***") in Tenant's interest in this License Agreement, as amended, and all of Tenant's property and fixtures attached to and lying within the Licensed Premises and further consents to the exercise by Tenant's mortgagee ("***Tenant's Mortgagee***") of its rights to exercise its remedies, including without limitation foreclosure, with respect to any such Security Interest. Landlord shall recognize the holder of any such Security Interest of which Landlord is given prior written notice (any such holder, a "***Holder***") as "Tenant" hereunder in the event a Holder succeeds to the interest of Tenant hereunder by the exercise of such remedies. Landlord further agrees to execute a written estoppel certificate within thirty (30) days of written request of the same by Tenant or Holder.
11. **Taxes.** Tenant shall request a leasehold PIN from the applicable taxing authority and shall be solely responsible for payment of any taxes which are assessed as a result of Tenant's improvements on the Licensed Premises. The Landlord shall reasonably cooperate in Tenant's efforts to obtain such a leasehold PIN. If necessary to obtain such a leasehold PIN, Tenant shall provide a copy of this Agreement to the DuPage County Supervisor of Assessments, and shall ensure, to the extent permitted by law, that the tax bill connected to such leasehold PIN is sent directly to the Tenant. Once Tenant is billed directly, Tenant shall pay the taxes owed directly to the County Treasurer's Office by the due date indicated on the tax bill. Tenant shall be solely responsible to pay any late fees, interest or penalties if not paid by the due date. Tenant shall have the right, at its own expense and without expense to the Landlord, to contest by appropriate proceedings, conducted with due diligence and in good faith, the validity of the amount of taxes or reassessment as applicable to the Licensed Premises or the Tenant improvements. In the event that the Landlord becomes aware of any tax delinquency related to Tenant's tax obligations under the License Agreement, as amended, and Tenant fails to pay the amount necessary to cure that delinquency within thirty (30) days from the date the Landlord sends written notice thereof to the Tenant, the Landlord shall have the right to terminate the License Agreement, as hereby amended, and Tenant shall thereafter be obligated to remove its equipment in accordance with the terms of the License Agreement, as hereby amended. If Tenant fails to remove its equipment within the specified time period, the Landlord has the right to remove any of the Tenant's equipment.

[SIGNATURES COMMENCE ON FOLLOWING PAGE]

**LANDLORD:**

**Village of Downers Grove**

an Illinois Municipal Corporation

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

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

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

*[SIGNATURES CONTINUE ON FOLLOWING PAGE]*

**TENANT:****American Tower Asset Sub, LLC**

a Delaware limited liability company

Signature: Print Name: Shawn LanierTitle: Vice President - LegalDate: 9-15-2017



**EXHIBIT A**

*This Exhibit A may be replaced at Tenant's option as described below*

**PARENT PARCEL**

*Tenant shall have the right to replace this description with a description obtained from Landlord's deed (or deeds) that include the land area encompassed by the License Agreement and Tenant's improvements thereon*

The Parent Parcel consists of the entire legal taxable lot owned by Landlord as described in a deed (or deeds) to Landlord of which the Licensed Premises is a part thereof with such Parent Parcel being described below.

**LOT 20A IN ELLSWORTH PARK, UNIT NO. 4, A SUBDIVISION SITUATED IN THE  
SOUTH HALF OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 10, EAST OF THE  
THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED  
DECEMBER 11, 1959 AS DOCUMENT NO. 950172.**

***Being DuPage County, State of Illinois, Parcel Number 08-12-302-003***

EXHIBIT A (CONTINUED)

## LICENSED PREMISES

*Tenant shall have the right to replace this description with a description obtained from the License Agreement or from a description obtained from an as-built survey conducted by Tenant.*

The Licensed Premises consists of that portion of the Parent Parcel as defined in the License Agreement which shall include access and utilities easements. The square footage of the Licensed Premises shall be the greater of: (i) the land area conveyed to Tenant in the License Agreement; (ii) Tenant's (and Tenant's customers') existing improvements on the Parent Parcel; or (iii) the legal description or depiction below (if any).

A PARCEL OF LAND FOR LEASE SITE PURPOSES LOCATED WITHIN THAT PART OF LOT 20A, IN ELLSWORTH PARK UNIT NO. 4, A SUBDIVISION SITUATED IN THE SOUTH HALF OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 11, 1959 AS DOCUMENT NO. 950172, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 20A; THENCE N.89°47'10"E., (RECORD BEING N.89°47'00"E.), ALONG THE NORTH LINE OF SAID LOT 20A, A DISTANCE OF 293.09 FEET; THENCE S.00°12'50"E., PERPENDICULAR TO SAID NORTH LINE, 47.53 FEET; THENCE S.45°12'55"E., A DISTANCE OF 7.07 FEET; THENCE N.89°47'00"E., PERPENDICULAR TO THE EAST LINE OF SAID LOT 20A, A DISTANCE OF 41.88 FEET TO A LINE THAT IS 10.00 FEET WEST OF (MEASURED PERPENDICULAR THERETO) SAID PARALLEL WITH THE EAST LINE OF SAID LOT 20A; THENCE S.00°13'00"E., ALONG SAID PARALLEL LINE, 12.00 FEET FOR THE POINT OF BEGINNING; THENCE S.89°47'00"W., PERPENDICULAR TO THE EAST LINE OF SAID LOT 20A, A DISTANCE OF 55.00 FEET; THENCE S.00°13'00"E., PERPENDICULAR TO THE LAST DESCRIBED COURSE, 21.00 FEET; THENCE N.89°47'00"E., PERPENDICULAR TO THE LAST DESCRIBED COURSE, 55.00 FEET TO A LINE THAT IS PARALLEL WITH THE AFORESAID EAST LINE OF LOT 20A AND PASSES THROUGH THE POINT OF BEGINNING; THENCE N.00°13'00"W., ALONG SAID PARALLEL LINE, 21.00 FEET TO THE POINT OF BEGINNING, CONTAINING 1155.00 SQUARE FEET, IN DUPAGE COUNTY, ILLINOIS.

EXHIBIT A (CONTINUED)**ACCESS AND UTILITIES**

The access and utility easements include all easements of record as well that portion of the Parent Parcel currently utilized by Tenant (and Tenant's customers) for ingress, egress and utility purposes from the Licensed Premises to and from a public right of way including but not limited to:

A PARCEL OF LAND FOR ACCESS EASEMENT PURPOSES LOCATED WITHIN THAT PART OF LOT 20A, IN ELLSWORTH PARK UNIT NO. 4, A SUBDIVISION SITUATED IN THE SOUTH HALF OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 11, 1959 AS DOCUMENT NO. 950172, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 20A; THENCE N.89°47'10"E, (RECORD BEING N.89°47'00"E.), ALONG THE NORTH LINE OF SAID LOT 20A, A DISTANCE OF 293.09 FEET; THENCE S.00°12'50"E., PERPENDICULAR TO SAID NORTH LINE, 47.53 FEET; THENCE S.45°12'55"E., A DISTANCE OF 7.07 FEET; THENCE N.89°47'00"E., PERPENDICULAR TO THE EAST LINE OF SAID LOT 20A, A DISTANCE OF 41.88 FEET TO A LINE THAT IS 10.00 FEET WEST OF (MEASURED PERPENDICULAR THERETO) SAID PARALLEL WITH THE EAST LINE OF SAID LOT 20A; THENCE S.00°13'00"E., ALONG SAID PARALLEL LINE, 12.00 FEET; THENCE S.89°47'00"W., PERPENDICULAR TO THE EAST LINE OF SAID LOT 20A, A DISTANCE OF 58.88 FEET; THENCE N.00°12'50"W., PERPENDICULAR TO THE AFORESAID NORTH LINE OF LOT 20A, A DISTANCE OF 47.53 FEET; THENCE N.45°12'50"W., 7.07 FEET, TO A LINE THAT IS 12.00 FEET SOUTH OF (MEASURED PERPENDICULAR THERETO) AND PARALLEL WITH THE NORTH LINE OF SAID LOT 20A; THENCE S.89°47'10"W., ALONG SAID PARALLEL LINE, 276.09 FEET TO THE WEST LINE OF SAID LOT 20A; THENCE N.00°13'00"W., ALONG SAID WEST LINE, 12.00 FEET TO THE POINT OF BEGINNING, CONTAINING 4734.96 SQUARE FEET, IN DUPAGE COUNTY, ILLINOIS.

And

EXHIBIT A (CONTINUED)

## ACCESS AND UTILITIES (CONTINUED)

A PARCEL OF LAND FOR UTILITY EASEMENT PURPOSES LOCATED WITHIN THAT PART OF LOT 20A, IN ELLSWORTH PARK UNIT NO. 4, A SUBDIVISION SITUATED IN THE SOUTH HALF OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 11, 1959 AS DOCUMENT NO. 950172, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 20A; THENCE N.89°47'10"E., (RECORD BEING N.89°47'00"E.), ALONG THE NORTH LINE OF SAID LOT 20A, A DISTANCE OF 293.09 FEET FOR THE POINT OF BEGINNING; THENCE CONTINUING N.89°47'10"E., (RECORD BEING N.89°47'00"E.), ALONG SAID NORTH LINE, 25.00 FEET; THENCE S.00°12'50"E., PERPENDICULAR TO SAID NORTH LINE, 8.00 FEET; THENCE S.89°47'10"W., PARALLEL WITH SAID NORTH LINE, 25.00 FEET; THENCE N.00°12'50"W., PERPENDICULAR TO SAID NORTH LINE, 8.00 FEET TO THE POINT OF BEGINNING, CONTAINING 200.00 SQUARE FEET, IN DUPAGE COUNTY, ILLINOIS.

## **EXHIBIT B**

# **FORM OF MEMORANDUM OF LICENSE AGREEMENT**

**Prepared by and Return to:**

American Tower  
10 Presidential Way  
Woburn, MA 01801  
Attn: Land Management/Alexandra A. Nichols, Esq.  
ATC Site No: 304443  
ATC Site Name: W.downer's Grove  
Assessor's Parcel No(s): 08-12-302-003

**Prior Recorded License Reference:**

Book \_\_\_\_\_, Page \_\_\_\_\_  
Document No: R2008-046416  
State of Illinois  
County of Du Page

**MEMORANDUM OF LICENSE AGREEMENT**

This Memorandum of License Agreement (the "**Memorandum**") is entered into on the \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_ by and between **Village of Downers Grove**, an Illinois Municipal Corporation ("**Landlord**") and **American Tower Asset Sub, LLC**, a Delaware limited liability company ("**Tenant**").

**NOTICE** is hereby given of the License Agreement (as defined and described below) for the purpose of recording and giving notice of the existence of said License Agreement. To the extent that notice of such License Agreement has previously been recorded, then this Memorandum shall constitute an amendment of any such prior recorded notice(s).

1. **Parent Parcel and License Agreement.** Landlord is the owner of certain real property being described in **Exhibit A** attached hereto and by this reference made a part hereof (the "**Parent Parcel**"). Landlord (or its predecessor-in-interest) and Tenant (or its predecessor-in-interest) entered into that certain License Agreement dated July 1, 1996 (as the same may have been amended from time to time, collectively, the "**License Agreement**"), pursuant to which the Landlord licenses a portion of the Parent Parcel to Tenant, and Tenant is the beneficiary of certain easements for access and public utilities, all as more particularly described in the License Agreement (such portion of the Parent Parcel so licensed along with such portion of the Parent Parcel so affected, collectively, the "**Licensed Premises**"), which Licensed Premises is also described on **Exhibit A**.
2. **Expiration Date.** Subject to the terms, provisions, and conditions of the License Agreement, and assuming the exercise by Tenant of all renewal options contained in the License Agreement, the final expiration date of the License Agreement would be August 31, 2051. Notwithstanding the foregoing, in no event shall Tenant be required to exercise any option to renew the term of the License Agreement.
3. **Licensed Premises Description.** Tenant shall have the right, exercisable by Tenant at any time during the original or renewal terms of the License Agreement, to cause an as-built survey of the Licensed Premises to be prepared and, thereafter, to replace, in whole or in part, the description(s) of the Licensed Premises set forth on **Exhibit A** with a legal description or legal descriptions based upon such as-built survey. Upon Tenant's request, Landlord shall execute and deliver any documents reasonably necessary

to effectuate such replacement, including, without limitation, amendments to this Memorandum and to the License Agreement.

4. **Right of First Refusal.** There is a right of first refusal in the License Agreement.
5. **Effect/Miscellaneous.** This Memorandum is not a complete summary of the terms, provisions and conditions contained in the License Agreement. In the event of a conflict between this Memorandum and the License Agreement, the License Agreement shall control. Landlord hereby grants the right to Tenant to complete and execute on behalf of Landlord any government or transfer tax forms necessary for the recording of this Memorandum. This right shall terminate upon recording of this Memorandum.
6. **Notices.** All notices must be in writing and shall be valid upon receipt when delivered by hand, by nationally recognized courier service, or by First Class United States Mail, certified, return receipt requested to the addresses set forth herein: to Landlord at: 801 Burlington Ave., Downers Grove, IL 60515; to Tenant at: Attn: Land Management 10 Presidential Way, Woburn, MA 01801, with copy to: Attn Legal Dept., 116 Huntington Avenue, Boston, MA 02116. Any of the parties hereto, by thirty (30) days prior written notice to the other in the manner provided herein, may designate one or more different notice addresses from those set forth above. Refusal to accept delivery of any notice or the inability to deliver any notice because of a changed address for which no notice was given as required herein, shall be deemed to be receipt of any such notice.
7. **Counterparts.** This Memorandum may be executed in multiple counterparts, each of which when so executed and delivered, shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument.
8. **Governing Law.** This Memorandum shall be governed by and construed in all respects in accordance with the laws of the State or Commonwealth in which the Licensed Premises is situated, without regard to the conflicts of laws provisions of such State or Commonwealth.

[SIGNATURES COMMENCE ON FOLLOWING PAGE]

**IN WITNESS WHEREOF**, Landlord and Tenant have each executed this Memorandum as of the day and year set forth below.

**LANDLORD**

**2 WITNESSES**

**Village of Downers Grove**  
an Illinois Municipal Corporation

Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_

**WITNESS AND ACKNOWLEDGEMENT**

State/Commonwealth of \_\_\_\_\_

County of \_\_\_\_\_

On this \_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_, before me, \_\_\_\_\_, the undersigned Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public  
Print Name: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

[SEAL]

*[SIGNATURES CONTINUE ON FOLLOWING PAGE]*



**TENANT**

**American Tower Asset Sub, LLC**  
a Delaware limited liability company

Signature: [Signature]  
Print Name: Shawn Lanier  
Title: Vice President - Legal  
Date: 9-15-2017

**WITNESS**

Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
  
Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_

**WITNESS AND ACKNOWLEDGEMENT**

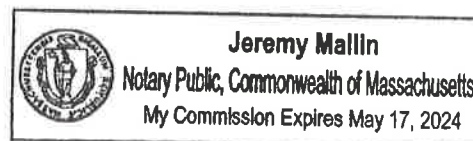
Commonwealth of Massachusetts

County of Middlesex

On this 15 day of September, 2017, before me, Jeremy Mallin,  
the undersigned Notary Public, personally appeared Shawn Lanier,  
who proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed  
to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their  
authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity  
upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Jeremy Mallin  
Notary Public  
Print Name: \_\_\_\_\_  
My commission expires: \_\_\_\_\_



[SEAL]

**EXHIBIT A**

*This Exhibit A may be replaced at Tenant's option as described below*

**PARENT PARCEL**

*Tenant shall have the right to replace this description with a description obtained from Landlord's deed (or deeds) that include the land area encompassed by the License Agreement and Tenant's improvements thereon*

The Parent Parcel consists of the entire legal taxable lot owned by Landlord as described in a deed (or deeds) to Landlord of which the Licensed Premises is a part thereof with such Parent Parcel being described below.

**LOT 20A IN ELLSWORTH PARK, UNIT NO. 4, A SUBDIVISION SITUATED IN THE SOUTH HALF OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 11, 1959 AS DOCUMENT NO. 950172.**

***Being DuPage County, State of Illinois, Parcel Number 08-12-302-003***

EXHIBIT A (CONTINUED)**LICENSED PREMISES**

*Tenant shall have the right to replace this description with a description obtained from the License Agreement or from a description obtained from an as-built survey conducted by Tenant.*

The Licensed Premises consists of that portion of the Parent Parcel as defined in the License Agreement which shall include access and utilities easements. The square footage of the Licensed Premises shall be the greater of: (i) the land area conveyed to Tenant in the License Agreement; (ii) Tenant's (and Tenant's customers') existing improvements on the Parent Parcel; or (iii) the legal description or depiction below (if any).

A PARCEL OF LAND FOR LEASE SITE PURPOSES LOCATED WITHIN THAT PART OF LOT 20A, IN ELLSWORTH PARK UNIT NO. 4, A SUBDIVISION SITUATED IN THE SOUTH HALF OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 11, 1959 AS DOCUMENT NO. 950172, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 20A; THENCE N.89°47'10"E., (RECORD BEING N.89°47'00"E.), ALONG THE NORTH LINE OF SAID LOT 20A, A DISTANCE OF 293.09 FEET; THENCE S.00°12'50"E., PERPENDICULAR TO SAID NORTH LINE, 47.53 FEET; THENCE S.45°12'55"E., A DISTANCE OF 7.07 FEET; THENCE N.89°47'00"E., PERPENDICULAR TO THE EAST LINE OF SAID LOT 20A, A DISTANCE OF 41.88 FEET TO A LINE THAT IS 10.00 FEET WEST OF (MEASURED PERPENDICULAR THERETO) SAID PARALLEL WITH THE EAST LINE OF SAID LOT 20A; THENCE S.00°13'00"E., ALONG SAID PARALLEL LINE, 12.00 FEET FOR THE POINT OF BEGINNING; THENCE S.89°47'00"W., PERPENDICULAR TO THE EAST LINE OF SAID LOT 20A, A DISTANCE OF 55.00 FEET; THENCE S.00°13'00"E., PERPENDICULAR TO THE LAST DESCRIBED COURSE, 21.00 FEET; THENCE N.89°47'00"E., PERPENDICULAR TO THE LAST DESCRIBED COURSE, 55.00 FEET TO A LINE THAT IS PARALLEL WITH THE AFORESAID EAST LINE OF LOT 20A AND PASSES THROUGH THE POINT OF BEGINNING; THENCE N.00°13'00"W., ALONG SAID PARALLEL LINE, 21.00 FEET TO THE POINT OF BEGINNING, CONTAINING 1155.00 SQUARE FEET, IN DUPAGE COUNTY, ILLINOIS.

**EXHIBIT A (CONTINUED)****ACCESS AND UTILITIES**

The access and utility easements include all easements of record as well that portion of the Parent Parcel currently utilized by Tenant (and Tenant's customers) for ingress, egress and utility purposes from the Licensed Premises to and from a public right of way including but not limited to:

A PARCEL OF LAND FOR ACCESS EASEMENT PURPOSES LOCATED WITHIN THAT PART OF LOT 20A, IN ELLSWORTH PARK UNIT NO. 4, A SUBDIVISION SITUATED IN THE SOUTH HALF OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 11, 1959 AS DOCUMENT NO. 950172, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 20A; THENCE N.89°47'10"E., (RECORD BEING N.89°47'00"E.), ALONG THE NORTH LINE OF SAID LOT 20A, A DISTANCE OF 293.09 FEET; THENCE S.00°12'50"E., PERPENDICULAR TO SAID NORTH LINE, 47.53 FEET; THENCE S.45°12'55"E., A DISTANCE OF 7.07 FEET; THENCE N.89°47'00"E., PERPENDICULAR TO THE EAST LINE OF SAID LOT 20A, A DISTANCE OF 41.88 FEET TO A LINE THAT IS 10.00 FEET WEST OF (MEASURED PERPENDICULAR THERETO) SAID PARALLEL WITH THE EAST LINE OF SAID LOT 20A; THENCE S.00°13'00"E., ALONG SAID PARALLEL LINE, 12.00 FEET; THENCE S.89°47'00"W., PERPENDICULAR TO THE EAST LINE OF SAID LOT 20A, A DISTANCE OF 58.88 FEET; THENCE N.00°12'50"W., PERPENDICULAR TO THE AFORESAID NORTH LINE OF LOT 20A, A DISTANCE OF 47.53 FEET; THENCE N.45°12'50"W., 7.07 FEET, TO A LINE THAT IS 12.00 FEET SOUTH OF (MEASURED PERPENDICULAR THERETO) AND PARALLEL WITH THE NORTH LINE OF SAID LOT 20A; THENCE S.89°47'10"W., ALONG SAID PARALLEL LINE, 276.09 FEET TO THE WEST LINE OF SAID LOT 20A; THENCE N.00°13'00"W., ALONG SAID WEST LINE, 12.00 FEET TO THE POINT OF BEGINNING, CONTAINING 4734.96 SQUARE FEET, IN DUPAGE COUNTY, ILLINOIS.

And

EXHIBIT A (CONTINUED)

## ACCESS AND UTILITIES (CONTINUED)

A PARCEL OF LAND FOR UTILITY EASEMENT PURPOSES LOCATED WITHIN THAT PART OF LOT 20A, IN ELLSWORTH PARK UNIT NO. 4, A SUBDIVISION SITUATED IN THE SOUTH HALF OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 11, 1959 AS DOCUMENT NO. 950172, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 20A; THENCE N.89°47'10"E., (RECORD BEING N.89°47'00"E.), ALONG THE NORTH LINE OF SAID LOT 20A, A DISTANCE OF 293.09 FEET FOR THE POINT OF BEGINNING; THENCE CONTINUING N.89°47'10"E., (RECORD BEING N.89°47'00"E.), ALONG SAID NORTH LINE, 25.00 FEET; THENCE S.00°12'50"E., PERPENDICULAR TO SAID NORTH LINE, 8.00 FEET; THENCE S.89°47'10"W., PARALLEL WITH SAID NORTH LINE, 25.00 FEET; THENCE N.00°12'50"W., PERPENDICULAR TO SAID NORTH LINE, 8.00 FEET TO THE POINT OF BEGINNING, CONTAINING 200.00 SQUARE FEET, IN DUPAGE COUNTY, ILLINOIS.