



Town of Chino Valley

MEETING NOTICE TOWN COUNCIL

REGULAR MEETING
Tuesday, May 12, 2015
6:00 P.M.

Council Chambers
202 N. State Route 89
Chino Valley, Arizona

AGENDA

ADDENDUM - 5/12/2015

Item 7e – *REPLACES SunState Towers Site Lease Agreement (redline version)*

1) CALL TO ORDER, INVOCATION; PLEDGE OF ALLEGIANCE; ROLL CALL

2) INTRODUCTIONS, PRESENTATIONS, AND PROCLAMATIONS

- a)** Proclamation declaring May 22-23, 2015 as "Poppy Days," sponsored by the American Legion Auxiliary. (Mayor Marley)
- b)** Proclamation declaring May 2015 as "Mental Health Month," sponsored by the West Yavapai Guidance Clinic. (Mayor Marley)

3) CALL TO THE PUBLIC

Call to the Public is an opportunity for the public to address the Council concerning a subject that is not on the agenda. Public comment is encouraged. Individuals are limited to speak for three (3) minutes. The total time for Call to the Public may be up to 30 minutes per meeting. Council action taken as a result of public comment will be limited to directing staff to study the matter, scheduling the matter for further consideration and decision at a later date, or responding to criticism.

4) RESPONSE TO THE PUBLIC

Response to the Public is an opportunity for the Mayor to inform the public about how Town officials addressed matters raised during Call to the Public at a previous meeting.

- a)** Statement against industry and in support of taxing certain business operations.

5) CURRENT EVENT SUMMARIES AND REPORTS

This item is for information only. The Mayor, any Councilmember, or Town Manager may present a brief summary or report of current events, or ask a staff member to provide the same. Presentation on information requested by the Mayor and Council will be made and questions answered. No action will be taken.

- a) Status reports by Mayor and Council regarding current events.
- b) Status report by Town Manager Robert Smith regarding Town accomplishments, and current or upcoming projects.

6) CONSENT AGENDA

All those items listed below are considered to be routine and may be enacted by one motion. Any Councilmember may request to remove an item from the Consent Agenda to be considered and discussed separately.

- a) Consideration and possible action to accept the April 14, 2015 regular meeting minutes. (Jami Lewis, Town Clerk)

7) ACTION ITEMS

The Council may vote to recess the public meeting and hold an Executive Session on any item on this agenda pursuant to A.R.S. § 38-431.03(A)(3) for the purpose of discussion or consultation for legal advice with the Town Attorney. Executive sessions are not open to the public and no action may be taken in executive session.

- a) Consideration and possible action to approve complaint and adopt resolution filed by Mayor Chris Marley against Councilmember Linda Hatch pursuant to Town Code Chapter 35 Code of Ethics, Section 35.04 Conduct in Public Office. (Vice-Mayor Croft)

Recommended Action: Adopt Resolution No.15-1055 censuring Councilmember Hatch for refusing to comply with certain records requests when such records did, in fact exist, and demanding that Councilmember Hatch comply with said requests by furnishing any missing documents to the Chino Valley Town Attorney within ten business days.

- b) Consideration and possible action to address a complaint filed by Councilmember Linda Hatch against Mayor Chris Marley pursuant to Town Code Chapter 35 Code of Ethics, Section 35.04 Conduct in Public Office. (Vice-Mayor Croft)

Recommended Action: Adopt Resolution No.15-1057 censuring Mayor Marley for refusing to comply with certain public records requests by denying that such records existed when they did in fact exist..

- c) (i) Public Hearing regarding application from Noel Arturo Flores for a new Series 12 (Restaurant) Liquor License for Arturo's Mexican Restaurant, Inc., located at 900 S. State Route 89, Chino Valley.

(ii) Consideration and possible action to recommend approval for new Series 12 Liquor License application for Arturo's Mexican Restaurant. (Jami Lewis, Town Clerk)

Recommended Actions:

(i) Hold Public Hearing.

(ii) Recommend to the Arizona State Liquor Board that it grant a new Series 12 Liquor License application for Arturo's Mexican Restaurant. located at 900 S. State Route 89, Chino Valley.

- d) Consideration and possible action to award the construction contract to CLM Earthmovers, LLC in an amount not to exceed \$812,762.70 for the construction of 2 box culverts and channel improvements along Little Dogie Draw in Chino Meadows Units 2 and 5. Funding of \$800,000 to come from the Yavapai County Drainage District, accounted for in the Capital Improvements Fund, with the balance of \$12,762.70 to come from the HURF Fund. (Ron Grittmann, Public Works Director/Town Engineer)

Recommended Action: Award the construction contract to CLM Earthmovers, LLC in an amount not to exceed \$812,762.70 for the construction of 2 box culverts and channel improvements along Little Dogie Draw in Chino Meadows Units 2 and 5.

- e) Informational hearing, consideration, and possible action to approve (1) Wireless Communications Facilities Project 2015 Master Agreement with SunState Towers, LLC and Pinnacle Consulting, Inc. and a Wireless Communications Site Lease with SunState Towers, LLC, related to installation and leasing of two (2) wireless communications towers with Town dishes to be located on them to provide enhanced wireless capabilities between Town Hall and the Recreation Center. The previously proposed tower at the Library/North Campus will now be a separate project. Fiscal Impact: The Town will receive \$1,400 per month in lease fees. (Councilmember Best; Councilmember Turner)

Recommended Action: Approve (i) Wireless Communications Facilities Project 2015 Master Agreement with SunState Towers, LLC and Pinnacle Consulting, Inc.; (ii) Installation Contract for Wireless Communications Facilities Project 2015 with Pinnacle Consulting, Inc., and (iii) Two (2) Wireless Communications Site Lease with SunState Towers, LLC.

- f) Consideration and possible action to authorize the Mayor to sign Form CD-511 "Certification Regarding Lobbying", Standard Form 424D - "Assurances - Construction Programs", and Standard Form LLL - "Disclosure of Lobbying Activities" related to the Economic Development Administration (EDA) grant award. (Ruth Mayday, Development Services Director)

Recommended Action: Authorize the Mayor to sign standard forms 424D, LLL, and CD-511 required for the final award of a \$1,600,074 EDA grant.

- g) Consideration and possible action to approve an agreement between the Town of Chino Valley and Arizona Game and Fish Department to accept a grant of \$16,550 (with 50:50 match in kind from Town) to make improvements to the shooting range at Old Home Manor. (Ruth Mayday, Development Services Director)

Recommended Action: Approve the agreement between the Town of Chino Valley and the Arizona Game and Fish Department and accept \$16,550 in grant funds.

- h) Consideration and possible action regarding the process for an internal or external recruitment to fill the position of Town Magistrate. (Mayor Marley)

Recommended Action: Instruct staff to begin an internal recruitment process to fill the Magistrate position and provide direction to staff regarding the process.

8) **EXECUTIVE SESSION**

Council may vote to recess the Regular Meeting and hold an executive session, which will not be open to the public, for the following purposes.

9) **ACTION ITEMS RESUMED**

After the Executive Session, Council will reconvene the Regular Meeting.

10) **ADJOURNMENT**

Dated this 7th day of May, 2015.

By: **Jami C. Lewis, Town Clerk**

The Town of Chino Valley endeavors to make all public meetings accessible to persons with disabilities. Please call 636-2646 (voice) or 711 (Telecommunications Arizona Relay Service) 48 hours prior to the meeting to request a reasonable accommodation to participate in this meeting.

Supporting documentation and staff reports furnished to the Council with this agenda are available for review on the Town website at <http://www.chinoaz.net/clerk/townagenda.shtml>, and in the Public Library and Town Clerk's Office.

CERTIFICATION OF POSTING

The undersigned hereby certifies that a copy of this notice was duly posted at Chino Valley South Campus, Chino Valley Post Office, and Chino Valley North Campus in accordance with the statement filed by the Town Council with the Town Clerk.

Date: _____ Time: _____ By: _____
Jami C. Lewis, Town Clerk

WIRELESS COMMUNICATIONS SITE LEASE

This Wireless Communications Site Lease ("Lease") is entered into this ____ day of _____, 2015, by and between the Town of Chino Valley, a municipal corporation and political subdivision of the state of Arizona ("Chino Valley") and SunState Towers, an Arizona limited liability ~~company~~~~corporation~~ ("Lessee").

RECITALS:

- A. Chino Valley is the owner of those certain parcels of land located in the County of Yavapai, State of Arizona, commonly known as the Chino Valley Recreation ~~Center Building and~~, Chino Valley Town Hall ~~and Chino Valley Library~~.
- B. The Chino Valley Recreation ~~Center Building~~ Site (the "RB Site") consists of approximately 250 square feet of area, is located at 1615 North Road 1 East in Chino Valley, Arizona and is more particularly described on **Exhibit A-1**.
- C. The Chino Valley Town Hall Site (the "TH Site") consists of approximately 250 square feet of area, is located at 202 N. State Route 89 in Chino Valley, Arizona and is more particularly described on **Exhibit A-2**. Collectively, the ~~Chino Valley Recreation Center~~RB Site and the ~~Town Hall~~TH Site shall be referred to herein as the "Sites".
- D. The access routes and utility easements necessary for Lessees' use under this Lease ("**Access Routes**") are depicted in the maps attached hereto as part of **Exhibits A-1 and A-2**. The Sites and Access Routes are collectively referred to hereafter as the "**Premises**".
- E. Chino Valley desires to lease the Premises to Lessee and Lessee desires to lease the Premises from Chino Valley subject to the terms and conditions set forth in this Lease.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt, adequacy and sufficiency of all of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Lease Term.

1.1 Commencement. The Lease shall commence upon the first day of the month in which Lessee starts construction on the Premises or December 1, 2015, whichever occurs earlier., 2015 ("**Term Commencement Date**").

1.2 Term. The Lease shall be for a term of twenty-five (25) years ("**Term**") unless sooner terminated as provided herein.

1.3 Renewal. The Lease will automatically renew for up to five (5) successive five (5) year periods ("**Renewal Terms**") on the same terms and conditions as set forth herein, unless sooner terminated as provided in this Lease. The Term and Renewal Terms may collectively be referred to as the "**Lease Term**."

1.4 Holding Over. Any holding over after the expiration of the Lease Term, with the consent of Chino Valley, shall be construed to be a tenancy from month to month for which Chino Valley may, after reasonable notification of Lessee, impose a reasonable rental fee. The provisions of this Lease shall apply to any such holding over period.

1.5 Acceptance of Premises. By taking possession of the Premises, Lessee warrants that it has inspected the Premises and accepts the Premises in the condition existing as of the Commencement Date. Chino Valley makes no representation or warranty with respect to the condition of the Site. Chino Valley shall not be liable for any latent or patent defect in the Site that interferes with Lessee's use.

2. Consideration; Rent

2.1 Rent – Recreation Building Site. Within fifteen (15) business days following the Term Commencement Date and on the first day of each month thereafter, Lessee shall pay to Chino Valley as rent for the ~~Recreation Building~~RB Site seven hundred dollars (\$ 700.00) per month ("RB Site Rent"). RB Site Rent for any fractional month at the beginning or at the end of a Term or a Renewal Term shall be prorated.

2.2 Rent – Town Hall Site. Following the Term Commencement Date until completion of installation of the first wireless service provider on the Town Hall Site ("WSP Install Date"), Lessee shall pay no rent for the Town Hall Site. Lessee shall notify Chino Valley in writing within three (3) days of the WSP Install Date and, within fifteen (15) business days of the WSP Install Date and on the first day of each month thereafter, Lessee shall pay to Chino Valley as rent for the ~~Town Hall~~TH Site seven hundred dollars (\$ 700.00) per month ("THS Rent"). TH Site Rent for any fractional month at the beginning or at the end of a Term or a Renewal Term shall be prorated.

2.3 Additional Rent for Co-locators.

2.3.1 ~~Recreation Building~~RB Site. Lessee shall pay Chino Valley three hundred dollars (\$300.00) in Additional Rent —~~RB Site~~— for each subsequent co-locator to the RB Site after the first, initial service provider locates on the RB Site. Additional Rent —~~RB Site~~ shall begin with the first monthly rent payment after installation of a co-locator's facilities on the ~~Recreation Building~~ Site Tower.

2.3.2 ~~Town Hall~~TH Site. Lessee shall pay Chino Valley three hundred dollars (\$300.00) in Additional Rent —~~TH Site~~— for each subsequent co-locator to the site after the first, initial service provider locates on the TH Site. Additional Rent —~~TH Site~~— shall begin with the first monthly rent payment after installation of a co-locator's facilities on the ~~Town Hall~~TH Site Tower.

2.4 Adjustment. Rent shall be increased by ten percent (10%) on the first month of each five-year renewal term. Rent shall be payable to the Town of Chino Valley, Chino Valley Town Hall, 202 North State Route 89, Chino Valley, Arizona 86323; Attention:

Town Financial Services Director. All of Lessee's monetary obligations set forth in this Agreement are conditioned upon Lessee's receipt of an accurate and executed W-9 Form from Chino Valley.

~~2.5 Additional Rent for New Facilities. Chino Valley reserves the right to charge additional rent if Lessee i) replaces or upgrades Lessee Facilities (as defined in Paragraph 4.1) with facilities that are greater in number or materially larger in size than existing Lessee Facilities, or ii) adds new Lessee Facilities (collectively referred to hereafter as "New Facilities"). Any additional rent shall be adjusted annually as part of the Rent.~~

2.65 Additional Consideration. As additional consideration for this Lease, in lieu of rental payments at the Town Hall Site until installation of a wireless service provider, Lessee shall construct and install for the benefit of Chino Valley, certain communications equipment ~~on the Tower Lessee will construct~~ on the Sites ("Town Facilities") and in the locations approved by Lessee and Chino Valley, as more particularly described on **Exhibit B**.

~~2.2 Additional Consideration. As additional consideration, at no charge to Chino Valley, Lessee shall construct and install for the benefit of Chino Valley, an 80' wireless communications facility ("WCF") and install dishes thereon at the Chino Valley Library, at a location to be designated by Chino Valley, as set forth on Exhibit C. Chino Valley shall design the caisson for lattice structure and shall purchase or reimburse Lessee for the reasonable cost of required dishes, wires, conduit, steel and concrete and other construction materials required for the construction of the WCF and installation of telecommunications equipment related thereto.~~

3. Permissible Use.

3.1 In General. During the Lease Term and subject to the terms and conditions of this Lease, Lessee may use the Premises for any lawful activity in connection with provision of wireless communications services, including without limitation, the transmission and reception of wireless communication signals and the construction, maintenance and operation of related communication facilities. All activities conducted pursuant to the Lease shall comply with applicable federal and state laws for the construction, operation and maintenance of wireless communication facilities (the "WCFs").

3.2 Other Lease Approvals; Cooperation. Lessee shall be responsible for obtaining and maintaining during Lease Term all insurance, certificates, licenses, permits and other consents and approvals that may be required by any federal, state or local authorities for the use of the Site and the conduct of its business related to the Premises. Chino Valley agrees to cooperate with Lessee in its effort to obtain such approvals and will take no action which would adversely affect the status of the Premises with respect to the proposed use thereof by Lessee, unless required to do so by law or regulation or to protect public health, safety or welfare.

3.3 Compliance with Laws. Lessee shall comply with all applicable laws, including but not limited to zoning and environmental laws relating to its use and possession of the Premises.

4. Improvements.

4.1 Lessee Facilities. Lessee has the right, at Lessee's sole cost and expense, to construct, maintain, install, repair, secure, replace, remove and operate on the Premises wireless communications facilities, including but not limited to a foundation, utility lines, transmission lines, an air conditioned equipment shelter(s), and/or air conditioned equipment room, electronic equipment, transmitting and receiving antennas, microwave dishes, antennas and equipment, a power generator and generator pad, and supporting equipment and structures, and security fencing ("**Lessee Facilities**"), as generally described in **Exhibit C**, attached hereto and incorporated by reference.

4.2 Utility Lines. Lessee at its own expense shall install utility lines to the Site necessary for Lessee Facilities and consistent with approval of the utility company.

4.3 Construction. All Lessee Facilities shall be constructed and installed at Lessee's sole cost and expense. Lessee shall obtain Chino Valley's prior approval of construction plans and specifications for such construction, which shall not be unreasonably withheld. All Lessee Facilities shall be constructed or installed in compliance with and specifications of plans approved by Chino Valley and in compliance with applicable federal and state laws for the construction of WCFs. Within thirty (30) days after completion of construction, Lessee shall provide Chino Valley with as-built drawings of the Lessee Facilities.

4.4 Construction Bond. Lessee shall, prior to commencing any construction on the Premises, post a payment bond in an amount equal to one hundred percent (100%) of the cost of construction with a surety company reasonably acceptable to Chino Valley, assuring that the improvements will be constructed without the attachment of any construction liens.

4.5 Title. Title to the WCFs and any equipment placed on the Site by Lessee shall be held by Lessee or its lenders or assigns and are not fixtures, unless abandoned with permission of Lessee pursuant to Paragraph 4.86(h) (Removal or Abandonment).

4.6 Replacement or Upgrades, and New Facilities. Lessee shall notify Chino Valley prior to replacing, upgrading, or relocating Lessee Facilities or adding new facilities which are greater in number or materially larger in size than existing Lessee Facilities (the "New Facilities"). Lessee may replace, upgrade, or relocate Lessee Facilities on the Site or add New Facilities on the Site provided that: i) any change is approved in writing by Chino Valley, which shall not be unreasonably withheld, conditioned, or delayed; ii) Lessee obtains any other approval required by this Lease, the Town of Chino Valley Municipal Code, Unified Development Ordinance or any other Town Codes or Ordinances in effect at the time of the improvements; iii) Such changes do not materially interfere with any other existing uses; iv) the parties agree upon any additional rent if required for New Facilities; and v) a Lease Amendment is executed in the case of any New Facilities. Approved replacements and upgrades and approved New Facilities shall become part of Lessee Facilities as that term is used herein.

4.7 Like-for-Like Equipment Modifications. "Like-for-Like Equipment Modification" means removal of Lessee's equipment installed at the Premises, ("Old Equipment"), and replacing the same with new equipment ("Replacement Equipment"). Lessee shall be permitted to make "Like-for-Like Equipment Modifications" without Chino Valley's approval thereof conditioned upon any extension of the remaining Term of the applicable

Supplement to this Lease or other change to the terms and conditions of such Supplement (including the terms and conditions of this Lease).

4.8 Removal or Abandonment. Unless Chino Valley in writing allows Lessee to abandon the Lessee Facilities in place, Lessee at its sole expense shall remove the Lessee Facilities to a depth of five feet (5') below grade on or before the expiration or earlier termination of this ~~Site~~ Lease. Such removal shall be done in a workmanlike and careful manner and without interference or damage to any other facilities or operations on the Premises. Lessee shall repair any damage to the Premises caused by such removal to the reasonable satisfaction of Chino Valley. Title to any Lessee Facilities which are abandoned in place with the written permission of Chino Valley shall be deemed transferred to Chino Valley without compensation to Lessee. Said abandoned Lessee Facilities shall thereafter be the sole property of Chino Valley.

5. Maintenance. Lessee at its own expense shall maintain the Premises and its Lessee Facilities in good repair and in a manner suitable to Chino Valley so as not to conflict with any adjacent Chino Valley operations. Lessee shall have sole responsibility for the maintenance, repair, and security of its Lessee Facilities for the purpose of which Chino Valley grants Lessee the right to clear all trees, undergrowth, or other obstructions and to trim, cut, and keep trimmed all tree limbs which interfere with or fall upon the ~~Tower-Town~~ Facilities or the Premises. Lessee is not responsible for reasonable wear and tear or damage from casualty and condemnation.

6. Access and Utilities.

6.1 Access to Site. Chino Valley shall provide Lessee, Lessee's employees, agents, contractors, subcontractors and assigns with access to the Site twenty-four (24) hours a day, seven (7) days a week, at no charge to Lessee. Lessee shall comply with reasonable security requirements of Chino Valley related to accessing the Site.

6.2 Non-Exclusive Access Routes. Lessee, its agents, employees and contractors, shall have a non-exclusive right and easement for pedestrian and vehicular ingress and egress across, and Lessee shall have an easement for utility lines to access the Site via the Access Routes described or depicted generally in Exhibits A-1 and A-2. Chino Valley and Lessee each shall conduct operations within the Access Routes so as to cause minimal or no interference to others.

6.3 Maintenance of Roadways. Chino Valley shall maintain all access roadways from the nearest public roadway to the Premises in a manner sufficient to allow pedestrian and vehicular access at all times under normal weather conditions. Chino Valley shall be responsible for maintaining and repairing such roadways, at its sole expense, except for any damage caused by Lessee's use of such roadways.

6.4 Payment of Utilities. Lessee shall, at its own expense, install separate meters for electricity and other utilities necessary for Lessee Facilities and shall timely pay all utility charges associated therewith.

6.5 Additional Conduit. As additional consideration for this Lease, Lessee at its own expense shall install additional conduit to the Site for possible future co-location of another wireless communications facilities provided on or near the Site. Such additional conduit shall be constructed pursuant to plans approved by Chino Valley and title shall be transferred to Chino Valley upon final acceptance. The additional conduit is generally described as set forth in **Exhibit C-1**.

7. Interference.

7.1 Interference with Existing Uses. Lessee acknowledges that Chino Valley conducts municipal activities including but not limited to office and recreational activities adjacent to or near the Premises. Lessee's installation, operation and maintenance of Lessee Facilities shall not damage or interfere in any way with existing Chino Valley operations or related activities or other existing lessee or licensee activities. Lessee agrees to cease all such actions which materially interfere with existing activities upon written notice of such interference; provided, however, in such case Lessee shall have the right to terminate the Lease.

7.2 Interference and New Uses. Subsequent to the installation of the Lessee Facilities, Chino Valley will not, and will not permit its lessees or licensees to, install new equipment on or make any alterations to the Premises or property contiguous thereto owned or controlled by Chino Valley, if such modifications are likely to cause a material interference with Lessee's operations. In the event interference occurs, Chino Valley agrees to use best efforts to eliminate any material interference within a reasonable time period. Chino Valley's failure to comply with this Paragraph shall be a material breach of this Lease.

8. Fees and Taxes. Lessee shall pay, as they become due and payable, all fees, charges, taxes and expenses required for licenses and/or permits required for or occasioned by Lessee's use of the Premises. Lessee shall pay all real and personal property taxes assessed against the Lessee Facilities. Chino Valley shall pay when due, all real property taxes and all other taxes, fees and assessments attributable to the Premises or this Lease.

9. Assignment and Subletting.

9.1 Sublease. Lessee may sub-lease any portion of its Lessee Facilities or the Site to other wireless communications facility providers (a "**Co-locator**" or collectively the "**Co-locators**") without Chino Valley's written consent, so long as Lessee notifies Chino Valley by certified mail not less than thirty (30) days prior to such sub-lease becoming effective. Said notice shall include the Co-locator's name, contact person, address, telephone number and other contact information. In the event of a sublease, Lessee shall remain fully liable for all obligations and liabilities under this Lease, and for all actions of all Co-locators related to this Lease unless Chino Valley enters into a separate agreement with the Co-locator. Nothing herein shall be construed to authorize any facilities other than the approved Lessee Facilities. Co-locators shall only modify the ~~Tower~~ Lessee Facilities, Town Facilities, install utilities on, in, and to the Site and to erect additional improvements on the Premises, including, but not limited to antennas, dishes, cabling, additional buildings or shelters ancillary to the Intended Use as

approved by Chino Valley in writing, prior to said modification. Co-locators will be entitled to all rights of ingress and egress to the Site.

9.2 Assignment. Lessee may assign the Lease to another company, with Chino Valley's written consent, which shall not be unreasonably withheld, conditioned, or delayed; provided, however, Lessee may i) assign or transfer this Lease to a financially viable parent, subsidiary, or affiliate, without Chino Valley consent, and, ii) Lessee may assign the Lease to a commercial lending institution solely as security for financing purposes without Chino Valley consent. In the event of an assignment, Assignee shall assume all obligations and liabilities of Lessee, known and unknown, under the Lease arising both **before and after the assignment date**.

~~9.3 Change in Control. Except as permitted under Paragraph 9.2, if Lessee is a corporation or partnership, and if there is a change in control of the Lessee at any time during the Lease Term, then Chino Valley at its option may, by giving ten (10) days prior written notice to Lessee, declare such change a breach of this Lease unless Chino Valley has previously consented in writing to the change in control. "Change in control" shall mean a new majority voting control of the Lessee, or change in ownership of at least fifty-one percent (51%) of the stock ownership of Lessee. INTENTIONALLY DELETED~~

9.34 In the event of Bankruptcy. Any person or entity to which this Lease is assigned or transferred as part of any bankruptcy proceeding shall be deemed without further act to have assumed all of the liabilities and obligations of Lessee arising under this Lease on and after the date of such assignment. Any such assignee or transferee shall upon demand execute and deliver to Chino Valley an instrument confirming such assumption or transference. Any monies or other considerations payable or otherwise to be delivered in connection with such assignment or transference shall be paid to Chino Valley, shall be the exclusive property of Chino Valley, and shall not constitute "property" of the Lessee or of the estate of Lessee within the meaning of the Bankruptcy Code. Any monies or other considerations constituting Chino Valley's property under the preceding sentence not paid or delivered to Chino Valley shall be held in trust for the benefit of Chino Valley and be promptly paid to Chino Valley.

10. Default and Remedies.

10.1 Default by Lessee. Lessee shall be deemed in default of this Lease if either of the following occurs:

10.1.1 Lessee fails to pay any rent amounts when due as required by any supplements or amendments to this Lease and does not cure such default within ten (10) days of receipt of written notice from Chino Valley; or

10.1.2 If Lessee fails to comply with the performance of any other covenant or condition of this Lease, including construction and installation of the facilities set forth in Exhibits B and C to this Lease and does not cure such other default within thirty (30) days after written notice from Chino Valley specifying the default complained of, unless such default cannot reasonably be cured within thirty (30) days, in which case Lessee will not be in

default as long as Lessee commences to cure the default within the thirty (30) days and diligently pursues such cure to completion; or

10.1.3 If Lessee abandons or vacates the Premises for a continuous period of four (4) months or longer; or

10.1.4 If Lessee is adjudicated as bankrupt or makes any assignment for the benefit of creditors.

10.2 Chino Valley's Remedies in Event of Lessee Default. In the event of a default by Lessee, Chino Valley shall notify Lessee, in writing, of said default. If Lessee fails to cure within thirty (30) days after the date of the notice, or in such other applicable time period as outlined above, in addition to and not exclusive of any other remedy available to Chino Valley by operation of law, Chino Valley shall have the right, at its option, to terminate the Lease in which event Lessee shall immediately remove the Lessee Facilities and pay Chino Valley a sum of money equal to the total of: (i) the total amount necessary to construct and install any and all facilities required pursuant to this Lease; and (ii) any other amount necessary to compensate Chino Valley for ~~all detriment proximately~~ actual damages caused by Lessee's failure to perform its obligations under the Lease.

10.3 Cure by Chino Valley. In the event of any default of this Lease by Lessee, Chino Valley may at any time, after notice, cure the default for the account of and at the expense of the Lessee. If Chino Valley is compelled to pay or elects to pay any sum of money or to do any act which will require the payment of any sum of money or is compelled to incur any expense, including reasonable attorney fees in instituting, prosecuting or defending any action to enforce Chino Valley's rights under this Lease, the sums so paid by Chino Valley, with all interest, costs and damages shall be deemed to be due from the Lessee to Chino Valley on the first day of the month following the incurring of the respective expenses.

10.4 Default by Chino Valley. Chino Valley shall be in default if Chino Valley fails to comply with the performance of any covenant or condition of this Lease and does not cure such other default within thirty (30) days after written notice from Lessee specifying the default complained of, unless such default cannot reasonably be cured within thirty (30) days, in which case Chino Valley will not be in default as long as Chino Valley commences to cure the default within the thirty (30) days and diligently pursues such cure to completion. In the event of a Chino Valley default and failure to cure, Lessee may terminate this Lease upon written notice to Chino Valley and shall immediately remove the Lessee Facilities as set forth in Paragraph 4.8.

11. Voluntary Termination.

11.1 Voluntary Termination by Lessee. This Lease may be terminated by Lessee without further liability on ninety (90) days prior written notice (i) if Lessee is unable to reasonably obtain or maintain any certificate, license, permit, authority or approval from any governmental authority, thus, restricting Lessee from installing, removing, replacing, maintaining or operating the Lessee Facilities or using the Premises in the manner intended by Lessee; (ii) if Lessee determines that the Premises are not appropriate for its operations for economic, environmental or technological reasons, including without limitation, signal strength,

coverage or interference, or (iii) or if Lessee otherwise determines, within its sole discretion, that it will be unable to use the Premises for Lessee's intended purpose. ~~If the Lessee Facilities or any portion of the Lessee Facilities are destroyed or damaged so as to materially interfere with effective use of the Lessee Facilities through no fault or negligence of Lessee, Lessee may elect to terminate this Lease upon ninety (90) days' written notice to Chino Valley. In such event, Lessee shall promptly remove the Lessee Facilities from the Premises as set forth in Paragraph 4.8 and this Lease shall terminate upon Lessee's fulfillment of the same.~~

~~11.2 Voluntary Termination by Chino Valley.~~

~~11.2.1 During the initial Term, this Lease may be terminated by Chino Valley with ninety (90) days prior written notice to Lessee without further liability to Lessee, except Chino Valley shall pay Lessee's reasonable actual costs of re-location of the Lessee Facilities, including associated administrative and permitting costs, not to exceed \$50,000. All costs shall be fully documented by Lessee as a condition of reimbursement.~~

~~11.2.2 During the First Renewal Term (years 26-30), this Lease may be terminated by Chino Valley without further liability to Lessee if Chino Valley reasonably determines termination is necessary to serve a governmental (non-proprietary) purpose, upon one year's prior written notice to Lessee.~~

~~11.2.31~~ Voluntary Termination by Chino Valley. At any time after the ~~First initial Renewal~~ Term (year ~~31~~26 or subsequent), this Lease may be terminated by Chino Valley without further liability to Lessee upon one year's prior written notice to Lessee.

12. Damage or Destruction of Lessee Facilities. If the Lessee Facilities or any portion of the Lessee Facilities are destroyed or damaged so as to materially interfere with effective use of the Lessee Facilities through no fault or negligence of Lessee, Lessee may elect to terminate this Lease upon ninety (90) days' written notice to Chino Valley. In such event, Lessee shall promptly remove the Lessee Facilities from the Premises as set forth in Paragraph 4.8 and this Lease (and Lessee's obligation to pay rent) shall terminate upon Lessee's fulfillment of the same. Chino Valley shall have no obligation to repair any damage to any portion of the Premises.

13. Condemnation. If the Premises are taken by eminent domain, this Lease shall terminate as of the date title to the Premises vests in the condemning authority. In the event a portion of the Premises is taken by eminent domain so as to materially hinder effective use of the Premises by Lessee, either party shall have the right to terminate this Lease as of said date of title transfer, by giving thirty (30) days' written notice to the other party. In the event of any taking under the power of eminent domain, Lessee shall not be entitled to any portion of the reward paid for the taking and Chino Valley shall receive full amount of such award. Lessee shall hereby expressly waive any right or claim to any portion thereof. Although all damages, whether awarded as compensation for diminution in value of the leasehold or to the fee of the Premises, shall belong to Chino Valley, Lessee shall have the right to claim and recover from the condemning authority, but not from Chino Valley, such compensation as may be separately awarded or recoverable by Lessee on account of any and all damage to Lessee's business and

any costs or expenses incurred by Lessee in moving or removing its equipment, personal property, and leasehold improvements.

14. Indemnity.

14.1 Disclaimer of Liability. Chino Valley 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, maintenance, repair, use, operation, condition or dismantling of the Premises, unless such injury or damage is caused by the negligence of Chino Valley or Chino Valley's employees.

14.2 Indemnification. Lessee shall, at its sole cost and expense, indemnify and hold harmless Chino Valley and all associated, affiliated, allied and subsidiary entities of Chino Valley, now existing or hereinafter created, and their respective officers, boards, commissions, employees, agents, attorneys, and contractors (hereinafter referred to as "Indemnitees"), from and against:

14.2.1 Any and all liability, obligation, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or be asserted against the Indemnitees by reason of any act or omission of Lessee, its personnel, employees, agents, contractors or subcontractors, resulting in personal injury, bodily injury, sickness, disease or death to any person or damage to, loss of or destruction of tangible or intangible property, libel, slander, invasion of privacy and unauthorized use of any trademark, trade name, copyright, patent, service mark or any other right of any person, firm or corporation, which may arise out of or be in any way connected with the construction, installation, operation, maintenance, use or condition of the Premises or the Lessee's failure to comply with any federal, state or local statute, ordinance or regulation.

14.2.2 Any and all liabilities, obligations, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and other consultants), which are imposed upon, incurred by or asserted against the Indemnitees by reason of any claim or lien arising out of work, labor, materials or supplies provided or supplied to Lessee, its contractors or subcontractors, for the installation, construction, operation, maintenance or use of the Premises and, upon the written request of Chino Valley, Lessee shall cause such claim or lien covering Chino Valley's property to be discharged or bonded within thirty (30) days following such request.

14.2.3 Any and all liability, obligation, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or be asserted against the Indemnitees by reason of any financing or securities offering by Lessee or its affiliates for violations of the common law or any laws, statutes, or regulations of the State of Arizona or United States, including those of the Federal Securities and Exchange Commission, whether by Lessee or otherwise.

14.2.4 Lessee's obligation to indemnify Indemnitees under this Lease shall not extend to claims, losses, and other matters covered hereunder that are caused or contributed to by the negligence of one or more Indemnitees.

14.3 Nothing herein shall be construed to waive Lessee's rights to seek recovery against Chino Valley for Chino Valley's gross negligence other than lost profits or revenues caused to Lessee's operations, or to seek recovery against third persons for any damages caused to property or injury to persons, in, upon or about the Premises by such other persons.

14.4 Assumption of Risk. Lessee undertakes and assumes for its officers, agents, affiliates, contractors and subcontractors and employees (collectively "Lessee Agents" ~~for the purpose of this Paragraph~~), all risk of dangerous conditions, if any, on or about the Premises, and Lessee hereby agrees to indemnify and hold harmless the Indemnitees against and from any claim asserted or liability imposed upon the Indemnitees for personal injury or property damage to any person (other than from Indemnitee's negligence) arising out of the Lessee ~~'Agents'~~ installation, operation, maintenance, condition or use of the Premises or Lessee ~~'Agents''s'~~ failure to comply with any federal, state or local statute, ordinance or regulation.

14.5 Defense of Indemnitees. In the event any action or proceeding shall be brought against the Indemnitees by reason of any matter for which the Indemnitees are indemnified hereunder, Lessee shall, upon notice from any of the Indemnitees, at Lessee's sole cost and expense, resist and defend the same with legal counsel mutually selected by Lessee and Chino Valley; provided however, that Lessee shall not admit liability in any such matter on behalf of the Indemnitees without the written consent of Chino Valley and provided further that Indemnitees shall not admit liability for, nor enter into any compromise or settlement of, any claim for which they are indemnified hereunder, without the prior written consent of Lessee.

14.6 Notice, Cooperation and Expenses.

14.6.1 Chino Valley shall give Lessee prompt notice of the making of any claim or commencement of any action, suit or other proceeding covered by the provisions of this Paragraph. Nothing herein shall be deemed to prevent Chino Valley from cooperating with Lessee and participating in the defense of any litigation by Chino Valley's own counsel. Lessee shall pay all expenses incurred by Chino Valley in response to any such actions, suits or proceedings. These expenses shall include all out-of-pocket expenses such as attorney fees and shall also include the reasonable value of any services rendered by the Chino Valley's attorney, and the actual expenses of Chino Valley's agents, employees or expert witnesses, and disbursements and liabilities assumed by Chino Valley in connection with such suits, actions or proceedings but shall not include attorneys' fees for services that are unnecessarily duplicative of services provided Chino Valley by Lessee.

14.6.2 If Lessee requests Chino Valley assist it in such defense then Lessee shall pay all expenses incurred by Chino Valley in response thereto, including defending itself with regard to any such actions, suits or proceedings. These expenses shall include all out-of-pocket expenses such as attorney fees and shall also include the costs of any services rendered

by the Chino Valley's attorney, and the actual expenses of Chino Valley's agents, employees or expert witnesses, and disbursements and liabilities assumed by Chino Valley in connection with such suits, actions or proceedings.

15. Insurance.

15.1 Coverage. During the term of the Lease, Lessee shall maintain, or cause to be maintained, in full force and effect and at its sole cost and expense, the following types and limits of insurance.

15.1.1 Worker's compensation insurance meeting applicable statutory requirements and employer's liability insurance with minimum limits of One Hundred Thousand Dollars (\$100,000) for each accident.

15.1.2 Comprehensive commercial general liability insurance with minimum limits of Two Million Dollars (\$2,000,000) as the combined single limit for each occurrence of bodily injury, personal injury and property damage. The policy shall provide blanket contractual liability insurance for all written contracts, and shall include coverage for products and completed operations liability, independent contractor's liability; coverage for property damage from perils of explosion, collapse or damage to underground utilities, commonly known as XCU coverage.

15.1.3 Automobile liability insurance covering all owned, hired, and non-owned vehicles in use by Lessee, its employees and agents, with personal protection insurance and property protection insurance to comply with the provisions of state law with minimum limits of Two Million Dollars (\$2,000,000) as the combined single limit for each occurrence for bodily injury and property damage.

15.1.4 At the start of and during the period of any construction, builders all-risk insurance, together with an installation floater or equivalent property coverage covering cables, materials, machinery and supplies of any nature whatsoever which are to be used in or incidental to the installation of the Tower. Upon completion of the installation of the Tower, Lessee shall substitute for the foregoing insurance policies of fire, extended coverage and vandalism and malicious mischief insurance on the Premises. The amount of insurance at all times shall be representative of the insurable values installed or constructed.

15.1.5 Business interruption insurance coverage in an amount sufficient to cover such loss of revenues, for the period of time which it would take, under normal circumstances, to repair or replace that part(s) of the Premises which is damaged and caused the loss of revenue.

15.1.6 All policies other than those for Worker's Compensation shall be written on an occurrence and not on a "claims made" basis.

15.1.7 The coverage amounts set forth above may be met by a combination of underlying and umbrella policies so long as in combination the limits equal or exceed those stated.

15.2 Additional Insureds. All policies, except for business interruption and worker's compensation policies, shall name Chino Valley and its agents as additional insureds (herein referred to as the "Additional Insureds"). Each policy which is to be endorsed to add Additional Insureds hereunder, shall contain cross-liability wording, as follows:

In the event of a claim being made hereunder by one insured for which another insured is or may be liable, then this policy shall cover such insured against whom a claim is or may be made in the same manner as if separate policies had been issued to each insured hereunder.

15.3 Evidence of Insurance. Current certificates of insurance for each insurance policy required to be obtained by Lessee in compliance with this Paragraph shall be filed and maintained with Chino Valley within thirty (30) days of the Term Commencement Date and within ten (10) days of any renewal or change in such policies. If Chino Valley is not provided current certificates and must request an updated certificate, Lessee shall pay an administrative fee of twenty-five dollars (\$25.00) for each certificate so requested.

15.4 Notice of Claims. Lessee shall immediately advise Chino Valley of any claim or litigation that may result in liability to Chino Valley.

15.5 Cancellation of Policies of Insurance. Lessee shall endeavor to include the following endorsement in all insurance policies maintained pursuant to this Lease:

At least sixty (60) days prior written notice shall be given to Chino Valley by the insurer of any intention not to renew such policy or to cancel, replace or materially alter same, such notice to be given by registered mail to the parties to the Lease.

15.6 Insurance Companies. All insurance shall be affected under valid and enforceable policies, insured by insurers licensed to do business by the State of Arizona, with an A+, AAA or better rating in "A. M. Best Insurance Guide."

15.7 Contractors. Lessee shall require that each and every contractor and subcontractor who performs work on the Premises carry, in full force and effect, workers' compensation, comprehensive public liability and automobile liability insurance coverage of the type which Lessee is required to obtain under the terms of this Paragraph with appropriate limits of insurance.

16. Regulated/Hazardous Substances Indemnification.

16.1 Lessee Inspections and Testing. During the Due Diligence Period (prior to leasing the Premises) Lessee shall conduct such inspections and testing as it deems necessary to determine that there are no pre-existing Regulated Substances as defined herein on the Premises.

16.2 Applicable Laws. Lessee recognizes that assuring protection of public health, welfare and the environment from activities upon the Premises during the Lease Term is an important consideration for Chino Valley and during the Lease Term the federal, state and local laws, rules, regulations and ordinances relating to pollution, protection of the environment, public health, safety or industrial hygiene (hereinafter referred to as the “**Applicable Laws**”) will change. Lessee warrants that throughout the Lease Term, Lessee will maintain compliance with all Applicable Laws.

16.3 Regulated Substances. Lessee further warrants, unless disclosed and agreed to by Chino Valley, that no liquid, solid, semi-solid or gaseous Regulated Substances as defined herein which are, or during the Lease Term may become, subject to regulation under Applicable Laws, other than _____, will be used on the Premises. “**Regulated Substances**” include, but are not limited to, any and all substances, materials or wastes regulated under the Resource Conservation and Recovery Act, 43 U.S.C. § 8909, *et seq.*; the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, *et. seq.*; the Toxic Substances Control Act, 15 U.S.C. § 2601, *et seq.*; the Arizona Hazardous Waste Management Act, A.R.S. § 49-921, *et seq.*; the Arizona Underground Storage Tank Regulation Act, A.R.S. § 49-101 *et seq.*; and the rules and regulations adopted and guidelines promulgated pursuant to the Applicable Laws.

16.4 Discharges and Emissions. In addition to the other requirements of this Paragraph 16, Lessee shall not release, discharge, leak or emit, or permit to be released, discharged, leaked or emitted into the atmosphere, ground, soil, sewer system, surface water or groundwater any substance if such substance (as reasonably determined by Chino Valley, or any governmental authority) does or may pollute or contaminate the same, or may adversely affect: i) the environment, ii) the health, welfare or safety of persons whether located on the Premises or elsewhere, or iii) the condition, value, use or enjoyment of the Premises or any other real or personal property.

16.5 Permits. Lessee has or will timely obtain, maintain and comply with all provisions of all permits, licenses and other authorizations which are required under the Applicable Laws (hereinafter referred to as the “**Permits**”).

16.6 Notices Required. Lessee shall immediately notify Chino Valley, orally and in writing, of any allegations by any governmental authority or other person or entity of any event of non-compliance with the applicable laws or permits of this section. Lessee shall also immediately notify Chino Valley orally and in writing, of any allegations by any governmental authority or other person or entity, of any events, conditions, circumstances, activities, practices, incidents, actions or plans which may interfere with or prevent continued compliance with Applicable Laws, Permits or the provisions of this section, or which may give rise to any common law or legal liability, or otherwise form the basis of any claim, action, suit, proceeding, hearing or investigation, based on or related to the generation, manufacture, distribution, use,

treatment, storage, disposal, transport, or handling, or the emission, discharge, release or threatened release into the environment, of any pollutant, contaminant or Regulated Substance.

16.7 Chino Valley Inspections. Chino Valley, or its authorized representative, agent or contractor, shall have the right, upon reasonable notice, to inspect the Premises and to review and copy documents, records, and data maintained by Lessee relating to substances used and stored on the Premises or disposed of, released or otherwise removed from the Premises, in order to assure itself that Lessee is in compliance with the provisions of this Paragraph 16. In addition, Chino Valley shall have the right, at its expense, to perform periodic environmental inspections as Chino Valley deems necessary using the services of a qualified and duly licensed environmental engineers approved by Lessee whose approval thereof may not be unreasonably withheld. The said engineers shall conduct such sampling and testing of soils, water, substances and emissions as Chino Valley deems necessary to assure itself that Lessee is in compliance with the provisions of this Section.

16.8 Reimbursement of Chino Valley Costs; Remediation. In the event the results of the inspection indicate a need for further testing and/or remediation as a result of Lessee's use of the Premises in order to comply with ADEQ or EPA remediation standards or guidelines, then Lessee hereby agrees to reimburse Chino Valley for its reasonable inspection costs and to pay for such additional testing and remediation as will be required as a consequence of Lessee's use of the Premises. Should remediation be required as a consequence of Lessee's use of Premises, Lessee shall immediately undertake such remediation as is necessary to restore the condition of the Premises and shall diligently pursue such work to completion. Lessee's failure to timely perform its obligations under this Paragraph shall be considered a material breach of this Lease, and Lessee's obligations under this Paragraph shall continue beyond the expiration or termination hereof. Nothing in this Paragraph shall constitute a waiver of any right of Lessee, including without limitation, the right to receive contribution from any individual or entity responsible for contamination of any part of the Premises.

16.9 Termination. Any instance of non-compliance with Applicable Laws, Permits or the provisions of this Paragraph shall be grounds for immediate termination of this Lease by Chino Valley.

16.10 Indemnification. To the fullest extent permitted by law, Lessee agrees to indemnify, defend and hold Chino Valley harmless for any costs of legally required remediation of environmental contamination and from any claims, demands, actions, suits, proceedings, hearings, investigations, responsibility, liability, orders, injunctions, judgments, fines, damages and losses of any nature whatsoever, arising out of or relating in any way to Lessee's present or future use of, or activities or operations on or at, the Premises, or arising from or relating to any breach of the provisions of this Paragraph. Lessee also agrees to indemnify and hold Chino Valley harmless any costs and expenses incurred in connection therewith, including without limitation, any attorneys' and expert witness fees, investigation, clean up, removal, disposal, remedial, corrective, or mitigating action costs, fines and penalties related in any way to Lessee's use of the Premises. These indemnities shall survive the termination of this Lease.

17. Title and Quiet Enjoyment.

17.1 Chino Valley represents and warrants that (i) it has full right, power, and authority to execute this Lease and (ii) Lessee may peacefully and quietly enjoy the Premises and such access thereto, provided that Lessee is not in default hereunder after notice and expiration of all cure periods.

17.2 Lessee has the right to obtain a title report or commitment for a leasehold title policy from a title insurance company of its choice. If, in the opinion of Lessee, such title report shows any defects of title or any liens or encumbrances which may adversely affect Lessee's use of the Premises, Lessee shall have the right to terminate this Lease immediately upon written notice to Chino Valley.

18. Waiver of Chino Valley's Lien. Chino Valley hereby waives any and all lien rights it may have, statutory or otherwise concerning the Lessee Facilities or any portion thereof which shall be deemed personal property for the purposes of this Lease, whether or not the same is deemed real or personal property under applicable laws, and Chino Valley gives Lessee and Mortgagees the right to remove all or any portion of the same from time to time, whether before or after a default under this Lease, in Lessee's and/or Mortgagee's sole discretion and without Chino Valley's consent. Any Mortgagee shall contact Chino Valley prior to removal and Chino Valley may require Mortgagee to indemnify Chino Valley for any damages caused to the Premises.

19. Notices. All notices, requests, demands and other communications under this Lease shall be in writing and deemed given if personally delivered or mailed, certified mail, return receipt requested or sent by next-business-day delivery by a nationally recognized overnight carrier to the following addresses:

If to Lessee to:	With a copy to:
Sun State Towers, LLC 1426 North Marvin Street #101 Chino Valley, AZ 85233 Attn: Land Management Telephone: Fax: Email:	Attention: Fax:

If to Chino Valley	With a copy to:
Town Manager Chino Valley Town Hall 202 North State Route 89 Chino Valley, AZ 86323 Telephone: 928-636-2646 Fax: 480-503-6404	Town Attorney Curtis, Goodwin, Sullivan, Udall & Schwab, PLC 501 East Thomas Road Phoenix, AZ 85012 Attention:

Chino Valley or Lessee may from time to time designate any other address for this purpose by written notice to the other party. All notices hereunder shall be deemed received upon actual receipt or refusal to accept delivery.

20. Miscellaneous Provisions.

20.1 Waiver. Failure of ~~Chino Valley~~either party to insist on strict performance of any of the conditions, covenants, terms or provisions of this Lease or to exercise any of its rights hereunder shall not waive such rights, but ~~Chino Valley~~either party shall have the right to enforce such rights at any time. The receipt of any sum paid by Lessee to Chino Valley after a breach of this Lease shall not be deemed a waiver of such breach unless expressly set forth in writing.

20.2 Attorney's Fees. The prevailing party in any legal claim arising hereunder shall be entitled to its reasonable attorney's fees and court costs, including appeals, if any.

20.3 Severability. If any provision of the Lease is invalid or unenforceable with respect to any party, the remainder of this Lease or the application of such provision to persons other than those as to whom it is held invalid or unenforceable, shall not be affected and each provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

20.4 Survival. Terms and conditions of this Lease which by their sense and context survive the termination, cancellation or expiration of this Lease will so survive, including, but not limited to, Paragraphs 10 (Default and Remedies), 11 (Voluntary Termination), 12 (Damage or Destruction of Lessee Facilities), 13 (Condemnation), 14 (Indemnity), 15 (Insurance) and 16 (Regulated/Hazardous Substances; Indemnification).

20.5 Laws of Arizona. This Lease shall be governed under the laws of Arizona, and be binding on and inure to the benefit of the successors and permitted assignees of the respective parties.

20.6 Memorandum of Agreement. A Memorandum of Agreement in the form attached hereto as **Exhibit D** may be recorded by Lessee confirming the (i) effectiveness of this Lease, (ii) expiration date of the Lease Term, (iii) the duration of any Renewal Terms, (iv) and/or other reasonable terms consistent with this Lease.

20.7 Entire Agreement. This Lease constitutes the entire agreement between the parties, and supersedes all understandings, offers, negotiations and other leases concerning the subject matter contained herein. There are no representations or understandings of any kind not set forth herein. Any amendments, modifications or waivers of any of the terms and conditions of this Lease must be in writing and executed by both parties.

21. Conflict of Interest: Chino Valley may cancel this Lease pursuant to A.R.S. § 38-511 (conflict of interest), as may be amended from time to time. In the event Chino Valley elects to exercise its rights thereunder, Chino Valley agrees to immediately give notice thereof to Lessee.

IN WITNESS WHEREOF, the parties have entered into this Lease effective as of the date first above written.

CHINO VALLEY:

a political subdivision of the
State of Arizona

By: _____
Chris Marley, Mayor

Date: _____

Tax ID: _____

Attest:

Jami Lewis
Town Clerk

Approved as to Form:

Curtis, Goodwin, Sullivan, Udall & Schwab, PLC
Town Attorney

LESSEE:

SunState Towers, an Arizona limited liability
corporation

By: _____
Chad Ward, President

Date: _____

STATE OF ARIZONA)
) ss:
COUNTY OF MARICOPA)

Subscribed and sworn to before me this ____ day of _____, 2015, by Chad A. Ward, President of SunState Towers LLC, an Arizona limited liability company.

Notary Public

My Commission Expires:

EXHIBITS

The following exhibits are attached to this Prime Lease and incorporated into this Prime Lease:

- | Exhibit A-1 Description and Depiction of Chino Valley Recreation ~~Center~~ Building Site (including access easements)
- Exhibit A-2 Description and Depiction of Chino Valley Town Hall Site (including access easements)
- Exhibit B Consideration
- Exhibit C Lessee Facilities
- Exhibit C-1 Additional Conduit to Site
- Exhibit D Memorandum of Lease

EXHIBIT A-1

DESCRIPTION AND DEPICTION OF CHINO VALLEY RECREATION CENTER SITE

(Including Access Easements)

(Attached)

The Site is described and/or depicted as follows (metes and bounds description):

Map of the ~~Premises~~Recreation Building Site

The ~~Premises are~~Recreation Building Site is depicted as follows:

[ATTACH A DRAWING OF THE ~~PREMISES-SITE~~ AND SEPARATELY IDENTIFY UTILITY ACCESS ROUTES AND VEHICULAR ACCESS ROUTES]

Notes:

1. Lessee may replace this Exhibit with a survey of the ~~Premises-Site~~ once Lessee receives it.
2. Lessee Facilities shall comply with setback requirements of Chino Valley and any other applicable governmental authorities.
3. The access road's width will be the width required by Chino Valley, including police and fire departments.
4. The locations of any utility easements are illustrative only. The actual locations will be determined by the servicing utility company in compliance with all local laws and regulations.

EXHIBIT A-2

DESCRIPTION AND DEPICTION OF CHINO VALLEY TOWN HALL SITE

(Including Access Easements)

(Attached)

The Site is described and/or depicted as follows (metes and bounds description):

Map of the ~~PREMISES~~Town Hall Site

The ~~Premises are~~Town Hall Site is depicted as follows:

[ATTACH A DRAWING OF THE ~~PREMISES~~SITE AND SEPARATELY IDENTIFY UTILITY ACCESS ROUTES AND VEHICULAR ACCESS ROUTES]

Notes:

1. Lessee may replace this Exhibit with a survey of the ~~Premises~~Site once Lessee receives it.
2. Lessee Facilities shall comply with setback requirements of Chino Valley and any other applicable governmental authorities.
3. The access road's width will be the width required by Chino Valley, including police and fire departments.
4. The locations of any utility easements are illustrative only. The actual locations will be determined by the servicing utility company in compliance with all local laws and regulations.

EXHIBIT B

CONSIDERATION FOR LEASE

Lessee shall construct and install the following facilities:

1. 100 foot Cell Tower at Recreation Center Site:
 - a. Sun State^{*} will construct the tower;
 - b. Sun State will own tower (See Lessee Facilities);
 - c. Sun State^{*} will install ~~and align~~ Town dish at 80-foot centerline on cell tower to communicate with Town dish at Library for Town's computer network communications;
 - d. Sun State will install required conduit/cabling for dishes at cell site (external to Recreation Center building).
2. ~~Small tower (at least 80') and dishes at Chino Valley Library Site on Voss Drive:~~
 - ~~a. Sun State^{*} will construct the lattice structure;~~
 - ~~b. Sun State will install and align two Town dishes at the 80-foot centerline to coordinate and communicate with Town dishes at Recreation Center and Town Hall Sites.~~
 - ~~c. Sun State will install required conduit/cabling for dishes at the cell site (external to the Library building);~~
 - ~~d. Caisson design for lattice structure to be provided by Town;~~
 - ~~e. Tower shall be owned by Town.~~
3. 100 foot Cell Tower at Town Hall Site:
 - a. Sun State^{*} will construct the tower.
 - b. Sun State will own the tower (See Lessee Facilities);
 - c. Sun State^{*} will install ~~and align~~ Town dish at the 80-foot centerline on cell tower to communicate with Town dish at Library for Town's computer network communications.
 - d. Sun State will install required conduit/cabling for dishes at cell site (external to Town Hall building).

* Construction of the towers and other facilities and installation and alignment of the Town's dishes may be done by Pinnacle Consulting, an affiliate of Sun State. All construction shall be at no charge to the Town. Town will supply materials for the construction. ~~Design of the caisson for the lattice structure shall be provided by the Town.~~

EXHIBIT C

LESSEE FACILITIES

[ATTACH DESCRIPTION OF LESSEE FACILITIES]

1. 100 foot cell tower at Recreation ~~Center~~ Building Site with equipment cabinet(s) and related accessories.
2. 100 foot cell tower at Town Hall Site with equipment cabinet(s) and related accessories.

EXHIBIT C-1

ADDITIONAL CONDUIT TO SITE

[ATTACH SPECIFICATIONS FOR ADDITIONAL CONDUIT TO THE SITE]

EXHIBIT D

MEMORANDUM OF LEASE

[See following pages]

When Recorded Return To:

SunState Towers, LLC
1426 North Marvin Street #101
Gilbert, AZ 85233

Site # _____

Site Name: _____

Cross Reference: Book: _____; Pg: _____

Memorandum of Lease Agreement

THIS MEMORANDUM OF AGREEMENT (“Memorandum”) is executed this ____ day of _____, ~~2014~~ 2015 by and between Town of Chino Valley, an Arizona municipal corporation, with a mailing address of 202 North Highway 89, Chino Valley, AZ 86323 (“Chino Valley”) and SunState Towers LLC, a Arizona limited liability company, with a mailing address of 1426 North Marvin Street #101, Chino Valley, AZ 85233 (“Lessee”).

1. Chino Valley and Lessee entered into a Wireless Communications Site Lease (“Lease”) on May 12, 2015, effective _____, 201—5 (“Effective Date”).

2. The Lease relates to a certain Site owned by Chino Valley described as set forth in **Exhibits A-1 and A-2** and necessary access and utility easements (collectively referred to hereafter as the **“Premises”**), attached hereto and incorporated by reference

3. ~~The Lease allows Lessee to conduct investigations and tests to determine if the Premises are appropriate for installing, operating and maintaining a wireless communications facility and other improvements during a specified Due Diligence Period.~~

~~4.~~ The Lease allows Lessee to lease the Premises for a twenty-five (25) year term, with a provision for renewal for up to five (5) additional five-year terms.

5. This Memorandum is solely for the purpose of memorializing the Lease and is not a complete summary of the terms and conditions contained in the Lease. This Memorandum shall not serve to change or alter any terms or conditions of the Lease.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have executed this Memorandum as of the date first set forth above.

CHINO VALLEY:

Town of Chino Valley, an
Arizona municipal corporation

By: _____
Chris Marley, Mayor

Date: _____

ATTEST:

Jami Lewis
Town Clerk

LESSEE:

SunState Towers LLC, an Arizona limited
liability company

By: _____
Chad A. Ward, President

Date: _____

STATE OF ARIZONA)
) ss:
COUNTY OF MARICOPA)

Subscribed and sworn to before me this ____ day of _____, 2014, by Chad A. Ward, President of SunState Towers LLC, an Arizona limited liability company.

Notary Public

My Commission Expires:

**EXHIBIT A-1 TO MEMORANDUM OF LEASE
CHINO VALLEY RECREATION CENTER SITE**

(Attached)

EXHIBIT A-2 TO MEMORANDUM OF LEASE
CHINO VALLEY TOWN HALL SITE

(Attached)