



City Hall, 215 Sycamore St.  
Muscatine, IA 52761-3899  
(563) 264-1550  
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**FINANCE & RECORDS**

**MEMO**

To: Gregg Mandsager, City Administrator

From: Nancy A. Lueck, Finance Director  
Jodi Royal-Goodwin, Housing Administrator

Date: January 5, 2016

Re: Resolution Setting Public Hearing on Proposed New Lease Agreement with USCOC of Greater Iowa, LLC (US Cellular) for Extension of their Use of the Clark House Rooftop for their Cellular Tower/Equipment

**Introduction:**

The City currently has leases with two cellular telephone companies for use of the rooftop of the Clark House for their cellular towers. One of the leases is with US Cellular and this lease runs through July 2, 2018. The lease amount paid to the City for the current year under this lease agreement is \$13,078.26.

**Background:**

Several months ago the City was approached by US Cellular representatives who indicated their interest in continuing their lease of the Clark House rooftop for their cell towers and equipment. The representative also stated that US Cellular was updating their lease agreements. There have been discussions with US Cellular of the lease language and lease provisions during the past several months. The attached lease agreement language is the result of these discussions and has been reviewed by the City's Housing Administrator, City Administrator, and City Attorney.

Under the proposed new lease, which would take effective July 3, 2018, the first year lease amount paid to the City would be \$14,387.56 (a 10% increase over the current amount). Thereafter there would be a 3% increase each year throughout the term of the agreement. The initial term of the lease is for 5 years. The lease provides for automatic extensions of this lease for up to five additional terms of five years unless the tenant gives the landlord 60 days notice to terminate the lease. With the extensions, the lease would continue through July 2, 2048.

**"I remember Muscatine for its sunsets. I have never seen any on either side of the ocean that equaled them" — Mark Twain**

Since the proposed lease for use of the Clark House rooftop extends more than three years, a public hearing is required prior to the City entering into this lease.

**Recommendation:**

Please include the attached resolution setting a public hearing for January 21, 2016 on the proposed new lease with US Cellular for their continued use of the Clark House Rooftop for their cellular tower equipment .

Please contact either of us if you have any questions or need additional information.

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION SETTING TIME AND PLACE FOR A PUBLIC HEARING  
ON THE PROPOSED NEW LEASE WITH USCOC OF GREATER IOWA LLC  
FOR THE CLARK HOUSE ROOFTOP**

WHEREAS, the City of Muscatine has received a request for a new lease agreement for continued use of space on the Clark House rooftop located at 117 W. 3<sup>rd</sup> Street for telephone communication antennas and related equipment; and

WHEREAS, a public hearing must be conducted for any agreement that involves more than a (3) year lease of real property.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MUSCATINE THAT:

SECTION 1: On January 21, 2016 at 7:00 p.m. in the City Council Chambers at City Hall, Muscatine, Iowa, this Council shall hold a public hearing on the proposed new lease agreement with USCOC of Greater Iowa LLC for their communications equipment.

SECTION 2: The City Clerk shall give notice of such public hearing by publication in the Muscatine Journal not less than four (4) nor more than twenty (20) days prior to the date set for the public hearing. The notice shall be in the following form:

(Notice of Public Hearing attached)

PASSED, APPROVED AND ADOPTED THIS 7<sup>TH</sup> DAY OF JANUARY, 2016.

CITY COUNCIL OF THE CITY OF MUSCATINE, IOWA

\_\_\_\_\_  
Diana L. Broderson, Mayor

ATTEST:

\_\_\_\_\_  
Gregg Mandsager, City Clerk

**PUBLIC NOTICE**

**NOTICE OF TIME AND PLACE OF PUBLIC HEARING  
ON A PROPOSED NEW LEASE AGREEMENT  
WITH USCOC OF GREATER IOWA LLC  
FOR THE CLARK HOUSE ROOFTOP**

Public Notice is hereby given that the City Council of the City of Muscatine, Iowa, will hold a Public Hearing to allow comments on the proposed new lease agreement with USCOC of Greater Iowa LLC for the placement of communications equipment on the rooftop of the Clark House located at 117 W. 3<sup>rd</sup> Street.

This Public Hearing will be held in the City Council Chambers of City Hall in Muscatine, Iowa, on January 21, 2016 at 7:00 p.m. All interested persons are invited to attend and will be given an opportunity to be heard relative to this matter.

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Gregg Mandsager, City Clerk

## ROOFTOP SPACE LEASE

This Rooftop Space Lease (the “Lease”) is made by and between, Low Rent Housing Commission, DBA Muscatine Municipal Housing Agency, whose address is 215 Sycamore, Muscatine, Iowa 52761, hereinafter referred to as “Landlord” and USCOC of Greater Iowa, LLC, a Delaware limited liability company, Attn.: Real Estate Lease Management, 8410 West Bryn Mawr Avenue, Chicago, Illinois 60631, hereinafter referred to as “Tenant”.

WHEREAS, Landlord is the owner of a building (the “Building”), with an address of 117 West 3<sup>rd</sup> Street (Clark House) located in the City of Muscatine, County of, Muscatine, State of, Iowa, located on the land legally described in Exhibit A attached hereto and incorporated herein by reference (the “Land”), a portion of which Building and Land has been identified as a suitable site for a telecommunications facility. The Building is depicted in Exhibit B, attached hereto and made a part hereof.

NOW THEREFORE, in consideration of the mutual promises, conditions, and other good and valuable consideration of the parties hereto, it is covenanted and agreed as follows:

1. To Lease.

Landlord hereby **agrees to lease** to Tenant the following described space:

*Rooftop Space.* The penthouse roof or wall of the roof of the Building, for the placement of Tenant’s equipment and up to nine (9) antennas. The Rooftop Space is depicted in Exhibit C attached hereto. **There will be a** Twenty-four (24’) foot by Twelve (12’) foot section of rooftop space (the “Rooftop Space”), adjacent to or as near as is possible to, the base of the Building for the placement of a radio station equipment shelter (“Tenant’s Building”) and a line bridge structure. The Rooftop Space is legally described in Exhibit D attached hereto.

2. Use of Premises. Tenant shall be entitled to use the Premises (as hereinafter defined) to install, operate, repair and maintain thereon a communications facility and any uses incidental thereto. Tenant’s rights include, but are not limited to, the right to erect signs on the Premises (as hereinafter defined) and make other alterations or changes to its communication facility necessary to comply, in Tenant’s sole discretion, with all laws and regulations applicable thereto.

3. License. Landlord hereby confers upon Tenant the following license (the “License”):

- a. The right to extend and connect lines for signal carriage between Tenant’s radios and Tenant’s antennas, including the privilege to penetrate walls, columns, and the roof of the Building for the purpose of establishing line routing passageways;
- b. The right to extend and connect lines for any utility service between Tenant’s base station and suitable utility company service connection points;
- c. The right to install an independent system of temperature and humidity controls to provide a suitable ambient climate for the proper operation of Tenant’s base station equipment; and

- d. The right to traverse common areas of the Building as reasonably necessary to accomplish Tenant's purposes contemplated in this Lease upon prior notice and so long as Landlord's business is not unreasonably interfered with.

The License, the Ground Space and the Rooftop Space are collectively referred to herein as the "Premises".

4. Alterations. Tenant shall have the right to install all improvements, equipment, antennas and conduits within the Premises at Tenant's sole cost, free from liens, in a good and workmanlike manner complying with applicable codes. Tenant shall have the right to replace, repair, add or otherwise modify its improvements, equipment, antennas and conduits or any portion thereof within the Premises at Tenant's sole cost, free from liens, in a good and workmanlike manner complying with applicable codes. Prior to the initial installation of Tenant's equipment and any subsequent work, Landlord shall have the right to review Tenant's plans, if the Tenant's plans require the Tenant to penetrate or materially alter the Building. The affixing or replacement of cables, conduit or antennas to the Building's existing structures will not be considered to be a material alteration of the Building.
5. Term. The initial Lease term will be five (5) years (the "Initial Term"), commencing upon the Commencement Date (as hereinafter defined below) and terminating at midnight on the day in which the fifth (5<sup>th</sup>) anniversary of the Commencement Date falls.
6. Option to Renew. The Initial Term of this Lease shall automatically extend for up to five (5) additional terms of five (5) years each (each, a "Renewal Term(s)"), upon a continuation of all the same provisions hereof, unless Tenant gives Landlord written notice of Tenant's intention to terminate the Lease at least sixty (60) days before the expiration of the Initial or any Renewal Term.
7. Option to Terminate. Tenant shall have the unilateral right to terminate this Lease at any time by giving Landlord written notice of the date of such termination. The Indemnification obligations of each party contained in Section 19 and Tenant's requirement to remove improvements as provided in Section 33 shall survive termination of the Lease.
8. Rent. Commencing on July 1, 2018 (the "Commencement Date"), Tenant shall pay Rent to Landlord in the amount of Fourteen Thousand Three Hundred Eighty Seven Dollars and 56/100 (\$14,387.56) dollars per year, the first payment of which shall be due within thirty (30) days of the Commencement Date, and installments thereafter annually on the anniversary of the Commencement Date, provided that Landlord shall submit to Tenant a complete and accurate IRS form W9 prior to Tenant's first payment of Rent. Landlord shall specify the name, address, and taxpayer identification number of a sole payee (or maximum two joint payees) who shall receive Rent on behalf of the Landlord. Rent will be prorated for any partial year. Any change to the Payee must be requested in accordance with the Notice provision herein, and a new IRS form W9 must be supplied prior to payment by Tenant to the new Payee. If the Lease is terminated pursuant to either Sections 7 or 32, the Landlord, within thirty (30) days of the termination date, will refund any unamortized amount of the Rent to the Tenant.

9. Adjusted Rent. At the beginning of each year and throughout the duration of the Lease as renewed and extended, the Rent shall be increased by three (3%) percent over the previous year's Rent.
10. Tenant's Personal Property. Landlord acknowledges and agrees that all of Tenant's equipment and other personal property of Tenant kept or stored on the Premises by Tenant constitute personal property, not real property, and shall continue to be the personal and exclusive property of Tenant, and neither Landlord nor any person claiming by, through or under Landlord shall have any right, title or interest (including without limitation, a security interest) in Tenant's equipment. Tenant, and Tenant's successors in interest, shall have the right to remove Tenant's equipment at any time during the Term of this Lease or its earlier termination. With respect to the holder of any mortgage, deed of trust or other lien affecting Landlord's interest in the Premises, whether existing as of the date hereof or arising hereafter, Landlord and Tenant hereby agree, acknowledge and declare that Tenant's equipment is now and shall at all times hereafter remain the personal and exclusive property of Tenant. The parties further acknowledge and agree that Landlord shall have no right or authority to grant a lien upon or security interest in any of Tenant's equipment.
11. Casualty. In the event that the Building is destroyed or substantially damaged by casualty, Landlord may, within sixty (60) days of the event of casualty, elect to either repair and restore the Building or terminate this Lease without any liability to Tenant. If Landlord elects to repair and restore the Building, Landlord shall promptly undertake all necessary work to accomplish the same, and upon completion thereof, Tenant shall reoccupy the Premises and continue to be bound by this Lease. Under no circumstances shall Landlord be liable to Tenant for any damage to, or costs of restoring, Tenant's equipment as a result of such event of casualty. Tenant's Rent shall abate commensurately with the extent and duration of Tenant's loss of use, and Landlord shall notify Tenant in writing within sixty (60) days following the occurrence of the damage whether Landlord elects to repair and restore the Building. If subsequent to said casualty event, conditions of the Premises allow for the placement of Tenant's temporary cellular site, Tenant may, at its sole discretion, bring a temporary cellular site to the Premises during the reconstruction of the Building, however, Tenant's Rent shall not abate for any period it is able to have its site on the air, and the location of the temporary cellular site shall be approved by the Landlord, such approval shall not be unreasonably withheld, conditioned or delayed.
12. Building and Land Maintenance. Landlord represents that it has the right and responsibility to repair and maintain the Building and the Land in a good condition complying with all laws and regulations applicable thereto. If the Building or the Land are damaged for any reason (except if Building is destroyed or substantially damaged by casualty, then Section 11 above will apply), other than by reason of the willful misconduct or gross negligence of Tenant or its agents, so as to render it substantially unusable for Tenant's intended use, the Rent shall abate until Landlord, at Landlord's expense, restores the Building and the Land to its condition prior to such damage; provided, however, in the event Landlord fails to repair the Building and the Land within seven (7) days following the date of such damage, Tenant shall have the right to terminate this Lease by giving Landlord written notice thereof, as long as Tenant has not resumed operations upon the Premises.

13. FCC and FAA Registration. Landlord warrants to Tenant that the Building has been registered by the Building owner with the Federal Communications Commission (“FCC”) and the Federal Aviation Administration (“FAA”), if required by the FCC and the FAA. Additionally, Landlord warrants to Tenant that in the event the FCC or the FAA requires the Building to be registered during the Term of this Lease or any extensions thereof, Landlord shall ensure that the Building owner shall take all necessary actions to register the Building. Landlord shall provide Tenant with a copy of the FCC and FAA Building registration.
14. Repair of Rooftop Relocation. Not during the Initial Term, but beginning with the first Renewal Term, if any, as the case may be, Landlord shall have the right to request Tenant's relocation, for a period not to exceed six (6) months, once during any ten (10) year period for the purpose of completing general maintenance, repairing or replacing the rooftop of the Building to the extent such relocation is necessary to perform such maintenance, repair or replacement, so long as Landlord provides Tenant with six (6) months advance notice in writing to Tenant. This notice requirement shall not affect any situation where Landlord must request Tenant's relocation in the event of an emergency as necessary to protect the health, safety, and welfare of visitors or Landlord's other tenants. In the event of a temporary relocation request under this Section, Tenant agrees to cover the costs of relocating its equipment. If such approval is to include going through any permitting process of the Landlord, Landlord shall waive any permit fees for Tenant for its reinstallation. Landlord shall provide space satisfactory to Tenant to operate temporary cellular facilities during the course of any maintenance that cannot be completed without Tenant's relocation. Landlord shall take all steps possible to ensure that Tenant is off the air for the minimum length of time possible.
15. Utilities. Landlord shall ensure that utility services are accessible and available at the Premises for Tenant’s intended use. Tenant shall be responsible for the separate metering, billing, and payment of the utility services consumed by its operations. Tenant shall install a sub-meter for its electrical service off Landlord’s primary electric service. Upon the Commencement Date of the Lease, the Tenant shall pay Landlord a supplemental payment of Five Hundred Forty Four and 00/100 Dollars (\$544.00) per month (“**Supplemental Payment.**”) Six (6) months following the Commencement Date, both parties shall review its actual utility usage to determine if the **Supplemental Payment** needs to be adjusted, with any adjustment commencing on the first of the following month. The new amount will be agreed to in writing by both parties.

Thereafter, on an annual basis, if requested by either party, both parties will review Tenant’s **Supplemental Payment**. If the parties determine the dollar amount of Tenant’s **Supplemental Payment** needs to be adjusted due to the change in Tenant’s usage or cost of electricity, both parties will agree, in writing, as to new **Supplemental Payment** for the next 12 months, with any adjustment commencing on the first of the following month.

The **Supplemental Payment** shall not be subject to the language in Section 9 of this Lease.

16. Taxes. Tenant shall pay prior to delinquency any personal property taxes levied against Tenant’s Building and Tenant’s base station equipment. Landlord shall pay prior to delinquency any real estate taxes and assessments attributable to the Land, the Building,

and any personal property taxes levied against the Building and any other of Landlord's equipment or property.

17. Access. Tenant shall have unrestricted access to the Premises at all hours of the day and night, subject to such reasonable rules and regulations as Landlord may impose.
18. Compliance with Laws. Tenant shall, at Tenant's cost and expense, comply with all federal, state, county or local laws, rules, regulations and ordinances now or hereafter enacted by any governmental authority or administrative agency having jurisdiction over the Premises and Tenant's operations thereupon.
19. Indemnification.
  - a. To the extent permitted by law, Tenant agrees to defend, indemnify and save harmless Landlord from and against all claims, losses, costs, expenses, or damages from a third party, arising from
    - (i) The negligence or willful misconduct of Tenant, or its agents, employees, or contractors; or
    - (ii) Any material breach by Tenant of any provision of this Lease. This indemnity and hold harmless agreement will include indemnity against all reasonable costs, expenses, and liabilities incurred in or in connection with any such claim, and the defense thereof. Notwithstanding the foregoing, Tenant will have no liability to Landlord to the extent any claims, losses, costs, expenses, or damages arise out of or result from any act, omission, or negligence of Landlord, or of Landlord's agents, employees or contractors.
  - b. To the extent permitted by law, Landlord agrees to defend, indemnify and save harmless Tenant from and against all claims, losses, costs, expenses, or damages from a third party, arising from
    - (i) The negligence or willful misconduct of Landlord or its agents, employees, or contractors; or
    - (ii) Any material breach by Landlord of any provision of this Lease. This indemnity and hold harmless agreement will include indemnity against all reasonable costs, expenses, and liabilities incurred in or in connection with any such claim, and the defense thereof. Notwithstanding the foregoing, Landlord will have no liability to Tenant to the extent any claims, losses, costs, expenses, or damages arise out of or result from any act, omission, or negligence of Tenant, or of Tenant's, agents, employees or contractors.
20. Insurance.
  - a. Tenant shall maintain commercial general liability insurance insuring against liability for bodily injury, death or damage to personal property with combined single limits of One Million and No/100 Dollars (\$1,000,000). In addition, Tenant shall maintain worker's compensation in statutory amounts, employer's liability insurance with combined single limits of One Million and No/100 Dollars (\$1,000,000); automobile liability insurance insuring against claims for bodily injury or property damage with combined single limits of One Million and No/100 Dollars (\$1,000,000); and all risk property insurance covering all personal property of Tenant for full replacement value.

Tenant shall provide Landlord with evidence of such insurance in the form of a certificate of insurance prior to obtaining occupancy of the Premises and throughout the term of this Lease.

- b. Landlord shall maintain general liability insurance insuring against liability for bodily injury, death or damage to personal property with combined single limits of One Million and No/100 Dollars (\$1,000,000) as well as all risk property insurance covering all Landlord fixtures, improvements, and personal property at full replacement value with commercially reasonable deductibles. In addition, to the extent required by law, Landlord shall maintain worker's compensation in statutory amounts and employer's liability insurance with combined single limits of One Million and No/100 Dollars (\$1,000,000). Landlord shall provide Tenant with evidence of such insurance in the form of a certificate of insurance prior to Tenant obtaining occupancy and throughout the term of this Lease or any Renewal Term.
21. Interference. Landlord shall not use, nor shall Landlord permit its tenants to use, any portion of the Premises or the Building or the Land in any way which interferes with the operations of Tenant. Such interference shall be deemed a material breach by Landlord, and Landlord shall have the responsibility to promptly cause any such interference to be eliminated. If said interference cannot be eliminated within twenty-four (24) hours after receipt of notice that such interference is occurring, Landlord shall discontinue or cause to be discontinued the operation of any equipment causing the interference until the same can be corrected. In the event any such interference does not cease promptly after Landlord's receipt of notice of said interference, Tenant shall have the right, in addition to any other right that it may have at law or in equity, to enjoin such interference or to terminate this Lease.
  22. Default. Tenant shall be in default of this Lease if Tenant fails to make a payment either of the Rent or Supplemental Payment when due and such failure continues for fifteen (15) days after Landlord notifies Tenant in writing of such failure. If Landlord or Tenant fails to comply with any non-monetary provision of this Lease, the other party shall serve written notice of such failure upon the defaulting party, whereupon a grace period of thirty (30) days shall commence to run during which the defaulting party shall undertake and diligently pursue a cure of such failure at its sole cost and expense. This Section shall not apply in the case of interference, which instead shall require immediate and effective curative action in accordance with Section 21 hereof.
  23. Right of First Refusal. Tenant (or its successor in interest, assignee or designee) shall have a right of first refusal ("Right of First Refusal") to purchase all or any part of Landlord's interest in or rights under this Lease, including, without limitation, the right to collect rents, ("Landlord's Interest") whenever Landlord receives a bona fide offer from an unrelated third party to purchase, directly or indirectly, all or any part of Landlord's Interest that Landlord desires to accept ("Offer"). Prior to accepting such Offer, Landlord shall give Tenant a copy of the Offer and other relevant documents, including the price and the terms and conditions upon which Landlord proposes to transfer Landlord's Interest (collectively, the "Right of First Refusal Notice"). Tenant shall have forty-five (45) days from the receipt of such notice to agree to purchase Landlord's Interest for the price and upon the terms and conditions specified in the Offer ("Tenant Approval Period").

If Tenant elects to so purchase Landlord's Interest, Tenant shall give to Landlord written notice thereof within said Tenant Approval Period ("Acceptance Notice"). If Tenant delivers an Acceptance Notice as provided herein, then Landlord and Tenant shall enter into a mutually acceptable purchase and sale agreement pertaining to such Landlord's Interest (the "Purchase and Sale Agreement"), reflecting the terms of the Offer, as well as other customary covenants, representations and warranties contained in purchase and sale agreements for similar acquisitions in the metropolitan area in which the Premises is located. The parties agree to act reasonably and cooperatively in negotiating, executing and delivering the Purchase and Sale Agreement. In the case of an assignment of the Lease, Landlord shall deliver to Tenant a customary assignment of the Lease.

If Tenant does not exercise the Right of First Refusal during the Tenant Approval Period, then Landlord may proceed to transfer Landlord's Interest upon the same terms and conditions set forth in the Offer provided such transfer occurs within three (3) months following the end of the Tenant Approval Period, the transfer is made in accordance with all the other terms and conditions of this Lease, and such purchaser assumes the obligations of Landlord under this Lease including, without limitation, this Right of First Refusal which shall be an ongoing Right of First Refusal during the lease term. If Landlord has not transferred Landlord's Interest within such three (3) month period, or in the event any terms or conditions of the proposed deal change from the terms and conditions provided in the initial Right of First Refusal Notice, then Landlord shall not thereafter transfer Landlord's Interest to an unrelated third party without first renewing the Right of First Refusal Notice to Tenant in the manner provided above.. Tenant's failure to exercise its Right of First Refusal or its express waiver of its Right of First Refusal in any instance shall not be deemed a waiver of Tenant's Right of First Refusal for subsequent instances when Landlord proposes to transfer Landlord's Interest to an unrelated third party during the lease term.

24. Attorneys' Fees and Expenses. In the event of any litigation arising under this Lease, the non-prevailing party shall, upon demand, reimburse the prevailing party for all costs and expenses arising therefrom, including reasonable attorneys' fees.
25. Quiet Enjoyment. Landlord covenants that Tenant shall have quiet and peaceable possession of the Premises throughout the Initial Lease Term and any Renewal Term, if any, as the case may be, and that Landlord will not intentionally disturb Tenant's enjoyment thereof as long as Tenant is not in default under this Lease.
26. Title, Access and Authority. Landlord covenants and warrants to Tenant that Landlord presently owns the fee simple interest in and to the Land and Building; that the Premises are served by legal access from a public way; that Landlord is duly authorized and empowered to enter into this Lease; and that the person executing this Lease on behalf of the Landlord warrants himself to be duly authorized to bind the Landlord hereto.
27. Assignment of Tenant's Interest. The Lease shall be freely assignable, without Landlord's consent, to an affiliate, subsidiary, Parent Corporation or a company that controls a majority of Tenant's assets, whether by acquisition or merger or transfer of FCC license to operate a wireless voice/data services. All other assignments will need Landlord's consent, which shall not unreasonably withheld, conditioned or delayed. Tenant's right to effect an outright transfer of the Lease, and the right of any collateral assignee to seize the Premises

as defaulted security, is subject only to the limitation that the Premises shall be used for the purposes permitted herein. Tenant shall notify Landlord in writing of the name and address of any assignee or collateral assignee.

28. Environmental Warranty. Landlord hereby represents and warrants to Tenant that Landlord has never generated, stored, handled, or disposed of any hazardous waste or hazardous substances upon the Building or the Land, and that Landlord has no knowledge of such uses historically having been made of the Building or the Land or such substances historically having been introduced thereupon.
29. Compliance with FCC Radio Frequency Emissions Requirements.
- a. It shall be the responsibility of Tenant to ensure that Tenant's use, installation, or modification of equipment at the Premises does not cause radio frequency exposure levels of all the existing equipment located at the Premises and in the surrounding vicinity (including the communications equipment, Landlord's equipment, and all other transmitting equipment in the vicinity) to exceed those levels permitted by the FCC. Landlord shall require other tenants installing equipment after the installation of the communications equipment to bear the same responsibility.
  - b. Tenant agrees that in the event that there is any change to applicable rules, regulations, and procedures governing exposure to radio frequency radiation which place the Building in non-compliance, Tenant will cooperate with Landlord and other users of the Building to bring the Building into compliance, which cooperation shall include, but not be limited to, sharing pro rata the costs associated with bringing the Building into compliance.
30. Subordination. Tenant agrees to subordinate this Lease to any mortgage or trust deed which may hereafter be placed on the Premises, provided the mortgagee or trustee thereunder shall ensure to Tenant the right to possession of the Premises and other rights granted to Tenant herein so long as Tenant is not in default beyond any applicable grace or cure period, such assurance to be in writing and otherwise in form and substance reasonably satisfactory to Tenant. Further, Landlord agrees to promptly have any mortgagee or trustee which has a mortgage or trust deed currently placed on the Premises execute a non-disturbance agreement in a form reasonably satisfactory to Tenant.
31. Notices. Any notice, request or demand required or permitted to be given pursuant to this Agreement shall be in writing and shall be deemed sufficiently given if delivered by messenger at the address of the intended recipient, sent prepaid by Federal Express (or a comparable guaranteed overnight deliver service), or deposited in the United States first class mail (registered or certified, postage prepaid, with return receipt requested), addressed to the intended recipient at the address set forth below or at such other address as the intended recipient may have specified by written notice to the sender in accordance with the requirements of this paragraph. Any such notice, request, or demand so given shall be deemed given on the day it is delivered by messenger at the specified address, on the day after deposit with Federal Express (or a comparable overnight delivery service), or on the day that is five (5) days after deposit in the United States mail, as the case may be.

TENANT: USCOC of Greater Iowa, LLC

Attention: Real Estate Lease Management  
8410 West Bryn Mawr Avenue  
Chicago, Illinois 60631  
Phone: 1-866-573-4544

LANDLORD: Low Rent Housing Commission,  
DBA Muscatine Municipal Housing Agency  
215 Sycamore  
Muscatine, Iowa 52761  
Phone: Nancy Lueck, Finance Director, 563-264-1554

32. Contingencies. Tenant shall have the right to terminate this Lease upon written notice to Landlord, relieving both parties of all further obligations hereunder, if Tenant, acting reasonably and in good faith, shall be unable to obtain any or all licenses or permits required to construct its intended improvements upon the Premises or conduct Tenant's business at the Premises at any time during the Term; if Tenant's technical reports fails to establish to Tenant's satisfaction that the Premises are capable of being suitably engineered to accomplish Tenant's intended use of the Premises; if the Premises are taken by eminent domain by a governmental entity or a title commitment or report obtained by Tenant with respect to the Premises shows as exceptions any encumbrances or restrictions which would, in Tenant's opinion, interfere with Tenant's intended use of the Premises.
33. Surrender. Upon the expiration or earlier termination of this Lease, Tenant shall remove all of Tenant's property from the Premises and surrender the Premises to Landlord in good condition, reasonable wear and tear excepted.
34. Tenant's Self-Help. If Landlord at any time fails to perform any of its obligations under this Lease or does not make repairs that are needed to protect the health, safety, and welfare of Tenant, Landlord or Landlord's other tenants, Tenant shall have the right, but not the obligation, upon giving the Landlord at least **five (5)** days prior written notice of its election to do so (except in the event of an emergency, when no prior notice shall be required) to perform such obligations on behalf of and for the account of Landlord, and to take all necessary action to perform such obligations. Tenant's costs and expenses incurred in performing such obligations of Landlord shall, at the election of the Tenant, either promptly be reimbursed by Landlord with interest at the highest rate allowed by applicable law or Tenant taking a credit against the Rent in the amount of the cost and expenses.
35. Remedies. The parties shall be entitled to the application of all appropriate remedies available to them under state and federal law in the enforcement of this Lease.
36. Binding Effect. All of the covenants, conditions, and provisions of this Lease shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.
37. Execution of Other Instruments. Landlord agrees to execute, acknowledge, and deliver to Tenant other instruments respecting the Premises, as Tenant may reasonably request from time to time: provided that any such instruments are merely in furtherance of, and do not substantially expand, Tenant's rights and privileges herein established. Landlord also agrees to reasonably cooperate with Tenant's efforts to obtain all private and public

consents related to Tenant's use of the Premises, so long as such cooperation does not impose a material financial burden on Landlord.

38. Invalidity of Particular Provision. If any term or provision of this Lease, or the application of such term or provision to any person or circumstance, to any extent, is invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, will not be affected and each term and provision of this Lease will be valid and be enforced to the fullest extent permitted by law.
39. Governing Law. This Lease will be governed by and construed in accordance with the laws of the State in which the Premises is located.
40. Recording. Each party, on request of the other, agrees to execute a short form lease in recordable form and complying with applicable laws and reasonably satisfactory to both parties, which will be recorded in the appropriate public records.
41. Headings. The section headings throughout this instrument are for convenience and reference only, and are not to be used to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Lease.
42. Entire Agreement; Waiver. This Lease constitutes the entire agreement of the parties, and may not be modified except in writing signed by the party against whom such modification is sought to be enforced. No waiver at any time of any of the provisions of the Lease will be effective unless in writing. A waiver on one occasion will not be deemed to be a waiver at any subsequent time.
43. Modifications. This Lease may not be modified, except in writing signed by both parties.
44. Errors and Omissions. Landlord and Tenant agree as part of the basis of their bargain for this Lease to cooperate fully in executing any and all documents (including amendments to this Lease) necessary to correct any factual or legal errors, omissions, or mistakes, and to take any and all additional action, that may be necessary or appropriate to give full force and effect to the terms and intent of this Lease.
45. Non-binding until Full Execution. Both parties agree that this Lease is not binding on both parties until both parties execute the Lease.
46. Electronic Reproductions. The Parties agree that a scanned or electronically reproduced copy of image of this Lease, as executed, shall be deemed an original and may be introduced or submitted in any action or proceeding as competent evidence of such agreement, notwithstanding the failure or inability of either party to produce or tender an original executed counterpart.

[END OF LEASE - SIGNATURE PAGE FOLLOWS]

**SIGNATURE PAGE**

IN WITNESS WHEREOF, the parties hereto bind themselves to this Rooftop Space Lease as of the day of the full execution of this Rooftop Space Lease.

LANDLORD: Low Rent Housing Commission, DBA Muscatine Municipal Housing Agency

TENANT: USCOC of Greater Iowa, LLC

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Printed: \_\_\_\_\_

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

Title: Vice President

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

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

STATE OF \_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ )

I, the undersigned, a notary public in and for the State and County aforesaid, do hereby certify that \_\_\_\_\_, known to me to be the same person whose name is subscribed to the foregoing Rooftop Space Lease, appeared before me this day in person and acknowledged that, pursuant to (his) (her) authority, signed the said Lease as (his) (her) free and voluntary act, for the uses and purposes therein stated.

Given under my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

Notary Public

My commission expires \_\_\_\_\_

STATE OF ILLINOIS )

COUNTY OF COOK )

I, the undersigned, a notary public in and for the State and County aforesaid, do hereby certify that \_\_\_\_\_, Vice President known to me to be the same person whose name is subscribed to the foregoing Rooftop Space Lease, appeared before me this day in person and acknowledged that, pursuant to his authority, he signed the said Lease as his free and voluntary act, on behalf of Tenant, for the uses and purposes therein stated.

Given under my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

Notary Public

My commission expires \_\_\_\_\_

Site Name:

Site Number:

**EXHIBIT A**  
Legal Description of Underlying Property

Site Name: Muscatine DT

Site Number: 760350

**EXHIBIT B**  
Depiction of Building

Site Name: Muscatine DT

Site Number: 760350

**EXHIBIT C**  
Rooftop Space Site Plan

Site Name: Muscatine DT

Site Number: 760350

**EXHIBIT D**  
**Ground Space Site Plan and Legal Description**