

**AN ORDINANCE APPROVING A LEASE AGREEMENT BETWEEN THE VILLAGE OF CHATHAM AND ILLINOIS SMSA LIMITED PARTNERSHIP**

WHEREAS, the Village of Chatham has negotiated a lease agreement with Illinois SMSA Limited Partnership pertaining to lease of portions of the water tower for cellular phone antennae, a copy of which agreement is attached hereto;

***NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF CHATHAM, SANGAMON COUNTY, ILLINOIS AS FOLLOWS:***


**SECTION 1:** The lease agreement attached hereto by and between the Village of Chatham, Illinois and Illinois SMSA Limited Partnership is hereby approved.

**SECTION 2:** The President is directed to execute said agreement on behalf of the Village, and the proper officers of the Village are authorized and directed to carry out said agreement according to its terms.

**SECTION 3:** This Ordinance is effective immediately.

PASSED this 5th day of August, 1997.

  
\_\_\_\_\_  
VILLAGE PRESIDENT

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

AYES: 6

NAYS: 0

APPROVED: 8/5/97

ABSENT: 8/5/97

## WATER TOWER AND GROUND LEASE AGREEMENT

### 1: Definitions of Terms Used in this Document:

#### 1.1 Landlord's Contact Person

Meredith Branham  
(217)483-2451

#### 1.2 Landlord

Village of Chatham  
116 East Mullbery  
Chatham. IL 62629

#### 1.3 Name and Address for Payment of Rent

Village of Chatham  
116 East Mullbery  
Chatham. IL 62629

#### 1.4 Taxpayer Identification Number

---

#### 1.5 Property Identification Number

29-07-200-005

#### 1.6 Commencement Date

August 1, 1997

#### 1.7 Initial Term

Five (5) years

#### 1.8 Initial Rent

\$11,400.00 annually

#### 1.9 Term

The Initial Term and any extension term or year to year term described in Sections 2 and 3.

#### 1.10 Property

Space on Landlord's water tower ("Water Tower") sufficient to mount up to twelve (12) antennae with an operating frequency of 824 to 894 MHz, at approximately the \_\_\_ foot level, with ground space of approximately 1000 square feet to construct an approximate equipment enclosure and space to run cables from the equipment enclosure to the antennae on certain real property ("Property") with a common address of 900 East Walnut, Chatham, IL 62629, and the easements conferred herein, all as legally described on Exhibit A and marked on the sketches on Exhibit B attached hereto and made a part hereof.

#### 1.11 Lease

This Ground Lease Agreement including Exhibits A, B and C

#### 1.12 Tenant

Illinois SMSA Limited Partnership an Illinois limited partnership

#### 1.13 Tenant's Contact Person

Charles Kincaid, Manager Real Estate & Zoning  
(847)706-7462 FAX(847)706-2557

#### 1.14 Tenant's Address

Illinois SMSA Limited Partnership  
c/o Ameritech Cellular Services  
Real Estate Dept., 1515 Woodfield Road,  
Suite 1400, Schaumburg, Illinois 60173

#### with a copy to:

Ameritech Cellular Services  
Legal Dept. #3H82  
2000 West Ameritech Center Drive  
Hoffman Estates, IL 60195-5000

**2: Term and Options to Extend:**

2.1 **Initially.** Landlord leases the Property to Tenant for the Initial Term and on the terms and conditions of this Lease beginning on the Commencement Date at the Initial Rent as adjusted in succeeding years pursuant to Section 2.3 below.

2.2 **Option to Extend.** The term of this Lease shall be automatically renewable for four (4) additional terms of five (5) years each following the original term or any renewable term at the annual rental stated below and otherwise upon the same terms and conditions stated in this Lease. If Tenant desires to not extend any subsequent term of the Lease it shall give Landlord written notice of its intention to not extend the term at least sixty (60) days prior to the expiration of the then current term whereupon the Lease shall be deemed canceled upon the expiration of the then current term.

2.3 **Rent During Extension Terms.** The annual rental for the first (1st) five (5) year extension term shall be increased to Thirteen Thousand One Hundred Ten and 00/100 Dollars (\$13,110.00);

for the second (2nd) five (5) year extension term the annual rental shall be increased to Fifteen Thousand Seventy Six and 50/100 Dollars (\$15,076.50);

for the third (3rd) five (5) year extension term the annual rental shall be increased to Seventeen Thousand Three Hundred Thirty Seven and 97/100 Dollars (\$17,337.97); and

for the fourth (4th) five (5) year extension term the annual rental shall be increased to Nineteen Thousand Nine Hundred Thirty Eight and 67/100 Dollars (\$19,938.67).

**2.4 Construction of Tenant's Building:**

**2.4.1 Construction of Building.**

Tenant has proposed the construction of an equipment enclosure with external dimensions of approximately 11.25 X 26 and comprising approximately 295 square feet to be located as specified on Exhibit B. The plans for such construction are in the form as attached hereto as Exhibit C and incorporated herein by specific reference. Tenant undertakes full and complete responsibility at all times hereafter for the expenses of, and quality of, construction and compliance with all code requirements and regulations of governmental authorities having jurisdiction over the construction, including but not limited to compliance with acts effecting construction of public buildings and service areas used by public employees, and Tenant agrees to remedy or correct any deficiencies with such compliance. The construction shall be processed pursuant to permit and conducted by authorized and licensed personnel and shall be performed in compliance with local and State requirements for construction activities upon public property. The construction work shall proceed without interference or disruption, or minimalization of same, to the current operations of the Street Department and the other departments of the Village government having use of the property.

**2.4.2 Cable Connection to Water Tower; Water Tower Maintenance.**

All cable connections and antennae of Tenant that are placed or lead to the water tower shall be placed and secured in a manner safe to all. Tenant shall be solely responsible for securing and maintaining said antennae, cable and other equipment in a safe and secure manner. Landlord shall assume no responsibility for the safety or security of the property of the Tenant upon this location. Tenant shall, upon reasonable notice, make all portions of the overhead tank of Landlord available for maintenance or repair, including but not limited to reasonable repainting and related work, upon the request, and at the direction of, the Landlord.

**STANDARD PROVISIONS**

**3: Additional Yearly Terms.**

If at the end of the fourth (4th) five (5) year extension term, this Lease has not been terminated by either party giving six (6) months prior written notice to the other, the Term of this Lease shall automatically continue in force upon the same terms and conditions for a further term of one (1) year and for any subsequent annual terms until such time as either party serves written notice

upon the other of its intention to terminate this Lease at least six (6) months prior to the end of any annual term. Rent for these annual periods shall be equal to the product of the rent paid for the preceding lease year multiplied by 1.03 (103%) payable in equal monthly installments.

#### **4: Methods of Payment.**

4.1 **First Rent Payment.** Not later than fourteen (14) days after the Commencement Date, Tenant shall pay Landlord rent for the first full year of the Initial Term.

4.2 **Subsequent Annual Rent Payments.** Effective on the anniversary of the commencement date rent shall be payable annually in advance.

4.3 **Location for Payment.** All rent shall be paid to Landlord at the Address for Payment of Rent or to another person, firm or place which the Landlord may from time to time designate in writing at least forty five (45) days in advance of a rent payment date.

#### **5: Use of Property.**

Tenant may use the Property for lawful telecommunications purposes and related site preparation, improvements and maintenance purposes in accordance with local rules and governmental regulations.

#### **6: Tenant's Installation**

6.1 **Improvements.** Tenant may install an antenna structure, antennas, equipment enclosures, equipment, other personal property, fixtures, cables, transmission lines, and utilities and make any other improvements. Tenant may from time to time replace any of these items with new or different items with the same or different specifications so long as their installation is otherwise in compliance with this Lease and applicable laws, ordinances and codes.

6.2 **Workmanlike Construction.** Tenant agrees that the installation will be completed in a neat, workmanlike manner consistent with good engineering practices. All costs of the installation, including, but not limited to, the cost of extending Landlord's electrical service to Tenant's equipment, will be paid by the Tenant.

6.3 **Title to Various Items.** Landlord shall, at all times, be the sole and exclusive owner of the Property. The Tenant shall at all times be the sole and exclusive owner of the antenna structure, antennas, equipment enclosures, equipment, other personal property, fixtures, cables and transmission lines and other improvements installed by Tenant on the Property.

6.4 **Ingress and Egress.** Tenant and its authorized representatives shall have the right of ingress and egress to and from the Property twenty-four (24) hours a day, seven (7) days a week.

#### **7: Taxes.**

Tenant shall be solely responsible for and shall timely pay all personal property taxes levied and assessed against it or its personal property. Landlord shall be solely responsible for and shall timely pay all real estate, special assessments or similar taxes relating to the Property including any improvements made by Tenant. Tenant shall reimburse the Landlord for the amount of any increase in real estate taxes attributable to Tenant's improvements as determined by the local assessor, upon receipt of a copy of the tax bill and request for reimbursement from the Landlord. At the request of either party, the other shall provide evidence of payment of taxes. Tenant recognizes that installation of its equipment on Landlord's premises which are currently tax exempt, may cause the premises to be taxable, and agrees to be liable for the full amount of taxes assessed against the Landlord as a result of Tenant's use of the Property.

Tenant shall have the right to contest all taxes, assessments, charges, and impositions, and Landlord agrees to join in such contest, if required by law, and to permit the Tenant to proceed with the contest in Landlord's name, provided that the expense of the contest is borne by Tenant. If the Landlord initiates an action to contest taxes or other items the Tenant may join in such action provided that Tenant pays its own expenses of so participating. Landlord shall within fourteen (14) days of receipt of notice of any

increase in taxes, assessments or other charges send a copy of such notice by certified mail, return receipt requested, to Tenant. If Landlord fails to give Tenant such notice as set forth above, Landlord will be responsible for payment of any increases and Tenant shall have the option to pay the same and deduct such payment from rent or any other sums next due.

#### **8: Indemnification.**

Landlord and Tenant hereby agree to indemnify, defend and hold each other harmless from and against any claim of liability or loss from personal injury or property damage in connection with the Property or resulting from or arising out of the use and occupancy of the Property by the indemnifying party or its agents, excepting, however, such claims or damages as may be due to or caused by the acts of the indemnified party or its agents. Neither party shall have any obligations under this Paragraph unless notified in writing of any such claim or loss within thirty (30) business days of receipt by the other party of notice of such claim or loss.

#### **9: Landlord's Representations**

In order to induce Tenant to enter into this Lease, Landlord covenants, represents and warrants, as of the date of this Lease and throughout its Term, as follows:

9.1 **Authority.** Landlord is solvent and the owner of the Property in fee simple. Landlord has full authority to execute, deliver, and perform this Lease and is not in default of any mortgage affecting this property.

9.2 **No Condemnation.** Landlord has received no actual or constructive notice of any condemnation or eminent domain proceedings or negotiations for the purchase of the Property, or any part, instead of condemnation.

9.3 **No Unrecorded Liens.** Landlord has not performed and has not caused to be performed any work on the Property during the six months preceding the date of this Lease which could give rise to any mechanic's or materialmen's liens. There are no unrecorded easements or agreements affecting the Property.

#### **10: Easements**

10.1 **Granted.** For the Term of this Lease, Landlord grants Tenant the Access and Utility Easements, if any, described in Exhibits A or B of this Lease and the Rider to the Memorandum of Lease.

10.2 **Modifications.** If subsequent to the date of this Lease it is reasonably determined by Tenant that any Access or Utility Easement obtained does not or no longer adequately serves the Property and Tenant's use thereof, Landlord agrees to cooperate with Tenant to relocate such Easements where practical. In the event the Landlord is unable to relocate any of the necessary Easements, then at Tenant's option this Lease may be terminated upon the payment of rent for the remainder of the term or one year, whichever is less.

#### **11: Assignment.**

The Tenant may sublease or assign this Lease, in whole or in part, or any of its rights under this Lease to Ameritech Mobile Communications, Inc., or any business entity or partnership affiliated with it or Tenant by common ownership and Tenant's liability under this Lease shall cease. Any other assignment or sublease by Tenant shall be with the prior written consent of Landlord which will not be unreasonably withheld or delayed.

#### **12: Defaults.**

12.1 **By Tenant.** In the event of default under this Lease by Tenant, Landlord shall be entitled to remedies as shall then be provided by law except that Landlord shall not be entitled to distraint any personal property (including fixtures) on the Property; and provided that prior to, and as a condition precedent to, the exercise of any remedy, Landlord shall give to Tenant written notice of default to Tenant and the nature of the default and Tenant shall have thirty (30) days (or, if the default cannot be cured within thirty (30) days, a longer period as shall be necessary to cure the default, acting with due diligence), after receipt of the notice within which to cure the default, during which period no remedy shall be pursued. If Tenant fails to cure a default, in addition to any other remedies available to Landlord, the Landlord may elect to commence eviction proceedings provided, however, if Tenant ultimately

cures the default, Tenant shall be permitted a six month stay from receipt of a notice of eviction at 110% of the then current monthly rent to find an alternative site.

**12.2 By Landlord.** If Landlord defaults in any of its obligations under this Lease, in addition to any remedies available at law or equity, Tenant may perform Landlord's obligation and may offset from the rent or any other amounts next payable Tenant's costs and expenses of doing so. Notwithstanding anything else in this Lease, Tenant may defer payment of Rent including the first rent payment, during any period in which Landlord is in default in any of its obligations under this Lease; has failed to provide or execute or cause to be provided or executed (a) any document reasonably necessary for Tenant's use of the Property in the manner contemplated, (b) any license; or (c) any document reasonably necessary to obtain any title insurance or other necessary or desirable insurance or consent.

**12.3 Attorney's fees.** Except for a declaratory judgment action brought pursuant to Paragraph 1 of the Additional Terms and Conditions, the prevailing party in any litigation under this Lease shall be entitled to receive, in addition to such other amounts awarded, its court costs and expenses including attorney's fees.

**13: Condemnation.**

In the event of condemnation, Tenant's share of any condemnation award or proceeds from sale in lieu of condemnation shall be limited to compensation for Tenant's leasehold interest, antennas, improvements, transmission lines, loss of business and equipment, and Tenant's costs of relocation. Tenant shall not receive any part or portion of condemnation award or sales proceeds relating to compensation for property owned by the Landlord.

**14: Casualty.**

In the event the Property is destroyed or damaged in whole or in part by casualty during the term of this Lease then, at Tenant's option (exercised by notice to Landlord), this Lease may be terminated as of the date of the event or at any time within 90 days thereafter and no further rent shall be due under the Termination Section or any other Section of this Lease. In the event the Property is destroyed or damaged and Landlord elects not to rebuild, Landlord shall grant Tenant an option of installing, at Tenant's expense and subject to the terms herein, a tower sufficient to support Tenant's antennae. During the period of time that Tenant is designing and constructing a tower on the Property, Tenant may install a temporary cellular tower on the Property

**15: Quiet Enjoyment.**

Landlord covenants and agrees that upon payment by the Tenant of the rental under this Lease and upon the observance and performance of all the covenants, terms and conditions on Tenant's part to be observed and performed, Tenant shall peaceably and quietly hold and enjoy the property, the rights, and privileges granted for the term demised without hindrance or interference by Landlord or any other person and Landlord shall perform all of its obligations under this Lease.

**16: Subordination, Non-Disturbance and Attornment.**

**16.1 Existing Encumbrances.** Within thirty (30) days after the execution of this Lease, Landlord shall deliver to Tenant executed original of non-disturbance and attornment agreements with Tenant in form satisfactory to Tenant, in Tenant's sole discretion, from any existing mortgage holder or other party holding an interest in the Property which may take precedence over Tenant's interest in the Property. Failure by the Landlord to deliver any required non-disturbance and attornment agreement shall entitle Tenant, at Tenant's option to terminate this Lease at any time thereafter and to obtain a refund of all rent and any other amounts paid to Landlord, and, in any case, Tenant shall have no obligation to pay rent or other amounts under this Lease until Landlord delivers the executed non-disturbance and attornment agreement.

**16.2 Subsequent Financing.** Tenant shall enter into recordable subordination, non-disturbance and attornment agreements with the holders of any mortgage, trust deed, installment sale contract or other financing instrument dated after the date of this Lease, if the agreements are in form satisfactory to Tenant.

**17: Termination.**

17.1 **By Tenant.** In addition to termination as a result of action or inaction pursuant to other parts of this Lease, Tenant may terminate this lease: (a) at any time upon thirty (30) days' written notice to Landlord and payment of six (6) months rental, (b) immediately, without payment of any rent not yet due following written notice to Landlord of either (i) Tenant's inability to secure necessary zoning and/or Tenant has lost, been denied or failed to satisfy any necessary authorization or radio engineering criteria to use the Premises as contemplated in this Lease, or (ii) Tenant's having obtained a soil test which shows contamination or building conditions which in Tenant's judgment are unsuitable for Tenant's purposes.

17.2 **Removal of Equipment.** Upon the expiration of this Lease, or its earlier termination or cancellation for any reason, Tenant shall at its sole expense remove from the property all of its antennas, antenna structures, equipment enclosures, transmitting and receiving equipment, transmitting lines, other personal property, fixtures and other improvements (except underground wiring, driveways, sidewalks and foundations). Tenant shall leave all fencing unless prior to the effective date of the expiration, termination or cancellation, Landlord requests removal. Tenant shall have up to ninety (90) days after the effective date of the expiration, termination, cancellation to complete removal of all items. If, Tenant requires any of the ninety (90) day period after the effective date for the removal, Tenant shall pay Landlord the then current monthly rent (or in the case of annual rental one-twelfth of the annual rental) in advance for each thirty (30) day period or portion thereof Tenant requires to complete the removal.

**18: Cooperation.**

Landlord agrees to cooperate with Tenant in any efforts by Tenant to secure any governmental permits necessary to use the Property as contemplated in this Lease, and to join in any application or other document reasonably requested by Tenant within ten (10) days of Tenant's written request. During the term of this Lease Landlord shall take no action which adversely affects the uses permitted on the Property. At any time after the date of this Lease or the Commencement Date, either party shall execute or cause to be executed any documents, or take or cause to be taken any actions, reasonably necessary to carry out the intent of this Lease.

**19: Lease Construction.**

This Lease shall be construed in accordance with the laws of the State of where the Property is located. In the event that any provisions of this Lease are legally unenforceable, the other provisions shall remain in effect.

**20: Entire Binding Understanding; No Oral Modification.**

All prior understandings and agreements between the parties are merged into this Lease, and this Lease may not be modified orally or in any manner other than by an agreement in writing signed by both parties. Presentation of this Lease by Tenant to Landlord shall not constitute an offer unless the Lease has been signed by Tenant, and this Lease shall not be binding until executed by both Landlord and Tenant.

**21: Successors; Separability.**

Subject to the provisions regarding assignment, this Lease shall be binding upon, and inure to the benefit of, the successors-in-interest and permitted assigns or subtenants of the parties and any grantee of Landlord.

**22: Notices.**

All notices, requests and other writings required under this Lease (including any notices of renewal, or termination rights) must be in writing and shall be deemed validly given upon the earlier of (i) actual receipt or (ii) the second business day after the date posted if sent by certified mail, return receipt requested, addressed to the other party with copies as set out in the Landlord's Address and Tenant's Address (or any other address within the United States that the party to be notified may have designated to the sender by like notice).



**23: Lease Memorandum.**

Simultaneous with the execution of this Lease, the parties have executed a Memorandum of Lease. Tenant may record the Memorandum of Lease. If Tenant's survey requires a correction to the legal description rider attached to the Memorandum of Lease, the parties will execute and record or re-record a modified Memorandum of Lease or a supplement to the Memorandum of Lease. Tenant shall not be required to pay rent during any period in which Landlord refuses to execute a modification or supplement.

**24: Performance.**

Time is of the essence in this Lease.

**25: Broadcast Interference.**

**25.1 Definition.** As used in this Lease, "interference" with a broadcasting activity means:

(A) Interference within the meaning of the provisions of the recommended practices of the Electronics Industries Association (EIA) and the rules and regulations of the Federal Communications Commission (FCC) then in effect, or

(B) A material impairment of the quality of either sound or picture signals on a broadcasting activity as may be defined by the FCC at any hour during the period of operation of activity, as compared with that which would be obtained if no other broadcaster were broadcasting from the Property or had any equipment on the Property.

**25.2 Removal.** Tenant shall take reasonable actions to prevent and properly remove any interference with broadcast activities of Landlord or other tenants of Landlord caused by Tenant's use of the property. Landlord shall take reasonable actions to prevent and promptly remove or cause to be removed any interference with Tenant's broadcast activities caused by Landlord or Landlord's lessees, licensees, invitees or agents.

**26: Environmental Matters.**

**26.1 Definition.** For purposes of this Lease:

(A) "Applicable Environmental Laws" includes the Comprehensive Environmental Response, Compensation, and Liability Act, any so called "Superfund" or "Superlien" law, or any other Federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect.

(B) "Hazardous Material" includes any hazardous, toxic or dangerous waste, substance or material as that term is defined in Applicable Environmental Laws.

**26.2 No Hazardous Material.** Neither the Landlord nor, to the best knowledge of Landlord, any other person has ever caused or permitted any Hazardous Material to be placed, held, located or disposed of on, under or at the Property or any part thereof nor any part thereof has ever been used by the Landlord, or to the best knowledge of the Landlord, by any other person either as a permanent or temporary dump site or storage site for any Hazardous Material.

**26.3 Tenant's Indemnity.** Tenant indemnifies the Landlord and agrees to hold the Landlord harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses and claims of any and every kind whatsoever paid, incurred or suffered by or asserted against Landlord for, with respect to, or as a direct or indirect result of, the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission, discharging or release from the Property or into or upon any land, the atmosphere, or any watercourse, body of water or wetland, of any Hazardous Material (including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under Applicable Environmental Laws) caused by or in the control of Tenant.

**26.4 Landlord's Indemnity.** In all other cases, Landlord indemnifies the Tenant and agrees to hold the Tenant harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses and claims of any and every kind whatsoever paid, incurred or suffered by or asserted against Tenant for, with respect to, or as a direct or indirect result of, the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission, discharging or release from the Property or into or upon any land, the atmosphere, or any watercourse, body of water or wetland, of any Hazardous Material (including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under Applicable Environmental Laws).

**26.5 Survival.** The provisions of and undertakings and indemnifications set out in this Section shall survive the termination of this Lease.

### **27: ADDITIONAL TERMS AND CONDITIONS:**

The parties agree to the following additional terms and conditions, which shall prevail over any provisions to the contrary contained elsewhere in the Agreement:

**27.1 Termination in the Event of Declaration of Invalidity.** While the parties hereto believe that this Agreement does not violate the status or common law of the State of Illinois, they recognize that this Agreement is not explicitly permitted in the Illinois Municipal Code for a non-home rule municipality; nor has the legality of agreements such as this been upheld by the courts of Illinois. Therefore, the parties agree that either party hereto may terminate this agreement upon 60 days written notice in the event of a final, unappealable decision by a court of the State of Illinois holding that this agreement or similar agreements are improper under Illinois law or within 60 days of the effective date of a statute which would invalidate this Agreement. In the event of termination under this paragraph, Tenant may within the 60 day period seek a declaration by a court of competent jurisdiction that this Agreement is valid, and this lease shall continue during the pendency of such litigation. In the event of a termination under this paragraph, Tenant shall promptly remove its equipment from the premises, and neither party shall be further liable to the other.

**27.2 Most Favored Nation:** Tenant agrees that during the term of this lease or any extension thereof, the rent for the leased Property as recited in paragraphs 1.8 and 2.3 shall not be less than the rents paid for Tenant for similar situated facilities to any municipality within Sangamon County and the seven counties contiguous to Sangamon County namely, Cass Christian, Logan, Macon, Macoupin, Menard, and Morgan. Landlord acknowledges that Tenant is not staffed to administer compliance with the foregoing provision. Accordingly, Landlord assumes the responsibility for administering this provision. No more than once a year, Landlord may request a report from Tenant of rental rates paid municipalities in the designated counties. If Landlord learns of another municipality in the designated counties receiving more rent than Landlord for similarly situated facilities, Landlord shall notify Tenant in writing of Landlord's desire to receive comparable rents. The new rental rate will not be retroactive but will be effective commencing on the next anniversary date of the Commencement Date.

**27.3 Limited Nonexclusivity:** Tenant agrees that this lease is nonexclusive, and that Landlord may lease the premises, or any portion thereof, to any other telecommunications provider, on such terms and conditions as Landlord deems fit in its sole discretion, provided that the activities of such other telecommunications provider does not interfere physically or electronically with Tenant's operations. Prior to entering into any other proposed leases of the premises or any part thereof for telecommunications purposes, Landlord shall provide a copy thereof to Tenant together with the specifications of the proposed facility, who shall promptly review the proposed lease and comment on the potential for interference. If Tenant believes that interference is likely, Tenant shall notify Landlord, and in such event, Tenant shall have the obligation to consult with the other telecommunications provider and with Landlord to eliminate any proposed interference. If such interference cannot be eliminated, Tenant shall notify Landlord, and in such event, if Landlord enters into the proposed lease with the other telecommunications provider, and interference results, Landlord shall be liable to Tenant for breach of this lease. Except as provided in this paragraph, Landlord shall not be liable for any interference caused by any other tenant on the Premises.

**27.4 Damages:** This lease may be enforced by any appropriate action available at law or in equity, but only in an action brought in a court of competent jurisdiction in Sangamon County, Illinois. Except as stated in Article 26 of this Lease pertaining to Environmental matters, and in Article 8 pertaining to Indemnity, damages recoverable by one party against the other in any litigation brought under this lease shall limited to actual property damage, to rents due, and to return of rents paid. In no event shall either party be liable to the other for consequential or punitive damages or for lost profits.

AGREED as of the later of the two dates below:

**LANDLORD**

Village of Chatham

By: \_\_\_\_\_  
Name: Linda Hester  
Title: Village President  
Date: Aug 5, 1997

**TENANT**

Illinois SMSA Limited Partnership, an Illinois Limited Partnership, by its general partner, Ameritech Mobile Phone Service of Illinois, Inc., an Illinois Corporation

By: \_\_\_\_\_  
Jay M. Ellison  
Its Vice President  
Date: \_\_\_\_\_

**LEASE AGREEMENT**

**EXHIBIT A**

**LEGAL DESCRIPTION OF PROPERTY**

(May be added by Tenant or amended at a later date.)

SPG-E

**LEASE AGREEMENT**

**EXHIBIT B**

**SKETCH OF THE PROPERTY**

SPG-E

**LEASE AGREEMENT**

**EXHIBIT C**

**CONSTRUCTION PLANS FOR WATER TOWER**

**SPG-E**

This instrument was drafted by  
and after recording return to:

Dennis L. Myers, 3H78  
Ameritech Cellular Services  
2000 W. Ameritech Center Drive  
Hoffman Estates, IL 60195-5000

**MEMORANDUM OF WATER TOWER AND GROUND LEASE AGREEMENT  
AND GRANT OF EASEMENTS**

This Memorandum of Ground Lease Agreement is made this \_\_\_\_ day of \_\_\_\_\_, 19\_\_, between the Village of Chatham having an address at 116 East Mullbery, as the Landlord, and Illinois SMSA Limited Partnership, an Illinois limited partnership, having an address c/o Ameritech Cellular Services, 2000 W. Ameritech Center Drive, Hoffman Estates, IL 60195-5000, ATTN: Vice President-General Counsel and Manager, Real Estate & Zoning, as the Tenant.

1. Landlord hereby grants to Tenant and Tenant hereby takes from the Landlord subject to all terms and conditions of the Water Tower and Ground Lease Agreement dated \_\_\_\_\_, 19\_\_, the right to lease the Property in the County of \_\_\_\_\_, City of Chatham, and State of Illinois as legally described in Rider A and the easements as legally described in said Rider A ("Leased Property"). The common address of the Leased Property and its Property Identification Number(s) are also set forth in said Rider.

2. The Lease is for an initial term of five (5) years beginning \_\_\_\_\_, 19\_\_ and ending \_\_\_\_\_, 20\_\_. Unless affirmatively canceled by Tenant, the Initial Lease term will be extended automatically for four (4) successive terms of five (5) years each. If Tenant desires not to extend any subsequent term of the Lease, it must give Landlord written notice of its intention to not extend the term at least sixty (60) days prior to the expiration of the then current term, whereupon the Lease shall be deemed canceled upon the expiration of the then current term. The maximum date to which Lease may be extended is twenty-five (25) years from the commencement date, unless at the end of the fourth (4th) five (5) year extension term the Lease has not been terminated by the Landlord or Tenant as set forth in the Lease, in which case the Lease shall continue in force upon the same covenants, terms and conditions for a further term of one (1)

**SPG-E**

year, and so on from year to year until terminated by either party in compliance with the Lease. The term of the easements is co-extensive with that of the Lease.

3. Subject to the terms and conditions of the Lease, all improvements (including fixtures) added to the Leased Property by Tenant shall be Tenant's property and shall be removed by Tenant within ninety (90) days after termination of the Lease, except Tenant will not be required to remove any driveways, sidewalks, foundations, underground piping or wiring or any other fixtures or improvements at or below ground level.

4. The rights and obligations of Landlord and Tenant shall be construed solely by reference to the provisions of the Lease and in the event of any conflict between the provisions of the Lease and those of this Memorandum of Lease the provisions of the Lease shall control.

5. All mortgages, installment sale contracts and other financing instruments entered into by Landlord after the date of this Memorandum of Lease with respect to the Leased Property shall be expressly subject to and subordinate to the rights of the Tenant under the Lease unless the parties to such mortgages, contracts and other instruments deliver to Tenant an executed subordination, non-disturbance and attornment agreement in form satisfactory to Tenant.

IN WITNESS WHEREOF, Landlord and Tenant have caused this Memorandum of Lease to be executed by themselves or their duly authorized officers as of the day and year written below for the purpose of providing an instrument for recording.

**LANDLORD**

Village of Chatham

By: \_\_\_\_\_  
Name: Linda Kuntz  
Title: Village President  
Date: Aug. 5, 1997

**TENANT**

Illinois SMSA Limited Partnership, an Illinois Limited Partnership, by its general partner, Ameritech Mobile Phone Service of Illinois, Inc., an Illinois Corporation

By: \_\_\_\_\_  
Jay M. Ellison  
Regional Vice President  
Date: \_\_\_\_\_



**SPG-E**

**RIDER A TO MEMORANDUM OF LEASE  
AND GRANT OF EASEMENTS**

**LEGAL DESCRIPTION OF LEASED PROPERTY  
AND EASEMENTS**

**Common Address:** 900 East Walnut, Chatham, IL 62629

**Property Identification No:** 29-07-200-005

SPG-E

NOTARY FOR CORPORATE LANDLORD

MEMORANDUM OF LEASE

STATE OF ILLINOIS        )  
                                  ) SS  
COUNTY OF \_\_\_\_\_ )

Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 19\_\_, the above named \_\_\_\_\_ as the \_\_\_\_\_ of \_\_\_\_\_ and acknowledged that he executed the foregoing instrument on behalf of said corporation and by its authority for the purposes set forth therein.

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

Notary Public, \_\_\_\_\_ County  
State of Illinois

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

SPG-E

**NOTARY FOR CHICAGO SMSA LIMITED PARTNERSHIP**

**MEMORANDUM OF LEASE**

STATE OF ILLINOIS        )  
                                      )SS  
COUNTY OF COOK        )

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_, the above named Jay M. Ellison as the Regional Vice President of Ameritech Mobile Phone Service of Chicago, Inc., which corporation is the sole general partner of Illinois SMSA Limited Partnership and acknowledged that he executed the foregoing instrument on behalf of said corporation and by its authority for the purposes set forth therein.

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

Notary Public, Cook County  
State of Illinois

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

ORDINANCE CERTIFICATE

STATE OF ILLINOIS            )  
  ) SS.  
COUNTY OF SANGAMON        )

I, the undersigned, do hereby certify that I am the duly qualified and acting Village Clerk of the Village of Chatham, Sangamon County, Illinois.

I do further certify that the ordinance attached hereto is a full, true, and exact copy of Ordinance No. 97-41, adopted by the President and Board of Trustees of said Village on the 5<sup>th</sup> day of August, 1997, said Ordinance being entitled:

**AN ORDINANCE APPROVING A LEASE AGREEMENT BETWEEN THE VILLAGE OF CHATHAM AND ILLINOIS SMSA LIMITED PARTNERSHIP**

I do further certify that prior to the making of this certificate, the said Ordinance was spread at length upon the permanent records of said Village, where it now appears and remains.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said Village this 5<sup>th</sup> day of August, 1997.

*Robert K. [Signature]*  
Village Clerk



Network Department



January 12, 2007

Verizon Wireless  
180 Washington Valley Road  
Bedminster, NJ 07921

Village of Chatham  
116 East Mullbery  
Chatham, IL 62629  
Attn: Village Clerk

Re: Water Tower and Ground Lease Agreement dated November 19<sup>th</sup>, 1997

Contract Number: 27770  
Site Designation: Wgl Chatham  
Property Location: 116 East Mullbery  
Sangamon, IL 62629

Dear Sir or Madam:

On the 19<sup>th</sup> day of November 1997, Verizon Wireless, entered into a Water Tower and Ground Lease Agreement with the Village of Chatham for the use of the property commonly known 900 East Walnut, Chatham, IL 62629.

Pursuant to the above referenced agreement, this letter will serve as notification that the contract period from August 01<sup>st</sup>, 2002 through and including July 31<sup>st</sup>, 2007 will soon expire and will **NOT** be renewed. As of **August 1<sup>st</sup>, 2007**, all rights and privileges granted under this contract shall be deemed completely surrendered, the contract terminated with no additional money payable to either Party.

If you have any questions, please contact Lisa Essary at 847-619-4322.

Sincerely,

A handwritten signature in cursive script that reads "Joseph Mitru".

Joseph Mitru  
Real Estate Coordinator

Verizon Contract: IL Chatham / NG: 27770  
CERTIFIED MAIL: 7005 2570 0001 9626 0075