

RESOLUTION NO. 2022- 148

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA APPROVING THE TERMS AND AUTHORIZING THE CHAIR OF THE BOARD, ON BEHALF OF THE COUNTY, TO EXECUTE A SECOND AMENDMENT TO LICENSE AGREEMENT WITH PV TOWER ONE, LLC

RECITALS

WHEREAS, St. Johns County (the “County”) and PGA Tour, Inc. (the “Tour”) entered into a Purchase and Sale Agreement dated October 12, 2017 pursuant to Resolution No. 2017-340 wherein the County transferred to the Tour certain property located in St. Johns County containing a telecommunication tower (the “Premises”); and

WHEREAS, the County owned, operated and maintained a communication facilities at the Premises and on the tower as part of its interoperable communication system for use by local, state, and federal public safety agencies providing law enforcement, firefighting, ambulance, emergency medical, emergency management, and other emergency and government-related services to the citizens of St. Johns County; and

WHEREAS, per the terms of the Purchase and Sale Agreement, the Tour agreed to construct a replacement telecommunication tower (the “Replacement Tower”) and relocate the County facilities to the Replacement Tower at the Tour’s sole cost and expense. The Tour entered into a License Agreement with the County on August 22, 2018 for space on the Replacement Tower and the right to install certain equipment on the tower for the health, safety and welfare of the citizens of St. Johns County; and

WHEREAS, at the request of St. Johns County citizens, the Tour agreed to move the Replacement Tower to a location further away from the Bolles School in Ponte Vedra. Upon the Board of County Commissioners’ approval of Resolution No 2020-137, the County entered into a First Amendment to License Agreement with the Tour on April 14, 2020 to correctly identify and describe the location of the Replacement Tower; and

WHEREAS, the Tour and PV Tower One, LLC entered into an Assignment and Assumption of Leases, dated December 1, 2020, which, among other things, assigned PV Tower One, LLC all right, title and interest in and to, and obligations under, the Agreement; and

WHEREAS, as a result of the Assignment and Assumption of Leases, PV Tower One, LLC executed and presented to the County a Second Amendment to License Agreement, attached hereto as Exhibit “A”, incorporated by reference and made a part hereof; and

WHEREAS, it is in the best interests of the health, safety, and welfare of the citizens of St. Johns County to enter into the Second Amendment to License Agreement.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, as follows:

Section 1. The above recitals are incorporated by reference into the body of this Resolution and such recitals are adopted as findings of fact.

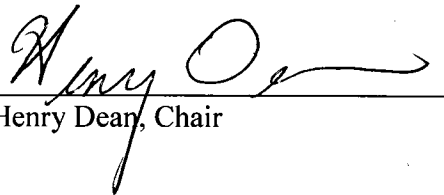
Section 2. The Board approves the terms of the Second Amendment to License Agreement on behalf of St. Johns County substantially in the same form as attached.

Section 3. To the extent that there are typographical, scrivener or administrative errors that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval by the Board of County Commissioners.


Section 4. The Clerk of the Court is instructed to file the original Second Amendment to License Agreement in the Public Records of St. Johns County, Florida.

PASSED AND ADOPTED this 17 day of May, 2022.

**BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA**

BY: 
Henry Dear, Chair

ATTEST: Brandon J. Patty,
Clerk of the Circuit Court & Comptroller


Deputy Clerk

Rendition Date 5/19/22

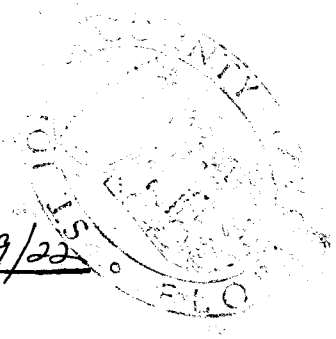


EXHIBIT "A" TO RESOLUTION

SECOND AMENDMENT TO LICENSE AGREEMENT

THIS SECOND AMENDMENT TO LICENSE AGREEMENT (this "Amendment") is entered into as of the ___ day of _____, 2022 (the "Effective Date"), by and between **PV TOWER ONE, LLC**, a Florida limited liability company, with a mailing address of 2870 Peachtree Road, Suite 171, Atlanta, Georgia 30305, hereinafter designated as "PV One" or "Licensor", and **ST. JOHNS COUNTY**, a political subdivision of the State of Florida, having administrative offices located at 500 San Sebastian View, St. Augustine, Florida 32084, hereinafter designated as the "County" or "Licensee." PV One and the County are at times collectively referred to hereinafter as the "Parties" or individually as the "Party."

RECITALS

WHEREAS, PGA Tour, Inc. (the "Tour") and the County previously entered into that certain License Agreement, dated August 22, 2018, and the First Amendment to License Agreement, dated April 14, 2020 (collectively, the "Agreement"), pursuant to which the County licensed space on a telecommunication tower constructed and maintained at 470 Stadium Course Way, Ponte Vedra Beach, Florida (the "Property"); and

WHEREAS, the Tour has since conveyed the Property to PV One via Special Warranty Deed, dated December 1, 2020, recorded on or about December 3, 2020, in the public records of St. Johns County, Florida at Official Records Book 5115, Page 504; and

WHEREAS, the Tour and PV One also entered into an Assignment and Assumption of Leases, dated December 1, 2020, which, among other things, assigned PV One all right, title and interest in and to, and obligations under, the Agreement; and

WHEREAS, PV One, as assignee of the Tour, and the County desire to amend and modify certain terms of the Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is acknowledged by both parties, PV One and the County do hereby agree as follows:

1. Recitals. The foregoing recitals are true and correct and are incorporated herein by reference as if fully set forth herein. Unless otherwise defined herein, all capitalized terms shall have the meanings ascribed to them in the Agreement.

2. Amendments. The Agreement is hereby amended as set forth below.

(a) Paragraph 2 (License) of the Agreement is hereby deleted in its entirety and replaced with the following:

2. License. That in consideration of the terms, provisions, conditions, covenants and agreements herein set forth, Licensor does hereby license to Licensee space on the Tower consisting of the top twenty feet (20') of the Tower

(elevation 230' above ground level to 250' above ground level) and fifteen feet (15') (at a centerline of 190' above ground level) (the "Tower Space") as described in Exhibit B-1 attached hereto and incorporated herein, and the right to use a 18 foot by 40 foot portion of the Property (the "Land Space") for the installation of antennas, microwave dishes, supporting lines and equipment, and an equipment shelter and associated ground equipment (collectively the "Licensee's Equipment"), together with a non-exclusive right for ingress and egress, seven (7) days a week twenty-four (24) hours a day, on foot or motor vehicle, including trucks, and for the installation and maintenance of utility wires, poles, cables, conduits, fiber, and pipes over, under, or along a twenty foot (20') wide right-of-way extending from the nearest right-of-way, Palm Valley Road, to the Land Space and Tower Space (the "Rights-of-Way"). Licensee's Land Space, Tower Space and Rights-of-Way shall be collectively referred to herein as the "Premises". Licensee's Land Space, Tower Space and Rights-of-Way shall be collectively referred to herein as the "Premises" and more particularly described herein in Exhibit A-A1 attached hereto and made a part hereof. Licensor grants Licensee the rights to use the Premises as part of its interoperable communication system for emergency systems servicing the citizens of St. Johns County. Licensee stipulates and agrees that this License does not grant to Licensee the right to use, store or maintain any antennas, equipment, or other structures except as specifically stated herein.

(b) Subparagraph (b) of Paragraph 3 (Term) of the Agreement is hereby deleted in its entirety and replaced with the following:

(b) This License Agreement will automatically renew for up to seven (7) additional five (5) year terms(s) (each five (5) year term shall be defined as an "Extension Term"), upon the same terms and conditions provided herein, unless Licensee notifies Licensor, in writing of its intent not to renew this Agreement at least one hundred and eighty (180) days prior to the expiration of the then existing Term.

(c) Paragraph 4 (License Fee) of the Agreement is hereby deleted in its entirety and replaced with the following:

4. License Fee. During the Initial Term and during any Extension Term of this Agreement, License shall pay to Licensor a monthly license fee (the "Monthly License Fee") in the amount of two thousand dollars (\$2,000.00) per month, increased upon the commencement of each five (5) year Extension Term by an amount equal to the Monthly License Fee payable for the month immediately prior to the commencement of such Extension Term, multiplied by five percent (5%). The Monthly License Fee shall be paid in advance beginning on the Commencement Date and thereafter on the first (1st) day of each month during the term of the Agreement. If the Commencement Date is not the first (1st) day of a calendar month, the Monthly License Fee payable for the first and last calendar months of the term of this Agreement shall be prorated for the number of days of such month occurring in the term. The Monthly License Fee shall be paid by electronic transfer to a bank account designated by Licensor in writing or direct to

Licensor at 2870 Peachtree Road, Suite 171, Atlanta, Georgia 30305 (or such other location as designated by Licensor in writing). If payment of the Monthly License Fee is not received by the 10th day of the month, Licensor may charge a late fee (the "Late Fee") equal to five percent (5%) of the Monthly License Fee. No payment by Licensee or receipt by Licensor of an amount less than is due hereunder shall be deemed to be other than payment towards or on account of the earliest portion of the amount then due by Licensee nor shall any endorsement or statement on any check or payment (or in any letter accompanying any check or payment) be deemed an accord and satisfaction (or payment in full), and Licensor may accept such check or payment without prejudice to Licensor's right to recover the balance of such amount or pursue any other remedy provided herein or at law or in equity.

Licensor hereby agrees to provide to Licensee certain documentation (the "License Fee Documentation") evidencing Licensor's interest in, and right to receive payments under, this Agreement, including without limitation: (i) documentation, acceptable to Licensee in Licensee's reasonable discretion, evidencing Licensor's good and sufficient title to and/or interest in the Property and right to receive rental payments and other benefits hereunder; (ii) a complete and fully executed Internal Revenue Service Form W-9 and/or other state equivalent as required by Licensee, in a form acceptable to Licensee, for any Party to whom rental payments are to be made pursuant to this Agreement; and (iii) other documentation requested by Licensee in accordance with the provisions of and at the address given above. The License Fee Documentation shall be provided to Licensee in accordance with the provisions of and at the address given in Paragraph 21. The Parties agree and acknowledge that Licensee shall be responsible for payments due under this Agreement commencing on the Commencement Date and for each month thereafter throughout the term of this Agreement (except as otherwise provided), but that Licensee will be unable to process any payments until the License Fee Documentation has been supplied to Licensee as provided herein.

(d) Subparagraph (e) of Paragraph 5 (Termination) of the Agreement is hereby deleted in its entirety and replaced with the following:

(e) Notwithstanding any other provision of this Agreement, except for monetary default, in light of the public health, safety, and welfare interest in maintaining the uninterrupted operation of the interoperable communication system, no termination of this Agreement shall be effective until thirty-six (36) months from Licensee's receipt of notice of termination, unless otherwise explicitly agreed in writing by Licensee ("Wind Down Period"). Notwithstanding the foregoing, nothing contained herein shall prevent Licensor from seeking injunctive relief or specific performance against Licensee in connection with a default by Licensee under this Agreement.

(e) Exhibit "B" of the Agreement is hereby deleted in its entirety and replaced with Exhibit "B-1" hereto. To the extent of any inconsistency between Exhibit B and Exhibit B-1, Exhibit B-1 shall control.

3. Miscellaneous. PV One and the County each warrants to the other that the person executing this Amendment on behalf of the warranting party has the full right, power and authority to enter into, and execute this Amendment on that party's behalf, and that no consent from any other person or entity is necessary as a condition precedent to the legal effect of this Amendment. Except as amended herein, all of the other terms, agreements and provisions of the Agreement are hereby ratified and confirmed by PV One and the County. In the event of any inconsistencies between the Agreement and this Amendment, the terms of this Amendment shall control. Each Party affirms that no breach or default by the other has occurred, and no event has occurred which after the giving of notice or the passage of time, or both, would constitute such a breach or default under the Agreement by either Party and that neither Party currently has any claims or offsets thereunder. The Agreement, as amended, shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns. This Amendment shall be governed by and construed in accordance with the laws of the State of Florida without respect to conflict or choice of law provisions. Any suit, action, or proceeding arising in connection with this Amendment shall be brought in St. Johns County, Florida. This Amendment may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A signed copy of this Amendment delivered by facsimile, e-mail or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Amendment.

[Signature page follows.]

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first above written.

Witnesses:

PV TOWER ONE LLC, a Florida
Limited liability company

Gail Oliver
Print Name: GAIL OLIVER

Debbie Taylor
Print Name: Debbie Taylor

By: Philip J. Mays
Name: Philip J. Mays
Title: Pres.
Date: 4-28-22

Witnesses:

ST. JOHNS COUNTY, a political subdivision of
the State of Florida

Print Name: _____

Print Name: _____

By: _____
Name: _____
Title: _____
Date: _____

Exhibit A-A1

Legal Description

A PORTION OF THE CHRISTINA HILL GRANT, SECTION 70, TOWNSHIP 4 SOUTH, RANGE 29 EAST, ST. JOHNS COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

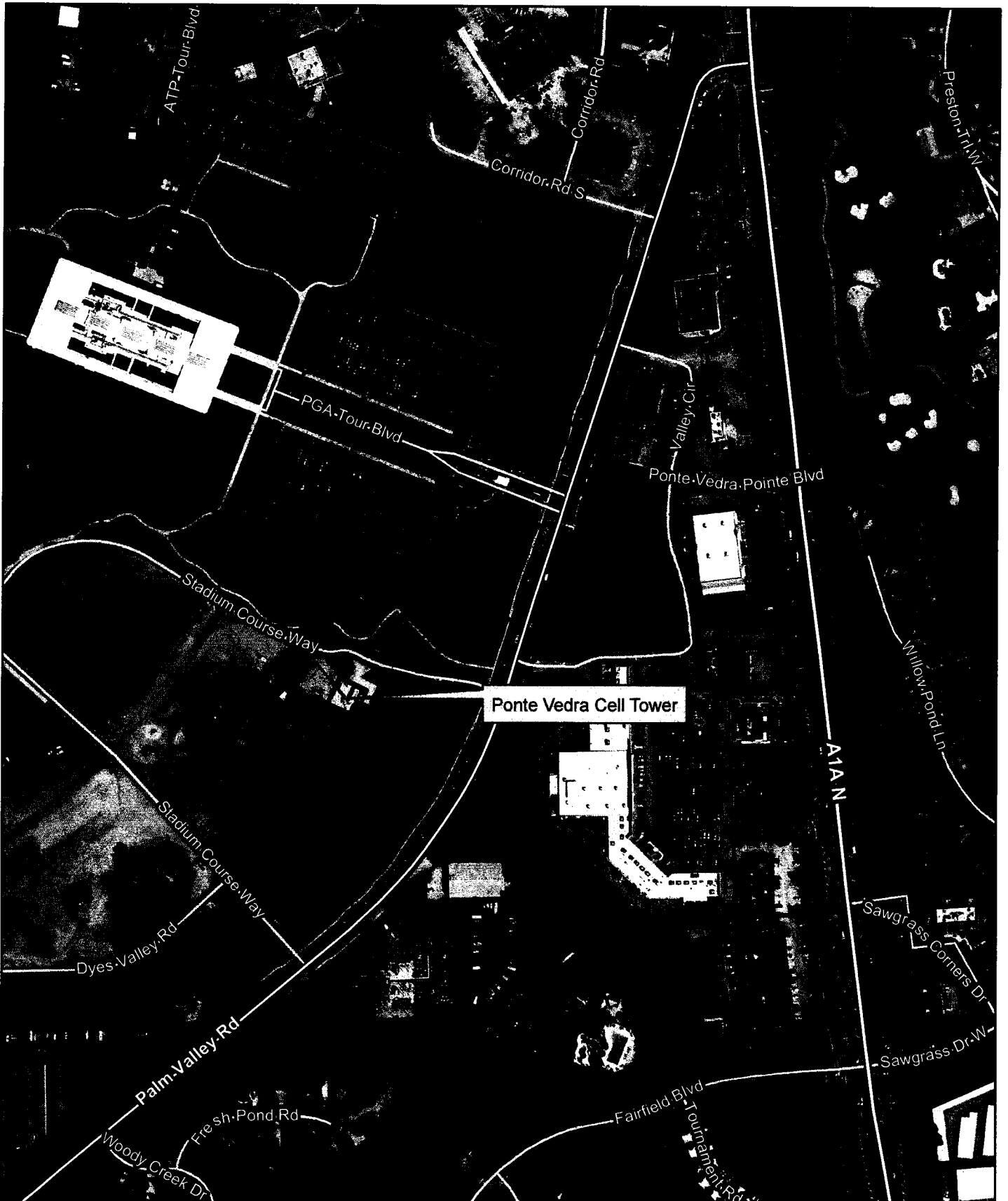
COMMENCE AT THE INTERSECTION OF THE WESTERLY RIGHT OF WAY LINE OF PALM VALLEY ROAD (A 66 FOOT RIGHT OF WAY, AS NOW ESTABLISHED) WITH THE SOUTHERLY LINE OF THOSE LANDS DESCRIBED AND RECORDED IN OFFICIAL RECORDS BOOK 804, PAGE 78 OF THE PUBLIC RECORDS OF SAID COUNTY; THENCE SOUTH 17°55'32" WEST, ALONG SAID WESTERLY RIGHT OF WAY LINE OF PALM VALLEY ROAD, 200.00 FEET TO THE POINT OF CURVATURE OF A CURVE LEADING SOUTHERLY; THENCE SOUTHERLY, CONTINUING ALONG LAST SAID LINE, AND ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 1317.00 FEET, AN ARC DISTANCE OF 107.71 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 20°16'08" WEST, 107.88 FEET; THENCE NORTH 87°23'19" WEST, 297.14 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 25°10'35" WEST, 85.00 FEET; THENCE NORTH 64°50'21" WEST, 80.00 FEET; THENCE NORTH 25°10'35" EAST, 85.00 FEET; THENCE SOUTH 64°50'21" EAST, 80.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 6,800 SQUARE FEET, MORE OR LESS.

Exhibit B-1

Licensee's Communication Tower Equipment

System	Model Description	Mount AGL	Feedline
Simulcast	BMR12 Receive Antenna	250'	1/2" Jumper
EmerMgmt	Commander 220-2N Omni Antenna	250'	7/8" heliax
Utility	(Two) 900MHz DB-589 SCADA Antennas	250'	(2) 1-5/8" heliax
Utility	2 Foot Radio Waves Dish	250'	PoE Cat6
Simulcast	Bird 428B Tower Top Pre-Amp	250'	7/8" heliax, 1/2" heliax test
Simulcast	(Two) BMR10 Transmit Antennas	230'	1-1/4" heliax
Simulcast	6 Foot Andrew Microwave Dish	190'	EW-63 Waveguide
Utility	BCD-87010-25 Omni Antenna	190'	1-1/4" heliax



2019 Aerial Imagery
0 100 200
Feet
April 27, 2022

Second Amendment
to License Agreement
PV Tower One LLC

Land Mgmt. Systems
Real Estate Division
209-0764
Disclaimer:
This map is for reference use only.
Data provided are derived from multiple
sources with varying levels of accuracy.
The St. Johns County Real Estate Division
disclaims all responsibility for the accuracy
or completeness of the data shown herein.

