

NOTICE AND AGENDA
CEDAR KEY WATER & SEWER DISTRICT
510 THIRD STREET, CEDAR KEY, FL 32625

SPECIAL MEETING
March 25, 2019, 5:00 P.M.

1. Call to order.
2. Pledge and Prayer.
3. Adoption of Agenda.
4. Review of Proposed Option/Lease Agreement with NexTower for placement of a communications tower on the site of the water treatment plant (attached).
5. Public Input.
6. Commissioner Comments.
7. Adjourn.

All persons are advised that if they decide to appeal any decision made at the above-referenced public hearing, they will need a record of the proceedings, and that, for such purpose, they may need to insure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal will be based.

OPTION AND GROUND LEASE AGREEMENT

THIS OPTION AND GROUND LEASE AGREEMENT is made as of the Effective Date by and between **Cedar Key Water and Sewer District**, a Special District created under the Laws of Florida ("Optionor"), and **NexTower Development Group, LLC**, a Delaware limited liability company ("Optionee").

I. OPTION TO LEASE

1. **Grant of Option.** For good and valuable consideration and the mutual promises herein set forth, Optionor hereby gives and grants unto Optionee and its assigns, an exclusive and irrevocable option to lease ("Option") a certain parcel of real property which is a portion of the property owned by Optionor located at 10050 SW CR347, Cedar Key, Florida (the "Parent Tract") all as more particularly described on **Exhibit "A"**, and depicted on the survey or site plan attached as **Exhibit "A-1"** ("Leased Premises"), together with an easement, or easements, for ingress, egress and utilities (and guy wires if applicable) for the duration of the lease on the property which are more particularly described on **Exhibit "B"** attached hereto ("Easement(s)"). The easement rights herein granted include the right and authority of Lessee to grant or assign to third parties all or some of the easement rights granted to Lessee herein. Optionor agrees and acknowledges the Optionee may, at Optionee's sole cost and expense, have a metes and bounds survey prepared of the Leased Premises and the Easement(s), and that the legal description of the Leased Premises and the Easement(s), as shown on the survey, shall thereafter become the legal description of the Leased Premises and the Easement(s).

2. **Option Initial Term.** The initial term of this Option shall be for **Twelve (12) months** from the date this of this Agreement as first written above ("Option Initial Term").

3. **Consideration for Option.** Consideration for the Initial Term of the Option granted hereunder shall be **Five Hundred and 00/100 Dollars (\$500.00)** ("Option Consideration").

4. **Extension of Option.** This Option can be extended at the discretion of Optionee for Two (2) additional period(s) of Twelve (12) months each ("Option Renewal Term(s)") by Optionee paying to Optionor the additional consideration of Five Hundred and 00/100 Dollars (\$500.00) prior to the expiration of the then-existing term of this Option.

5. **Memorandum of Option.** Attached as **Exhibit "C"** is a Memorandum of Option to be signed by Optionor and Optionee describing the Optionee's option to exercise the Lease hereinafter set forth, which may be recorded in the Public Records by Optionee.

6. **Optionor's Representations and Warranties.** As an inducement for Optionee to enter into and be bound by the terms of this Option, Optionor represents and warrants to Optionee and Optionee's successors and assigns that:

(a) Optionor has good and marketable title to the Leased Premises and the Easement(s) free and clear of all liens and encumbrances, other than those liens and encumbrances shown on **Exhibit "D"** attached hereto;

(b) Optionor has the authority to enter into and be bound by the terms of this Option;

(c) There are no pending or threatened administrative actions, including bankruptcy or insolvency proceedings under state or federal law, suits, claims or causes of action against Optionor or which may otherwise affect the Leased Premises and the Easement(s); and

(d) The Leased Premises and the Easement(s) are not presently subject to an option, lease or other contract which may adversely affect Optionor's ability to fulfill its obligations under this Option, and Optionor covenants that it shall not grant an option or enter into any contract which will affect the Leased Premises or the Easement(s) until this Option expires or is terminated by Optionee.

These representations and warranties of Optionor shall survive the exercise of the Option and the closing anticipated by the exercise of this Option.

7. **Liquidated Damages.** In the event of a default or breach of this Option by Optionee, Optionor's damages shall be fixed and liquidated to the sums paid by Optionee to Optionor as consideration for this Option. Optionor hereby expressly waives any other remedies it may have for a breach of this Option by Optionee including specific performance and damages for breach of contract.

8. **Inspections and Investigations.** Optionor hereby grants to Optionee, its officers, agents, employees and independent contractors the right and privilege to enter upon the Parent Tract at any time after the date of this Option to perform, or cause to be performed site inspections, which shall include but not be limited to, test borings of the soil, environmental audits, engineering studies and to conduct a survey of the Leased Premises and the Easement(s). Optionor shall provide Optionee with any necessary keys or access codes to the Parent Tract if needed for ingress and egress. Optionee shall not unreasonably interfere with Optionor's use of the Parent Tract in conducting these activities. Optionee shall have the right, at its cost and expense, to have the Leased Premises and the Easement(s) surveyed and to obtain a title report or commitment for a leasehold title policy covering the Leased Premises and the Easement(s) from the title insurance company of its choice. Optionor shall remove any survey or title defects, which will adversely affect Optionee's leasehold title or its ability to mortgage the leasehold interest. In the event Optionor shall fail to cure any such defects, Optionee, at its election, may cure the defects at Optionor's expense or may declare this Option to be void and of no further effect in which there shall be no further liability on the part of Optionee to Optionor.

9. **Further Acts.** Optionor shall cooperate with Optionee in executing any documents necessary to protect Optionee's rights under this Option or Optionee's use of the Leased Premises and the Easement(s) and to take such action as Optionee may reasonably require to effect the intent of this Option. Optionor hereby irrevocably appoints Optionee or Optionee's agent as Optionor's agent to file applications on behalf of Optionor with federal, state and local

governments authorities which applications relate to Optionee's intended use of the Leased Premises including but not limited to land use and zoning applications.

10. **Successors and Assigns.** This Option shall run with the Parent Tract described on **Exhibit "A"** and shall be binding upon and inure to the benefit of the parties, their respective heirs, successors, personal representatives and assigns.

II. GROUND LEASE AGREEMENT

10. **Exercise of Option.** Upon the tender of written notice of Optionee's intent to exercise the Option, the terms of this ground lease agreement ("Lease") shall govern the relationship of the parties, and Optionor shall thereafter be referred to as Lessor, and Optionee shall hereafter be referred to as Lessee. The date of the written notice to exercise the Option shall constitute the commencement date of the Lease ("Commencement Date").

11. **Use.** The Leased Premises may be used by Lessee for the explicit purpose of the transmission and receipt of wireless communication signals in any and all frequencies and the construction and maintenance of a 300-foot communications tower, antennas, buildings, and related facilities and activities, and all other uses permitted under applicable zoning regulations (providing it is related to the cell tower and its tenants). Lessor agrees to cooperate with Lessee in obtaining, at Lessee's expense, all licenses and permits required for Lessee's use of the Leased Premises (the "Governmental Approval"). Lessee may construct additional improvements, demolish and reconstruct improvements, or restore, replace and reconfigure improvements at any time during the Initial Term or any Renewal Term of this Lease.

12. **Initial Term.** The term of this Lease shall be **five (5) years** commencing on the Commencement Date, as that term is defined in Paragraph 9 herein, and terminating on the fifth (5th) anniversary of the Commencement Date ("Initial Term"). The parties agree that a memorandum of lease in the form attached hereto as **Exhibit "E"**, evidencing the Commencement Date and other matters, shall be executed and recorded.

13. **Renewal Terms.** Lessee shall have the right to extend this Lease for **seven (7) additional five (5) year terms** ("Renewal Terms"). Each Renewal Term shall be on the same terms and conditions as set forth in this Lease. This Lease shall automatically be renewed for each successive Renewal Term unless Lessee notifies Lessor of Lessee's intention not to renew the Lease at least thirty (30) days prior to the expiration of the Initial Term or the Renewal Term which is then in effect.

14. **Rent.** Commencing on the first day of the calendar month following the Commencement Date, during the Initial Term and each Renewal Term of this Lease, Lessee shall pay to Lessor an annual rental amount of Ten Thousand Eight Hundred and 00/100 dollars (\$10,800.00), to be paid in equal monthly installments of Nine Hundred and 00/100 dollars (\$900.00) ("Rent"), which shall be deemed to include any applicable State, County or local sales or use tax. Rent shall be payable in advance on or before the fifteenth (15th) day of each calendar month and shall be remitted to the address shown for Lessor in this Lease, or such other address as Lessor may direct by notice of writing to Lessee. It shall be the sole

responsibility of the Lessor to remit payment of any applicable State, County or local sales, rent or use tax to the appropriate taxing authority. If the Commencement Date, or the date of termination (the "Termination Date"), of this Lease is other than the first (1st) day of a calendar month, rent shall be prorated. In the event of termination for any reason, other than nonpayment of Rent, all Rent paid in advance of Termination Date for that period, after the Termination Date shall be refunded to Lessee.

There shall be a Revenue Sharing Provision, whereby Lessee pays Lessor Two Hundred Fifty and 00/100 Dollars (\$250.00) per month per cell carrier provider that collocates and leases space on the tower. Lessee shall pay Lessor Two Hundred Fifty and/100 Dollars (\$250.00) per month per any non-cell carrier provider tenant that collocates and leases space on the tower, providing tenant pays equivalent rent as a cell carrier provider tenant. The Revenue Sharing Provision does not include the anchor tenant on the tower.

The Rent shall increase by 2% annually on the anniversary of the Commencement Date.

15. Lessor's Representation and Warranties. Lessor, to the best of its knowledge, represents and warrants that Lessee's intended use of the Leased Premises as a site for the transmission and receipt of wireless communication signals; for the construction and maintenance of towers, antennas or buildings; and related facilities ("Intended Use") is not prohibited by any covenants, restrictions, reciprocal easements, servitudes, subdivision rules or regulations. Lessor further represents and warrants that there are no easements, licenses, rights of use or other encumbrances on the Leased Premises or the Easement(s) which will interfere with or constructively prohibit Lessee's Intended Use of the Leased Premises. Lessor further represents and warrants that the execution of this Lease by Lessor will not cause a breach or an event of default of any other agreement to which Lessor is a party.

16. Conditions Subsequent. In the event that Lessee's Intended Use of the Leased Premises is actually or constructively prohibited through no fault of Lessee or the Leased Premises or the Easement(s) are, in Lessee's opinion, unacceptable to Lessee, then upon notice from Lessee, this Lease shall terminate and be of no further force or effect and Lessee shall be entitled to a refund from Lessor of any deposits or Rent paid in advance to Lessor which sums were paid prior to the date upon which Lessee gives Lessor notice of its intent to terminate this Lease pursuant to this paragraph.

17. Interference. Lessor shall not use, nor shall Lessor permit its lessees, licensees, invitees or agents to use, any portion of adjacent real property owned by Lessor in any way which interferes with the wireless communications operation of Lessee, with the exception of the specified uses listed on Exhibit "F" which include the use, equipment and frequencies utilized by Lessor in its operation of a water and sewer plant facility. All Lessee's tenants or sublessees shall conduct a frequency compatibility study by a Florida certified RF engineer prior to the new tenant's or sublessee's installation confirming there is no interference with Lessor's documented use. Such interference shall be deemed a material breach of this Lease by Lessor and Lessor shall have the responsibility to terminate said interference. In the event any such interference does not cease or is not promptly rectified, Lessor acknowledges that continuing interference will cause irreparable injury to Lessee, and Lessee shall have the right, in addition to any other rights that it may have at law or in equity, to bring action to enjoin such interference or to terminate this Lease immediately upon notice to Lessor.

18. Improvements Utilities: Access.

(a) Lessee shall have the right at Lessee's sole cost and expense, to erect and maintain on the Leased Premises improvements, personal property and facilities, including without limitation, a communications tower, a structural tower base, radio transmitting and receiving antennas, communications equipment, equipment cabinet and/or shelters and related facilities (collectively the "Tower Facilities"). The Tower Facilities shall remain the exclusive property of the Lessee throughout the term and upon termination of this Lease. Lessor grants Lessee the right to clear all trees, undergrowth, or other obstructions and to trim, cut, and keep trimmed and cut all tree limbs which may interfere with or fall upon Lessee's tower or Lessee's other improvements, communications equipment or Easement rights. Lessor grants Lessee a non-exclusive easement in, over, across and through other real property owned by Lessor as reasonably required for construction, installation, maintenance, and operation of the Tower Facilities.

(b) Lessee shall have the right to install utilities, at Lessee's expense, and to improve present utilities on the Leased Premises (including but not limited to the installation of emergency power generators). Lessee shall have the right to permanently place utilities on (or to bring utilities across or under) the Easement(s) to service the Leased Premises and the Tower Facilities. In the event that utilities necessary to serve the equipment of Lessee or the equipment of Lessee's licensee(s) or sublessee(s) cannot be located within the Easement(s) for ingress and egress, Lessor agrees to cooperate with Lessee and to act reasonably in allowing the location of utilities on other real property owned by Lessor without requiring additional compensation from Lessee or Lessee's licensee(s) or sublessee(s). Lessor shall, upon Lessee's request, execute a separate written easement to the utility company providing the service for Lessee in a form which may be filed of record evidencing this right.

(c) Lessor represents and warrants to Lessee that Lessee shall, at all times during this Lease, enjoy ingress, egress, and access from the Leased Premises to an open and improved public road which presently exists, and which Easement(s) shall be adequate to service the Leased Premises and the Tower Facilities. If no such public road exists, or ceases to exist in the future, Lessor will grant an appropriate easement to Lessee, Lessee's sublessees and assigns so that Lessee may, at its own expense, construct a suitable private access drive to the Leased Premises and the Tower Facilities. To the degree such access is across other property owned by Lessor, Lessor shall execute an easement evidencing this right and Lessor shall maintain access to the Easement(s) in a free and open condition so that no interference is caused by Lessor, by other lessees, licensees, invitees or agents of the Lessor which may utilize the Easement(s). Lessor shall provide such access to the Leased Premises across Lessor's adjacent property, and over all paved or unpaved roads owned or controlled by Lessor, to allow Lessee, or its sublessees, to use, maintain and repair the improvements located on the Leased Premises. Such access shall be provided twenty-four (24) hours per day, seven (7) days per week.

19. Termination. Except as otherwise provided herein, this Lease may be terminated without any penalty or further liability upon written notice as follows:

(a) By either party upon a default of any covenant or term hereof by the other party, which default is not cured within sixty (60) days of receipt of written notice of default (without

however, limiting any other rights available to the parties pursuant to any other provisions hereof); provided, that if the defaulting party commences efforts to cure the default within such period and diligently pursues curing of the default to completion within a reasonable time period, the non-defaulting party shall no longer be entitled to declare a default;

(b) Upon thirty (30) days' written notice by Lessee to Lessor, if Lessee is unable to obtain or maintain through no fault of Lessee, any license, permit or other Governmental Approval necessary for the construction and operation of the Tower Facilities or Lessee's business; or

(c) By Lessee for any reason upon one (1) year's advance written notice from Lessee to Lessor.

(d) In the event of the Agreement's termination or expiration, within (90) ninety days of such written notification of termination or expiration, Lessee shall remove the tower and demolition the foundations to (24) twenty-four inches below grade. The lease parcel will be returned to its original condition, wear and tear accepted. All such costs will be the sole responsibility of Lessee.

20. **Sublessee's Improvements.** Lessee's licensee(s) and sublessee(s) shall be entitled to modify the Tower and to erect additional improvements on the Leased Premises, including, but not limited to antennas, dishes, cabling, additional storage buildings or equipment shelters as are reasonably required for the operation and maintenance of the communications equipment, together with rights of ingress and egress to the Leased Premises and the right to install utilities to and on the Leased Premises and Easement(s) as if said licensee or sublessee were the Lessee under this Lease.

21. **Taxes.** Lessee shall pay any personal property taxes assessed on, or any portion of such taxes attributable to, the Tower Facilities. Lessee shall pay, as additional Rent, any increase in real property taxes levied against the Leased Premises which are directly attributable to Lessee's use of the Leased Premises, and Lessor agrees to furnish proof of such increase to Lessee. In the event that Lessor fails to pay, when due, any taxes affecting the Leased Premises or the Easement(s), Lessee shall have the right, but not the obligation, to pay such taxes and deduct the full amount of the taxes paid by Lessee on Lessor's behalf from future installments of Rent. Lessor hereby represents and warrants that Lessor's property on which the Leased Premises and Easement(s) are located is not subject to any "Conservation Use Covenant", "Greenbelt Covenant", agricultural or timberland covenant, or any other conservation use program which restricts or limits development of Lessor's property. Lessor agrees to be solely responsible for payment of any penalties, roll-back or additional taxes, special assessments or other monetary amounts now or hereafter payable to any county, city, state or other party as a result of the breach of any conservation use tax program affecting the property on which the Leased Premises and Easement(s) are located or resulting from the change in the nature or character of the use of the property from its present use to a communications tower facility. Lessor does hereby covenant and agree to indemnify and hold Lessee forever harmless from any and all liabilities, claims, demands, actions or causes of action arising from or relating to a breach of any such covenants, whether such breach occurs because of the erection of the Tower Facilities on the Leased Premises or otherwise.

22. **Destruction of Premises.** If the Leased Premises or the Tower Facilities are destroyed or damaged, so as to hinder the effective use of the Tower Facilities in Lessee's judgment, Lessee may elect to terminate this Lease as of the date of the damage or destruction by so notifying the Lessor. In such event, all rights and obligations of Lessee to Lessor shall cease as of the date of the damage or destruction, and Lessee shall be entitled to the reimbursement of any Rent prepaid by the Lessee.

23. **Condemnation.** If a condemning authority takes all of the Leased Premises or Easement(s), or a portion sufficient in Lessee's determination to render the Leased Premises or the Easement(s), in the opinion of Lessee, unsuitable for the use which Lessee was then making of the Leased Premises and Easement(s), this Lease shall terminate as of the date the title vests in the condemning authority. Lessee shall be entitled to file its own claims against the condemning authority for the value of its Tower Facilities, moving expenses, prepaid rent and business dislocation expenses. A sale of all or part of the Leased Premises and/or Easement(s) to a purchaser with the power of eminent domain, in the face of the exercise of eminent domain power, shall be treated as taking by condemnation for the purpose of this paragraph.

24. **Insurance.** Lessee shall purchase and maintain in full force and effect throughout the Initial Term and any Renewal Term public liability and property damage policies. The policy of general liability insurance shall provide a combined single limit of \$1,000,000 and shall name Lessor as an additional insured.

25. **First Right of Refusal.** In the event Lessor shall receive a bona fide offer from a third party to purchase or if Lessor intends to communicate to a third party an offer to sell, (a) all or any portion of the Leased Premises, (b) any adjoining or adjacent property subject to an easement hereunder or (c) this Agreement or any rights hereunder including the right to receive rent (in each case, the "Sale Assets"), Lessor shall first communicate the terms of such offer to Lessee, provide a copy of the bona fide offer to Lessee and offer to sell such property to Lessee upon the same terms and conditions, including any financing terms. Lessee shall have thirty (30) days from receipt of the notice from Lessor to accept the offer in writing. If Lessee accepts Lessor's offer within thirty (30) days, Lessor shall be bound to sell the Sale Assets to Lessee, and Lessee shall be bound to purchase the Sale Assets from Lessor, in accordance with the bona fide offer. If Lessee fails to exercise such right of first refusal within the stated time, Lessor may sell the Sale Assets subject to any and all terms and conditions of this Lease; provided, however, that if the terms of sale change or if Lessor has not sold or transferred title to such property within ninety (90) days of the date of Lessor's written notice to Lessee, any such sale and transfer of title shall again be subject to Lessee's right of first refusal. Lessee's right of first refusal shall continue in effect as to any subsequent proposed sale by the current landlord or by any transferee. In addition to the foregoing, Lessor shall not grant any interest in any portion of Lessor's Parent Tract (other than the conveyance of fee simple title to the entire Lessor's Parent Tract) to any third party which plans to use it as a communications facility without the prior written consent of Lessee, in Lessee's sole and absolute discretion.

26. **Lessee's Environmental Covenants and Indemnity.** As used in this Lease, the term "Hazardous Materials" shall mean any hazardous or toxic substance, material or waste which is, or becomes designated as such in the future or is regulated by any agency of the United States Government or by any local governmental authority having jurisdiction, including,

without limitation, any substance, material or waste that is defined or designated as a hazardous substance pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act or the Clean Water Act. During the term of this Lease, Lessee shall cause the presence, use, storage and/or disposal of any Hazardous Material, on or under the Leased Premises by Lessee, its agents, employees, business invitees, contractors or sublessees to be in compliance with all applicable laws, rules, regulations and orders. Lessee shall not install or permit the installation of any underground storage tanks on the Leased Premises. Lessee shall defend, indemnify, protect and hold Lessor harmless from and against all claims, costs, fines, judgments and liabilities, including attorney's fees and costs, arising out of or in connection with the presence, storage, use or disposal of Hazardous Materials on or under the Leased Premises caused by the acts, omissions or negligence of Lessee, its employees, business invitees, contractors or sublessees. The foregoing indemnity shall survive any termination of this Lease.

27. **Lessor's Environmental Representations.** Lessor, to the best of its knowledge, represents that no Hazardous Materials have been generated, stored, disposed of or are present on or under the Leased Premises and the Easement(s) prior to the Commencement Date of this Lease. Lessee shall conduct its own independent environmental inspection, testing and analysis to determine suitability of the Leased Premises in regard to Hazardous materials or contamination. In the event Lessee determines that the Lease Premises are not suitable due to hazardous materials or contamination, Lessee shall have the right to immediately terminate this lease without penalty.

28. **Notices.** All notices required or permitted under this Agreement shall be in writing and shall be deemed effective upon personal delivery, or three (3) days after being deposited in the U.S. Mail, registered or certified, and postage prepaid, or one (1) day after being deposited with a recognized overnight delivery service. Such notices shall be addressed to the party at the addresses shown below, or at such other address or addresses as either party shall designate to the other in writing in accordance with this paragraph:

As to Lessor: Cedar Key Water and Sewer District
Attention: John McPherson, Manager
P.O. Box 309
Cedar Key, Florida 32625
Phone: (352) 543-5285
Federal ID: 59-1156008

As to Lessee: NexTower Development Group, LLC
Attention: Real Estate Department
4210 NW 37th Place, Suite-600
Gainesville, Florida 32606
(352) 363-5560 (office)
(904) 343-9717 (cell)
dboeff@nexttower.net

29. **Title and Quiet Enjoyment.** Lessor warrants and represents that (i) it has the full right, power, and authority to execute this Lease; (ii) it has good and marketable fee simple title to the Leased Premises and the Easement(s); and (iii) the Leased Premises constitutes a legal lot that may be leased without the need for any subdivision or platting approval. Lessor covenants that Lessee shall have the quiet enjoyment of the Leased Premises during the term of the Lease. Lessor shall indemnify Lessee from and against any loss, cost, expense or damage, including attorneys' fees associated with a breach of the foregoing covenant of quiet enjoyment. This Lease shall be an estate for years and not a usufruct. Lessor shall not use, nor shall Lessor permit its lessees, licensees, invitees, or agents to use any portion of any property owned or controlled by Lessor in any way which interferes with operations of Lessee. Such interference shall be deemed a material breach by Lessor, and Lessee shall have the right, in addition to any other rights that it may have in law or equity, to enjoin such interference or to terminate this Lease.

30. **Subordination and Non-Disturbance.** This Lease shall be subject to and subordinate to any mortgage or deed to secure debt (collectively referred to as a "Mortgage") made by Landlord which may now or hereafter encumber the Leased Premises and Easement(s), provided that no such subordination shall be effective unless the holder of every such Mortgage shall in a separate agreement with Lessee agree that in the event of a foreclosure, or conveyance in lieu of foreclosure of Lessor's interest in the Leased Premises and Easement(s), such holder shall recognize and confirm the validity and existence of this Lease and that Lessee shall have the right to continue its use and occupancy of the Leased Premises and Easement(s) in accordance with the provisions of this Lease as long as Lessee is not in default of this Lease beyond applicable notice and cure periods. Lessee shall execute in timely fashion such instruments as may reasonably be requested to evidence the provisions of this paragraph. In the event the Leased Premises and/or Easement(s) are encumbered by a Mortgage on the date of the exercise of the Option, Lessor, no later than ten (10) days after the Option has been exercised shall obtain and furnish Lessee with a non-disturbance agreement in recordable form from the holder of each Mortgage.

31. **Assignments and Subleases.** Lessee may, upon notice to Lessor, mortgage or grant a security interest in this Lease and the Tower Facilities and may assign this Lease and the Tower Facilities to any such mortgagees or holders of security interests, including their successors and assigns (hereinafter, collectively referred to as "Secured Parties"). In such event, Lessor shall execute such consent to leasehold financing as may reasonably be required by Secured Parties. Lessor agrees to notify Lessee and Lessee's Secured Parties simultaneously of any default by Lessee, and to give Secured Parties the same right to cure any default as Lessee except that the cure period for any Secured Party shall not be less than ten (10) days after the receipt of the default notice. Lessee shall have the right, without Lessor's consent, to sublease or assign its rights under this Lease, but any such sublease or assignment shall be subject to all terms and conditions of this Lease. Upon assignment of all of its rights pursuant to this Lease, and the execution of a written assumption of all of the terms and conditions of the Lease by the assignee, Lessee shall be released from any further liability under this Lease. If a termination, disaffirmation or rejection of the Lease, pursuant to any laws (including any bankruptcy or insolvency laws), by Lessee shall occur, or if Lessor shall terminate this Lease for any reason as provided for in Paragraph 18 herein, Lessor will give the Secured Parties prompt notice thereof and Lessor will give the Secured Parties the right to enter upon the Leased Premises during a thirty (30) day period commencing upon the Secured Party's receipt of such notice for the purpose of removing any Tower Facilities. Lessor acknowledges that the Secured

Parties shall be third-party beneficiaries of this Lease.

32. **Successors and Assigns.** This Lease shall run with the Leased Premises described on **Exhibit "A"** and shall be binding upon and inure to the benefit of the parties, their respective heirs, successors, personal representatives and assigns.

33. **Waiver of Lessor's Lien.** Lessor hereby waives any and all lien rights it may have, statutory or otherwise, in and to the Tower Facilities or any portion thereof, regardless of whether or not same is deemed real or personal property under applicable laws.

34. **Waiver of Incidental and Consequential Damages.** Lessor will not assert any claim whatsoever against Lessee for loss of anticipatory profits or any other indirect, special, incidental or consequential damages incurred by Lessor as a result of the construction, maintenance, operation or use of the Leased Premises or the Easement(s) by Lessee.

35. **Lessee's Exclusivity.** Lessor agrees not to lease any of Lessor's property within a radius of (4) four miles from the Leased Premises for construction of a tower or for use as a communications facility or for the operation of an antenna site leasing business which competes directly or indirectly with Lessee, subject to the following:

(a) Lessor shall retain the right to lease space on the water tower in the City of Cedar Key, Florida for wireless internet, WIFI, and not more than one cellular service wireless provider.

(b) If at any time the Lessee is able to secure and receive all government approvals for a communications tower within the City of Cedar Key, Florida, for cellular service collocation, and Lessor has not, as of the date the Lessor receives government approvals for the tower, leased space on the water tower in the City of Cedar Key to a cellular service provider, Lessor agrees to forego the right to lease space on the water tower in the City of Cedar Key for use by a cellular wireless provider.

36. **Certifications.** Either party may request, in writing, that the other party certify information to a prospective mortgagee or purchaser. Such certification shall be transmitted within ten (10) days after receipt of written request and may be relied upon by the party who requested it, and the contents of the certificate shall be binding upon the party executing it. The certificate may include (i) the validity, force and effect of this Lease; (ii) the extent to which this Lease has been supplemented or amended; (iii) the existence of any default; (iv) the existence of any offsets, counter-claims or defenses on the part of the other party; (v) the commencement and expiration dates of the term, (vi) the amount of any prepaid rent; and (vii) any other matter as may reasonably be requested.

37. **Miscellaneous.**

(a) The laws of the State of Florida shall control both the action and the substantive issues unless required by law to be filed in a federal district court. Nothing herein shall constitute a waiver of the District's sovereign immunity, and the parties shall in all respects be bound by all provisions of Section 768.28, Florida Statutes. Each party shall be responsible for all liability, claims, and damages arising out of its own acts or omissions and shall hold the other party harmless from such liability, claims or damages. In the event of litigation, each party shall be responsible for its own costs of litigation, including its own attorney's fees.

(b) Each party agrees to furnish to the other, within ten (10) days after request, such truthful estoppel information as the other may reasonably request.

(c) This Lease constitutes the entire agreement and understanding of Lessor and Lessee with respect to the subject matter of this option and ground lease, and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind not set forth herein. Any amendments to said Lease must be in writing and executed by Lessor and Lessee.

(d) If either Lessor or Lessee is represented by a broker in this transaction, that party shall be fully responsible for any fees due such broker and shall hold the other party harmless from any claims for commission by such broker.

(e) This Lease shall be construed in accordance with the laws of the state in which the Leased Premises is situated.

(f) If any term of this Lease is found to be void or invalid, such invalidity shall not affect the remaining terms of this Lease, which shall continue in full force and effect.

(g) Lessor shall cooperate with Lessee in executing any documents necessary to protect Lessee's rights under this Lease or Lessee's use of the Leased Premises and the Easement(s), and to take such action as Lessee may reasonably require to effect the intent of this Lease.

(h) This Lease may be executed in two or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties, it being understood that all parties need not sign the same counterpart.

(i) Omit Confidentiality Paragraph due to Florida Sunshine Law.

(j) The Effective Date of this Lease shall be the date that the last of Lessor or Lessee sign this Lease.

(SIGNATURE PAGES FOLLOWING)

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

LESSOR:

Cedar Key Water and Sewer District
A Special District Under the Laws of Florida

WITNESS:

Print Name

Print Name

By: _____

Print Name: Stephen Rosenthal

Title: Chair

Date: _____

LESSEE:

NexTower Development Group, LLC
a Delaware limited liability company

WITNESS:

Print Name

Print Name

By: _____

Print Name: David H. Boeff

Title: President, CEO

Date: _____

EXHIBIT "A"

Description of Real Property (Leased Premises)

A **70' x 70'** parcel of land for the tower compound being located around the base of the tower, all being a portion of the parent tract (see attached warranty deed for legal description of parent tract, if available). The legal description of the Leased Premises shall be determined by survey and shall thereafter replace this **Exhibit "A"**.

Tax Parcel I.D. # of parent tract: 0034600100

Physical Address of parent tract: 10050 SW CR347
Cedar Key, Florida

EXHIBIT "A-1"

Survey or Site Plan

Location of the Leased Premises shall be determined by survey, and upon completion shall replace this **Exhibit "A-1"**.



65' x 65' lease parcel

300' self-support tower

NEXTOWER - CKWSD SITE SKETCH

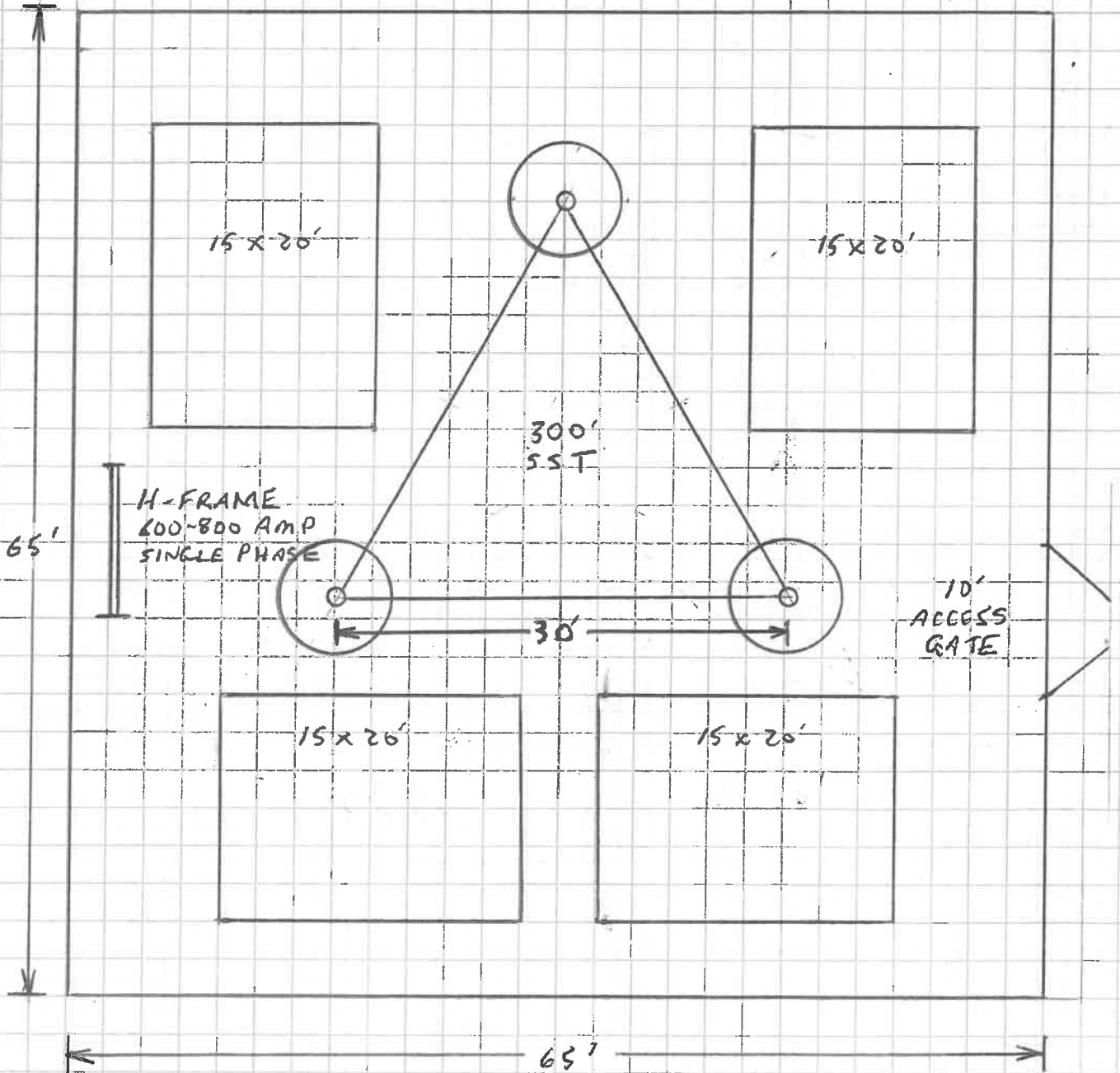


EXHIBIT "B"

Easement(s)

An approximate **30' Easement** for ingress/egress and utilities, each to be determined by survey, and upon completion of survey, shall replace this **Exhibit "B"**.

EXHIBIT "C"

Prepared by and return to:
NexTower Development Group, LLC
Attn: David H. Boeff
4210 NW 37th Place, Suite 600
Gainesville, Florida 32606

MEMORANDUM OF OPTION

This Memorandum of Option is made on _____, 2019, by and between **CEDAR KEY WATER AND SEWER DISTRICT**, a _____, as Optionor, whose address is P.O. Box 309, Cedar Key, Florida 32625 and **NEXTOWER DEVELOPMENT GROUP, LLC**, a Delaware limited liability company, as Optionee, whose address is 4210 NW 37th Place, Suite 600, Gainesville, Florida 32606.

1. Optionor and Optionee are parties to an Option and Ground Lease Agreement dated as of _____ (the "Option Agreement") which provides for an option (the "Option") to lease certain lands located in **Levy County, Florida**, as more fully described in the legal description attached hereto as **Exhibit "A"** (the "Premises"). The terms and provisions of the Option Agreement are incorporated herein by this reference.
2. The Option Agreement provides for an Option Initial Term of twelve (12) months which commenced on _____. The Option Agreement also provides for two (2) Extensions of Option for twelve (12) month extension terms (collectively the "Option Period").
3. Optionor and Optionee hereby agree that the option granted by the Option Agreement remains in full force and effect.
4. If Optionee elects to exercise the Option, Optionee will record a Memorandum of Lease signed by Optionor and Optionee. Upon the recording of a Memorandum of Lease, this Memorandum of Option will automatically terminate. If Optionee does not exercise the Option prior to the expiration of the Option Period, either Optionor or Optionee may record an instrument evidencing the termination of the Option Agreement, provided that notice of intent to terminate the Option Agreement is given to the other party not less than sixty (60) days prior to the recording of the termination of the Option Agreement.

(SIGNATURES ON FOLLOWING PAGES)

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

OPTIONOR:

CEDAR KEY WATER AND SEWER DISTRICT, a _____

Witness:

Print Name: _____

Print Name: _____

By: _____

STATE OF _____

COUNTY OF _____

I, a Notary Public of the County and State aforesaid, certify that _____ personally came before me this day and acknowledged that she, being authorized to do so, executed the foregoing instrument, who is personally known to me or produced _____ as identification.

WITNESS my hand and notarial seal, this ____ day of _____, 2019.

Notary Public: _____

Print Name: _____

My Commission Expires: _____

(affix notary stamp/seal)

OPTIONEE:

NEXTOWER DEVELOPMENT GROUP, LLC, a Delaware limited liability company

Witness:

Print Name: _____

Print Name: _____

By: _____

Print Name: David H. Boeff

Title: President/CEO

STATE OF FLORIDA

COUNTY OF ALACHUA

I, the undersigned Notary Public for said County and State, do hereby certify that David H. Boeff, as President/CEO of **NEXTOWER DEVELOPMENT GROUP, LLC**, a Delaware limited liability company, personally appeared before me this day, and acknowledged the due execution of the foregoing instrument on behalf of said company.

WITNESS my hand and notarial seal, this ____ day of _____, 2019.

Notary Public: _____

Print Name: _____

My Commission Expires: _____

{art: notary stamp/seal}

EXHIBIT "D"

Liens and Encumbrances

Holder of 1st Mortgage: _____
Address: _____
Contact Name: _____
Phone Number: _____
Loan Number: _____

Holder of 2nd Mortgage: _____
Address: _____
Contact Name: _____
Phone Number: _____
Loan Number: _____

Other Liens/Encumbrances
(Please Describe): _____

If No Mortgage(s), check here: _____ *X* _____

EXHIBIT "E"
MEMORANDUM OF LEASE

See Attached

Prepared by and return to:
NexTower Development Group, LLC
Attn: David H. Boeff
4210 NW 37th Place, Suite 600
Gainesville, Florida 32606

NexTower Development Group, LLC Site ID: NXFL-142
Site Name: Cedar Key WSD

MEMORANDUM OF LEASE

This Memorandum of Lease is made on _____, 2019, by and between **Cedar Key Water and Sewer District**, a _____, as Lessor, whose address is P.O. Box 309, Cedar Key, Florida 32625 and **NexTower Development Group, LLC**, a Delaware limited liability company, as Lessee, whose address is 4210 NW 37th Place, Suite 600, Gainesville, Florida 32606.

1. Lessor and Lessee are parties to an Option and Ground Lease Agreement dated as of _____, 2019 (the "Lease Agreement"); the terms and provisions of which are incorporated herein by this reference. The premises covered by the Lease Agreement are located in **Cedar Key, Levy County, Florida**, as more fully described in the legal description attached hereto as **Exhibit "A"** ("Leased Premises").
2. Pursuant to the Lease Agreement, the Lessor has granted, and by these presents does grant, to the Lessee an easement for ingress, egress and utilities for the duration of the Lease Agreement over those lands more particularly described on **Exhibit "B"** hereto. The easement rights herein granted include the right and authority of Lessee to grant or assign to third parties all or some of the easement rights granted to Lessee herein.
3. The Lease Agreement provides for an initial term of five (5) years which commenced on _____. The Lease also provides for seven (7) additional five (5) year terms, which shall occur automatically unless Lessee delivers written notice of intent not to renew to Lessor at least thirty (30) days prior to the expiration of the initial term, or the renewal term then in effect.
4. In accordance with Chapter 713.10 of the Florida Statutes, the Lease Agreement provides that the interest of the Lessor shall not be subject to liens for improvements made by the Lessee, and that the Lessee shall notify any contractor making such improvements of this provision of the Lease Agreement.
5. Lessor agrees not to lease any of Lessor's property within a radius of (4) four miles from the Leased Premises for construction of a tower or for use as a communications facility or for the operation of an antenna site leasing business which competes directly or indirectly with Lessee, subject to the following:
 - (a) Lessor shall retain the right to lease space on the water tower in the City of Cedar Key, Florida for wireless internet, WIFI, and not more than one cellular service wireless provider.
 - (b) If at any time the Lessee is able to secure and receive all government approvals for a communications tower within the City of Cedar Key, Florida, for cellular service collocation, and

Lessor has not, as of the date the Lessor receives government approvals for the tower, leased space on the water tower in the City of Cedar Key to a cellular service provider, Lessor agrees to forego the right to lease space on the water tower in the City of Cedar Key for use by a cellular wireless provider.

(SIGNATURES ON FOLLOWING PAGES)

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

Witness:

LESSOR:

CEDAR KEY WATER AND SEWER DISTRICT, a _____

Signature

By: _____

Print Name: _____

Print Name: _____

Date: _____

Signature

By: _____

Print Name: _____

Print Name: _____

Date: _____

STATE OF _____

COUNTY OF _____

I, a Notary Public of the County and State aforesaid, certify that _____, as _____ of _____, a _____, personally came before me this day and acknowledged that he, being authorized to do so, executed the foregoing instrument. He is personally known to me or produced _____ as identification.

WITNESS my hand and notarial seal, this ____ day of _____, 2019.

Notary Public: _____

Print Name: _____

My Commission Expires: _____

{affix notary stamp/seal}

LESSEE:

NEXTOWER DEVELOPMENT GROUP, LLC,
a Delaware limited liability company

Witness:

Signature

Print Name: _____

By: _____

Print Name: David H. Boeff

Title: President/CEO

Date: _____

Signature

Print Name: _____

STATE OF FLORIDA

COUNTY OF ALACHUA

I, a Notary Public of the County and State aforesaid, certify that *David H. Boeff*, as President, *CEO of NexTower Development Group, LLC, a Delaware limited liability company*, personally came before me this day and acknowledged that he, being authorized to do so, executed the foregoing instrument. He is personally known to me.

WITNESS my hand and notarial seal, this ____ day of _____, 2019.

Notary Public: _____

Print Name: _____

My Commission Expires: _____

(affix notary stamp/seal)

EXHIBIT "A"

Description of Leased Premises

EXHIBIT "B"

Description of Ingress/Egress and Utilities

EXHIBIT "F"

LESSOR'S FREQUENCY INTERFERENCE & ACCEPTED USES