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EDWARD H. HOODY
COOK COUNTY RECORDER OF DEEDS
DATE: 04/11/2019 02:53 PM PG: 1 OF 9

Ordinance 2019-10

An Ordinance Approving the Renewal of Ordinance No. 12-44 Granting a Special Permit to Maintain Personal Wireless Telecommunications Antennas on the Existing Building at 400 Skokie Boulevard (BOT-18-02)

Passed by the Board of Trustees 2/12/2019
Printed and Published 2/13/2019

Printed and Published in Pamphlet Form
by Authority of the
President and Board of Trustees
VILLAGE OF NORTHBROOK
COOK COUNTY, ILLINOIS

I hereby certify that this document
was properly published on the date
stated above.

/s/ Debra J. Ford
Village Clerk

Box 337

RECORDING FEE 54
DATE 4/11/19 COPIES 6X
OK BY [Signature] Page 1

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Ordinance 2019-10

BE IT ORDAINED by the President and Board of Trustees of the Village of Northbrook, County of Cook and State of Illinois THAT:

An Ordinance Approving the Renewal of Ordinance No. 12-44 Granting a Special Permit to Maintain Personal Wireless Telecommunications Antennas on the Existing Building at 400 Skokie Boulevard (BOT-18-02)

shall be, and is hereby, adopted as follows:

Section 1. RENEWAL OF SPECIAL PERMIT.

On June 26, 2012, the Corporate Authorities adopted Ordinance No. 12-44 granting 400 Skokie Boulevard, LLC, the previous property owner ("*Transferor*"), a special permit to allow wireless antennas on the existing building in excess of the permitted district height ("*Facility*") at the property commonly known as 400 Skokie Boulevard ("*Property*") which is now owned by M-I Skokie Property, LCC c/o Ameritus LLC ("*Transferee/Owner*") and is located in the O-4 Boulevard Office District. The Property is legally described in *Exhibit A*, attached to, and by this reference, made a part of, this Agreement.

The special permit granted by Ordinance No. 12-44 had a five-year term that expired on April 17, 2018. Prior to that date, the New Cingular Wireless PCS, LLC d/b/a AT&T Mobility Corporation ("*Applicant/Operator*") submitted an application requesting a renewal of the special permit granted in Ordinance No. 12-44 pursuant to Subsection 11-602 K of the Northbrook Zoning Code (1988), as amended ("*Zoning Code*").

Since the adoption of Ordinance No. 12-44, the ownership of Property has changed hands from the Transferor to the Transferee/Owner. The Applicant/Operator, with permission from the Transferee/Owner, is requesting renewal and transfer of Special Permit.

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The Facility has operated since 2012 without incident and the President and the Board of Trustees have determined that the circumstances under which the original special permit was granted have not substantially changed. Therefore, the Corporate Authorities have determined that it is in the best interests of the Village and the public to renew the special permit originally granted by Ordinance No. 12-44 and to approve the transfer of all rights and obligations thereunder to the Transferee/Owner and Applicant/Operator.

Section 2. PUBLIC HEARING AND PUBLIC MEETING.

A public hearing to consider the renewal of the special permit was duly advertised and was held at the Board of Trustees regular meeting on February 12, 2019.

Section 3. RENEWAL OF SPECIAL PERMIT.

Subject to and contingent upon the conditions, restrictions, and provisions set forth in Ordinance No. 12-44, and pursuant to Subsection 11-602 K of the Zoning Code, special permit to allow wireless telecommunication antennas (SIC Number 4810.02) on the Property ("*Special Permit*"), is hereby, renewed, transferred, and granted to the Applicant/Operator.

Section 4. AUTHORIZATION TO TRANSFER.

Pursuant to Section 11-602 I of the Zoning Code, all rights, responsibilities, and obligations set forth in Village of Northbrook Ordinance No. 12-44 shall be transferred to the Applicant/Operator, contingent upon the execution by the Transferee/Owner and Applicant/Operator of an unconditional agreement and consent to accept and abide by each and all of the terms, conditions, and limitations set forth in Ordinance No. 12-44 in substantially the form attached hereto as *Exhibit B* ("*Transferee's Unconditional Agreement and Consent*"). Nothing in this Ordinance shall be deemed to allow the privileges, obligations, and provisions of Ordinance No. 12-44 to be transferred to any person or entity other than Transferee/Owner and Applicant/Operator without a new application for such person or entity being reviewed and approved by the Board of Trustees.

Section 5. AUTHORIZATION OF TRANSFEREE'S UNCONDITIONAL AGREEMENT AND CONSENT.

The Village Manager is hereby authorized and directed to execute the Transferee's Unconditional Agreement and Consent for the sole and exclusive purpose of acknowledging the Village's agreement to and acceptance of (a) the new transferee's assumption of the Transferee/Owner's and Applicant/Operator's obligations under the Ordinance, and (b) the new transferee's agreement to comply with the terms, conditions and requirements of the Ordinance, including all exhibits and attachments thereto, after receiving a fully executed copy of the same.

Section 6. EFFECT OF TRANSFER.

Except as expressly provided in this Ordinance, all terms, conditions, and provisions of Ordinance No. 12-44 shall remain in full force and effect; provided, however, that any other provision of Ordinance No. 12-44 shall be deemed modified as necessary to give practical effect to the provisions of this Ordinance.

Section 7. BINDING EFFECT; TRANSFERABILITY.

The privileges, obligations, and provisions of each and every Section of this Ordinance, Ordinance No. 12-44, AND Ordinance No. 08-28, are for the sole benefit of, and shall be binding on, the Applicant/Transferee, except as otherwise expressly provided in this Ordinance. Nothing in this

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Ordinance shall be deemed to allow the rights and obligations created by Ordinances No. 12-44 and No. 08-28 to be transferred to any person or entity unless and until (a) such person or entity executes and files with the Village Clerk an unconditional agreement and consent to accept and abide by each and all of the terms, conditions, and limitations set forth in this Ordinance in a form acceptable to the Village Manager and (b) the Board of Trustees has approved such transfer by resolution duly adopted.

Section 8. TERM.

The special permit renewed and restated in Section 3 above shall automatically expire, and the designated use shall terminate in five years unless a renewal is requested and approved by the Board of Trustees.

Section 9. EFFECTIVE DATE.

A. This Ordinance shall be effective only upon the occurrence of all of the following events:

- i. Passage by the Board of Trustees of the Village of Northbrook by a majority vote in the manner required by law;
- ii. Publication in pamphlet form in the manner required by law;
- iii. The filing by Applicant and Owner with the Village Clerk, for recording in the Office of the Cook County Recorder of Deeds, of the Transferee's Unconditional Agreement and Consent.

B. In the event that the Transferee/Owner and Applicant/Operator do not file with the Village Clerk a fully executed copy of the Transferee's Unconditional Agreement and Consent referenced in Paragraph 9.A.iii above within 60 days after the date of passage of this Ordinance by the Corporate Authorities, the Corporate Authorities shall have the right, in their sole discretion, to declare this Ordinance null and void and of no force or effect.

Adopted: 2/12/2019

RESULT:	ADOPTED [5 TO 0]
MOVER:	A.C. Buehler, Trustee
SECONDER:	Bob Israel, Trustee
AYES:	Buehler, Ciesla, Israel, Collison, Han
ABSTAIN:	Sandra Frum
ABSENT:	James Karagianis

ATTEST:

/s/ Sandra E. Frum
Village President

/s/ Debra J. Ford
Village Clerk

I hereby certify this to be a true and exact copy of the original.

April 2, 2019
Date



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EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

LOT 2 IN THE 400 SKOKIE BOULEVARD RESUBDIVISION BEING A RESUBDIVISION OF LOT 1 IN THE LANE PARK SUBDIVISION AND LOTS 9, 10 AND 11 IN BLOCK 6 IN HUGHES-BROWN-MOORE CORPORATION'S RESUBDIVISION OF UNITED REALTY COMPANY'S DUNDEE ROAD SUBDIVISION IN THE SOUTHEAST 1/4 OF SECTION 2, TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Commonly known as 400 Skokie Boulevard, Northbrook, Illinois.
P.I.N.: 04-02-402-036-0000

Property of Cook County Clerk's Office

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THIS INSTRUMENT PREPARED BY:

Steven M. Elrod
 Holland & Knight LLP
 131 S. Dearborn Street
 30th Floor
 Chicago, Illinois 60603

AFTER RECORDING
 RETURN TO:

Recorder's Box 337

This Space for Recorder's Use Only

**TRANSFEEE'S UNCONDITIONAL AGREEMENT AND CONSENT TO ASSUME
 OBLIGATIONS OF VILLAGE OF NORTHBROOK ORDINANCES NO. 12-44 AND NO. 19-10**

(400 SKOKIE BOULEVARD)

TO: The Village of Northbrook, Illinois ("**Village**"):

WHEREAS, Ordinance No. 12-44, adopted by the President and Board of Trustees on June 26, 2012 ("**Ordinance**"), granted 400 Skokie Boulevard, LLC ("**Transferor**") approval of to allow wireless antennas on the existing building in excess of the permitted district height ("**Facility**") at the property commonly known as 400 Skokie Boulevard ("**Property**") which is legally described in Exhibit 1 to this Agreement;

WHEREAS, M-IV Skokie Property, LLC c/o Ameritus, LLC ("**Transferee/Owner**") acquired the Property and has, along with New Cingular Wireless PCS, LLC d/b/a AT&T Mobility Corporation ("**Applicant/Operator**") submitted an application requesting a renewal of the special permit granted in Ordinance No. 12-44 pursuant to Subsection 11-602 K of the Northbrook Zoning Code (1988), as amended ("**Zoning Code**");

WHEREAS, Section 11-602 I of the Northbrook Zoning Code (1988), as amended ("**Zoning Code**") specifies that the privileges and rights granted by a special permit ordinance may be transferred and assigned to another owner or operator that is operating in full compliance with the terms of the special permit, but only after: (1) the execution and filing by the new owner or operator of an unconditional agreement and consent to accept and abide by each and all of the terms, conditions, and limitations set forth in the Ordinance in a form acceptable to the Village Manager and (2) approval by the Board of Trustees of such transfer by resolution duly adopted;

WHEREAS, Ordinance No. 2019-10, adopted by the President and Board of Trustees of the Village of Northbrook on February 12, 2019 ("**Transfer and Renewal Ordinance**"), renews the special permit grants approval of a transfer and assignment from Transferor to the Transferee/Owner and Applicant/Operator; and

WHEREAS, Transferee/Owner and Applicant/Operator are prepared to accept the aforesaid transfer and assignment, assume all obligations and comply with all the terms, conditions and requirements of the Transfer and Renewal Ordinance; and

WHEREAS, Transferee/Owner consents to the recording of this Agreement against the Property;
 and

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NOW, THEREFORE, in consideration of the Conveyance of the Property and the Facility, the terms and provisions of this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Transferee/Owner and Applicant/Operator desire to evidence to the Village their unconditional agreement and consent to accept and abide by each of the terms, conditions, and limitations set forth in said Ordinance and do hereby agree and covenant as follows:

1. Transferee/Owner and Applicant/Operator shall, and do hereby unconditionally agree to, assume, accept, consent to and abide by all of the terms, conditions, restrictions, and provisions of that certain Ordinance 19-10 adopted by the Village Board of Trustees on February 12, 2019, as well as Ordinance 12-44, adopted by the Village Board of Trustees on June 26, 2012.
2. Transferee/Owner and Applicant/Operator acknowledge and agree that the Village is not and shall not be, in any way, liable for any damages or injuries that may be sustained as a result of the Village's review and approval of any plans for the Property, or the issuance of any permits for the use and development of the Property, and that the Village's review and approval of any such plans and issuance of any such permits do not, and shall not, in any way, be deemed to insure Transferee/Owner and Applicant/Operator against damage or injury of any kind and at any time.
3. Transferee/Owner and Applicant/Operator acknowledge that the public notices and hearings have been properly given and held with respect to the adoption of the Ordinance, has considered the possibility of the revocation provided for in the Ordinance, and agree not to challenge any such revocation on the grounds of any procedural infirmity or any denial of any procedural right, provided that the notice to the Transferee required by the Ordinance is given.
4. Transferee/Owner and Applicant/Operator agree to and does hereby hold harmless and indemnify the Village, the Village's corporate authorities, and all Village elected and appointed officials, officers, employees, agents, representatives, and attorneys, from any and all claims that may, at any time, be asserted against any of such parties in connection with (a) the Village's review and approval of any plans and issuance of any permits, (b) the procedures followed in connection with the adoption of the Ordinance, (c) the development, construction, maintenance, and use of the Property, and (d) the performance by Transferee/Owner and Applicant/Operator of their obligations under this Transferee's Unconditional Consent and Agreement.
5. Transferee/Owner and Applicant/Operator shall, and do hereby agree to, pay all expenses incurred by the Village in defending itself with regard to any and all of the claims mentioned in this Agreement. These expenses shall include all out-of-pocket expenses, such as attorneys' and experts' fees, and shall also include the reasonable value of any services rendered by any employees of the Village.
6. Transferee Owner warrants and represents to the Village that it is, or will be, the record title holder of the Property and consents to the recording of the Ordinance against the Property.

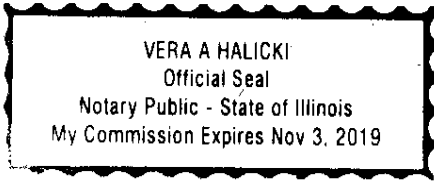
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M-IV SKOKIE PROPERTY, LCC a Delaware limited liability company C/O AMERITUS LLC, an Illinois limited liability company

By: [Signature]
Signature

By: Albert H. Scherb III
Print Name

Its: Authorized Signatory



SUBSCRIBED and SWORN to before me this 18th day of March, 2019.

NEW CINGULAR WIRELESS PCS, LLC a Delaware limited liability company

By: AT&T MOBILITY CORPORATION

By: [Signature]
Signature

By: Tom Hosty
Print Name

Its: Manager



SUBSCRIBED and SWORN to before me this 20th day of March, 2019.

Acknowledgment and Release of Transferor.

The Village of Northbrook executes this Agreement for the sole and exclusive purpose of acknowledging its agreement and acceptance of (a) Transferee/Owner's and Applicant/Operator's assumption of Transferor's obligations under the Ordinance, and (b) Transferee/Owner's and Applicant/Operator's agreement to comply with the terms, conditions and requirements of the Ordinance, including all exhibits and attachments thereto, all in accordance with Ordinance No. 19-10 approved by the President and Board of Trustees of the Village of Northbrook on February 12, 2019.

VILLAGE OF NORTHBROOK

By: [Signature]
Its: Village Manager

ATTEST:

By: [Signature]
Its: Village Clerk

SUBSCRIBED and SWORN to before me this 2 day of April, 2019.

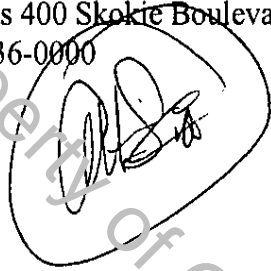
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EXHIBIT ~~A~~ 1

LEGAL DESCRIPTION OF PROPERTY

LOT 2 IN THE 400 SKOKIE BOULEVARD RESUBDIVISION BEING A RESUBDIVISION OF LOT 1 IN THE LANE PARK SUBDIVISION AND LOTS 9, 10 AND 11 IN BLOCK 6 IN HUGHES-BROWN-MOORE CORPORATION'S RESUBDIVISION OF UNITED REALTY COMPANY'S DUNDEE ROAD SUBDIVISION IN THE SOUTHEAST 1/4 OF SECTION 2, TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Commonly known as 400 Skokie Boulevard, Northbrook, Illinois.
P.I.N.: 04-02-402-036-0000

A handwritten signature, possibly "M. J. [unclear]", is enclosed within a hand-drawn circle. The signature is written in black ink and is somewhat stylized.

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