

EXHIBIT "C"

License and Maintenance Agreement

THIS LICENSE AND MAINTENANCE AGREEMENT ("Maintenance Agreement") is made this 14th day of February, 2023, by and between the **Florida Department of Agriculture and Consumer Services, Florida Forest Service** ("Grantor"), and **Hernando County** ("Grantee").

A. Grantor and Grantee are parties to that certain Ground and Tower License Agreement dated _____, 2023 (the "Agreement").

B. Grantee has completed construction of the Tower Facilities described in the Agreement.

C. Grantor has agreed to grant the Maintenance License (defined below) to allow Grantee to access the Tower Facilities and to use Grantee's Equipment, subject to the terms of this Maintenance Agreement more specifically set forth below.

NOW, THEREFORE, in consideration of TEN AND NO/100 (\$10.00) DOLLARS and other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Recitals; Defined Terms.** The above recitals are incorporated herein by this reference. All capitalized terms used but not defined herein will have the meaning ascribed to such terms in the Agreement.

2. **Grant of License.** Grantor hereby grants to Grantee and Grantee Parties a non-exclusive, irrevocable license (the "Maintenance License") to access and maintain Grantee's Equipment and to use Grantee's Equipment. Grantee shall be responsible for all acts and omissions of Grantee's Parties and for ensuring that all Grantee Parties agree to comply with the terms of this Maintenance Agreement prior to entering the Agreement Premises

3. **Master Agreement.** This Maintenance Agreement is subject and subordinate to the Master Agreement and, as such, Grantee covenants that it will comply with all the terms of the Master Agreement and it will neither commit any act nor fail to commit any act, the commission or omission of which would constitute a default under said Master Agreement.

4. **Term.** The term of this Maintenance Agreement ("Maintenance Term") shall be perpetual unless sooner terminated in accordance with the terms hereof.

5. **Rent.** No rent is due hereunder.

6. **Improvements.** The Tower Facilities and all alterations, improvements, changes, additions or permanent fixtures made in or affixed to said Tower Facilities may not be removed

from the Agreement Premises, without Grantor's prior written consent. Upon termination of this Maintenance Agreement, if required by Grantor, Grantee shall remove the Grantee's Equipment at Grantee's sole cost. This obligation shall apply regardless of the nature or type of termination. Grantee shall cause all liens, monetary judgments, mortgages, deeds of trust, deeds to secure debt, security interests and other similar encumbrances affecting the Agreement Premises and resulting from Grantee's acts or omissions to be released and discharged as of the date this Agreement terminates.

7. **Alterations, Improvements and Changes.** Grantee shall have the right to make such alterations, improvements, and changes to any Grantee's Equipment as the Grantee may deem necessary, subject to the any applicable laws. Grantee shall, in no event, make any alterations, improvements, or changes of any kind to any other improvements on the Agreement Premises without the prior written consent of Grantor.

8. **Access.** Neither party shall prevent or inhibit the other party's agents from accessing the Agreement Premises at any time.

9. **Use.** The Agreement Premises may be used by Grantee and Grantee Parties for inspection and maintenance of the Grantee's Equipment as provided herein. Grantee's Equipment may be used by Grantee and Grantee Parties for the communications and broadcast functions specifically described on Exhibit "1". Grantor agrees to cooperate with Grantee in obtaining, at Grantee's expense, all licenses and permits required for Grantee's use of Grantee's Equipment; provided, however, it is at no out of pocket cost to Grantor.

A. The Agreement Premises shall at all times be considered a part of those certain lands known as Withlacoochee State Forest, Headquarters Tract and the use of the Agreement Premises, as well as all persons entering thereon or therein, whether as a resident, guest, or invitee, shall be subject to all applicable local, state, and federal laws and regulations and the rules and regulations of Grantor.

B. Grantee shall not make nor suffer any unlawful, improper, or offensive use of the Agreement Premises or any use or occupancy thereof contrary to the laws of the State of Florida and the United States of America or contrary to the rules and regulations of the Grantor, which may now or hereafter be in effect. Grantee shall comply with all applicable laws, statutes, ordinances, orders, rules and regulations of federal, state, county and municipal authorities, and of any departments or divisions thereof, and of the applicable regulations of the Grantor.

10. **Maintenance.**

A. Grantor or its agent shall maintain the Agreement Premises and the Tower Facilities at all times in good, sanitary, and neat condition and repair, and Grantor shall not permit the creation or maintenance of any nuisance or any unsafe or hazardous or dangerous conditions on the Agreement Premises.

B. Grantee shall, at its own cost and without any expense to Grantor, keep, maintain, repair, and replace all Grantee's Equipment in good, sanitary, and neat condition and

repair, and except as specifically provided herein, Grantee shall restore and rehabilitate any improvements of any kind, that were installed by Grantee, that may be destroyed or damaged by fire, casualty, or any other cause whatsoever. Grantor shall not be obligated to make any repairs, replacements, or renewals of any kind, nature, or description whatsoever to the Agreement Premises or any buildings or improvements thereon. Grantee shall not permit the creation or maintenance of any nuisance or any unsafe or hazardous or dangerous conditions on the Agreement Premises.

C. Grantee shall fully and promptly pay for all water, gas, heat, light, power, telephone service, and other public utilities of every kind furnished to the Agreement Premises through the Maintenance Term, and all other costs and expenses of every kind whatsoever, in connection with the use, operation and maintenance of Grantee's Equipment, and all activities conducted thereon by Grantee; however, Grantee shall not be responsible for any such expenses associated with Grantor's equipment located on the Agreement Premises or the Tower Facilities.

D. Grantor shall physically inspect the Agreement Premises and Tower Facilities as needed (but in no event less than annually) to ensure the Agreement Premises and Tower Facilities are being maintained by Grantee Parties in accordance herewith.

11. **Encumbrances.** Grantee shall not encumber nor cause to be encumbered any interest in the Agreement Premises.

12. **Land Management Activities.** Grantee acknowledges that it may be necessary for Grantor to conduct prescribed burns and conduct other multiple use activities on Grantor's property surrounding the Agreement Premises.

13. **Termination.** Except as otherwise provided herein, this Maintenance Agreement (including the Maintenance License and any other rights granted herein) may be terminated 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 twenty (20) 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 for such cured default;

B. By Grantor upon Grantee deserting, vacating or abandoning the Agreement Premises after a period of six (6) consecutive months.

C. In addition to terminating the Agreement in the event default, the terminating party may exercise any and all other remedies available to it at law and in equity.

D. Within thirty (30) days of termination of this Maintenance Agreement, Grantee may remove Grantee's Equipment at its sole cost provided that such removal does damage or disrupt the operation of the rest of the Tower Facilities.

14. **Taxes.** In the event that at any time in the future any tax or assessment, whether ad valorem or otherwise, should be levied against the Agreement Premises and/or the Tower Facilities (or any part thereof) as a result of Grantee's use of the same, then Grantee shall promptly pay and discharge said taxes. Grantee shall be responsible for the payment of such taxes and assessments, if any, for the year in which this Maintenance Agreement is executed, and thereafter, during the Maintenance Term. Grantee shall pay the Grantor such taxes and/or assessments within forty-five (45) days of receipt of a bill for said taxes or assessments.

15. **Destruction of Tower Facilities.** If the Agreement Premises or the Tower Facilities are destroyed or damaged, so as to hinder the effective use of the Grantee's Equipment, either party may elect to terminate this Maintenance Agreement as of the date of the damage or destruction by so notifying the other party. In such event, all rights and obligations of the parties (excluding those obligations that expressly survive termination) shall cease as of the date of the damage or destruction.

16. **Condemnation.** If a condemning authority takes all of the Agreement Premises, or a portion sufficient to render the Agreement Premises unsuitable for the Tower Facilities, this Maintenance Agreement shall terminate as of the date the title vests in the condemning authority. Grantee shall be entitled to the portion of any award payable for the value of Grantee's Equipment and Grantor shall be entitled to receive that portion of the award which has been paid on account of the taking of the land and Tower Facilities. A sale of all or part of the Agreement Premises 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.

17. **Insurance.** Grantee shall purchase (or self-insure) and maintain in full force and effect throughout the Maintenance Term public liability and property damage policies. The policy of general liability insurance shall provide a combined single limit of \$1,000,000. All such insurance must be obtained either through self-insurance (as permitted by section 768.28, Florida Statutes) or through an insurance company authorized to do business in the State of Florida with an A.M. Best Rating of no less than A, and certificates of such insurance shall be filed with Grantor prior to commencement of such construction. Grantor and the Trustees shall be named as additional insureds with respect to such insurance and shall be given no less than thirty (30) days prior written notice of any amendment or cancellation thereof. Upon Grantor's written request, Grantee agrees to review the coverage limits of its liability insurance and increase the same to the extent necessary to adequately cover all operations on the Agreement Premises, as determined by Grantee in its reasonable discretion; provided in no event shall Grantor require that Grantee review such limits more than once every five (5) years.

18. **Grantee's Environmental Covenants and Indemnity.** As used in this Maintenance Agreement, 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. Grantee may not use, dispose of, store or generate Hazardous Materials on, in, or under the Agreement Premises. Grantee shall cause the presence, use, storage and/or disposal of any Hazardous Material, on, in, or under the Agreement Premises by Grantee or Grantee Parties to be in compliance with all applicable laws, rules, regulations and orders. In the event of a release of Hazardous Materials by Grantee in violation of law, Grantee shall take all actions necessary to remediate the contamination to the extent required by law. Grantee shall not install or permit the installation of any underground storage tanks on the Agreement Premises. Grantee shall defend, indemnify, protect, and hold Grantor and the Trustees 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, in, or under the Agreement Premises caused by the act(s) or omission(s) of Grantee or Grantee Parties. Grantee shall notify Grantor within ten (10) days after any release of Hazardous Materials on the Agreement Premises or receipt of notice regarding the Agreement Premises from a regulatory body with jurisdiction over Hazardous Materials. This section shall survive any termination of this Maintenance Agreement.

19. **Grantor's Environmental Representation.** To Grantor's knowledge, Grantor represents that no Hazardous Materials have been generated, stored or disposed of on or under the Agreement Premises by Grantor prior to the date hereof. Grantor agrees not to use, dispose, store or generate Hazardous Materials on the Agreement Premises during the Maintenance Term in violation of applicable laws. This section shall survive any termination of this Maintenance Agreement.

20. **Agents of Grantee.** The agents of Grantee shall not be deemed to be agents or employees of Grantor solely by the existence and terms of this Maintenance Agreement.

21. **Notices.** All notices required or permitted under this Maintenance 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, or immediately after being sent by e-mail; provided, however, that if any document is sent by e-mail outside normal business hours, it shall be deemed to have been received at the next time normal business hours commence. 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:

If to Grantor, to: Land Programs Administrator
 Florida Forest Service
 Director's Office
 3125 Conner Boulevard, Suite J
 Tallahassee, Florida 32399-1650
 Email: _____

With a copy to: Forestry Resource Administrator
15019 Broad Street
Brooksville, Florida 34601
Email: _____

If to Grantee, to: Toni Brady, MBA, CPM
Director of Office of Management & Budget
Chief Procurement Officer
15470 Flight Path Drive
Brooksville, Florida 34604
tbrady@co.hernando.fl.us

With a copy to: Hernando County Attorney's Office
20 North Main Street
Brooksville, Florida 34601
cao@co.hernando.fl.us

22. **Binding Effect; Assignment.** The rights contained in this Maintenance Agreement shall run with the Agreement Premises and shall inure to and benefit the parties and their successors. This Maintenance Agreement may not be assigned without the express written consent of both Parties.

23. **Covenant Against Liens.** If, because of any act or omission of Grantee or any legal person claiming by, through, or under Grantee, any mechanic's lien or other lien, charge, or order for the payment of money that shall be filed against Grantor or any portion of the Agreement Premises, Grantee shall, at its own cost and expense, cause the same to be discharged of record or bonded within sixty (60) days after written notice from Grantor to Grantee of the filing thereof; and Grantee shall indemnify and save harmless Grantor against and from all costs, liabilities, suits, penalties, claims, and demands, including reasonable counsel fees, resulting therefrom.

24. **No Waiver.** Nothing in this Maintenance Agreement shall be construed as a waiver of any provision of section 768.28, Florida Statutes, as it may be amended, or any other provision of law.

25. **Miscellaneous.**

A. Grantee shall surrender possession of the Agreement Premises to Grantor upon the termination of this Maintenance Agreement, free of all trash, junk, garbage and other similar debris. All improvements on the Agreement Premises, including the Tower Facilities, shall remain the property of the Grantor. However, Grantee's Equipment shall remain the property of Grantee unless Grantee's Equipment remains on the Tower Facilities for more than six months after termination of this Agreement.

B. The Agreement and this Maintenance Agreement constitutes the entire agreement and understanding of Grantor and Grantee with respect to the subject matter of this Maintenance

Agreement, and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind not set forth herein. Any amendments to the Maintenance Agreement must be in writing and executed by Grantor and Grantee.

C. If either Grantor or Grantee 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.

D. This Maintenance Agreement shall be construed in accordance with the laws of the State of Florida. Venue for any legal acting related to or arising out of this Agreement shall be in a court of competent jurisdiction in Hernando County, Florida or the United States District Court for the Middle District of Florida, Tampa Division.

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

F. This Maintenance Agreement 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.

G. Except as otherwise expressly provided in this Maintenance Agreement, Grantee acknowledges and agrees that (i) Grantor has not made and is not making any representations, warranties, assurances or guarantees to Grantee regarding the Agreement Premises, express or implied, and (ii) Grantee is accepting the Maintenance License to the Agreement Premises in its present condition, AS IS, WHERE IS.

H. Both Grantor and Grantee shall each pay its own attorney's fees in the event of any dispute related to or arising out of this Agreement.

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IN WITNESS WHEREOF, Grantor and Grantee have caused this Maintenance Agreement to be executed the day and year first above written.

WITNESSES:

Signature

Printed Name

Signature

Printed Name

GRANTOR:

**Florida Department of Agriculture and
Consumer Services, Florida Forest Service**

By: _____

Name: _____

Title: _____

WITNESSES:

Colleen Conko
Signature

Colleen Conko
Name

Heidi Kurppe
Signature

HEIDI KURPPE
Printed Name

GRANTEE:

Hernando County

By: [Signature]
Name: John Allocco
Title: Chairman

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
BY [Signature]
County Attorney's Office

EXHIBIT "1"

Allowable Uses of Grantee's Equipment

- Public Safety, government, and military
- Microwave Backhaul only as required by Hernando Counties radio system

The only allowable uses of the tower will be limited to the operation of FFS and Hernando Counties radio systems. Any additional requests will be reviewed by FFS on a case-by-case basis and approved or disapproved base on FFS perceived impact on reliable communications from the tower.

Notwithstanding the underlined uses above, Grantee shall not rebroadcast from the Agreement Premises radio or television signals containing pornographic or obscene materials, regardless of whether approved by the Federal Communications Commission to do so.