

ANTENNA SITE LEASE AGREEMENT

WHEREAS, The City of Breckenridge is the owner of the water storage tank ("Tower #1") located on The East Side near Dubois St. in Breckenridge, Stephens County, Texas; and

WHEREAS, New Source Broadband, LLC, a Texas limited liability company (hereinafter "LESSEE"), desires to lease space on Tower #1 for the installation of radio transmission antennae ("Leased Premises"); and

WHEREAS, The City of Breckenridge ("CITY") has agreed to lease antenna space on the Tower to LESSEE and LESSEE has agreed to lease said Leased Premises; and

WHEREAS, the parties desire to reduce their agreement to writing.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS this lease contract ("LEASE") is entered into by and between the CITY and LESSEE as follows:

1. Grant of Lease. The CITY does hereby LEASE to LESSEE, and LESSEE leases from the CITY, sufficient space on Tower #1 with the right of limited ingress and egress to and from Tower #1. The antenna(s) covered by this LEASE necessarily include any required wiring and cables to properly and efficiently conduct the transmission and reception of such communication activities as may be desired by the parties. LESSEE shall never have access to inside Tower #1 or access to the public drinking water supply. The CITY shall provide access as may be required by any appropriate electric and telephone companies, or other contractors identified to the CITY by LESSEE, for the purposes of servicing LESSEE equipment. LESSEE shall not permit the Leased Premises to be used for any purpose other than communications utilizing the referenced Antenna(s), without written consent of the CITY. LESSEE shall be allowed to install, operate, maintain, replace and remove Antenna(s) as may from time to time be required. If any of the Antenna(s) become fixtures, they shall nevertheless be and remain the property of LESSEE, and LESSEE shall have the right to remove all or part of them upon the termination or expiration of this LEASE.

2. Lease Term. This LEASE is to begin on October 6, 2023 and will terminate on October 5, 2026. It may be renewed for two 3-year terms thereafter at the CITY'S option, if the CITY provides written notice to LESSEE that CITY wishes to renew at least six (6) months prior to the end of the then-current term.

3. Lease Payment. As rental for the leased premises, LESSEE shall pay to the CITY a monthly rental of Four Hundred Dollars (\$400.00), such amount to be paid by LESSEE to the CITY on or before the first business day of each month. Lessor will barter said payment in exchange for internet service provided by LESSEE as described in EXHIBIT "A".

4. Access and Security. Lessee shall have the reasonable right of access to the facilities, twenty-four (24) hours per day, seven (7) days per week. If keys are issued to LESSEE to access facilities, these keys may not be copied. CITY reserves the right to change the locks from time to time and reissue keys to maintain security. LESSEE further understands it is desirable to limit

access to the facilities. The following people designated by LESSEE shall have the right to carry keys in this lease:

- Ross Franz – Telephone # (214) 404-8678
- Jason Witherspoon - Telephone # (940)521-0505

5. **Governmental Authorizations.** The CITY is responsible for obtaining and maintaining current any and all permits and other governmental authorizations required for the construction, modification, ownership, operation and use of Tower # 1 and for any antenna(s) and appurtenances of the CITY attached thereto. LESSEE is responsible for obtaining and maintaining current any and all permits and other governmental authorizations required for the construction, attachment, modification, and operation of their antenna(s).

6. **Physical Interference.** LESSEE shall not use the Leased Premises in any way which interferes with the use of the Leased Premises or other equipment or antenna(s) of the CITY. For example, the operation of LESSEE' antenna shall not create Electrical interference with or otherwise prevent the normal use of the CITY's SCADA equipment in, on or around Tower #1. Also, for example, the existence of LESSEE's antennas shall not disrupt the normal maintenance and painting of the Tower(s) by the CITY and its contractors. LESSEE shall not use, nor shall it permit their Lessee, licensees, employees, invitees or agents to use, any portion of the Leased Premises in any way that interferes with the Water Operations of the CITY. Similarly, the CITY shall not use, nor shall it permit its Lessee, licensees, employees, invitees or agents to use, any portion of the Leased Premises in any way that interferes with the communication operations of LESSEE without prior notice to LESSEE. Such interference shall be deemed a material breach by the interfering party, which shall, upon written notice from the other party, be responsible for terminating such interference. In the event any such interference does not cease within five (5) working days, the parties acknowledge that continuing interference may cause irreparable injury, and, therefore, the injured party shall have the right, in addition to any other rights that it may have at law or in equity, to bring a court action to enjoin such interference or to terminate this LEASE immediately upon written notice.

7. **Electronic Interference.** LESSEE agrees to install Antenna(s) of a type and frequency that will not cause interference to any equipment, current or future, of the CITY. LESSEE further agrees to exercise industry-standard safe climbing practices in the installation and maintenance of the antenna(s) In the event LESSEE' equipment causes such interference, even if resulting from operations in full compliance with any applicable Federal Communications Commission ("FCC") regulations, and after the CITY has notified LESSEE of such interference, LESSEE will eliminate the interference. In the event the interference cannot be corrected, LESSEE' interfering equipment will be required to be modified or moved from the Leased Premises to eliminate such interference. The parties acknowledge that there will not be an adequate remedy at law for non-compliance with the provisions of this paragraph, and therefore, either party shall have the right to specifically enforce the provisions of this paragraph in a court of competent jurisdiction by injunction or other appropriate remedy. Either the CITY or LESSEE may in their discretion cause an interference analysis to be made by independent third party and require the party found to be interfering improperly to correct the interference or cease all operations, with the party causing the interference to pay for the costs of the analysis.

8. **Antenna(s).** LESSEE shall have the right, at their expense, to erect and maintain their

Antenna(s) on the Leased Premises and to replace and upgrade their Antenna(s) at any time during the term of this LEASE. This right of erection shall include ancillary control and equipment boxes in proximity to the Leased Premises so long as such ancillary facilities do not interfere with the CITY's equipment and its operations. LESSEE shall cause all construction undertaken on the Leased Premises to occur lien-free and in compliance with all applicable laws and ordinances. The Antenna(s) shall remain the exclusive property of LESSEE, and LESSEE shall have the right to remove their Antenna(s) at any time during and upon termination of this LEASE.

9. **Electric Service.** It is expressly agreed and stipulated that LESSOR shall supply electric service to power LESSEE'S Antenna(s) and shall be responsible for all costs of installation and monthly service charges.

10. **Effects on CITY Improvements.** NO materials shall be used in the installation of LESSEE'S Antenna(s) that cause corrosion, rust, or deterioration of any of the CITY's improvements on the Leased Premises. LESSEE shall be responsible for ensuring that the Leased Premises are adequately protected from lightning. If lightning strikes LESSEE'S Antenna(s) or the Tower(s) in the immediate vicinity of said Antenna(s), LESSEE shall bear the cost of repairing the Antenna(s) and any associated equipment owned or placed on the Tower by the LESSEE.

11. **Termination.** Except as otherwise provided herein, this LEASE may be terminated, without any penalty or further liability as follows:

a. Upon one hundred twenty (120) days written Notice from the CITY to LESSEE if LESSEE fails to cure a default for payment of amounts due under this LEASE within that one hundred twenty (120) day period;

b. Upon one hundred twenty (120) days written notice by either party if the other party commits a non-monetary default and fails to cure or commence curing default within that one hundred twenty (120) day period, or such longer period as may be required to diligently complete a cure commenced within that one hundred twenty (120) day period;

c. Upon one hundred twenty (120) days written notice from LESSEE to the CITY;
or

d. Immediately upon written notice by LESSEE if the Tower(s), or LESSEE'S Antenna(s) are destroyed or damaged so that in LESSEE'S reasonable judgment LESSEE'S effective use of their Antenna(s) is substantially or adversely affected, in such event the rights and obligations of the parties relating to use and payment for the Leased Premises shall cease as of the date of the damage or destruction.

LESSEE shall remove all equipment and apparatus from the Leased Premises within thirty (30) days following termination or expiration of this LEASE. Any damage caused by the removal of said equipment will be the sole responsibility of LESSEE.

12. **Taxes.** LESSEE shall pay any personal property taxes assessed or any portion of such taxes directly attributable to their Antenna(s).

13. **Insurance.** LESSEE will provide Commercial General Liability Insurance Coverage in a minimum aggregate amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) and cause the CITY to be listed as an additional insured under the terms of said policy and provide a copy thereof to the CITY. LESSEE may satisfy this requirement by obtaining the appropriate endorsement to any master policy liability insurance LESSEE may maintain.

14. **Indemnity.** LESSEE SHALL INDEMNIFY, DEFEND AND HOLD THE CITY AND ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, HARMLESS FROM AND AGAINST ANY AND ALL COSTS, LOSSES, LIABILITIES, DAMAGES, LAWSUITS, JUDGEMENTS, CLAIMS, ACTIONS, PENALTIES, FINES AND EXPENSES (INCLUDING WITHOUT LIMITATION, INTEREST, PENALTIES, REASONABLE ATTORNEYS' FEES AND ALL MONIES PAID IN THE INVESTIGATION, DEFENSE OR SETTLEMENT OF ANY OR ALL OF THE FOREGOING(("CLAIMS")), INCLUDING CLAIMS ASSERTED BY ANY PERSON OR ENTITY, INCLUDING LESSEE, THEIR AFFILIATES, SUBCONTRACTORS AND/OR AGENTS FOR PERSONAL OR BODILY INJURIES, DEATH OR DAMAGE TO PROPERTY ARISING FROM OR IN ANY MANNER GROWING OUT OF OR ATTRIBUTED TO ANY NEGLIGENT OR WILLFUL ACT OR OMISSION OF LESSEE, THEIR AFFILIATES, OR LESSEE' OR THEIR AFFILIATES' EMPLOYEES, CONTRACTORS, SUBCONTRACTORS AND/OR AGENTS RELATING (1) TO LESSEE' ACTIVITIES UNDER THIS AGREEMENT INCLUDING BUT NOT LIMITED TO LESSEE' OPERATIONS OR ANTENNA(S); OR (2) THE FAILURE OF LESSEE TO COMPLY WITH, OR ANY ACTUAL OR ALLEGED VIOLATION OF, ANY APPLICABLE LAW, STATUTE, ORDINANCE, GOVERNMENTAL ADMINISTRATIVE ORDER OR RULE. TO THE EXTENT ALLOWED BY LAW, THE CITY SHALL INDEMNIFY, DEFEND AND HOLD LESSEE AND ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, HARMLESS FROM AND AGAINST ANY AND ALL COSTS, LOSSES, LIABILITIES, DAMAGES, LAWSUITS, JUDGMENTS, CLAIMS, ACTIONS, PENALTIES, FINES AND EXPENSES (INCLUDING WITHOUT LIMITATION, INTEREST, PENALTIES, REASONABLE ATTORNEY 'S FEES AND ALL MONIES PAID IN THE INVESTIGATION, DEFENSE OR SETTLEMENT OF ANY OR ALL OF THE FOREGOING), INCLUDING CLAIMS ASSERTED BY ANY PERSON OR ENTITY, INCLUDING CITY AND CITY'S SUBCONTRACTORS AND/OR AGENTS FOR PERSONAL OR BODILY INJURIES, DEATH OR DAMAGE TO PROPERTY ARISING FROM OR IN ANY MANNER GROWING OUT OF OUR ATTRIBUTED TO ANY WILLFUL OR NEGLIGENT ACTION OR OMISSION OF THE CITY, OR THE CITY'S EMPLOYEES, CONTRACTORS, SUBCONTRACTORS AND/OR AGENTS RELATING (1) TO THE CITY'S ACTIVITIES ON OR RELATING TO THE LEASED PREMISES, INCLUDING BUT NOT LIMITED TO (1) THE CITY'S OPERATIONS, EQUIPMENT, ANTENNA(S), OR CONNECTIONS: OR (2) THE FAILURE OF THE CITY TO COMPLY WITH, OR ANY ACTUAL OR ALLEGED VIOLATION OF ANY APPLICABLE LAW, STATUTE, ORDINANCE, GOVERNMENTAL ADMINISTRATIVE ORDER OR RULE.

Each Party shall give the other Party prompt notice of any claim for which indemnification is or will be sought under this Section and shall cooperate and assist the Indemnitor in the defense of the claim. The provisions of this section shall survive termination or expiration of this agreement.

15. **Notices.** All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, or sent by for next-business-day deliver by a nationally recognized overnight carrier to the following addresses:

Lessee:

New Source Broadband 1 LLC
1110 State Highway 16 South
Graham, TX. 76450
(940) 521-0505

Lessor:

City of Breckenridge
105 North Rose
Breckenridge, TX 76424
(254) 246-1963

16. **Authorization to Execute/Quiet Enjoyment.** The CITY covenants and warrants to LESSEE that (i) the CITY has full right, power and authority to execute this LEASE; (ii) has good title to the antenna(s) location on the Tower(s) free and clear of any liens or mortgages, except those disclosed to LESSEE and which will not interfere with LESSEE'S rights to or use of the antenna(s) LOCATION ON THE Tower(s); and (iii) execution and performance of this LEASE will not violate any laws, ordinances, covenants, or the provisions of any mortgage, LEASE, or other agreement binding on the CITY. The CITY covenants that all times during the term of this LEASE, LESSEE'S quiet enjoyment of the Leased Premises as long as LESSEE is not in default beyond any applicable grace or cure period.

17. **Assignment.** LESSEE shall not have the right to assign or otherwise transfer this LEASE to any person or business entity without the prior written approval of the CITY which permission may be withheld for any reason. This LEASE shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives and assigns.

18. **Severability.** Nothing contained in this LEASE shall be construed to require commission of any act contrary to law, and wherever there is any conflict between any provisions of this LEASE and any law, such law shall prevail; provided however, that in such event, the affected provisions of this LEASE shall be modified to the minimum extent necessary to permit compliance with such law and all provisions of this LEASE shall continue in full force and effect. In the event that anyone or more of the provisions contained in this LEASE is for any reason held to be invalid, illegal, or enforceable, in any respect, that invalidity, illegality, or unenforceability will not affect any other provision, and the LEASE will be construed as if the invalid, illegal or unenforceable provision had never been contained in it.

19. **Entire Agreement,** This. LEASE constitutes the entire agreement and understanding the parties, and supersedes all prior offers, negotiations and other agreements, with respect to the subject matter and property covered by this LEASE.

20. **Texas Law.** This LEASE shall be construed in accordance with the laws of the State of Texas.

CITY OF BRECKENRIDGE

By; _____

Printed Name: _____

Title: _____

Date: _____

NEW SOURCE BROADBAND 1, LLC

By; _____

Printed Name: Ross Franz

Title: _____

Date: _____

EXHIBIT A

Water Treatment Plant	510 US 183
City Hall	105 N. Rose Avenue
Fire Department	120 W. Elm St.
Police Department	210 E. Dyer St.
Water Waste Facility	1548 FM 287
Top Shop	601 N. Dubois St.
Animal Control	601 N. Dubois St.