



CONSENT

23-0100

Standing Committee: Finance Committee

Document Name: Letter of Intent from Wireless Propco LLC for the 736 Revere Drive Cell Tower

Action:

Place on File - No Council action needed

Refer to:

Refer to Council

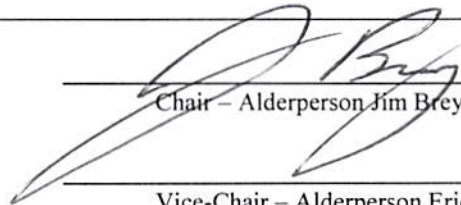
Consent

Non-Consent

Committee Recommendation:

To approve the letter of intent with Wireless Propco LLC.

Attest:

  
Chair - Alderperson Jim Brey

2-20-23

Date

Vice-Chair - Alderperson Eric Sitkiewitz

Alderperson Bill Schlei

Alderperson Todd Reckelberg

Alderperson Darian Kaderabek

Approved:

Justin M. Nickels  
Mayor

Date



23-0100

# CITY OF MANITOWOC

WISCONSIN, USA

[www.manitowoc.org](http://www.manitowoc.org)

January 25, 2023

TO: Finance Committee  
Mayor Justin Nickels

FROM: Eric Nycz, Assistant City Attorney

Re: Letter of Intent to Purchase Easement

## Issue Presented

On or about November 7, 2022, the City of Manitowoc ("City") was approached by a third-party vendor ("Vendor") interested in procuring an assignment of cell tower lease(s) and telecommunications easement for the City's cell tower located at 736 Revere Dr. ("Tower"). The City currently leases space on the Tower to AT&T (\$28,800.00 annually) and Sprint (\$31,104.00 annually). The Sprint contract will terminate on March 31, 2023, as Sprint (now T-Mobile) provided the required notice to terminate the agreement. Therefore, the Vendor seeks to purchase an assignment of the AT&T contract and the rights to all future cell company leases on the Tower (this is the telecommunications easement). After three months of negotiations and standard due diligence, this Office recommends the City enter into an agreement with Wireless Propco, LLC ("Propco") as outlined below and in the attached Letter of Intent (LOI).

## The Structure of the Deal

Propco will pay the City a one-time lump sum payment of \$518,400.00. Propco, and its affiliates, own approximately 4,000 telecommunication easements and it will market the Tower to its lessees. Every new lease on the Tower will result in a revenue share with an equal (50%) share to the City and Propco. For example, should Propco sign a lease with T-Mobile for \$3,000.00/month, the City would receive \$1,500.00/month. Finally, various City departments utilize the Tower for emergency services and will continue to do so at no new cost to the City.

AT&T signed a 30-year extension agreement for the Tower that commenced on March 19, 2021. The Agreement is divided into 5-year blocks, where the parties may, with proper notice, terminate the agreement without penalty every five years. Beginning March 19, 2021, the annual rent paid to the City will increase by two percent (2%) over the annual rent paid during the previous year. In essence, the City will receive the rent due from AT&T, should it not terminate the agreement, through the end of 2039, immediately:

2023	\$28,800.00
2024	\$28,800.00
2025	\$28,800.00
2026	\$29,376.00
2027	\$29,963.52
2028	\$30,562.79



2029	\$31,174.05
2030	\$31,797.53
2031	\$32,433.48
2032	\$33,082.15
2033	\$33,743.79
2034	\$34,418.67
2035	\$35,107.04
2036	\$35,809.18
2037	\$36,525.36
2038	\$37,255.87
2039	\$38,000.99
Total	\$517,649.43

### Clarifications on Anticipated Questions

- The LOI shows ownership transfer for three lease agreements. The first is the Sprint agreement that has been terminated effective March 31, 2023. The second agreement is the AT&T agreement, which is outlined, above. The third agreement was terminated shortly after it was signed (this Office could not determine the exact date it was terminated). As stated above, the only operative agreement is the AT&T agreement, and Propco is aware of this fact; all negotiations were completed with a common understanding of operative lease agreements.
- Propco will not want to wait 17 years to receive a return on its investment. We should anticipate additional lease agreements on the Tower within 2 years.
- The City does not currently have the expertise to manage and market this type of telecommunications tower. By utilizing a third party to manage and market the Tower, the City should see not only an increase in income, but a benefit to citizens who use cellular phones (additional providers on the Tower means more coverage for their customers).

### Bottom Line

This Office has discussed the proposal outlined in the LOI with Public Safety, Community Development, Engineering, and the Mayor's Office. This opportunity has been met with universal support. Therefore, this Office requests that the Committee recommend entering into the LOI to the Common Council, and providing authority to the City Attorney's Office to review and approve a final agreement with Propco, following Propco's completion of due diligence.

# WIRELESS PROPCO, LLC

44 South Broadway, White Plains, New York 10601

January 24, 2023

City of Manitowoc ("Site Owner")  
 Attn: Eric Nycz  
 900 Quay St  
 Manitowoc, WI 54220  
 Site ID: 22-WI0021 / Tower Coordinates: 44.101396, -87.672083  
 Source: Symphony Wireless / Nina Rodriguez

RE: Assignment of Ground Lease(s) and Telecommunications Easements for Property Located at 736 Revere Dr, Manitowoc, WI 54220.

Dear Eric Nycz,

We are pleased to submit this Letter of Intent ("LOI") which sets forth the general terms and conditions under which Wireless Propco, LLC, a Delaware limited liability company ("Wireless Propco"), would purchase (1) the [landlord/lessor] interest in the below-referenced Lease(s), (2) an exclusive easement over the leased area set forth in the Lease(s), [and] the area where any existing communications equipment is located, the existing wireless communication tower, and 250 additional square feet in the area adjacent to leased area ("Additional Space"), and (3) non-exclusive access and utility easements. The general terms and conditions are as follows:

**Lease(s):** Antenna Collocation Lease Agreement dated October 2, 2000, originally by and between City of Manitowoc and Alamosa Wisconsin Limited Partnership, as may have been amended and assigned, with a current rent of \$2,592.00, and increasing by 20% every five years.

Antenna Collocation Lease Agreement dated March 19, 2001, originally by and between City of Manitowoc and TeleCorp Realty L.L.C., as may have been amended and assigned, with a current annual rent of \$28,800.00, and increasing by 2% every year starting on March 19, 2026.

Communication Tower Agreement dated February 10, 2011, originally by and between Clear Wireless LLC and City of Manitowoc, as may have been amended and assigned.

**Easement Term:** Perpetual

**Purchase Price:** \$518,400.00

**Profit Share:** Site Owner receives 50% of additional rent (rent above the scheduled rent due pursuant to the assigned Lease(s)) received by Wireless Propco from new wireless customers who place their equipment on the Additional Space.

**Confidentiality:** Site Owner agrees not to disclose any of the terms of this LOI to any third parties (other than Site Owner's attorneys, subcommittee members, common council, accountants, employees of the City of Manitowoc, or as required by law) without Wireless Propco's prior written consent, but under no circumstance shall this paragraph conflict with the Site Owner's internal rules and regulations.

# WIRELESS PROPCO, LLC

44 South Broadway, White Plains, New York 10601

**Closing Costs:**

At Closing, the Purchase Price due to Site Owner shall be reduced by the following:

- (a) Rent proration for the month in which Closing occurs, plus the rent attributable to the two (2) months following Closing related to the Antenna Collocation Lease Agreement dated October 2, 2000 and the Communication Tower Agreement dated February 10, 2011 (Site Owner shall be entitled to receive rent payments related to the Antenna Collocation Lease Agreement dated October 2, 2000 and the Communication Tower Agreement dated February 10, 2011 for the two months after Closing).
- (b) Rent proration for the remainder of the most recent annual rent period paid to Site Owner under the Antenna Collocation Lease Agreement dated March 19, 2001, as of the closing date.
- (c) transfer taxes (if any).

**NDA:**

If there is a mortgage or lien on the property, Site Owner agrees to obtain a non-disturbance agreement ("NDA") from the lender or lienholder. If the NDA cannot be obtained, Site Owner may request a risk assessment to determine (i) whether Wireless Propco will close without the NDA and (ii) the corresponding reduction in the Purchase Price (if any).

**Authority:**

The undersigned hereby represents and warrants that: he/she is an authorized signatory of Site Owner, he/she is authorized to execute this LOI on behalf of Site Owner and he/she is authorized to bind Site Owner in accordance with the terms of this LOI and the transaction(s) contemplated therein.

**LOI Consideration:**

As consideration for Site Owner entering into and agreeing to be bound by the terms of this LOI, Wireless Propco shall pay the sum of \$100.00 to Site Owner within seven (7) business days following full execution of this LOI.

**Offer Expiration:**

This offer shall expire within thirty (30) days of the date of this LOI if not executed by Site Owner.

The signatures below acknowledge that these are the general terms upon which this transaction will be completed. Closing is subject to Wireless Propco's receipt and evaluation of the items set forth in the attached Document Checklist, completion of due diligence (including a photographic site inspection, and title and environmental due diligence) and final underwriting approval. This LOI will be binding on and inure to the benefit of the parties' respective successors and assigns. Wireless Propco will endeavor to close this transaction within sixty (60) days of its receipt of the Document Checklist items. This LOI will expire in six (6) months from the date executed by Site Owner, unless extended by mutual agreement. Site Owner covenants and agrees that Site Owner shall not directly or indirectly solicit or negotiate any offers to purchase the Lease(s) and/or the Property or any interest therein prior to the expiration of this LOI.

Sincerely,  
Wireless Propco, LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**AGREED TO AND ACCEPTED BY:**

Site Owner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

# WIRELESS PROPCO, LLC

44 South Broadway, White Plains, New York 10601

## Document Checklist

1. LANDLORD ENTITY TAX ID # or SSN: \_\_\_\_\_
2. I agree to provide my Wireless Propco representative with the following information required for closing within 7 days of the date of this agreement:
  - Full copies of each wireless lease, including any addenda, amendments, assignments, site plans, construction drawings, notices or exercise letters, any other available tenant correspondence
  - Parcel block ID
  - Copies of rent checks or deposit stubs for the last three months (or annual if paid annually)
  - Deed
  - Prior title report or title insurance policy, if available
  - Existing environmental reports, if applicable (Phase 1 or 2)
  - Current tax bill and/or tax map for property
  - Proof of Site Owner's authority to execute transaction: Articles of incorporation, articles of formation, by-laws, operating agreement; partnership agreement; trust agreement; probate documents, death certificate; divorce decree; property management agreement.
  - Certificate of good standing (if applicable).
  - Mortgage information (below):

Bank: \_\_\_\_\_  
Mortgage Amount: \_\_\_\_\_

Lender Contact: \_\_\_\_\_  
Lender Phone: \_\_\_\_\_  
Lender Email: \_\_\_\_\_

\_\_\_\_\_  
Site Owner Signature

Date signed:

Name: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_