

# Exhibit A

## TELECOMMUNICATIONS LICENSE AGREEMENT

This Telecommunications License Agreement (the "Agreement") is made and entered into on the \_\_\_\_ day of \_\_\_\_\_, 2016 between First Bank Building LLC, a Minnesota limited liability company ("Licensor") and the City of Saint Paul, a municipal corporation ("Licensee").

### RECITALS

1. Licensor is the owner of the building located at 332 Minnesota Street, Saint Paul, MN 55101 (the "Building"); and

2. Licensee acknowledges and agrees that Licensee is currently in possession of the Licensed Premises (as hereinafter defined) pursuant to that certain Lease dated February 5, 1953 (the "Original Lease") and the Licensed Premises shall be accepted in its "as-is" / "where-is" condition. From and after the date hereof, the Original Lease shall be deemed to be terminated and of no further force and effect and this Agreement shall govern the Licensed Premises in all respects; and

3. Licensee and Licensor wish to enter into this Agreement to allow Licensee to continue to operate, maintain, secure, repair and replace its telecommunications equipment in or on the Licensed Premises and Licensee and Licensor are willing to enter into this Agreement, all on the terms and conditions contained herein.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the parties, the parties agree as follows:

1. License.

(a) Licensor hereby grants to Licensee a non-exclusive license (the "License") including the right of entry to install, operate, maintain, secure, repair and replace (together, the "Work") telecommunications equipment, conduit and cable (collectively, the "Facilities") in the Licensed Premises (hereinafter defined) for purposes of providing police radio service ("Services") to the city of Saint Paul. The "Licensed Premises" shall collectively consist of (i) approximately 83 square feet of floor space located on the north side of the 31st floor, at the head of the west stairway in the Building, and (ii) space on the roof of the Building attached to the steel tower supporting the electric sign thereon. Licensor makes no representations or warranties with respect to the Licensed Premises or the Building or its suitability for Licensee's use. Licensor has no obligation to perform any work or otherwise prepare the Licensed Premises for Licensee's use and has no obligation to make any repairs or improvements to the Licensed Premises during the License Term.

(b) Licensor agrees that it will not permit the erection of any other aerial or radio equipment upon the roof of the Building, which aerial or radio equipment has the effect of interfering with the Equipment of Licensee.

(c) The power consumed to power Licensee's Facilities shall be directly metered for Licensee's use and all power charges used shall be paid directly by Licensee to the electrical provider or to Licensors as the case may be. In the event Licensee is directed by Licensors to pay Licensors for such power charges, such power charges shall be payable to Licensors within 20 days following demand, at the same rate as charged by the electrical provider, without mark-up. At no time shall Licensee's use of electric current exceed the capacity of existing feeders or risers to, or wiring installations serving, the Licensed Premises.

2. Term. The term (the "License Term") of this Agreement shall commence on the date hereof (the "Commencement Date"), and shall expire on the day immediately preceding the fifth (5th) anniversary of the Commencement Date. The License Term may be extended for one (1) additional five (5) year term (a "Renewal Term") at Licensee's option, upon the same terms and conditions (except for License Fee) as during the License Term, by written notice to Licensors provided not less than one hundred eighty (180) calendar days before expiration of the License Term, time being of the essence. The License Fee for the Renewal Term shall be adjusted to the fair market rate for a similar license granted at the time of the renewal in a similar building in the geographic market in which the Building is located. Both Licensee and Licensors shall cooperate in determining the fair market rent for the Renewal Term, provided, however, if the Licensee and Licensors do not agree on the fair market rent prior to the commencement of the Renewal Term, the License Term shall expire on the last day of the initial License Term and Licensee shall have no further options to renew this Agreement. If Licensee properly exercises the right to renew the License Term for the Renewal Term as set forth in the section, thereafter the "License Term" shall mean the initial License Term and the Renewal Term, collectively.

3. License Fee. Licensee shall pay Licensors as a License Fee for the License granted herein, in legal tender, \$4,580.40 annually, payable promptly on the first day of every month of the License Term, in advance, in the monthly sum of \$381.70, increased each year at Landlord's option, on a cumulative basis by the Consumer Price Index for all Urban Consumers (CPI-U) for Minneapolis and St. Paul, MN (1982-84=100) as published by the United States Department of Labor-Bureau of Labor statistics for the month of October for each year during the term of the Agreement, without any notice, set-off, deduction or recoupment whatsoever, the same being hereby waived. The License Fee shall be appropriately prorated in any partial month occurring within the License Term. The License Fee shall be paid to Licensors at the following address:

Address for U.S. Mail and Overnight Couriers:

First Bank Building LLC  
375 Jackson, 700 West  
St. Paul, MN 55101-2537

In addition to remitting payment of the License Fee to the address set forth above, the Licensee Fee and other amounts due hereunder may be made to Licensors through an electronic funds transfer directly into the bank account specified above by Licensors, or such other bank account as specified by Licensors from time to time. The first monthly installment of the License Fee shall be paid by Licensee upon execution of this Agreement. If Licensee fails to pay all or any

portion of the License Fee by the fifth (5th) day of the month in which it is due and payable hereunder, a service fee equal to five percent (5%) of such unpaid amount will be due and payable immediately by Licensee to Licenser. In addition, if Licensee fails to pay all or any portion of the License Fee or other amount due hereunder when the same is due and payable, Licensee shall pay Licenser interest on any such unpaid amount, which interest shall accrue from the date due until the date such amount is paid at the lesser of (i) eighteen percent (18%) per annum less, with respect to any License Fee payment, and any service fee which is then due under this Section, and (ii) the highest interest rate permitted by applicable Law. Licensee shall also be responsible for all sales, use or other taxes (not including taxes assessed on or in respect of Licenser's income, profits or gains) which are assessed or due by reason of this Agreement or Licensee's use of the Building hereunder.

4. Equipment and Facilities.

(a) The Facilities are deemed Licensee's personal property and not fixtures and shall remain the exclusive property of Licensee. Licenser waives any lien rights it may have concerning the Facilities, and Licensee or its lenders have the right to remove the same at any time without Licenser's consent. Licensee shall repair or pay the cost of repairing any damage to the Licensed Premises or the Building resulting from the removal thereof. Licensee agrees to permit Licenser and its employees and agents access to the Licensed Premises to inspect, clean, and make repairs, upon prior notice to Licensee (except in the case of emergency), which may be given orally. Licenser shall not be liable for damage, theft, misappropriation or loss of any of the Facilities, except in the event that such damage, theft, misappropriation or loss is caused by, or the result of, Licenser's gross negligence or willful misconduct. Licensee hereby covenants and agrees to keep the Licensed Premises (including the Facilities) in good order, repair and condition throughout the License Term.

(b) Licensee shall keep the Licensed Premises in a clean, safe, secure and sanitary condition, will take good care thereof, and will suffer no waste or injury thereto. Except as otherwise agreed in writing, at the expiration or earlier termination of the License Term, Licensee will surrender the Licensed Premises vacant and in the same order and condition in which they were on the commencement of the Original Lease and repair any damage caused by the removal of the Facilities or other personal property, ordinary wear and tear and damage by the elements, fire and other casualty excepted. If any of Licensee's property remains in the Licensed Premises for more than fifteen (15) days after the expiration or earlier termination of this Agreement, it shall be deemed Licenser's property and Licensee shall be liable to Licenser for all costs of storage and/or removal of such property.

(c) Licensee acknowledges that it will, at its cost and expense, protect any sensitive electronic equipment which may be used in the Licensed Premises from utility service interruptions through the use of backup power supplies, surge protects and other appropriate safety systems as Licensee deems reasonable necessary. Licensee acknowledges that it has taken all precautionary steps it deems necessary to protect the Facilities and other equipment or property in the Licensed Premises. Licenser shall not be liable to Licensee for any damages or losses sustained to any of the Facilities or its equipment or property in the event of a power interruption.

5. Access. Licensors hereby covenants and agrees to provide Licensee access to the Licensed Premises twenty-four (24) hours a day, seven (7) days a week, three hundred sixty-five (365) days a year, subject to the following terms and conditions: (i) access shall be unlimited during the local hours of 8:00 a.m. and 6:00 p.m., Monday through Friday, saving and excepting nationally recognized holidays; and (ii) access shall be unlimited, after hours, on weekends and on nationally recognized holidays provided that Licensee provides Licensors with 24 hours prior verbal notice (except in case of an emergency). To the extent consistent with this Agreement, Licensee's access shall be further subject to Licensors's Building rules and regulations and security policies and procedures, non-discriminatorily applied, a copy of which shall be provided to Licensee on request.

6. Subject to Laws. Licensee shall comply with all laws, rules, orders, ordinances and regulations at any time issued or in force, applicable to the Licensed Premises or the Licensee's use thereof, of the City of St. Paul, State of Minnesota and Federal Government, and of each and every department, bureau and official thereof, and the Board of Fire Underwriters of any applicable insurance carrier or commissions (collectively "Laws"). Licensee shall comply with all rules and regulations of the Licensors, non-discriminatorily applied.

7. Assignment. This Agreement is personal to Licensee and shall not be transferred or assigned.

8. Alterations. Tenant shall make no improvements, changes or alterations in or to the Licensed Premises without Landlord's prior written approval.

9. Indemnification; Liability.

(a) Licensee shall indemnify, hold harmless and defend Licensors from and against any and all third party claims and actions, and the loss, costs, damages, liabilities and expenses, including reasonable attorneys' and other professional fees, arising from such claims and actions when arising from or out of (i) the installation, replacement, maintenance, repair, operation, inspection or removal by Licensee of the Facilities, (ii) any act, omission or negligence of Licensee or any of its employees, except to the extent that any such claims, loss, costs, actions, damages, liabilities, or expenses are caused by the gross negligence or willful misconduct of Licensors and (iii) Licensee's use of the Licensed Premises, or any work or thing done, or any condition created, in or about the Building.

(b) In no event shall either party be liable to the other for any incidental, punitive, or consequential damages of any nature whatsoever, including lost profits or revenues, regardless of the foreseeability thereof or whether a party notifies the other of the possibility thereof. Licensee shall not have any liability for any violations of environmental laws not caused by Licensee, nor have any responsibility for the managing, monitoring, correcting or abating any asbestos-containing materials or any other environmentally hazardous substances in the Building to the extent such substances have not been brought into the Building by Licensee. Licensee hereby agrees that it shall not use or store in the Licensed Premises or the Building any environmentally hazardous materials, including, without limitation, any electronic equipment containing polychlorinated biphenyls (PCB's). Licensee shall be responsible, at its expense, for

all matters directly or indirectly based on, or arising or resulting from the presence of hazardous materials in the Licensed Premises or the Building which is caused or permitted by Licensee and its respective agents, contractors, subcontractors, employees, invitees or licensees.

(c) All personal property of Licensee, its employees, agents, invitees, licensees, customers, clients, family members, guests or trespassers in and on the Licensed Premises or any part of the Building shall be and remain therein under any and all circumstances at the sole risk of said parties and Licensor shall in no event be liable to any such person or party or any other person or party for any damage to, or loss thereof.

(d) Licensor shall not be liable for any personal injury to Licensee, Licensee's employees, agents, contractors, business invitees, customers, clients, family members, guests or trespassers arising from the use and condition of the Licensed Premises or any part of the Building unless such party establishes that there has been negligence or an act or failure to act on the part of the Licensor, its agents or employees.

(e) Any and all injury, breakage or damage to the Licensed Premises or the Building of which they are a part, arising from any cause, done by Licensee or its agents, contractors, servants, invitees or employees, shall be repaired by Licensor at the sole expense of Licensee.

(f) Nothing in this Agreement shall be construed to restrict Licensor's right to sell, convey, assign or otherwise deal with the Building or Licensor's interest under this Agreement. The term "Licensor" as used in this Agreement shall mean the Licensor at the particular time in question, and a sale, conveyance or assignment of the Building or Licensor's interest therein shall automatically release Licensor from liability under this Agreement and from and after the effective date of the transfer Licensee shall look solely to Licensor's transferee for performance of Licensor's obligations under this Agreement, it being understood that from and after the date of such transfer, the term "Licensor" shall only mean the transferee and the covenants and agreements of Licensor shall thereafter be binding upon such transferee. Any liability for damages, breach or nonperformance of this Agreement by Licensor, or arising out of the subject matter of, or the relationship created by, this Agreement, shall be collectible only out of Licensor's interest in the Building and no personal liability has been assumed by, or shall at any time be asserted against, Licensor, its parent and affiliated corporations and limited liability companies, its and their partners, venturers, directors, officers, managers, members, agents, servants and employees, or any of its or their successors or assigns; all such liability, if any, being expressly waived and released by Licensee.

10. Insurance. Licensee hereby certifies that it is a duly authorized self-insured entity in accordance with Minnesota state law for purposes of general liability, property damage, and workers compensation claims, and furthermore, hereby affirms and maintains its entitlement to all available immunities, defenses and protections to the fullest extent permitted by law.

11. Default and Termination.

(a) A party (the "Terminating Party") may terminate this Agreement upon written notice to the other party (the "Other Party") in the event (i) the Other Party files or

initiates proceedings or has proceedings filed or initiated against it seeking liquidation, reorganization or other relief (such as the appointment of a trustee, receiver, liquidator, custodian or such other official) under any bankruptcy, insolvency or other similar law, and such petition is not discharged within sixty (60) days of filing; or (ii) the Other Party fails to comply with any material provision of this Agreement ((i) and (ii), each a “Default”), which Default shall not have been cured within ten (10) days, in the case of a monetary default, or thirty (30) days in the case of a non-monetary default, after receiving written notice specifying such Default from the Terminating Party. Both parties shall use reasonable efforts to mitigate any damages.

12. Relocation. Licensor hereby reserves the right, from time to time, during the License Term, to relocate the Licensed Premises at Licensor’s cost, to technically comparable space in another part of the Building (the “Substituted Licensed Premises”). In consideration of such right, Licensor agrees that such relocation and any necessary construction of Licensor’s improvements to the Substituted Licensed Premises shall be performed by Licensee’s personnel or contractors, and at Licensor’s cost, and Licensee in consideration thereof, hereby waives any claims for damages, abatement or rent or loss of profits due to such relocation; provided, that Licensor gives at least sixty (60) days prior written notice of its intention to relocate Licensee.

13. Notices. All notices or other communications hereunder shall be in writing and shall be deemed duly given if delivered in person, sent by certified mail, return receipt requested, or sent by recognized overnight courier: (i) if to Licensor, at First Bank Building LLC, 375 Jackson, West 700, St. Paul, MN 55101-2537, Attn: Rosemary A. Kortgard, President; and (ii) if to the Licensee,

Saint Paul Police Department  
Fiscal Affairs  
367 Grove Street  
Saint Paul, MN 55101

The party to receive notices and the place notices are to be sent for either Licensor or Licensee may be changed by notice given pursuant to the provisions of this section.

14. Independent Entities. It is agreed that nothing contained in this Agreement shall be deemed or construed as creating a partnership, joint venture, or a relationship of Landlord and Tenant between Licensor and Licensee.

15. Final Agreement. This Agreement contains and embodies the entire agreement of the parties hereto, and no representations, inducements, or agreements, oral or otherwise, between the parties not contained and embodied in this Agreement shall be of any force and effect, and the same may not be modified, changed or terminated in whole or in part in any manner other than by an agreement in writing duly signed by all parties hereto.

16. Force Majeure. Licensor and Licensee shall each be excused from the performance of any of their respective obligations hereunder for the period of any delay in performing such obligations resulting from any cause beyond such party’s reasonable control, including without limitation, any natural or unnatural disaster whether arising as an act of God or act of man (which by way of illustration only include fire, flood, earthquake, tornado, hurricane,



or any accident or incident involving environmental or biochemical hazards), by reason of strike or labor troubles, riots and civil disturbances or energy shortages or governmental preemption in connection with a national emergency or by reason of any rule, order, or regulation of any department or subdivision thereof of any government agency or by reason of the conditions of supply and demand which have been or are affected by war or other emergency. Notwithstanding the foregoing, in no event shall Licensee be excused from making timely payment to Licensor of any amounts payable by Licensee pursuant to the terms of this Agreement.

17. License Agreement. This Agreement does not constitute a lease or a sublease. This Agreement does not provide Licensee with any right, title or interest of any kind or nature in any portion of the Building, including, without limitation, the Licensed Premises.

18. Subordination. This Agreement shall be subject and subordinate to all ground leases and underlying leases now or hereafter covering the Building, and all mortgages which now or hereafter may affect such leases or the Building in whole or in part, and to each advance made and hereafter to be made under any such mortgages, and to all renewals, modifications, consolidations, replacements and extensions thereof and all substitutions of and for such ground leases, underlying leases and mortgages. The foregoing shall be self-operative and no further instrument of subordination shall be required. In confirmation of such subordination, however, Licensee shall execute, acknowledge and deliver promptly any Subordination, Non-Disturbance, and Attornment Agreement or certificate including an Estoppel Certificate which Licensor may reasonably request.

19. No Waiver. No failure on Licensor's part to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or remedy hereunder preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

20. Neutrality. The Parties agree that should any dispute arise over the interpretation of this Agreement, this Agreement will be interpreted neutrally pursuant to Minnesota law and any rule of law regarding interpretation against the party drafting various provisions of this Agreement shall not apply.

21. Severability of Provisions. Any provision of this Agreement which is prohibited or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.

22. Headings. Article and Section headings in this Agreement are included herein for the convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

23. Recitals. The above recitals are hereby incorporated by reference and made a part of this Agreement.

24. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.





IN WITNESS WHEREOF, the parties have executed this Agreement by affixing their hands and seals as of the date noted above.

**Licensors:**

By: First Bank Building LLC, a Minnesota  
limited liability company

By: \_\_\_\_\_  
Name: Rosemary A. Kortgard  
Title: President

**Licensee:**

CITY OF SAINT PAUL, a municipal  
corporation

By: \_\_\_\_\_  
Name (print): \_\_\_\_\_  
Title: Chief of Police

By: \_\_\_\_\_  
Name (print): \_\_\_\_\_  
Title: Director of Financial Services

(Approved as to Form)

By: \_\_\_\_\_  
Name (print): \_\_\_\_\_  
Title: Assistant City Attorney