

## TOWER(S)/STRUCTURE(S) REMOVAL AGREEMENT

This Agreement is made and effective as of the 27 day of November, 2017, by and between El Paso County, a political subdivision of the State Colorado, hereinafter referred to as "County," and SBA 2012 TC Assets, LLC, hereinafter referred to as "Applicant" is made pursuant to the provisions of the Land Development Code (LDC), and the authorities vested by the El Paso County Board of County Commissioners (Board) in the Development Services Division Director (DSD Director) to establish and enforce zoning regulations pursuant to C.R.S. § 30-28-101 et. Seq., and to execute tower(s)/structure(s) removal agreement(s) and accept surety guaranteeing the tower(s)/structure(s) removal.

The purpose of this Agreement is to guarantee removal of towers/structures in association with a development in El Paso County, Colorado, in the event Applicant does not comply with approved requirements concerning tower(s)/structure(s).

### RECITALS

WHEREAS, the "Applicant" is the (equitable/legal) owner of the tower/structure, or has legal right to enter upon the Property to install/remove the tower(s)/structure(s) identified in Exhibit A, said Removal Plan being stamped "Approved," dated October 20, 2017, and filed in PCD File # \_\_\_\_\_ ;

WHEREAS, the Applicant desires to develop the Property according to the provisions of the LDC;

WHEREAS, in the interest of maintaining the public health, safety and welfare, the County desires to assure that the Property is developed in accordance with the development approval and with the requirements of the LDC, and therefore considers this Agreement to be in the best interests of the County; and

WHEREAS, the County and the Applicant desire to set forth in this Agreement their respective understandings and agreements with regard to tower(s)/structure(s) removal; and

WHEREAS, the Applicant wishes to supply surety guaranteeing the availability of funds to affect removal of tower(s)/structure(s) associated with this Project in the form of one of the following:

\_\_\_\_\_ An Irrevocable Letter of Credit from \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ .

\_\_\_\_\_ Cashier's check in the amount of \$ \_\_\_\_\_ .

\_\_\_\_\_ Certificate of Deposit for the amount of \$ \_\_\_\_\_ .

  x   Performance Bond in the amount of \$35,000.00.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

1. The Applicant shall perform in accordance with the Approved Project Scope.
2. To secure and guarantee performance of its obligations as set forth herein, the Applicant is hereby providing surety in an amount covering all loss caused by Applicants relating to maintenance, replacement, removal or relocation of a Tower(s)/Structure(s) as set forth in the certified cost estimate(s) attached hereto as Exhibit B. This cost estimate must be provided & stamped "Approved" by an Engineer certified to conduct business in the State of Colorado. The surety shall not expire until and unless the use of the property changes, or is no longer needed.
3. Upon completion of Removal of Tower(s)/Structure(s) indicated by the Project Plan, and inspection by the County and a determination that the Project Plan has been completed in conformance with Project Plan Approved Documents, the surety provided will be released upon written request by the Applicant.

4. Should, upon expiration of project, the required removals not be completed by the "Applicant" the El Paso County Board of County Commissioners may draw upon the surety to complete the required removal(s).
5. Should the Applicant fail to remove tower(s)/structure(s) within the specified time frame, the Applicant/Owner authorizes right-of-entry onto the property by the County and others that may be necessary to remove said tower(s)/structure(s) in order to fulfill the requirements of this Agreement.
6. Violation of the terms of this agreement shall also constitute a violation of the Land Development Code and may be prosecuted as a violation pursuant to Chapter 11 of the Land Development Code.
7. This Agreement does not relieve the Applicant of any other obligations imposed by the Land Development Code and/or the Engineering Criteria (ECM) nor authorize any violation.

IN WITNESS WHEREOF, the parties hereto have hereunder set their hands and seals this 27 day of November, 2017.

**PROPERTY OWNER(S)**

  
 \_\_\_\_\_  
 Authorized Representative 11/27/17  
Date

Shawn McCoy  
 \_\_\_\_\_  
 Print Name

Area Operations Director – West Region  
 \_\_\_\_\_  
 Print Title

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document

STATE OF California )  
 ) s.s.  
 COUNTY OF Orange )

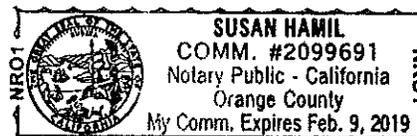
On 27 day of November, 2017, before me Susan Hamil, personally appeared Shawn McCoy who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

SEAL

  
 \_\_\_\_\_  
 Notary Public 2/9/2019  
 \_\_\_\_\_  
 My Commission Expires



**COUNTY OF EL PASO, STATE OF COLORADO**

\_\_\_\_\_  
Planning and Community Development Department Director

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

**Legal Description**  
**File No. 11379566**

**LEGAL DESCRIPTION**

Property located in El Paso, CO

A Leasehold Estate, said leasehold being a portion of the following described parent parcel:

The South half of Section 9 in Township 11 South, Range 60 West of the 6<sup>th</sup> P.M., El Pasco County, Colorado.

Tax Parcel No. 100-00-161

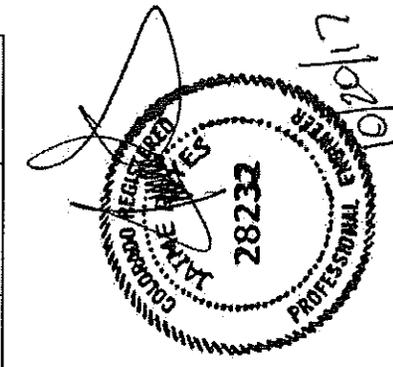


Exhibit B: Certified Cost Estimate

<b>Structural Modification Cost Estimate</b>	
Client Name: SBA Communications Corp	Structure Type: Monopole
Site Name: Simla	Wind Speed (mph): 186
Site Number or ID: CO46078-A-SBA	Design ANS/ITIA Standard: EIA-222-G
Select State: Colorado	S/A Project Number: 10/18/2017

**Structural Analysis Findings (with and without the proposed equipment) and the Cost Estimates**

Structural Items	% Usage Under Existing Loads***	% Usage Under Existing + loads	% Usage Under Full Loads	% Usage Increase from loads *	% Usage Increase from SBA loads **	% Responsibility From loads	% Responsibility from SBA	% Responsibility from Tower Owner
Monopole Shafts	105.0%	N/A	110.0%	N/A	4.8%	N/A	100.0%	0.0%
Anchor Bolts								
Base Plate								
Foundation								



\* If the percentage increase is less than 0%, use 0%.  
 \*\* (1). If the percentage increase is less than 0%, use 0%.  
 (2). If there are reserved loads, the % increase is calculated based on the % usage under existing & reserved loads.  
 \*\*\* The % usage was based on the last structural analysis report.

% usage of the structures to be considered as failed: 105.0%  
 Cost Estimate Range: Close-out Inspections:

Project Management Fee @ 0.0% of the Cost: \$0  
 Applicable Tax: 7.52%  
 Total Construction Cost Estimate: \$35,000 High Range: NA Low Range: NA  
 Cost to : \$0 High Range: \$0 Low Range: \$0  
 Cost to SBA: \$35,000 High Range: NA Low Range: NA  
 Cost to Tower Owner: \$0 High Range: \$0 Low Range: \$0

Cost of the Mod Drawings to Correct Failure: NA  
 Modification Recommendations and Comments: is this the first S/A under EIA-222-G since the last S/A under P? No

Structural Items	Recommendations and Comments
Monopole Shafts	
Anchor Bolts	
Base Plate	
Foundation	
Notes	Estimated cost for demolition and removal of 186' monopole & compound.
Reasons For Failure	

Reserved Carrier Name (Enter N/A if there is no Reserved Carrier):

Proposed Carrier Name: SBA

TOWER/STRUCTURE REMOVAL BOND

Bond Number: CMS0324656

KNOW ALL MEN BY THESE PRESENTS, THAT, **SBA 2012 TC Assets, LLC** as Principal, and RLI Insurance Company, a corporation duly organized under the laws of Illinois, as Surety, are held and firmly bound unto **El Paso County, 2880 International Circle, Suite 110, Colorado Springs, CO 80910**, as Obligee, in the sum of **Thirty-Five Thousand Dollars and 00/100 (\$35,000.00)** lawful money of the United States, for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents, the liability of the Surety being limited to the penal sum of this bond regardless of the number of years the bond is in effect.

WHEREAS, the Obligee, by ordinance, permit or written agreement with the Principal, requires the submission of a bond guaranteeing the removal of telecommunications equipment located at **18620 Oil Well Road, Ramah, CO 80832 (Site ID: CO46078-A/Simla); Landowner: John W. Stark, Jr. P.O. Box 42, Ramah, CO 80832, Lease Date: 03/03/2005** upon discontinuance of service.

NOW THEREFORE, the condition of this obligation is such, that if the above bounden Principal shall perform in accordance with the aforesaid ordinance and/or agreement, and indemnify the Obligee against all loss caused by Principal's breach of any ordinance or agreement relating to maintenance, replacement, removal or relocations of a tower or structure, then this obligation shall be void, otherwise to remain in full force and effect unless cancelled as set forth below.

THIS BOND may be cancelled by Surety giving thirty (30) days written notice to the Obligee. Such cancellation shall not affect any liability the Surety may have or incurred under this bond prior to the effective date of the termination.

PROVIDED HOWEVER, that this bond is executed subject to the following express provisions and conditions:

1. No action, suit or proceeding shall be maintained against the Surety on this bond unless action is brought within twelve (12) months of the cancellation date of this bond.
2. Neither cancellation nor termination of this bond by Surety, nor inability of Principal to file a replacement bond or replacement security for its obligations, shall constitute a loss to the Obligee recoverable under this bond.
3. No right of action shall accrue on this bond for the use of any person, corporation or entity other than the Obligee named herein or the heirs, executors, administrators or successors of the Obligee.
4. The aggregate liability of the Surety is limited to the penal sum stated herein regardless of the number of years this bond remains in force or the amount or number of claims brought against this bond.
5. If any conflict or inconsistency exists between the Surety's obligations as described in this bond and as may be described in any underlying agreement, permit, document or contract to which this bond is related, then the terms of this bond shall prevail in all respects.

THIS BOND signed, sealed, and dated on the 25<sup>th</sup> day of October, 2017. This bond is effective the 23<sup>rd</sup> day of October, 2017.

SBA 2012 TC Assets, LLC

By: Ed R Principal  
Name and Title VP / Assoc. Gen. Counsel

RLI Insurance Company

By: Robert J. Hippert Surety  
Robert J. Hippert, Attorney-In-Fact



RLI Surety  
 9025 N. Lindbergh Dr. | Peoria, IL 61615  
 Phone: (800)645-2402 | Fax: (309)689-2036  
 www.rlicorp.com

# POWER OF ATTORNEY

## RLI Insurance Company

**Know All Men by These Presents:**

That this Power of Attorney is not valid or in effect unless attached to the bond which it authorizes executed, but may be detached by the approving officer if desired.

That **RLI Insurance Company**, an Illinois corporation, does hereby make, constitute and appoint:

Thomas J. Philbin, Sandra L. Wiemann, Melissa L. Whittier, Brett L. Cuckler, Johnathan K. Stefan, Robert J. Hippert, Andrew Siess, Clem Wandrisco, jointly or severally

in the City of Pittsburgh, State of Pennsylvania its true and lawful Agent and Attorney in Fact, with full power and authority hereby conferred, to sign, execute, acknowledge and deliver for and on its behalf as Surety, the following described bond.

**Any and all bonds provided the bond penalty does not exceed Twenty Five Million Dollars (\$25,000,000.00).**

The acknowledgment and execution of such bond by the said Attorney in Fact shall be as binding upon this Company as if such bond had been executed and acknowledged by the regularly elected officers of this Company.

The **RLI Insurance Company** further certifies that the following is a true and exact copy of the Resolution adopted by the Board of Directors of **RLI Insurance Company**, and now in force to-wit:

"All bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, any Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or Agents who shall have authority to issue bonds, policies or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile."

IN WITNESS WHEREOF, the **RLI Insurance Company** has caused these presents to be executed by its Vice President with its corporate seal affixed this 6th day of July, 2017.



**RLI Insurance Company**

By: B. W. Davis  
 Barton W. Davis Vice President

State of Illinois }  
 County of Peoria } SS

**CERTIFICATE**

On this 6th day of July, 2017, before me, a Notary Public, personally appeared Barton W. Davis, who being by me duly sworn, acknowledged that he signed the above Power of Attorney as the aforesaid officer of the **RLI Insurance Company** and acknowledged said instrument to be the voluntary act and deed of said corporation.

I, the undersigned officer of **RLI Insurance Company**, a stock corporation of the State of Illinois, do hereby certify that the attached Power of Attorney is in full force and effect and is irrevocable; and furthermore, that the Resolution of the Company as set forth in the Power of Attorney, is now in force. In testimony whereof, I have hereunto set my hand and the seal of the **RLI Insurance Company** this 25th day of October, 2017.

By: Gretchen L. Johnigk  
 Gretchen L. Johnigk Notary Public

**RLI Insurance Company**

By: B. W. Davis  
 Barton W. Davis Vice President



# SURETY RIDER

TO BE ATTACHED AND FORM PART OF BOND NO. CMS0324656

It is hereby mutually agreed and understood by the Principal,  
SBA 2012 TC Assets, LLC

and RLI INSURANCE COMPANY that the  
Obligee Address on this bond has been changed to the following:

From: 2880 International Circle, Suite 110, Colorado Springs, CO 80910

To: 200 S. Cascade Ave., Colorado Springs, CO 80903

Nothing contained herein shall vary, alter, waive or extend any of the terms, limits, or conditions of the bond, except as set forth above.

This Rider becomes effective on December 5, 2017, at twelve and one minute o'clock a.m., Standard Time.

Signed this 5<sup>th</sup> day of December, 2017.

RLI INSURANCE COMPANY

By



Robert J. Hippert, Attorney-in-Fact



RLI Surety  
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By: Gretchen L. Johnnigk  
 Gretchen L. Johnnigk Notary Public

**RLI Insurance Company**

By: B. W. Davis  
 Barton W. Davis Vice President

