

RESOLUTION NO. 2017-24

MERCHANTVILLE-PENNSAUKEN WATER COMMISSION

**RESOLUTION AUTHORIZING AGREEMENT WITH SPRINT AND US TANK
AS A ONE-TIME MODIFICATION OF LEASE TERMS REGARDING
TELECOMMUNICATIONS ANTENNAE AND TANK PAINTING AND
GRANTING FUTURE CONCESSIONS TO ACHIEVE SAME**

WHEREAS, after public bid in accordance with both the laws of the State of New Jersey and prior formal Resolution of this Commission Sprint Spectrum (“Sprint”) was awarded a lease for the Commission property at the National Highway Water Tank; and

WHEREAS, the Merchantville-Pennsauken Water Commission and Sprint entered into a lease and that lease provided for limited specific terms under which maintenance of the tank could take place; and

WHEREAS, Sprint has objected to the planned removal of their antennae and the impact economic and otherwise to their system; and

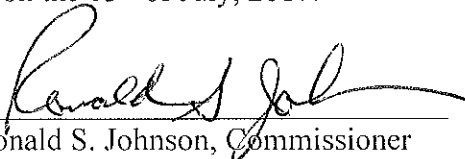
WHEREAS Sprint requested accommodations under the lease in exchange for them to absorb certain obligations for certain change orders if required by US Tank, the Commission’s Tank painting vendor, whose contract was bid and awarded as low bidder prior to their voicing objections; and said obligation accompanies a concession of a credit to Sprint of \$10,245.99 credit against their rental payment due November 1, 2017 for the next rental lease year; and

WHEREAS, the Staff recommends the attached agreement as settlement of the dispute in order to accomplish both in time and price the low bid as awarded with US Tank; and

WHEREAS, the Commission hereby authorizes, ratifies and consents to same; and

NOW, THEREFORE, BE IT RESOLVED by the Merchantville-Pennsauken Water Commission that it consents to the attached agreement and its terms, adopts and ratifies same and the C.O.O. Michael Saraceni is authorized to execute the agreement as an acknowledgement of this resolution of approval on behalf of the Commission; and

. I hereby certify that this is a true and accurate recitation of the resolution adopted by the Merchantville-Pennsauken Water Commission on the 13th of July, 2017.



Ronald S. Johnson, Commissioner
and Asst. Secretary

The Official Minutes of the MPWC and the Official List the Commissioners vote are maintained by the Chief Operating Officer

Agreement among parties regarding procedures and commitments for National
Highway Water Tank Painting 2017

The Merchantville Pennsauken Water Commission ("MPWC"), owner of the site and water tank on National Highway in Pennsauken, Sprint Spectrum Realty Company, LLC, antenna facilities tenant on that water tower ("Sprint") and US Tank Painting, Inc. ("US Tank"), contractor of MPWC to perform maintenance of painting the subject tank pursuant to contract arrived at and through public bid;

Hereby enter this agreement to document, clarify and detail the expressed commitments made by the respective parties as to the operations and procedures to be utilized in the coming tank painting.

Sprint, US Tank Painting and MPWC agree to the following:

1. US Tank (tank painter) personnel will be wearing RF sensors, to ensure their safety. Sprint personnel agree that they will be on site at all US tank operational hours in order to facilitate and ensure the "Work Around" (which means the coordination of moving Sprint's equipment on the water tank to facilitate US Tank's painting of the water tank as further described below) to minimize the effect on US Tank's painting of the water tank and assist with RF shut downs, if necessary. Anytime a painter needs to access an area where he/she will be exposed to RF radiation, Sprint agrees to shut that antenna down. If an employee's sensor is overexposed, he will be done painting and paid for the day. This shall be billed to the MPWC as part of the components of a change order, which shall be reimbursed by Sprint.

2. Sprint, by its contractor Magness, will begin work 6/26 preparing the tank for Work Around.

- a. Leaving the pipe masts in place, disconnecting hard lines from the water tank and securing them, allowing access to painting. Moving antennas and RRFs to a position allowing access to painting. Secondary mast repositioning will not be needed.
- b. MPWC and US Tank will inspect and request additional needs prior to the painting project, starting on 7/10.
- c. Magness will be on site or on call for any support or changes needed to prevent impeding the painting process. A Sprint

representative along with a representative from MPWC will be on site daily to make decisions regarding work flow and delays incurred.

3. Delays caused by failure to (a) relocate antennas, cables, mounts or other cellular equipment, (b) shut down antennas, as needed, or (c) failure to abide by this agreement, shall be billed to MPWC at \$135 per man per hour (prevailing wage) as a change order for the duration that the painting contractor is on site and unable to work.

4. All such delays asserted by U.S. Tank shall be the subject of immediate notification to Richard Spafford of MPWC and transmitted to all parties within 48 hours of occurring.

5. Since the painting was performed as recently as 10 years ago and without any concession, the MPWC will allow Sprint a credit of three (3) months of the current pro rata rent to be deducted (\$10,245.99) against the succeeding years rent due to the MPWC by Sprint on November 1, 2017. This credit against future rent is to help offset the costs incurred by Sprint for antenna relocation, however does not act as a modification of lease so as to require same in the future or to express any such interpretation to the existing terms.

Miscellaneous

6. MISCELLANEOUS PROVISIONS

a. Construction of this Agreement The parties acknowledge that this agreement was prepared under New Jersey law and shall therefore be interpreted under the laws of the State of New Jersey choice of law or conflict of law principles notwithstanding and shall be under the exclusive jurisdiction of the Superior Courts of New Jersey Camden vicinage.


b. Entire Agreement This agreement is in addition to and does not supersede or replace any other agreements between the parties, but is an addition or amendment thereto.

c. Assignability This agreement and all rights, duties and obligations contained herein may not be assigned without prior written consent from both parties.

d. Any other provisions required by New Jersey law to be a part of such an agreement are hereby incorporated by reference.

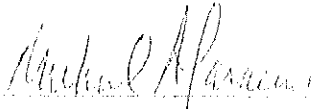
- d. Binding Agreement. This agreement shall be binding upon the parties hereto and their herein contractually authorized agents.
- e. The parties agree that the contract may be executed at a separate time and place by each party.

Whereas the each of the parties described above have authorized the signatures on their behalf as executed below.



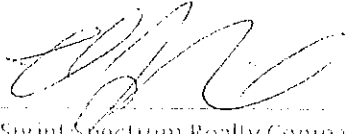
U.S. Tank Painting, Inc
By, Thomas Sulkowski

Date 7/5/17



Merchantville Pottsauken Water Commission
By: Michael Saraceni, C.O.O.

Date 6-7-17



Sprint Spectrum Realty Company, LLC
By: Thomas J. Popowicz
SITE DEVELOPMENT MANAGER

Date 6-23-17