

MEMORANDUM OF AGREEMENT
AMONG
THE FEDERAL COMMUNICATIONS COMMISSION,
THE GEORGIA STATE HISTORIC PRESERVATION OFFICER,
AND ██████████, LLC
REGARDING THE CONSTRUCTION OF A COMMUNICATIONS TOWER
IN CARLTON, MADISON COUNTY, GEORGIA

WHEREAS, ██████████, LLC (“██████████”) proposes to construct a 350-foot guyed wire communications tower at 7936 State Highway 72 in Carlton, Madison County, Georgia (with coordinates of N ████████° ████████’ ████████” and W ████████° ████████’ ████████”), for use by multiple licensees of the Federal Communications Commission (“FCC”); and

WHEREAS, the proposed tower is subject to registration and marking and lighting requirements pursuant to Part 17 of the Commission’s rules, 47 C.F.R Part 17; and

WHEREAS, the FCC has determined the construction of the tower is a federal undertaking; and

WHEREAS, ██████████, pursuant to delegation from the FCC, initiated the National Historic Preservation Act (NHPA) Section 106 review for the site as required by the FCC rules, 47 C.F.R. 1.1307(a)(4); and

WHEREAS, ██████████ has consulted with the Georgia State Historic Preservation Officer (“Georgia SHPO”) pursuant to 36 C.F.R. Part 800, regulations implementing Section 106 of the NHPA, and has been invited to participate in this Memorandum of Agreement; and

WHEREAS, the FCC and the Georgia SHPO have determined that the tower construction would have an adverse effect on a property identified as CA-2/MD 315, which is eligible for listing in the National Register of Historic Places (“NRHP”), and which includes a house described as a c.1825 double pen/hall-parlor house located adjacent to 7936 State Highway 72 and the land associated with the house; and

WHEREAS, the FCC and the Georgia SHPO have determined that the above-referenced historical resource is the only site listed or eligible for listing in the NRHP within the Area of Potential Effects (APE) that would be affected by the proposed tower construction; and

WHEREAS, Mr. ██████████ ██████████, owner of the historic property located adjacent to 7936 State Highway 72, Carlton, Madison County, Georgia, that would be adversely affected by the proposed tower is a consulting party to the Section 106 process and has been invited to concur in this Memorandum of Agreement; and

WHEREAS, Mr. ██████████ ██████████ does not want the historic property located adjacent to 7936 State Highway 72, Carlton, Madison County, Georgia, to be nominated for inclusion in the NRHP but has agreed to allow ██████████ to compile historical documentation of the structure and associated land, including archival-quality photographs, a detailed floor plan, and interviews with persons familiar with the structure; and

WHEREAS, ██████████, consistent with the Commission’s requirements for environmental review, has considered and evaluated a number of alternative sites for locating the proposed tower and has concluded that all of the sites considered either are unavailable for ██████████’s use, are unacceptable to the community, or are

unsatisfactory from a technical radio frequency perspective for the coverage needs of the communications systems supported by the antennas to be located on the facility; and

WHEREAS, members of the general public and other interested parties were afforded an opportunity to participate in and comment on this proceeding pursuant to notices published in *The Comer News* on January 31, 2003 and February 14, 2003, and notices submitted to the Madison County Heritage Foundation and Comer Historical Society dated January 29, 2003; and

WHEREAS, local government officials of Madison County approve construction of the tower at the proposed location; and

WHEREAS, the FCC has consulted with the Georgia SHPO and other consulting parties to ensure that historic properties affected by the construction of the tower are taken into account; and

WHEREAS, [REDACTED], LLC, has made a reasonable and good faith effort to identify and contact Indian tribes that might attach religious and cultural significance to historic properties within the APE, including the Chickasaw Nation and the Muscogee Creek Nation; and

WHEREAS, the Advisory Council on Historic Preservation (Advisory Council) has declined to participate in the negotiation of this Memorandum Agreement;

NOW THEREFORE, the FCC, the Georgia SHPO, and [REDACTED] agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties, and that these measures shall constitute full, complete and adequate mitigation measures under the NHPA and the implementing regulations of the Advisory Council and the FCC.

STIPULATIONS

The FCC, through coordination with [REDACTED] will ensure that the following measures are carried out:

I. DESIGN, RESEARCH AND DOCUMENTATION

1. Large-format archival photographs are to be taken of the National Register eligible structure that will be adversely impacted by the proposed communications tower. These photographs will include all four facades of the house, at least one three-quarter view, all interior rooms, and any structural or decorative detailing (such as chimney, mantels, interior molding, exterior woodwork, the structural system on the underside of the house, etc.). Photographs will also be taken of the roof support system inside the attic and structural support piers, if visible. In addition, photographs to document the setting and location of the house and any visible signs of manmade landscape, as well as at least one photograph of all remaining outbuildings, will be taken. All photographs will be keyed to either an interior floor plan or a site map showing their location and direction of view.
2. A measured floor plan of the historic house will be created. The plan will include measurements of all rooms and spaces within the structure, as well as any outside spaces such as a porch.
3. Oral interviews with the current property owner and any other available persons who have an association with this property will be conducted, to record information pertaining to the history

and development of the property. This may include, but not be limited to, the following: dates of settlement, origins or original owners, land use, types of crops/livestock kept, dates of construction of current house, additions and/or changes to the current house, and information on other outbuildings that may have existed on the property at one time. This information will be compiled into a written report.

4. Prior to commencement of the research for the documentation, discussions shall take place between the professional(s) conducting the necessary research and documentation and the appropriate Georgia SHPO coordinator to ensure clear communication of the SHPO's expectations for the documentation and to answer any initial questions, including the preferred format (i.e. Word or WordPerfect) for the documentation. [REDACTED] shall advise the Georgia SHPO in writing on the progress of mitigation measures outlined herein at six months and one year after the date the FCC issues a Finding of No Significant Impact or otherwise authorizes construction of the tower. The mitigation packet shall be completed in accordance with Georgia SHPO requirements. Qualified professionals meeting the Secretary of the Interior's Standards (48 Fed. Reg. 44738-9) shall complete said research and documentation.
5. Four copies of the mitigation packet, which includes a floor plan, oral history report, and archival photography report, will be prepared. One copy of the mitigation packet shall be submitted to the Federal Communications Commission. One copy shall be made available to the property owner, Mr. [REDACTED]. One additional copy of the documentation shall be made available to the public by forwarding it to the Northeast Georgia Regional Development Center. One copy of the mitigation packet plus photographic negatives shall be submitted to the Georgia Department of Natural Resources, Historic Preservation Division (HPD) for acceptance and retention in its permanent records.

II. REMOVAL

In the event that [REDACTED] or its successor abandons the tower and associated facilities described herein, [REDACTED] or its successor shall disassemble the tower and associated facilities and notify the Georgia SHPO.

III. DISPUTE RESOLUTION

Should the Georgia SHPO object within thirty days to any plans provided for review pursuant to this Memorandum of Agreement, the FCC shall consult with the Georgia SHPO to resolve the objection. If the FCC determines that the objection cannot be resolved, the FCC shall request further comments or recommendations of the Advisory Council concerning the dispute pursuant to 36 C.F.R. Part 800. Any Advisory Council comment provided in response to such a request will be taken into account by the FCC in accordance with 36 C.F.R. Part 800 with reference only to the subject of the dispute. The FCC's responsibility to carry out all actions under this Memorandum of Agreement that are not the subject of the dispute will remain unchanged.

IV. ENFORCEMENT

Failure to carry out the terms of this Memorandum of Agreement will require that the FCC again request the comments of the Advisory Council, in accordance with 36 C.F.R. Part 800. If the terms of this Memorandum of Agreement are not implemented, the FCC shall provide the Advisory Council with the opportunity to comment on the effects and mitigation alternatives.

V. OTHER REQUIREMENTS

██████ will file with the FCC an application and environmental assessment within fifteen (15) days of the effective date of this Memorandum of Agreement. ██████ will not initiate construction of the tower until the FCC has approved the environmental assessment.

Execution of this Memorandum of Agreement and implementation of its terms evidence that the FCC has afforded the Advisory Council a reasonable opportunity to comment on the proposed ██████ telecommunications tower and that the FCC has taken into account the effects of this undertaking on historic properties. Stipulation I of this agreement shall be carried out within two years from the date the FCC issues a Finding of No Significant Impact or otherwise authorizes construction of the tower, unless the FCC, Georgia SHPO and ██████ agree in writing to an extension for carrying out its terms. This Memorandum of Agreement shall be effective upon notice from the FCC that all parties have agreed to and signed this Memorandum of Agreement.

FEDERAL COMMUNICATIONS COMMISSION

By: _____

Date: _____

Mr. Jeffrey S. Steinberg
Deputy Chief, Commercial Wireless Division
Wireless Telecommunications Bureau

THE GEORGIA STATE HISTORIC PRESERVATION OFFICER

By: _____

Date: _____



Division Director and Deputy State Historic Preservation Officer
Georgia Historic Preservation Division

██████████, LLC

By: _____

Date: _____

Mr. ██████████ ██████████
President
██████████, LLC

CONCURRING PARTY:

By: _____

Date: _____

Mr. [REDACTED]
Owner, Historic Property