

**The  
City  
of  
Maroa**



**Ordinance No. 2022/05/02-1**

**AN ORDINANCE AUTHORIZING A LEASE AGREEMENT BETWEEN THE CITY OF MAROA, AND RISE BROADBAND FOR THE CREATION AND IMPLEMENTATION OF A CITY-WIDE BROADBAND SYSTEM.**

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Adopted by the City Council of the City of Maroa this 2<sup>nd</sup> day of May, 2022.

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Published in pamphlet form by authority of the City Council of the City of Maroa, Macon County, Illinois  
2<sup>nd</sup> day of May, 2022.

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**WHEREAS** the RISE Broadband desires a central base location in order to construct a City-wide broadband system;

**WHEREAS** a Lease Agreement is necessary to facilitate construction of the project;


**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and City Council of the City of Maroa, Macon County, Illinois, as follows:

**SECTION 1.** The City Council agrees to the terms and conditions of the Lease Agreement, hereby attached as **EXHIBIT 1**.

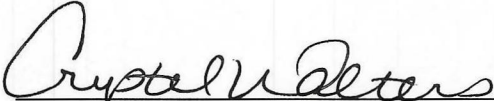
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**PRESENTED, PASSED AND APPROVED**, by the Mayor and City Council of the City of Maroa, Macon County, Illinois, on this 2<sup>nd</sup> day of May, 2022.

NAME	AYE	NAY	ABSTAIN	ABSENT
Alderman Robert Harper	X			
Alderwoman Angela Bogle	X			
Alderman Jeremiah Grider	X			
Alderman Matt Riley	X			
Alderman Blake West	X			
Alderman				
Mayor Ryan Wilkey				
<b>TOTALS</b>	5			

  
Ryan Wilkey, Mayor

ATTEST:

  
Crystal Walters, City Clerk

Seal



STATE OF ILLINOIS        )  
                                      )  
COUNTY OF MACON        )

S.S.

**Certificate**

I, Crystal Walters, certify that I am the duly elected and acting City Clerk of the City of Maroa, Macon County, Illinois.

I further certify that on May 2<sup>nd</sup>, 2022, the Corporate Authorities of such Municipality passed and approved

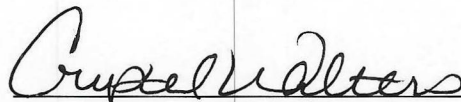
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which provided by its terms that it should be published in pamphlet form.

The pamphlet form of **ORDINANCE No. 2022/05/02-1**, including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted in the City Hall, commencing on May 2<sup>nd</sup>, 2022 and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the City Clerk.

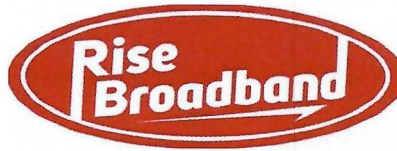
Dated at Maroa, Illinois, this 2<sup>nd</sup> day of May, 2022.

  
Crystal Walters, City Clerk

Seal







**LAND LEASE AGREEMENT**

Commencement Date:	March 25, 2022		
Landlord:	City of Maroa		
Landlord Notice Address:	120 S Locust St PO Box 136 Maroa, IL 61756		
Tenant:	Skybeam, LLC a Colorado limited liability company dba Rise Broadband		
Tenant Notice Address:	61 Inverness Drive E, Suite 250 Englewood, CO 80112 Attn: Contract Administration		
Property Address:	120 S Locust St Maroa, IL 61756		
Initial Term:	Ten (10) years		
Renewal Term(s):	Four (4) terms of Five (5) years each		
Landlord Internet Account	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Include VoIP? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	# of Accounts: x

This Lease Agreement (this “**Agreement**”) is made as of the later signature date below, by and between Landlord and Tenant. Capitalized terms used herein shall have the meanings as set forth above or as otherwise defined herein. Landlord and Tenant may each be referred to individually in this Agreement as a “**Party**” and, collectively, as the “**Parties**”.

The Parties agree as follows:

- 1. LEASED PREMISES.** Landlord hereby leases to Tenant space on the Property for the installation, operation, and maintenance of telecommunications equipment, which may include antennas, poles, towers, radios, equipment shelters, batteries, wires, cables, conduits, fences and other related equipment or personal property (collectively the “**Tenant Equipment**”), at the locations on the Property as mutually agreed upon by the Parties (the “**Leased Premises**”). Landlord acknowledges and agrees that the Tenant Equipment shall remain the exclusive property of Tenant and shall not be considered fixtures.

This Agreement shall "run with the land." Should Landlord, at any time during the Initial Term or any Renewal Term, sell or transfer all or any part of the Property, such transfer shall be subject to this Agreement and Landlord shall require any such purchaser or transferee to recognize Tenant's rights under the terms of this Agreement in a written instrument signed by Landlord and the third party transferee. In the event that Landlord completes any such transfer without executing such a written instrument, then Landlord shall not be released from its obligations to Tenant under this Agreement, and Tenant shall have the right to look to Landlord and the third party for the full performance of this Agreement.

- 2. ACCESS.** Landlord hereby grants Tenant rights for access to the Leased Premises adequate to service the Tenant Equipment, over and across the Property. Tenant shall provide twenty-four (24) hour advance notice to Landlord prior to accessing the Leased Premises. In the event of an emergency, Tenant may enter the Leased Premises, for the limited purpose of remedying the emergency, provided that Tenant shall notify Landlord as soon as possible of the emergency. An emergency shall include, but not be limited to, such events as an electrical fire, equipment instability, or loss of service.
- 3. TERM.** The Initial Term of this Agreement shall begin on the Commencement Date and shall continue for the period of time indicated in the table above. This Agreement shall be automatically extend for the Renewal Term(s) set forth in the table above, unless either Party notifies the other Party in writing of its intention not to renew this Agreement at least thirty (30) days (in the case of Tenant) or one hundred eighty (180) days (in the case of Landlord) prior to the end of the Initial Term or the then-current Renewal Term. The Initial Term and all Renewal Terms shall be collectively referred to herein as the “**Term.**”
- 4. TERMINATION.** This Agreement may be terminated as follows:



- 4.1. If, after the Commencement Date, Tenant is unable to complete the installation of the Tenant Equipment due to technical issues or because it cannot obtain the required approvals from relevant federal, state, and local authorities, this Agreement shall automatically terminate and the Parties shall have no further duties or obligations to one another hereunder.
- 4.2. Immediately upon written notice by either Party if the other Party breaches the terms of this Agreement and fails to cure such breach in accordance with Section 9 of this Agreement.
- 4.3. Immediately upon written notice by Tenant if Tenant is unable to obtain or maintain any governmental approvals necessary for the operation of Tenant's Equipment under this Lease.
- 4.4. Upon thirty (30) days' written notice by Tenant if Tenant determines that the Property and/or Leased Premises are no longer suitable or necessary for Tenant's operations.
- 4.5. Upon written notice by Tenant in accordance with Section 8 of this Agreement.

Upon termination of this Agreement for any reason, Tenant will remove the Tenant Equipment and restore the Leased Premises to its original condition, notwithstanding reasonable wear and tear. With respect to any foundations or concrete pads installed by Tenant on the Leased Premises (if any), Landlord agrees that Tenant will be in compliance with its obligations under this Section if it covers any such foundations or concrete pads with at least twenty-four (24) inches of soil.

5. **UTILITIES.** Landlord shall make access to electrical service available at the Leased Premises. If possible, Tenant will install an electrical meter at the Leased Premises to measure the electrical power used by Tenant. If such a meter is installed, Tenant shall pay the utility provider directly for its power consumption, if billed by the utility provider directly; if not billed by the utility provider, then Tenant shall pay Landlord for amounts charged for the power used by Tenant as shown on the meter. Tenant shall pay such amount within thirty (30) days after receipt of an invoice from Landlord indicating the usage amount based upon Landlord's reading of the meter. Tenant may install and maintain a temporary power source, such as a generator, in a location approved by Landlord for use during power interruptions.
6. **INTERFERENCE.** Landlord and Tenant each agree not to use, or permit their employees, invitees, licensees, or agents to use, any portion of the Property in a way that materially interferes with the operations of the other party. Landlord agrees not to install or operate, or allow others to install or operate, equipment on the Property that will cause interference with Tenant's Equipment. If any such equipment on the Property causes interference to Tenant's Equipment, Tenant shall notify Landlord and Landlord shall eliminate, or cause to be eliminated, such interference as soon as practicable, and in any event within forty-eight (48) hours of Tenant's notification. Tenant shall cooperate with Landlord to identify the source of such interference and aid in its timely elimination. If Landlord is unable to eliminate any such interference within 48 hours, such interference shall be considered a default under this Agreement.
7. **TITLE AND QUIET ENJOYMENT.** Landlord represents and warrants that Landlord is either the fee owner of the Property, trustee of the Property, or otherwise has the authority to enter into and execute this Agreement. Landlord further represents and warrants that there are no liens, judgments, or other title matters affecting Landlord's title to the Property and that there are no covenants, easements, or restrictions that prevent Tenant's use of the Leased Premises. Landlord covenants that Tenant shall have quiet enjoyment of the Leased Premises during the Term of this Agreement.
8. **CASUALTY OR CONDEMNATION.** In the event of damage by fire or other casualty to the Property or Leased Premises that materially impacts Tenant use of the Leased Premises, Rent shall abate during the period of repair following such casualty. If the damage cannot reasonably be expected to be repaired within thirty (30) days after the casualty or, that such damage may reasonably be expected to disrupt Tenant's operations at the Leased Premises for more than thirty (30) days, then Tenant may, at any time following such casualty, terminate this Agreement upon written notice to Landlord.
9. **INDEMNIFICATION.** Landlord and Tenant each agree to indemnify, defend, protect and hold harmless the other party from and against any and all claims, damages, liabilities, costs and expenses, including reasonable attorneys' fees and costs, to the extent caused by or arising out of (i) the negligence or willful misconduct of the other party or its respective employees, agents and contractors or (ii) the breach of any obligation of the indemnifying party under this Agreement. This Section shall survive the expiration or termination of this Agreement.
10. **DEFAULT.** In the event there is a default by a Party with respect to any of the provisions of this Agreement, the non-defaulting Party shall give the defaulting Party written notice of such default. After receipt of such written notice, the defaulting Party shall have ten (10) days to cure any such default. If a Party fails to cure such default, in addition to any other available remedies, the non-defaulting Party may terminate this Agreement upon notice to the defaulting Party. Notwithstanding the foregoing, neither



Party will be in default or otherwise liable for any delay in or failure of its performance under this Agreement where such delay or failure is due to an act of God or other circumstances beyond the reasonable control of the affected Party.

- 11. **LIMITATION OF LIABILITY.** NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL COSTS, LIABILITIES OR DAMAGES, INCLUDING LOST PROFITS OR REVENUES, WHETHER FORESEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION WITH, SUCH PARTY'S PERFORMANCE OR NONPERFORMANCE OF ITS OBLIGATIONS UNDER THIS AGREEMENT; AND PROVIDED FURTHER THAT THIS LIMITATION SHALL NOT RESTRICT EITHER PARTY'S RIGHT TO PROCEED FOR INJUNCTIVE RELIEF.
- 12. **NOTICES.** All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail or commercial courier with return or delivery receipt requested, sent to the notice address listed above or any other address that a Party may designate from time to time.
- 13. **MISCELLANEOUS.** This Agreement shall constitute the entire agreement between the Parties and supersedes all prior oral or written communications or agreements of the Parties with respect to the matters contained herein. Any waiver of any right included in this Agreement must be in writing and signed by the Party whose rights are being waived; the failure of either Party to enforce or seek enforcement of the terms of this Agreement following any default or breach shall not be construed as a waiver of such right. No change, amendment or modification of any provision of this Agreement shall be valid or binding on either Party unless set forth in a written instrument signed by both parties. The invalidity under applicable law of any provision of this Agreement shall not affect the validity of any other provision of this Agreement. This Agreement and the performance thereof shall be governed, interpreted, and regulated by the laws of the State in which the Property is located, without regard to such state's conflict of law provisions. This Agreement may be executed in counterparts (including by facsimile or authenticated electronic transmission), each of which shall be deemed an original and all of which together shall constitute one and the same document.

IN WITNESS WHEREOF, the parties hereto execute this Agreement as of the latest dated signature below and acknowledge that they have read, understand, and agree to uphold the terms and provisions above.

**Tenant:**  
Skybeam, LLC dba Rise Broadband

**Landlord:**  
City of Maroa

*Elisa Flachsmann*

By: \_\_\_\_\_  
 Name: Elisa Flachsmann  
 Title: Sr. Director, Centralized Operations  
 Date: May 19, 2022

By: \_\_\_\_\_  
 Name: James Ryan Wilby  
 Title: Mayor  
 Date: 5-5-22