

**ATTACHMENT A**

**A RESOLUTION AUTHORIZING THE TOWN MANAGER TO EXECUTE A LEASE  
AGREEMENT WITH T-MOBILE SOUTH, LLC, FOR AN ANTENNA  
CO-LOCATION ON THE TOWER AT TOWN HALL**

**Resolution No. 37/2009-10**

WHEREAS, the Town owns the telecommunications tower located at 301 W. Main St.; and

WHEREAS, T-Mobile South, LLC, had a co-location lease agreement for an antenna for their communication service on the Town's tower that expired in March 2009; and

WHEREAS, T-Mobile South, LLC, has expressed interest in renewing a co-location lease agreement for an antenna for their communication service on the Town's tower; and

WHEREAS, the Board of Aldermen must approve all leases of tower space longer than one year; and

WHEREAS, according to N.C. G.S. 160A-272, this resolution must be adopted at a regular meeting, after 10 days public notice of the intent to enter into a lease agreement. The notice must be published, and must include a description of the property to be leased, the amount of the annual rent payments, and announce the Board's intention to authorize the lease at the next regular meeting.

WHEREAS, a notice was published in the Chapel Hill Herald on October 25, 2009.

NOW THEREFORE BE IT RESOLVED, that the Board of Aldermen authorize the Town Manager to execute a contract with T-Mobile South, LLC for a term of five years with an option for an additional five year renewal, at a rate of \$33,221.61 per year with a 3% annual increase during the term of the lease.

## TOWER LEASE

THIS TOWER LEASE (this "Lease") is by and between Town of Carrboro ("Landlord") and T-Mobile South LLC, a Delaware limited liability company ("Tenant").

1. Lease Premises. Landlord hereby leases to Tenant certain space on the Tower and ground space located on the Property sufficient for placement of the Antenna Facilities (as defined below) together with easements for access and utilities. The location and orientation of Tenant's space on the Tower and ground space on the Property, together with all necessary space and easements for access and utilities, is generally described and depicted in the attached Exhibit B (collectively referred to hereinafter as the "Premises"). The Premises, located at 301 W. Main St. Carrboro NC 27510, comprises approximately 150 square feet. Tenant's location on the Tower shall be 100 feet above ground level. Notwithstanding anything contained herein to the contrary, the Premises, as defined, shall include, but not be limited to, the following: cable runs and associated cable trays from the base transceiver station(s) (also referred to as the BTS) and the installation of power, telephone and other utility service cables.

- (a) Previous Lease. Town of Carrboro, as Landlord and AT&T Wireless PCS, Inc., (AWS), entered into a Site Lease With Option, dated March 24, 1999 (referred herein as the "Previous Lease"). Under the Previous Lease, Landlord granted a lease to AWS to use a portion of Landlord's real property located at 301 W. Main St., Carrboro, NC 27510 sufficient for the placement and use of AWS's antenna facilities designed as a "Tower" including all necessary space and easements for access and utilities, as further described in the Previous Lease. The initial Term of the Previous Lease commenced on March 24, 1999 and expired on March 31, 2004. Pursuant to Section 3, the Previous Lease automatically renewed for one (1) additional five-year term which expires on March 31, 2009. T-Mobile South LLC, an affiliate of SunCom Wireless Property Co. LLC formerly known as AT&T Wireless PCS, Inc., desires to continue to lease and use the premises granted under the Previous Lease under the terms and conditions set forth in this new Lease.
- (b) Termination of Previous Lease. Landlord and Tenant hereby agree that upon the full execution of this Lease, the Previous Lease, as defined above, shall be automatically terminated upon the Commencement Date of this Lease as defined below, nullifying all terms and conditions thereof.
- (c) Regulatory Tests and Permits. During the Initial Term (as defined below) and the Renewal Term (as defined below) of this Lease, Landlord agrees to cooperate with Tenant in obtaining, at Tenant's expense, all licenses and permits, or authorizations required for Tenant's use of the Premises from all applicable government and/or regulatory entities (including, without limitation, zoning and land use authorities, and the Federal Communication Commission ("FCC") ("Governmental Approvals"), including all land use and zoning permit applications, and Landlord agrees to cooperate with and to allow Tenant, at no cost to Landlord, to obtain a title report, zoning approvals and variances, land-use permits. Landlord expressly grants to Tenant a right of access to the Property to perform any surveys, soil tests, and other engineering procedures or environmental investigations ("Tests") on the Property deemed necessary or appropriate by Tenant to evaluate the suitability of the Property for the uses contemplated under this Lease. During the Initial Term or the Renewal Term of this Lease, Landlord agrees that it will not interfere with Tenant's efforts to secure other licenses and permits or authorizations that relate to other property.
- (d) Landlord does not guarantee approval of any local government permits necessary for the facility, and the lease agreement does not constitute and should not be deemed to be a waiver of any requirement for otherwise applicable government permits or approvals. It is the responsibility of Tenant to obtain any required zoning approvals or permits and to comply with applicable laws and ordinances.

2. Term. The initial term of the Lease shall be years commencing on March 1, 2009 (the "Commencement Date"), and terminating at midnight on the last day of the last month of the initial term (the "Initial Term").

3. Renewal. Tenant shall have the right to extend this Lease for one (1) additional and successive five-year term ("Renewal Term") on the same terms and conditions as set forth herein. This Lease shall automatically renew for such successive Renewal Term unless Tenant notifies Landlord, in writing, of Tenant's intention not to renew this Lease, at least thirty (30) days prior to the expiration of the Initial Term or the Renewal Term. If Tenant shall remain in possession of the Premises at the expiration of this Lease or any Renewal Term without a written agreement, such tenancy shall be deemed a month-to-month tenancy under the same terms and conditions of this Lease.

#### 4. Rent.

(a) From and after the Commencement Date, Tenant shall pay Landlord or designee, as rent, Thirty Three Thousand and Two Hundred Twenty One and 61 Hundredths Dollars (\$33,221.61) annually on the anniversary of the Commencement Date ("Rent"). The first payment of Rent shall be due March 1, 2010, and annually thereafter. Any payments made under the Previous Lease will be credited to payments under this Lease if applicable to avoid a double payment for the same time period.

(b) Upon the commencement of the Term hereunder, Rent will be increased annually by three percent (3%).

5. Permitted Use. Subject to Tenant's compliance with all local zoning regulations and other applicable regulations, the Premises may be used by Tenant for the transmission and reception of radio communication signals and for the construction, installation, operation, maintenance,

repair, removal or replacement of related facilities, including, without limitation, antennas, equipment shelters and/or cabinets and related activities subject to any approval required under section 7.

6. Interference. Tenant shall not use the Premises in any way which interferes with the use of the Property by Landlord, or lessees or licensees of Landlord with equipment installed prior in time to Tenant's or AWS's installation. Similarly, Landlord shall not use, nor shall Landlord permit its lessees, licensees, employees, invitees or agents to use, any portion of the Property in any way which interferes with the operations of Tenant. Such interference shall be deemed a material breach by the interfering party, who shall, upon written notice from the other, be responsible for terminating said interference. In the event any such interference does not cease promptly, the parties acknowledge that continuing interference may cause irreparable injury and, therefore, the injured party shall have the right, in addition to any other rights that it may have at law or in equity, to bring a court action to enjoin such interference or to terminate this Lease immediately upon written notice.

7. Improvements; Utilities; Access.

(a) Tenant shall have the right, at its expense, to erect and maintain on the Premises improvements, personal property and facilities necessary to operate its communications system, including, without limitation, radio transmitting and receiving antennas, microwave dishes, tower and base, equipment shelters and/or cabinets and related cables and utility lines and a location based system, including, without limitation, antenna(s), coaxial cable, base units, location based systems, and other associated equipment (collectively, the "Antenna Facilities"). Tenant shall have the right to alter, replace, expand, enhance or upgrade the Antenna Facilities at any time during the term of this Lease subject to the Landlord's prior review and approval of plans, which review and approval shall not be unreasonably withheld, conditioned or delayed. However, Tenant may replace existing equipment with similar equipment without Landlord's consent. Tenant shall cause all construction to occur lien-free and in compliance with all applicable laws and ordinances, and shall discharge or bond any mechanic's lien filed or recorded. Landlord acknowledges that it shall not interfere with any aspects of construction, including, without limitation, attempting to direct construction personnel as to the location of or method of installation of the Antenna Facilities and the Easements (as defined below) ("Construction Interference"). Landlord further acknowledges that it will be responsible for any costs and damages (including, fines and penalties) that are directly attributable to Landlord's Construction Interference. The Antenna Facilities shall remain the exclusive property of Tenant and shall not be considered fixtures. Tenant shall have the right to remove the Antenna Facilities at any time during and upon the expiration or termination of this Lease.

(b) Tenant, at its expense, may use any and all appropriate means of restricting access to the Antenna Facilities, including, without limitation, the construction of a fence.

(c) Tenant shall, at Tenant's expense, keep and maintain the Antenna Facilities now or hereafter located on the Property in commercially reasonable condition and repair during the term of this Lease, normal wear and tear and casualty excepted. Upon termination or expiration of this Lease, the Premises shall be returned to Landlord in good, usable condition, normal wear and tear and casualty excepted.

(d) Tenant shall have the right to install utilities, at Tenant's expense, and to improve the present utilities on the Property (including, but not limited to, the installation of emergency power generators) within its Premises and existing utility easements. Landlord agrees to use reasonable efforts in assisting Tenant to acquire necessary utility service. Tenant shall, wherever practicable, install separate meters for utilities used on the Property by Tenant. In the event separate meters are not installed, Tenant shall pay the periodic charges for all utilities attributable to Tenant's use. Tenant shall have the right to install necessary conduit and sleeving from the Tower to the point of connection at the Premises. Landlord shall diligently correct any variation, interruption or failure of utility service caused by Landlord.

(e) As partial consideration for Rent paid under this Lease, Landlord hereby grants Tenant an easement in, under and across the Property for ingress, egress, utilities and access (including access for the purposes described in Section 1) to the Premises adequate to install and maintain utilities, which include, but are not limited to, the installation of power and telephone service cable, and to service the Premises and the Antenna Facilities at all times during the Initial Term of this Lease and any Renewal Term (collectively, the "Easements"). The Easements provided hereunder shall have the same term as this Lease. Said easement is shown on Exhibit B attached hereto.

(f) Tenant shall have 24-hours-a-day, 7-days-a-week access to the Premises ("Access") at all times during the Initial Term of this Lease and any Renewal Term at no additional charge to the Tenant. In the event Landlord, its employees or agents impeded or deny Access to Tenant, its employees or agents, Tenant shall, without waiving any other rights that it might have at law or in equity, abate from future Rent an amount equal to Five Hundred and no/100 Dollars (\$500.00) per day for each day that Access is impeded or denied, but only after Tenant has given Landlord ten (10) days advance written notice of its intention to invoke the penalty provision, and that if access is not allowed by the end of that period, then Tenant may abate the rent..

8. Termination. Except as otherwise provided herein, this Lease may be terminated, without any penalty or further liability as follows:

(a) upon thirty (30) days' written notice by Landlord if Tenant fails to cure a default for payment of amounts due under this Lease within that thirty (30) day period;

(b) immediately if Tenant notifies Landlord of unacceptable results of any title report, environmental or soil tests prior to Tenant's installation of the Antenna Facilities on the Premises. If Tenant is unable to obtain, maintain, or otherwise forfeits or cancels any license (including without limitation an FCC license), permit or any Governmental Approval necessary to the installation and/or operation of the Antenna Facilities or Tenant's business during the lease term, then Tenant may terminate this lease agreement provided Tenant shall pay Landlord a termination fee equal to one (1) year's rent as liquidated damages;

(c) upon thirty (30) days' written notice given by Tenant at any time following the expiration of the Initial Term if the Property, the tower or the Antenna Facilities are, or become unacceptable under Tenant's design or engineering specifications for its Antenna Facilities or the communications system to which the Antenna Facilities belong, provided Tenant shall pay Landlord a termination fee equal to one (1) year's Rent as liquidated damages;

(d) immediately upon written notice by Tenant if the tower or the Antenna Facilities are destroyed or damaged other than by Tenant's negligent or intentional acts so as in Tenant's reasonable judgment to substantially and adversely affect the effective use of the Antenna Facilities. In such event, all rights and obligations of the parties shall cease as of the date of the damage or destruction, and Tenant shall be entitled to the reimbursement of any Rent prepaid by Tenant. If Tenant elects to continue this Lease, then all Rent shall abate until the Premises and/or the Antenna Facilities are restored to the condition existing immediately prior to such damage or destruction; or

(e) at the time title to the Property transfers to a condemning authority pursuant to a taking of all or a portion of the Property sufficient in Tenant's determination to render the Premises unsuitable for Tenant's use. Landlord and Tenant shall each be entitled to pursue their own separate awards with respect to such taking. Sale of all or part of the Property to a purchaser with the power of eminent domain in the face of the exercise of the power shall be treated as a taking by condemnation; or

(f) upon thirty (30) days written notice by Tenant if Tenant determines that the Property or Antenna Facilities are inappropriate or unnecessary for Tenant's operations due to economic reasons, provided Tenant shall pay Landlord a termination fee equal to one (1) year's rent as liquidated damages.

9. Default and Right to Cure. Notwithstanding anything contained herein to the contrary and without waiving any other rights granted to it at law or in equity, either party shall have the right, but not the obligation, to terminate this Lease on written notice pursuant to Section 12 hereof, to take effect immediately, if the other party (i) fails to perform any covenant for a period of thirty (30) days after receipt of written notice thereof to cure.

10. Taxes. Landlord shall pay when due all real property taxes for the Property, including the Premises. In the event that Landlord fails to pay any such real property taxes or other fees and assessments, Tenant shall have the right, but not the obligation, to pay such owed amounts and deduct them from Rent amounts due under this Lease. Notwithstanding the foregoing, Tenant shall pay any personal property tax, real property tax or any other tax or fee which are directly attributable to the presence or installation of Tenant's Antenna Facilities, only for so long as this Lease has not expired of its own terms or is not terminated by either party. Landlord hereby grants to Tenant the right to challenge, whether in a Court, Administrative Proceeding, or other venue, on behalf of Landlord and/or Tenant, any personal property or real property tax assessments that may affect Tenant. If Landlord receives notice of any personal property or real property tax assessment against the Landlord, which may affect Tenant and is directly attributable to Tenant's installation, Landlord shall provide timely notice of the assessment to Tenant sufficient to allow Tenant to consent to or challenge such assessment. Further, Landlord shall provide to Tenant any and all documentation associated with the assessment and shall execute any and all documents reasonably necessary to effectuate the intent of this Section 10. In the event real property taxes are assessed against Landlord or Tenant for the Premises or the Property, Tenant shall have the right, but not the obligation, to terminate this Lease without further liability after thirty (30) days' written notice to Landlord, provided Tenant pays any real property taxes assessed as provided herein.

#### 11. Insurance and Subrogation and Indemnification

(a) Tenant will provide Commercial General Liability Insurance in an aggregate amount of One Million and no/100 dollars (\$1,000,000.00). Tenant may satisfy this requirement by obtaining the appropriate endorsement to any master policy of liability insurance Tenant may maintain.

(b) Landlord and Tenant hereby mutually release each other (and their successors or assigns) from liability and waive all right of recovery against the other for any loss or damage covered by their respective first party property insurance policies for all perils insured thereunder. In the event of such insured loss, neither party's insurance company shall have a subrogated claim against the other. To the extent loss or damage is not covered by their first party property insurance policies, Landlord and Tenant each agree to indemnify and hold harmless the other party from and against any and all claims, damages, cost and expenses, including reasonable attorney fees, to the extent caused by or arising out of (a) the negligent acts or omissions or willful misconduct in the operations or activities on the Property by the indemnifying party or the employees, agents, contractors, licensees, tenants and/or subtenants of the indemnifying party, or (b) a breach of any obligation of the indemnifying party under this Lease. Notwithstanding the foregoing, this indemnification shall not extend to indirect, special, incidental or consequential damages, including, without limitation, loss of profits, income or business opportunities to the indemnified party or anyone claiming through the indemnified party. The indemnifying party's obligations under this section are contingent upon (i) its receiving prompt written notice of any event giving rise to an obligation to indemnifying the other party and (ii) the indemnified party's granting it the right to control the defense and settlement of the same. Notwithstanding anything to the contrary in this Lease, the parties hereby confirm that the provisions of this section shall survive the expiration or termination of this Lease. Tenant shall not be responsible to Landlord, or any third-party, for any claims, costs or damages (including, fines and penalties) attributable to any pre-existing violations of applicable codes, statutes or other regulations governing the Property, including the Premises (excluding any attributable to AWS or Tenant under the Previous Lease.)

12. Notices. All notices, requests, demands and other communications shall be in writing and are effective three (3) days after deposit in the U.S. mail, certified and postage paid, or upon receipt if personally delivered or sent by next-business-day delivery via a nationally recognized overnight courier to the addresses set forth below. Landlord or Tenant may from time to time designate any other address for this purpose by providing written notice to the other party.

**If to Tenant, to:**

T-Mobile USA, Inc.  
12920 SE 38<sup>th</sup> Street  
Bellevue, WA 98006  
Attn: Legal Dept.

**With a copy to:**

T-Mobile South LLC  
7668 Warren Pkwy  
Frisco TX 75034  
Attn: Lease Administration Manager

**And with a copy to:**

**Error! Reference source not found.**  
185 Fairchild St.  
Charleston, SC 29492  
Attn: Lease Administration Manager

**If to Landlord, to:**

Town of Carrboro  
301 W. Main St.  
Carrboro, NC 27510  
Attn: Town Manager

**Send Rent payments to:**

Town of Carrboro  
301 W. Main St.  
Carrboro, NC 27510

13. **Quiet Enjoyment, Title and Authority.** As of the Effective Date and at all times during the Initial Term and any Renewal Terms of this Lease, Landlord covenants and warrants to Tenant that (i) Landlord has full right, power and authority to execute and perform this Lease; (ii) Landlord has good and unencumbered fee title to the Property free and clear of any liens or mortgages, except those heretofore disclosed in writing to Tenant and which will not interfere with Tenant's rights to or use of the Premises; (iii) execution and performance of this Lease will not violate any laws, ordinances, covenants, or the provisions of any mortgage, lease, or other agreement binding on Landlord; and (iv) Tenant's quiet enjoyment of the Premises or any part thereof shall not be disturbed as long as Tenant is not in default beyond any applicable grace or cure period.

14. **Environmental Laws.** Landlord represents that it has no knowledge of any substance, chemical or waste (collectively, "Hazardous Substance") on the Property that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation. Landlord and Tenant shall not introduce or use any Hazardous Substance on the Property in violation of any applicable law. Landlord shall be responsible for, and shall promptly conduct any investigation and remediation as required by any applicable environmental laws, all spills or other releases of any Hazardous Substance not caused solely by Tenant, that have occurred or which may occur on the Property. Each party agrees to defend, indemnify and hold harmless the other from and against any and all administrative and judicial actions and rulings, claims, causes of action, demands and liability (collectively, "Claims") including, but not limited to, damages, costs, expenses, assessments, penalties, fines, losses, judgments and reasonable attorney fees that the indemnitee may suffer or incur due to the existence or discovery of any Hazardous Substances on the Property or the migration of any Hazardous Substance to other properties or the release of any Hazardous Substance into the environment (collectively, "Actions"), that relate to or arise from the indemnitor's activities on the Property. Landlord agrees to defend, indemnify and hold Tenant harmless from Claims resulting from Actions on the Property not caused by Landlord or Tenant prior to and during the Initial Term and any Renewal Term of this Lease. The indemnifications in this section specifically include, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any governmental authority. This Section 14 shall survive the termination or expiration of this Lease.

15. **Assignment and Subleasing.** Tenant will not assign or transfer this Agreement without the prior written consent of Landlord, which consent will not be unreasonably withheld, delayed or conditioned; provided, however Tenant may assign without Landlord's prior written consent, to a parent, to any party controlled by, or under common control with Tenant or to any party which acquires 51% or more of the stock or assets of Tenant

Any assignment, subletting or transfer of Tenant's interest in this Lease (or the Premises) is subject to the satisfaction of the following conditions: (a) any such assignment, subletting or transfer shall be subject to all of the terms, covenants and conditions of this Lease; (b) the use of the Premises by any assignee, subtenant or transferee must be identical to Tenant's use of the Premises; and (c) the assignee or transferee shall

deliver an instrument in writing to Landlord pursuant to which it assumes all of Tenant's obligations under the Lease.

Landlord shall have the right to assign or otherwise transfer this Lease and the Easements granted herein, upon written notice to Tenant except for the following; any assignment or transfer of this Lease which is separate and distinct from a transfer of Landlord's entire right, title and interest in the Property, shall require the prior written consent of Tenant which may be withheld in Tenant's sole discretion. Upon Tenant's receipt of (i) an executed deed or assignment and (ii) an IRS Form W-9 assignee, and subject to Tenant's consent, if required, Landlord shall be relieved of all liabilities and obligations hereunder and Tenant shall look solely to the assignee for performance under this Lease and all obligations hereunder.

Additionally, notwithstanding anything to the contrary above, Landlord or Tenant may, upon notice to the other, grant a security interest in this Lease (and as regards the Tenant, in the Antenna Facilities), and may collaterally assign this Lease (and as regards the Tenant, in the Antenna Facilities) to any mortgagees or holders of security interests, including their successors or assigns (collectively "Secured Parties"). In such event, Landlord or Tenant, as the case may be, shall execute such consent to leasehold financing as may reasonably be required by Secured Parties

16. Successors and Assigns. This Lease and the Easements granted herein shall run with the land, and shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives and assigns.

17. Waiver of Landlord's Lien. Landlord hereby waives any and all lien rights it may have, statutory or otherwise, concerning the Antenna Facilities or any portion thereof, which shall be deemed personal property for the purposes of this Lease, whether or not the same is deemed real or personal property under applicable laws, and Landlord gives Tenant and Secured Parties the right to remove all or any portion of the same from time to time, whether before or after a default under this Lease, in Tenant's and/or Secured Parties' sole discretion and without Landlord's consent.

18. Miscellaneous.

(a) The prevailing party in any litigation arising hereunder shall be entitled to its reasonable attorneys' fees and court costs, including appeals, if any.

(b) Each party agrees to furnish to the other, within twenty (20) days after request, such truthful estoppel information as the other may reasonably request.

(c) This Lease constitutes the entire agreement and understanding of the parties, and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind not set forth herein. Any amendments to this Lease must be in writing and executed by both parties.

(d) Each party agrees to cooperate with the other in executing any documents including a Memorandum of Lease necessary to protect its rights or use of the Premises. The Memorandum of Lease may be recorded in place of this Lease, by either party. In the event the Property is encumbered by a mortgage or deed of trust, Landlord agrees, upon request of Tenant, to obtain and furnish to Tenant a non-disturbance and attornment agreement for each such mortgage or deed of trust, in a form reasonably acceptable to Tenant. Tenant may obtain title insurance on its interest in the Premises. Landlord agrees to execute such documents as the title company may require in connection therewith.

(e) This Lease shall be construed in accordance with the laws of the state in which the Property is located.

(f) If any term of this Lease is found to be void or invalid, such finding shall not affect the remaining terms of this Lease, which shall continue in full force and effect. The parties agree that if any provisions are deemed not enforceable, they shall be deemed modified to the extent necessary to make them enforceable. Any questions of particular interpretation shall not be interpreted against the draftsman, but rather in accordance with the fair meaning thereof. No provision of this Lease will be deemed waived by either party unless expressly waived in writing signed by the waiving party. No waiver shall be implied by delay or any other act or omission of either party. No waiver by either party of any provision of this Lease shall be deemed a waiver of such provision with respect to any subsequent matter relating to such provision.

(g) The persons who have executed this Lease represent and warrant that they are duly authorized to execute this Lease in their individual or representative capacity as indicated.

(h) This Lease may be executed in any number of counterpart copies, each of which shall be deemed an original, but all of which together shall constitute a single instrument.

(i) All Exhibits referred to herein and any Addenda are incorporated herein for all purposes. The parties understand and acknowledge that Exhibit A (the legal description of the Property) and Exhibit B (the Premises location within the Property), may be attached to this Lease and the Memorandum of Lease, in preliminary form. Accordingly, the parties agree that upon the preparation of final, more complete exhibits, Exhibits A, and/or B, as the case may be, which may have been attached hereto in preliminary form, may be replaced by Tenant with such final, more complete exhibit(s) with approval by Landlord. The terms of all Exhibits are incorporated herein for all purposes.

(j) If Landlord is represented by any broker or any other leasing agent, Landlord is responsible for all commission fee or other payment to such agent, and agrees to indemnify and hold Tenant harmless from all claims by such broker or anyone claiming through such broker. If Tenant is represented by any broker or any other leasing agent, Tenant is responsible for all commission fees or other payment to such agent, and agrees to indemnify and hold Landlord harmless from all claims by such broker or anyone claiming through such broker.

19. Marking and Lighting Requirements. . In the event that marking and/or lighting requirements of the Federal Aviation Administration ("FAA") and the FCC are imposed on the Property as a result of Tenant's installation or operation, Tenant shall be responsible for compliance with any such requirements. Tenant shall indemnify and hold Landlord harmless from any fines or other liabilities caused by Tenant's failure to comply with such requirements. Should Landlord be cited by either the FCC or FAA because the antenna facilities is not in compliance and, should Tenant fail to cure the conditions of noncompliance within the time frame allowed by the citing agency, Landlord may either terminate this Lease immediately on notice to Tenant or proceed to cure the conditions of noncompliance at Tenant's expense. Tenant's obligations in this paragraph are contingent upon Landlord giving Tenant prompt written notice of and copies of any communication or correspondence which it receives from the applicable agency.

The effective date of this Lease is the date of execution by the last party to sign (the "Effective Date").

**LANDLORD:** Town of Carrboro

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**TENANT:** T-Mobile South LLC

By: \_\_\_\_\_  
Printed Name: Todd Wheeler  
Title: Area Director, Network Operations and Engineering  
Date: \_\_\_\_\_

\_\_\_\_\_  
T-Mobile Legal Approval

**EXHIBIT A**  
**Legal Description**

**The Property is legally described as follows:**

BEGINNING at an iron stake in the West property line of Greensboro Road in the Town of Carrboro, said stake being the Northwest intersection of Yancey Street with Greensboro Road, thence with said Greensboro Road North 40 deg. 45 min. West 439.2 feet to an iron stake in the East property line of Bim Street; thence with the East property line of Bim Street South 4 deg. West 666 feet to an iron stake, the Northeast intersection of said Bim Street and an unnamed street; thence with the North property line of said unnamed street South 84 deg. East 319 feet to an iron stake in the West property line of Yancey Street; thence with the West property line of Yancey Street North 4 deg. 30 min. East 384 feet to the place or point of beginning.

The above calls an distances are taken from survey made by J. Ralph Weaver April 24, 1947. See also deed to County Board of Education of Orange County recorded in Deed Book 79, at page 152, office of the Orange County Registry.



**EXHIBIT B**

**The location of the Premises within the Property (together with access and utilities) is more particularly described and depicted as follows:**

**A DRAWING OF THE PREMISES WILL BE ATTACHED HERETO**

However, it is expressly agreed and understood by and between the Landlord and Tenant that the exact and precise location of the Tenant's Antenna Facilities are subject to review and approval by the planning and/or zoning Boards having jurisdiction over the "Premises".

Therefore, it is expressly agreed and understood by and between Landlord and Tenant that the precise location of the Premises as shown on Exhibit "B" may be modified by the Tenant in order to comply with and obtain necessary planning and/or zoning approvals, and any and all other approvals necessary for Tenant's intended use of the property. The Premises as described herein may therefore be modified by the Tenant to reflect the final engineering design. An amended Exhibit "B" (if necessary) will be provided by the Tenant and attached to the lease in place of the existing Exhibit "B", a copy of which will be provided to the Landlord for review prior to being incorporated into the lease. [Enter Premises description here or on attachment(s).]

151 ONE AND TWO AND THREE

BIM STREET (30°R/W)

THE TOWN OF CANNON  
P.O. 9770-05-0578  
D.B. 174, P.O. 232  
Zoned 81-0  
SEC. TOWN HALL  
MAY 1972 AC

MAIN STREET (N.C. 54) 50' R/W  
SIDE 3.632 AC.

LAUREL AVENUE (40°R/W)

WENT L. PLAIN  
A. R., N. 77  
2000 475

WILLIAM D. HARRISON &  
DANIEL F. HARRISON  
D.A. 208, PG. 357  
ZONING: R75

CONTACT POINT -  
WASH BING SET  
T - 487.59

LEASE ONE		
LINE	REMARKS	DISTANCE
1	PERMANENT	0.25
2	PERMANENT	0.25
3	PERMANENT	0.25
4	PERMANENT	0.25
5	PERMANENT	0.25

**LEADER: 1435.**

100-475000  
 X - 100-475000  
 Y - 100-475000  
 FROM BUREAU OF  
 DOMESTIC INVEST.

**27068 - I  
Baker - J  
Sullivan - B  
Winters - R**

**NOTES**

1. SEE DRAWING C-1 FOR GENERAL NOTES.

2. ACCESS TO LEASE SITE TO BE OVER THE EXISTING EXHIBITION, DRIVeways, PARKING AREAS, AND STAIRWAYS LOCATED ON THE PROPERTY OF WHICH THE LEASE SITE IS A PART EXTENDING TO AND FROM THE LEASE SITE AS SHOWN HEREON TO AND FROM THE ADJOINING PUBLIC RIGHT OF WAY, AS SUCH ADJOINING PUBLIC RIGHT OF WAY IS SHOWN AND DESIGNATED HEREON.

# SITE SURVEY



## LEGEND

LINE SURVEYED  
LINE NOT SURVEYED  
DOWN PIN SET  
OFF - DOWN PIN REMOVED  
ST. LIGHTY POLE  
EDGE OF PAVEMENT  
DOWN SURVEY MARKS  
DOWN SURVEY MARKS

**ADDENDUM TO TOWER LEASE [Additional Terms]**

Both parties agree that the Rent for the First Year has been paid. Rent payment of \$32,253.99 received Feb. 1, 2009 for the year.

**LANDLORD:**

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**TENANT:**     **Error! Reference source not found.**

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_