

## **FIRST AMENDMENT TO MUNICIPAL TOWER SITE LEASE**

This First Amendment to Municipal Tower Site Lease (the "First Amendment") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2020, ("Effective Date") by and between the VILLAGE OF WELLINGTON, a municipal corporation of the State of Florida, hereinafter "Landlord," and T-Mobile South LLC, hereinafter "Tenant." Landlord and Tenant may be collectively referred to herein as the "Parties" or individually as a "Party".

### **RECITALS**

WHEREAS, Landlord and Tenant's predecessor in interest entered into a non-exclusive Municipal Tower Site Lease dated February 12, 2002 ("Lease"), whereby Tenant leased a portion of Landlord's property located at 1100 Wellington Trace, Wellington, Florida 33414 (the "Property"), on a non-exclusive basis, for placement of Antenna Facilities, together with all necessary space and easements for access and utilities, (collectively, the "Premises") as set forth more fully in the Lease; and

WHEREAS, as of January 1, 2006, T-Mobile South LLC became the successor in interest to Omnipoint Holdings, Inc. d/b/a VoiceStream wireless, and assumed all assets and liabilities of Omnipoint Holdings, Inc. d/b/a VoiceStream Wireless, including all obligations, responsibilities, and liabilities as set forth in the Lease; and

WHEREAS, Tenant desires to make certain improvements and modifications to the leased Premises as shown in Exhibit B-1 below and the parties desire to amend the Lease to address other matters.

NOW THEREFORE, in consideration of the foregoing promises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

- 1) Landlord and Tenant agree that Tenant will have the right to make certain improvements and modifications to Tenant's leased Premises as more particularly described on Exhibit B-1 attached hereto and incorporated herein by reference, and subject to Tenant obtaining all required regulatory approvals.
- 2) Improvements, Utilities, Access. Paragraph 7 of the Lease is hereby amended as follows:

Paragraph 7(f) is amended by adding the words "Subject to the site security requirements, as set forth in subsection (g) below," before the first sentence.

A new paragraph 7(g) is added to read as follows:

**"(g) Site Security.** Security at the Water Treatment Plant site is a very high priority to the Landlord. In recognition of the Landlord's security needs and the

fact that this is an active and functioning facility, the Tenant agrees to take all reasonable steps to minimize the degree to which the leased Premises are impacted by any construction activities. The Landlord reserves the right to require timing adjustment of activities that, in the sole determination of the Landlord, impact the operation, efficiency or security of the Water Treatment Plant on the Property. The Tenant shall work within the requirements of the Landlord's security needs.

The Landlord reserves the right to require the Tenant to perform a background check on all of Tenant's agents, licensees, invitees, employees, subcontractors, material workers, and suppliers entering the site and agrees to supply the results to the Landlord. Tenant shall secure from the affected parties appropriate authorizations and releases from liability in favor of the Landlord prior to performing the background checks. All background checks shall be performed prior to allowing the workers or suppliers access to the Premises. The Landlord reserves the right but not the obligation to disallow entrance to the work site of any persons or entities as a result of the background check or other relevant information, regardless of the result of such background check.

Background checks shall be in such form and fashion as is reasonably acceptable to the Landlord, but at a minimum, shall be performed through the Palm Beach County Sheriff's Department and the Florida Department of Law Enforcement. The Tenant shall allow sufficient time to perform the necessary background checks within any construction schedule. Nothing herein shall be construed as consent by the Landlord to be sued by third parties. Each third party upon whom a background check has been performed shall be required to carry a photo identification and a clearance tag. Such identification and clearance tag shall be required to enter the Premises and shall be maintained with the person at all times while on site. The Tenant shall provide to the Landlord a complete roster of all parties who may enter the Premises to perform improvements or modifications to any existing facilities and shall keep said roster updated and current on at least a monthly basis."

- 3) Capitalized terms contained herein, unless otherwise defined, are intended to have the same meaning and effect as that set forth in the Lease.
- 4) All other terms and provisions of the Lease not expressly amended herein remain in full force and effect.
- 5) The Parties each warrant and represent to the other that the individual executing this First Amendment on behalf of the Party has full right, title and ability to enter into this First Amendment and bind the Party thereto. Additionally, Landlord

warrants and represents to Tenant that Landlord has full title and interest in the Property and ability to grant the rights to Tenant as set forth herein.

- 6) The Lease and this First Amendment contain all rights, promises or understandings between Landlord and Tenant and no verbal or oral promises or understandings shall be binding upon either the Landlord or Tenant in any dispute, controversy or proceeding at law, and any addition, variation or modification to the Lease and this First Amendment shall be void and ineffective unless made in writing and signed by the Parties. In the event any provision in the Lease or this First Amendment is found to be invalid or unenforceable, such a finding shall not affect the validity and enforceability of the remaining provisions of the Lease and this First Amendment.
- 7) Tenant represents and warrants to Landlord that it is the sole successor in interest to Omnipoint Holdings, Inc. d/b/a VoiceStream wireless, with full authority and ability to enter into this First Amendment, without the need for any additional consents or approvals from any person or entity. Tenant additionally represents and warrants to Landlord that the individual executing this First Amendment on behalf of Tenant has full power and authority to execute this instrument and to bind Tenant thereto, without the need for any additional consents or approvals from any person or entity. The parties hereby memorialize that these representations and warranties are a material term to the First Amendment and that Landlord is relying upon such in entering into this First Amendment and that should any of these representations and warranties be deemed false, untrue, or unfounded, Tenant shall indemnify and hold Landlord harmless and Tenant shall undertake all required and necessary corrective measures as required by Landlord.

*(Remainder of page intentionally left blank; Signature Page to follow)*

*First Amendment to  
Municipal Tower Site Lease  
(Water Treatment Facility)*

**IN WITNESS WHEREOF**, the Parties hereto have set their hands and seals to this First Amendment to Lease as of the day and year first written above:

**LANDLORD:**

Village of Wellington

Attest:

By: \_\_\_\_\_  
Anne Gerwig, Mayor

By: \_\_\_\_\_  
Chevelle Addie, Village Clerk

Date: \_\_\_\_\_

Approved as to Form and Legal Sufficiency:

By: \_\_\_\_\_  
Laurie Cohen, Village Attorney

**TENANT:**

T-Mobile South LLC  
As successor in interest to  
Omnipoint Holdings, Inc. d/b/a  
VoiceStream Wireless

By: \_\_\_\_\_  
Name: Tony McDowell  
Its: Senior Director

Date: \_\_\_\_\_

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
WITNESS



