

ENROLLED ORDINANCE 173-014

APPROVE T-MOBILE CELL TOWER AND GROUND
LEASE AT THE DAVIDSON ROAD TOWER

WHEREAS, Waukesha County owns a telecommunications tower (the "Tower") located at the Radio Services Building, 2120 Davidson Road, the City of Waukesha, Waukesha County, State of Wisconsin (the "Site"); and

WHEREAS, T-Mobile Central LLC ("T-Mobile") desires to rent attachment locations upon the Tower and certain ground space at the Site for T-Mobile's cellular common carrier mobile radio base station operations, including related telecommunications functions; and

WHEREAS, the County is willing to permit T-Mobile occupancy provided that, starting no later than October 1, 2018, (the "Commencement Date"), T-Mobile shall pay annual rent to the County in the amount of Thirty-Four thousand and 00/100 Dollars (\$34,000) with an annual adjusted rent increase of three percent (3%) in accordance with the terms of a proposed Tower and Ground Space Lease Agreement.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the Tower and Ground Space Lease Agreement between the County and T-Mobile Central LLC for use of the Davidson Road cellular tower as a cellular tower and surrounding lands is hereby approved.

BE IT FURTHER ORDAINED that the Director of Emergency Preparedness or his designee is authorized to execute the Tower and Ground Space Lease Agreement and any other documents necessary to effectuate the intent thereof.

FISCAL NOTE

APPROVE T-MOBILE CELL TOWER AND GROUND LEASE AT THE DAVIDSON ROAD
TOWER

This ordinance approves an agreement between the Waukesha County Department of Emergency Preparedness and T-Mobile Central LLC ("T-Mobile") for the lease of tower attachment locations and ground space at the County's Radio Services Building located at 2120 Davidson Road in the City of Waukesha. The lease will start no later than October 1, 2018, and will run for an initial period of five years with four renewal period of five years each for a potential total period of 25 years.

Under the terms of the lease, T-Mobile will pay the County \$34,000 annually beginning in 2018, with increases of 3% per year thereafter. The revenue will be applied to the Radio Services proprietary fund. The Department anticipates no additional expenditures due to this lease.

This ordinance is estimated to have no direct tax levy impact.

Linda Witkowski

Linda Witkowski

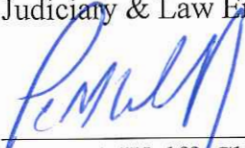
Budget Manager

4/30/18

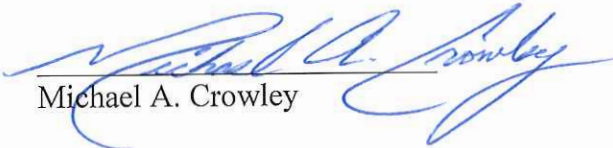
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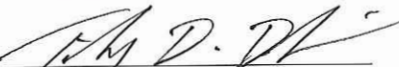
APPROVE T-MOBILE CELL TOWER AND GROUND
LEASE AT THE DAVIDSON ROAD TOWER

Approved By:
Judiciary & Law Enforcement Committee


Peter M. Wolff, Chair

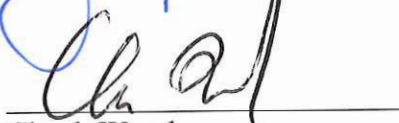

Jim Batzko


Michael A. Crowley


Timothy Dondlinger


Tyler J. Foti

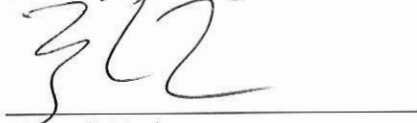

Jennifer Grant


Chuck Wood

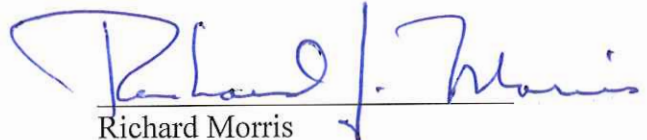
Approved By:
Finance Committee

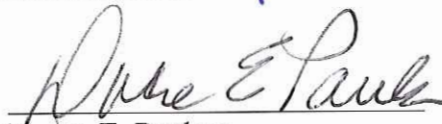

James A. Heinrich, Chair

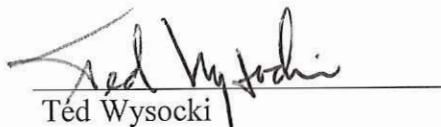

Timothy Dondlinger


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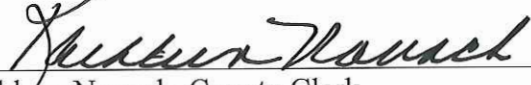

Thomas A. Michalski


Richard Morris


Duane E. Paulson


Ted Wysocki

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: 5/22/18, 
Kathleen Novack, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved: X
Vetoed: _____

Date: 5-29-18, 
Paul Farrow, County Executive

TOWER AND GROUND SPACE LEASE AGREEMENT

This Agreement, made this _____ day of _____, 201_, between Waukesha County, with its principal offices located at 515 W. Moreland Blvd., Waukesha, Wisconsin 53188 hereinafter designated LANDLORD and T-Mobile Central LLC, with its principal offices at 12920 SE 38th Street, Bellevue, WA 98006, hereinafter designated TENANT. The LANDLORD and TENANT are at times collectively referred to hereinafter as the "Parties" or individually as the "Party".

WITNESSETH

In consideration of the mutual covenants contained herein and intending to be legally bound hereby, the Parties hereto agree as follows:

1. PREMISES. LANDLORD hereby leases to the TENANT attachment locations at a height of seventy-nine feet (79') ("the Tower Space") for the placement and affixing of six (6) wireless antennas on the LANDLORD's radio tower, hereinafter referred to as the "Tower", located at 2120 Davidson Road, Waukesha, County of Waukesha, Wisconsin 53186, (the entirety of LANDLORD's property is referred to hereinafter as the "Property"), together with a parcel of land approximately 368' square feet (the "Land Space") sufficient for the installation of TENANT's equipment platform and external generator; together with the non-exclusive right ("the Right of Way") for ingress and egress, seven (7) days a week, twenty-four (24) hours a day, on foot or motor vehicle, including trucks, and for the installation and maintenance of utility wires, poles, cables, conduits, and pipes over, under, or along a ten (10') foot wide right-of-way extending from the nearest public right-of-way, Davidson Road, to the Land Space; and together with any further non-exclusive rights of way (the "Further Rights of Way") over and through the Property between the Land Space and the Tower Space for the installation and maintenance of utility wires, poles, cables, conduits, and pipes. The Tower Space, Land Space, Right of Way and Further Rights of Way, if any, are more particularly described in Exhibit "A" and depicted in Exhibit "B", each attached hereto and made a part hereof, and are collectively referred to hereinafter as the "Premises".

LANDLORD hereby grants permission to TENANT to install, maintain and operate on the Premises the radio communications equipment, antennas and appurtenances ("TENANT's Equipment") described in Exhibit "B" attached hereto.

SURVEY. LANDLORD also hereby grants to TENANT the right to survey the Property and Premises, and said survey shall then become Exhibit "C" which shall be attached hereto and made a part hereof, and shall control in the event of boundary and access discrepancies between it and Exhibit "A". Cost for such work shall be borne by the TENANT.

2. TERM; RENTAL; ELECTRICAL.

a. This Agreement shall be effective as of the date of execution, provided, however, the initial term shall be for five (5) years and shall commence on the Commencement Date (as hereinafter defined) at which time rental payments shall commence and be due at a total annual rental of Thirty-Four Thousand and No/100 Dollars (\$34,000.00). The first annual rental payment shall be made within thirty (30) days of the Commencement Date and annually thereafter on each anniversary of the Commencement Date. Payment shall be made to LANDLORD or to such other person, firm or place as LANDLORD may, from time to time, designate in writing at least thirty (30) days in advance of any rental payment date by notice given in accordance with Paragraph 24 below. In the absence of such designation, payment shall be made to LANDLORD at LANDLORD's address identified in Paragraph 24 below. Payments not received by the tenth day following their due date shall be subject to the imposition of a late payment charge at a rate of three percent (3%) per month until paid. This Agreement shall commence on the earlier of August 1, 2018 or the date TENANT intends to commence installation of equipment on the Premises as identified in writing provided by the TENANT to the LANDLORD not less than fifteen (15) days prior to the intended commencement of installation (either as applicable, the "Commencement Date.").

Upon agreement of the Parties, TENANT may pay rent by electronic funds transfer and in such event, LANDLORD agrees to provide to TENANT bank routing information for such purpose upon request of TENANT.

b. Upon written request, LANDLORD hereby agrees to provide to TENANT sufficient documentation (the "Rental Documentation") to evidence LANDLORD's interest in, and right to receive payments under, this Agreement, including without limitation: (i) documentation evidencing LANDLORD's good and sufficient title to and/or interest in the Property and right to receive rental payments and other benefits hereunder; (ii) a complete and fully executed Internal Revenue Service Form W-9, or equivalent in a form acceptable to TENANT, for any party to whom rental payments are to be made pursuant to this Agreement; and (iii) other documentation requested by TENANT in TENANT's reasonable discretion necessary to establish sufficient title to and/or interest in the Property and right to receive rental payments. Within thirty (30) days of a written request, the Rental Documentation shall be provided to TENANT in accordance with the provisions of and at the address given in Paragraph 24. Delivery of requested Rental Documentation to TENANT shall be a prerequisite for the payment of any rent by TENANT and notwithstanding anything to the contrary herein, TENANT shall have no obligation to make any rental payments until requested Rental Documentation has been supplied to TENANT as provided herein.

c. LANDLORD shall, at all times during the Term, provide electrical service and telephone service access within the Premises. If permitted by the local utility company servicing the Premises, TENANT shall furnish and install an electrical meter at the Premises for the measurement of electrical power used by TENANT's installation. In the alternative, if permitted by the local utility company servicing the Premises, TENANT shall furnish and install an electrical

sub-meter at the Premises for the measurement of electrical power used by TENANT's installation. In the event such sub-meter is installed, the TENANT shall pay the utility directly for its power consumption, if billed by the utility, and if not billed by the utility, then the TENANT shall pay the LANDLORD thirty (30) days after receipt of an invoice from LANDLORD indicating the usage amount based upon LANDLORD's reading of the sub-meter. TENANT shall be permitted at any time during the Term, to install, maintain and/or provide access to and use of, as necessary (during any power interruption at the Premises), a temporary power source, and all related equipment and appurtenances within the Premises, or elsewhere on the Property in such locations as reasonably approved by LANDLORD. TENANT shall have the right to install conduits connecting the temporary power source and related appurtenances to the Premises. LANDLORD may require amendment to this Agreement, including but not limited to the amount of rent charged, as a condition of permitting TENANT to locate a temporary power source and related equipment outside the initial Premises.

3. EXTENSIONS. This Agreement shall automatically be extended for up to four (4) additional five (5) year terms, upon a continuation of all the same provision hereof and provided that TENANT is not in default, unless TENANT terminates it in accordance with the termination clauses contained in this Agreement.

4. ANNUAL RENTAL INCREASES. Annual rental for each year of this Agreement shall increase by three percent (3%) of the annual rental payable with respect to the immediately preceding year.

5. TAXES. TENANT shall pay prior to delinquency any personal property taxes levied against TENANT's Equipment. LANDLORD shall pay prior to delinquency any real estate taxes and assessments attributable to the Property, and any personal property taxes levied against the Tower and any other of LANDLORD's equipment or property on the Property, except to the extent that taxes or assessments are attributable to the actions or operations of the TENANT, in which instance TENANT shall be responsible for the prompt and timely paying of such amounts. Notwithstanding the foregoing, TENANT shall not have the obligation to pay any tax, assessment, or charge that TENANT is disputing in good faith in appropriate proceedings prior to a final determination that such tax is properly assessed provided that no lien attaches to the Property. Nothing in this Paragraph shall be construed as making TENANT liable for any portion of LANDLORD's income taxes in connection with any Property or otherwise.

TENANT shall have the right, at its sole option and at its sole cost and expense, to appeal, challenge or seek modification of any tax assessment or billing for which TENANT is wholly or partly responsible for payment. LANDLORD shall reasonably cooperate with TENANT at TENANT's expense in filing, prosecuting and perfecting any appeal or challenge to taxes as set forth in the preceding sentence, including but not limited to, executing any consent, appeal or other similar document. In the event that as a result of any appeal or challenge by TENANT, there is a reduction, credit or repayment received by the LANDLORD for any taxes previously paid by TENANT, LANDLORD agrees to promptly reimburse to TENANT the amount of said reduction, credit or repayment. In the event that TENANT does not have the standing rights to pursue a good

faith and reasonable dispute of any taxes under this paragraph, LANDLORD will pursue such dispute at TENANT's sole cost and expense upon written request of TENANT.

6. USE: GOVERNMENTAL APPROVALS. TENANT shall use the Premises for the purpose of constructing, maintaining, repairing and operating a wireless communications facility and uses incidental thereto, but for no other use or purpose. TENANT's use of the Premises shall at all times comply and conform to all laws and regulations applicable thereto. All improvements, equipment, antennas and conduits shall be at TENANT's expense and their installation shall be at the discretion and option of TENANT. It is understood and agreed that TENANT's ability to use the Premises is contingent upon its obtaining after the execution date of this Agreement all of the certificates, permits and other approvals (collectively the "Governmental Approvals") that may be required by any Federal, State or Local authorities as well as satisfactory soil boring tests and structural analysis which will permit TENANT's use of the Premises as set forth above. LANDLORD shall cooperate with TENANT in its effort to obtain such approvals and shall take no action which would adversely affect the status of the Property with respect to the proposed use thereof by TENANT. In the event that (i) any of such applications for such Governmental Approvals should be finally rejected; (ii) any Governmental Approval issued to TENANT is canceled or is otherwise withdrawn or terminated by governmental authority at no fault of TENANT; (iii) TENANT determines that such Governmental Approvals may not be obtained in a timely manner in spite of TENANT "best efforts", or (iv) TENANT determines that any soil boring tests or structural analysis is unsatisfactory; TENANT shall have the right to terminate this Agreement. Notice of TENANT's exercise of its right to terminate shall be given to LANDLORD in writing by certified mail, return receipt requested, and shall be effective upon the mailing of such notice by TENANT, or upon such later date as designated by TENANT. All rentals paid to said termination date shall be retained by LANDLORD. Upon such termination, this Agreement shall be of no further force or effect except to the extent of the representations, warranties and indemnities made by each Party to the other hereunder. Otherwise, the TENANT shall have no further obligations for the payment of rent to LANDLORD.

7. EQUIPMENT IMPROVEMENTS/TOWER MODIFICATIONS. Notwithstanding any other provision of this Agreement, TENANT may, at its expense, make such improvements within or upon the Premises that are consistent with TENANT's use authorized under Paragraph 6 above. Improvements that result in additional equipment (beyond that identified in Exhibit B), changes to space requirements, or changes in configuration, placement or number of antennas or feedlines are subject to prior approval by the LANDLORD. LANDLORD's approval may be conditioned upon increased rent and/or tower modifications. Repairs to existing equipment or replacements with identical equipment will not be subject to LANDLORD's prior consent. TENANT's modification will be performed at the sole cost and expense of TENANT and shall be performed to ensure the Tower remains structurally sound and the Tower's then-existing reserve capacity is maintained.

8. INDEMNIFICATION.

a. TENANT agrees to defend, indemnify and save harmless LANDLORD from and against all liability including claims, demands, damages, actions or causes of actions, together with any and all losses, costs, expenses or damages, including reasonable attorneys' fees, in connection with or related thereto, for bodily injury, sickness, disease, death, personal injury or damage to property or loss of use arising out of or in connection with this Agreement, including but not limited to those arising from, associated with or related to:

i. the negligence or willful misconduct of TENANT, or its agents, employees or contractors; or

ii. any material breach by TENANT of any provision of this Agreement.; or

iii. real or perceived health threats or risks associated with exposure to electromagnetic fields ("EMFs") or radio frequencies ("RFs"), unless such EMFs or RFs are proven to be those emitted by equipment placed on the Tower by LANDLORD or another tenant. LANDLORD agrees to include this provision in any agreement with another tenant for the lease of space on the Tower.

TENANT's indemnity and hold harmless agreement expressly includes indemnity against all reasonable costs, expenses and liabilities incurred in or in connection with any such claim, and the defense thereof. Notwithstanding the foregoing, TENANT will have no liability to LANDLORD to the extent any claims, losses, costs, expenses, or damages arise out of or result from any act, omission or negligence of LANDLORD, or of LANDLORD's agents, employees, contractors or other tenants or user of the Property.

b. To the extent permitted by law, LANDLORD agrees to defend, indemnify and save harmless TENANT from and against all claims, losses, costs, expenses, or damages from a third party arising from:

i. the negligence or willful misconduct of LANDLORD or its agents, employees or contractors; or

ii. any material breach by LANDLORD of any provision of this Agreement.

LANDLORD's indemnity and hold harmless agreement expressly includes indemnity against all reasonable costs, expenses and liabilities incurred in or in connection with any such claim, and the defense thereof. Notwithstanding the foregoing, LANDLORD will have no liability to TENANT to the extent any claims, losses, costs, expenses, or damages arise out of or result from any act, omission or negligence of TENANT, or of TENANT's agents, employees, or contractors.

c. Nothing in this Agreement, including but not limited to the foregoing indemnification terms, shall in any way constitute a waiver by LANDLORD of any immunity, liability limitation, limitation on the amount recoverable, or other protections if available to LANDLORD under Section 893.80 of the Wisconsin Statutes or any other applicable statute or law.

d. All indemnification obligations under this Agreement shall survive expiration, earlier termination or assignment of this Agreement.

9. INSURANCE.

a. TENANT will maintain at all times during the term of this Agreement the policies outlined below, at its own cost, issued by a company or companies licensed, authorized or permitted to do business in the State of Wisconsin. TENANT will annually furnish LANDLORD with a Certificate of Insurance. The Certificate will reference this Agreement and any worker's compensation or property insurance waivers of subrogation required by this Agreement. Upon receipt of notice from its insurer(s) TENANT shall use commercially reasonable efforts to give LANDLORD thirty (30) days prior notice of any cancellation of insurance

- i. Commercial General Liability insurance with limits of \$3,000,000 per occurrence for bodily injury (including death) and for damage or destruction to property;
- ii. Commercial Auto Liability insurance on all owned, non-owned, hired and non-owned vehicles with a combined single limit of two million (\$2,000,000) each accident for bodily injury and property damage;
- iii. Workers Compensation insurance providing the statutory benefits and Employers Liability with limits of \$1,000,000 each accident/disease/policy limit.

TENANT will include the LANDLORD, its boards, commissions, agencies, officers, employees and representatives as an additional insured as their interest may appear under this Agreement on the Commercial General Liability, and Auto Liability policies.

b. *Worker's Compensation Waiver of Subrogation.* LANDLORD will not be liable to TENANT or its employees for any injuries to TENANT's employees arising out of or in connection with the grant of this Agreement including any and all work of any type which TENANT performs upon the Site subject to this Agreement such as during equipment installation, alteration, modification, improvement, maintenance, repair, replacement, or use, or ingress or egress to or from the Site unless caused solely by the negligence or willful misconduct of the LANDLORD. TENANT will waive any and all rights of recovery from LANDLORD for worker's compensation claims made by its

employees and will obtain such waiver from its worker's compensation insurer. TENANT agrees that the indemnification and hold harmless provisions within this Agreement extend to any such claims brought by or on behalf of any employee of TENANT.

c. LANDLORD will maintain at its own cost commercial general liability insurance insuring against liability for bodily injury, death or damage to personal property with combined single limits of \$1,000,000. LANDLORD shall have the right to self-insure.

10. DAMAGE OR DESTRUCTION. If any portion of the Site, Tower or Premises are materially damaged so as to be no longer useful for TENANT's purposes or destroyed due to any accident or casualty during the Term of this Agreement, and if the LANDLORD chooses not to repair or rebuild, then this AGREEMENT and TENANT's liability for payment of Rent shall terminate as of the date of the damage or destruction. However, if LANDLORD chooses to repair or rebuild following such loss, the LANDLORD shall notify TENANT in writing and then TENANT may choose, by written notice to the LANDLORD within sixty (60) days following receipt of notice of LANDLORD's election, between (a) keeping this Agreement in full force and effect for its remaining term, except that the Rent shall abate while and to the extent that the Site is not useful for TENANT's purposes, or (b) terminating the Agreement. If TENANT elects option (a) above, LANDLORD shall diligently proceed, to completion, the repair and restoration of the damaged or destroyed portion of the Site or improvements. If TENANT elects option (b) above, then this Agreement and TENANT's liability for payment of Rent shall terminate as of the date of the damage or destruction. Any unamortized Rent will be remitted by the LANDLORD back to the TENANT within thirty (30) days after the date of termination.

11. LIMITATION OF LIABILITY. Except for indemnification pursuant to paragraphs 0 and 28, neither Party shall be liable to the other, or any of their respective agents, representatives, employees for any lost revenue, lost profits, loss of technology, rights or services, incidental, punitive, indirect, special or consequential damages, loss of data, or interruption or loss of use of service, even if advised of the possibility of such damages, whether under theory of contract, tort (including negligence), strict liability or otherwise.

12. TERMINATION. Notwithstanding anything to the contrary contained herein, provided TENANT is not in default hereunder beyond applicable notice and cure periods, TENANT shall have the right to terminate this Agreement during the initial five (5) year term of this Agreement by providing three (3) months prior written notice to LANDLORD, and TENANT continues to pay the annual rental payment as provided herein through the remainder of the initial five (5) year term. The foregoing obligation shall survive the expiration or earlier termination of this Agreement. During any subsequent renewal term, this Agreement may be terminated without further liability on three (3) months prior written notice by TENANT in exchange for twelve (12) months of annual rental payment if TENANT determines that the Premises are not appropriate for its operations for economic or technological reasons.

13. ACCESS TO TOWER. LANDLORD agrees the TENANT shall have free access to the Tower at all times, subject to such reasonable rules and regulations as LANDLORD may impose, for the purpose of installing and maintaining the said equipment. LANDLORD shall

furnish TENANT with necessary means of access for the purpose of ingress and egress to this site and Tower location. It is agreed, however, that only authorized engineers, employees or properly authorized contractors of TENANT or persons under their direct supervision will be permitted to enter said premises.

14. TOWER COMPLIANCE. LANDLORD covenants that it will keep the Tower in good repair as required by all Laws (as defined in Paragraph 32 below). The LANDLORD shall also comply with all rules and regulations enforced by the Federal Communications Commission with regard to the lighting, marking and painting of towers. If the LANDLORD fails to make such repairs including maintenance within thirty (30) days of having received written notice from TENANT, the TENANT may make the repairs and the costs thereof shall be payable to the TENANT by the LANDLORD upon receipt of a properly documented invoice together with interest thereon from the date of payment at the lesser of (i) ten percent (10%) per annum, or (ii) the highest rate permitted by applicable Laws. Notwithstanding LANDLORD's obligation to repair and maintain the Tower, upon receipt of a properly documented invoice, TENANT shall fully and promptly reimburse LANDLORD for the cost of any repairs for any damage to the Site, Tower, Premises or Property caused by TENANT or TENANT's agents, together with interest thereon from the date of repair at the lesser of (i) ten percent (10%) per annum, or (ii) the highest rate permitted by applicable Laws.

No materials may be used in the installation of the antennas or transmission lines that will cause corrosion or rust or deterioration of the Tower structure or its appurtenances.

All antenna(s) on the Tower must be identified by a marking fastened securely to its bracket on the Tower and all transmission lines are to be tagged at the conduit opening where it enters any user's equipment space.

Upon TENANT request, LANDLORD shall supply to TENANT copies of the pertinent tower drawings, foundation design or structural analysis reports that have been done with respect to the Tower and throughout the Term, LANDLORD shall supply to TENANT copies of all structural analysis reports that are done with respect to the Tower should TENANT request such report.

Upon request of the LANDLORD, TENANT agrees to relocate its equipment, at TENANT's cost, on a temporary basis to another location on the Property, hereinafter referred to as the "Temporary Relocation," for the purpose of LANDLORD performing maintenance, repair or similar work at the Property or on the Tower provided:

- a. The Temporary Relocation is similar to TENANT's existing location in size and is fully compatible for TENANT's use, in TENANT's reasonable determination;
- b. LANDLORD gives TENANT at least ninety (90) days written notice prior to requiring TENANT to relocate;
- c. TENANT's use at the Premises is not interrupted or diminished during the

relocation and TENANT is allowed, if necessary, in TENANT's reasonable determination, to place a temporary installation on the Property during any such relocation; and

- d. Upon the completion of any maintenance, repair or similar work by LANDLORD, TENANT is permitted to return to its original location from the temporary location with all costs for the same being paid by LANDLORD.

15. INTERFERENCE.

a. TENANT warrants and represents that TENANT's Equipment and the installation, operation and maintenance of TENANT's Equipment shall not interfere with the operation of LANDLORD's current or future electronic equipment, wherever located, on the Site or with the existing electronic equipment of the LANDLORD's current third-party licensees or lessees, if any wherever located on the Site. In the event of alleged interference with LANDLORD's current or future equipment or the existing equipment of any of LANDLORD's other third-party licensees or lessees, TENANT, upon written notice from LANDLORD, shall promptly effect an investigation of said alleged interference, to be performed by a qualified professional at the sole expense of TENANT. To the extent TENANT is responsible for the interference, TENANT shall promptly take steps necessary to correct and eliminate the interference at TENANT's cost. If the interference cannot be eliminated, TENANT shall cease operations of TENANT's Equipment and shall not resume its operations until such time as TENANT has effectively eliminated the interference. If TENANT is unable to eliminate the interference within a reasonable period of time, TENANT shall have the option to terminate this Agreement and remove TENANT's Equipment from the Site. Upon termination pursuant to this paragraph, TENANT's liability to pay rent shall cease upon removal of its improvements from the Premises and payment of any amounts due under Paragraphs 2, 16 and 17.

b. This Paragraph shall apply to any equipment TENANT desires to add to the Site at any time during this Agreement. LANDLORD will require any of its other existing or subsequent licensees or lessees at the Site to resolve all construction, antenna placement and technical interference issues with TENANT before allowing the same to commence installation of their own new equipment on the Property.

c. LANDLORD makes no warranties or representations regarding TENANT's exclusive use of the Site or noninterference with TENANT's transmission operation or that the Site is fit for TENANT's intended purposes. Notwithstanding the above, LANDLORD agrees that each of its subleases, leases or license agreements with any third party for use of the Property shall contain a provision substantially the same as this Paragraph 15, and that LANDLORD shall enforce such provisions in a nondiscriminatory manner with respect to all of its sublessees, lessees and licensees. LANDLORD shall provide TENANT with ninety (90) days advance written notice of any equipment installations that it intends to make after the date of this Agreement.

16. SURRENDER/REMOVAL AT END OF TERM. TENANT shall, upon expiration of the Term, or upon any earlier termination of the Agreement, surrender the Premises to LANDLORD and remove its building(s), antenna(s), equipment, conduits, fixtures and all personal property and restore the Premises to its original condition, reasonable wear and tear excepted within thirty (30) days. If such time for removal causes TENANT to remain on the Premises after termination of this Agreement, TENANT shall pay rent on a pro-rata basis at the then existing rate until such time as the removal of the building, antenna structure, fixtures and all personal property are completed, subject to Paragraph 17, below. If TENANT's property is not removed within thirty (30) days, LANDLORD shall have the right, but not the obligation, to remove and store the Property, at TENANT's expense. LANDLORD shall not be liable for any damage to TENANT's property. TENANT shall be responsible for all costs incurred by LANDLORD associated with the removal and storage of TENANT's property. LANDLORD will not release TENANT's property until LANDLORD has received payment for all removal and/or storage costs incurred. LANDLORD agrees and acknowledges that all of the equipment, conduits, fixtures and personal property of TENANT shall remain the personal property of TENANT and TENANT shall have the right to remove the same at any time during the Term, whether or not said items are considered fixtures and attachments to real property under applicable Laws.

17. HOLDOVER. TENANT has no right to retain possession of the Premises or any part thereof beyond the expiration of that removal period set forth in Paragraph 16 herein. In the event that TENANT holds over in violation of Paragraph 16 and this Paragraph 17, then the rent then in effect payable from and after the time of the expiration or earlier removal period set forth in Paragraph 0 shall be equal to the rent applicable during the month immediately preceding such expiration or earlier termination plus ten percent (10%).

18. RIGHTS UPON SALE. Should LANDLORD, at any time during the Term decide (i) to sell or transfer all or any part of the Property or the Tower thereon to a purchaser other than TENANT, or (ii) to grant to a third party by easement or other legal instrument an interest in and to that portion of the Tower and or Property occupied by TENANT, or a larger portion thereof, for the purpose of operating and maintaining communications facilities or the management thereof, such sale or grant of an easement or interest therein shall be under and subject to the terms of this Agreement.

19. QUIET ENJOYMENT. LANDLORD covenants that TENANT, on paying the rent and performing the covenants herein, shall peaceably and quietly have, hold and enjoy the Premises.

20. TITLE. LANDLORD represents and warrants to TENANT as of the execution date of this Agreement, and covenants during the Term that LANDLORD is seized of good and sufficient title and interest to the Property and has full authority to enter into and execute this Agreement. LANDLORD further represents to TENANT as of the execution date of this Agreement that there are no liens, judgments or impediments of title on the Property, or affecting LANDLORD's title to the same and to the best of LANDLORD's knowledge that there are no

covenants, easements or restrictions which prevent or adversely affect the use or occupancy of the Premises by TENANT as set forth above.

21. INTEGRATION. It is agreed and understood that this Agreement contains all agreements, promises and understandings between LANDLORD and TENANT and that no verbal or oral agreements, promises or understandings shall be binding upon either LANDLORD or TENANT in any dispute, controversy or proceeding at law, and any addition, variation or modification to this Agreement shall be void and ineffective unless made in writing signed by the Parties or in a written acknowledgment in the case provided in Paragraph 3. In the event any provision of the Agreement is found to be invalid or unenforceable, such finding shall not affect the validity and enforceability of the remaining provisions of this Agreement. The failure of either Party to insist upon strict performance of any of the terms or conditions of this Agreement or to exercise any of its rights under the Agreement shall not waive such rights and such Party shall have the right to enforce such rights at any time and take such action as may be lawful and authorized under this Agreement, in law or in equity.

22. GOVERNING LAW. This Agreement and the performance thereof shall be governed, interpreted, construed and regulated by the Laws of the State in which the Property is located.

23. ASSIGNMENT. TENANT shall have no right to sublet any portion of the Premises. This Agreement may be sold, assigned or transferred by the TENANT without any approval or consent of the LANDLORD to the TENANT's principal, affiliates, subsidiaries of its principal or to any entity which acquires all or substantially all of TENANT's assets in the market defined by the Federal Communications Commission in which the Property is located by reason of a merger, acquisition or other business reorganization. As to other parties, this Agreement may not be sold, assigned or transferred without the written consent of the LANDLORD, which such consent will not be unreasonably withheld, delayed or conditioned. No change of stock ownership, partnership interest or control of TENANT or transfer upon partnership or corporate dissolution of TENANT shall constitute an assignment hereunder. Any assignment shall require the assignee to take the Agreement subject to all of the terms thereof, including all insurance and indemnification provisions.

24. NOTICES. All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested or by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, addressed as follows (or any other address that the Party to be notified may have designated to the sender by like notice):

LANDLORD: Waukesha County
Attn.: Chris Petterson
2120 Davidson Road
Waukesha, Wisconsin 53186

With copy to: Erik G. Weidig
Waukesha County Corporation Counsel
515 W. Moreland Blvd.
Waukesha, WI 53188

TENANT: T-Mobile USA, Inc.
12920 SE 38th Street
Bellevue, WA 98006
Attention: Lease Compliance
T-Mobile Site Number: ML92216A

Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

25. SUCCESSORS. This Agreement shall extend to and bind the heirs, personal representative, successors and assigns of the Parties hereto.

26. RECORDING. LANDLORD agrees to execute a Memorandum of this Agreement which TENANT may record with the appropriate recording officer. The date set forth in the Memorandum of Lease is for recording purposes only and bears no reference to commencement of either the Term or rent payments.

27. DEFAULT.

a. In the event there is a breach by TENANT with respect to any of the provisions of this Agreement or its obligations under it, including the payment of rent, LANDLORD shall give TENANT written notice of such breach. After receipt of such written notice, TENANT shall have fifteen (15) days in which to cure any monetary breach and thirty (30) days in which to cure any non-monetary breach, provided TENANT shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and TENANT commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. LANDLORD may not maintain any action or effect any remedies for default against TENANT unless and until TENANT has failed to cure the breach within the time periods provided in this Paragraph.

b. In the event there is a breach by LANDLORD with respect to any of the provisions of this Agreement or its obligations under it, TENANT shall give LANDLORD written notice of such breach. After receipt of such written notice, LANDLORD shall have thirty (30) days in which to cure any such breach, provided LANDLORD shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and LANDLORD commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. TENANT

may not maintain any action or effect any remedies for default against LANDLORD unless and until LANDLORD has failed to cure the breach within the time periods provided in this Paragraph.

28. REMEDIES. Upon a default, the non-defaulting Party may at its option (but without obligation to do so), perform the defaulting Party's duty or obligation on the defaulting Party's behalf, including but not limited to the obtaining of reasonably required insurance policies. The costs and expenses of any such performance by the non-defaulting Party shall be due and payable by the defaulting Party upon invoice therefor. In the event of a default by either Party with respect to a material provision of this Agreement, without limiting the non-defaulting Party in the exercise of any right or remedy which the non-defaulting Party may have by reason of such default, the non-defaulting Party may terminate the Agreement and/or pursue any remedy now or hereafter available to the non-defaulting Party under the Laws or judicial decisions of the state in which the Premises are located. In the event of termination by LANDLORD following TENANT's uncured default, TENANT shall not be released from any liability for the annual rent fee due for the balance of the then current term by reason of LANDLORD's repossession of the Premises or by LANDLORD taking any other legal action available to it upon such default, unless LANDLORD, by written notice, affirmatively releases TENANT from such liability.

29. ENVIRONMENTAL. TENANT shall not be responsible for addressing or liable for any environmental or industrial hygiene condition including the presence or release of hazardous substances, that existed prior to the execution of this Agreement or that otherwise did not result from the activities of TENANT.

30. CONDEMNATION. In the event of any condemnation of all or any portion of the Premises, this Agreement shall terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever occurs first. If as a result of a partial condemnation of the Premises or Tower TENANT is unable to reasonably use the Premises for the purposes intended hereunder, or if such condemnation may reasonably be expected to disrupt TENANT's operations at the Premises for more than forty-five (45) days, TENANT may, at TENANT's option, to be exercised in writing within fifteen (15) days after LANDLORD shall have given TENANT written notice of such taking (or in the absence of such notice, within fifteen (15) days after the condemning authority shall have taken possession) terminate this Agreement as of the date the condemning authority takes such possession. TENANT may on its own behalf make a claim in any condemnation proceeding involving the Premises for losses related to the equipment, conduits, fixtures, its relocation costs and its damages and losses (but not for the loss of its leasehold interest). Any such notice of termination shall cause this Agreement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Agreement and the Parties shall make an appropriate adjustment as of such termination date with respect to payments due to the other under this Agreement. If TENANT does not terminate this Agreement in accordance with the foregoing, this Agreement shall remain in full force and effect as to the portion of the Premises remaining, except that the rent shall be reduced in the same proportion as the rentable area of the Premises taken bears to the total rentable area of the Premises.

31. SUBMISSION OF AGREEMENT/PARTIAL INVALIDITY/AUTHORITY. The submission of this Agreement for examination does not constitute an offer to lease the Premises and this Agreement becomes effective only upon the full execution of this Agreement by the Parties. If any provision herein is invalid, it shall be considered deleted from this Agreement and shall not invalidate the remaining provisions of this Agreement. Each of the Parties hereto warrants to the other that the person or persons executing this Agreement on behalf of such Party has the full right, power and authority to enter into and execute this Agreement on such Party's behalf and that no consent from any other person or entity is necessary as a condition precedent to the legal effect of this Agreement.

32. APPLICABLE LAWS. During the Term, LANDLORD shall maintain the Property and all structural elements of the Premises in compliance with all applicable laws, rules, regulations, ordinances, directives, covenants, easements, zoning and land use regulations, and restrictions of record, permits, building codes, and the requirements of any applicable fire insurance underwriter or rating bureau, now in effect or which may hereafter come into effect (including, without limitation, the Americans with Disabilities Act and laws regulating hazardous substances) (collectively "Laws"). TENANT shall, in respect to the condition of the Premises and at TENANT's sole cost and expense, comply with (a) all Laws relating solely to TENANT's specific and unique nature of use of the Premises (other than general office use); and (b) all building codes requiring modifications to the Premises due to the improvements being made by TENANT in the Premises.

33. REPORTING OF ACCIDENTS. TENANT shall promptly report in writing to LANDLORD all accidents or claims arising out of or in connection with this Agreement which cause death, bodily injury, personal injury or property damage.

34. REGULATORY FILINGS. Upon LANDLORD's request, TENANT shall provide LANDLORD with copies of all petitions, applications, reports and communications submitted by TENANT to the FCC, or any other federal or state regulatory commission or agency having jurisdiction in respect to any matter affecting this Agreement or TENANT's operation of TENANT's Equipment.

35. SURVIVAL. The provisions of the Agreement relating to indemnification from one Party to the other Party shall survive any termination or expiration of this Agreement. Additionally, any provisions of this Agreement which require performance subsequent to the termination or expiration of this Agreement shall also survive such termination or expiration.

36. FORCE MAJEURE. In the event that either Party is delayed in the performance of any of its obligations under this Agreement as a result of casualty loss, weather conditions, other acts of God, civil disorder or other cause beyond the control of the applicable Party, the provisions of this Agreement shall be deemed extended for a reasonable period of time to permit the appropriate Party to perform its obligations, provided that the Party is acting in good faith and using its best efforts in order to perform its obligations in a timely fashion.

37. CAPTIONS. The captions contained in this Agreement are inserted for convenience only and are not intended to be part of the Agreement. They shall not affect or be utilized in the construction or interpretation of the Agreement.

38. ELECTRONIC REPRODUCTIONS. The Parties agree that a scanned or electronically reproduced copy of an image of this Agreement, as executed, shall be deemed an original and may be introduced or submitted in any action or proceeding as competent evidence of such agreement, notwithstanding the failure or inability of either party to produce or tender an original executed Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their respective seals the day and year first above written.

LANDLORD:

Waukesha County

By: _____

Gary Bell
Director of Emergency Preparedness

Date: _____

TENANT:

T-Mobile Central LLC, a Delaware limited liability company

By: _____

Date: _____

Exhibit A

DESCRIPTION OF PREMISES

The legal description of the Property is described and/or depicted as follows:

Site address: at 2120 Davidson Road, Waukesha, Wisconsin 53186

Tax Key No.: WAKC 1005.196

TENANT'S LEASE AREA

A part of Parcel 2 of Certified Survey Map No. 3578, Volume 27, Page 179, Document No. 1092358 of Waukesha County Records and located in the Southeast Quarter (SE1/4) of the Northeast Quarter (NE1/4) and the Southwest Quarter (SW1/4) of the Northeast Quarter (NE1/4) of Section Thirty-Six (36), Township Seven (7) North, Range Nineteen (19) East, City of Waukesha, Waukesha County, Wisconsin containing 368 square feet (0.008 acres) of land and being described by:

Commencing at the Northwest Corner of said Parcel 2; thence N67°-30'-30"E (Recorded as N68°-41'-49"E) 40.06 feet along the Northerly line of said Parcel 2; thence S22°-29'-30"E 16.18 feet to the point of beginning; thence N66°-22'-49"E 27.43 feet; thence S23°-38'-20"E 10.00 feet; thence S66°-22'-49"W 12.19 feet; thence S00°-27'-39"W 7.99 feet; thence N89°-32'-21"W 18.00 feet; thence N00°-27'-39"E 10.89 feet to the point of beginning being subject to any and all easements and restrictions of record.

10 FOOT WIDE INGRESS/EGRESS EASEMENT

A part of Parcel 2 of Certified Survey Map No. 3578, Volume 27, Page 179, Document No. 1092358 of Waukesha County Records and located in the Southeast Quarter (SE1/4) of the Northeast Quarter (NE1/4) and the Southwest Quarter (SW1/4) of the Northeast Quarter (NE1/4) of Section Thirty-Six (36), Township Seven (7) North, Range Nineteen (19) East, City of Waukesha, Waukesha County, Wisconsin containing 3,487 square feet (0.080 acres) of land and being Five (5) feet each side of and parallel to the following described line:

Commencing at the Northwest Corner of said Parcel 2; thence N67°-30'-30"E (Recorded as N68°-41'-49"E) 40.06 feet along the Northerly line of said Parcel 2; thence S22°-29'-30"E 16.18 feet; thence N66°-22'-49"E 27.43 feet; thence S23°-38'-20"E 5.00 feet to the point of beginning; thence N66°-22'-49"E 64.01 feet; thence S89°-59'-51"E 58.33 feet; thence N38°-12'-50"E 8.16 feet; thence N90°-00'-00"E 72.14 feet; thence S32°-49'-58"E 30.01 feet; thence S00°-49'-27"E 116.00 feet to a point on the North line of Davidson Road and the point of termination. The side lot lines of said easement shall be shortened or lengthened to terminate on the North line of Davidson Road and the Easterly line of the afore described "Lease Area".

8 FOOT WIDE UTILITY EASEMENT "A"

A part of Parcel 2 of Certified Survey Map No. 3578, Volume 27, Page 179, Document No. 1092358 of Waukesha County Records and located in the Southeast Quarter (SE1/4) of the Northeast Quarter (NE1/4) and the Southwest Quarter (SW1/4) of the Northeast Quarter (NE1/4) of Section Thirty-Six (36), Township Seven (7) North, Range Nineteen (19) East, City of Waukesha, Waukesha County, Wisconsin containing 1,410 square feet (0.032 acres) of land and being Four (4) feet each side of and parallel to the following described line:
Commencing at the Northwest Corner of said Parcel 2; thence N67°-30'-30"E (Recorded as N68°-41'-49"E) 40.06 feet along the Northerly line of said Parcel 2; thence S22°-29'-30"E 16.18 feet; thence N66°-22'-49"E 6.63 feet to the point of beginning; thence N23°-38'-20"W 12.05 feet to point that is 4 feet south of and perpendicular to the Northerly line of said Parcel 2; thence N67°-30'-30"E 164.16 feet along a line that is 4 feet southerly of and parallel to the Northerly line of said Parcel 2 to the point of termination. The side lot lines of said easement shall be shortened or lengthened to terminate on the Northerly line of the afore described "Lease Area".

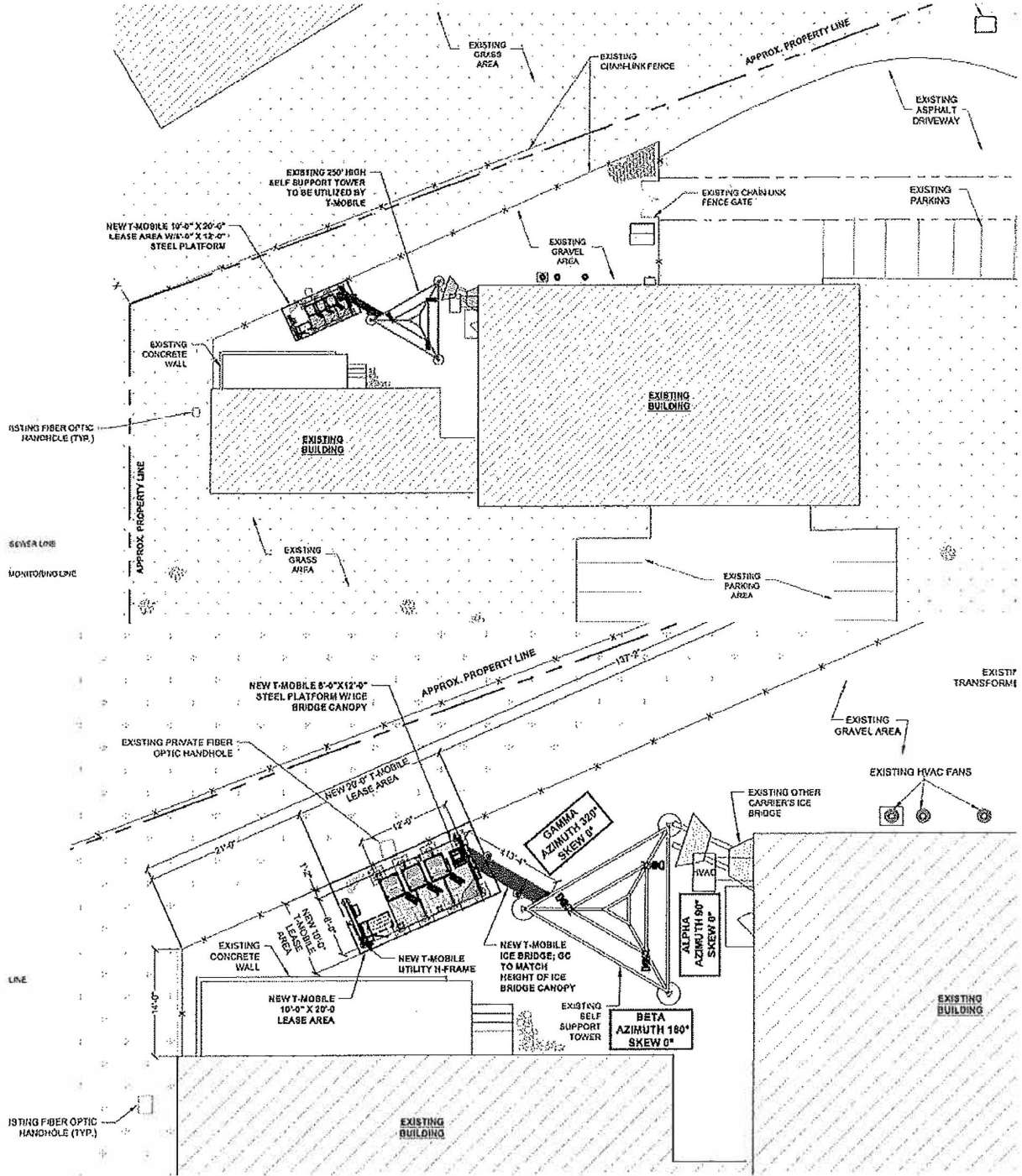
8 FOOT WIDE UTILITY EASEMENT "B"

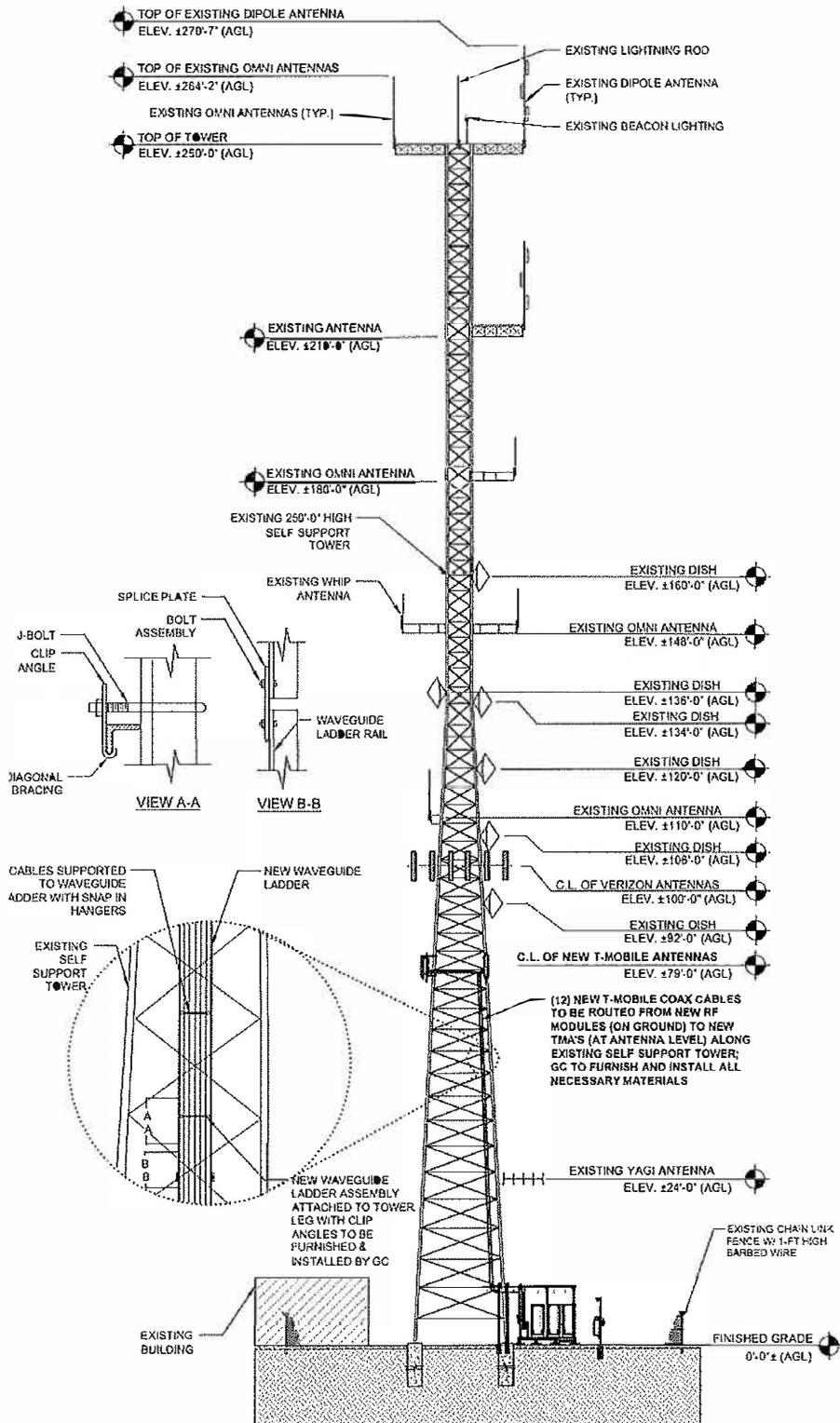
A part of Parcel 2 of Certified Survey Map No. 3578, Volume 27, Page 179, Document No. 1092358 of Waukesha County Records and located in the Southeast Quarter (SE1/4) of the Northeast Quarter (NE1/4) and the Southwest Quarter (SW1/4) of the Northeast Quarter (NE1/4) of Section Thirty-Six (36), Township Seven (7) North, Range Nineteen (19) East, City of Waukesha, Waukesha County, Wisconsin containing 1,075 square feet (0.025 acres) of land and being Four (4) feet each side of and parallel to the following described line:
Commencing at the Northwest Corner of said Parcel 2; thence N67°-30'-30"E (Recorded as N68°-41'-49"E) 40.06 feet along the Northerly line of said Parcel 2; thence S22°-29'-30"E 16.18 feet; thence S00°-27'-39"W 7.01 feet to the point of beginning; thence N89°-32'-21"W 21.24 feet; thence S01°-14'-11"W 46.72 feet; thence S43°-57'-01"E 66.47 feet to a point on the North line of Davidson Road and the point of termination. The side lot lines of said easement shall be shortened or lengthened to terminate on the North line of Davidson Road.

PARENT PARCEL

Parcel 2 of Certified Survey Map No. 3578, recorded on May 29, 1979 in Volume 27 of Certified Survey Maps on Pages 179 through 181 as Document No. 1092358, being part of the Southeast and Southwest ¼ of the Northeast ¼ of Section 36, Town 7 North, Range 19 East, City of Waukesha, County of Waukesha, State of Wisconsin.

Exhibit B





1 SITE ELEVATION
 SCALE: 1/16"=1'-0" (1/16"=2'-0" IF 11X17 SHEET SIZE)

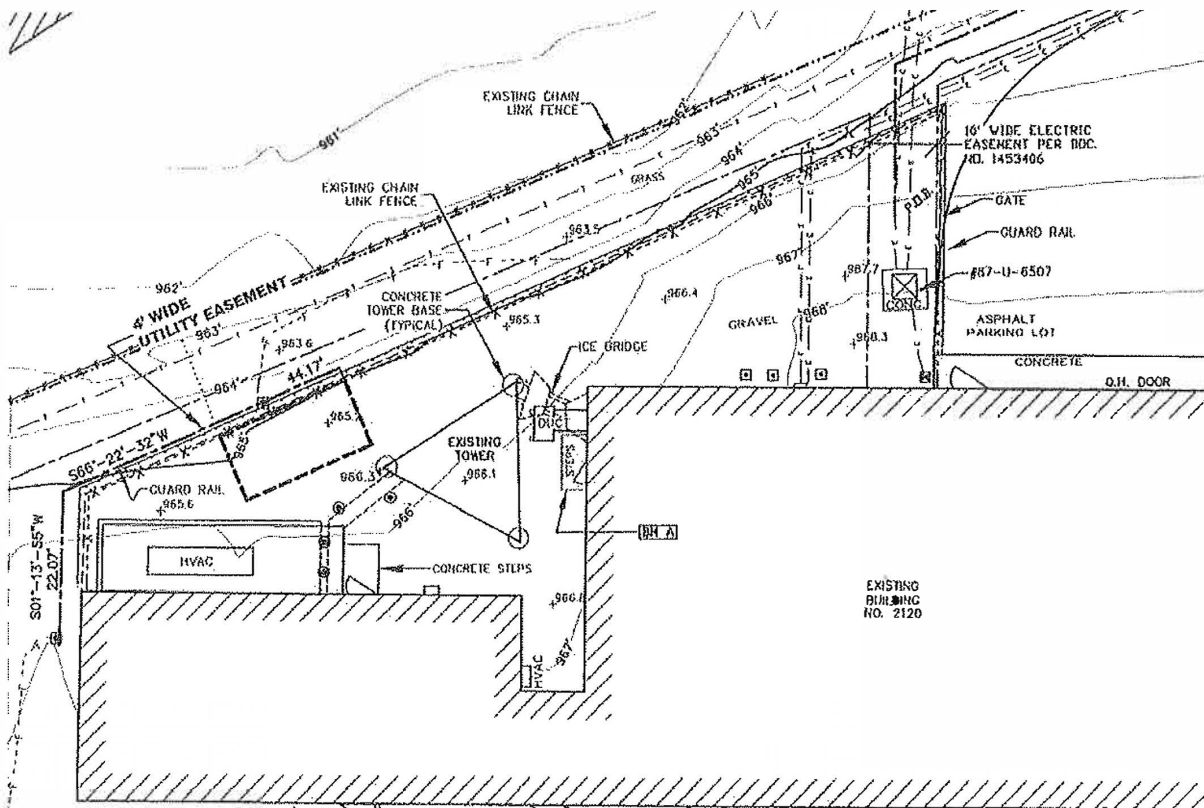
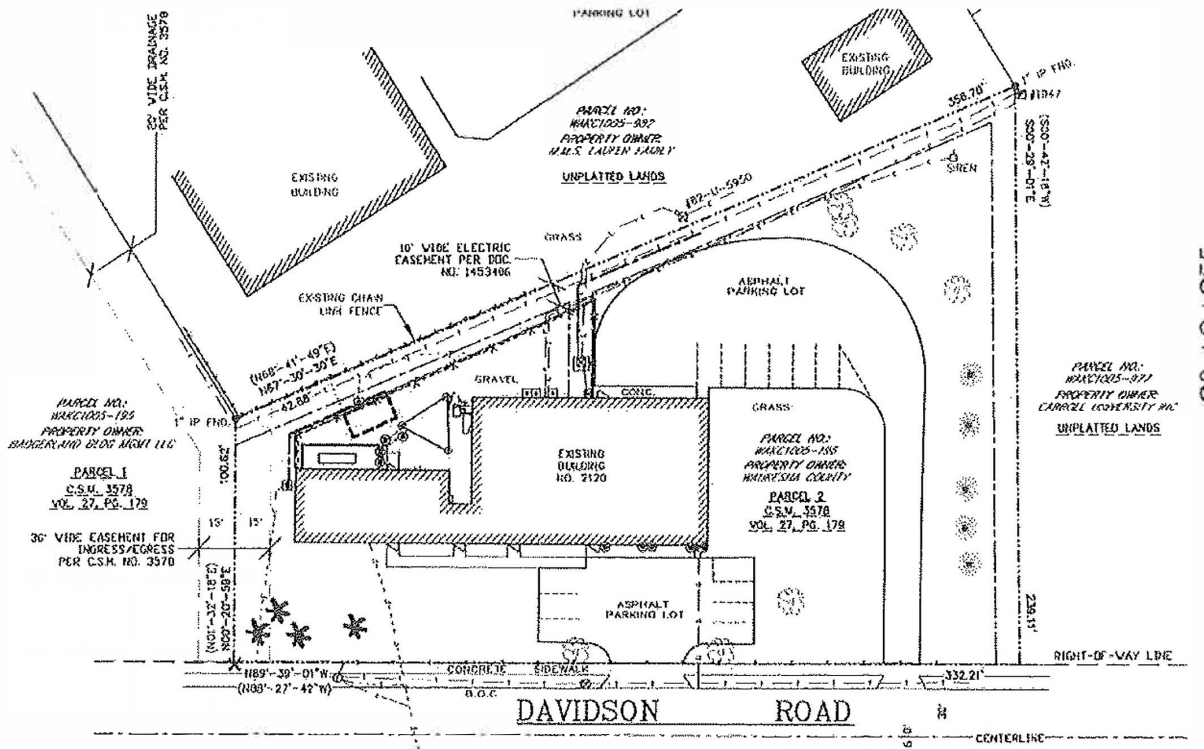


Exhibit C SURVEY



FISCAL NOTE

APPROVE T-MOBILE CELL TOWER AND GROUND LEASE AT THE DAVIDSON ROAD
TOWER

This ordinance approves an agreement between the Waukesha County Department of Emergency Preparedness and T-Mobile Central LLC ("T-Mobile") for the lease of tower attachment locations and ground space at the County's Radio Services Building located at 2120 Davidson Road in the City of Waukesha. The lease will start no later than October 1, 2018, and will run for an initial period of five years with four renewal period of five years each for a potential total period of 25 years.

Under the terms of the lease, T-Mobile will pay the County \$34,000 annually beginning in 2018, with increases of 3% per year thereafter. The revenue will be applied to the Radio Services proprietary fund. The Department anticipates no additional expenditures due to this lease.

This ordinance is estimated to have no direct tax levy impact.

Linda Witkowski

Linda Witkowski

Budget Manager

4/30/18

ST

D1 - Foti	AYE	D14 - Wood	AYE
D2 - Zimmermann	AYE	D15 - Mitchell	AYE
D3 - Morris	AYE	D16 - Crowley	AYE
D4 - Batzko	AYE	D17 - Paulson	Absent
D5 - Dondlinger	AYE	D18 - Nelson	AYE
D6 - Walz	AYE	D19 - Cummings	AYE
D7 - Grant	AYE	D20 - Schellinger	Absent
D8 - Michalski	AYE	D21 - Gaughan	AYE
D9 - Heinrich	AYE	D22 - Wysocki	(2) AYE
D10 - Swan	AYE	D23 - Hammitt	AYE
D11 - Howard	AYE	D24 - Whittow	AYE
D12 - Wolff	(M) AYE	D25 - Johnson	AYE
D13 - Decker	AYE		

173-0-012

Passed (23 Y - 0 N - 2 Absent)

Majority Vote

