

## STAFF REPORT

SUBJECT: Amendment to Lease Agreement with T-Mobile West Tower LLC for Cell-Site at LAVTA Administration and Maintenance Facility

FROM: Mike Tobin, Director of Operations & Planning

DATE: May 27, 2025

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### Action Requested

Staff requests that the F&A committee recommend that the Board review and approve the proposed amendment to the Lease Agreement between LAVTA and T-Mobile West Tower LLC, providing for T-Mobile's continued use of space at the LAVTA Operations and Maintenance Facility for a telecommunications cell-site.

### Background

In 2006, LAVTA received a proposal from T-Mobile to install a cell tower at its Rutan Court facility. In May 2007, the Livermore City Planning Commission approved the construction of a 40-foot telecommunications facility, and the LAVTA Board approved the installation and lease in September 2007.

The original lease commenced on March 26, 2008, with an initial five-year term expiring March 25, 2013. The agreement included three five-year extension options, all of which were exercised by the lessee. The final extension is currently set to expire on March 25, 2028.

In late 2023, Crown Castle—representing T-Mobile—approached LAVTA with a request to expand the cellular equipment on-site, which would have increased the carrier's footprint and rent. After evaluating the proposal, LAVTA staff declined the expansion request but used the opportunity to initiate a conversation about extending the current lease and potentially revising the terms and conditions of the lease agreement.

### Discussion

Following extended negotiations with Crown Castle, staff reached agreement on terms for an amended lease that provides long-term certainty while preserving favorable financial conditions for LAVTA. The key terms of the proposed amendment are as follows:

- Term Extension: The lease will be extended for four (4) additional five-year terms, resulting in a new final expiration date of March 25, 2048.

- Annual Rent Escalation: The lease will maintain the existing 5% annual rent escalation, which is favorable compared to industry norms and will help ensure lease payments remain aligned with market trends over time.
- Current Rent: The current base rental rate will remain unchanged, with the existing 5% annual escalation continuing to apply throughout the lease term.
- Administrative Fee: T-Mobile will pay LAVTA a one-time administrative fee of \$4,000 to cover legal and administrative costs associated with processing the lease amendment.

Staff believes that this amendment preserves a steady and growing revenue stream for LAVTA while avoiding operational disruption or the need to market the site to a new tenant when the current lease expires.

### **Budget Considerations**

Currently, LAVTA receives \$3,929.18 per month in rentals fees from T-Mobile. Any revenue generated from this lease agreement will be included in all future operating budgets.

### **Next Steps**

Based on a favorable review from LAVTA's Legal Counsel, Staff, and the F&A Committee, and provided the LAVTA Board approves, LAVTA's Executive Director will finalize and execute the Lease with T-Mobile.

### **Recommendation**

Staff requests that the F&A committee recommend that the Board of Directors review and approve the proposed amendment to the Lease Agreement between LAVTA and T-Mobile West Tower LLC for continued use of space at the LAVTA Operations and Maintenance Facility for a telecommunications cell-site.

Attachments:

1. Existing Lease Agreement
2. Proposed Draft Amendment

**LEASE**

**Dated as of September 10, 2007**

**Between**

**LIVERMORE-AMADOR VALLEY TRANSIT AUTHORITY**  
**a joint powers authority**

**and**

**OMNIPOINT COMMUNICATIONS, INC.**  
**a Delaware Corporation**

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## **LEASE**

### **PREAMBLE**

**THIS LEASE** ("Lease"), dated as of September 10, 2007 is made by and between the Livermore Amador Valley Transit Authority, a joint powers authority ("Authority") and Omnipoint Communications, Inc., a Delaware corporation, d/b/a T-Mobile ("Lessee").

### **RECITALS**

A. Authority, a public agency, is the owner of certain real property situated in Alameda County, State of California, located at 1362 Rutan Court, Suite 100, Livermore, CA and commonly known as the Headquarters Site (hereinafter referred to as the "Site"). A legal description of the Site is contained in Exhibit A to this Lease.

B. Lessee is a corporation organized under the laws of the State of Delaware whose principal business is to provide wireless personal communications service.

C. Lessee desires use of a portion of the Site for the purpose of installing, removing, replacing, maintaining and operating, at its expense, a wireless facility including, without limitation, related antenna equipment and fixtures.

D. Authority is willing to permit Lessee to lease a portion of the Site in accordance with the terms, conditions and covenants of this Lease, and subject to all ordinances and use permit conditions, and regulating rules and laws of any competent authority having jurisdiction over matters pertaining to the subject matter of this Lease.

**NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:**

Section 1. PREMISES.

Authority hereby leases to Lessee and Lessee leases from Authority for the term, at the rental, and upon all of the conditions set forth herein, that certain real property at Authority's Site, in Livermore, California, consisting of approximately one hundred eighty five (185) square feet of ground space upon which Lessee shall install a wireless facility, all as more particularly shown and described in the project plans approved pursuant to the terms and conditions of this Lease, which are attached hereto and incorporated herein by this reference as Exhibit B (hereinafter referred to as the "Premises"), together with a non-exclusive license for access thereto, as shown on Exhibit B attached hereto. The layout and arrangement of the Premises, which may be used for location and reference purposes, is contained in Exhibit B to this Lease. No other facilities or improvements of any kind shall be placed upon the Premises without Authority's prior written consent. After construction, the approved "as built" record improvement plans shall be substituted for the originally approved plans to reflect any changes approved by Authority during construction. Pursuant to the terms and conditions of this Lease, Lessee may conduct such surveys, structural strength analysis, subsurface boring tests, and other activities of a similar nature as Lessee may deem necessary, at the sole cost of Lessee, subject to reasonable limitations as may be determined by Authority due to presence of or effect on Authority infrastructure or facilities on the Site.

Section 2. TERM.

The term of this Lease shall be for a period of five (5) years commencing on the Commencement Date as established by Section 3 ("Initial Term"). If Lessee has complied with all terms and conditions of the Lease at the end of each lease term and is not in default under the Lease, Authority shall grant Lessee the right and option ("Renewal Option") to extend the term



of this Lease for three (3) additional five (5) year terms ("Renewal Terms"). Lessee shall exercise the Renewal Option, if at all, by giving written notice to Authority of Lessee's election to extend the term no later than ninety (90) days prior to the expiration of the Initial Term or a then-current Renewal Term, whichever is applicable. All terms, conditions and requirements of this Lease shall continue in effect during the Renewal Terms. The initial rent for each Renewal Term shall be the rent applicable to the last year of the preceding term increased by the applicable annual CPI increase as set forth in Section 3.

Section 3. RENTAL.

Lessee shall pay to Authority as rent for the Premises in advance on the first day of each calendar month of the term of this Lease without deduction, offset, prior notice or demand, in lawful money of the United States, the sum of Eighteen Hundred dollars (\$ 1,800.00) per month. The initial term of this Lease shall commence on the thirtieth (30<sup>th</sup>) day following Lessee's notice to Authority in writing that Lessee has obtained all permits and approvals necessary for Lessee to be legally entitled to construct a facility for providing wireless telecommunications service at the Premises, or six (6) months from the date this Lease is executed, whichever occurs first (the "Commencement Date"). Lessee shall exercise best efforts to obtain all necessary approvals at the earliest practicable date following execution of the Lease. If the Commencement Date is not the first day of the month, or if the Lease termination date is not the last day of the month, a prorated monthly installment shall be paid at the then current rate for the fractional portion of that month during which the Lease commences and/or terminates.

During the entire term of this Lease, including any Renewal Term if any Renewal Option is exercised, the rental charge shall be increased annually by an amount equal to five percent (5%) of the rental charge in effect for the prior year.

Lessee also shall reimburse Authority any and all costs incurred by Authority as a result of the negotiation, preparation, execution and delivery of this Lease, including but not limited to engineering and attorney's fees, and administrative costs ("Transactional Costs") up to the maximum sum of Three Thousand Dollars (\$3,000). Authority shall furnish Lessee with a reasonably detailed invoice reflecting the Transactional Costs due and owing hereunder and Lessee shall tender full payment to Authority of said costs within thirty (30) days from the date of the invoice.

Section 4. USE.

4.01 Permitted Uses. Lessee shall use the Premises for the installation, removal, replacement, operation, maintenance and use of a wireless facility, consisting of the equipment, improvements, and specific facilities together with the utilities, cables and wires reasonably needed to support the operation of the foregoing facilities (collectively, "Wireless Facility"), as more particularly specified in Section 1 and depicted in Exhibit B. Lessee shall use the Premises for purposes related to wireless telecommunications only and shall not use the Premises for any other purpose without the written consent of Authority.

The installation of the above-referenced facilities, equipment and improvements shall be subject to the reviews, approvals and requirements set forth in Section 5.05. Lessee shall be solely responsible for any and all costs associated with installation, maintenance and use of any improvements, equipment and facilities on the Premises.

Authority grants Lessee reasonable vehicular and foot access to and around the Premises by means of the existing gates and roads on the Site and such access shall be available on a security basis to Lessee, Lessee's employees and invitees, all hours of each day of the week, all days of the year.

Lessee agrees that for access during regular hours and non-emergencies, Lessee or Lessee's representative shall give the Authority twenty-four (24) hours prior notice before entering the Site. For after-hours requests, Lessee's employees or agents can check in at the Dispatch Station, located at the Site, Suite 200.

A company I.D. badge or a letter on company letterhead authorizing a specific individual or individuals from Lessee must be shown to the staff member or dispatch in order to enter the Site.

Lessee understands that this is a non-exclusive lease and that Authority may enter into leases with other communications companies to use the Site, provided, however, that Lessee's use of its Premises shall be exclusive and Authority may not grant a lease that would interfere with Lessee's use and operation of the Wireless Facility.

Lessee shall provide for the maintenance of all landscaping by Lessee as may be required as a condition of the any Use Permit issued by the Authority.

4.02 Prohibited Uses. Lessee understands that under the terms of Authority's leases with other communications companies using the Site, Authority may not grant a lease that will result in interference with the operations of other companies' communications systems. Lessee shall be prohibited from any use that interferes with or in any way disturbs the operation of Authority's other existing leases at the Site and this Lease is conditioned upon not causing interference. In the event that Lessee causes such interference and it is not promptly resolved between other lessees and Lessee, by the Federal Communications Commission, or by any other applicable governmental agency, this Lease shall thereupon terminate. As a condition precedent to the effectiveness of this Lease, Lessee shall affirm to Authority in writing that there will be no such interference.

4.03 Interference. Lessee's Wireless Facility shall not disturb the facilities which are owned and used by Authority and/or any of Authority's other existing lessees' communications facilities, regardless of their location, on the Commencement Date ("Pre-existing Facilities and Equipment"). Lessee's Wireless Facility shall comply with all non-interference rules of the Federal Communications Commission ("FCC"). This Lease is expressly conditioned upon Lessee's Wireless Facility not causing such interference. In the event that Lessee causes such interference and it is not promptly resolved between other lessees and Lessee, by the FCC, or by any other applicable governmental agency, this Lease shall thereupon terminate upon written notice to Authority. As a condition precedent to the effectiveness of this Lease, Lessee shall affirm to Authority in writing that there will be no such interference. Lessee agrees to cooperate with Authority, at no cost to Lessee, in accommodating other wireless, broadband or communications facilities on Authority's Property, so long as such other wireless facilities do not materially interfere with Lessee's use of its equipment.

Authority agrees that it will not grant a future lease, license, or other rights to any party to use any portion of the Premises in a way which materially interferes with the communications operation of Lessee described in Section 4.01 above. Such interference with Lessee's communications operation shall be deemed a material breach by Authority, and Authority shall have the responsibility to promptly terminate said interference. In the event any such interference does not cease promptly, the parties acknowledge that continuing interference will cause irreparable injury to Lessee, and therefore, Lessee shall have the right to bring action to enjoin such interference or to terminate the Lease upon thirty (30) days' written notice upon notice to Authority. Notwithstanding the foregoing, Pre-existing Facilities and Equipment operating in the same manner as on the Commencement Date shall not be deemed interference.

4.04 Approval by the Authority and Other Agencies. As a condition precedent to Authority's obligation to tender the Premises to Lessee, Lessee shall obtain the prior approval of the Authority and such other governmental agencies and bodies that may have jurisdiction over use of the Premises by Lessee to make the improvements specified in Section 4.01 and to conduct the activities permitted under this Lease. Prior to use of the Premises, Lessee shall obtain all required permits, licenses and approvals from the Authority and any other governmental agencies having jurisdiction over Lessee's use of the Premises. As a condition of this Lease, Lessee shall maintain such permits, licenses and approvals in force throughout the term of this Lease, including any Renewal Term in the event the Lease is extended. Lessee shall be solely responsible for conducting any environmental review required to be undertaken in association with Lessee's use of the Premises and for any and all costs associated therewith, as well as any and all fees, charges, or other expenses that may be imposed by the Authority or other regulatory agencies in connection with Lessee's use or enjoyment of the Premises prior to the Lease commencement or at any time during the term of the Lease.

Authority agrees to fully cooperate with Lessee in obtaining the local permits and without limiting the generality of the foregoing, to execute any applications, maps, certificates, or other documents that may be required in connection with local permits.

4.05 Compliance with Laws. Authority represents that the Site described on Exhibit A and Authority's improvements thereon, to the best of its knowledge, are and shall remain in substantial compliance with building, fire/safety, disability, and other laws, codes, and regulations of applicable governmental authorities. Lessee shall not do or permit anything to be done in, on or about the Premises, or bring or keep anything in, on or about the Premises, which

will in any way conflict with any law, statute, ordinance, or governmental rule or regulation now in force or which may hereafter be enacted or promulgated by any public authority.

4.06 Condition, Use and Zoning of Premises. Authority makes no warranty or representation of any kind concerning the condition of the Premises, or the fitness of the Premises for the use intended by Lessee, or of the applicable zoning regulations to Lessee's proposed use thereof, and hereby disclaims any personal knowledge with respect thereto, it being expressly understood by the parties that Lessee has personally inspected the Premises, knows its condition, finds it fit for Lessee's intended use, accepts it as is, and has ascertained that it can be used for the purposes specified in Section 4.01.

Section 5. MAINTENANCE, REPAIRS, AND ALTERATIONS.

Lessee shall keep in good order, condition and repair the Premises, and the improvements, facilities, and equipment placed on the Premises by Lessee, and every part thereof at Lessee's sole expense. Lessee shall keep the Premises clean and free of debris.

Authority shall have the right to require Lessee to relocate the Lessee's Wireless Facility during any Renewal Term and any subsequent extension of the Term of this Lease upon not less than twelve (12) months' prior written notice to Lessee, in the event Authority requires the Premises for any Authority use. All costs and expenses of such relocation shall be borne by Lessee. If Authority requires Lessee to relocate during the Initial Term (the first five (5) years) of this Lease, Authority shall pay all costs of such relocation. In the event Lessee is unable to relocate to the new premises due to technological constraints, Authority shall have the right to terminate this Lease upon not less than twelve (12) months' prior written notice. In no event shall Authority be allowed to relocate Lessee in order to accommodate a competitor of Lessee to locate upon the Premises.

5.01 Surrender. On the last day of the term hereof, or upon any prior termination, Lessee shall surrender the Premises, excluding all improvements made thereto by Lessee, to Authority in the same condition as near as practical as when received by Lessee, ordinary wear and tear excepted, clean and free of debris. Lessee shall remove all structures, buildings, antennas, and any other facilities, equipment or improvements that Lessee places upon the Premises, shall repair any damage to the Premises occasioned by the installation, maintenance or removal of Lessee's improvements, fixtures, furnishings and equipment and shall restore the Premises to the same condition as when Lessee received the Premises from Authority, reasonable wear and tear excepted. Lessee has the right to remove all of its facilities at its expense on or before the termination of this Lease, subject to Lessee's obligation to restore the Premises as provided herein.

5.02 Authority's Rights. If Lessee fails to perform Lessee's obligations under this Section 5 or under any other Section of this Lease, Authority may at its option (but shall not be required to) enter upon the Premises after prior notice to Lessee and the expiration of any applicable cure period provided for in this Lease (except in the case of an emergency, in which case no prior notice shall be required), to perform such obligations on Lessee's behalf and put the same in good order, condition and repair, and the cost thereof together with interest thereon at the maximum rate then allowable by law shall become due and payable as additional rental to Authority together with Lessee's next rental installment.

5.03 Authority's Obligations. Authority shall have no obligation to repair and maintain either the Premises or the improvements thereto and facilities placed thereon. Lessee expressly waives the benefit of any statute now or hereafter in effect which would otherwise

afford Lessee the right to make repairs at Authority's expense or to terminate this Lease because of Authority's failure to keep the Premises in good order, condition and repair.

5.04 Security Measures. Authority has no obligation to provide any security measures at the Site other than those Authority in its discretion determines are needed for its own facilities. Lessee may provide reasonable security measures for its facilities provided that such measures shall not limit Authority's or Authority's tenants' use of the Site in any way. Lessee shall obtain prior approval before installing or implementing any security system, device, operation or plan to protect Lessee's Premises or Authority's adjacent property. Lessee shall bear all costs of security measures upgrades mandated by federal, state or local law or regulations for wireless communications facilities. It shall be Lessee's exclusive obligation to determine the scope of such security measures obligations and District assumes no responsibility therefore.

5.05 Improvements.

(a) Lessee, at its sole cost and expense, may make alterations, improvements, or utility installations (including, but not limited to, the installation of emergency power generators) (hereinafter collectively referred to as "Improvements") to or on the Premises that are necessary for the conduct of the permitted uses of the Premises, subject to the prior written approval of Authority, which approval shall not be unreasonably withheld, conditioned or delayed, and, if necessary, all other governmental agencies, including the Authority, which have jurisdiction over the use of the Premises by Lessee. In order to obtain Authority's prior written approval for any Improvement, Lessee shall submit maps and drawings or renderings of any proposed Improvement to Authority, sufficiently detailed to enable Authority to make an informed judgment about any proposed Improvement. Should Lessee make any Improvements



without the prior approval of Authority, Authority may require that Lessee remove any or all of the same at Lessee's sole cost and expense. Normal maintenance, replacements, and upgrades that do not change the physical appearance of the Premises will not be subject to the prior approval of Authority.

(b) Lessee shall have the right (but not the obligation) at any time following the full execution of this Lease and prior to the Commencement Date, to enter the Premises for the purpose of making necessary inspections and engineering surveys and other reasonably necessary and non-destructive tests (collectively "Tests") to determine the suitability of the Premises for Lessee's Wireless Facility and for the purpose of preparing for the construction of Lessee's Wireless Facility. During any Tests or pre-construction work, Lessee will have insurance as set forth in this lease in Section 5.05 (e) (4) and Section 6. Lessee will notify Authority of any proposed Tests or pre-construction work and will coordinate the scheduling of same with Authority. If Lessee determines that the Premises are unsuitable for Lessee's contemplated use, then Lessee will notify Authority and the Lease will terminate. Lessee will repair any damage caused by its Tests.

(c) Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use on the Premises, which claims are or may be secured by any mechanics' or materialmen's lien against the Premises or any interest therein. Lessee shall give Authority no less than ten (10) days' notice prior to the commencement of any work on the Premises, and Authority shall have the right to post notices of non-responsibility in or on the Premises as provided by law. If Lessee, in good faith, contests the validity of any such lien, claim or demand, then Lessee shall, at its sole expense, defend itself

and Authority against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof against the Authority or the Premises.

If Authority shall require, Lessee shall furnish to Authority a surety satisfactory to Authority in an amount equal to such contested lien, claim or demand indemnifying Authority against liability for the same and holding the Premises free from the effect of such lien or claim. In addition, Authority may require Lessee to pay Authority's attorney's fees and costs reasonably and necessarily incurred in participating in such action.

(d) Except for Lessee's equipment and other real or personal property that constitute the wireless facility, any alterations, improvements or utility installations, which may be made on the Premises by Lessee by mutual written agreement of Authority and Lessee at any time, shall, upon Authority's option, remain the property of Authority at the end of the term. Authority hereby waives any and all lien rights it may have, statutory or otherwise, concerning the Lessee's 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 Authority gives Lessee and Secured Parties (defined below) 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 Lessee's and/or Secured Parties' sole discretion and without Authority's consent.

(e) Before the construction of any Improvements are commenced on the Premises and before any building materials have been delivered to the Premises by Lessee or agents under Lessee's authority, Lessee shall comply with the following conditions or obtain Authority's written waiver of the following conditions:

(1) Visual and Environmental Impact. Lessee shall use its best efforts to make any Improvements on the Premises aesthetically pleasing and environmentally

neutral. Notwithstanding the foregoing, Authority reserves the right to require that reasonable measures be undertaken to improve the visual or environmental impact of any proposed improvement or alterations of the Premises.

(2) Construction Schedule. Lessee shall deliver to Authority for Authority's approval a time schedule setting forth in detail a description of the Improvements and all steps for construction of the Improvements, and Lessee's best estimate of the date upon which each step shall be substantially completed. Authority's approval (which shall not be unreasonably withheld or delayed) or disapproval of the schedule shall be communicated to Lessee in the manner provided for the giving of notice herein and any disapproval shall be accompanied by a specification of the grounds for disapproval.

(3) Protection of Adjacent Property, Indemnity of Authority. Lessee shall protect the Site against damage resulting from the performance of any work undertaken by Lessee or Lessee's agents, employees, contractors or assigns, and shall indemnify Authority against all liens or liability in any way arising out of the performance of the work or the furnishing of labor, services, materials, supplies, equipment or power in connection therewith, except to the extent such liability results from Authority's negligence or willful misconduct.

(4) Insurance. In addition to the insurance coverage otherwise required under this Lease, Lessee shall maintain or cause to be maintained workers' compensation insurance covering all persons employed in connection with the construction of any Improvements, repair or maintenance activities with respect to whom death or injury claims could be asserted against Authority, Lessee, or the Premises. Authority may require that any third parties performing work on the Premises maintain such workers' compensation insurance

as well. Such insurance shall be maintained at Lessee's sole cost and expense at all times when any work is in process and shall otherwise conform to the requirements of this Lease for insurance.

(5) Notice of Completion. Immediately upon substantial completion of any improvement, Lessee shall prepare and provide Authority with a notice of completion suitable for recordation in the official records of the County of San Mateo. Authority, at its option, may elect to record said notice.

(6) Notice of Changes in Plans. On completion of any Improvement, Lessee shall give Authority notice of all changes in plans and specifications made during the course of the work and shall at the same time deliver to Authority "as built" drawings accurately reflecting all such changes; provided, no change that substantially alters the final plans last approved by Authority shall be made without Authority's prior written approval, which shall not be unreasonably withheld.

Section 6. INDEMNITY AND INSURANCE.

6.01 Indemnity. This Lease is made upon the express condition that Lessee shall indemnify, keep and save harmless Authority, and its directors, officers, agents and employees against any and all suits, claims or actions ("Claims") arising out of any injury or injuries to, or death or deaths of, persons or damage to property that may occur, or that may be alleged to have occurred from any cause or causes whatsoever, in any way connected with Lessee's use or occupancy of the Premises during the term of this Lease, or any holdover tenancy thereof, except where caused by the negligence or willful misconduct of Authority, its employees, contractors or agents. Lessee further agrees to defend any and all such actions, suits or claims and pay all reasonable charges of attorneys and all other costs and expenses arising therefrom or incurred in connection therewith; and if any judgment be rendered against the

Authority or any of the other individuals enumerated above in any such action, Lessee shall, at its expense, satisfy and discharge the same.

6.02 Insurance.

(a) Workers' Compensation. Lessee shall procure and maintain at all times during the term of this Lease and any holdover tenancy thereof Workers' Compensation Insurance in conformance with the laws of the State of California and Federal laws where applicable. Employer's Liability Insurance shall not be less than One Million Dollars (\$1,000,000) per accident or disease. Upon commencement of the term of the Lease, Lessee shall deliver to Authority a Certificate of Insurance, which shall stipulate that thirty (30) days' advance written notice of cancellation or material change shall be given to Authority.

(b) Bodily Injury, Death and Property Damage Liability Insurance. Lessee shall also procure and maintain at all times during the term of this Lease and any holdover tenancy thereof comprehensive broad form Commercial General Liability Insurance (including automobile operation) covering Lessee and Authority for any liability arising out of the use of, or occurring in, on, or about the Premises. The policy(ies) shall include coverage for all vehicles, licensed or unlicensed, on or off the Premises, used by or on behalf of Lessee during the term of this Lease or holdover tenancy thereof. The policy(ies) shall be subject to a limit for each occurrence of Five Million Dollars (\$5,000,000) naming as an additional insured, in connection with Lessee's activities, Authority, its directors, officers, employees and agents. The Insurer(s) shall agree that its policy(ies) is/are Primary Insurance and that it shall be liable for the full amount of any loss up to and including the total limit of liability without right of contribution from any other insurance covering Authority.

(1) Inclusion of Authority as an additional insured shall not in any way affect its rights with respect to any claim, demand, suit or judgment made, brought or recovered against Lessee. Said policy shall protect Lessee and Authority in the same manner as though a separate policy had been issued to each; but nothing in said policy shall operate to increase the Insurer's liability as set forth in the policy beyond the amount or amounts shown or to which the Insurer would have been liable if only one interest had been named as an insured.

(2) Upon commencement of the term of the Lease, Lessee shall deliver to Authority a Certificate of Insurance which shall indicate compliance with the insurance requirements of this paragraph and shall stipulate that thirty (30) days' advance written notice of cancellation or material change shall be given to Authority.

(3) Fire and Extended Coverage Insurance. Lessee shall maintain a policy of standard fire and extended coverage insurance on its Improvements to the Premises.

## Section 7. DAMAGE, DESTRUCTION, AND TERMINATION.

### 7.01 Definitions.

(a) "Premises Partial Damage" shall herein mean damage or destruction to the Premises to the extent that the cost of repair is less than 50% of the then replacement cost of the Premises.

(b) "Premises Total Destruction" shall mean damage or destruction to the Premises to the extent that the cost of repair is 50% or more of the then replacement cost of the Premises.

7.02 Partial Damage. If during the term of this Lease there is Premises Partial Damage, unless caused by negligent or willful act of Lessee (in which event Lessee shall make the repairs at Lessee's expense), Authority may at Authority's option either (1) repair such

damage, but not Lessee's fixtures, equipment, alterations, additions, and improvements, as soon as reasonably possible at Authority's expense, in which event this Lease shall continue in full force and effect, or (2) give written notice to Lessee within thirty (30) days after the day of occurrence of such damage or Authority's election to terminate the Lease. In the event Authority elects to repair such damage, and such repairs are estimated to require more than one hundred eighty (180) days to complete, Lessee shall have the option to terminate the Lease upon written notice to Authority. In the event Authority elects to give notice of Authority's intention to cancel and terminate this Lease, Lessee shall have the right within twenty (20) days after the receipt of such notice to give immediate written notice to Authority of Lessee's intention to repair such damage at Lessee's expense, without reimbursement from Authority, in which event this Lease shall continue in full force and effect, and Lessee shall proceed to make such repairs as soon as reasonably possible. All repairs shall be made in accordance with Authority standards and subject to approval by Authority. If Lessee does not give such notice within such twenty (20) day period this Lease shall be cancelled and terminated as of the date of the occurrence of such damage.

7.03 Total Destruction. If during the term of this Lease there is Premises Total Destruction (including destruction required by any authorized public authority), this Lease shall automatically terminate as of the date of such total destruction.

7.04 Temporary Facilities. Authority acknowledges and agrees that it is necessary that Lessee maintain continuous operation on the Premises during the term of this Lease. Therefore, in the event of Premises Partial Damage which renders Lessee's Wireless Facility inoperable or unusable and the Lease is continued pursuant to Section 7.02, Lessee, as hereinafter provided, shall have the right (subject to Authority's approval, which shall not be

unreasonably withheld, and any requirement of law or governmental authority and any applicable covenants, conditions and restrictions) to construct or install temporary facilities, including temporary or replacement antenna, if necessary, in or about the Premises or the Site, in such locations as may be reasonably acceptable to Authority and in a manner which will not interfere with any repair or reconstruction efforts, in order to continue operation. Authority shall allow Lessee to install such additional equipment and fixtures, including replacement antenna, cables and wires, and shall permit Lessee such access, repair and maintenance rights as may be necessary to allow Lessee to operate and maintain such temporary facilities until the Premises have been sufficiently repaired to permit Lessee to use the Premises, or until a substitute permanent location acceptable to Authority and Lessee has been agreed upon, and construction of such substitute permanent facility has been completed.

7.05 Abatement of Rent: Lessee's Remedies. In the event of damage described in Section 7.01(b) and Authority or Lessee repairs or restores the Premises pursuant to the provisions of this Section 7, the rent payable hereunder for the period in which such damage, repair or restoration continues shall be abated in proportion to the degree to which Lessee's use of the Premises is impaired. Except for abatement of rent, if any, or as otherwise provided in this Lease, Lessee shall have no claim against Authority for any damage suffered by reason of any such damage, destruction, repair or restoration.

7.06 Lessee's Right to Terminate. Lessee shall have the right to terminate this Lease should one of the following events occur:

(a) The approval of any agency, board, court or other governmental authority necessary for either the construction or operation of this Wireless Facility cannot be



obtained, or said approval is revoked, or Lessee determines the cost of obtaining such approval is prohibitive; or

(b) Lessee determines that the Premises is not appropriate for its Wireless Facility for technological reasons, including, but not limited to, signal interference.

(c) Lessee will give Authority no less than thirty (30) days' written notice of termination of this Lease under the terms of this Section. Upon termination, Lessee shall remove all of Lessee's communication equipment from the Premises and shall restore the Premises to its original condition except for normal wear and tear, and Authority and Lessee shall be relieved of any further obligation under this Lease, with the exception that Lessee shall be obligated to pay any rent and the Transactional Costs, if any, as specified in Section 3, accruing prior to the date of termination of this Lease.

7.07 Authority's Right to Terminate. After the commencement of the second five-year Renewal Term (ten (10) years after the Commencement Date), Authority may terminate this Lease upon 365 days' written notice to Lessee.

7.08 Waiver. Authority and Lessee waive the provisions of any statutes which relate to termination of leases when leased property is destroyed and agree that such event shall be governed by the terms of this Lease.

7.09 Condemnation. If a condemning authority takes all of the Premises, or a portion which in Lessee's opinion is sufficient to render the Premises unsuitable for Lessee's use, then this Lease shall terminate as of the date when possession is delivered to the condemning authority. In any condemnation proceeding each party shall be entitled to make a claim against the condemning authority for just compensation (which for Lessee shall include, the value of the Lessee's Wireless Facility, moving expenses, prepaid rent, business dislocation

expenses and any other amounts recoverable under condemnation law except for amounts pertaining to Authority's ownership in the Premises). Sale of all or part of the Premises to a purchaser with the power of eminent domain in the face of the exercise of its power of eminent domain shall be treated as a taking by a condemning authority.

Section 8. TAXES.

Pursuant to California Revenue and Taxation Code Section 107.6, Lessee is hereby notified of its obligation to pay all property taxes levied on Lessee's interests in property created by the Lease, including real property, personal property and possessory interest taxes. Moreover, it shall be Lessee's exclusive obligation to determine the scope of its tax obligations created by the Lease, and Authority assumes no responsibility therefore. Lessee also bears responsibility for paying all fees and assessments (general and special) generated by the Lease, and Authority assumes no responsibility therefore.

Section 9. UTILITIES.

Lessee shall have the right to install utilities, at Lessee's expense, on or near the Premises (including, but not limited to the installation of emergency back-up power) in accordance with the plans approved in advance by Authority. Subject to Authority's approval of the location, which approval shall not be unreasonably withheld, delayed or conditioned, Lessee, at Lessee's sole cost, shall have the right to place utilities on (or to bring utilities across) Authority's Property in order to service the Premises and Lessee's Wireless Facility. If Lessee elects to use a gasoline or diesel generator for emergency power, the installation and maintenance of the generator and fuel storage tank shall comply with all zoning, safety, and environmental laws and regulations now in effect or which may hereafter be enacted. Lessee shall pay for all water, gas, heat, light, power and telephone and other utilities and services

supplied to the Premises, together with any taxes thereon. Authority's approval of this Lease does not constitute any zoning or land use approval, which Lessee must obtain separately.

Section 10. ENVIRONMENTAL

Lessee agrees that it will not use, generate, store or dispose of Hazardous Materials (as defined below) on, under, about or within the Premises. Notwithstanding the above, Lessee may use and store batteries and fuel for a generator, provided that batteries and fuel are used in compliance with all applicable federal, state and local laws. Authority represents that, to the knowledge of its General Manager, without the duty of further investigation or inquiry, it has no actual knowledge of any Hazardous Material on or under the Premises that are identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation ("Hazardous Material"). Lessee is hereby on notice that Authority maintains at least one underground storage tank at the Site for purposes of refueling its transit vehicles. Prior to entering into this Lease, Lessee is encouraged to satisfy itself that the Premises are free of any contamination from Hazardous Materials.

Section 11. SIGNS.

Lessee shall not place any signs upon the Premises, except such signs as may be required by federal, state or local safety regulations, and the location and size of such signs shall be subject to the reasonable review and approval of Authority.

Section 12. ASSIGNMENT.

12.01 Authority's Consent Required. Lessee shall not voluntarily or by operation of law assign, transfer, mortgage, or otherwise transfer or encumber all or any part of Lessee's interest in this Lease or in the Premises without Authority's prior written consent, which consent shall not be unreasonably withheld. Authority shall respond to Lessee's request for

consent thereunder in a timely manner and any attempted assignment, transfer, mortgage or encumbrance without such consent shall be void, and shall constitute a breach of this Lease.

Notwithstanding the foregoing, Lessee shall have the right to assign this Lease without Authority's consent (i) to any entity which controls, is controlled by, or is under common control with Lessee; (ii) to any entity resulting from merger or consolidation with Lessee; (iii) to any partnership in which Lessee, the general partner of Lessee, or any entity which controls, is controlled by, or is under common control with the general partner of Lessee, is a general partner; or (iv) to any person or entity which acquires substantially all of Lessee's assets, provided that such assignee: (1) has a net worth of not less than ten million dollars (\$10,000,000) and (2) assumes in full all of Lessee's obligations under the Lease and provided further that Lessee provides to Authority written documentation satisfactory to Authority that the two conditions referenced above have been satisfied.

12.02 Release of Lessee. Following either a permitted assignment or an assignment approved by Authority, Lessee shall be relieved of Lessee's obligations and liabilities including the obligation of Lessee to pay the rent and to perform all other obligations to be performed by Lessee hereunder. The acceptance of rent by Authority from any other person shall not be deemed to be a waiver by Authority of any provision hereof. Consent to one assignment shall not be deemed consent to any subsequent assignment.

Section 13. DEFAULTS: REMEDIES.

13.01 Defaults. The occurrence of any one or more of the following events shall constitute a material default or breach of this Lease by Lessee.

- (a) The abandonment of the Premises by Lessee.
- (b) The failure by Lessee to make any payment of rent or any other payment required to be made by Lessee hereunder, as and when due, where such failure shall

continue for a period of ten (10) business days after written notice thereof from Authority to Lessee. In the event that Authority serves Lessee with a Notice to Pay Rent or Quit pursuant to applicable Unlawful Detainer statutes, such Notice to Pay Rent or Quit shall also constitute the notice required by this subparagraph.

(c) The failure by Lessee to observe or perform any of the covenants, conditions or provisions of this Lease in any material respect to be observed or performed by Lessee, other than those described in Section 13.01 (b) above, where such failure shall continue for a period of thirty (30) days after written notice thereof from Authority to Lessee; provided, however, that the nature of Lessee's default is such that more than thirty (30) days are reasonably required for its cure, then Lessee shall not be deemed to be in default if Lessee commenced such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion.

(d) (1) The making by Lessee of any general arrangement or assignment for the benefit of creditors;

(2) Lessee becomes a "debtor" as defined in 11 U.S.C. § 101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within sixty (60) days);

(3) The appointment of a trustee or receiver to take possession of all or substantially all of Lessee's assets located at or on the Premises or of Lessee's interest in the Lease, where possession is not restored to Lessee within thirty (30) days.

(4) The attachment, execution or other judicial seizure of all or substantially all of Lessee's assets located at or on the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within thirty (30) days.

Provided, however, in the event that any provision of this Section 13.01 (d) is contrary to any applicable law, such provision shall be of no force or effect.

13.02 Remedies. In the event of any such material default or breach by Lessee, Authority may at any time thereafter, with or without notice or demand and without limiting Authority in the exercise of any right or remedy which Authority may have by reason of such default or breach:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession of the Premises to Authority. In such event Authority shall be entitled to recover from Lessee all damages incurred by Authority by reason of Lessee's default including, but not limited to: the cost of recovering possession of the Premises; expenses of reletting, including any costs to return the Premises to the same condition, as near as practical, as when the Lessee received the property from Authority, less ordinary wear and tear; reasonable attorney's fees; and the value at the time of award by the court having jurisdiction thereof of the amount by which the unpaid rent for the balance of the term after the time of such award exceeds the amount of such rental loss for the same period that Lessee proves could be reasonably avoided.

(b) Maintain Lessee's right to possession in which case this Lease shall continue in effect whether or not Lessee shall have abandoned the Premises. In such event Authority shall be entitled to enforce all of Authority's rights and remedies under this Lease, including the right to recover the rent as it becomes due hereunder.

(c) Pursue any other remedy now or hereafter available to Authority under the laws or judicial decision of the State of California. Unpaid installments of rent and

other unpaid monetary obligations of Lessee under the terms of this Lease shall bear interest from the ten (10) days after the date due at the maximum rate then allowable by law.

Section 14. LESSOR'S LIABILITY.

The term "Authority" as used herein shall mean only the owner of the fee title of the Premises at the time in question. In the event of any transfer of such title or interest, Authority herein named (and in the case of any subsequent transfers then the grantor) shall be relieved from and after the date of such transfer of all liability as respects Authority's obligations thereafter to be performed, provided that any funds in the hands of Authority at the time of such transfer, in which Lessee has an interest, shall be delivered to the grantee and such grantee has assumed all of the obligations of Authority hereunder.

Section 15. INTEREST ON PAST- DUE OBLIGATIONS.

Except as expressly herein provided, any amount owed to Authority not paid within ten (10) days of when due shall bear interest at the maximum rate then allowable by law from the date due.

Section 16. HOLDING OVER.

If Lessee remains in possession of the Premises or any part thereof after the expiration of the initial term or option term hereof, as the case may be, such occupancy shall be a tenancy from month to month with all the obligations of the Lease applicable to Lessee and at a monthly rental obligation of one and one half (1.5) times the per month rental in effect at the time of expiration.

Section 17. LESSOR'S ACCESS.

Authority and Authority's agents shall have the right to enter the Premises at reasonable times upon twenty-four (24) hours' prior notice and request to Lessee for the purpose of inspecting the same, showing the same to prospective purchasers, lenders, or lessees, and

making such alterations, repairs, improvements or additions to the Premises as Authority may deem necessary provided such alterations, repairs, improvements or additions do not materially interfere with Lessee's use of the Premises, except that the notice and request requirements are not applicable when access is required for emergency purposes. In case of any emergency, Authority shall notify Lessee as soon as reasonably possible. Further, except for emergency purposes, Authority shall be accompanied by an employee or representative of Lessee provided such employee or representative makes himself or herself available at the noticed and requested time and place. Authority may at any time place on or about the Premises any ordinary "For Sale" signs and Authority may at any time during the last 120 days of the term hereof place on or about the Premises any ordinary "For Lease" signs, all without rebate of rent or liability to Lessee.

Section 18. QUIET POSSESSION.

Upon Lessee paying the rent for the Premises and observing and performing all of the covenants, conditions and provisions on Lessee's part to be observed and performed hereunder, Lessee shall have quiet possession of the Premises for the entire term hereof, including any Renewal Terms, subject to all of the provisions of this Lease. The individuals executing this Lease on behalf of Authority represent and warrant to Lessee with the knowledge that Lessee is relying on such representations and warranties: (a) that they are fully authorized and legally capable of executing this Lease on behalf of Authority, (b) that such execution is binding upon all parties holding an ownership interest in the Premises; and (c) that Authority is the owner of the Premises and has full right and authority to grant Lessee the access and all the uses of the Premises as specified herein.



Section 19. EASEMENTS.

Authority reserves to itself the right, from time to time, to grant such easements, rights and dedications that Authority deems necessary or desirable, and to cause the recordation of parcel maps and restrictions, so long as such easements, rights, dedications, maps and restrictions do not interfere with the use of the Premises by Lessee. Lessee shall sign any of the aforementioned documents upon request of Authority and failure to do so shall constitute a material breach of this Lease.

Section 20. GENERAL PROVISIONS.

20.01 Severability. The invalidity of any provision of this Lease as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

20.02 Time of Essence. Time is of the essence in this Lease.

20.03 Additional Rent. Any monetary obligations of Lessee to Authority under the terms of this Lease shall be deemed to include the minimum rent and all other sums paid or payable by Lessee to Authority hereunder.

20.04 Entire Agreement. This Lease contains all agreements of the parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such matter shall be effective. This Lease may be modified in writing only, signed by the parties in interest at the time of modification. Except as otherwise stated in this Lease, Lessee hereby acknowledges that neither Authority nor any employee(s) or agent(s) of Authority has made any oral or written warranties or representations to Lessee relative to the condition or use by Lessee of said Premises and Lessee acknowledges that to the extent arising out of Lessee's improvements to or use of the Premises Lessee assumes all responsibility regarding the

Occupational Safety and Health Act, the legal use and adaptability of the Premises and compliance with all applicable laws and regulations in effect during the term of this Lease.

20.05 Notices. Any notice required or permitted to be given hereunder, including a Notice to Pay Rent or Quit, or Notice to Terminate, must be given or made for all purposes in writing and will be deemed made (i) if hand delivered, on the day delivered, (ii) if sent by nationally recognized overnight courier, on the day after it is sent, or (iii) if mailed first class mail, postage prepaid and return receipt requested, on the seventh (7<sup>th</sup>) day after depositing in the mail to the applicable address set forth below or to such other address and facsimile number that the parties hereto shall designate as follows:

Authority:               Livermore Amador Valley Transit Authority  
                              1362 Rutan Court, Suite 100  
                              Livermore, CA 94551  
                              Attention: General Manger  
                              Facsimile No: (925) 443-1375

Lessee:                   Omnipoint Communications, Inc.  
                              2380 – A Bisso Lane  
                              Concord, CA 94520  
                              Attn: Lease Administration Manager

With copies concurrently to:

T-Mobile USA, Inc.  
12920 SE 38th Street  
Bellevue, WA 98006  
One copy Attn to:     Lease Administration  
One copy Attn to:     Legal Department

Each notice shall specify the paragraph of this Lease, if any, pursuant or with reference to which it is given. Either party may by notice to the other specify a different address for notice purposes. A copy of all notices required or permitted to be given to Authority hereunder shall be concurrently transmitted to such party or parties at such addresses as

Authority may from time to time hereafter designate by notice to Lessee. Notice given under this section shall be deemed in compliance with applicable statutory notice requirements, including Code of Civil Procedure Section 1162 and Civil Code Section 1953.

20.06 Waivers. No waiver by Authority or Lessee of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach by Authority or Lessee of the same or any other provision. Authority's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Authority's consent to or approval of any subsequent act by Lessee. The acceptance of rent hereunder by Authority shall not be waiver of any preceding breach by Lessee of any provision hereof, other than the failure of Lessee to pay the particular rent so accepted, regardless of Authority's knowledge of such preceding breach at the time of acceptance of such rent.

20.07 Cumulative Remedies. No remedy or election under this Lease shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

20.08 Binding Effect: Choice of Law. Subject to any provisions hereof restricting assignment by Lessee and subject to the provision of Section 14, this Lease shall bind the parties, their personal representatives, successors and assigns. This Lease shall be governed by the laws of the State of California applicable to leases entered into, and to be wholly performed, within the State. The language of all parts of this Lease shall be construed with its fair meaning and not strictly for or against Authority or Lessee.

20.09 Conditions to Effectiveness of Lease. The approval of the Authority's Board of Directors constitutes an express condition precedent to the effectiveness of this Lease.

20.10 Attorney's Fees. If either party named herein brings an action to enforce the terms hereof or declare rights hereunder, the prevailing party in any such action, on trial or appeal, shall be entitled to have its reasonable attorney's fees and court costs to be paid by the losing party.

20.11 Consent. Whenever under this Lease the consent or approval of either party is required or a determination must be made by either party, no such consent or approval shall be unreasonably withheld or delayed and all such determinations shall be made on a reasonable basis and in a reasonable manner.

20.12 Authority. Each individual executing this Lease on behalf of Lessee and Authority represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of said Party.

20.13 Captions. The captions used herein are for convenience only and are a part of this Lease and do not in any way amplify or detract from the terms or provisions hereof.

20.14 Further Assurances. In addition to the actions specifically mentioned in this Lease, the parties shall each do whatever may be reasonably necessary to accomplish the transactions contemplated in the Lease including, without limitation, execution of a Memorandum of this Lease appropriate for recording in Alameda County, in the form of Exhibit C attached hereto.

20.15 Modification of Amendments. The Lease may be modified or amended only by a writing signed by both parties hereto.

**IN WITNESS WHEREOF**, the parties hereto have executed this Lease at the place and on the dates specified immediately adjacent to their respective signatures.

Paula Kelly

Joseph Adams

APPROVED AS TO FORM:

*Muller*

By:


*[Handwritten signature]*

Jim Sullivan

**Area Director - Northern CA**

9-28-07

By

By 

Name David Gallacher  
Vice President, West Region

Title -----

Date 10-11-07

**EXHIBIT A**

**LEGAL DESCRIPTION OF THE SITE**

PARCEL 1, AS SHOWN ON PARCEL MAP 5693, FILED IN THE OFFICE OF THE RECORDER OF ALAMEDA COUNTY, CALIFORNIA, ON MAY 22, 1990 IN BOOK 189 OF MAPS, PAGES 94-95.

APN: 099-1331-031

**EXHIBIT B**

**DESCRIPTION OF THE PREMISES**

**A DRAWING OF THE PREMISES WILL BE PRESENTED HERE OR ATTACHED HERETO**

# PROPERTY INFORMATION

**SITE ADDRESS:** 1862 RUTAN CT. SUITE 100  
LIVERMORE, CA 94551

**PROPERTY OWNER:** LIVERMORE ANIMOR VALLEY  
1862 RUTAN CT. SUITE 100  
LIVERMORE, CA 94551

**CONTACT:** BRECKLEY LOVE  
PHONE: (925) 452-7588

**LONGITUDE:** 37° 47' 22.88" N  
**LATITUDE:** 121° 48' 05.12" W

**ELEVATION:** 413.4' MSL

**CITY OF LIVERMORE:** 099-1331-001

**CURRENT ZONING:** P-02

**PROPOSED USE:** TELECOMMUNICATION FACILITY

# APPROVAL BLOCK

**LANDLORD:** DATE: \_\_\_\_\_

**USING MANAGER:** DATE: \_\_\_\_\_

**REGIONAL PROJECT MANAGER:** DATE: \_\_\_\_\_

**ZONING MANAGER:** DATE: \_\_\_\_\_

**PER ENGINEER:** DATE: \_\_\_\_\_

**EQUIPMENT MANAGER:** DATE: \_\_\_\_\_

**COORDINATION ENGINEER:** DATE: \_\_\_\_\_

**CONSTRUCTION MANAGER:** DATE: \_\_\_\_\_

**TEAM LEAD:** DATE: \_\_\_\_\_

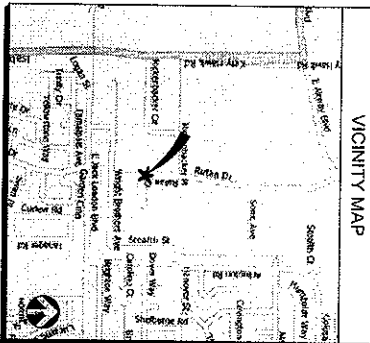
**PRODUCTION LEAD:** DATE: \_\_\_\_\_

**CONVEYANCE MANAGER:** DATE: \_\_\_\_\_

# PROJECT SUMMARY

1-MOBILE PROPOSES TO CONSTRUCT, OPERATE AND MAINTAIN AN OUTDOOR MOBILE RADIO COMMUNICATIONS FACILITY AT 1862 RUTAN CT. SUITE 100, LIVERMORE, CA 94551. (2) FOUNDATION EQUIPMENT CHARGES, (3) COOK CHARGES, (4) FOUNDATION NEW PANEL, ANTENNAS WILL BE MOUNTED IN A STEALTH LIGHTPOLE.

# VICINITY MAP



# DRIVING DIRECTIONS

FROM 1862 GATEWAY BLVD., LIVERMORE, CA 94520

1. TURN RIGHT ONTO RUTAN CT. SUITE 100.
2. TURN RIGHT ONTO RUTAN CT. SUITE 100.
3. TURN RIGHT ONTO RUTAN CT. SUITE 100.
4. TURN RIGHT ONTO RUTAN CT. SUITE 100.
5. TURN RIGHT ONTO RUTAN CT. SUITE 100.
6. TURN RIGHT ONTO RUTAN CT. SUITE 100.
7. TURN RIGHT ONTO RUTAN CT. SUITE 100.
8. TURN RIGHT ONTO RUTAN CT. SUITE 100.
9. TURN RIGHT ONTO RUTAN CT. SUITE 100.
10. TURN RIGHT ONTO RUTAN CT. SUITE 100.
11. TURN RIGHT ONTO RUTAN CT. SUITE 100.

# T-Mobile®

OmniPoint Communications, a subsidiary of T-Mobile USA, Inc.  
1862 GATEWAY BLVD., SUITE 900 CONCORD, CA 94520

# BA12950D WHEELS TRANSIT STEALTH LIGHTPOLE - OUTDOOR EQUIPMENT INSTALLATION

# CONTACT INFORMATION

**APPLICANT:** T-MOBILE USA, INC.  
1862 RUTAN CT. SUITE 100  
LIVERMORE, CA 94551  
CONTACT: WENDY MORAN  
PHONE: (925) 638-3737

**PER ENGINEER:** T-MOBILE USA, INC.  
1862 RUTAN CT. SUITE 100  
LIVERMORE, CA 94551  
CONTACT: JAMES WALKER  
PHONE: (925) 342-1435

**CONSTRUCTION:** SRES, INC.  
10411 OLD PLEASANT RD #210  
SAN JOSE, CA 95127  
CONTACT: CHRYSTAL SHAW  
PHONE: (408) 250-2687

**ZONING:** SRES, INC.  
10411 OLD PLEASANT RD #210  
SAN JOSE, CA 95127  
CONTACT: CHRYSTAL SHAW  
PHONE: (408) 250-2687

**PROPERTY OWNER:** LIVERMORE ANIMOR VALLEY  
1862 RUTAN CT. SUITE 100  
LIVERMORE, CA 94551  
CONTACT: BRECKLEY LOVE  
PHONE: (925) 452-7588

**LEASE AREA:** 1862 RUTAN CT. SUITE 100  
LIVERMORE, CA 94551  
CONTACT: BRECKLEY LOVE  
PHONE: (925) 452-7588

**ARCHITECT/ENGINEER:** SRES, INC.  
10411 OLD PLEASANT RD #210  
SAN JOSE, CA 95127  
CONTACT: CHRYSTAL SHAW  
PHONE: (408) 250-2687

**ASSESSORS PARCEL NO.:** 099-1331-001

**LEGAL DESCRIPTION:** SEE L5-1 AND L5-2 SHEETS

**ADDITIONAL COMPLIANCE:** NOT APPLICABLE FOR THIS TYPE OF CONSTRUCTION.

**OCCUPANCY CLASSIFICATION:** L5-1

# SHEET INDEX

SHEET	DESCRIPTION
T-1	TITLE SHEET
L5-1	SITE SURVEY
L5-2	SITE SURVEY
A-1	SITE PLAN
A-2	ANTENNA PLAN, EQUIPMENT LAYOUT, AND DETAILS
A-3	ELEVATIONS
A-4	ELEVATIONS
A-5	DETAILS
E-1	SINGLE LINE DIAGRAM
E-2	ELECTRICAL PLANS
E-3	GROUNDING PLAN
E-4	DETAILS

# APPLICABLE CODES

CALIFORNIA BUILDING CODE 2001 (UNIFORM BUILDING CODE 1997)

CALIFORNIA FIRE CODE 2001 (UNIFORM FIRE CODE 2000)

CALIFORNIA ELECTRICAL CODE 2001 (UNIFORM ELECTRICAL CODE 2000)

CALIFORNIA MECHANICAL CODE 2001 (UNIFORM MECHANICAL CODE 2000)

CALIFORNIA ENERGY CODE 2001

**PROPRIETARY INFORMATION:**  
THE INFORMATION CONTAINED IN THIS SET OF DRAWINGS IS PROPRIETARY TO T-MOBILE USA, INC. AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF T-MOBILE USA, INC.

**T-Mobile®**  
1862 GATEWAY BLVD. SUITE 900  
CONCORD, CA 94520

**PROJECT REGISTRATION:**  
**BA12950-D**  
**WHEELS TRANSIT**  
1862 RUTAN CT. SUITE 100  
LIVERMORE, CA 94551

**CURRENT ISSUE DATE:**  
07/24/07

**90% CONSTRUCTION**

**90% CONSTRUCTION**

**90% CONSTRUCTION**

**90% CONSTRUCTION**

**90% CONSTRUCTION**

**90% CONSTRUCTION**

**90% CONSTRUCTION**

**90% CONSTRUCTION**

**90% CONSTRUCTION**

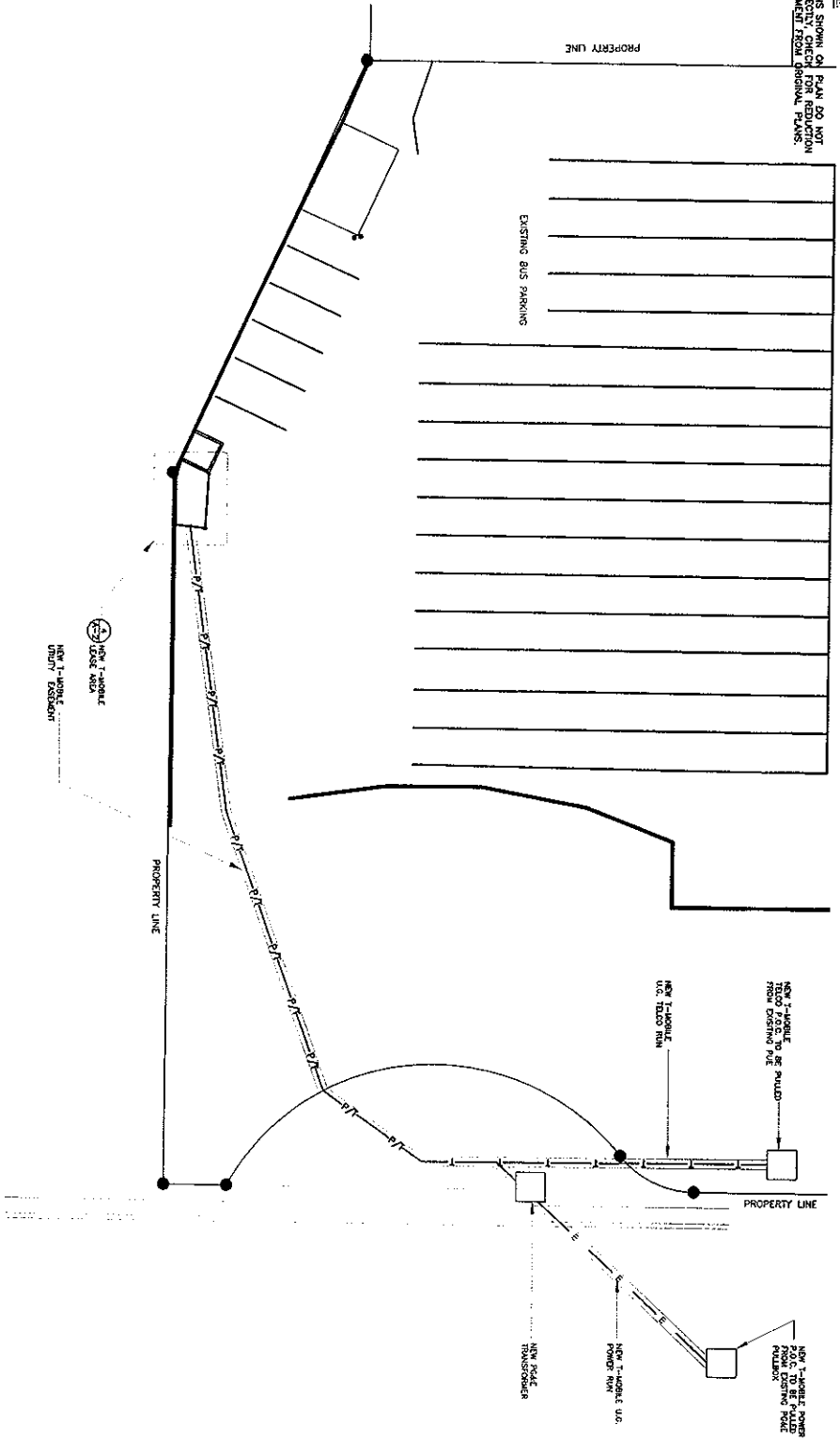
**90% CONSTRUCTION**







SCALE NOTE: IF DIMENSIONS SHOWN ON PLAN DO NOT SCALE CORRECTLY, CHECK FOR REDUCTION OR ENLARGEMENT FROM ORIGINAL PLANS.



**SITE PLAN**

SCALE: 1/8" = 1'-0"

**A-1** **B**

PROPRIETARY INFORMATION  
THE SET OF DRAWINGS IS PROPRIETARY  
DISSEMINATION OR REUSE OF ANY  
PARTS OF THIS DRAWING IS STRICTLY  
PROHIBITED.

**T-Mobile**  
1800 GARDEN CITY BLVD  
COSTA MESA, CA 92626

**PROJECT INFORMATION:**  
**BA12950-D**

**WHEELS TRANSIT**  
1800 GARDEN CITY BLVD  
COSTA MESA, CA 92626

**CURRENT ISSUE DATE:**  
**07/24/07**

**STATUS FOR:**  
**90% CONSTRUCTION**

REV.	DATE	DESCRIPTION
A	06/01/07	90% CONSTRUCTION
B	07/24/07	90% CONSTRUCTION

PLANS PREPARED BY:

**SAES**  
1800 GARDEN CITY BLVD  
SUITE 210  
COSTA MESA, CA 92626

**DR.**  
**SAES**  
1800 GARDEN CITY BLVD  
SUITE 210  
COSTA MESA, CA 92626

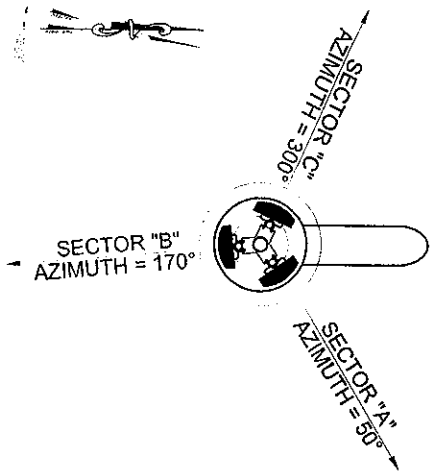
**DESIGNED BY:** CHK. **REV.:** **CHK.**

**SHEET TITLE:** **CHK.** **REV.** **CHK.**

**SITE PLAN**

**SHEET NUMBER:** **REVISION:**

SCALE NOTE:  
IF DIMENSIONS SHOWN ON PLAN  
DO NOT SCALE CORRECTLY, CHECK  
FOR LOCATION OF DIMENSIONED  
FROM BOLLARD (TYP. 7)

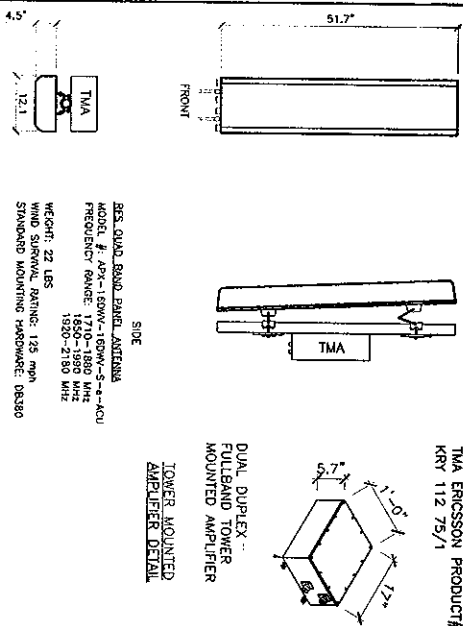


# ANTENNA LAYOUT

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# ANTENNA DETAIL

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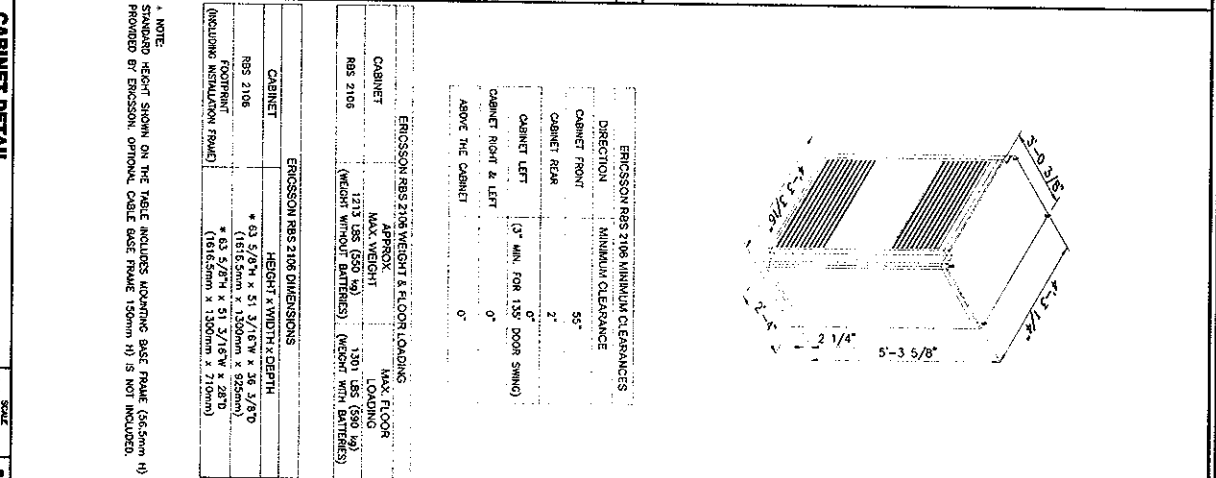


# EQUIPMENT LAYOUT

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# CABINET DETAIL

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NOT TO SCALE



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SYSTEMS WITHOUT THE WRITTEN  
PERMISSION OF THE COMPANY.

**Mobile**  
1885 OUTSIDE BULL STATE RD  
COLUMBIA, SC 29204

PROJECT INFORMATION:  
**BA12950-D**  
**WHEELS TRANSIT**

1885 OUTSIDE BULL STATE RD  
COLUMBIA, SC 29204

CURRENT ISSUE DATE:  
**07/24/07**

ISSUED FOR:  
**90% CONSTRUCTION**

REV. DATE: DESCRIPTION: BY:

REV.	DATE	DESCRIPTION	BY
A	06/27/07	FOR CONSTRUCTION	LM
B	07/24/07	FOR CONSTRUCTION	LM

PLANS PREPARED BY:

**GAES**  
1841 O.B. PLACENTIA DRIVE  
SUITE 210  
SACRAMENTO, CA 95837

SCALE:

PLAN: BY: CHK: BY: PLOT: BY:

DATE: 07/24/07

PROJECT: BA12950-D

CLIENT: WHEELS TRANSIT

PROJECT INFORMATION: BA12950-D

PROJECT INFORMATION: WHEELS TRANSIT

PROJECT INFORMATION: 1885 OUTSIDE BULL STATE RD

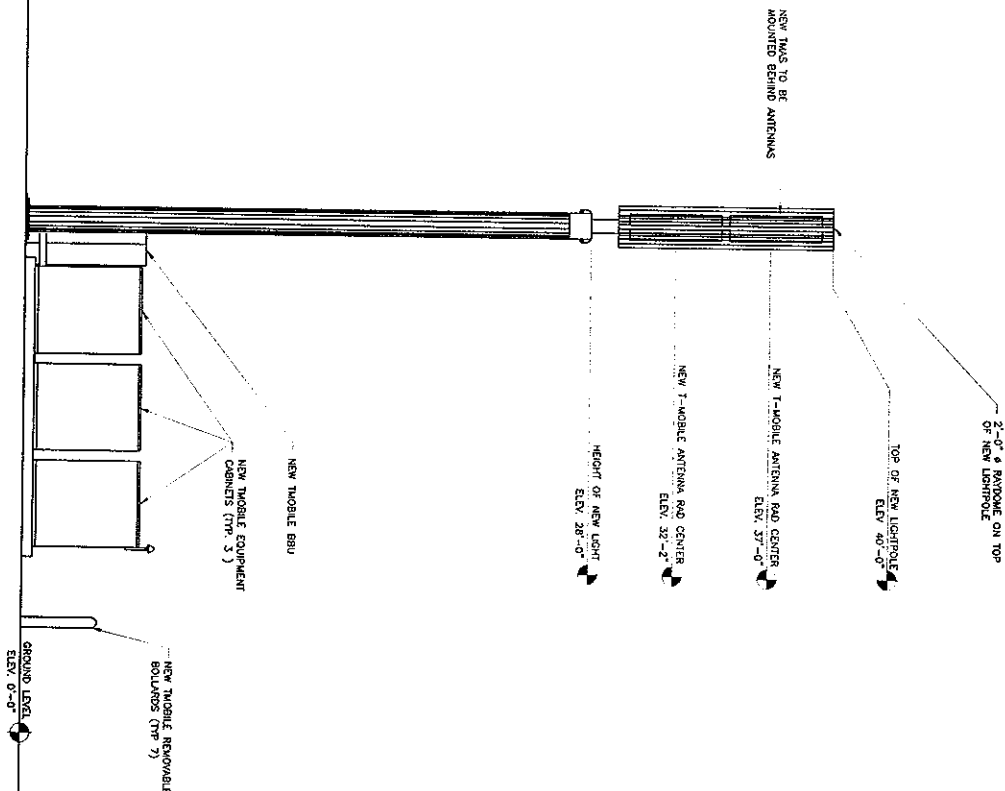
PROJECT INFORMATION: COLUMBIA, SC 29204

PROJECT INFORMATION: 07/24/07

PROJECT INFORMATION: 90% CONSTRUCTION

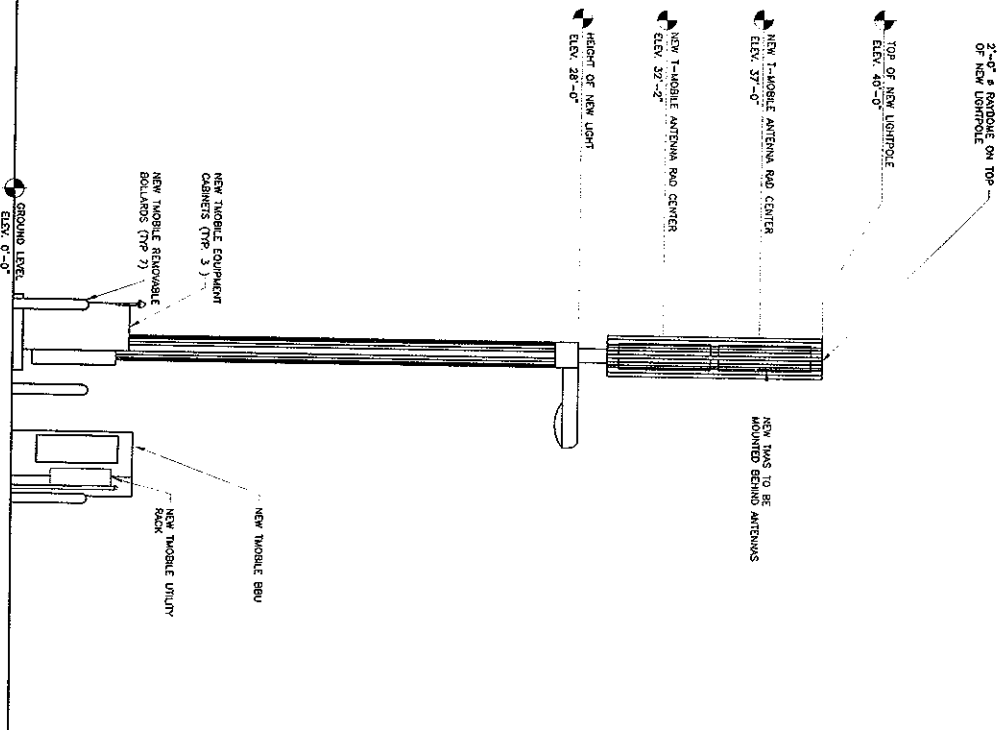
**A-2** **B**

SCALE NOTE:  
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FOR REVISIONS OR DISCREPANCY  
FROM ORIGINAL PLANS.



SOUTH ELEVATION

EAST ELEVATION



A-3 B

PROPRIETARY INFORMATION  
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OR BY ANY INFORMATION STORAGE AND  
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POLICY IS PROHIBITED.

**W-Mobile**

1850 EASTERN BLVD, SUITE 600  
CHICAGO, ILLINOIS 60610

PROJECT INFORMATION:  
**BA12950-D**

**WHEELS TRANSIT**

700 WEST 1ST ST, SUITE 100  
LIVERMORE, CA 94550

CURRENT ISSUE DATE:  
**07/24/07**

ISSUED FOR:  
**90% CONSTRUCTION**

REVISED FOR:  
**07/24/07**

REVISED FOR:  
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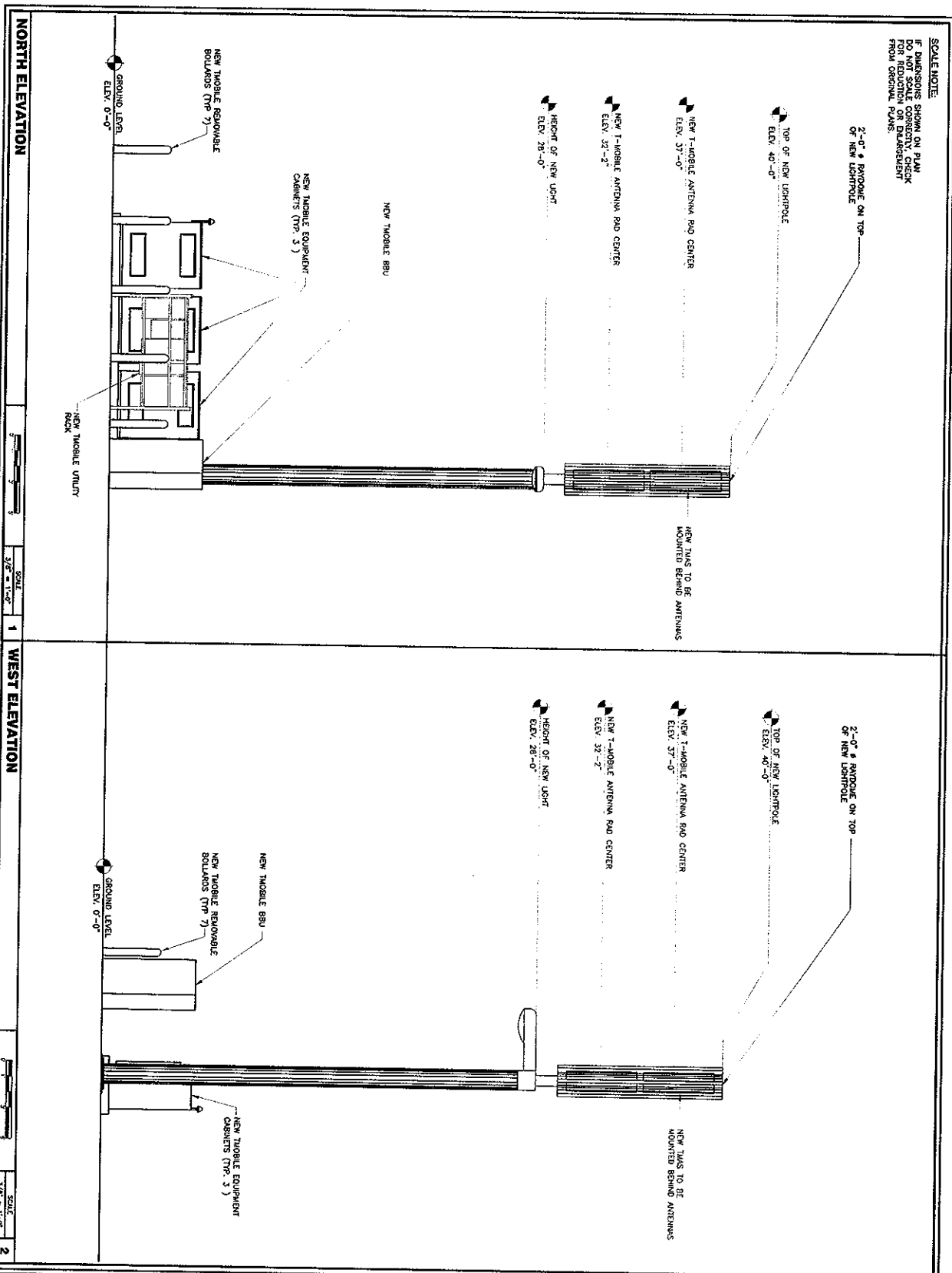
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**07/24/07**

**SCALE NOTE**  
 IF DIMENSIONS SHOWN ON PLAN  
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 FOR DIMENSIONS TO BE SHOWN  
 FROM ORIGINAL PLANS



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**Wheels**  
 WHEELS TRANSIT  
 1800 GATEWAY BLVD. SUITE 600  
 CARSON, CA 90745

**PROJECT INFORMATION**  
 BA12950-D  
 WHEELS TRANSIT  
 1500 BURNING TREE DRIVE  
 INTERNATIONAL, CA 94581

**ISSUED FOR:**  
 07/24/07

**90% CONSTRUCTION**

**REV. DATE DESCRIPTION**

REV.	DATE	DESCRIPTION
A	06/29/07	90% CONSTRUCTION
B	07/24/07	90% CONSTRUCTION

**BAES**  
 86411 OLD PLACERVILLE DRIVE  
 SACRAMENTO, CA 95827

SHEET NUMBER: <b>A-4</b>		REVISION: <b>B</b>	
ELEVATIONS			
DRAWN BY: <b>CHK</b> LHM RNV KFC CHECK TITLE:			

**Recorded, Requested By, and  
When Recorded Return To:**  
Omnipoint Communications Inc.  
2380 Bisso Lane, Suite A  
Concord, CA 94520  
Attn: Lease Administration

---

**MEMORANDUM OF LEASE**

This Memorandum of Lease with option ("Memorandum") dated as of September 10, 2007 is entered into between Livermore-Amador Valley Transit Authority, a joint powers authority ("Lessor") and Omnipoint Communications, Inc., a Delaware Corporation, d/b/a T-Mobile ("Lessee") regarding a portion of the property.

See Attached Exhibit "A" incorporated herein for all purposes

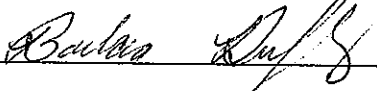
The Lease is for a term of five (5) years and will commence on the thirtieth (30<sup>th</sup>) day following Lessee's notice to Authority in writing that Lessee has obtained all permits and approvals necessary for Lessee to be legally entitled to construct a facility for providing wireless telecommunications service at the Premises, or six (6) months from the date this Lease is executed, whichever occurs first. Authority shall grant Lessee the right and option to extend this Lease for Three (3) additional Five (5) year terms.

This memorandum is solely for the purpose of giving constructive notice of the Lease. In the event of a conflict between the terms of the Lease and this Memorandum, the terms of the Lease shall control.

IN WITNESS WHEREOF, the parties hereto have respectively executed this memorandum effective as of the date of the last party to sign.

**[SIGNATURE PAGE FOLLOWS]**

Lessor: Livermore-Amador Valley Transit Authority, a joint powers authority

By: 

Printed Name: Barbara Duffy

Title: Executive Director

Date: September 17, 2007

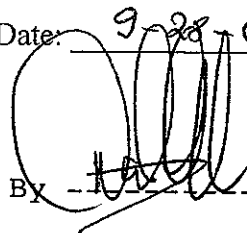
Lessee: Omnipoint Communications, Inc., dba T-Mobile, Inc.

By: 

Printed Name: Jim Sullivan

Title: Area Director - Northern CA

Date: 9-28-07



By: -----

**David Gallacher**

Printed Name ----- Vice President, West Region -----

Title -----

Date 10-11-07



## **Exhibit A**

### **Legal Description of the Site**

APN: 099-1331-031

PARCEL 1, AS SHOWN ON PARCEL MAP 5693, FILED IN THE OFFICE OF THE RECORDER OF ALAMEDA COUNTY, CALIFORNIA, ON MAY 22, 1990 IN BOOK 189 OF MAPS, PAGES 94-95.

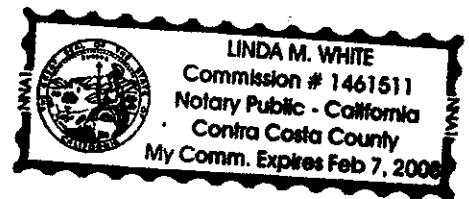
APN: 099-1331-031

State of California                    )  
County of Alameda                    )

On September 17, 2007 before me, Linda White, personally appeared Barbara Duffy, Executive Director, Livermore Amador Valley Transit Authority, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature Linda M. White (Seal)



State of California                    )  
County of \_\_\_\_\_ )

On \_\_\_\_\_ before me, (here insert name and title of the officer), personally appeared \_\_\_\_\_,

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)



February 26, 2008

**Via DHL, 2<sup>nd</sup> Day Delivery**

Livermore Amador Valley Transit Authority  
1362 Rutan Court, Suite 100  
Livermore, CA 94551  
Attn: General Manager

**Re:** Commencement of Lease ("Lease") dated September 10, 2007 between Livermore-Amador Valley Transit Authority a joint powers authority ("Authority") and Omnipoint Communications, Inc., a Delaware corporation ("Lessee")

**Site No.:** BA12950D

**Site Address:** 1362 Rutan Court, Suite 10, Livermore, CA 94551

Dear Sir or Ma'am:

By this letter, Omnipoint Communications, Inc. would like to notify you that the above referenced lease has commenced. Per the terms of the agreement, it commenced "on the 30<sup>th</sup> day following Lessee's notice to Authority in writing that Lessee has obtained all permits...or six (6) months from the date this lease is executed, whichever occurs first" and T-Mobile will begin rental payments. The effective date of the lease commencement shall be March 26, 2008. You should have previously received a fully executed original of the Lease.

A payment for rents due will be sent to you in approximately 21 business days. Subsequent monthly rent will arrive on or before the first day of each month.

On behalf of Omnipoint Communications, Inc., I would like to thank you for your involvement with the development of the T-Mobile wireless network. Should you have any questions or concerns please feel free to contact Candis Faix, Lease Administrator for this site, at (925) 288-6689, or you may also call our Landlord Hotline at (925) 319-7480. We look forward to a successful relationship.

Sincerely,

A handwritten signature in black ink, appearing to read 'Martin Vernon'.

Martin Vernon  
Director San Francisco Market  
**Omnipoint Communications, Inc.**



1855 Gateway Blvd

Suite 900

Concord, CA 94520

Ms. Beverly Adamo  
Director of Administrative Services  
Livermore Amador Valley Transit Authority  
1362 Rutan Court, # 100  
Livermore, CA 94551

May 7, 2009

Re: TMO Site BA12950 – Payment for Electrical Power

Dear Ms. Adamo:

As you know, Livermore Amador Valley Transit Authority, a joint powers authority, (the "Authority"), entered into a Lease with Omnipoint Communications, Inc., a Delaware corporation, d/b/a T-Mobile, as Lessee, dated September 10, 2007 (the "Lease").

Lessee utilized Authority's electrical power in support and operation of its Wireless Facility from and after the Lease Commencement Date up and until March 10, 2009, at which time Lessee obtained its own direct electrical power service from the local servicing utility provider. Pursuant to Section 9 of the Lease, Lessee is required to pay for all power and other utilities utilized by Lessee at the Premises.

Accordingly, within thirty (30) days of full execution of this letter agreement, Lessee will tender to Authority a one-time non-refundable payment in the amount of Four Thousand Two Hundred and 00/100 Dollars (\$4,200.00) (the "Back Utility Payment") as full and complete compensation and settlement for all costs and expenses incurred by Authority related to providing Lessee with electrical power for its Wireless Facility. Provided that Lessee tenders the Back Utility Payment within such thirty (30) day period, no penalty, fee or interest shall apply thereto.

Capitalized terms in this letter agreement (unless otherwise defined herein) shall have the same meaning as defined in the Lease. In the event of conflict between the terms and conditions contained herein and the terms and conditions contained in the Lease, the terms and conditions contained herein shall control. All other terms and conditions of the Lease remain unchanged and in full force and effect.

By your authorized signature below, on behalf of the Authority, you hereby agree and consent to the terms and conditions of this letter agreement.

Best Regards,

Martin Vernon  
Area Director

T-Mobile Legal Approval  
Kevin Brinkley

Agreed to and accepted this 19<sup>th</sup> day of June, 2009.

By:   
Ms. Beverly Adamo

Title: Director of Administrative Services

**RESOLUTION NO. 13-2007**

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE LIVERMORE  
AMADOR VALLEY TRANSIT AUTHORITY AUTHORIZING LEASE  
AGREEMENT WITH OMNIPOINT COMMUNICATIONS, INC dba T-MOBILE  
FOR INSTALLATION OF A CELLULAR ANTENNA**

**WHEREAS** the Livermore Amador Valley Transit Authority wishes to lease space at its Administration and Maintenance Facility to Omnipoint Communications, Inc. dba T-Mobile; and

**WHEREAS**, staff has negotiated an initial rate of \$1,800 per month for the first year of an agreement, which will create an annual revenue stream of \$21,600 with annual increases in the succeeding years; and

**WHEREAS**, legal counsel will review and approve the final text of any proposed agreements as to form; and

**WHEREAS**, staff recommends that the Board of Directors authorize the Executive Director, or her designee, to execute lease agreement with Omnipoint Communications, Inc. dba T-Mobile.

**NOW, THEREFORE, IT IS HEREBY RESOLVED** by the Board of Directors that General Manager is authorized to execute a lease with Omnipoint Communications for a cellular telephone antenna at the Authority's Administration and Maintenance Facility, in a form to be approved by legal counsel.

**APPROVED AND PASSED** this 10th day of September, 2007.

  
\_\_\_\_\_  
Mayor Janet Lockhart, Chair

**ATTEST:**

  
\_\_\_\_\_  
Barbara Duffy, Executive Director

**LEASE**

**Dated as of September 10, 2007**

**Between**

**LIVERMORE-AMADOR VALLEY TRANSIT AUTHORITY**  
**a joint powers authority**

**and**

**OMNIPOINT COMMUNICATIONS, INC.**  
**a Delaware Corporation**

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## **LEASE**

### **PREAMBLE**

**THIS LEASE** ("Lease"), dated as of September 10, 2007 is made by and between the Livermore Amador Valley Transit Authority, a joint powers authority ("Authority") and Omnipoint Communications, Inc., a Delaware corporation, d/b/a T-Mobile ("Lessee").

### **RECITALS**

A. Authority, a public agency, is the owner of certain real property situated in Alameda County, State of California, located at 1362 Rutan Court, Suite 100, Livermore, CA and commonly known as the Headquarters Site (hereinafter referred to as the "Site"). A legal description of the Site is contained in Exhibit A to this Lease.

B. Lessee is a corporation organized under the laws of the State of Delaware whose principal business is to provide wireless personal communications service.

C. Lessee desires use of a portion of the Site for the purpose of installing, removing, replacing, maintaining and operating, at its expense, a wireless facility including, without limitation, related antenna equipment and fixtures.

D. Authority is willing to permit Lessee to lease a portion of the Site in accordance with the terms, conditions and covenants of this Lease, and subject to all ordinances and use permit conditions, and regulating rules and laws of any competent authority having jurisdiction over matters pertaining to the subject matter of this Lease.

**NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:**

Section 1. PREMISES.

Authority hereby leases to Lessee and Lessee leases from Authority for the term, at the rental, and upon all of the conditions set forth herein, that certain real property at Authority's Site, in Livermore, California, consisting of approximately one hundred eighty five (185) square feet of ground space upon which Lessee shall install a wireless facility, all as more particularly shown and described in the project plans approved pursuant to the terms and conditions of this Lease, which are attached hereto and incorporated herein by this reference as Exhibit B (hereinafter referred to as the "Premises"), together with a non-exclusive license for access thereto, as shown on Exhibit B attached hereto. The layout and arrangement of the Premises, which may be used for location and reference purposes, is contained in Exhibit B to this Lease. No other facilities or improvements of any kind shall be placed upon the Premises without Authority's prior written consent. After construction, the approved "as built" record improvement plans shall be substituted for the originally approved plans to reflect any changes approved by Authority during construction. Pursuant to the terms and conditions of this Lease, Lessee may conduct such surveys, structural strength analysis, subsurface boring tests, and other activities of a similar nature as Lessee may deem necessary, at the sole cost of Lessee, subject to reasonable limitations as may be determined by Authority due to presence of or effect on Authority infrastructure or facilities on the Site.

Section 2. TERM.

The term of this Lease shall be for a period of five (5) years commencing on the Commencement Date as established by Section 3 ("Initial Term"). If Lessee has complied with all terms and conditions of the Lease at the end of each lease term and is not in default under the Lease, Authority shall grant Lessee the right and option ("Renewal Option") to extend the term

of this Lease for three (3) additional five (5) year terms ("Renewal Terms"). Lessee shall exercise the Renewal Option, if at all, by giving written notice to Authority of Lessee's election to extend the term no later than ninety (90) days prior to the expiration of the Initial Term or a then-current Renewal Term, whichever is applicable. All terms, conditions and requirements of this Lease shall continue in effect during the Renewal Terms. The initial rent for each Renewal Term shall be the rent applicable to the last year of the preceding term increased by the applicable annual CPI increase as set forth in Section 3.

Section 3. RENTAL.

Lessee shall pay to Authority as rent for the Premises in advance on the first day of each calendar month of the term of this Lease without deduction, offset, prior notice or demand, in lawful money of the United States, the sum of Eighteen Hundred dollars (\$ 1,800.00) per month. The initial term of this Lease shall commence on the thirtieth (30<sup>th</sup>) day following Lessee's notice to Authority in writing that Lessee has obtained all permits and approvals necessary for Lessee to be legally entitled to construct a facility for providing wireless telecommunications service at the Premises, or six (6) months from the date this Lease is executed, whichever occurs first (the "Commencement Date"). Lessee shall exercise best efforts to obtain all necessary approvals at the earliest practicable date following execution of the Lease. If the Commencement Date is not the first day of the month, or if the Lease termination date is not the last day of the month, a prorated monthly installment shall be paid at the then current rate for the fractional portion of that month during which the Lease commences and/or terminates.

During the entire term of this Lease, including any Renewal Term if any Renewal Option is exercised, the rental charge shall be increased annually by an amount equal to five percent (5%) of the rental charge in effect for the prior year.

Lessee also shall reimburse Authority any and all costs incurred by Authority as a result of the negotiation, preparation, execution and delivery of this Lease, including but not limited to engineering and attorney's fees, and administrative costs ("Transactional Costs") up to the maximum sum of Three Thousand Dollars (\$3,000). Authority shall furnish Lessee with a reasonably detailed invoice reflecting the Transactional Costs due and owing hereunder and Lessee shall tender full payment to Authority of said costs within thirty (30) days from the date of the invoice.

Section 4. USE.

4.01 Permitted Uses. Lessee shall use the Premises for the installation, removal, replacement, operation, maintenance and use of a wireless facility, consisting of the equipment, improvements, and specific facilities together with the utilities, cables and wires reasonably needed to support the operation of the foregoing facilities (collectively, "Wireless Facility"), as more particularly specified in Section 1 and depicted in Exhibit B. Lessee shall use the Premises for purposes related to wireless telecommunications only and shall not use the Premises for any other purpose without the written consent of Authority.

The installation of the above-referenced facilities, equipment and improvements shall be subject to the reviews, approvals and requirements set forth in Section 5.05. Lessee shall be solely responsible for any and all costs associated with installation, maintenance and use of any improvements, equipment and facilities on the Premises.

Authority grants Lessee reasonable vehicular and foot access to and around the Premises by means of the existing gates and roads on the Site and such access shall be available on a security basis to Lessee, Lessee's employees and invitees, all hours of each day of the week, all days of the year.

Lessee agrees that for access during regular hours and non-emergencies, Lessee or Lessee's representative shall give the Authority twenty-four (24) hours prior notice before entering the Site. For after-hours requests, Lessee's employees or agents can check in at the Dispatch Station, located at the Site, Suite 200.

A company I.D. badge or a letter on company letterhead authorizing a specific individual or individuals from Lessee must be shown to the staff member or dispatch in order to enter the Site.

Lessee understands that this is a non-exclusive lease and that Authority may enter into leases with other communications companies to use the Site, provided, however, that Lessee's use of its Premises shall be exclusive and Authority may not grant a lease that would interfere with Lessee's use and operation of the Wireless Facility.

Lessee shall provide for the maintenance of all landscaping by Lessee as may be required as a condition of the any Use Permit issued by the Authority.

4.02 Prohibited Uses. Lessee understands that under the terms of Authority's leases with other communications companies using the Site, Authority may not grant a lease that will result in interference with the operations of other companies' communications systems. Lessee shall be prohibited from any use that interferes with or in any way disturbs the operation of Authority's other existing leases at the Site and this Lease is conditioned upon not causing interference. In the event that Lessee causes such interference and it is not promptly resolved between other lessees and Lessee, by the Federal Communications Commission, or by any other applicable governmental agency, this Lease shall thereupon terminate. As a condition precedent to the effectiveness of this Lease, Lessee shall affirm to Authority in writing that there will be no such interference.

4.03 Interference. Lessee's Wireless Facility shall not disturb the facilities which are owned and used by Authority and/or any of Authority's other existing lessees' communications facilities, regardless of their location, on the Commencement Date ("Pre-existing Facilities and Equipment"). Lessee's Wireless Facility shall comply with all non-interference rules of the Federal Communications Commission ("FCC"). This Lease is expressly conditioned upon Lessee's Wireless Facility not causing such interference. In the event that Lessee causes such interference and it is not promptly resolved between other lessees and Lessee, by the FCC, or by any other applicable governmental agency, this Lease shall thereupon terminate upon written notice to Authority. As a condition precedent to the effectiveness of this Lease, Lessee shall affirm to Authority in writing that there will be no such interference. Lessee agrees to cooperate with Authority, at no cost to Lessee, in accommodating other wireless, broadband or communications facilities on Authority's Property, so long as such other wireless facilities do not materially interfere with Lessee's use of its equipment.

Authority agrees that it will not grant a future lease, license, or other rights to any party to use any portion of the Premises in a way which materially interferes with the communications operation of Lessee described in Section 4.01 above. Such interference with Lessee's communications operation shall be deemed a material breach by Authority, and Authority shall have the responsibility to promptly terminate said interference. In the event any such interference does not cease promptly, the parties acknowledge that continuing interference will cause irreparable injury to Lessee, and therefore, Lessee shall have the right to bring action to enjoin such interference or to terminate the Lease upon thirty (30) days' written notice upon notice to Authority. Notwithstanding the foregoing, Pre-existing Facilities and Equipment operating in the same manner as on the Commencement Date shall not be deemed interference.

4.04 Approval by the Authority and Other Agencies. As a condition precedent to Authority's obligation to tender the Premises to Lessee, Lessee shall obtain the prior approval of the Authority and such other governmental agencies and bodies that may have jurisdiction over use of the Premises by Lessee to make the improvements specified in Section 4.01 and to conduct the activities permitted under this Lease. Prior to use of the Premises, Lessee shall obtain all required permits, licenses and approvals from the Authority and any other governmental agencies having jurisdiction over Lessee's use of the Premises. As a condition of this Lease, Lessee shall maintain such permits, licenses and approvals in force throughout the term of this Lease, including any Renewal Term in the event the Lease is extended. Lessee shall be solely responsible for conducting any environmental review required to be undertaken in association with Lessee's use of the Premises and for any and all costs associated therewith, as well as any and all fees, charges, or other expenses that may be imposed by the Authority or other regulatory agencies in connection with Lessee's use or enjoyment of the Premises prior to the Lease commencement or at any time during the term of the Lease.

Authority agrees to fully cooperate with Lessee in obtaining the local permits and without limiting the generality of the foregoing, to execute any applications, maps, certificates, or other documents that may be required in connection with local permits.

4.05 Compliance with Laws. Authority represents that the Site described on Exhibit A and Authority's improvements thereon, to the best of its knowledge, are and shall remain in substantial compliance with building, fire/safety, disability, and other laws, codes, and regulations of applicable governmental authorities. Lessee shall not do or permit anything to be done in, on or about the Premises, or bring or keep anything in, on or about the Premises, which



will in any way conflict with any law, statute, ordinance, or governmental rule or regulation now in force or which may hereafter be enacted or promulgated by any public authority.

4.06 Condition, Use and Zoning of Premises. Authority makes no warranty or representation of any kind concerning the condition of the Premises, or the fitness of the Premises for the use intended by Lessee, or of the applicable zoning regulations to Lessee's proposed use thereof, and hereby disclaims any personal knowledge with respect thereto, it being expressly understood by the parties that Lessee has personally inspected the Premises, knows its condition, finds it fit for Lessee's intended use, accepts it as is, and has ascertained that it can be used for the purposes specified in Section 4.01.

Section 5. MAINTENANCE, REPAIRS, AND ALTERATIONS.

Lessee shall keep in good order, condition and repair the Premises, and the improvements, facilities, and equipment placed on the Premises by Lessee, and every part thereof at Lessee's sole expense. Lessee shall keep the Premises clean and free of debris.

Authority shall have the right to require Lessee to relocate the Lessee's Wireless Facility during any Renewal Term and any subsequent extension of the Term of this Lease upon not less than twelve (12) months' prior written notice to Lessee, in the event Authority requires the Premises for any Authority use. All costs and expenses of such relocation shall be borne by Lessee. If Authority requires Lessee to relocate during the Initial Term (the first five (5) years) of this Lease, Authority shall pay all costs of such relocation. In the event Lessee is unable to relocate to the new premises due to technological constraints, Authority shall have the right to terminate this Lease upon not less than twelve (12) months' prior written notice. In no event shall Authority be allowed to relocate Lessee in order to accommodate a competitor of Lessee to locate upon the Premises.

5.01 Surrender. On the last day of the term hereof, or upon any prior termination, Lessee shall surrender the Premises, excluding all improvements made thereto by Lessee, to Authority in the same condition as near as practical as when received by Lessee, ordinary wear and tear excepted, clean and free of debris. Lessee shall remove all structures, buildings, antennas, and any other facilities, equipment or improvements that Lessee places upon the Premises, shall repair any damage to the Premises occasioned by the installation, maintenance or removal of Lessee's improvements, fixtures, furnishings and equipment and shall restore the Premises to the same condition as when Lessee received the Premises from Authority, reasonable wear and tear excepted. Lessee has the right to remove all of its facilities at its expense on or before the termination of this Lease, subject to Lessee's obligation to restore the Premises as provided herein.

5.02 Authority's Rights. If Lessee fails to perform Lessee's obligations under this Section 5 or under any other Section of this Lease, Authority may at its option (but shall not be required to) enter upon the Premises after prior notice to Lessee and the expiration of any applicable cure period provided for in this Lease (except in the case of an emergency, in which case no prior notice shall be required), to perform such obligations on Lessee's behalf and put the same in good order, condition and repair, and the cost thereof together with interest thereon at the maximum rate then allowable by law shall become due and payable as additional rental to Authority together with Lessee's next rental installment.

5.03 Authority's Obligations. Authority shall have no obligation to repair and maintain either the Premises or the improvements thereto and facilities placed thereon. Lessee expressly waives the benefit of any statute now or hereafter in effect which would otherwise

afford Lessee the right to make repairs at Authority's expense or to terminate this Lease because of Authority's failure to keep the Premises in good order, condition and repair.

5.04 Security Measures. Authority has no obligation to provide any security measures at the Site other than those Authority in its discretion determines are needed for its own facilities. Lessee may provide reasonable security measures for its facilities provided that such measures shall not limit Authority's or Authority's tenants' use of the Site in any way. Lessee shall obtain prior approval before installing or implementing any security system, device, operation or plan to protect Lessee's Premises or Authority's adjacent property. Lessee shall bear all costs of security measures upgrades mandated by federal, state or local law or regulations for wireless communications facilities. It shall be Lessee's exclusive obligation to determine the scope of such security measures obligations and District assumes no responsibility therefore.

5.05 Improvements.

(a) Lessee, at its sole cost and expense, may make alterations, improvements, or utility installations (including, but not limited to, the installation of emergency power generators) (hereinafter collectively referred to as "Improvements") to or on the Premises that are necessary for the conduct of the permitted uses of the Premises, subject to the prior written approval of Authority, which approval shall not be unreasonably withheld, conditioned or delayed, and, if necessary, all other governmental agencies, including the Authority, which have jurisdiction over the use of the Premises by Lessee. In order to obtain Authority's prior written approval for any Improvement, Lessee shall submit maps and drawings or renderings of any proposed Improvement to Authority, sufficiently detailed to enable Authority to make an informed judgment about any proposed Improvement. Should Lessee make any Improvements

without the prior approval of Authority, Authority may require that Lessee remove any or all of the same at Lessee's sole cost and expense. Normal maintenance, replacements, and upgrades that do not change the physical appearance of the Premises will not be subject to the prior approval of Authority.

(b) Lessee shall have the right (but not the obligation) at any time following the full execution of this Lease and prior to the Commencement Date, to enter the Premises for the purpose of making necessary inspections and engineering surveys and other reasonably necessary and non-destructive tests (collectively "Tests") to determine the suitability of the Premises for Lessee's Wireless Facility and for the purpose of preparing for the construction of Lessee's Wireless Facility. During any Tests or pre-construction work, Lessee will have insurance as set forth in this lease in Section 5.05 (e) (4) and Section 6. Lessee will notify Authority of any proposed Tests or pre-construction work and will coordinate the scheduling of same with Authority. If Lessee determines that the Premises are unsuitable for Lessee's contemplated use, then Lessee will notify Authority and the Lease will terminate. Lessee will repair any damage caused by its Tests.

(c) Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use on the Premises, which claims are or may be secured by any mechanics' or materialmen's lien against the Premises or any interest therein. Lessee shall give Authority no less than ten (10) days' notice prior to the commencement of any work on the Premises, and Authority shall have the right to post notices of non-responsibility in or on the Premises as provided by law. If Lessee, in good faith, contests the validity of any such lien, claim or demand, then Lessee shall, at its sole expense, defend itself

and Authority against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof against the Authority or the Premises.

If Authority shall require, Lessee shall furnish to Authority a surety satisfactory to Authority in an amount equal to such contested lien, claim or demand indemnifying Authority against liability for the same and holding the Premises free from the effect of such lien or claim. In addition, Authority may require Lessee to pay Authority's attorney's fees and costs reasonably and necessarily incurred in participating in such action.

(d) Except for Lessee's equipment and other real or personal property that constitute the wireless facility, any alterations, improvements or utility installations, which may be made on the Premises by Lessee by mutual written agreement of Authority and Lessee at any time, shall, upon Authority's option, remain the property of Authority at the end of the term. Authority hereby waives any and all lien rights it may have, statutory or otherwise, concerning the Lessee's 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 Authority gives Lessee and Secured Parties (defined below) 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 Lessee's and/or Secured Parties' sole discretion and without Authority's consent.

(e) Before the construction of any Improvements are commenced on the Premises and before any building materials have been delivered to the Premises by Lessee or agents under Lessee's authority, Lessee shall comply with the following conditions or obtain Authority's written waiver of the following conditions:

(1) Visual and Environmental Impact. Lessee shall use its best efforts to make any Improvements on the Premises aesthetically pleasing and environmentally

neutral. Notwithstanding the foregoing, Authority reserves the right to require that reasonable measures be undertaken to improve the visual or environmental impact of any proposed improvement or alterations of the Premises.

(2) Construction Schedule. Lessee shall deliver to Authority for Authority's approval a time schedule setting forth in detail a description of the Improvements and all steps for construction of the Improvements, and Lessee's best estimate of the date upon which each step shall be substantially completed. Authority's approval (which shall not be unreasonably withheld or delayed) or disapproval of the schedule shall be communicated to Lessee in the manner provided for the giving of notice herein and any disapproval shall be accompanied by a specification of the grounds for disapproval.

(3) Protection of Adjacent Property, Indemnity of Authority. Lessee shall protect the Site against damage resulting from the performance of any work undertaken by Lessee or Lessee's agents, employees, contractors or assigns, and shall indemnify Authority against all liens or liability in any way arising out of the performance of the work or the furnishing of labor, services, materials, supplies, equipment or power in connection therewith, except to the extent such liability results from Authority's negligence or willful misconduct.

(4) Insurance. In addition to the insurance coverage otherwise required under this Lease, Lessee shall maintain or cause to be maintained workers' compensation insurance covering all persons employed in connection with the construction of any Improvements, repair or maintenance activities with respect to whom death or injury claims could be asserted against Authority, Lessee, or the Premises. Authority may require that any third parties performing work on the Premises maintain such workers' compensation insurance

as well. Such insurance shall be maintained at Lessee's sole cost and expense at all times when any work is in process and shall otherwise conform to the requirements of this Lease for insurance.

(5) Notice of Completion. Immediately upon substantial completion of any improvement, Lessee shall prepare and provide Authority with a notice of completion suitable for recordation in the official records of the County of San Mateo. Authority, at its option, may elect to record said notice.

(6) Notice of Changes in Plans. On completion of any Improvement, Lessee shall give Authority notice of all changes in plans and specifications made during the course of the work and shall at the same time deliver to Authority "as built" drawings accurately reflecting all such changes; provided, no change that substantially alters the final plans last approved by Authority shall be made without Authority's prior written approval, which shall not be unreasonably withheld.

Section 6. INDEMNITY AND INSURANCE.

6.01 Indemnity. This Lease is made upon the express condition that Lessee shall indemnify, keep and save harmless Authority, and its directors, officers, agents and employees against any and all suits, claims or actions ("Claims") arising out of any injury or injuries to, or death or deaths of, persons or damage to property that may occur, or that may be alleged to have occurred from any cause or causes whatsoever, in any way connected with Lessee's use or occupancy of the Premises during the term of this Lease, or any holdover tenancy thereof, except where caused by the negligence or willful misconduct of Authority, its employees, contractors or agents. Lessee further agrees to defend any and all such actions, suits or claims and pay all reasonable charges of attorneys and all other costs and expenses arising therefrom or incurred in connection therewith; and if any judgment be rendered against the

Authority or any of the other individuals enumerated above in any such action, Lessee shall, at its expense, satisfy and discharge the same.

6.02 Insurance.

(a) Workers' Compensation. Lessee shall procure and maintain at all times during the term of this Lease and any holdover tenancy thereof Workers' Compensation Insurance in conformance with the laws of the State of California and Federal laws where applicable. Employer's Liability Insurance shall not be less than One Million Dollars (\$1,000,000) per accident or disease. Upon commencement of the term of the Lease, Lessee shall deliver to Authority a Certificate of Insurance, which shall stipulate that thirty (30) days' advance written notice of cancellation or material change shall be given to Authority.

(b) Bodily Injury, Death and Property Damage Liability Insurance. Lessee shall also procure and maintain at all times during the term of this Lease and any holdover tenancy thereof comprehensive broad form Commercial General Liability Insurance (including automobile operation) covering Lessee and Authority for any liability arising out of the use of, or occurring in, on, or about the Premises. The policy(ies) shall include coverage for all vehicles, licensed or unlicensed, on or off the Premises, used by or on behalf of Lessee during the term of this Lease or holdover tenancy thereof. The policy(ies) shall be subject to a limit for each occurrence of Five Million Dollars (\$5,000,000) naming as an additional insured, in connection with Lessee's activities, Authority, its directors, officers, employees and agents. The Insurer(s) shall agree that its policy(ies) is/are Primary Insurance and that it shall be liable for the full amount of any loss up to and including the total limit of liability without right of contribution from any other insurance covering Authority.



(1) Inclusion of Authority as an additional insured shall not in any way affect its rights with respect to any claim, demand, suit or judgment made, brought or recovered against Lessee. Said policy shall protect Lessee and Authority in the same manner as though a separate policy had been issued to each; but nothing in said policy shall operate to increase the Insurer's liability as set forth in the policy beyond the amount or amounts shown or to which the Insurer would have been liable if only one interest had been named as an insured.

(2) Upon commencement of the term of the Lease, Lessee shall deliver to Authority a Certificate of Insurance which shall indicate compliance with the insurance requirements of this paragraph and shall stipulate that thirty (30) days' advance written notice of cancellation or material change shall be given to Authority.

(3) Fire and Extended Coverage Insurance. Lessee shall maintain a policy of standard fire and extended coverage insurance on its Improvements to the Premises.

## Section 7. DAMAGE, DESTRUCTION, AND TERMINATION.

### 7.01 Definitions.

(a) "Premises Partial Damage" shall herein mean damage or destruction to the Premises to the extent that the cost of repair is less than 50% of the then replacement cost of the Premises.

(b) "Premises Total Destruction" shall mean damage or destruction to the Premises to the extent that the cost of repair is 50% or more of the then replacement cost of the Premises.

7.02 Partial Damage. If during the term of this Lease there is Premises Partial Damage, unless caused by negligent or willful act of Lessee (in which event Lessee shall make the repairs at Lessee's expense), Authority may at Authority's option either (1) repair such

damage, but not Lessee's fixtures, equipment, alterations, additions, and improvements, as soon as reasonably possible at Authority's expense, in which event this Lease shall continue in full force and effect, or (2) give written notice to Lessee within thirty (30) days after the day of occurrence of such damage or Authority's election to terminate the Lease. In the event Authority elects to repair such damage, and such repairs are estimated to require more than one hundred eighty (180) days to complete, Lessee shall have the option to terminate the Lease upon written notice to Authority. In the event Authority elects to give notice of Authority's intention to cancel and terminate this Lease, Lessee shall have the right within twenty (20) days after the receipt of such notice to give immediate written notice to Authority of Lessee's intention to repair such damage at Lessee's expense, without reimbursement from Authority, in which event this Lease shall continue in full force and effect, and Lessee shall proceed to make such repairs as soon as reasonably possible. All repairs shall be made in accordance with Authority standards and subject to approval by Authority. If Lessee does not give such notice within such twenty (20) day period this Lease shall be cancelled and terminated as of the date of the occurrence of such damage.

7.03 Total Destruction. If during the term of this Lease there is Premises Total Destruction (including destruction required by any authorized public authority), this Lease shall automatically terminate as of the date of such total destruction.

7.04 Temporary Facilities. Authority acknowledges and agrees that it is necessary that Lessee maintain continuous operation on the Premises during the term of this Lease. Therefore, in the event of Premises Partial Damage which renders Lessee's Wireless Facility inoperable or unusable and the Lease is continued pursuant to Section 7.02, Lessee, as hereinafter provided, shall have the right (subject to Authority's approval, which shall not be

unreasonably withheld, and any requirement of law or governmental authority and any applicable covenants, conditions and restrictions) to construct or install temporary facilities, including temporary or replacement antenna, if necessary, in or about the Premises or the Site, in such locations as may be reasonably acceptable to Authority and in a manner which will not interfere with any repair or reconstruction efforts, in order to continue operation. Authority shall allow Lessee to install such additional equipment and fixtures, including replacement antenna, cables and wires, and shall permit Lessee such access, repair and maintenance rights as may be necessary to allow Lessee to operate and maintain such temporary facilities until the Premises have been sufficiently repaired to permit Lessee to use the Premises, or until a substitute permanent location acceptable to Authority and Lessee has been agreed upon, and construction of such substitute permanent facility has been completed.

7.05 Abatement of Rent: Lessee's Remedies. In the event of damage described in Section 7.01(b) and Authority or Lessee repairs or restores the Premises pursuant to the provisions of this Section 7, the rent payable hereunder for the period in which such damage, repair or restoration continues shall be abated in proportion to the degree to which Lessee's use of the Premises is impaired. Except for abatement of rent, if any, or as otherwise provided in this Lease, Lessee shall have no claim against Authority for any damage suffered by reason of any such damage, destruction, repair or restoration.

7.06 Lessee's Right to Terminate. Lessee shall have the right to terminate this Lease should one of the following events occur:

(a) The approval of any agency, board, court or other governmental authority necessary for either the construction or operation of this Wireless Facility cannot be

obtained, or said approval is revoked, or Lessee determines the cost of obtaining such approval is prohibitive; or

(b) Lessee determines that the Premises is not appropriate for its Wireless Facility for technological reasons, including, but not limited to, signal interference.

(c) Lessee will give Authority no less than thirty (30) days' written notice of termination of this Lease under the terms of this Section. Upon termination, Lessee shall remove all of Lessee's communication equipment from the Premises and shall restore the Premises to its original condition except for normal wear and tear, and Authority and Lessee shall be relieved of any further obligation under this Lease, with the exception that Lessee shall be obligated to pay any rent and the Transactional Costs, if any, as specified in Section 3, accruing prior to the date of termination of this Lease.

7.07 Authority's Right to Terminate. After the commencement of the second five-year Renewal Term (ten (10) years after the Commencement Date), Authority may terminate this Lease upon 365 days' written notice to Lessee.

7.08 Waiver. Authority and Lessee waive the provisions of any statutes which relate to termination of leases when leased property is destroyed and agree that such event shall be governed by the terms of this Lease.

7.09 Condemnation. If a condemning authority takes all of the Premises, or a portion which in Lessee's opinion is sufficient to render the Premises unsuitable for Lessee's use, then this Lease shall terminate as of the date when possession is delivered to the condemning authority. In any condemnation proceeding each party shall be entitled to make a claim against the condemning authority for just compensation (which for Lessee shall include, the value of the Lessee's Wireless Facility, moving expenses, prepaid rent, business dislocation

expenses and any other amounts recoverable under condemnation law except for amounts pertaining to Authority's ownership in the Premises). Sale of all or part of the Premises to a purchaser with the power of eminent domain in the face of the exercise of its power of eminent domain shall be treated as a taking by a condemning authority.

Section 8. TAXES.

Pursuant to California Revenue and Taxation Code Section 107.6, Lessee is hereby notified of its obligation to pay all property taxes levied on Lessee's interests in property created by the Lease, including real property, personal property and possessory interest taxes. Moreover, it shall be Lessee's exclusive obligation to determine the scope of its tax obligations created by the Lease, and Authority assumes no responsibility therefore. Lessee also bears responsibility for paying all fees and assessments (general and special) generated by the Lease, and Authority assumes no responsibility therefore.

Section 9. UTILITIES.

Lessee shall have the right to install utilities, at Lessee's expense, on or near the Premises (including, but not limited to the installation of emergency back-up power) in accordance with the plans approved in advance by Authority. Subject to Authority's approval of the location, which approval shall not be unreasonably withheld, delayed or conditioned, Lessee, at Lessee's sole cost, shall have the right to place utilities on (or to bring utilities across) Authority's Property in order to service the Premises and Lessee's Wireless Facility. If Lessee elects to use a gasoline or diesel generator for emergency power, the installation and maintenance of the generator and fuel storage tank shall comply with all zoning, safety, and environmental laws and regulations now in effect or which may hereafter be enacted. Lessee shall pay for all water, gas, heat, light, power and telephone and other utilities and services

supplied to the Premises, together with any taxes thereon. Authority's approval of this Lease does not constitute any zoning or land use approval, which Lessee must obtain separately.

Section 10. ENVIRONMENTAL

Lessee agrees that it will not use, generate, store or dispose of Hazardous Materials (as defined below) on, under, about or within the Premises. Notwithstanding the above, Lessee may use and store batteries and fuel for a generator, provided that batteries and fuel are used in compliance with all applicable federal, state and local laws. Authority represents that, to the knowledge of its General Manager, without the duty of further investigation or inquiry, it has no actual knowledge of any Hazardous Material on or under the Premises that are identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation ("Hazardous Material"). Lessee is hereby on notice that Authority maintains at least one underground storage tank at the Site for purposes of refueling its transit vehicles. Prior to entering into this Lease, Lessee is encouraged to satisfy itself that the Premises are free of any contamination from Hazardous Materials.

Section 11. SIGNS.

Lessee shall not place any signs upon the Premises, except such signs as may be required by federal, state or local safety regulations, and the location and size of such signs shall be subject to the reasonable review and approval of Authority.

Section 12. ASSIGNMENT.

12.01 Authority's Consent Required. Lessee shall not voluntarily or by operation of law assign, transfer, mortgage, or otherwise transfer or encumber all or any part of Lessee's interest in this Lease or in the Premises without Authority's prior written consent, which consent shall not be unreasonably withheld. Authority shall respond to Lessee's request for

consent thereunder in a timely manner and any attempted assignment, transfer, mortgage or encumbrance without such consent shall be void, and shall constitute a breach of this Lease.

Notwithstanding the foregoing, Lessee shall have the right to assign this Lease without Authority's consent (i) to any entity which controls, is controlled by, or is under common control with Lessee; (ii) to any entity resulting from merger or consolidation with Lessee; (iii) to any partnership in which Lessee, the general partner of Lessee, or any entity which controls, is controlled by, or is under common control with the general partner of Lessee, is a general partner; or (iv) to any person or entity which acquires substantially all of Lessee's assets, provided that such assignee: (1) has a net worth of not less than ten million dollars (\$10,000,000) and (2) assumes in full all of Lessee's obligations under the Lease and provided further that Lessee provides to Authority written documentation satisfactory to Authority that the two conditions referenced above have been satisfied.

12.02 Release of Lessee. Following either a permitted assignment or an assignment approved by Authority, Lessee shall be relieved of Lessee's obligations and liabilities including the obligation of Lessee to pay the rent and to perform all other obligations to be performed by Lessee hereunder. The acceptance of rent by Authority from any other person shall not be deemed to be a waiver by Authority of any provision hereof. Consent to one assignment shall not be deemed consent to any subsequent assignment.

Section 13. DEFAULTS: REMEDIES.

13.01 Defaults. The occurrence of any one or more of the following events shall constitute a material default or breach of this Lease by Lessee.

(a) The abandonment of the Premises by Lessee.

(b) The failure by Lessee to make any payment of rent or any other payment required to be made by Lessee hereunder, as and when due, where such failure shall

continue for a period of ten (10) business days after written notice thereof from Authority to Lessee. In the event that Authority serves Lessee with a Notice to Pay Rent or Quit pursuant to applicable Unlawful Detainer statutes, such Notice to Pay Rent or Quit shall also constitute the notice required by this subparagraph.

(c) The failure by Lessee to observe or perform any of the covenants, conditions or provisions of this Lease in any material respect to be observed or performed by Lessee, other than those described in Section 13.01 (b) above, where such failure shall continue for a period of thirty (30) days after written notice thereof from Authority to Lessee; provided, however, that the nature of Lessee's default is such that more than thirty (30) days are reasonably required for its cure, then Lessee shall not be deemed to be in default if Lessee commenced such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion.

(d) (1) The making by Lessee of any general arrangement or assignment for the benefit of creditors;

(2) Lessee becomes a "debtor" as defined in 11 U.S.C. § 101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within sixty (60) days);

(3) The appointment of a trustee or receiver to take possession of all or substantially all of Lessee's assets located at or on the Premises or of Lessee's interest in the Lease, where possession is not restored to Lessee within thirty (30) days.

(4) The attachment, execution or other judicial seizure of all or substantially all of Lessee's assets located at or on the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within thirty (30) days.



Provided, however, in the event that any provision of this Section 13.01 (d) is contrary to any applicable law, such provision shall be of no force or effect.

13.02 Remedies. In the event of any such material default or breach by Lessee, Authority may at any time thereafter, with or without notice or demand and without limiting Authority in the exercise of any right or remedy which Authority may have by reason of such default or breach:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession of the Premises to Authority. In such event Authority shall be entitled to recover from Lessee all damages incurred by Authority by reason of Lessee's default including, but not limited to: the cost of recovering possession of the Premises; expenses of reletting, including any costs to return the Premises to the same condition, as near as practical, as when the Lessee received the property from Authority, less ordinary wear and tear; reasonable attorney's fees; and the value at the time of award by the court having jurisdiction thereof of the amount by which the unpaid rent for the balance of the term after the time of such award exceeds the amount of such rental loss for the same period that Lessee proves could be reasonably avoided.

(b) Maintain Lessee's right to possession in which case this Lease shall continue in effect whether or not Lessee shall have abandoned the Premises. In such event Authority shall be entitled to enforce all of Authority's rights and remedies under this Lease, including the right to recover the rent as it becomes due hereunder.

(c) Pursue any other remedy now or hereafter available to Authority under the laws or judicial decision of the State of California. Unpaid installments of rent and

other unpaid monetary obligations of Lessee under the terms of this Lease shall bear interest from the ten (10) days after the date due at the maximum rate then allowable by law.

Section 14. LESSOR'S LIABILITY.

The term "Authority" as used herein shall mean only the owner of the fee title of the Premises at the time in question. In the event of any transfer of such title or interest, Authority herein named (and in the case of any subsequent transfers then the grantor) shall be relieved from and after the date of such transfer of all liability as respects Authority's obligations thereafter to be performed, provided that any funds in the hands of Authority at the time of such transfer, in which Lessee has an interest, shall be delivered to the grantee and such grantee has assumed all of the obligations of Authority hereunder.

Section 15. INTEREST ON PAST- DUE OBLIGATIONS.

Except as expressly herein provided, any amount owed to Authority not paid within ten (10) days of when due shall bear interest at the maximum rate then allowable by law from the date due.

Section 16. HOLDING OVER.

If Lessee remains in possession of the Premises or any part thereof after the expiration of the initial term or option term hereof, as the case may be, such occupancy shall be a tenancy from month to month with all the obligations of the Lease applicable to Lessee and at a monthly rental obligation of one and one half (1.5) times the per month rental in effect at the time of expiration.

Section 17. LESSOR'S ACCESS.

Authority and Authority's agents shall have the right to enter the Premises at reasonable times upon twenty-four (24) hours' prior notice and request to Lessee for the purpose of inspecting the same, showing the same to prospective purchasers, lenders, or lessees, and

making such alterations, repairs, improvements or additions to the Premises as Authority may deem necessary provided such alterations, repairs, improvements or additions do not materially interfere with Lessee's use of the Premises, except that the notice and request requirements are not applicable when access is required for emergency purposes. In case of any emergency, Authority shall notify Lessee as soon as reasonably possible. Further, except for emergency purposes, Authority shall be accompanied by an employee or representative of Lessee provided such employee or representative makes himself or herself available at the noticed and requested time and place. Authority may at any time place on or about the Premises any ordinary "For Sale" signs and Authority may at any time during the last 120 days of the term hereof place on or about the Premises any ordinary "For Lease" signs, all without rebate of rent or liability to Lessee.

Section 18. QUIET POSSESSION.

Upon Lessee paying the rent for the Premises and observing and performing all of the covenants, conditions and provisions on Lessee's part to be observed and performed hereunder, Lessee shall have quiet possession of the Premises for the entire term hereof, including any Renewal Terms, subject to all of the provisions of this Lease. The individuals executing this Lease on behalf of Authority represent and warrant to Lessee with the knowledge that Lessee is relying on such representations and warranties: (a) that they are fully authorized and legally capable of executing this Lease on behalf of Authority, (b) that such execution is binding upon all parties holding an ownership interest in the Premises; and (c) that Authority is the owner of the Premises and has full right and authority to grant Lessee the access and all the uses of the Premises as specified herein.

Section 19. EASEMENTS.

Authority reserves to itself the right, from time to time, to grant such easements, rights and dedications that Authority deems necessary or desirable, and to cause the recordation of parcel maps and restrictions, so long as such easements, rights, dedications, maps and restrictions do not interfere with the use of the Premises by Lessee. Lessee shall sign any of the aforementioned documents upon request of Authority and failure to do so shall constitute a material breach of this Lease.

Section 20. GENERAL PROVISIONS.

20.01 Severability. The invalidity of any provision of this Lease as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

20.02 Time of Essence. Time is of the essence in this Lease.

20.03 Additional Rent. Any monetary obligations of Lessee to Authority under the terms of this Lease shall be deemed to include the minimum rent and all other sums paid or payable by Lessee to Authority hereunder.

20.04 Entire Agreement. This Lease contains all agreements of the parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such matter shall be effective. This Lease may be modified in writing only, signed by the parties in interest at the time of modification. Except as otherwise stated in this Lease, Lessee hereby acknowledges that neither Authority nor any employee(s) or agent(s) of Authority has made any oral or written warranties or representations to Lessee relative to the condition or use by Lessee of said Premises and Lessee acknowledges that to the extent arising out of Lessee's improvements to or use of the Premises Lessee assumes all responsibility regarding the

Occupational Safety and Health Act, the legal use and adaptability of the Premises and compliance with all applicable laws and regulations in effect during the term of this Lease.

20.05 Notices. Any notice required or permitted to be given hereunder, including a Notice to Pay Rent or Quit, or Notice to Terminate, must be given or made for all purposes in writing and will be deemed made (i) if hand delivered, on the day delivered, (ii) if sent by nationally recognized overnight courier, on the day after it is sent, or (iii) if mailed first class mail, postage prepaid and return receipt requested, on the seventh (7<sup>th</sup>) day after depositing in the mail to the applicable address set forth below or to such other address and facsimile number that the parties hereto shall designate as follows:

Authority:               Livermore Amador Valley Transit Authority  
                              1362 Rutan Court, Suite 100  
                              Livermore, CA 94551  
                              Attention: General Manger  
                              Facsimile No: (925) 443-1375

Lessee:                   Omnipoint Communications, Inc.  
                              2380 – A Bisso Lane  
                              Concord, CA 94520  
                              Attn: Lease Administration Manager

With copies concurrently to:

T-Mobile USA, Inc.  
12920 SE 38th Street  
Bellevue, WA 98006  
One copy Attn to:    Lease Administration  
One copy Attn to:    Legal Department

Each notice shall specify the paragraph of this Lease, if any, pursuant or with reference to which it is given. Either party may by notice to the other specify a different address for notice purposes. A copy of all notices required or permitted to be given to Authority hereunder shall be concurrently transmitted to such party or parties at such addresses as

Authority may from time to time hereafter designate by notice to Lessee. Notice given under this section shall be deemed in compliance with applicable statutory notice requirements, including Code of Civil Procedure Section 1162 and Civil Code Section 1953.

20.06 Waivers. No waiver by Authority or Lessee of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach by Authority or Lessee of the same or any other provision. Authority's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Authority's consent to or approval of any subsequent act by Lessee. The acceptance of rent hereunder by Authority shall not be waiver of any preceding breach by Lessee of any provision hereof, other than the failure of Lessee to pay the particular rent so accepted, regardless of Authority's knowledge of such preceding breach at the time of acceptance of such rent.

20.07 Cumulative Remedies. No remedy or election under this Lease shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

20.08 Binding Effect: Choice of Law. Subject to any provisions hereof restricting assignment by Lessee and subject to the provision of Section 14, this Lease shall bind the parties, their personal representatives, successors and assigns. This Lease shall be governed by the laws of the State of California applicable to leases entered into, and to be wholly performed, within the State. The language of all parts of this Lease shall be construed with its fair meaning and not strictly for or against Authority or Lessee.

20.09 Conditions to Effectiveness of Lease. The approval of the Authority's Board of Directors constitutes an express condition precedent to the effectiveness of this Lease.

20.10 Attorney's Fees. If either party named herein brings an action to enforce the terms hereof or declare rights hereunder, the prevailing party in any such action, on trial or appeal, shall be entitled to have its reasonable attorney's fees and court costs to be paid by the losing party.

20.11 Consent. Whenever under this Lease the consent or approval of either party is required or a determination must be made by either party, no such consent or approval shall be unreasonably withheld or delayed and all such determinations shall be made on a reasonable basis and in a reasonable manner.

20.12 Authority. Each individual executing this Lease on behalf of Lessee and Authority represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of said Party.

20.13 Captions. The captions used herein are for convenience only and are a part of this Lease and do not in any way amplify or detract from the terms or provisions hereof.

20.14 Further Assurances. In addition to the actions specifically mentioned in this Lease, the parties shall each do whatever may be reasonably necessary to accomplish the transactions contemplated in the Lease including, without limitation, execution of a Memorandum of this Lease appropriate for recording in Alameda County, in the form of Exhibit C attached hereto.

20.15 Modification of Amendments. The Lease may be modified or amended only by a writing signed by both parties hereto.

**IN WITNESS WHEREOF**, the parties hereto have executed this Lease at the place and on the dates specified immediately adjacent to their respective signatures.

Paula Kelly

Joseph Adams

APPROVED AS TO FORM:

*Muller*

By:

*[Handwritten signature]*

Title: Area Director - Northern CA

Date:

9-28-07

By

By \_\_\_\_\_

Name David Gallacher

**David Gallacher**  
-----  
**Vice President, West Region**

Title -----

Date 10/11/07

10-11-07



**EXHIBIT A**

**LEGAL DESCRIPTION OF THE SITE**

PARCEL 1, AS SHOWN ON PARCEL MAP 5693, FILED IN THE OFFICE OF THE RECORDER OF ALAMEDA COUNTY, CALIFORNIA, ON MAY 22, 1990 IN BOOK 189 OF MAPS, PAGES 94-95.

APN: 099-1331-031

**EXHIBIT B**

**DESCRIPTION OF THE PREMISES**

**A DRAWING OF THE PREMISES WILL BE PRESENTED HERE OR ATTACHED HERETO**

PROPERTY OWNER:	LEWISONE, JAMOR WALTER
SITE ADDRESS:	1582 RLYN CR, SUITE 100 LEWISONE, PA 94551
LATITUDE:	40.9151
LONGITUDE:	76.9246
LAND/CLIMATE TYPE:	37 41 21.2878"
ELEVATION:	127 48 65.12"
DIRECTION:	160 S3
APN:	413.5 ABSE
CURRENT ZONING:	09B-151-031
PROPOSED USE:	PUD
TELECOMMUNICATION FACILITY:	

LANDING	DATE:
LEASING MANAGER	DATE:
REGIONAL PROJECT MANAGER	DATE:
ZONING MANAGER	DATE:
RF ENGINEER	DATE:
EQUIPMENT MANAGER	DATE:
CONSTRUCTION ENGINEER	DATE:
CONSTRUCTION MANAGER	DATE:
TEAM LEAD	DATE:
PRODUCTION LEAD	DATE:
EXPANSION MANAGER	DATE:

T-MOBILE PROPOSES TO CONSTRUCT, OPERATE AND MAINTAIN AN UNMANNED, MOBILE RADIO COMMUNICATIONS FACILITY AT THIS SITE. THE SCOPE WILL CONSIST OF (3) OUTDOOR EQUIPMENT CABINETS, (24) COAX CABLES, (6) TUBS AND (6) NEW PANEL ANTENNAS WILL BE MOUNTED IN A STEALTH LIGHTPOLE.

STAGE TEAM DANCE SOUTHWEST ON CANTERA BLVD. CA 94550  
1. TURN LEFT ONTO CANTERA BLVD. CA 94550  
2. TURN RIGHT ONTO CANTERA BLVD. CA 94550  
3. MERGE ONTO I-805 S VA THE EXIT ON THE LEFT TOWARD  
4. MERGE ONTO I-805 S VA THE EXIT ON THE LEFT TOWARD  
OAKLAND/SANJES  
5. MERGE ONTO I-840 E TOWARD STOCKTON  
6. TAKE THE ARROYO BLVD/CA-84  
7. TURN RIGHT ONTO ARROYO BLVD/CA-84W  
8. TURN RIGHT ONTO KITTY HAWK RD CA-84W  
9. TURN LEFT ONTO ROCKENBACHER CR  
10. GO STRAIGHT TO CV ONTO ROCKENBACHER PL  
11. TURN RIGHT ONTO RUTAN CR

<b>APPLICANT</b>	<b>SUBJECT</b>
<b>1. APPLICANT</b>	<b>INDIAN POINT, INC.</b>
<b>2. ADDRESS</b>	<b>140 LUTON DRIVE, SUITE 230</b>
<b>3. CITY</b>	<b>CHANDLER, AZ 85245</b>
<b>4. CONTACT: NAME (PERSON)</b>	<b>DEBORAH WALKER</b>
<b>5. PHONE: (325) 635-7375</b>	<b>FAX: (325) 477-5557</b>
<b>6. ENGINEER</b>	<b>SITE ACQUISITION</b>
<b>7. ADDRESS</b>	<b>10111 AND 102 PACEWALKER RD #210</b>
<b>8. CITY</b>	<b>HOUSTON, TX 77057</b>
<b>9. CONTACT: PROJECT ZONING</b>	<b>CONTACT: PROJECT ZONING</b>
<b>10. PHONE: (707) 345-8435</b>	<b>PHONE: (816) 601-1125</b>
<b>CONSTRUCTION</b>	<b>ZONING</b>
<b>1. APPLICANT</b>	<b>SEKIS, INC.</b>
<b>2. ADDRESS</b>	<b>10111 AND 102 PACEWALKER RD #210</b>
<b>3. CITY</b>	<b>HOUSTON, TX 77057</b>
<b>4. CONTACT: NAME (PERSON)</b>	<b>CONTACT: PROJECT ZONING</b>
<b>5. PHONE: (760) 256-0687</b>	<b>PHONE: (816) 601-1125</b>

SHEET	DESCRIPTION
T1	TITLE SHEET
LS-1	SITE SURVEY
LS-2	SITE SURVEY
A-1	SITE PLAN
A-2	ANTENNA PLAN, EQUIPMENT LAYOUT AND DETAILS
A-3	ELEVATIONS
A-4	ELEVATIONS
A-5	DETAILS
E-1	SINGLE LINE DIAGRAM
E-2	ELECTRICAL PLANS
E-3	GROUNDING PLAN
E-4	DETAILS

**APPLICABLE CODES**

CALIFORNIA BUILDING CODE 2001 (UNIFORM BUILDING CODE 1997)  
CALIFORNIA FIRE CODE 2001 (UNIFORM FIRE CODE 2000)  
CALIFORNIA PLUMBING CODE 2001 (UNIFORM PLUMBING CODE 2000)  
CALIFORNIA ELECTRICAL CODE 2001 (NATIONAL ELECTRICAL CODE 2002)  
CALIFORNIA MECHANICAL CODE 2001 (NATIONAL MECHANICAL CODE 2000)  
CALIFORNIA ENERGY CODE 2001

**T-Mobile**  
1805 GATEWAY BLVD, SUITE 800  
CONCORD, CA 94500

## LIVERMORE, CA 94550

90% CONSTRUCTION

A	05/07/07	90% CONSTRUCTION	MR
B	07/24/07	90% CONSTRUCTION	MR

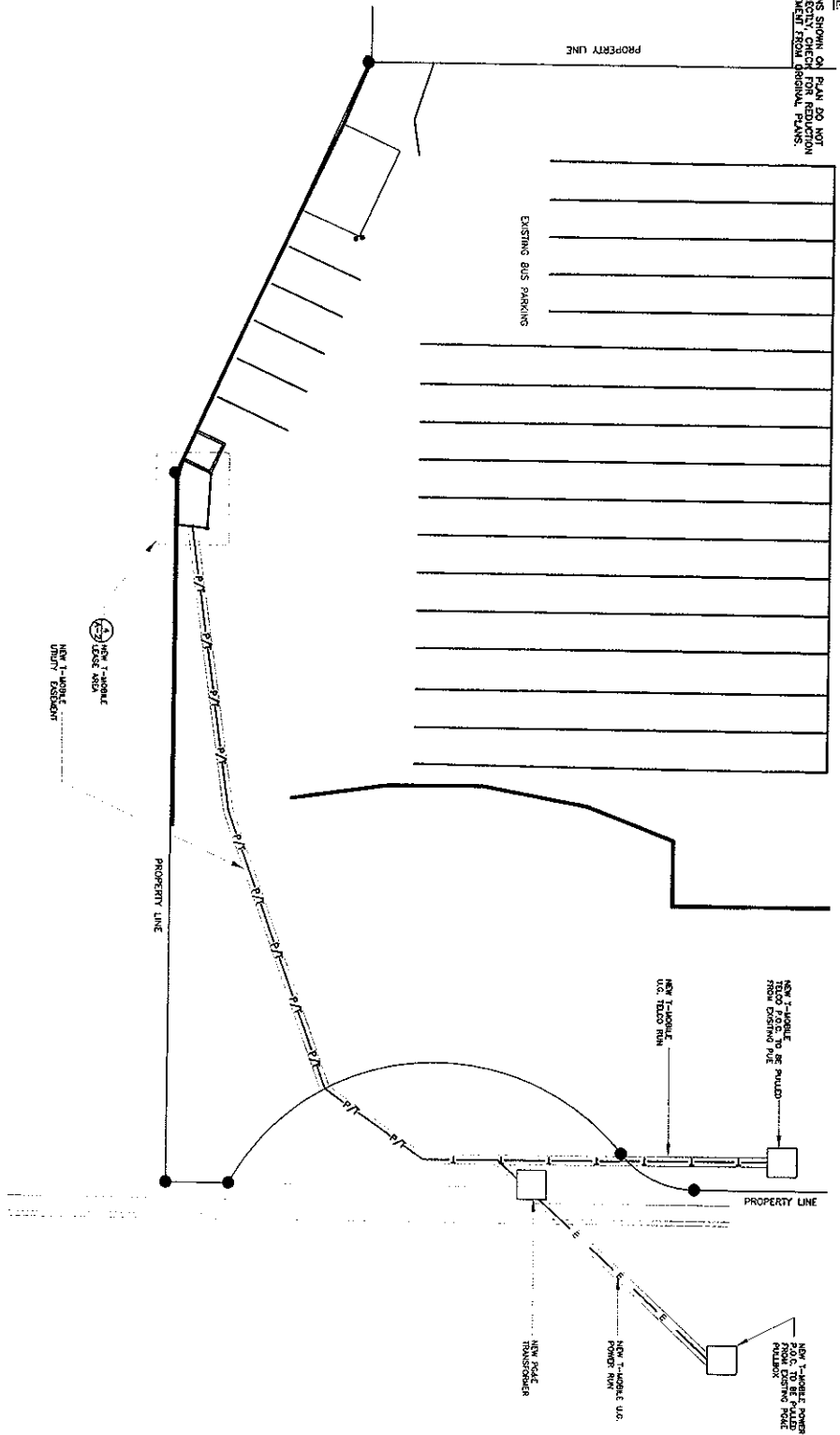
13111 OLD PLACERVILLE DR  
SUITE 210  
SACRAMENTO, CA 95827

五





SCALE NOTE: IF DIMENSIONS SHOWN ON PLAN DO NOT SCALE CORRECTLY, CHECK FOR REDUCTION OR ENLARGEMENT FROM ORIGINAL PLANS.



**SITE PLAN**

SCALE: 1/8" = 1'-0"

**PROPRIETARY INFORMATION**  
THE SET OF DRAWINGS IS PROPRIETARY  
DISSEMINATION OR REUSE OF ANY  
PARTS TO T-MOBILE IS STRICTLY  
PROHIBITED.

**CLIENT:** T-Mobile  
1800 GARDEN STREET  
SACRAMENTO, CA 95811

**PROJECT INFORMATION:**  
**B412950-D**  
**WHEELS TRANSIT**  
1800 GARDEN STREET  
SACRAMENTO, CA 95811

**CURRENT ISSUE DATE:**  
07/24/07

**ISSUED FOR:**  
90% CONSTRUCTION

NO.	DATE	DESCRIPTION
A	06/01/07	90% CONSTRUCTION
B	07/24/07	90% CONSTRUCTION

**PLANS PREPARED BY:**  
**SAES**  
1800 GARDEN STREET  
SACRAMENTO, CA 95811

**DESIGNER:**  
1800 GARDEN STREET  
SACRAMENTO, CA 95811

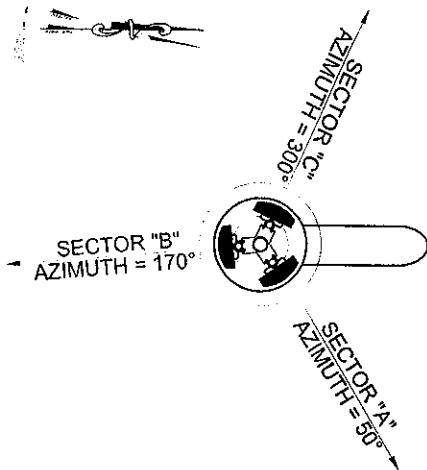
**DATE:**  
07/24/07

**SCALE:**  
1/8" = 1'-0"

**SHEET NUMBER:**  
A-1

**REVISION:**  
B

SCALE NOTE:  
IF DIMENSIONS SHOWN ON PLAN  
DO NOT SCALE CORRECTLY, CHECK  
FOR LOCATION OF DIMENSIONED  
FROM BOLLARD (TYP. 7)

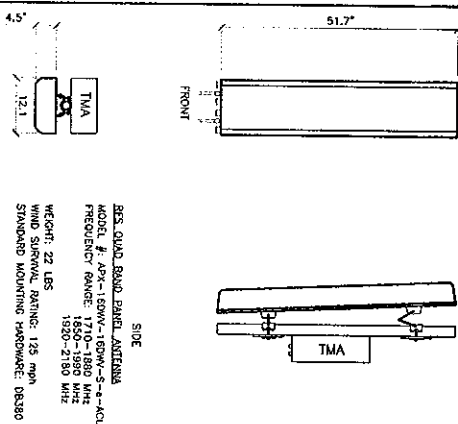


# ANTENNA LAYOUT

SCALE  
NOT TO SCALE

# ANTENNA DETAIL

SCALE  
NOT TO SCALE



NOTE:  
ERICSSON PRODUCT#:  
KRY 112 75/1

DUAL DUPLEX...  
FULL-BAND TOWER  
MOUNTED AMPLIFIER

TOWER MOUNTED  
AMPLIFIER DETAIL

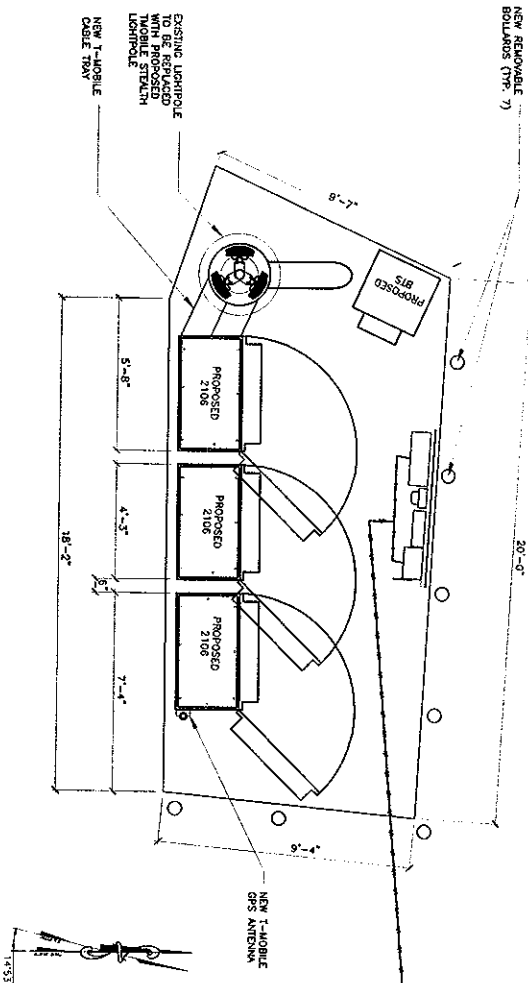
SEE QUAD BAND PANEL ANTENNA  
MODEL # APX-150W-160W-5-4-AU  
FREQUENCY RANGE: 1710-1880 MHz  
1550-1580 MHz  
1500-2100 MHz  
WEIGHT: 22 LBS  
WIND SURVIVAL RATING: 125 mph  
STANDARD MOUNTING HARDWARE: 08380

# EQUIPMENT LAYOUT

SCALE  
NOT TO SCALE

# CABINET DETAIL

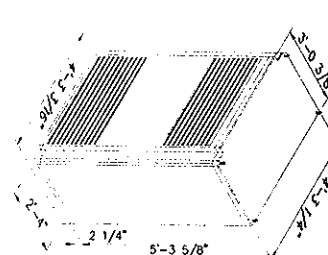
SCALE  
NOT TO SCALE



NEW T-MOBILE  
CABLE TRAY

EXISTING LIGHTPOLE  
TO BE REPLACED  
WITH PROPOSED  
LIGHTPOLE  
LAYOUT

NEW T-MOBILE  
GPS ANTENNA



ERICSSON RBS 2106 MINIMUM CLEARANCES			
DIRECTION	MINIMUM CLEARANCE		
CABINET FRONT	55"		
CABINET REAR	2"		
CABINET LEFT	0" MIN. FOR 135° DOOR SWING		
CABINET RIGHT & LEFT	0"		
ABOVE THE CABINET	0"		

ERICSSON RBS 2106 WEIGHT & FLOOR LOADING			
CABINET	APPROX. MAX. WEIGHT	MAX. FLOOR LOADING	
RBS 2106	1215 LBS (550 kg) (WEIGHT WITHOUT BATTERIES)	1301 LBS (590 kg) (WEIGHT WITH BATTERIES)	

ERICSSON RBS 2106 DIMENSIONS			
CABINET	HEIGHT x WIDTH x DEPTH		
RBS 2106	* 63 5/8" H x 51 3/16" W x 38 3/8" D (1616.5mm x 1300mm x 925mm)		
FOOTPRINT	* 63 5/8" H x 51 3/16" W x 28" D (1616.5mm x 1300mm x 710mm)		

\* NOTE:  
STANDARD HEIGHT SHOWN ON THE TABLE INCLUDES MOUNTING BASE FRAME (56.5mm H) PROVIDED BY ERICSSON. OPTIONAL CABLE BASE FRAME (150mm H) IS NOT INCLUDED.

PROPRIETARY INFORMATION  
THE INFORMATION CONTAINED IN THIS  
SET OF DRAWINGS IS PROPRIETARY  
TO THE COMPANY AND IS NOT TO BE  
REPRODUCED OR TRANSMITTED IN  
ANY FORM OR BY ANY MEANS  
ELECTRONIC, MECHANICAL, PHOTOCOPYING,  
RECORDING, OR BY ANY INFORMATION  
STORAGE AND RETRIEVAL SYSTEM  
WITHOUT THE WRITTEN PERMISSION OF  
THE COMPANY.

**T-Mobile**  
1800 OUTSIDE BUS STATE RD  
GARDEN GROVE, CA 92640

**PROJECT INFORMATION**  
BA12950-D  
WHEELS TRANSIT  
1000 SUTTER ST. SUITE 100  
LIVERMORE, CA 94551

**ISSUED FOR**  
07/24/07  
90% CONSTRUCTION

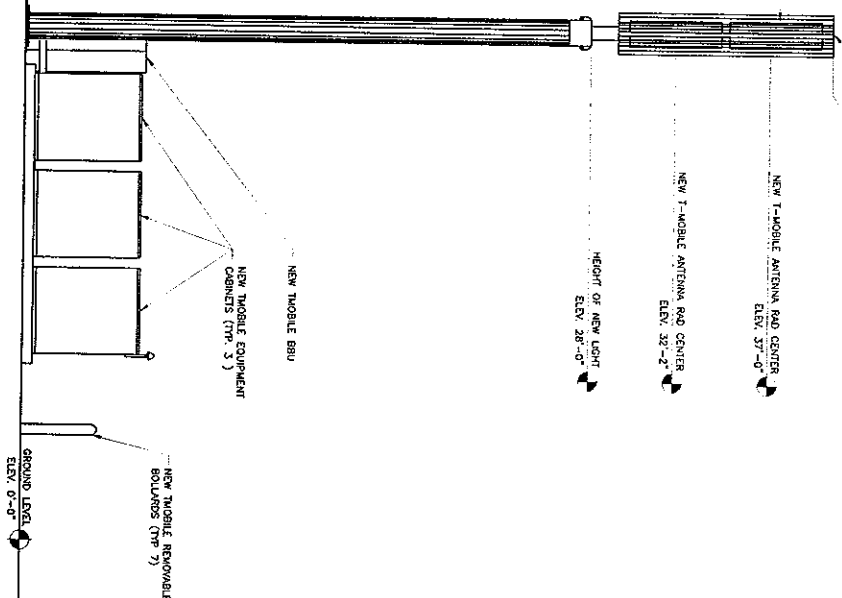
REV	DATE	DESCRIPTION	BY
A	06/27/07	FOR CONSTRUCTION	LM
B	07/24/07	FOR CONSTRUCTION	LM

**PLANS PREPARED BY:**  
**GAES**  
1941 O.B. PLACENTIA DRIVE  
SUITE 210  
SACRAMENTO, CA 95837

**EQUIPMENT LAYOUT  
AND DETAILS**

SHEET NUMBER: 1-1  
SHEET TITLE: A-2 B

Diagram illustrating the location of the new mobile antenna relative to the new lightpole and the existing antenna. The diagram shows a vertical line representing the new lightpole, with a horizontal line extending from its base to the left, labeled "NEW MOBILE ANTENNA 100' CENTER". A dashed line connects the top of the new lightpole to the top of the existing antenna, which is labeled "NEW TOWER 6 RADIOMON ON TOP OF NEW LIGHTPOLE". The distance between the base of the new lightpole and the base of the existing antenna is labeled "ELEV 40'-0\"".

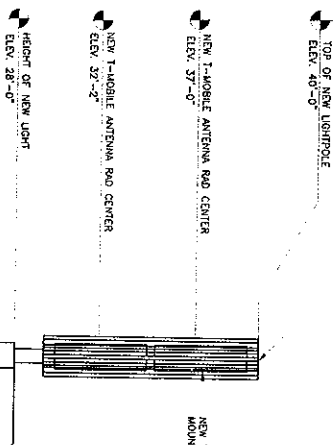


SCALE  
3/8" = 1'-0"

SCALE  $1/8" = 1'-0"$

2

2'-0" RAYDOME ON TOP  
OF NEW LIGHTPOLE



NEW TMAS TO BE MOUNTED BEHIND ANTENNAS

GROUND LEVEL  
ELEV. 0'-0"

NEW MOBILE EQUIPMENT  
CABINETS (TYP. 3)

NEW MOBILE REMOVABLE  
BOLLARDS (TYP. 2)

NEW MOBILE BRU

NEW MOBILE UTILITY  
RACK

A-3  
B

PROPRIETARY INFORMATION

THE INFORMATION CONTAINED IN THIS SET OF DRAWINGS IS PROPRIETARY TO THE COMPANY AND IS NOT TO BE DISCLOSED OR REPRODUCED IN ANY MANNER WITHOUT THE WRITTEN PERMISSION OF THE COMPANY. ANY USE OR DISCLOSURE OTHER THAN THAT WHICH RELATES TO THE MOBILE IS STRICTLY PROHIBITED.

T-Mobile

1855 GATEWAY BLVD, SU  
CONCORD, CA 9452

PROJECT INFORMATION: \_\_\_\_\_

BA12950-D

\*362 RUFAN CT, SUITE 100  
LIVERMORE, CA 94551

CURRENT ISSUE DATE:

07/24/07

ISSUED FOR: \_\_\_\_\_

90% CONSTRUCTION

REV	DATE	DESCRIPTION
A	05/02/07	80% COMPLETED

07/24/07	90X CONSTRUCTION
----------	------------------

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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[illegible]

UNIS PREPARED BY: \_\_\_\_\_



10110-D PLACERVILLE DRIVE

SACRAMENTO, CA 95821

1. The first step in the process is to identify the problem or issue that needs to be addressed. This involves gathering information and understanding the context of the problem.

MIN	BT3	CHN	APV
APV	BT3	CHN	APV

# ST FILE

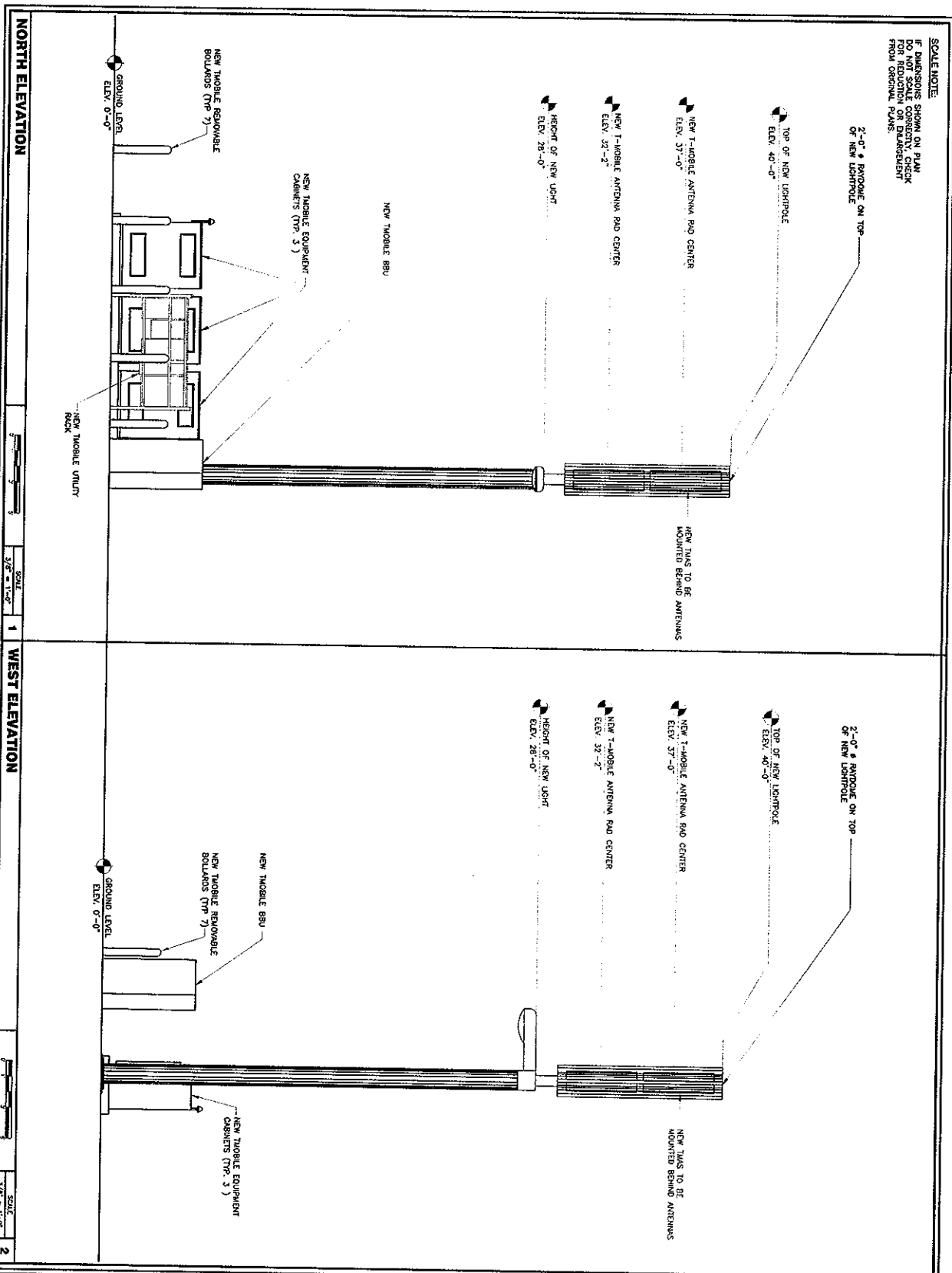
## ELEVATIONS

REVISION: 1

3



**SCALE NOTE**  
 IF DIMENSIONS SHOWN ON PLAN  
 DO NOT SCALE. CORRECTLY CHECK  
 FOR DIMENSIONS AND ELEVATIONS  
 FROM ORIGINAL PLANS.



**PROPRIETARY INFORMATION**  
 THE INFORMATION CONTAINED IN THIS  
 SET OF DRAWINGS IS THE PROPERTY OF  
 WHEELS TRANSIT. ANY USE OR  
 REPRODUCTION OF THIS INFORMATION  
 WITHOUT THE WRITTEN PERMISSION OF  
 WHEELS TRANSIT IS PROHIBITED.

**Wheels**  
 1800 GATEWAY BLVD. SUITE 600  
 CONCORD, CA 94520

**PROJECT INFORMATION**  
**BA12950-D**  
**WHEELS TRANSIT**  
 1500 BURNING TREE DRIVE  
 INTERNATIONAL, CA 94561

**ISSUED FOR:**  
**07/24/07**

**90% CONSTRUCTION**

REV.	DATE	DESCRIPTION	BY
A	06/29/07	90% CONSTRUCTION	W
B	07/24/07	100% CONSTRUCTION	W

**PLANS PREPARED BY:**  
**BAES**  
 16411 OLD PLACERVILLE DRIVE  
 SACRAMENTO, CA 95827

DESIGNER	DATE	CHK	APP
W	06/29/07	W	W
W	07/24/07	W	W

SHEET NUMBER	REVISION
A-4	B

**Recorded, Requested By, and  
When Recorded Return To:**  
Omnipoint Communications Inc.  
2380 Bisso Lane, Suite A  
Concord, CA 94520  
Attn: Lease Administration

---

**MEMORANDUM OF LEASE**

This Memorandum of Lease with option ("Memorandum") dated as of September 10, 2007 is entered into between Livermore-Amador Valley Transit Authority, a joint powers authority ("Lessor") and Omnipoint Communications, Inc., a Delaware Corporation, d/b/a T-Mobile ("Lessee") regarding a portion of the property.

See Attached Exhibit "A" incorporated herein for all purposes

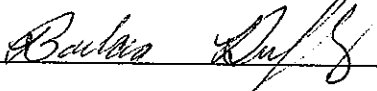
The Lease is for a term of five (5) years and will commence on the thirtieth (30<sup>th</sup>) day following Lessee's notice to Authority in writing that Lessee has obtained all permits and approvals necessary for Lessee to be legally entitled to construct a facility for providing wireless telecommunications service at the Premises, or six (6) months from the date this Lease is executed, whichever occurs first. Authority shall grant Lessee the right and option to extend this Lease for Three (3) additional Five (5) year terms.

This memorandum is solely for the purpose of giving constructive notice of the Lease. In the event of a conflict between the terms of the Lease and this Memorandum, the terms of the Lease shall control.

IN WITNESS WHEREOF, the parties hereto have respectively executed this memorandum effective as of the date of the last party to sign.

**[SIGNATURE PAGE FOLLOWS]**

Lessor: Livermore-Amador Valley Transit Authority, a joint powers authority

By: 

Printed Name: Barbara Duffy

Title: Executive Director

Date: September 17, 2007

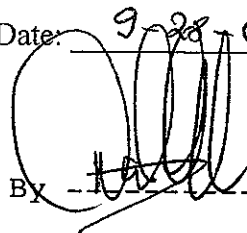
Lessee: Omnipoint Communications, Inc., dba T-Mobile, Inc.

By: 

Printed Name: Jim Sullivan

Title: Area Director - Northern CA

Date: 9-28-07



By: -----

**David Gallacher**

Printed Name ----- Vice President, West Region -----

Title -----

Date 10-11-07

## **Exhibit A**

### **Legal Description of the Site**

APN: 099-1331-031

PARCEL 1, AS SHOWN ON PARCEL MAP 5693, FILED IN THE OFFICE OF THE RECORDER OF ALAMEDA COUNTY, CALIFORNIA, ON MAY 22, 1990 IN BOOK 189 OF MAPS, PAGES 94-95.

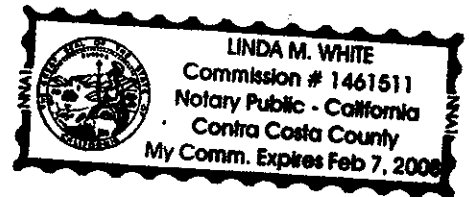
APN: 099-1331-031

State of California                    )  
County of Alameda                    )

On September 17, 2007 before me, Linda White, personally appeared Barbara Duffy, Executive Director, Livermore Amador Valley Transit Authority, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature Linda M. White (Seal)



State of California                    )  
County of \_\_\_\_\_ )

On \_\_\_\_\_ before me, (here insert name and title of the officer), personally appeared \_\_\_\_\_,

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)



February 26, 2008

**Via DHL, 2<sup>nd</sup> Day Delivery**

Livermore Amador Valley Transit Authority  
1362 Rutan Court, Suite 100  
Livermore, CA 94551  
Attn: General Manager

**Re:** Commencement of Lease ("Lease") dated September 10, 2007 between Livermore-Amador Valley Transit Authority a joint powers authority ("Authority") and Omnipoint Communications, Inc., a Delaware corporation ("Lessee")

**Site No.:** BA12950D

**Site Address:** 1362 Rutan Court, Suite 10, Livermore, CA 94551

Dear Sir or Ma'am:

By this letter, Omnipoint Communications, Inc. would like to notify you that the above referenced lease has commenced. Per the terms of the agreement, it commenced "on the 30<sup>th</sup> day following Lessee's notice to Authority in writing that Lessee has obtained all permits...or six (6) months from the date this lease is executed, whichever occurs first" and T-Mobile will begin rental payments. The effective date of the lease commencement shall be March 26, 2008. You should have previously received a fully executed original of the Lease.

A payment for rents due will be sent to you in approximately 21 business days. Subsequent monthly rent will arrive on or before the first day of each month.

On behalf of Omnipoint Communications, Inc., I would like to thank you for your involvement with the development of the T-Mobile wireless network. Should you have any questions or concerns please feel free to contact Candis Faix, Lease Administrator for this site, at (925) 288-6689, or you may also call our Landlord Hotline at (925) 319-7480. We look forward to a successful relationship.

Sincerely,

A handwritten signature in black ink, appearing to read 'Martin Vernon'.

Martin Vernon  
Director San Francisco Market  
**Omnipoint Communications, Inc.**



1855 Gateway Blvd

Suite 900

Concord, CA 94520

Ms. Beverly Adamo  
Director of Administrative Services  
Livermore Amador Valley Transit Authority  
1362 Rutan Court, # 100  
Livermore, CA 94551

May 7, 2009

Re: TMO Site BA12950 – Payment for Electrical Power

Dear Ms. Adamo:

As you know, Livermore Amador Valley Transit Authority, a joint powers authority, (the "Authority"), entered into a Lease with Omnipoint Communications, Inc., a Delaware corporation, d/b/a T-Mobile, as Lessee, dated September 10, 2007 (the "Lease").

Lessee utilized Authority's electrical power in support and operation of its Wireless Facility from and after the Lease Commencement Date up and until March 10, 2009, at which time Lessee obtained its own direct electrical power service from the local servicing utility provider. Pursuant to Section 9 of the Lease, Lessee is required to pay for all power and other utilities utilized by Lessee at the Premises.

Accordingly, within thirty (30) days of full execution of this letter agreement, Lessee will tender to Authority a one-time non-refundable payment in the amount of Four Thousand Two Hundred and 00/100 Dollars (\$4,200.00) (the "Back Utility Payment") as full and complete compensation and settlement for all costs and expenses incurred by Authority related to providing Lessee with electrical power for its Wireless Facility. Provided that Lessee tenders the Back Utility Payment within such thirty (30) day period, no penalty, fee or interest shall apply thereto.

Capitalized terms in this letter agreement (unless otherwise defined herein) shall have the same meaning as defined in the Lease. In the event of conflict between the terms and conditions contained herein and the terms and conditions contained in the Lease, the terms and conditions contained herein shall control. All other terms and conditions of the Lease remain unchanged and in full force and effect.

By your authorized signature below, on behalf of the Authority, you hereby agree and consent to the terms and conditions of this letter agreement.

Best Regards,

Martin Vernon  
Area Director

T-Mobile Legal Approval  
Kevin Brinkley

Agreed to and accepted this 19<sup>th</sup> day of June, 2009.

By:   
Ms. Beverly Adamo

Title: Director of Administrative Services



T-Mobile USA, Inc.  
12920 SE 38th Street, Bellevue, WA 98006

Livermore Amadore Valley Transit Authority  
1362 Rutan Court, Suite 100  
Livermore, CA 94551

RECEIVED

MAY 25 2012

Livermore Amador Valley  
Transit Authority

May 17, 2012

RE: T-Mobile Site No.: BA12950D. Lease between Livermore Amadore Valley Transit Authority and T-Mobile West Corporation or its predecessor-in-interest ("Lease"), for the Premises located at or about 1362 Rutan Ct Suite 100 Livermore California 94551.

**CHANGE IN NOTICE ADDRESS AND CONVERSION  
OF T-MOBILE WEST CORP. TO T-MOBILE WEST LLC**

Dear Livermore Amadore Valley Transit Authority:

Notice Address:

T-Mobile is changing its Legal Notice Address for our leases/licenses/subleases/sublicenses to the following single address for notification:

T-Mobile USA, Inc.  
12920 S.E. 38<sup>th</sup> Street  
Bellevue, WA 98006  
Attn: Lease Compliance  
Site No. BA12950D

The current Lease T-Mobile has with you may have several Legal Notice Addresses for T-Mobile, including our local market office addresses. The change to a single Notice Address is intended to both simplify and improve communications.

Entity Conversion

T-Mobile is converting T-Mobile West Corporation from a corporation to a limited liability company (T-Mobile West LLC) for administrative efficiencies. This conversion will occur on or about June 25, 2012. This will have no functional effect on you and is merely an internal change. The conversion will not modify or affect your relationship with T-Mobile, including the contact information you currently use, the T-Mobile persons who administers your Lease or your rent payments. The tax identification number (TIN) for T-Mobile West LLC will remain unchanged from the one used for T-Mobile West Corporation.

As a reminder, T-Mobile's preferred method of payment is direct deposit using an electronic funds transfer (EFT) service. If you wish to take advantage of this free electronic service, please contact Xign at Xign@T-Mobile.com or call 1-888-526-4612 (select option 3) to complete the enrollment process.

In closing, you need not respond to this letter and need only to make the change in your records regarding the above T-Mobile Legal Notice Address and the entity conversion. If you have any questions, e-mail us at [propertymanagement@t-mobile.com](mailto:propertymanagement@t-mobile.com). Thank you.

Very truly yours,

T-Mobile USA, Inc.  
Real Estate & Facilities



## FIRST AMENDMENT TO LEASE

THIS FIRST AMENDMENT TO LEASE (the "First Amendment") is made effective this \_\_\_\_\_ day of \_\_\_\_\_, 2025 ("Effective Date"), by and between LIVERMORE AMADOR VALLEY TRANSIT AUTHORITY, a joint powers authority (hereinafter referred to as "Lessor") and T-MOBILE WEST TOWER LLC, a Delaware limited liability company, by and through its Attorney In Fact, CCTMO LLC, a Delaware limited liability company (hereinafter referred to as "Lessee").

### RECITALS

WHEREAS, Lessor and Omnipoint Communications, Inc., a Delaware corporation, d/b/a T-Mobile ("Original Lessee") entered into a Lease dated September 10, 2007, a memorandum of which was recorded in the official records of Alameda County, California ("Official Records") on July 10, 2008 at Instrument No. 2008212834 (the "Lease") whereby Original Lessee leased certain real property, together with access and utility easements, located in Alameda County, California from Lessor (the "Premises"), all located within certain real property owned by Lessor ("Lessor's Property"); and

WHEREAS, T-Mobile West Tower LLC is currently the Lessee under the Lease as successor in interest to the Original Lessee; and

WHEREAS, the Premises may be used for the purpose of constructing, maintaining and operating a Wireless Facility, as defined in Section 4.01 of the Lease; and

WHEREAS, the Lease had an initial term that commenced on March 26, 2008 and expired on March 25, 2013. The Lease provides for three (3) extensions of five (5) years each, all three (3) of which were exercised by Lessee. According to the Lease, the final extension expires on March 25, 2028; and

WHEREAS, Lessor and Lessee desire to amend the Lease on the terms and conditions contained herein.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, Lessor and Lessee agree as follows:

1. Recitals; Defined Terms. The parties acknowledge the accuracy of the foregoing recitals. Any capitalized terms not defined herein shall have the meanings ascribed to them in the Lease. All references in the Lease to the capitalized term "Authority" shall be replaced with "Lessor".

2. Term. Section 2 of the Lease is being amended by deleting the following:

If Lessee has complied with all terms and conditions of the Lease at the end of each lease term and is not in default under the Lease, Authority shall grant Lessee the right and option ("Renewal Option") to extend the term of this Lease for three (3) additional five (5) year terms ("Renewal Terms").

and adding the following:

If Lessee has complied with all terms and conditions of the Lease at the end of each lease term and is not in default under the Lease, Lessor shall grant Lessee the right and option ("Renewal Option") to extend the term of this Lease for seven (7) extensions of five (5) years each (each extension is referred to as a "Renewal Term").

The remainder of Section 2 of the Lease remains unchanged by this First Amendment. Lessor and Lessee hereby acknowledge that Lessee has exercised three (3) Renewal Terms, leaving a balance of four (4) Renewal Terms. If all Renewal Terms are exercised, the final Renewal Term will expire on March 25, 2048.

3. Survey. Lessee reserves the right, at its discretion and at its sole cost, to obtain a survey ("Survey") specifically describing the Premises and any access and utility easements associated therewith. Lessee shall be permitted to attach the Survey as an exhibit to this First Amendment and any related memorandum for recording, which shall update and replace the existing description, at any time prior to or after closing of this First Amendment.

4. Administrative Fee. Tenant will pay to Landlord a one-time amount of Four Thousand and 00/100 Dollars (\$4,000.00) for the full execution of this First Amendment, payable within thirty (30) days of the full execution of this First Amendment ("Administrative Fee"). In the event that this First Amendment (and any applicable memorandum of Lease and/or amendment) is not fully executed by both Landlord and Tenant for any reason, Tenant shall have no obligation to pay the Administrative Fee to Landlord.

5. Representations, Warranties and Covenants of Lessor. Lessor represents, warrants and covenants to Lessee as follows:

a) Subject to approval by Lessor's Board of Directors, Lessor is duly authorized to and has the full power and authority to enter into this First Amendment and to perform all of Lessor's obligations under the Lease as amended hereby.

b) Lessee is not currently in default under the Lease, and to Lessor's knowledge, no event or condition has occurred or presently exists which, with notice or the passage of time or both, would constitute a default by Lessee under the Lease.

c) Lessor agrees to provide such further assurances as may be requested to carry out and evidence the full intent of the parties under the Lease as amended hereby, and ensure Lessee's continuous and uninterrupted use, possession and quiet enjoyment of the Premises under the Lease as amended hereby.

d) Lessor acknowledges that the Premises, as defined, shall include any portion of Lessor's Property on which communications facilities or other Lessee improvements exist on the date of this First Amendment.

6. Notices. Lessee's notice address as stated in Section 20.05 of the Lease is amended as follows:

If to Lessee:

T-Mobile West Tower LLC  
12920 S.E. 38<sup>th</sup> Street  
Bellevue, WA 98006  
Attn: Leasing Administration

With a copy to:

T-Mobile West Tower LLC  
c/o CCTMO LLC  
Attn: Legal – Real Estate Department  
2000 Corporate Drive  
Canonsburg, PA 15317

7. IRS Form W-9. Lessor agrees to provide Lessee with a completed IRS Form W-9, or its equivalent, upon execution of this First Amendment and at such other times as may be reasonably requested by Lessee. In the event the Lessor's Property is transferred, the succeeding Lessor shall have a duty at the time of such transfer to provide Lessee with a completed IRS Form W-9, or its equivalent, and other related paper work to effect a transfer in the rent to the new Lessor. Lessor's failure to provide the IRS Form W-9 within thirty (30) days after Lessee's request shall be considered a default and Lessee may take any reasonable action necessary to comply with IRS regulations including, but not limited to, withholding applicable taxes from rent payments.

8. Counterparts. This First Amendment may be executed in separate and multiple counterparts, each of which shall be deemed an original but all of which taken together shall be deemed to constitute one and the same instrument.

9. Remainder of Lease Unaffected. In all other respects, the remainder of the Lease shall remain in full force and effect. Any portion of the Lease that is inconsistent with this First Amendment is hereby amended to be consistent.

10. Recordation. Lessee, at its cost and expense, shall have the right to record a memorandum of this First Amendment in the Official Records at any time following the execution of this First Amendment by all parties hereto.

[Signature pages follow]

Lessor and Lessee have caused this First Amendment to be duly executed on the day and year first written above.

**LESSOR:**  
LIVERMORE AMADOR VALLEY  
TRANSIT AUTHORITY, a joint powers  
authority

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Lessor affirms that this First Amendment was  
approved at a duly noticed public meeting  
held on \_\_\_\_\_ 2025

[Lessee Execution Page Follows]

This First Amendment is executed by Lessee as of the date first written above.

**LESSEE:**

T-MOBILE WEST TOWER LLC, a  
Delaware limited liability company

By: CCTMO LLC, a Delaware limited  
liability company  
Its: Attorney In Fact

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_