

VILLAGE OF ALLOUEZ

Allouez Village Hall • 1900 Libal Street • Green Bay, Wisconsin 54301-2453
Phone No.: (920) 448-2800 • Fax No.: (920) 448-2850

Department of Public Works

T-MOBILE CELL LEASE AT STANDPIPE

T-Mobile, thru BlackDot as its agent, is requesting re-negotiation of its current lease to lower the monthly payment.

Attached is the proposed lease fee and terms, and the draft lease amendment.

From what we have been able to learn, T-Mobile is potentially to be acquired by another company and also T-Mobile intends to increase its profitability. The new lease effort is to assist in this regard.

The new lease would be a decrease of \$150 per month at this time, but would be a 12% increase when the next five-year term occurs. The rent decrease would result in lower revenue to the water utility, but this does ensure that rent is obtained and the current lease not cancelled.

The 12% increase per term is nearly the same as the current annual increases. The Verizon lease is structured this way.

If T-Mobile is acquired the village is afforded some protection with the 48 month rent guarantee. We would be paid the \$98,400 buyout if the lease is cancelled. This is a guarantee that has some significant value to the water utility.

It is recommended that this T-Mobile lease amendment be approved and implemented.

C. Berndt
February 20, 2017

LEASE EXTENSION PROPOSAL – TERM SHEET

To: Craig Berndt
From: Brett Smith on behalf of T-Mobile
Subject: Site #: ML94469B | Lease #: 132689 | Focus #: WS-300852.1
Date: February 14, 2017

On the terms and conditions set forth below, T-Mobile would consider extending its existing lease agreement for the site located at:

Property / Site Address: 2616 S Webster Ave Green Bay, Wisconsin 54301

Current Term Expiration Date: Jun 7, 2017

New Rent

A.	New Base Rent	\$2,050.12
B.	New Rent Frequency	Monthly
C.	New Escalations	12 %
D.	New Escalation Frequency	Term

New Term

A.	Number of Renewal Terms	5
B.	Renewal Term Length (months)	60

Rent Guarantee Period

A.	Rent Guarantee Period (months)	48
B.	Rent Guarantee Value	\$98,405.76

Other

- A. Please verify or write in the correct legal ownership for this Property. Is this correct? Yes / No
The Village Of Allouez
- B. Please verify or write in the correct address for the Property where the Site is located. Is this correct? Yes / No
2616 S Webster Ave Green Bay, Wisconsin 54301
- C. Please verify or write in the correct address for notice and correspondence. Is this correct? Yes / No
1900 Libal Street Green Bay, Wisconsin 54301

Landlord Initial: _____

Tenant Initial: _____

****This proposal will expire at the close of business 10 days from the date of this Term Sheet unless extended by a T-Mobile officer or director. Landlord may consent to the above terms outlined above by initialing as indicated above and returning to T-Mobile (add POC). Please note that this proposal is not a binding commitment and is subject to review and approval of documentation by all parties. Participation in this program is not required and T-Mobile will continue to abide by the terms of the original Lease Agreement between the parties, including exercising termination rights where they exist. If the parties agree to move forward with the proposed lease extension, they will enter into a mutually acceptable lease amendment, which documents the agreed upon terms and conditions in this Term Sheet.**

[NUMBER OF AMENDMENT] AMENDMENT TO [LEASE TITLE]

This [NUMBER OF AMENDMENT] Amendment to [LEASE TITLE] ("**Amendment**") is effective as of the date of execution by the last party to sign (the "**Effective Date**") by and between [LL VESTING], a [LL ENTITY] ("**Landlord**") and [TMO VESTING], a [TMO ENTITY] ("**Tenant**").

Landlord and Tenant (or their predecessors-in-interest) entered into that certain [LEASE TITLE] dated [DATE], (including all prior amendments) (the "**Lease**") regarding premises located at [ADDRESS] (the "**Premises**"), and

Landlord and Tenant desire to amend the Lease on the terms and conditions set forth herein.

NOW, for good and valuable consideration, Landlord and Tenant agree as follows:

1. **Rent.** Commencing on _____ 1, 2017, Tenant shall pay Landlord _____ dollars (\$___) per month ("**Rent**") in advance, by the fifth (5th) day of each month. Where duplicate Rent would occur, a credit shall be taken by Tenant for any prepayment of Rent by Tenant. Rent shall be adjusted, effective on the first day of each successive Renewal Term, to an amount equal to _____ percent (___ %) above the Rent for the immediately preceding Renewal Term.

2. **Renewal Terms.** At the expiration of the Lease, the Term of the Lease will automatically be extended for _____ additional and successive _____ year terms (each a "**Renewal Term**"), unless Lessee notifies Lessor in writing of Lessee's intention not to extend the Lease at least thirty (30) days prior to the expiration of any Renewal Term.

3. **Modification of Tenant's Obligation to Pay – Rent Guarantee.** Commencing on _____ 1, 2017, Tenant's obligation to pay Rent is guaranteed for a period of _____ (___) years ("**Rent Guarantee Period**"). Tenant's obligation to pay Rent is guaranteed and this obligation shall not be subject to offset or cancellation by Tenant unless any of the following exceptions apply: a) local, state or federal laws adversely affect Tenant's ability to operate; (b) the Premises or Antenna Facilities are damaged or destroyed by wind, fire or other casualty and the Premises cannot be restored within a six-month time period; c) the Property is foreclosed upon and Tenant' is unable to maintain its' tenancy; d) Landlord requires Tenant to relocate its Antenna Facilities which adversely affect Tenant's ability to operate the Antenna Facilities; or e) Landlord breaches the Lease and the default issue is not cured within the appropriate cure period. This Rent Guarantee shall not apply to any increases in the Rent after the execution of this Amendment.

4. **Access.** Landlord shall furnish, at no additional charge to Tenant, unimpeded access to the Premises on a 24-hours-a-day, 7-days-a-week basis to Tenant and Tenant's employees, agents, contractors and other designees.

5. **Permitted Use.** The Premises may be used for: (a) the transmission and reception of communication signals; and (b) the construction, installation, operation, maintenance, repair, addition, upgrading, removal or replacement of any and all Antenna Facilities (collectively, the "**Permitted Uses**").

6. **Expansion.** Tenant shall have the right to enlarge the Premises, to the extent practicable, so that Tenant may implement any necessary upgrades and additions ("**Additional Premises**"), for an increased monthly rent of \$1.50 per square foot. Addition of coaxial cables, raceways, conduits and other ancillary equipment shall not require increased Rent.

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

If to Tenant, to:

T-Mobile USA, Inc.
12920 SE 38th Street
Bellevue, WA 98006
Attn: Lease Compliance/
<SITE NUMBER>

If to Landlord, to:

<LL Name>
<LL Mailing Address>
<City, State, Zip>

8. **Termination.** Tenant may terminate this Agreement without further liability, upon thirty (30) days prior written notice to Landlord, for any of the following reasons: (i) changes in local or state laws or regulations which adversely affect Tenant's ability to operate; (ii) a Federal Communications Commission ("**FCC**") ruling or regulation which is beyond the control of Tenant; (iii) technical or economic reasons; or (iv) if Tenant is unable to obtain any Governmental Approval required for the construction or operation of Tenant's Antenna Facilities. Additionally, upon ninety (90) days prior written notice to Landlord, Tenant may terminate this Agreement for any or no reason.

9. **Tenant Assignment.** Tenant shall have the right to assign, or otherwise transfer this Agreement, upon Tenant's delivery to Landlord of written notice of any assignment, or transfer by Tenant. Tenant shall be relieved of all liabilities and obligations and Landlord shall look solely to the assignee, or transferee for performance under this Agreement. Upon receipt

of a written request from Tenant, Landlord shall promptly execute an estoppel certificate. Tenant shall have the right to sublease the Agreement without the need for Landlord consent.

10. **Bandwidth.** Tenant shall have the right to transmit and receive on any and all frequencies for which Tenant has been granted a license by the FCC.

11. **Memorandum of Lease.** Landlord will execute a Memorandum of Lease at Tenant's request. If the Property is encumbered by a deed, mortgage or other security interest, Landlord will also execute a subordination, non-disturbance and attornment agreement.

12. **Miscellaneous.**

a. Any charges payable under this Agreement other than Rent shall be billed by Landlord to Tenant within twelve (12) months from the date in which the charges were incurred or due; otherwise the same shall be deemed time-barred and be forever waived and released by Landlord.

b. Landlord and Tenant will reasonably cooperate with each other's requests to approve permit applications and other documents related to the Property.

c. To the extent any provision contained in this Amendment conflicts with the terms of the Lease, the terms and provisions of this Amendment shall control. Unless otherwise defined herein, capitalized terms used in this Amendment have the same meanings they are given in the Lease.

d. Except as expressly set forth in this Amendment, the Lease otherwise is unmodified and remains in full force and effect. Each reference in the Lease to itself shall be deemed also to refer to this Amendment.

e. This Amendment may be executed in duplicate counterparts, each of which will be deemed an original. Signed electronic copies of this Amendment will legally bind the parties to the same extent as originals.

f. Each of the parties represent and warrant that they have the right, power, legal capacity and authority to enter into and perform their respective obligations under this Amendment. Landlord represents and warrants to Tenant that the consent or approval of a third party has either been obtained or is not required with respect to the execution of this Amendment.

g. This Amendment will be binding on and inure to the benefit of the parties herein, their heirs, executors, administrators, successors-in-interest and assigns.

IN WITNESS, the parties execute this Amendment as of the Effective Date.

LANDLORD:

[INSERT NAME],

a _____

By: _____

Print Name: _____

Title: _____

Date: _____

TENANT:

[T-MOBILE ENTITY],

a Delaware _____

By: _____

Print Name: _____

Title: _____

Date: _____

T-Mobile Legal Approval

SAMPLE