

RESOLUTION NO. 2003-56

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA APPROVING AN OPTION AND LEASE AGREEMENT WITH OMNIPOINT HOLDINGS, INC., FOR A CAMOUFLAGED FLAG POLE TELECOMMUNICATION TOWER, NOT TO EXCEED 130 FEET, LOCATED AT 17220 GRIFFIN ROAD; APPROVING THE TELECOMMUNICATION TOWER CONCEPTUAL SITE PLAN; AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR AND TOWN ATTORNEY TO ENTER INTO AN AGREEMENT; PROVIDING AN EFFECTIVE DATE

WHEREAS, on July 12, 2001, pursuant to the Telecommunications Act of 1996, the Town Council adopted Ordinance 2001-10, which provides for the appropriate development and location of telecommunication towers and antennas within the Town; and

WHEREAS, the Telecommunication Ordinance seeks to minimize the impact of telecommunication towers and antennas through careful design, siting, landscaping, screening and innovative camouflaging techniques; and

WHEREAS, the Telecommunication Ordinance provides that, when possible, telecommunication towers and antennas should be located on Town owned property; and

WHEREAS, Omnipoint Holdings, Inc., ("Omnipoint"), desires to enter into an Option and Lease Agreement with the Town to construct a telecommunication tower on the Town's property located at 17220 Griffin Road; and

WHEREAS, Omnipoint seeks to construct a camouflaged light pole telecommunication tower not to exceed 130 feet; and

WHEREAS, the Town shall maintain the right to utilize the telecommunication tower for Town purposes.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Southwest Ranches, Florida:

Section 1: That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution.

Section 2: That the Town Council hereby authorizes the execution of an Option and Lease Agreement between the Town of Southwest Ranches and Omnipoint

Holdings, Inc. for the construction of a camouflaged flagpole monopole telecommunication tower on the Town's property located at 17220 Griffin Road.

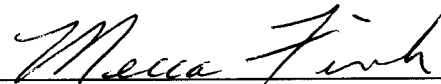
Section 3: That the Town Council hereby approves Omnipoint's conceptual site plan, attached hereto as Exhibit "A," and authorizes the appropriate Town Staff to make such modifications, additions and/or deletions, which they deem necessary and proper to effectuate the intent of this Resolution.

Section 4: That by approving the conceptual site plan, the Town Council hereby waives any of the requirements set forth in Ordinance 2001-10, which may conflict with the telecommunication tower siting and the intent of this Resolution.

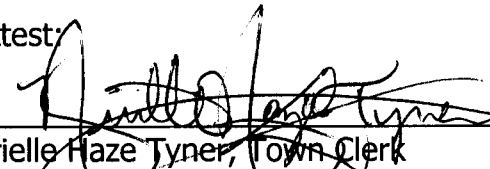
Section 5: That the Town Council hereby authorizes the Mayor, Town Administrator, and Town Attorney to enter into an Option and Lease Agreement in substantially the same form as that attached hereto as Exhibit "B" and to make such modifications, additions and/or deletions which they deem necessary and proper to effectuate the intent of this Resolution.

Section 6: That this Resolution shall become effective immediately upon its adoption.

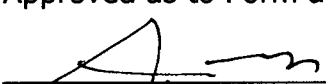
PASSED AND ADOPTED by the Town Council of the Town of Southwest Ranches, Florida this 8 day of May, 2003.



Mecca Fink, Mayor

Attest:


Arielle Haze Tyner, Town Clerk

Approved as to Form and Correctness:


Gary A. Poliakoff, J.D., Town Attorney

OPTION AND LEASE AGREEMENT BETWEEN THE TOWN OF
SOUTHWEST RANCHES, AS LANDLORD, AND OMNIPOINT HOLDINGS,
INC.,
D/B/A T-MOBILE, AS TENANT

THIS LEASE AGREEMENT (this "Agreement") is made and entered into the 8 day
of May, 2003 (the "Effective Date"), by and between:

TOWN OF SOUTHWEST RANCHES, FLORIDA
a municipal corporation of the State of Florida
6589 S.W. 160th Avenue
Southwest Ranches, Florida 33331
a municipal corporation of the State of Florida
(hereinafter referred to as "Town" or "Landlord")

AND

OMNIPOINT HOLDINGS, INC.,
d/b/a T-Mobile
3111 West Dr. Martin Luther King Drive
Suite 400
Tampa, FL 33607
(hereinafter referred to as "Tenant")

Section 1. OPTION TO LEASE

1.01 In consideration of the payment of Five Hundred and 00/100 Dollars (\$500.00) Dollars (the "Option Fee") by Tenant to Landlord, Landlord hereby grants to Tenant an option to lease the use of the real property described in the attached Exhibit A (the "Property"), on the terms and conditions set forth herein (the "Option"). The Option shall be for an initial term of three (3) months, commencing on the Effective Date (the "Option Period"). The Option Period may be extended by Tenant for an additional three (3) months ("Second Option Period") upon written notice to Landlord and payment of the sum of Five Hundred and 00/100 Dollars (\$500.00) Dollars ("Additional Option Fee") at any time prior to the end of the Option Period.

1.02 During the Option Period and any extension thereof, and during the term of this Agreement, Landlord agrees to cooperate with Tenant in obtaining, at Tenant's expense, all licenses and permits or authorizations required for Tenant's use of the Property (as defined below) from all applicable government and/or regulatory entities (including, without limitation, zoning and land use authorities, and the Federal Communication Commission ("FCC") (collectively, the "Governmental Approvals"), including appointing Tenant as agent for all land use and zoning permit applications, and Landlord agrees to cooperate with and to allow Tenant, at no cost to Landlord, to obtain a title report, zoning approvals and variances, land use permits, and Landlord expressly grants to Tenant a right of access to the Property perform surveys, soil

tests, and other engineering procedures or environmental investigations on the Property necessary to determine that Tenant's use of the Property will be compatible with Tenant's engineering specifications, system design, operations and Governmental Approvals. Notwithstanding the foregoing, Tenant may not change the zoning classification of the Property without first obtaining Landlord's written consent. During the Option Period and any extension thereof, Landlord agrees that it will not interfere with Tenant's efforts to secure other licenses and permits or authorizations that relate to other property. During the Option Period and any extension thereof, Tenant may exercise the Option by so notifying Landlord in writing, at Landlord's address in accordance with Section 23 hereof.

1.03 If Tenant exercises this Option, then, subject to the following terms and conditions, Landlord hereby leases to Tenant the use of the Property for the uses permitted hereunder.

Section 2. REAL PROPERTY TO BE LEASED

2.01 Town shall lease to Tenant the Property, which is comprised of a certain parcel of unimproved real property of approximately 2,500 square feet, situated in the Town of Southwest Ranches, Broward County, Florida. The Property is legally described in Exhibit "A" and depicted in the survey annexed hereto as Exhibit "B". Attached hereto as Exhibit "C" is a copy of the Site Plan for Tenant's Communication Facility. Landlord shall have the right to locate other telecommunication providers, and their equipment and facilities, upon the Property, provided that such additional uses of the Property do not adversely interfere with Tenant's use of the Property. Landlord hereby reserves the right, at its sole expense, and upon at least one hundred eighty (180) days prior written notice, to relocate Tenant and its improvements to a comparable location on other property owned by Landlord; provided, however, that if the comparable location will create significant interference to the Communication Facility, or fails to provide radio frequency coverage comparable to the original location, Tenant shall have the right to terminate this Agreement upon written notice to Landlord, in which case such termination will be effective as of the end of the 180 day notice period described above and Landlord will proportionately refund to Tenant any prepaid rent attributable to the unexpired term. In the event of any such relocation, Landlord shall pay all reasonable and necessary expenses incurred by Tenant in connection with the relocation.

2.02 Town shall grant Tenant and its employees, agents, and subcontractors the nonexclusive right for ingress and egress, seven (7) days a week, twenty-four (24) hours a day, by foot or motor vehicles, including trucks onto the Property for the installation, maintenance, and operation of the Communication Facility (as defined in Section 3.02) and any utilities serving the Property. Tenant shall access the Property solely by way of the access route depicted in the Site Plan annexed hereto as Exhibit "C". In the event Tenant is unable to use the access provided to Tenant, then the Town hereby agrees to grant an additional access to Tenant. Landlord reserves the right, upon written notice to Tenant, to relocate Tenant's access to the Property.

Section 3. DUTIES AND RESPONSIBILITIES OF TENANT

3.01 Tenant shall abide by all of the requirements in the Town Code of Ordinances regarding telecommunication towers and antennas unless specifically waived or modified by this Agreement. Said waiver or modification must be specifically delineated. Tenant shall also comply with all state and federal laws, statutes, regulations and ordinances, including, but not limited to, FCC regulations regulating the construction of telecommunication towers and use thereof. Tenant hereby unconditionally indemnifies and agrees to hold Landlord harmless from any breach, whether intentional or otherwise, of such laws, statutes, regulations and ordinances.

3.02 Tenant shall use the Property for the purpose of constructing, maintaining and operating a wireless communication facility and uses incidental thereto. Tenant shall construct a flag-pole type tower upon the Property no greater than one hundred thirty feet (130') in height. Tenant shall use the Property for the transmission and reception of communications signals and the installation, construction, maintenance, operation, repair and replacement of its communications facilities and related equipment, cables, accessories and improvements, which may include but is not limited to, a flag-pole, associated antennas, fencing, and if applicable equipment shelters or cabinets (collectively, the "Communication Facility"); such use includes the right to test, survey and review title to the Property (collectively the "Tenant's Permitted Use"). Tenant shall be responsible to install and maintain, at Tenant's cost and expense, an American Flag, truck assembly, halyard and related apparatus utilized in connection with raising and lowering the flag. The flag shall be replaced by Tenant with a new flag as needed, but in no event more than fifteen (15) calendar days following receipt by Tenant of written notice from Landlord advising that the flag is in need of replacement. Tenant shall remain responsible during the Term to maintain the Communication Facility and all landscaping on the Property in accordance with the site plan approved by the Town Council and otherwise as requested by Landlord.

3.03 Tenant shall be responsible for soil borings or similar tests which may be required as a condition of construction and for all expenses related to its improvements which may thereafter be constructed upon the Property. Town grants Tenant a temporary easement to use adjoining and adjacent property owned by Town as is reasonably required during construction and installation of Tenant's improvements. Said property shall be restored to its original condition at the expense of Tenant.

3.04 Tenant shall maintain the Property and the Communication Facility in a reasonably neat condition and meet all requirements imposed by ordinances of the Town of Southwest Ranches and Broward County, Florida. It is the intent of the parties hereto that the tower portion of the Communication Facility shall resemble a flag pole bearing the flag of the United States of America. The Communication Facilities shall be maintained by Tenant throughout the Term in such a manner as to replicate a clean, neat and well-maintained flag pole.

3.05 Tenant shall allow Town, without charge, and subject to space availability, to locate antennas on the Communication Facility at an elevation and with such equipment and related cables satisfactory to Town and as approved by Tenant, with such approval not to be unreasonably withheld; provided, however, Town's municipal antennas shall not interfere with

Tenant's operations on the Property. Town's antennas shall not occupy more than twelve (12) contiguous or non-contiguous feet of vertical space on the tower, unless otherwise agreed to by Tenant. Should Tenant install an emergency generator at this site, Town may access and connect its communications equipment to Tenant's emergency generator at no expense.

3.06 If applicable, Tenant shall furnish, to its unmanned equipment shelter, electric service for the operation of Tenant's Communication Facility. Tenant shall be solely liable for electricity expenses relating to its installation and equipment. Tenant's electrical service shall be separately metered, and Tenant shall be responsible for all costs associated with metering, including the cost of installing any meter. In the event Tenant installs any emergency generators at this site, said generator shall comply with Broward County's Wellfield Protection Ordinance.

3.07 Tenant shall submit all required applications for permits to the applicable Town and/or County departments for review and approval. Nothing contained in this Agreement shall require the Town to execute, issue, approve or consent to any request, application, permit or other matter which the Town Council has the right or obligation to execute and the Town shall have no obligation to approve, consent to issue or execute any matter in Town's municipal capacity. Tenant shall be responsible for all application fees requested by any governmental authority, including, but not limited to fees imposed by the Town.

3.08 Tenant will be responsible for making all necessary returns for and paying any and all property taxes if applicable separately levied or assessed against its improvements on the Property. Tenant shall reimburse Town, as additional rent, its proportionate share of any increase in real estate taxes levied against the Property in excess of the taxes due for the real estate taxes on the real property in which the Property is a part and payable and are not separately levied or assessed against Tenant's improvements by the taxing authorities, such reimbursement to be paid by Tenant upon receipt of the tax bill.

3.09 Tenant shall be responsible to obtain site plan approval for a 130 foot flag-pole type monopole. Tenant shall designate space within the Property for any collocator(s) to place equipment shelters, emergency generators, or other necessary equipment and facilities. Tenant agrees to cooperate to the fullest extent possible with any such collocator(s).

3.10 In the event that any local, county, state or federal statute, rule, ordinance or regulation requires parking spaces at or near the Communication Facility, Tenant shall be responsible for installing and maintaining same, at a location mutually agreeable to Landlord and Tenant.

3.11 Tenant, upon termination of this Agreement, at the Town's request, shall remove its personal property and fixtures and restore the Property, including the sub-surface thereof, by removing the tower foundation a minimum of three (3') feet below grade, to its original condition, normal wear and tear excepted. At Town's option, Town may request Tenant to leave any and all fixtures, with exception of any equipment commonly utilized by Tenant in its telecommunications business, including, but not limited to, the foundation, security fence and tower, which shall become property of Town. For purposes of this section, fixtures shall not be deemed to include antennas, moveable equipment, and other equipment owned by Tenant. Any

antennas installed on the tower for Town shall remain Town's property. If Town decides that Tenant's personal property and fixtures should be removed and the time required for removal causes Tenant to remain on the Property after termination of this Agreement, Tenant shall pay rent in accordance with Section 7 until such time as the removal of personal property and fixtures are completed.

Section 4. DUTIES AND RESPONSIBILITIES OF TOWN

4.01 Prior to Town's installation of Town's antenna on the tower, Town shall provide Tenant an exact description of the antenna, equipment and height for the installation anticipated by Town. The cost of Town's equipment, its installation and maintenance thereof shall be borne by Town. The installation and maintenance of Town's antenna are to be performed by Town or its contractors, in a workmanlike manner, and all work is to be done in a manner consistent with Tenant's high quality construction standards. Prior to the commencement of any installation or maintenance work, Town shall submit detailed plans of the work to be performed to Tenant for its approval, not to be unreasonably withheld, delayed or conditioned, and Tenant shall either approve Town's contractor prior to any installation and/or maintenance that will require access to the antenna support structure or the emergency generator or Tenant shall perform the work and bill the Town a reasonable cost.

4.02 Town shall grant Tenant the right to survey the property in order to meet requirements to submit the applications for permits. The survey and the legal description of the Property shall be attached hereto as Exhibits "B" and "A" respectively.

4.03 Provided that Tenant constructs the Communication Facility in a prompt and timely manner, Town warrants that from the Effective Date until completion of the Communication Facility by Tenant, Town shall not cause or allow the condition or zoning status of the Property to be changed, altered or modified in any manner so as to adversely affect Tenant's Permitted Use of the Property.

4.04 Nothing contained herein will restrict Tenant or its permitted successors and assigns from installing and modifying the Communication Facility.

4.05 Town will not use, nor will Town permit its employees, tenants, licensees, invitees or agents to use, any portion of the Property in any way which materially interferes with the operations of Tenant or the rights of Tenant under this Agreement. Town will employ its best efforts to attempt to not cause Town related interference other than emergency signals to cease within a reasonable time following receipt from Tenant of written notice of such interference. In the event that the interference to Tenant's operations does not cease within a reasonable period of time, Tenant shall have the right to seek to enjoin such interference and make any necessary emergent applications to the appropriate regulatory authorities.

Section 5. ACKNOWLEDGEMENT AND COMMENCEMENT DATE

5.01 Town and Tenant acknowledge that Tenant's ability to use the Property is contingent upon Tenant obtaining all the certificates, permits and other Governmental Approvals

as may be required by any federal, state and/or local authorities. In the event that any certificate, permit or Governmental Approvals issued to Tenant is unreasonably canceled, due to no fault of Tenant, or any affiliated entity of Tenant, or is otherwise withdrawn or terminated by a governmental authority, rendering Tenant unable to use the Property for its intended purpose, Tenant shall have the right to terminate this Agreement pursuant to Section 8.

5.02 Town covenants that Town has full authority to enter into and execute this Agreement.

5.03 Tenant shall commence construction and installation of the Communication Facility no later than six (6) months after the Commencement Date (as defined in section 6.01). The actual construction start date shall be coordinated with Town. If Tenant does not commence construction and installation within the designated time frame, Town may terminate Agreement by providing a thirty (30) calendar days written notice to Tenant. Alternatively, the Town Administrator, upon a written request from Tenant, may authorize a reasonable extension for the commencement of construction; however, if an extension is granted, it will not affect the terms related to consideration in section 7 of this Agreement.

Section 6. TERM OF AGREEMENT.

6.01 If Tenant exercises the Option in accordance with Section 1 of this Agreement, the initial term ("Initial Term") of this Agreement shall commence on the later to occur of (a) the date on which the Town Council approves Tenant's site plan, or (b) all Governmental Approvals have been obtained (the "Commencement Date"), and continue for a period of ten (10) years. The Initial Term shall terminate at midnight on the date preceding the tenth (10th) anniversary date of the Commencement Date.

6.02 Tenant shall have two (2) successive options to extend this Agreement for two (2) additional ten (10) year terms. Such extensions shall automatically occur unless Tenant gives written notice to Town of its intention not to extend this Agreement at least one (1) year prior to the end of the then current term.

6.03 If, at the end of the second (2nd) ten (10) year renewal term, this Agreement has not been terminated, this Agreement shall remain in full force and effect upon the same covenants, terms and conditions; provided, however, that the Agreement shall be for annual terms thereafter unless terminated by either party by giving the other party written notice of its intention to terminate at least six (6) months prior to the end of the then existing term. Annual rent during any such annual renewal terms shall increase in accordance with Section 7.03.

Section 7. CONSIDERATION

7.01 Town shall be paid an annual rental fee payment of Thirty Thousand and 00/100 (\$30,000.00) Dollars which shall be adjusted annually pursuant to section 7.03. Rent shall be paid by Tenant to Landlord in advance without notice, demand or setoff, in advance. Payment shall be made in a lump sum, on the first (1st) day of October of every year in which this Agreement remains in force. If this Agreement is terminated at a time other than on the last day

prior to the anniversary date for any reason other than a default by Tenant, Tenant's Rent shall be prorated as of the date of termination, and all prepaid Rent shall be credited against the termination fee payable by Tenant to Landlord as provided under Section 8 hereunder. This is a triple net lease to Town with Tenant bearing all expenses. The first installment of annual rent is due on the Commencement Date as defined in Section 6.01 hereof. In the event that the Commencement Date is a day other than October 1, then the rental fee for the first year of the Initial Term shall be prorated from the Commencement Date through and including the next September 30.

7.02 The rent payment date for purposes of this Agreement is October 1 of each calendar year. Rental payments shall be submitted to the Town no later than ten (10) calendar days after each annual rent payment date and sent to:

Town of Southwest Ranches, Florida
Attn: John Canada, Town Administrator
6589 S.W. 160th Avenue
Southwest Ranches, Florida 33331

For and with respect to each installment of rent that is not paid within the aforementioned ten (10) calendar days of the rent payment date, Tenant shall pay to Landlord on demand, as additional rent, a monthly late charge in an amount equal to five percent (5%) per annum of the amount of the overdue payment, as of the date on which such rent first became due.

7.03 Effective as of October 1st of each year during the term of this Agreement, the rental fee shall increase every year to an amount equal to 1.04% of the rent in effect for the immediately preceding year. To the extent that rental payments and additional rent, if any, due hereunder is taxable, then Tenant shall pay to Landlord, as additional rent, all sales tax due in connection with the rental payments. Landlord acknowledges that Tenant, as of the Effective Date of this Agreement, is exempt under Florida Statutes 212.031(5), from paying sales tax on its rental payments.

Section 8. TERMINATION

8.01 Pursuant to Section 5.01 of this Agreement, Tenant may terminate this Agreement by providing a ten (10) calendar day written notice prior to the effective termination date. Within ten (10) days of Tenant's delivery of notice of termination to Town, Tenant shall pay to Town a termination fee in the sum of One Hundred Fifty percent (150%) of the then current annual rent, plus accrued rent and additional rent; provided, however, that Tenant shall not be required to pay any termination fee if the termination is due to Town's revision to its Code of Ordinances, or Town's failure to approve Tenant's site plan, or if, through no fault of Tenant, Tenant loses, forfeits or is otherwise unable to maintain any other Governmental Approval necessary for Tenant's installation or operation of the Communication Facility.

8.02 Tenant may terminate this Agreement any time upon ninety (90) days' written notice if the Property or the Communication Facility are or become unacceptable under Tenant's

design or engineering specifications for its Communication Facility or the communications system or network to which the Communication Facility belongs; provided, however, that if Tenant terminates the Agreement pursuant to this Section 8.02, Tenant shall pay Town a termination fee equal to one hundred fifty percent (150%) of the current annual rent, plus accrued rent and additional rent, and such termination fee on or before the termination date specified in the written notice given by Tenant to Town pursuant to this Section 8.02.

8.03 Town may terminate this Agreement in the event of a default hereunder by Tenant by providing a thirty (30) calendar day written notice to Tenant; however, Tenant shall be given the opportunity to correct any default within ninety (90) calendar days of receipt of written notice. This Agreement shall not be terminated if such default is of a nature that it cannot be cured in ninety (90) calendar days and Tenant is diligently proceeding to cure such defect.

8.04 Upon the expiration or earlier termination of this Agreement, Tenant shall offer Town a right of first refusal to purchase the tower structure and certain remaining improvements for the agreed upon sum of One Dollar (\$1.00). Town shall have 120 calendar days from the expiration date or earlier termination in which to exercise this option.

8.05 In the event Town is in default on any provision of this Agreement, Tenant may terminate this Agreement for cause by providing a thirty (30) calendar day written notice to Tenant; however, Town shall be given the opportunity to correct any default within ninety (90) calendar days of receipt of written notice. This Agreement shall not be terminated if such default is of a nature that it cannot be cured in ninety (90) calendar days and Town is diligently proceeding to cure such defect.

Section 9. INDEMNIFICATION

9.01 General Indemnification: Tenant agrees to indemnify, save and hold harmless Town, its officers, agents and employees, from any and all claims, damages, liability, losses, causes of action of any nature whatsoever, which may arise out of, in connection with or because of the use and occupancy of the Property by Tenant or its officers, agents, employees or independent contractors under this Agreement or the breach of this Agreement by Tenant, except for claims arising solely from gross negligence or intentional acts of Landlord, its employees, agents or independent contractors. In accordance with its liability, Tenant shall pay all claims, losses, liens, settlements or judgments, of any nature whatsoever, in connection therewith, including, but not limited to, paralegal fees, attorney's fees and costs to defend all claims or suits, including attorney's fees on appeal, in the name of Town when applicable, and shall pay all costs and judgments which may issue thereon. Such indemnification shall not be limited to the amount of comprehensive general liability insurance which Tenant is required to obtain under this Agreement.

9.02 Nothing contained herein is intended nor shall be construed to waive Town's rights and immunities under the common law or Florida Statutes 768.28, as amended from time to time.

9.03 Florida Lien Law. Tenant shall pay or cause to be paid all costs and charges for work done by it or caused to be done by it ("Work"), in or to the Property, and for all materials furnished for or connection with the Work. Tenant will indemnify and hold harmless Town from all liabilities, liens, claims, costs, and demands on account of the Work. Nothing contained in this Agreement shall be construed as consent or agreement of Town to subject Town's interest in the Property to liability under any lien law, nor to limit any lien or levy rights to which Town may be entitled under Florida law. Tenant shall satisfy any lien recorded against the Property in connection with the Communication Facility within 30 days of the recording of such lien.

Section 10. INSURANCE

10.01 Tenant shall secure and maintain, at its own expense, and keep in effect during the full term of this Agreement, a policy or policies of insurance, which must include the following coverages and minimum limits of liability specifically reflecting and including coverages for all acts, activities and omissions in any way arising out of the planning, installation and operation of the telecommunication facility.

(1) Worker's Compensation Insurance for statutory obligations imposed by Worker's Compensation or Occupational Disease Laws, including, where applicable, the Federal Employers' Liability Act. Employer's Liability Insurance shall be provided with a minimum of one hundred thousand and 00/100 dollars (\$100,000.00) per accident. Tenant agrees to be responsible for the employment, conduct and control of its employees and for any injury sustained by such employees in the course of their employment.

(2) Comprehensive General Liability (occurrence form) with the following minimum limits of liability with no restrictive endorsements:

\$1,000,000.00 Combined Single Limit, per occurrence, Bodily Injury & Property Damage Coverage shall specifically include the following with minimum limits not less than those required for Bodily Injury Liability and Property Damage Liability:

- (a) Premises and Operations.
- (b) Independent Contractors.
- (c) Product and Completed Operations Liability.
- (d) Broad Form Property Damage.
- (e) Broad Form Contractual Coverage applicable to the Agreement and specifically insuring the indemnification and hold harmless agreement contained in section 9 of the Agreement.
- (f) Owner's or Contractor's Protective Liability.

10.02 UPON FULL EXECUTION OF THIS AGREEMENT, TENANT SHALL SUBMIT TO TOWN COPIES OF ITS CERTIFICATE(S) OF INSURANCE EVIDENCING THE REQUIRED COVERAGES AND SPECIFICALLY PROVIDING THAT THE TOWN OF SOUTHWEST RANCHES IS NAMED AS AN ADDITIONAL INSURED WITH RESPECT TO THE REQUIRED LIABILITY COVERAGES AND THE OPERATIONS OF TENANT UNDER THIS AGREEMENT.

Insurance companies selected must be of an A+ or A rating by AM Best and authorized to do business in Florida. All of the policies of insurance so required to be purchased and maintained shall contain a provision or endorsement that the coverage afforded shall not be cancelled, materially changed or renewal refused until at least thirty (30) calendar days written notice has been given to Town.

10.03 These insurance requirements shall not relieve or limit the liability of Tenant. Town does not in any way represent that the types and amounts of insurance required hereunder are sufficient or adequate to protect Tenant's interests or liabilities but are merely minimum requirements established by the Town's Administrator. Town reserves the right to require any other insurance coverages as commercially reasonable and carried by similar businesses.

10.04 If Tenant is self-insured and maintains a self-insurance risk fund and program which provides for comprehensive general liability, property insurance and worker's compensation, Tenant shall verify said program by submitting the necessary documents to Town Administrator prior to execution of this Agreement. The Town shall receive a thirty (30) calendar day written notice in the event of any change in the current program having an effect upon the breadth of coverage with respect to limitations and any variance with respect to limits of liability, if less than required under this Agreement.

10.05 The Tenant shall require each of its sub-contractors to maintain the insurance required herein (except as respects limits of coverage for employers and public liability insurance which may not be less than One Million Dollars (\$1,000,000.00) for each category), and the Tenant shall provide verification thereof to Town upon request.

10.06 All required insurance policies shall preclude any underwriter's rights of recovery or subrogation against Town with the express intention of the parties being that the required insurance coverage protects both parties as the primary coverage for any and all losses covered by the above described insurance.

10.07 Tenant shall ensure that any company issuing insurance to cover the requirements contained in this Agreement agrees that it shall have no recourse against Town for payment or assessments in any form on any policy of insurance.

10.08 The clauses "Other Insurance Provisions" and "Insured Duties in the Event of an Occurrence, Claim or Suit" as it appears in any policy of insurance in which Town is named as an additional named insured shall not apply to Town. Town shall provide written notice of occurrence within thirty (30) working days of Town's actual notice of such an event.

10.09 The Tenant shall not commence performance of its obligations under this Agreement until after it has obtained all of the minimum insurance herein described and the same has been approved.

10.10 Violation of the terms of Section 10 and its sub-parts shall constitute a breach of the Agreement and Town, at its sole discretion, may terminate the Agreement pursuant to Section 8 of this Agreement.

Section 11. CO-LOCATION

11.01 Tenant agrees to provide maximum space for shared use of the communication tower. Tenant will not unreasonably preclude any collocator the right to co-locate on the Communication Facility. Tenant shall provide Landlord with written notice if Tenant enters co-location agreements with other carriers. Any such collocator shall be responsible to maintain insurance in the minimum limits as set forth hereunder, and shall name Landlord as an additional insured in such policies. All collocators shall abide by all of Town's co-location requirements as set forth in the Town's Code of Ordinances

11.02 The Rent due hereunder shall increase as Tenant adds collocators to the Communication Facility. The additional rent (the "Colocation Rent") shall be payable monthly, as provided under this Section. Colocation Rent shall be \$1,000 per month for each and every month in which there exists one (1) collocator on the site. Colocation Rent shall be \$1,500 per month for each and every month in which there exists two (2) collocators on the site. Colocation Rent shall be \$1,833 per month for each and every month in which there exists three (3) collocators on the site. Colocation Rent shall be \$2,167 per month for each and every month in which there exists four (4) collocators on the site. Colocation Rent shall be \$2,500 per month for each and every month in which there exists five (5) collocators on the site. Colocation Rent shall be paid by Tenant to Town for each and every collocator paying Tenant rent, or other consideration or bartering arrangement. (That is, Colocation Rent shall not commence until rent or other consideration commences under Tenant's lease agreement with such collocator(s).) Colocation Rent shall be paid by the fifth (5th) day of each calendar month of the Term, for the immediately preceding month, based upon the number of collocators paying Tenant rent or other consideration for one (1) or more days during the immediately preceding month.

11.03 Town has the right to request and review all accountings of fees paid to Tenant by any collocator. Tenant shall furnish to Landlord a copy of such accountings within twenty (20) days following Tenant's request.

Section 12. ENVIRONMENTAL

12.01 Landlord represents that it has no actual knowledge of any substances, chemical or waste on the Property that is identified as hazardous, toxic or dangerous under any applicable federal, state or local law or regulation. Landlord and Tenant agree that each will be responsible for compliance with any and all environmental and industrial hygiene and hazardous waste laws, including any federal, state and local statutes, regulations, guidelines, standards, or policies of any governmental authority regulating or imposing standards of liability or standards of conduct

with regard to any environmental, or industrial hygiene condition or other matters as may now or at any time hereafter be in effect, that are now or were related to that party's activity conducted on or about the Property.

12.02 Landlord and Tenant agree to hold harmless and indemnify the other from, and to assume all duties, responsibilities and liabilities at its sole cost and expense (for payment of penalties, sanctions, forfeitures, losses, costs or damages) and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding which is related to (i) failure to comply with any environmental, industrial hygiene or hazardous materials law, including without limitation any regulations, guidelines, standards or policies of any federal, state or local governmental authority regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene conditions or matters as may now or hereafter be in effect, or (ii) any environmental or industrial hygiene conditions that arise out of or are in any way related to the condition of the Property or activities conducted by the party thereon, unless the environmental conditions are caused by the other party.

12.03 The indemnifications of this Section 12 specifically include reasonable costs, expenses and fees incurred in connection with any investigation of Property, or any clean-up, remedial removal or restoration work required by any governmental authority, as well as reasonable attorneys fees. The provisions of this Section 12 shall survive the expiration or termination of this Agreement.

Section 13. ASSIGNMENT

13.01 This Agreement may not be sold, subleased, assigned or transferred by Tenant without prior written consent of Town, which shall not be unreasonably withheld, conditioned or delayed. This provision will not preclude Tenant from allowing other wireless communication service providers to co-locate on the Communication Facility, so long as this Agreement is in effect. Notwithstanding the above, Tenant may assign, sell or transfer its interest under this Agreement without the approval or consent of Town, to Tenant's principal, affiliates, subsidiaries, subsidiaries of its principal or to any entity which acquires all or substantially all of the Tenant's assets in the market defined by the FCC in which the Property is located, by reason of a merger, acquisition, or other business transaction. Tenant may not otherwise assign this Agreement without Town's consent.

13.02 In addition, notwithstanding anything to the contrary contained in this Agreement, Tenant may collaterally assign, mortgage, pledge, hypothecate or otherwise transfer without consent its interest in this Agreement to any financing entity, or agent on behalf of any financing entity to whom Tenant (i) has obligations for borrowed money or in respect of guaranties thereof, (ii) has obligations evidenced by bonds, debentures, notes or similar instruments, or (iii) has obligations under or with respect to letters of credit, bankers acceptances and similar facilities or in respect of guaranties thereof.

Section 14. COMPLIANCE WITH LAWS.

14.01 Tenant shall comply with all statutes, laws, ordinances, rules, regulations and lawful orders of the United States of America, State of Florida, Broward County, Town of Southwest Ranches and of any other public authority which may be applicable, including but not limited to Section 704 of the Telecommunications Act of 1996.

Section 15. GOVERNING LAW; VENUE

15.01 The validity, construction and effect of this Agreement shall be governed by the laws of the State of Florida.

15.02 Any claim, objection or dispute arising out of the terms of this Agreement shall be limited in the Seventeenth Judicial Circuit in and for Broward County, Florida.

Section 16. INSOLVENCY

16.01 In the event either party shall become insolvent, make a general assignment for the benefit of creditors, suffer or permit the appointment of a receiver for its business or its assets or shall avail itself of, or become subject to, any proceeding under the Federal Bankruptcy Act or any other statute of any state relating to insolvency or the protection of rights of creditors, or become subject to rehabilitation, then, at the option of the other party and immediately upon written notice, this Agreement shall terminate and be of no further force and effect.

Section 17. ENTIRE AGREEMENT

17.01 This Agreement contains the entire understanding of the parties relating to the subject matter hereof, superseding all prior communications between the parties, whether oral or written. This Agreement may not be altered, amended, modified or otherwise changed nor may any of the terms hereof be waived, except by a written instrument executed by both parties. The failure of a party to seek redress for violation of or to insist on strict performance of any of the covenants of this Agreement shall not be construed as a waiver or relinquishment for the future of any covenant, term, condition or election, but the same shall continue and remain in full force and effect.

Section 18. SEVERABILITY

18.01 Should any part, term or provision of this Agreement be, by a court of competent jurisdiction, decided to be invalid, illegal or in conflict with any law of this State, the validity of the remaining portions or provisions shall not be affected thereby.

Section 19. INTENTIONALLY OMITTED

Section 20 FORCE MAJEURE

20.01 In the event of any act of God, hurricane, tornado, rain, flood, sink hole, wind, hail, lightening, earthquake, extreme high or low temperatures, water or gas main break, fire, explosion, riot, terrorist act, military action, failure to act on the part of a governmental authority, strike, lockout or other labor problem, transportation delay, unavailability of supplies or materials or change in or in the interpretation of any law or regulation resulting in either party's inability to perform the obligations required of such party hereunder, this Agreement shall not terminate by such party's performance hereunder, and the effected obligations shall be excused for a period equal to such delay and such party shall not be considered to be in default under this Agreement with respect to the obligation, performance of which has thus been delayed; provided, however, that Tenant's obligation to pay rent and all other charges and sums due and payable by Tenant shall abate, to the extent that the Communication Facility are totally unusable, for a period not to exceed thirty (30) days commencing on the date of such damage or destruction and thereafter rent and all other charges shall not be effected or excused. Any abatement hereunder shall be credited against the next annual rent installment.

Section 21. CONDEMNATION

21.01 If the Communication Facility, or such portion of the Property as will make the Communication Facility unusable for Tenant's use, or if the whole of the Property, or such portion thereof as will make the Property unusable for the purposes herein leased, is condemned by any legally constituted authority, or conveyed to such authority in lieu of such condemnation, then in any of said events, this Agreement shall end on the date when possession thereof is taken by the condemning authority, and rental shall be accounted for between Landlord and Tenant as of such date and Landlord shall pay Tenant a refund of any prepaid rent.

Section 22 DEFAULT

22.01 The following shall be deemed a default by Tenant and the breach of this Agreement: (a) non-payment of rent or any other Tenant monetary obligations within ten (10) days after Tenant receives written notice of such non-payment from Landlord; (b) Tenant's failure to perform any other agreement, representation, or warranty under this Agreement within the time frames provided for hereunder; (c) Tenant being adjudicated as bankrupt, insolvent, or placed in receivership, or proceedings being instituted by or against Tenant for bankruptcy, insolvency, receivership, agreement of compensation or assignment for the benefit of creditors, which proceedings are not dismissed within sixty (60) days.

22.02 Upon any default by Tenant under the above contingencies, or as otherwise provided under the Agreement, Landlord may, if Landlord so elects, at any time thereafter, terminate this Agreement and the term hereof, upon giving to Tenant thirty (30) days notice in writing, of Landlord's intention to do so. Upon the giving of such notice, this Agreement and the term hereof shall end on the date fixed on such notice as if said date was a date originally fixed in this Agreement for the expiration hereof.

22.03 Upon Landlord's exercise of its right to terminate this Agreement, Landlord shall be entitled to the following remedies: (i) all remedies to which Landlord may be entitled under law or equity; and (ii) exercise all other rights as may be provided to Landlord hereunder. Landlord's remedies shall be cumulative in nature, and the exercise of one remedy shall not preclude Landlord from exercising any other remedies to which it may be entitled.

Section 23. NOTICES

23.01 All notices or other communications required by this Agreement shall be in writing and deemed delivered upon mailing by certified mail, return receipt requested, to the following persons and addresses:

TOWN: John Canada, Town Administrator
Town of Southwest Ranches
6589 S.W. 160th Avenue
Southwest Ranches, Florida 33331

with a copy to:

Gary Poliakoff, J.D.
Town Attorney
3111 Stirling Road
Ft. Lauderdale, Florida 33312

TENANT:

Omnipoint Holdings, Inc.,
c/o T-Mobile
3111 West Dr. Martin Luther King Drive
Suite 400
Tampa, FL 33607
Attn: Lease Administrator

With a copy to:

Omnipoint Holdings, Inc.
c/o T-Mobile
12920 SE 38th Street
Bellevue, WA 98006
Attn: PCS Lease Administrator

Section 24. OTHER PROVISIONS

24.01 Town covenants that Tenant, on paying the rent and performing the covenants, shall peaceably and quietly have, hold and enjoy the Property.

24.02 Attorneys' Fees. If any party obtains a judgment against any other party by reason of breach of this Agreement, the prevailing party shall be entitled to reasonable attorneys'

fees and costs, including paralegal costs, at both the trial and appellate levels, as well as any and all arbitrations and mediations.

24.03 In the event that Tenant's presence on the Property increases real estate taxes respecting to the Property, Tenant shall be responsible for payment of such taxes. Tenant shall remit the taxes to Landlord, as additional rent upon 10 days notice from Landlord. Landlord shall furnish Tenant with evidence of the tax increases.

24.04 Holdover. If Tenant remains on the Property after the expiration or earlier termination of this Agreement, such holding over shall be construed as a month-to-month tenancy which is subject to all of the terms and conditions of this Agreement, except as to duration and rental which shall be 150% of the amount of fixed rental paid by Tenant immediately prior to such expiration or earlier termination. This section shall in no way be deemed to limit any rights or remedies available to Landlord as a result of such a wrongful holding over by Tenant.

24.05 Radon. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

[Signatures appear immediately following]

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed the day and year first above written.

LANDLORD

WITNESS:

TOWN OF SOUTHWEST RANCHES, FLORIDA

[Signature]
Witness
Print Name: LEE J. RUCKES

[Signature]
Mecca Fink, Mayor

[Signature]
Witness
Print Name: Emily S. Mard

Attest:
[Signature]
Arielle Haze Tyner, Town Clerk

Approved as to Form and Correctness:

[Signature]
Gary A. Poliakoff, J.D., Town Attorney

TENANT

WITNESS:

OMNIPOINT HOLDINGS, INC.,
D/B/A T-MOBILE

[Signature]
Witness
Print Name: JASON LESGETT

By: [Signature]
Print Name: **Patrick Monroe**
Title: **Director of Engineering and Operations**

[Signature]
Witness
Print Name: SEVEN A. MORIN

EXHIBIT "A"
LEGAL DESCRIPTION

A PARCEL OF LAND IN THE SOUTHEAST ¼ OF SECTION 30, TOWNSHIP 50 SOUTH, RANGE 40 EAST, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT THE INTERSECTION OF THE SOUTH RIGHT OF WAY LINE OF THE SOUTH NEW RIVER CANAL AND THE EAST LINE OF SAID SOUTHEAST ¼ OF SECTION 30;
THENCE RUN SOUTH 01° 31' 16" EAST (ON GRID BEARING) 325.01 FEET ALONG SAID EAST LINE OF THE SOUTHEAST ¼; THENCE RUN SOUTH 88° 05' 16" WEST 182.88 FEET ALONG A LINE PARALLEL TO SAID SOUTH RIGHT OF WAY LINE OF THE SOUTH NEW RIVER CANAL TO THE POINT OF BEGINNING; THENCE SOUTH 88° 05' 16" WEST 175.00 FEET ALONG SAID PARALLEL LINE; THENCE RUN NORTH 01° 53' 42" WEST 235.00 FEET TO AN INTERSECTION WITH A LINE 90.00 FEET SOUTH OF, AS MEASURED AT RIGHT ANGLES AND PARALLEL TO SAID SOUTH RIGHT OF WAY LINE OF THE SOUTH NEW RIVER CANAL; THENCE RUN NORTH 88° 05' 16" EAST 175.00 FEET ALONG SAID PARALLEL LINE; THENCE RUN SOUTH 01° 53' 42" EAST 235.00 FEET TO THE POINT OF BEGINNING.
SAID LAND SITUATE IN THE TOWN OF SOUTHWEST RANCHES, BROWARD COUNTY, FLORIDA, AND CONTAINING 0.9441 ACRES MORE OR LESS.

EXHIBIT "B"
SURVEY

SEE ATTACHED

EXHIBIT "C"
SITE PLAN

SEE ATTACHED

