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LEASE AGREEMENT

FOR

TELECOMMUNICATIONS

WITH 911-014-002

AT&T WIRELESS PCS, LLC

LEASE AGREEMENT FOR TELECOMMUNICATIONS

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Site: Poolesville Depot

LEASE AGREEMENT FOR TELECOMMUNICATIONS

THIS LEASE made this 22 day of January, 2002, by and between the Board of Education of Montgomery County, governing body of MONTGOMERY COUNTY PUBLIC SCHOOLS (hereinafter the "Landlord"), and AT&T Wireless PCS, LLC, a Delaware limited liability company, by and through its member, AT&T Wireless Services, Inc., d/b/a AT&T Wireless (hereinafter the "Tenant").

Landlord hereby rents to Tenant and Tenant hereby rents from Landlord the leased premises herein described upon the following terms and conditions:

1. **NON-EXCLUSIVITY; CO-LOCATION.** Landlord leases to Tenant a portion of the Parcel (hereinafter described), a portion of which (namely the fenced enclosure) is leased on an exclusive basis, for the express purpose of Tenant's placing certain approved telecommunications facilities (the "Communications Facility") on the Premises (as defined below) to promote the public purposes of the Telecommunications Act of 1996. Tenant agrees and understands that it shall enjoy a non-exclusive right to use that portion of the Parcel on which is constructed a tower, monopole, or other antenna-related structure and shall permit co-location by other tenants on any tower, monopole, or other structure that it may construct for its telecommunication purposes. Tenant shall deal in good faith with any other tenants who may be granted co-location rights on the Communications Facility.
2. **LEASED PREMISES.** The leased premises ("Premises") consist of approximately One Hundred and Nineteen (119) square feet of that certain tract of land lying in Montgomery County, Maryland, containing four (4) acres and conveyed to the Landlord pursuant to a deed dated November 20th, 1927 from Annie M. Mossberg, et. al. as grantors to The Board of Education of Montgomery County, as grantee, and recorded in Liber 444, page 389 of the Land Records of Montgomery County (the "Parcel"). The Parcel is further identified as Parcel P079 on Tax Map CT33. The Premises are more particularly shown on a site drawing attached hereto as Exhibit A and made a part hereof.
3. **TERM.** The term of this Lease shall be five (5) years with three (3) five-year renewal options at the discretion of the Tenant, subject to the cancellation (Paragraph 7) and the default provisions (Paragraph 15) of this Lease. The initial term shall commence on the earlier to occur of the commencement of construction of the Communications Facility or the sixtieth (60th) day following the above date of this Lease, unless the parties agree in writing to a different commencement date ("Commencement Date").
4. **RENTAL.** Tenant hereby covenants and agrees to pay or cause to be paid as annual rent to Landlord the total sum of **Twenty-Four Thousand Dollars (\$24,000)** for the initial 12-month term by monthly payments of **Two Thousand Dollars (\$2,000.00)**. Annual rent shall be

adjusted at each anniversary of the Lease year by two and one-half percent (2.5%) over the previous year's rent or an amount equal to the increase in the consumer price index for the Baltimore Washington Region, whichever is greater. Rent shall be made payable to the Montgomery County Public Schools and delivered to the Office of the Chief Operating Officer, 850 Hungerford Drive, Rockville, Maryland 20850, or such other place as the Landlord may from time to time so designate in writing at least thirty (30) days in advance of a rental payment date.

5. **SECURITY DEPOSIT/SURETY BOND.** Upon execution of this Lease, Tenant shall deposit with the Landlord, at the option of Tenant, a cash security deposit or a surety bond in a form and from a surety company acceptable to the Landlord in the amount of Fifty Thousand Dollars (\$50,000.00) as security for the faithful performance and observance of the terms and conditions of this Lease. It is agreed that if Tenant defaults with respect to any terms and conditions of this Lease, including but not limited to the payment of rent, or the removal of its equipment at the conclusion of this Lease, Landlord may use, apply, retain or draw against the whole or any part of said security deposit or surety bond required for the payment of any rent or any other sum as to which the Tenant is in default or for any sum which the Landlord may expend or may be required to expend by reason of the Tenant's defaults of any of the terms, conditions, and covenants of this Lease. If Tenant shall fully and faithfully comply with all the terms, covenants, and conditions of this Lease, the security deposit shall be returned to Tenant or the surety bond shall be extinguished no later than sixty (60) days after the end of this Lease provided Tenant has delivered the Premises in the manner required herein.

6. **RENEWAL.** At the option of the Tenant and so long as Tenant is not in default under any of the terms hereof, this Lease may be renewed if, at least one hundred eighty (180) days prior to expiration of the then current term of this Lease, Tenant provides written notice of its intent to renew the Lease for another five-year term. At least ninety (90) days prior to the expiration of the then current term, Landlord shall inform Tenant in writing of the annual rent for the new term, which shall not exceed five percent (5%) over the previous year's annual rental rate.

7. **CANCELLATION.** Landlord may cancel this Lease for cause if Tenant fails to comply with the terms and conditions of this Lease. Tenant shall have thirty (30) days after written notice to cure any non-conforming condition to the satisfaction of the Landlord. If Landlord determines that Tenant's actions pose a risk to public health, safety or welfare and issues written notice, or if Tenant's actions result in the issuance of a legal Notice of Violation of any public health, safety or welfare law, regulation or ordinance and Tenant is unable to cure the conditions specified in the Landlord's notice or the legal Notice of Violation within the time prescribed therein, then Landlord may immediately terminate this Lease, by written notice to Tenant.

8. **EASEMENTS SERVING PREMISES.**

(a) The Board of Education must give formal approval to the easements serving the Premises. Subject to its prior formal approval and after a utility location analysis by a duly qualified utility location service, the Landlord hereby grants to Tenant the easements described below in this Paragraph 8 and Subparagraphs i through iv (such easements collectively called the "Appurtenant Easements") as easements appurtenant to the

leasehold granted to Tenant in this Lease. The Appurtenant Easements may not be assigned or otherwise transferred in whole or in part separately from the leasehold granted under this Lease; and any such attempted assignment or transfer shall be void.

- i. Landlord grants Tenant a nonexclusive, temporary construction easement over, on, and through a portion of the school Site, as shown on Exhibit B, for construction and installation of the Communications Facility upon the Premises. Such temporary construction easement shall terminate upon the earlier of (i) completion of Tenant's construction described in Paragraph 10 or (ii) the first anniversary of the commencement of this Lease.
- ii. Tenant shall be permitted the non-exclusive use of a right-of-way ten feet (10') in width, the centerline of which is shown on Exhibit B hereof, or such other right-of-way of similar dimensions as Landlord may designate during the term of this Lease, to construct, operate, maintain, repair and remove Tenant's underground communication cables from the Premises, across and through that portion of the Site described on Exhibit B as the "Proposed Underground Conduits for Radio Cables". Tenant shall post and maintain at least four (4) signs indicating "Underground Cables" on the fence enclosing its equipment and on the Tower outlining the extremities of the path of the underground cables.
- iii. At such time as is necessary, Landlord shall grant to the local utility and telephone companies a non-exclusive easement and right-of-way of ten feet (10') in width for the purpose of constructing, installing, maintaining, operating, providing, repairing, and removing underground communication and electric power lines and systems, along and/or under those portions of the Site designated on Exhibit B hereof and the right-of-way of Tenant provided for during the term of this Lease for purposes of installation and provision of telephone and electric service to the Premises. Any utility easement required shall be submitted to the Board of Education for formal approval.
- iv. Landlord hereby grants Tenant a non-exclusive right to use the existing driveway for ingress to and egress from the Premises by Tenant for vehicular traffic for constructing, installing, maintaining, operating, repairing, and removing equipment over that portion of the Site designated on Exhibit B hereof, as "Proposed 20' Ingress-Egress Easement", or such other right-of-way of similar width as may be designated by Landlord to provide such access to the Premises and the Communications Facility during the term of this Lease.

(b) Landlord shall have the right to relocate any of the Appurtenant Easements upon at least ninety (90) days' prior written notice. If such relocation occurs after the installation of utilities or facilities therein, such relocation shall be at Landlord's expense and shall be conducted in such a manner so as to minimize any disruption to Tenant's operations under this Lease.

(c) With the exception of the temporary construction easement provided for, which may expire sooner as provided in such subparagraph, and any utility easements to third party utility or power companies, which shall expire in accordance with their terms, the term of all Appurtenant Easements shall automatically expire thirty (30) days after expiration or termination of this Lease without the need for further act of any party. Notwithstanding the foregoing, if requested by Landlord, Tenant shall execute and deliver to Landlord, in recordable form, such documents as Landlord may request to evidence of record the termination of all Appurtenant Easements as just provided.

9. PURPOSE. The Premises shall be used to locate towers, equipment, buildings and related facilities, including the Communications Facility, for telecommunications use. No grading, cutting of trees, removal of sod or topsoil and no installation of additional permanent or temporary structures, including fencing, shall be done without the prior written and express consent of Landlord. The Premises shall be used only for purposes compatible with the zoning of the Parcel. Tenant shall return the Premises to the original condition, normal wear and tear and damage by casualty not caused by Tenant excluded, prior to the expiration of the term of this Lease or any extensions or renewals thereof. Tenant agrees to control all noxious weeds in accordance with the guidelines of the Maryland Department of Agriculture. Tenant also agrees to periodically mow the Premises and to remove brush and debris as necessary.

10. USE OF PREMISES.

(a) Tenant shall use the Premises for the purpose of installing, removing, replacing, modifying, maintaining, and operating, at its expense, the Communications Facility, which shall be deemed to include, without limitation, antennae equipment, electronic equipment, cable wiring, air conditioned equipment shelter(s), backup power sources (including generators and fuel storage tanks in accordance with Paragraph 21 and applicable laws), related fixtures, and an antenna structure, and shall use the Appurtenant Easements solely for the applicable purposes described in Paragraph 9. Landlord makes no representation or warranty whether such use is permitted by any laws or regulations applicable to the Premises, and Tenant is solely responsible for determining whether such use is permitted, and for securing all necessary licenses, permits and approvals therefore from the appropriate governmental agencies.

(b) Notwithstanding any other provision of this Lease, the Tenant acknowledges the absolute primacy of the Landlord's use of the Site to serve the needs of the public school system, and that Tenant's rights under this Lease are subject and subordinate to Landlord's use and operation of the Site. Accordingly, in exercising its rights under this Lease, Tenant shall use its best efforts to avoid any adverse construction, operation or other impacts on the Site and Landlord's use and operation thereof, arising from Tenant's activities conducted on or off of the Site. Prior to any entry upon the Premises, Tenant shall provide reasonable advance notice to Landlord of such entry and of any work or activities to be conducted on the Premises. Such entry, work and other activities shall occur only at such times, and shall occur in such manner, as may be required by Landlord to avoid any adverse impacts. Tenant may enter the Premises without prior notice to Landlord, in case of emergencies adversely impacting Tenant's provision of

communication services or threatening life and safety, provided Tenant notifies Landlord of same as soon as practicable.

(c) Subject to the conditions set forth in Paragraph 10 (b), Tenant shall have the right at any time following the full execution of this Lease to enter upon the Parcel for the purpose of making appropriate engineering and boundary surveys, inspections, soil test borings and other reasonably necessary tests.

(d) If at any time during the term of this Lease, Landlord reasonably determines, after consultation with Tenant, that the Communications Facility and related facilities have not been and/or can not be operated in a manner that does not materially and adversely impact the Landlord's use and operation of the Site to serve the needs of MCPS, then Landlord shall provide Tenant with detailed written information specifying the nature of the condition that Landlord has determined to have resulted in such material and adverse impact upon the Landlord's use and operation. If Tenant is unable to remedy such condition to the reasonable satisfaction of Landlord, within thirty (30) days following Landlord's provision of the foregoing information, then Landlord may terminate this Lease by giving Tenant thirty (30) days' prior written notice of same.

(e) Landlord reserves the right to add improvements to or redevelop the Site (including the Premises) in any manner, including additional communications facilities necessary for Landlord's or Montgomery County's communications needs, and in connection therewith to relocate, at Landlord's sole expense, the Communications Facility and the Premises. Within fifteen (15) days following approval of Landlord's proposals to add any such improvements or redevelop the Site, Landlord shall provide written notice thereof to Tenant. Landlord shall make reasonable good faith efforts, including consultation with Tenant during the planning stages therefor, to cause any such improvements or redevelopment to be performed in a way that does not require relocation of the Communications Facility and the Premises or undue interference to Tenant's use and operation of the Communications Facility. Landlord's reasonable good faith efforts and its exercise of discretion shall be subject to Landlord's statutory responsibility to make school decisions in the best interests of the students in the Montgomery County Public Schools. However, if such interference cannot reasonably be rectified through the cooperation of the parties and if no viable relocation site can be mutually agreed to by the parties, then either party may terminate this Lease by giving the other party thirty (30) days' prior written notice thereof. In the event that Tenant agrees, in its sole discretion, to accept relocation of the Communications Facility to another portion of the Site (the "New Premises"), the following conditions shall apply:

- i. the New Premises must, in Tenant's sole and reasonable judgment, be substantially equivalent in area and appropriateness for Tenant's purposes with no degradation of signal transmission and/or reception quality;
- ii. Tenant must be able, through the exercise of commercially reasonable

efforts and the cooperation of Landlord, to obtain any governmental approvals for the relocation to and operation of the Communications Facility from the New Premises;

iii. Subject to the requirements of Paragraphs 8 (a), 10 (b), 17 (d) and 17 (e), Landlord and Tenant will cooperate in good faith to schedule and effectuate such relocation at a mutually acceptable time designed to minimize any disruption to both parties' operations, taking into account the nature of the equipment to be relocated, the need to modify or obtain governmental approvals, if any, the need to schedule any new engineering or construction work and the needs and requirements of the Montgomery County Public Schools and its students;

iv. Upon relocation of all or a portion of the Communications Facility to the New Premises, all references in this Lease to the Premises shall be deemed to refer to the New Premises and Tenant shall, at its expense, prepare drawings accurately depicting the New Premises, which shall replace the pertinent portions of Exhibit A; and

v. To the extent applicable, Exhibit B shall be revised to incorporate any new non-exclusive rights-of-way necessitated by the foregoing relocation.

Notwithstanding anything to the contrary contained herein, if Tenant, in its sole discretion, elects not to agree to the relocation of the Communications Facility, Tenant may terminate this Lease upon thirty (30) days' written notice to Landlord. In the event that Tenant provides such notice of termination, Landlord shall have the right, in its sole and absolute discretion, to withdraw its plans to relocate the Communications Facility, and in such event, Tenant's election to terminate shall be deemed null and void.

(f) Landlord may, at its expense but without any charge from or cost to Tenant, use a portion of the Tower for mounting and operating additional communications equipment of Landlord or other Montgomery County or other governmental agencies, provided that a structural analysis is performed, at Landlord's sole cost and expense, to ensure that the Tower will support the additional equipment. Such additional equipment shall be mounted as agreed upon between Landlord and Tenant and shall not interfere with the operation of Tenant's equipment, or that of other tenants collocated on the Tower.

11. **COMPLIANCE WITH GOVERNMENTAL LAWS AND REQUIREMENTS.** Tenant agrees to comply with all applicable governmental laws and regulations. The administrative approval for Tenant's Communications Facility is expressed in the September 12, 2002 recommendation of the Telecommunications Transmission Facility Coordinating Group (TTFCG) of Montgomery County, a copy of which is attached hereto and incorporated herein as Exhibit E.

12. **OWNERSHIP, SUBORDINATION AND NON-DISTURBANCE.** Landlord covenants and warrants that Landlord is seized of fee simple title or of good and sufficient interest to the Parcel and has full authority to enter into and execute this Lease. Landlord further covenants

that there are no liens, judgments or impediments to title on the Premises other than those of record.

At Landlord's option, this Lease shall be subordinate to any mortgage or other instrument by which Landlord from time to time may encumber all or part of the Premises or right-of-way; provided, however, that every such mortgage and/or instrument shall recognize the validity of this Lease in the event of a foreclosure of Landlord's interest and also Tenant's right to remain in occupancy of the Premises so long as Tenant is not in default of this Lease. Tenant shall execute whatever instruments may reasonably be required to evidence this subordination clause, solely to the extent that such instruments contain language specifically acknowledging the continuing occupancy rights of Tenant in the event of such foreclosure or other divestiture.

13. **RESTORATION OF THE PREMISES.** At the end of the term, whether by passage of time or the exercise of any party of any right of termination, Tenant shall surrender the Premises to Landlord in the condition specified in this Paragraph. Tenant shall be entitled to dismantle and remove, at Tenant's sole expense, the Communications Facility, its support structure, any antennae and all other alterations, additions, fixtures and improvements made by Tenant to the Premises, less and except any support structure and any lights, antenna, equipment belonging either to the Landlord or any third parties. Such dismantling and removal shall be coordinated in advance with Landlord and shall be scheduled and conducted as may be reasonably required by Landlord to avoid any adverse impact on the use and operation of the Site. After such dismantling and removal is completed, Tenant shall restore the Premises to its condition before the improvements were made, except for reasonable wear and tear, damage by casualty not caused by Tenant, changes by Landlord, and equipment owned by Landlord or any third parties that Landlord requires to remain.

14. **TELECOMMUNICATIONS POLICY.** Tenant covenants and agrees that at all times during this Lease it shall comply with the Landlord's Policy on Telecommunication Transmission Facilities, as amended from time to time and published on Landlord's official website located at mcps.k12.md.us. A copy of current Board Policy ECN is attached hereto and incorporated herein as Exhibit F.

15. **DEFAULT.** Tenant shall be considered in default of this Lease upon the happening of any of the following:

- (a) A default of ten (10) days in payment of rent from the due date and Tenant's failure to cure that default within thirty (30) days after written notice;
- (b) A breach of any term, covenant or condition of this Lease other than payment of rent continuing for more than thirty (30) days after Tenant's receipt of written notice specifying the failure or neglect or such longer period as may reasonably be required to correct such failure or neglect with exercise of due diligence, then at the option of Landlord and upon written notice to Tenant, Tenant's right of possession shall thereupon end and Landlord may pursue any legal and/or equitable remedies available to Landlord. If Landlord files an action to enforce any agreement contained in this Lease, or for breach

of any covenant or condition and Landlord prevails in such action, Tenant shall pay Landlord's reasonable attorneys' fees and court costs, all fees to be fixed by the court;

(c) The appointment of a receiver or trustee of Tenant's property, assignment for the benefit of creditors of all or any of the property of Tenant, or commencement of any proceedings under any bankruptcy or insolvency law by or against Tenant (subject to the understanding that if such proceedings are not voluntarily instituted by Tenant, no default will be deemed to exist hereunder unless such proceedings are not stayed by appeal or otherwise within sixty (60) days following such institution).

(d) In the event of default by Tenant and its failure to cure the default within thirty (30) days following written notice, Landlord may, at its option, terminate this Lease and reenter the Premises and again have, possess, and enjoy the same as and of its former estate. In the event of the re-entry and termination for default, the Landlord may, at its option, relet the Premises or any part thereof, for any use which it may deem reasonable, but the Landlord shall not be under any obligation to relet the Premises for any purpose other than that specified in this Lease. In the event of termination for default under this Paragraph 15(d), Tenant shall be liable for all direct losses and damages (including, but not limited to net unpaid rent and reasonable attorneys' fees) as the Landlord may sustain as a result of Tenant's default.

(e) If Landlord shall fail or neglect to keep and perform its obligations so as to cause a breach of the Landlord's obligations, and such failure or neglect is not remedied within thirty (30) days (or such longer period as may reasonably be required to correct such failure or neglect with exercise of due diligence) after written notice from Tenant specifying such failure or neglect, then Tenant may terminate this Lease and pursue any legal and/or equitable remedies available to Tenant.

16. LICENSES AND PERMITS.

(a) Tenant shall make every effort with due speed and diligence to obtain, at Tenant's sole expense, all of the certificates, permits and other approvals that may be required by federal, state or local authorities for Tenant's use of the Premises as set forth in this Lease. Tenant agrees to present evidence at any time during the term of this Lease or renewals of any extension thereof, that any and all necessary licenses and permits continue in effect. Such evidence shall be presented within ten (10) days of receipt of the Landlord's request for such evidence.

(b) In the event any such applications should be finally rejected or any certificate, permit, license or approval issued to Tenant is canceled, expires or lapses, or is otherwise withdrawn or terminated by governmental authority, or soil boring tests are found to be unsatisfactory so that Tenant will be unable to use the Premises for the purposes set forth herein, Tenant shall have the right to terminate this Lease by giving Landlord thirty (30) days' prior notification of termination. All rentals paid prior to said termination date shall be retained by Landlord on a pro rata basis. Notwithstanding anything to the contrary contained herein, if Tenant does not exercise its right to terminate under this Paragraph 16 (b), Tenant shall remain liable for all of its responsibilities under this Lease, including

the payment of rent, but shall not have the right to conduct any operations hereunder until it provides documentation reasonably acceptable to Landlord demonstrating that all necessary certificates, permits, licenses and /or approvals have been issued or reinstated, as applicable under the particular circumstances.

17. CONSTRUCTION BY TENANT. [The parties acknowledge that portions of Paragraph 17 may not apply to this particular Lease, especially if Tenant is co-locating its equipment on an existing pole.]

(a) Tenant shall obtain all necessary approvals, including, without limitation, those required by the Federal Aviation Administration (FAA) and the Federal Communications Commission (FCC), for construction and operation of the Communications Facility. After obtaining the necessary permits and approvals therefor, and after obtaining Landlord's approval of its construction plans, Tenant, at its sole cost and expense, shall perform or cause to be performed all of the following work:

- i. Installing up to three (3) equipment cabinets with approximate dimensions of 6' high and 5' wide x 4' deep on a concrete pad with approximate dimensions of 7' wide x 17' deep, and a backup battery unit.
- ii. Installing on the Tower such types and numbers of antennae as may be appropriate for Tenant's operations in accordance with the terms of this Lease, subject to Tenant's compliance with applicable governmental regulations.
- iii. Installing an 8' chain link fence on each side of the Premises.
- iv. Subject to Landlord's approval thereof as provided herein, performing or causing to be performed all other improvements and work associated with the work described above that may lawfully be required by Montgomery County or any other governmental body or official having jurisdiction, as part of or in connection with the work described above.

(b) Tenant's agreement to perform or cause to be performed all of the work described above, all at Tenant's cost and expense, shall be construed broadly to provide for all costs and liabilities of such work, whether or not such costs are anticipated and without regard to Tenant's present estimates for the cost of same, so that all of such work is fully and properly performed and paid for by Tenant, and upon completion of same the Site, as altered by such work, is as fully functional and suitable for continued use by Landlord as it was prior to the start of Tenant's work. Accordingly, the phrase "all work" shall include, without limitation, all of the following work actually performed or caused to be performed by Tenant at the Site, and Tenant's promise to pay for such work shall include, without limitation, all of the costs and liabilities associated with the following: all labor and materials; design work; legal and professional fees of Tenant's consultants; permit drawings and materials; construction costs; construction equipment and materials utilities extension or relocation; provision of protective fencing and other safety measures; maintenance; removal of construction related debris from the Site; liability, property and

workers' compensation insurance premiums; bond fees; development and construction permits; inspections and approvals; re-sodding of all disturbed areas not covered with impervious surface; replacement or relocation of landscaping; re-striping of paved areas for traffic control and parking; relocation, replacement or provision of new safety and traffic/directional signage; connection of new sidewalks, drives, parking areas and other facilities to Landlord's existing facilities; and repairs and restoration required as a result of any damage to the Site caused in the prosecution of the work performed by or caused to be performed by Tenant under this Lease.

(c) Tenant shall cause construction of the Communications Facility to be commenced as soon as practicable after receipt of all necessary permits and approvals and to be completed within a reasonable time thereafter, not to exceed one (1) year from receipt of necessary permits. Once its work on the Communications Facility is initiated, Tenant shall diligently and continuously prosecute such work to final completion (including obtaining all required inspections and approvals) in a timely manner in accordance with a schedule to be agreed upon by Landlord and Tenant. Such schedule shall limit construction activities to such days and times as Landlord reasonably may require to avoid any material and adverse impacts on the use and operation of the Site. Tenant shall keep Landlord fully apprized of its progress, and of any events that might impact the construction schedule. If Tenant fails to perform its work in accordance with the schedule approved by Landlord, including any Landlord-approved revisions thereto, and if such failure threatens the safe, proper and timely operations or uses of the Site, then Landlord shall have the right to take all measures as it may deem necessary to avoid or abate any interference with such safe, proper and timely operations or uses. Landlord shall endeavor in good faith to give Tenant prior written notice before commencing any such measures and to coordinate with Tenant in determining the measures that may be necessary, but Landlord reserves the unqualified right to take any and all measures that it may deem necessary to assure the safe, proper and timely conduct of other operations or uses of the Site. Tenant shall permit Landlord's designated inspector full escorted access to all of Tenant's construction areas during normal business hours and shall provide such inspector access to all construction plans, drawings and other information reasonably requested.

(d) The Communications Facility shall be constructed by Tenant in a good and workmanlike manner and in accordance with the plans, drawings and specifications prepared and provided by Tenant for Landlord's prior review and written approval, which approval shall not be unreasonably withheld, conditioned or delayed. Construction and installation of the Communications Facility by Tenant shall be in compliance with all applicable rules and regulations including, without limitation, the written specifications and requirements of Landlord previously made available to Tenant by Landlord and those of the Occupational Safety and Health Administration ("OSHA"), the FCC, the FAA, and regulations of any applicable governmental agency (town, county, state or federal) including, but not limited to the applicable requirements of the local planning and zoning and building, electrical, communications and safety codes of Montgomery County, Maryland. Tenant, at its sole cost and expense, shall secure all necessary permits and approvals required to permit the construction and operation of the Communications

Facility. Landlord agrees to cooperate reasonably with Tenant in any necessary applications or submissions required to permit construction and operation of Tenant's Communications Facility as described herein, provided that Landlord shall be reimbursed for all expenses incurred in providing such cooperation within thirty (30) days of incurring the expenses, and provided further that obtaining Tenant's permits and approvals shall not result in the imposition of any material restrictions or limitations or adverse impacts on the Site or Landlord's use, operation improvement or redevelopment thereof. All of Tenant's work and facilities shall be installed free of mechanics', materialmen's and other liens, and claims of any person. Tenant agrees to defend, with counsel approved by Landlord, and to indemnify and save Landlord harmless, from all loss, cost, damage or expense including, without limitation, reasonable attorneys' fees, occasioned by or arising in connection with the work contemplated by this Lease, and shall bond off or discharge any such liens or other claims within thirty (30) days after written notice from Landlord.

(e) Prior to commencing any activities on the Site pursuant to this Lease, Tenant shall provide Landlord with evidence satisfactory to Landlord that Tenant and its contractors and agents who will be working on the Site are covered by insurance as required by Paragraph 20 hereof.

(f) If Landlord permits a third party to place its antennae on the Tower, Landlord shall, unless otherwise agreed between Tenant and such third party, require such third party to remit to Tenant its pro rata share (based on the number of users or antennae which the Tower will support, as jointly determined by Landlord and Tenant) of the construction costs, and/or licensing fee and remit such sums to Tenant. Notwithstanding the foregoing, in no event shall Landlord have any liability to Tenant under this paragraph, and Landlord's failure to cause such sums to be remitted to Tenant shall not constitute a default hereunder, provided, however, that nothing in this Agreement and/or in any agreement between Landlord and such third party shall be construed to restrict any legal and/or equitable right or remedy of Tenant if such sums are not remitted to Tenant by such third party, including, without limitation, Tenant's right to terminate any agreement it has entered pursuant to which such third party is permitted to place its antennae on the Tower.

(g) Tenant's antennae shall operate only in the frequency range approved by the federal agencies. If Tenant wishes to use a frequency or frequencies other than the approved frequency, Tenant shall request Landlord's permission in writing prior to receiving a frequency change from the FCC or other governmental agency authorized to establish frequencies. Landlord may grant or withhold such permission in its sole but reasonable discretion. Without limiting the generality of the foregoing, it shall be reasonable for Landlord to (a) withhold consent if other antennae on the Site (whether or not owned by Landlord) are operating in the range requested by Tenant, (b) withhold consent if Landlord believes that its policy requiring co-location of transmitting antennae would not be served by permitting Tenant to expand its frequencies, and/or (c) condition its consent on the payment of additional rent. Nothing in this Lease shall be construed to limit Landlord's right to grant other parties the right to construct, operate or modify Towers, equipment platforms or antennae on the Site (including the Tower, it being

understood that such other parties would have no right to modify Tenant's Tower); provided, however, that such construction, operation or modification does not interfere with the operation of Tenant's equipment platforms, antennae or the Communications Facility.

(h) Tenant shall, upon Landlord's request, fence and buffer the Premises or any portion thereof. If the Communications Facility is to be constructed near any existing structure or structures on the Site, Tenant shall (a) construct the Communications Facility so that it does not affect the structural integrity of the existing structure or structures and (b) provide Landlord, at its request, with a report prepared by an independent third party professional engineer confirming the structural integrity of the existing structure or structures following the construction of the Communications Facility.

Tenant shall restore in compliance with the Federal Americans with Disabilities Act (ADA) (and any state or local law counterpart) any of Landlord's facilities physically altered by Tenant's work, only if the altered facilities previously complied with the ADA.

Tenant shall not make further additions or improvements to the Communications Facility or the Premises without first obtaining Landlord's written consent, which consent shall not be withheld, conditioned or delayed unreasonably.

(i) Tenant shall install any electrical, radio, electromagnetic or other types of protectors deemed required by the Landlord or its consultant(s) to protect the Landlord's property and equipment from interference, damage or adverse impact caused by Tenant's use of the Premises.

(j) Upon termination of the Lease, Tenant shall remove its equipment and restore the Premises to their former condition, except for reasonable wear and tear and damage by casualty not caused by Tenant.

(k) As long as the Communications Facility and equipment continue to serve as collateral of a third party financing entity, Landlord waives any lien rights it may have concerning Tenant's Communications Facility which is deemed Tenant's personal property and not fixtures, and, as long as the Communications Facility and equipment continue to serve as collateral of a third party financing entity, Tenant has the right to remove the same at any time without Landlord's consent. In the event that the Communications Facility or any of its associated equipment ceases to be subject to a security interest, Tenant shall provide Landlord with written notice thereof within thirty (30) days thereafter.

(l) Landlord acknowledges that Tenant has entered into a financing arrangement including promissory notes and financial and security agreements for the financing of the Communications Facility (the "Collateral") with a third party financing entity (and may in the future enter into additional financing arrangements with other financing entities). In connection therewith, Landlord (i) consents to the installation of the Collateral; (ii) disclaims any interest in the Collateral, as fixtures or otherwise; and (iii) agrees that the Collateral shall be exempt from execution, foreclosure, sale, levy, attachment, or distress for any Rent due or to become due and that such Collateral may be removed at any time

without recourse to legal proceedings as long as the Communications Facility and equipment continue to serve as collateral of a third-party financing entity.

18. **INTERFERENCE.** Tenant agrees to install and operate equipment of a type and frequency which will not cause radio frequency interference with other forms of radio frequency communications existing on Landlord's Parcel as of the date of this Lease. In the event Tenant's equipment causes such interference, Tenant agrees it will take all steps necessary to correct and eliminate the interference, consistent with appropriate government rules and regulations, upon receipt of written notification of the interference. If the interference is not corrected within thirty (30) days of receipt of notification (or such time as may reasonably be required with exercise of due diligence provided such repairs are begun within said 30 days), Tenant will cease operation of the equipment causing such interference until such interference is cured. Landlord shall require that all future radio operators desiring to use this location will first coordinate with Tenant to ensure that their frequencies and antenna locations will be compatible with Tenant's so as to prevent harmful interference. Any subsequent tenants will be required to comply with the same conditions set forth in this Paragraph 18.

19. **INDEMNIFICATION.** Tenant shall defend, with counsel reasonably acceptable to Landlord, and indemnify and hold harmless, Landlord from all losses, costs, claims, causes of actions, demands and liabilities arising from (a) any breach by Tenant of any covenant of this Lease; (b) any misrepresentation by Tenant and/or any breach by Tenant of any warranty of Tenant contained in this Lease; and (c) any occurrence arising from (i) Tenant's construction, installation, maintenance, repair, operation, replacement or removal of the Communications Facility or any other equipment, or any other activities of Tenant on the Premises, and (ii) the condition of the Communications Facility and Premises in any way related to Tenant's use of the Communications Facility of the Premises, including, without limitation, any personal injury, death, or other accident in any way related to Tenant's use of the Premises. Such indemnification shall include the cost of investigation, all expenses of litigation, and the cost of appeals, including, without limitation, reasonable attorneys' fees and court costs, and shall be applicable to Tenant's activities on the Premises whether prior to the Commencement Date or after the termination of this Lease. In addition to the Landlord, Landlord's board members, staff, officers, agents, servants, employees, volunteers, business invitees, customers, students, family members and guests shall be beneficiaries of the indemnification. This indemnification shall not be applicable to the extent of any negligence or willful misconduct of the Landlord, its board members, staff, officers, agents, servants, employees, volunteers, customers, business invitees, students, family members and guests.

20. **INSURANCE REQUIREMENTS.**

(a) All property of the Tenant, its employees, agents, business invitees, licensees, customers, clients or guests, in and on the Premises shall be and remain at the sole risk of the Tenant, and Landlord shall not be liable to them for any damage to, or loss of such personal property arising from any act of God or any persons, nor from any other reason, unless such damage or loss is caused by the negligence or willful act or failure to act on the part of the Landlord, its board members, staff, officers, employees, agents or volunteers, nor shall the Landlord be liable for the interruption or loss to Tenant's business arising from any of the above described acts or causes, unless such damage,

interruption or loss is caused by the negligence or willful act or failure to act on the part of the Landlord, its board members, staff, officers, employees, agents or volunteers. The Landlord shall not be liable for any personal injury to the Tenant, its employees, agents, business invitees, licensees, customers, clients or guests arising from the use, occupancy and condition of the Premises unless such injury is caused by the negligence or willful act or failure to act on the part of the Landlord, its board members, staff, officers, employees, agents or volunteers.

(b) During the term, Tenant will maintain a policy of commercial general liability insurance insuring the Landlord and Tenant against liability arising out of the use, operation or maintenance of the Premises and the installation, repair, maintenance, operation, replacement and removal of the Communications Facility. The insurance will be maintained for personal injury and property damage liability, adequate to protect Landlord against liability for injury or death of any person in connection with the use, operation and condition of the Premises, and to insure the performance of Tenant's indemnity set forth in Paragraph 19, in an amount not less than THREE MILLION DOLLARS (\$3,000,000.00) per occurrence/aggregate. During the term, Tenant shall also maintain workers' compensation, employers' liability insurance, and automobile liability insurance.

(i) Worker's Compensation Insurance - Meeting all requirements of Maryland law:

Bodily injury by accident: \$100,000 each accident
Bodily injury by disease: \$100,000 policy limits
Bodily injury by disease: \$100,000 each employee

(ii) Minimum Automobile Liability:

Bodily injury: \$500,000 each person/\$1,000,000 each occurrence.
Property Damage: \$500,000 each occurrence, including owned, hired, and non-owned automobiles

(c) Insurance carried by Tenant will be with companies reasonably acceptable to the Landlord. The Tenant will deliver to the Director, Department of Facilities Management, Montgomery County Public Schools, certificates evidencing the existence and amounts of the insurance. No policy shall be cancelable or subject to reduction of coverage or other modification except after thirty (30) days' prior written notice to the Landlord. Tenant shall, as soon as practicable following renewal or replacement of such policies (but in no event more than thirty (30) days thereafter), furnish Landlord with renewals or "binders" for replacement policies, or other assurances that the insurance coverage has been renewed. Notwithstanding anything to the contrary contained in this Lease, the failure of Tenant to maintain the insurance required under Paragraph 20 shall constitute an event of default requiring cure by Tenant pursuant to Paragraph 15 (b), and the coverage requirements under Paragraph 20 (b) shall not be deemed to limit Tenant's liability under this Lease.

(d) If Tenant desires to self-insure, Tenant shall submit a request to Landlord to be permitted to self-insure. Such request shall be accompanied by financial statements of Tenant audited by an independent, third party certified public accountant, and shall contain all relevant information regarding Tenant's self-insurance plan. Tenant shall provide Landlord with such further or additional information as Landlord deems necessary in deciding whether to permit Tenant to self-insure. Landlord's decision whether to permit Tenant to self-insure shall be made in Landlord's sole and absolute discretion, shall be in writing, and shall be effective for a twelve (12) month period from the date of Landlord's approval of Tenant's self-insurance request, subject to the following provision. If Landlord permits Tenant to self-insure then (1) Tenant shall provide Landlord annually with updated financial statements, prepared as set forth above, for Landlord's review and approval, and (ii) immediately notify Landlord of any act or occurrence which might materially reduce Tenant's net worth or financial condition, or impair Tenant's self-insurance program.

(e) Tenant will not do anything or permit anything to be done or any hazardous condition to exist ("Increased Risk") which would invalidate or cause the cancellation of the insurance policies carried by Tenant. In the event that any such Increased Risk arises, Tenant shall promptly remedy the condition causing such Increased Risk in accordance with the procedures set forth in Paragraph 7 of this Lease.

(f) The Landlord shall be named as an "additional insured" on Tenant's liability policies.

21. HAZARDOUS MATERIALS .

(a) Tenant shall not cause or permit any hazardous or toxic wastes, substances or materials (collectively, "Hazardous Materials") to be used, generated, stored or disposed of on, under or about, or transported to or from, the Premises (collectively "Hazardous Materials Activities") without first receiving Landlord's written consent, which may be withheld for any reason whatsoever and which may be revoked at any time, and then only in compliance (which shall be at Tenant's sole cost and expense) with all applicable legal requirements and using all necessary and appropriate precautions. Tenant shall indemnify, defend with counsel reasonably acceptable to Landlord and hold Landlord harmless from and against any claims, damages, costs and liabilities, including court costs and legal fees, arising out of Tenant's Hazardous Materials Activities on, under or about the Premises, regardless of whether or not Landlord has approved Tenant's Hazardous Materials Activities. For the purposes of this Lease, Hazardous Materials shall include but not be limited to oil, radioactive materials, PCBs, and substances defined as "hazardous substances" or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Sec. 9601 et seq.; Hazardous Materials Transportation Act, 49 U.S.C. Sec. 1801 et seq.; and Resources Conservation and Recovery Act, 42 U.S.C. Sec. 6901 et seq., and those substances defined as "hazardous wastes" in the regulations adopted and publications promulgated pursuant to said laws. Subject to the foregoing provisions of this Paragraph, Tenant shall, prior to the Commencement Date, submit to Landlord for Landlord's review and approval, a list of Hazardous Materials Activities, including types and quantities, which list to the extent approved by Landlord shall be attached hereto as

Exhibit C. Prior to conducting any other Hazardous Materials Activities, Tenant shall update such list as necessary for continued accuracy. If Tenant's activities violate or create a risk of violation of any legal requirements, such activities shall cease immediately upon written notice from Landlord. Landlord, Landlord's representatives and employees may enter the Premises upon prior notice to Tenant at any reasonable time during the term to inspect Tenant's compliance herewith, and, if required under applicable law, may disclose any violation of legal requirements to any governmental agency with jurisdiction. The Landlord represents that: (i) it has not, and, to the best of its knowledge, and except for ordinary herbicides and pesticides used in normal lawn maintenance, it has not allowed or permitted any Hazardous materials to be used, generated, stored, or disposed on, under or about or transported to or from the Parcel in violation of any applicable law or regulation; and (ii) it will not, nor will it permit any third party to use, generate, store or dispose on, under or about, or transport to or from the Parcel any Hazardous Materials in violation of any applicable law or regulation.

(b) Landlord acknowledges that Tenant's equipment shelter shall contain batteries for back-up power and that, provided Tenant's use of same is in compliance with this provision, the presence of such batteries does not violate this provision if such batteries comply with all laws, regulations and ordinances relating to Hazardous Materials.

(c) Tenant will immediately notify Landlord and provide copies upon receipt of all written complaints, claims, citations, demands, inquiries, reports, or notices relating to the condition of the Premises or compliance with environmental laws. Tenant shall promptly cure and, if feasible under the applicable circumstances, have dismissed with prejudice any of those actions and proceedings to the reasonable satisfaction of Landlord. Tenant will keep the Premises free of any lien imposed pursuant to any environmental laws. Tenant shall have the right, from time to time, to submit written inquiries to Landlord with respect to the existence of any written complaints, claims, citations, demands, inquiries, reports, or notices relating to the condition of the Site or compliance with environmental laws. Landlord shall respond to any such written inquiries within fifteen (15) business days after receipt thereof by Landlord. In the event that any such written complaints, claims, citations, demands, inquiries, reports, or notices do in fact exist, Landlord also shall advise Tenant as to the current status of Landlord's efforts to comply therewith. If Tenant determines that Landlord has not promptly cured the conditions leading to the issuance of any such complaints, claims, citations, demands, inquiries, reports or notices, Tenant shall have the right to terminate this Lease on thirty (30) days' written notice to Landlord.

(d) Landlord shall have the right at all reasonable times and from time to time to conduct environmental audits of the Premises, and Tenant shall cooperate in the conduct of those audits. The audits will be conducted by a consultant of Landlord's choosing, and if any Hazardous Materials generated, stored, transported or released by Tenant are detected that are not in compliance with local, state or federal laws and regulations or if a violation of any of the representations or covenants in Paragraph 21 is discovered, the fees and expenses of such consultant will be borne by Tenant.

(e) If Tenant falls to comply with any of the foregoing representations and covenants, Landlord may cause the removal (or other cleanup acceptable to Landlord) of any Hazardous Materials from the Premises. The reasonable costs of removing Hazardous Materials and any other cleanup (including transportation and storage costs) shall be reimbursed by Tenant within thirty (30) days after Landlord's presentation of invoices therefor. Tenant will give Landlord access to the Premises to remove or otherwise clean up any Hazardous Materials. Landlord, however, has no affirmative obligation to remove or otherwise clean up any Hazardous Materials, and this Lease will not be construed as creating any such obligation.

22. ASSIGNMENT.

(a) Tenant may not assign this Lease or sublease the Premises without the written consent of the Landlord. Notwithstanding the previous sentence, Tenant may assign this Lease or sublease the entire Premises, without Landlord's consent, to Tenant's principal, affiliates or subsidiaries of Tenant or of Tenant's principal, or to any corporation, partnership or other entity which (i) is controlled by, controlling or under common control with Tenant; (ii) shall merge or consolidate with or into Tenant; or (iii) shall succeed to all or substantially all the assets, property and business of Tenant. In the case of such permitted assignment or sublease, Tenant shall within thirty (30) days provide to Landlord (a) the name and address of the assignee, and (b) a document executed by the assignee by which it acknowledges the assignment and assumption of all of Tenant's obligations hereunder. In all other instances, Tenant may only assign or sublease its rights and obligations upon Landlord's written consent, which consent shall not be unreasonably withheld, delayed or conditioned. A condition precedent to each and every assignment or sublease shall be (i) that no default exists under this Lease as of the date of such assignment or sublease; (ii) certification by such assignee that it is in compliance with all applicable licensing requirements, including those of the FCC and other applicable agencies; and (iii) except in the event of a transfer permitted pursuant to the second sentence of this paragraph, Landlord shall be entitled to all rentals in excess of the rental hereunder arising from any such sublease.

(b) For any assignment or sublease requiring the consent of the Landlord, Tenant will, prior to entering into such assignment or sublease, submit in writing to Landlord (i) the name and address of the proposed assignee or subtenant, (ii) the business terms of the proposed assignment or sublease, (iii) reasonably satisfactory information as to the nature and character of the business of the proposed assignee, as to the nature of its proposed use of the Premises, (iv) banking, financial, or other credit information reasonably sufficient to enable Landlord to determine the financial responsibility and character of the proposed assignee or subtenant, and (v) the proposed form of assignment or sublease for Landlord's approval.

(c) Notwithstanding anything to the contrary contained in this Lease and after prior written notice to the Landlord, Tenant may assign, mortgage, pledge, hypothecate or otherwise transfer without consent its interest in this Lease 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.

(d) Except for any assignment or sublease permitted by this Paragraph 22, Tenant shall not grant to or permit any third party to exercise any rights to install, operate or maintain communications or other equipment on the Tower or the Premises without Landlord's prior written approval, which approval may be given, withheld or conditioned on such terms as Landlord may require in its sole and subjective discretion.

23. **INSPECTIONS.** Tenant shall allow Landlord or its agents access for the purpose of inspecting the Premises, and upon prior notification to Tenant, to enter the Premises or any part thereof at any reasonable time in a manner so as not to interfere with Tenant's use of the Site. Landlord shall be accompanied by a representative of Tenant. In addition, without notice in the event of an emergency, Landlord shall be entitled to enter the Premises or any part thereof in order to prevent injury to persons or property. Tenant shall at all times provide the Landlord copies of all keys needed to unlock all of the gates and locks to the fences in the Premises.

24. **QUIET ENJOYMENT.** Tenant shall be entitled to use and occupy the Premises during the Term hereof for the purposes herein permitted and subject to the terms and conditions herein contained, without molestation or interference by Landlord.

25. **DAMAGE AND DESTRUCTION.**

(a) If the Premises or the Communications Facility are damaged or destroyed by reason of fire or any other cause, or if damage to the Premises or the Communications Facility causes damage to portions of the Site or other property of Landlord, Tenant will immediately notify Landlord, and Tenant may, within thirty (30) days after such damage, give written notice of its election to terminate this Lease and, subject to the further provisions of this Paragraph 25, this Lease will cease on the tenth (10th) day after the delivery of that notice. Monthly rent will be apportioned and paid to the time of termination. If this Lease is so terminated, Tenant will have no obligation to repair or rebuild the Communications Facility, but shall comply with all provisions relating to restoration of the Premises and/or the Site, as set forth in Paragraphs 9, 13 and 17(j), if such damage or destruction is caused by the negligence or willful misconduct of Tenant, its board members, staff, officers, agents, servants, employees, volunteers, customers, business invitees or guests. This Paragraph 25 shall not affect Tenant's obligations under Paragraphs 19, 20 and 21 of this Lease.

(b) If Tenant chooses to rebuild the Communications Facility rather than exercising its termination rights under Paragraph 25 (a), monthly rent and additional rent will not abate pending the repairs or rebuilding if such damage or destruction is caused by the negligence or willful misconduct of Tenant, its board members, staff, officers, agents, servants, employees, volunteers, customers, business invitees or guests.

(c) Landlord shall have no responsibility to Tenant or any collocating tenants for damage or destruction of the Tower or any other collocation equipment which is damaged or destroyed by fire or other casualty, unless such damage or destruction is

caused by the negligence or willful actions of Landlord, its board members, staff, officers, agents, servants, employees or volunteers.

26. CONDEMNATION. If all or any part of the Premises is taken by eminent domain or sale in lieu thereof, and if said taking or sale renders the Premises unusable for its intended purpose hereunder, then, at Landlord's or Tenant's option, this Lease may be terminated and there will be no further payment of rents except that which may have been due and payable at the time of said taking or sale. In the event of a partial taking or sale and Tenant, subject to mutual agreement with Landlord, wishes to maintain its operation, Tenant may continue to use and occupy the Premises and Landlord shall reduce the rental on the Premises by an amount proportionate to the part of the Premises taken by eminent domain sale or other such legal action, and provided Tenant, at its sole cost, restores so much of the Premises as remains to a condition substantially suitable for the purposes for which it was used immediately before the taking. Upon the completion of restoration, Landlord shall pay Tenant the lesser of the net award made to Landlord on account of the taking (after deducting from the total award attorneys', appraisers', and other costs incurred in connection with obtaining the award), or Tenant's actual out-of-pocket cost of restoring the Premises, and Landlord shall keep the balance of the net award received in connection with any taking subject to this paragraph.

27. BINDING EFFECT. This Lease shall bind and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

28. RECORDATION. Either party may record this Lease or a Memorandum of Lease Agreement in the county land records, but such recording shall be at the sole expense of the requesting party and shall not burden the other party.

29. NOTICES. All notices, payments, demands and requests hereunder shall be in writing and shall be deemed to have been properly given when mailed by United States First Class, Registered or Certified Mail, postage prepaid, or by reliable overnight courier, and addressed to the Landlord as follows:

Board of Education of Montgomery County
850 Hungerford Drive
Rockville, Maryland 20850
Attn: Director of Facilities Management

with a copy, which will not constitute notice to:

Reese and Carney, LLP
255 North Washington Street, Suite 505
Rockville, Maryland 20850

and to Tenant as follows:

AT&T Wireless
Attn.: Lease Management Department
Re: Cell Site # Montgomery Tower, WASHMD2083
2729 Prospect Park Drive
Rancho Cordova, CA 95670

with a copy, which will not constitute notice to:

AT&T Wireless
Attn.: Legal Department
Re: Cell Site # Montgomery Tower, WASHMD2083
15 East Midland Avenue
Paramus, NJ 07652

or to such other addresses as either of the parties may designate from time to time by giving written notice as herein required.

30. **WAIVER.** No waiver by either party of any breach of any covenant, condition or agreement contained herein shall operate as a waiver of the covenant, condition or agreement itself or of any subsequent breach thereof.

31. **ENTIRE AGREEMENT.** This Lease contains the entire agreement of the parties and their commitment to the terms hereof and may not be amended, altered or otherwise changed except by subsequent writing signed by the parties to this Lease. Notwithstanding anything to the contrary set forth in this Lease, Landlord and Tenant agree that the following provisions of this Lease shall not be applicable if Tenant is not constructing a tower or other structure or replacing an existing light standard with a tower or other structure: (i) the portion of the second sentence in Paragraph 1 from "structure" through the end of such sentence; (ii) Paragraph 10 (f); (iii) Paragraph 17 (f). Any term or condition determined to be unenforceable or of no legal effect shall be severable and have no effect on the remaining provisions of this Lease.


32. **GOVERNANCE.** This Lease shall be governed by, construed and enforced in accordance with the laws of the State of Maryland.

33. **CONFLICTS.** Each party represents and warrants that no officer, employee or agent of its organization has been or will be paid any sum or offered any gift, gratuity, employment or other consideration by or from the other party, its affiliates or agents in connection with assistance in obtaining, arranging, negotiation or continuation of this Lease.

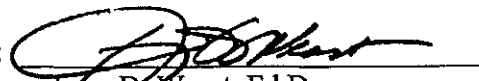
IN WITNESS WHEREOF, the parties have caused this Lease to be signed by their authorized representatives.

WITNESS:

FOR: BOARD OF EDUCATION OF
MONTGOMERY COUNTY



By:


Jerry D. Weast, Ed.D.
Superintendent of Schools

TENANT: AT&T Wireless PCS, LLC,
a Delaware Limited Liability Company,
by and through its member,
AT&T Wireless Services, Inc.,
d/b/a AT&T Wireless

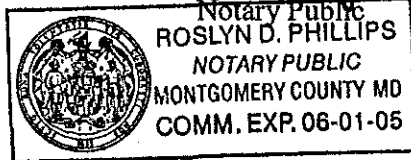
Kathleen P. DeLore By: Timothy C. Brenner
Timothy C. Brenner
Title: Manager, System Development

STATE OF MARYLAND, COUNTY OF Montgomery to wit:

I HEREBY CERTIFY that on this 11 day of January, 2003, before me, the subscriber, a Notary Public in and for the State aforesaid, personally appeared DR. JERRY D. WEAST, as representative for Montgomery County Public Schools, who made oath in due form of law, under the penalties of perjury, that the matters and facts set forth in the foregoing document are true and correct to the best of his/her personal knowledge, information and belief, and that he/she freely and voluntarily executed this document for the purposes therein contained.

AS WITNESS: my hand and Notarial Seal

My Commission Expires:



STATE OF MARYLAND, COUNTY OF RG, to wit:

I HEREBY CERTIFY that on this 22 day of Jan, 2003, before me, the subscriber, a Notary Public in and for the State aforesaid, personally appeared TIMOTHY C. BRENNER who acknowledged under oath that he is the System Development Manager for AT&T Wireless Services, Inc., d/b/a AT&T Wireless, a member of AT&T Wireless PCS, LLC, and that he is duly authorized to execute this instrument on behalf of AT&T Wireless PCS, LLC.

AS WITNESS: my hand and Notarial Seal.

Debra Templeman
Notary Public

My Commission Expires:

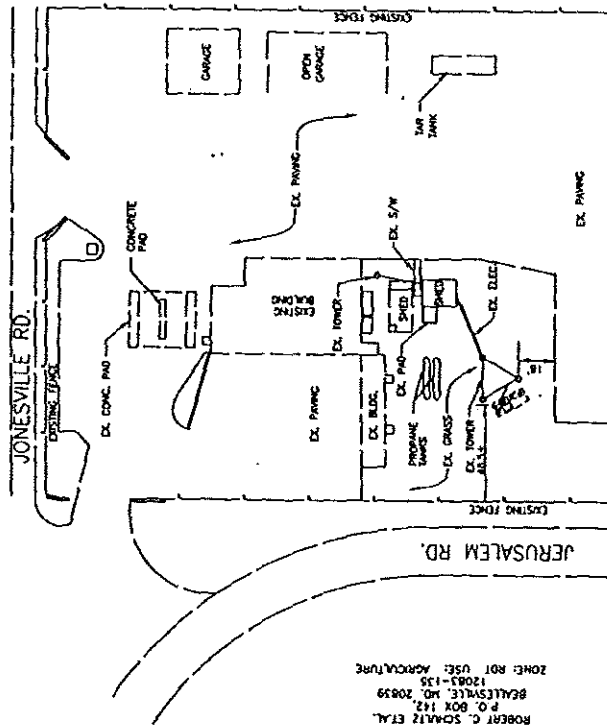
DEBRA TEMPLEMAN
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires December 4, 2004

EXHIBIT A

[Site Drawing Showing Property and Premises]

[Handwritten signature]

P. 173
T.L. HETTINGER
JONESVILLE ROAD
POOLESVILLE, MD. 20837
13048-149
ZONING: R07 USE: VACANT



P. 811
ROBERT C. SCHULTZ ET AL.
P.O. BOX 112,
BEAVERSVILLE, MD. 20839
12083-130
ZONING: R07 USE: AGRICULTURE

**GEOGRAPHIC COORDINATES
FOR CENTER OF LEASE SITE**

1400 83.5167	83.5167	83.5167
1400 83.5167	83.5167	83.5167
1400 83.5167	83.5167	83.5167
1400 83.5167	83.5167	83.5167
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1400 83.5167	83.5167	83.5167
1400 83.5167	83.5167	83.5167
1400 83.5167	83.5167	83.5167

ZONING: R07

TOWER BASE:

147 OLD SOLOMONS ISLAND ROAD,
4TH FLOOR
ANNAPOLIS, MARYLAND 21401
PH. (410)-266-3033

APPLICABLE CODES:

800A 23 NATIONAL BUILDING CODE
NATIONAL ELECTRICAL CODE
NATIONAL FIRE PROTECTION ASSOCIATION
APPLICABLE AMENDMENTS TO STANDARD CODES
JURISDICTION OF CITY OR COUNTY

**DATE ADAPTED
EDITION**

1" = 30'-0"



THE TECH GROUP INC.
147 OLD SOLOMONS ISLAND ROAD,
4TH FLOOR
ANNAPOLIS, MARYLAND 21401
PH. (410)-266-3033

MONTGOMERY COUNTY TOWER
SITE NO. MD-014-002
19200 JERUSALEM ROAD
POOLESVILLE, MARYLAND 20837



AT&T
AT&T WIRELESS SERVICES, INC.
11111 AT&T PARK DRIVE
FARMERS BRANCH, TEXAS 75444

NOTE: IF DRAWING IS 11" x 17"
REFER TO DRAWING SCALE

NOTES:

1. THE EXISTING STRUCTURES, BOUNDARY, TRUE NORTH, AND LIMITED TOPO INFORMATION SHOWN HEREON WAS PROVIDED BY THE CLIENT. THE BOUNDARY LINES WERE TAKEN FROM A SURVEY CONDUCTED BY THE CLIENT AND IS NOT TO BE CONSIDERED OR USED AS A BOUNDARY SURVEY.

LEGEND:

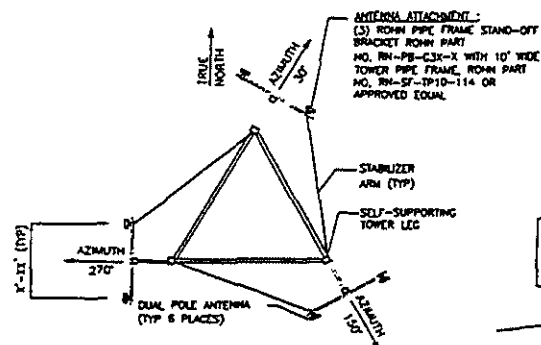
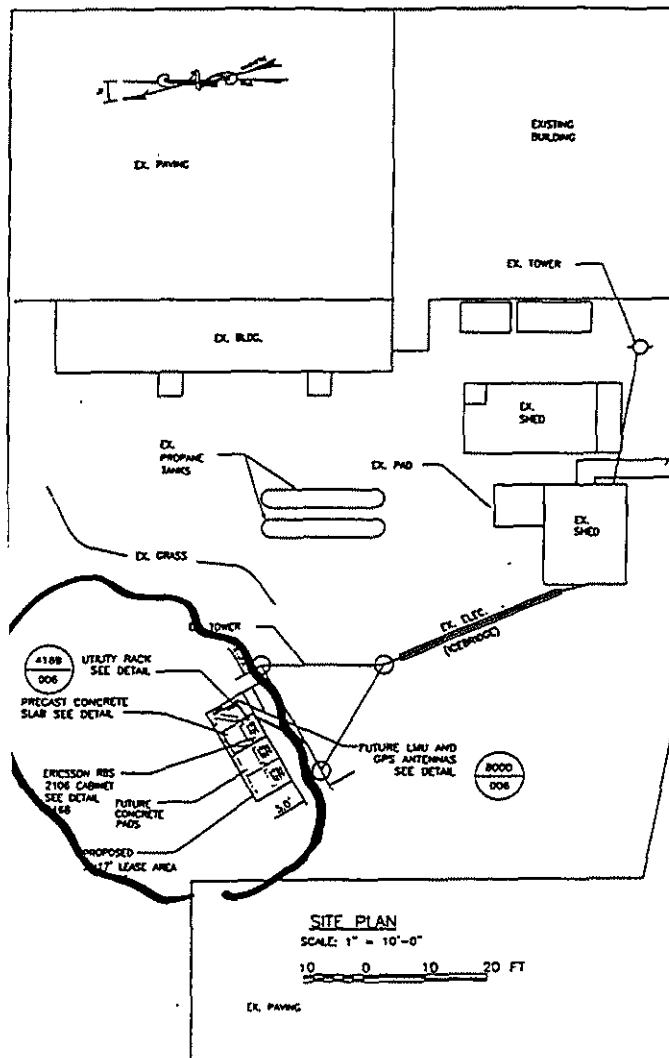
- PROPERTY LINE
- SETBACK INDEX CONTOURS
- EXISTING INTERMEDIATE CONTOURS
- EDGE OF EXISTING PAVEMENT
- EDGE OF EXISTING DRIVEWAY
- FENCE LINE
- TOP/TOE OF SLOPES
- CENTERLINE OF DITCH
- CULVERTS
- UTILITY / POWER LINE
- UNDERGROUND POWER LINE
- PROPOSED FINISHED GRADE
- PROPOSED UNDERGROUND POWER LINE
- PROPOSED UNDERGROUND TELEPHONE LINE

SITE & SURVEY PLAN

NO.	DESCRIPTION	DATE	BY	CHKD.	APP'D.
1	PREPARED FOR CONSTRUCTION	7/2/01	JLH		
2	REVISED FOR REVIEW & CHANGE	7/2/01	JLH		
3	REVISED FOR REVIEW & CHANGE	7/2/01	JLH		
4	REVISED FOR REVIEW & CHANGE	7/2/01	JLH		
5	REVISED FOR REVIEW & CHANGE	7/2/01	JLH		
6	REVISED FOR REVIEW & CHANGE	7/2/01	JLH		
7	REVISED FOR REVIEW & CHANGE	7/2/01	JLH		
8	REVISED FOR REVIEW & CHANGE	7/2/01	JLH		
9	REVISED FOR REVIEW & CHANGE	7/2/01	JLH		
10	REVISED FOR REVIEW & CHANGE	7/2/01	JLH		
11	REVISED FOR REVIEW & CHANGE	7/2/01	JLH		
12	REVISED FOR REVIEW & CHANGE	7/2/01	JLH		
13	REVISED FOR REVIEW & CHANGE	7/2/01	JLH		
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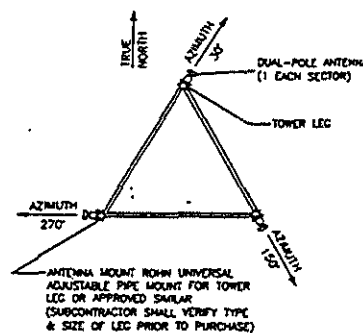
Tenant
Landlord

A1 & 1 to install 3 antennas and 3 proposed future antennas.
 Each antenna will require the installation 2 transmission cables.
 Total 6 antennas with 12 transmission cables.

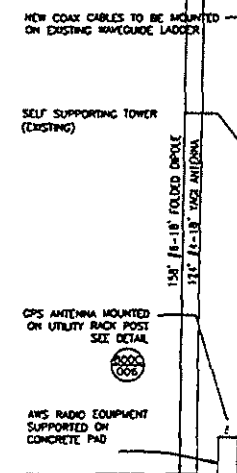


OPTION 1
 HORIZONTAL SEPARATION
 PLAN VIEW

ANTENNA CONFIGURATION FOR PERMIT/ZONING USE
 NOT TO SCALE



OPTION 2
 VERTICAL SEPARATION
 PARTIAL ELEVATION



NOTE:
 EXISTING TOWER AND FOUNDATION HAVE BEEN REANALYZED PER TOWER MANUFACTURER JOB #XXXX #XXXXXX AND NO MODIFICATIONS TO THE TOWER OR FOUNDATION ARE REQUIRED.

 THE TECH GROUP INC. 147 OLD SOLDADOS ISLAND ROAD, 4TH FLOOR ANNAPOLIS, MARYLAND 21401 PH. (410)-286-3033	MONTGOMERY COUNTY TOWER SITE NO. MD-014-002 19200 JERUSALEM ROAD POOLSVILLE, MARYLAND 20837	 AT&T AT&T WIRELESS SERVICES, INC. 11714 BELTWAY DRIVE BELTSVILLE, MD 20705	<table border="1"> <tr> <th>DATE</th> <th>REVISIONS</th> <th>BY</th> <th>CHK</th> <th>APP'D</th> </tr> <tr> <td>01/17/02</td> <td>ISSUED FOR CONSTRUCTION</td> <td>TTC</td> <td></td> <td></td> </tr> <tr> <td>05/03/02</td> <td>ISSUED FOR REVIEW & COMMENT</td> <td>TTC</td> <td></td> <td></td> </tr> </table>	DATE	REVISIONS	BY	CHK	APP'D	01/17/02	ISSUED FOR CONSTRUCTION	TTC			05/03/02	ISSUED FOR REVIEW & COMMENT	TTC			<p>SCALE: 1/8" = 1'-0"</p> <p>SITE LAYOUT PLAN & ELEVATION VIEW</p> <table border="1"> <tr> <th>REV</th> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> <tr> <td>1</td> <td>24445</td> <td>01/17/02</td> <td>ISSUED FOR CONSTRUCTION</td> </tr> <tr> <td>2</td> <td>911-014-002-C02</td> <td>05/03/02</td> <td>ISSUED FOR REVIEW & COMMENT</td> </tr> </table>	REV	NO.	DATE	DESCRIPTION	1	24445	01/17/02	ISSUED FOR CONSTRUCTION	2	911-014-002-C02	05/03/02	ISSUED FOR REVIEW & COMMENT
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2	911-014-002-C02	05/03/02	ISSUED FOR REVIEW & COMMENT																												

2 of 2

RF
 Tenant
 Landlord

EXHIBIT B

[Map Showing Non-Exclusive Right-of-Way]

To Be Provided If Necessary.

EXHIBIT C

HAZARDOUS MATERIALS ACTIVITIES - TENANT

None.

EXHIBIT D
SCHOOL HOURS

N/A

COMMUNITY USE

N/A

EXHIBIT E

**RECOMMENDATION OF TELECOMMUNICATIONS TRANSMISSION
FACILITY COORDINATING GROUP (TTFCG)**

Attached hereto



DEPARTMENT OF INFORMATION SYSTEMS AND TELECOMMUNICATIONS

Douglas M. Duncan
County Executive

MEMORANDUM

Alisoun K. Moore
Chief Information Officer

September 12, 2002

TO: Distribution

FROM: Robert P. Hunnicutt, Tower Coordinator
Telecommunications Transmission Facility Coordinating Group (TTFCG)

SUBJECT: Notification of Action

At its meeting of September 11, 2002 the Montgomery County TTFCG recommended the following application:

- ✓ ■ AT&T Wireless application to attach 6 panel antennas at the 150' level of an existing 250' County lattice tower located at 19200 Jerusalem Road in Poolesville (Application #200206-05).
- Verizon Wireless application to attach 12 antennas at the 141' level of an existing 148' PEPCO transmission line tower #660-S located at Deborah Drive & Killeen Way in Potomac (Application #200207-01).
- Nextel Communications application to attach 12 antennas to the penthouse roof at the 58' of the Crossroads Building located at 7676 New Hampshire Avenue in Silver Spring (Application #200208-01).
- VoiceStream Wireless application to replace 6 existing antennas with 6 new antennas on the Rock Creek Terrace Apartment building located at 12630 Veirs Mill Road in Silver Spring (Application #200208-03).
- VoiceStream Wireless application to replace 6 existing antennas with 6 new antennas on the Bell Atlantic Building located at 13100 Columbia Pike in Silver Spring (Application #200208-04).
- VoiceStream Wireless application to replace 6 existing antennas with 6 new antennas, and adding one GPS antenna for the E-911 system on the Summit Hills Apartment building located at 8484 - 16th Street in Silver Spring (Application #200208-05).



Notification of Action
September 11, 2002 TTFCG Meeting
Page - 2 -

Recommendation conditioned on approval of a Special Exception:

- Sprint PCS application to construct a new 193' monopole on the Beall Farm property located at 13201 Lewisdale Road in Clarksburg (Application #200201-01).
- Sprint PCS application to construct a new 134' monopole on the Emmanuel Church property located at 2311 Norbeck Road in Silver Spring (Application #200208-02).

Mc-Tower\Documents\Action Notification\2002 Nonces\2002Sept11\note.doc

EXHIBIT F
CURRENT BOARD POLICY ECN

Attached hereto.

POLICY

BOARD OF EDUCATION OF MONTGOMERY COUNTY

Related Entries:

Responsible Office: Supportive Services

Telecommunications Transmission Facilities

A. PURPOSE

To establish the criteria by which the Board of Education will evaluate and make decisions concerning applications to place private telecommunications transmission facilities on sites owned by the Board of Education

B. ISSUE

There have been requests to place private telecommunications transmission facilities on sites owned by the Board of Education. Federal and county laws provide for such placements. The Board of Education needs to have criteria with which to consider such requests without compromising the school system's primary mission to provide a safe and supportive environment for the academic success of every student.

C. POSITION

1. The Board of Education supports federal and county legislation relating to the infrastructure of modern telecommunications systems and wishes to implement these laws without contravening the primary mission of the organization which is to provide a safe and supportive environment for the academic success of every student.
2. Factors such as site size, compatibility with the county's Master Plan and school site development plan, impact on school operations, school and community input (including school personnel and neighborhood citizens' concerns), compensation, and the ability to co-locate telecommunication facilities at the site shall all be considered when evaluating sites for telecommunications facilities on school property. Specifically, the following criteria will be considered in the evaluation of proposals:
 - a) Conformance of the proposal with federal and county legislation as demonstrated in the county's Telecommunications Transmission Facility Coordinating Group's (TTFCG) recommendation and the Maryland-National Capital Park and Planning Commission (M-NCPPC) report.

- b) Telecommunications providers must show evidence of pursuit of co-location with other vendors and/or existing facilities.
 - c) Telecommunications providers must have a long-range master plan for future telecommunications transmission facilities throughout the county.
 - d) Impact on the school site and operations based on input from school staff, PTSA, community groups, and facilities staff. These considerations should include the following:
 - (1) No site shall be considered unless it meets the acreage needed for standard setback requirements
 - (2) No private structure shall be placed on school buildings unless specifically negotiated and agreed to in the terms of the lease
 - (3) Any proposed installation must satisfy all legal, safety, and health requirements set forth in federal, state, and county codes and regulations
 - (4) Any proposed installation must be architecturally and aesthetically compatible with the school site
 - (5) For applications involving new monopoles or towers, the applicant making the proposal is responsible for notification of potentially affected communities
 - (6) Installation and location shall not disrupt normal operation of school system activities and/or community activities as determined by the principal or site manager
 - (7) The applicant shall bear all responsibility and related costs for liability and maintenance arising from the installation and its operation. This would include related upkeep, repair, and appearance of the tower, monopole, equipment building, enclosed grounds and fencing, and provision for its removal.
 - e) Demonstrated record in other site installations of compliance with contractual agreements and adherence to regulatory standards. In the event of the telecommunications company's bankruptcy, a sufficient bond is in place to cover the cost of removing the transmission facility and returning the site to its previous condition.
 - f) Benefit to the Board including provision of revenue to support educational improvements.
3. A standard MCPS lease form shall govern all leases and permits for telecommunications facilities on school property. The lease/permit shall require indemnification of the Board, its employees, and agents by the applicant for any contingent liability arising from the operation of the facility. The telecommunications company may not access the property during school hours except with

prior notice and approval of the official designated by the building administrator. The school system reserves the right, prior to the conclusion of its stated term, to terminate the lease for cause, including lack of adequate maintenance. Revisions to the standard lease/permit form, except for changes required due to site specific concerns, shall not be accepted.

4. The superintendent will review and, if necessary, gather additional views of the community as well as principals and/or site managers and evaluate those views prior to making a decision.
5. Based on the criteria set forth in this policy, the superintendent will decide whether to approve the request and, if so, negotiate the most favorable terms. The applicant will be responsible for removing the installation completely and returning the site to its previous condition at conclusion of the contract.

D. DESIRED OUTCOME

Fair and consistent criteria with which to evaluate the appropriateness of placing telecommunication transmission infrastructures on school sites so that they do not detract from the primary mission of the school system

E. IMPLEMENTATION STRATEGIES

1. In compliance with Montgomery County Executive Regulation 14-96, the TTFCG will submit recommendations on proposed installations to the school system.
2. For those actions for which M-NCPPC approval is required, the superintendent will transmit that recommendation to the M-NCPPC for its review under the mandatory referral or special exception process. The review will include expert testimony and citizen input.
3. The superintendent will notify site managers and school PTAs of the proposed installation.
4. The superintendent will receive the M-NCPPC Report or Board of Appeals decision and any other relevant information and make a decision concerning the application.

F. REVIEW AND REPORTING

1. This policy will be reviewed on an ongoing basis in accordance with the Board of Education's policy review process.
2. Periodic reports on the implementation of this policy, including input from affected schools and communities, will be reviewed by the Board.

Policy History: Adopted by Resolution No. 653-97, November 11, 1997.