

Council of the City of York, PA  
Session 2015  
Resolution No.

Introduced by: David Satterlee

Date: February 3, 2015

WHEREAS, the City of York, York County, is the owner of a grass lot located near the intersection of Penn Street and Kings Mill Road in York, PA; and

WHEREAS, the City of York desires to enter into a Lease Agreement with Verizon Wireless for the installation of equipment for the transmission and reception of radio communication signals; and

WHEREAS, said equipment will be installed per the attached plans and in accordance with all local, state and federal laws.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of York, Pennsylvania that the Mayor is authorized and the Controller is authorized and directed to enter into a Lease Agreement, a copy of which is attached hereto and made a part hereof, for same on behalf of the City of York, Pennsylvania.

PASSED FINALLY:

BY THE FOLLOWING VOTE:

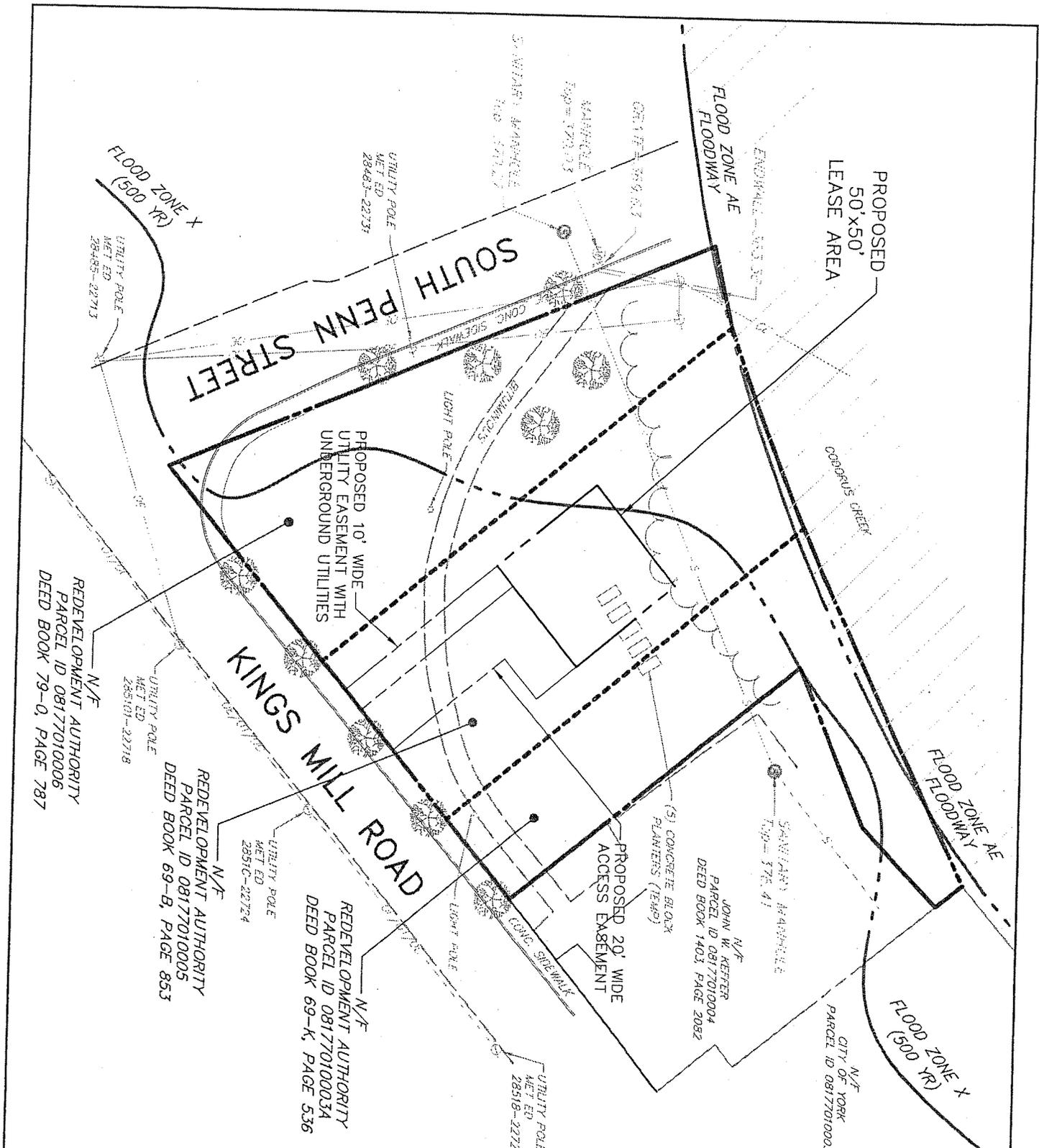
YEAS: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

NAYS: \_\_\_\_\_

\_\_\_\_\_  
Carol Hill-Evans  
PRESIDENT OF COUNCIL

Attest:

\_\_\_\_\_  
Dianna L. Thompson-Mitchell  
CITY CLERK



Coordinates:  
 LAT: 39°57'10.79" N  
 LONG: 76°43'59.32" W

Site Address:  
 377 Kings Mill Rd  
 York, PA 17401

LEASE EXHIBIT A  
 SHEET 1 OF 1  
 HARTLEY

City of York  
 York County, PA

**RETTEW**  
 RETTEW Associates, Inc.  
 5031 Richard Lane, Suite 111, Mechanicsburg, PA 17055  
 Phone (717) 697-3591 • Fax (717) 697-6953

DRAWN BY: RAW  
 DATE: 06/13/14  
 SCALE: 1"=50'  
 DWG. NO. 041802469

SITE NAME: Hartley  
SITE NUMBER: 20130984814  
LOCATION CODE: 280484  
ATTORNEY: James M. Strong  
DATE: 11/12/2014

## LAND LEASE AGREEMENT

This AGREEMENT, made this \_\_\_\_ day of \_\_\_\_\_, 2014 between CITY OF YORK with its principal offices located at 101 South George Street, P.O. Box 509, York, Pennsylvania 17405, hereinafter designated LESSOR and CELLCO PARTNERSHIP d/b/a Verizon Wireless, with its principal office located at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920 (telephone number 866-862-4404), hereinafter designated LESSEE. The LESSOR and LESSEE are at times collectively referred to hereinafter as the "Parties" or individually as the "Party".

1. PREMISES. LESSOR hereby leases to LESSEE a portion of that certain parcel of property (the entirety of LESSOR's property is referred to hereinafter as the Property), located at 377 Kings Mill Road, City of York, York County, Pennsylvania, and being described as a fifty (50') foot by fifty (50') foot parcel containing two thousand five hundred (2,500) square feet (the "Land Space"), together with the non-exclusive right (the "Rights of Way") for ingress and egress, seven (7) days a week twenty-four (24) hours a day, on foot or motor vehicle, including trucks over or along a twenty (20') foot wide right-of-way extending from the nearest public right-of-way, Kings Mill Road to the Land Space, and a ten (10') foot wide right-of-way for the installation and maintenance of utility wires, poles, cables, conduits, and pipes over, under, or along one or more rights of way from the Land Space, said Land Space and Rights of Way (hereinafter collectively referred to as the "Premises") being substantially as described herein in Exhibit "A" attached hereto and made a part hereof. The Property is also identified as Tax Parcel No. 08-177-01-0005.00-00000 and is further described in Instrument No. 2014050199 as recorded in the Office of the Recorder of Deeds in and for York County, Pennsylvania.

In the event any public utility is unable to use the Rights of Way, the LESSOR hereby agrees to grant an additional right-of-way either to the LESSEE or to the public utility at no cost to the LESSEE.

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

3. TERM; RENTAL.

a. This Agreement shall be effective as of the date of execution by both Parties, provided, however, the initial term shall be for five (5) years and shall commence on the Commencement Date (as hereinafter defined) at which time rental payments shall commence and be due at a total annual rental of \$20,000.00 to be paid in equal monthly installments on the first

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day of the month, in advance, to LESSOR or to such other person, firm or place as LESSOR may, from time to time, designate in writing at least thirty (30) days in advance of any rental payment date by notice given in accordance with Paragraph 23 below. The Agreement shall commence based upon the date LESSEE commences installation of the equipment on the Premises. In the event the date LESSEE commences installation of the equipment on the Premises falls between the 1<sup>st</sup> and 15<sup>th</sup> of the month, the Agreement shall commence on the 1<sup>st</sup> of that month and if the date installation commences falls between the 16<sup>th</sup> and 31<sup>st</sup> of the month, then the Agreement shall commence on the 1<sup>st</sup> day of the following month (either the "Commencement Date"). LESSOR and LESSEE agree that they shall acknowledge in writing the Commencement Date. LESSOR and LESSEE acknowledge and agree that initial rental payment(s) shall not actually be sent by LESSEE until thirty (30) days after a written acknowledgement confirming the Commencement Date. By way of illustration of the preceding sentence, if the Commencement Date is January 1 and the written acknowledgement confirming the Commencement Date is dated January 14, LESSEE shall send to the LESSOR the rental payments for January 1 and February 1 by February 13.

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

b. LESSOR hereby agrees to provide to LESSEE certain documentation (the "Rental Documentation") evidencing LESSOR's interest in, and right to receive payments under, this Agreement, including without limitation: (i) documentation, acceptable to LESSEE in LESSEE's reasonable discretion, evidencing LESSOR's good and sufficient title to and/or interest in the Property and right to receive rental payments and other benefits hereunder; (ii) a complete and fully executed Internal Revenue Service Form W-9, or equivalent, in a form acceptable to LESSEE, for any party to whom rental payments are to be made pursuant to this Agreement; and (iii) other documentation requested by LESSEE in LESSEE's reasonable discretion. From time to time during the Term of this Agreement and within thirty (30) days of a written request from LESSEE, LESSOR agrees to provide updated Rental Documentation in a form reasonably acceptable to LESSEE. The Rental Documentation shall be provided to LESSEE in accordance with the provisions of and at the address given in Paragraph 23. Delivery of Rental Documentation to LESSEE shall be a prerequisite for the payment of any rent by LESSEE and notwithstanding anything to the contrary herein, LESSEE shall have no obligation to make any rental payments until Rental Documentation has been supplied to LESSEE as provided herein.

Within fifteen (15) days of obtaining an interest in the Property or this Agreement, any assignee(s), transferee(s) or other successor(s) in interest of LESSOR shall provide to LESSEE Rental Documentation in the manner set forth in the preceding paragraph. From time to time during the Term of this Agreement and within thirty (30) days of a written request from LESSEE, any assignee(s) or transferee(s) of LESSOR agrees to provide updated Rental Documentation in a form reasonably acceptable to LESSEE. Delivery of Rental Documentation to LESSEE by any assignee(s), transferee(s) or other successor(s) in interest of LESSOR shall be a prerequisite for the payment of any rent by LESSEE to such party and notwithstanding anything to the contrary

herein, LESSEE shall have no obligation to make any rental payments to any assignee(s), transferee(s) or other successor(s) in interest of LESSOR until Rental Documentation has been supplied to LESSEE as provided herein.

4. EXTENSIONS. This Agreement shall automatically be extended for four (4) additional five (5) year terms and one (1) last additional term of four (4) years and eleven (11) months unless LESSEE terminates it at the end of the then current term by giving LESSOR written notice of the intent to terminate at least six (6) months prior to the end of the then current term. The initial term and all extensions shall be collectively referred to herein as the "Term".

5. RENTAL INCREASES. The annual rental for each extension term will be increased at the rate of fifteen (15%) percent of the annual rental for the previous term.

6. ADDITIONAL EXTENSIONS. Paragraph intentionally omitted.

7. TAXES. LESSEE shall have the responsibility to pay any personal property, real estate taxes, assessments, or charges owed on the Property which LESSOR demonstrates is the result of LESSEE's use of the Premises and/or the installation, maintenance, and operation of the LESSEE's improvements, and any sales tax imposed on the rent (except to the extent that LESSEE is or may become exempt from the payment of sales tax in the jurisdiction in which the Property is located), including any increase in real estate taxes at the Property which LESSOR demonstrates arises from the LESSEE's improvements and/or LESSEE's use of the Premises. LESSOR and LESSEE shall each be responsible for the payment of any taxes, levies, assessments and other charges imposed including franchise and similar taxes imposed upon the business conducted by LESSOR or LESSEE at the Property. Notwithstanding the foregoing, LESSEE shall not have the obligation to pay any tax, assessment, or charge that LESSEE is disputing in good faith in appropriate proceedings prior to a final determination that such tax is properly assessed provided that no lien attaches to the Property. Nothing in this Paragraph shall be construed as making LESSEE liable for any portion of LESSOR's income taxes in connection with any Property or otherwise. Except as set forth in this Paragraph, LESSOR shall have the responsibility to pay any personal property, real estate taxes, assessments, or charges owed on the Property and shall do so prior to the imposition of any lien on the Property.

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

8. USE; GOVERNMENTAL APPROVALS. LESSEE shall use the Premises for the purpose of constructing, maintaining, repairing and operating a communications facility and uses incidental thereto. LESSEE shall be responsible for repairing LESSEE's improvements located within the Premises in a proper operating and reasonably safe condition. LESSOR shall be responsible for repairing and maintaining all other portions of the Property in a proper operating and reasonably safe condition. A security fence consisting of chain link construction or similar but comparable construction may be placed around the perimeter of the Premises at the discretion of LESSEE (not including the access easement). All improvements, equipment, antennas and conduits shall be at LESSEE's expense and their installation shall be at the discretion and option of LESSEE. LESSEE shall have the right to replace, repair, add or otherwise modify its utilities, equipment, antennas and/or conduits or any portion thereof and the frequencies over which the equipment operates, whether the equipment, antennas, conduits or frequencies are specified or not on any exhibit attached hereto, during the Term. It is understood and agreed that LESSEE's ability to use the Premises is contingent upon its obtaining after the execution date of this Agreement all of the certificates, permits and other approvals (collectively the "Governmental Approvals") that may be required by any Federal, State or Local authorities as well as satisfactory soil boring tests which will permit LESSEE use of the Premises as set forth above. LESSOR shall cooperate with LESSEE in its effort to obtain such approvals and shall take no action which would adversely affect the status of the Property with respect to the proposed use thereof by LESSEE. In the event that (i) any of such applications for such Governmental Approvals should be finally rejected; (ii) any Governmental Approval issued to LESSEE is canceled, expires, lapses, or is otherwise withdrawn or terminated by governmental authority; (iii) LESSEE determines that such Governmental Approvals may not be obtained in a timely manner; (iv) LESSEE determines that any soil boring tests are unsatisfactory; (v) LESSEE determines that the Premises is no longer technically compatible for its use; or (vi) LESSEE, in its sole discretion, determines that the use of the Premises is obsolete or unnecessary, LESSEE shall have the right to terminate this Agreement. Notice of LESSEE's exercise of its right to terminate shall be given to LESSOR in writing by certified mail, return receipt requested, and shall be effective upon the mailing of such notice by LESSEE, or upon such later date as designated by LESSEE. All rentals paid to said termination date shall be retained by LESSOR. Upon such termination, this Agreement shall be of no further force or effect except to the extent of the representations, warranties and indemnities made by each Party to the other hereunder. Otherwise, the LESSEE shall have no further obligations for the payment of rent to LESSOR.

9. INDEMNIFICATION. Subject to Paragraph 10 below, each Party shall indemnify and hold the other harmless against any claim of liability or loss from personal injury or property damage resulting from or arising out of the negligence or willful misconduct of the indemnifying Party, its employees, contractors or agents, except to the extent such claims or damages may be due to or caused by the negligence or willful misconduct of the other Party, or its employees, contractors or agents.

10. INSURANCE.

a. The Parties hereby waive and release any and all rights of action for negligence against the other which may hereafter arise on account of damage to the Premises or to the Property, resulting from any fire, or other casualty of the kind covered by standard fire insurance policies with extended coverage, regardless of whether or not, or in what amounts, such insurance is now or hereafter carried by the Parties, or either of them. These waivers and releases shall apply between the Parties and they shall also apply to any claims under or through either Party as a result of any asserted right of subrogation. All such policies of insurance obtained by either Party concerning the Premises or the Property shall waive the insurer's right of subrogation against the other Party.

b. LESSOR and LESSEE each agree that at its own cost and expense, each will maintain commercial general liability insurance with limits not less than \$1,000,000 for injury to or death of one or more persons in any one occurrence and \$500,000 for damage or destruction to property in any one occurrence. LESSOR and LESSEE each agree that it will include the other Party as an additional insured.

11. LIMITATION OF LIABILITY. Except for indemnification pursuant to Paragraphs 9 and 29, neither Party shall be liable to the other, or any of their respective agents, representatives, employees for any lost revenue, lost profits; loss of technology, rights or services, incidental, punitive, indirect, special or consequential damages, loss of data, or interruption or loss of use of service, even if advised of the possibility of such damages, whether under theory of contract, tort (including negligence), strict liability or otherwise.

12. ANNUAL TERMINATION. Notwithstanding anything to the contrary contained herein, provided LESSEE is not in default hereunder beyond applicable notice and cure periods, LESSEE shall have the right to terminate this Agreement upon the annual anniversary of the Commencement Date provided that three (3) months prior notice is given to LESSOR.

13. INTERFERENCE. LESSEE agrees to install equipment of the type and frequency which will not cause harmful interference which is measurable in accordance with then existing industry standards to any equipment of LESSOR or other lessees of the Property which existed on the Property prior to the date this Agreement is executed by the Parties. In the event any after-installed LESSEE's equipment causes such interference, and after LESSOR has notified LESSEE in writing of such interference, LESSEE will take all commercially reasonable steps necessary to correct and eliminate the interference, including but not limited to, at LESSEE's option, powering down such equipment and later powering up such equipment for intermittent testing. In no event will LESSOR be entitled to terminate this Agreement or relocate the equipment as long as LESSEE is making a good faith effort to remedy the interference issue. LESSOR agrees that LESSOR and/or any other tenants of the Property who currently have or in the future take possession of the Property will be permitted to install only such equipment that is of the type and frequency which will not cause harmful interference which is measurable in accordance with then existing industry standards to the then existing equipment of LESSEE. The Parties acknowledge that there will not be an adequate remedy at law for noncompliance with the provisions of this Paragraph and therefore, either Party shall have the right to equitable remedies, such as, without limitation, injunctive relief and specific performance.

14. REMOVAL AT END OF TERM. LESSEE shall, upon expiration of the Term, or within ninety (90) days after any earlier termination of the Agreement, remove its building(s), antenna structure(s) (except footings), equipment, conduits, fixtures and all personal property and restore the Premises to its original condition, reasonable wear and tear and casualty damage excepted. LESSOR agrees and acknowledges that all of the equipment, conduits, fixtures and personal property of LESSEE shall remain the personal property of LESSEE and LESSEE shall have the right to remove the same at any time during the Term, whether or not said items are considered fixtures and attachments to real property under applicable Laws (as defined in Paragraph 33 below). If such time for removal causes LESSEE to remain on the Premises after termination of this Agreement, LESSEE shall pay rent at the then existing monthly rate or on the existing monthly pro-rata basis if based upon a longer payment term, until such time as the removal of the building, antenna structure, fixtures and all personal property are completed.

15. HOLDOVER. LESSEE has no right to retain possession of the Premises or any part thereof beyond the expiration of that removal period set forth in Paragraph 14 herein, unless the Parties are negotiating a new lease or lease extension in good faith. In the event that the Parties are not in the process of negotiating a new lease or lease extension in good faith, LESSEE holds over in violation of Paragraph 14 and this Paragraph 15, then the rent then in effect payable from and after the time of the expiration or earlier removal period set forth in Paragraph 14 shall equal to the rent applicable during the month immediately preceding such expiration or earlier termination.

16. RIGHT OF FIRST REFUSAL. If LESSOR elects, during the Term (i) to sell or otherwise transfer all or any portion of the Property, whether separately or as part of a larger parcel of which the Property is a part; or (ii) to grant to a third party by easement or other legal instrument an interest in and to that portion of the Property occupied by LESSEE, or a larger portion thereof, for the purpose of operating and maintaining communications facilities or the management thereof, with or without an assignment of this Agreement to such third party, LESSEE shall have the right of first refusal to meet any bona fide offer of sale or transfer on the same terms and conditions of such offer. If LESSEE fails to meet such bona fide offer within thirty (30) days after written notice thereof from LESSOR, LESSOR may sell or grant the easement or interest in the Property or portion thereof to such third person in accordance with the terms and conditions of such third party offer. For purposes of this Paragraph, any transfer, bequest or devise of LESSOR's interest in the Property as a result of the death of LESSOR, whether by will or intestate succession, or any conveyance to LESSOR's family members by direct conveyance or by conveyance to a trust for the benefit of family members shall not be considered a sale of the Property for which LESSEE has any right of first refusal.

17. RIGHTS UPON SALE. Should LESSOR, at any time during the Term decide (i) to sell or transfer all or any part of the Property to a purchaser other than LESSEE, or (ii) to grant to a third party by easement or other legal instrument an interest in and to that portion of the Property occupied by LESSEE, or a larger portion thereof, for the purpose of operating and maintaining communications facilities or the management thereof, such sale or grant of an

easement or interest therein shall be under and subject to this Agreement and any such purchaser or transferee shall recognize LESSEE's rights hereunder under the terms of this Agreement. To the extent that LESSOR grants to a third party by easement or other legal instrument an interest in and to that portion of the Property occupied by LESSEE for the purpose of operating and maintaining communications facilities or the management thereof and in conjunction therewith, assigns this Agreement to said third party, LESSOR shall not be released from its obligations to LESSEE under this Agreement, and LESSEE shall have the right to look to LESSOR and the third party for the full performance of this Agreement.

18. QUIET ENJOYMENT. LESSOR covenants that LESSEE, on paying the rent and performing the covenants herein, shall peaceably and quietly have, hold and enjoy the Premises.

19. TITLE. LESSOR represents and warrants to LESSEE as of the execution date of this Agreement, and covenants during the Term that LESSOR is seized of good and sufficient title and interest to the Property and has full authority to enter into and execute this Agreement. LESSOR further covenants during the Term that there are no liens, judgments or impediments of title on the Property, or affecting LESSOR's title to the same and that there are no covenants, easements or restrictions which prevent or adversely affect the use or occupancy of the Premises by LESSEE as set forth above.

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

21. GOVERNING LAW. This Agreement and the performance thereof shall be governed, interpreted, construed and regulated by the Laws of the Commonwealth of Pennsylvania.

22. ASSIGNMENT. This Agreement may be sold, assigned or transferred by the LESSEE without any approval or consent of the LESSOR to the LESSEE's principal, affiliates, subsidiaries of its principal or to any entity which acquires all or substantially all of LESSEE's assets in the market defined by the Federal Communications Commission in which the Property is located by reason of a merger, acquisition or other business reorganization. As to other parties, this Agreement may not be sold, assigned or transferred without the written consent of the LESSOR, which such consent will not be unreasonably withheld, delayed or conditioned. No

change of stock ownership, partnership interest or control of LESSEE or transfer upon partnership or corporate dissolution of LESSEE shall constitute an assignment hereunder. LESSEE may sublet the Premises within its sole discretion, upon notice to LESSOR. Any sublease that is entered into by LESSEE shall be subject to the provisions of this Agreement and shall be binding upon the successors, assigns, heirs and legal representatives of the respective Parties hereto.

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

LESSOR: City of York  
101 South George Street, P.O. Box 509  
York, Pennsylvania 17405

LESSEE: Cellco Partnership  
d/b/a Verizon Wireless  
180 Washington Valley Road  
Bedminster, New Jersey 07921  
Attention: Network Real Estate

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

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

25. SUBORDINATION AND NON-DISTURBANCE. LESSOR shall obtain not later than fifteen (15) days following the execution of this Agreement, a Non-Disturbance Agreement, as defined below, from its existing mortgagee(s), ground lessors and master lessors, if any, of the Property. At LESSOR's option, this Agreement shall be subordinate to any future master lease, ground lease, mortgage, deed of trust or other security interest (a "Mortgage") by LESSOR which from time to time may encumber all or part of the Property or right-of-way; provided, however, as a condition precedent to LESSEE being required to subordinate its interest in this Agreement to any future Mortgage covering the Property, LESSOR shall obtain for LESSEE's benefit a non-disturbance and attornment agreement for LESSEE's benefit in the form reasonably satisfactory to LESSEE, and containing the terms described below (the "Non-Disturbance Agreement"), and shall recognize LESSEE's right to remain in occupancy of and have access to the Premises as long as LESSEE is not in default of this Agreement beyond applicable notice and cure periods. The Non-Disturbance Agreement shall include the encumbering party's ("Lender's") agreement that, if Lender or its successor-in-interest or any purchaser of Lender's or its successor's interest (a "Purchaser") acquires an ownership interest in

the Property, Lender or such successor-in-interest or Purchaser will (1) honor all of the terms of the Agreement, (2) fulfill LESSOR's obligations under the Agreement, and (3) promptly cure all of the then-existing LESSOR defaults under the Agreement. Such Non-Disturbance Agreement must be binding on all of Lender's participants in the subject loan (if any) and on all successors and assigns of Lender and/or its participants and on all Purchasers. In return for such Non-Disturbance Agreement, LESSEE will execute an agreement for Lender's benefit in which LESSEE (1) confirms that the Agreement is subordinate to the Mortgage or other real property interest in favor of Lender, (2) agrees to attorn to Lender if Lender becomes the owner of the Property and (3) agrees to accept a cure by Lender of any of LESSOR's defaults, provided such cure is completed within the deadline applicable to LESSOR. In the event LESSOR defaults in the payment and/or other performance of any mortgage or other real property interest encumbering the Property, LESSEE, may, at its sole option and without obligation, cure or correct LESSOR's default and upon doing so, LESSEE shall be subrogated to any and all rights, titles, liens and equities of the holders of such mortgage or other real property interest and LESSEE shall be entitled to deduct and setoff against all rents that may otherwise become due under this Agreement the sums paid by LESSEE to cure or correct such defaults.

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

27. DEFAULT.

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

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

the foregoing to the contrary, it shall be a default under this Agreement if LESSOR fails, within five (5) days after receipt of written notice of such breach, to perform an obligation required to be performed by LESSOR if the failure to perform such an obligation interferes with LESSEE's ability to conduct its business on the Property; provided, however, that if the nature of LESSOR's obligation is such that more than five (5) days after such notice is reasonably required for its performance, then it shall not be a default under this Agreement if performance is commenced within such five (5) day period and thereafter diligently pursued to completion.

28. REMEDIES. Upon a default, the non-defaulting Party may at its option (but without obligation to do so), perform the defaulting Party's duty or obligation on the defaulting Party's behalf, including but not limited to the obtaining of reasonably required insurance policies. The costs and expenses of any such performance by the non-defaulting Party shall be due and payable by the defaulting Party upon invoice therefor. In the event of a default by either Party with respect to a material provision of this Agreement, without limiting the non-defaulting Party in the exercise of any right or remedy which the non-defaulting Party may have by reason of such default, the non-defaulting Party may terminate the Agreement and/or pursue any remedy now or hereafter available to the non-defaulting Party under the Laws or judicial decisions of the state in which the Premises are located; provided, however, LESSOR shall use reasonable efforts to mitigate its damages in connection with a default by LESSEE. If LESSEE so performs any of LESSOR's obligations hereunder, the full amount of the reasonable and actual cost and expense incurred by LESSEE shall immediately be owing by LESSOR to LESSEE, and LESSOR shall pay to LESSEE upon demand the full undisputed amount thereof with interest thereon from the date of payment at the greater of (i) ten percent (10%) per annum, or (ii) the highest rate permitted by applicable Laws. Notwithstanding the foregoing, if LESSOR does not pay LESSEE the full undisputed amount within thirty (30) days of its receipt of an invoice setting forth the amount due from LESSOR, LESSEE may offset the full undisputed amount, including all accrued interest, due against all fees due and owing to LESSOR until the full undisputed amount, including all accrued interest, is fully reimbursed to LESSEE.

29. ENVIRONMENTAL.

a. LESSOR will be responsible for all obligations of compliance with any and all environmental and industrial hygiene laws, including any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene conditions or concerns as may now or at any time hereafter be in effect, that are or were in any way related to activity now conducted in, on, or in any way related to the Property, unless such conditions or concerns are caused by the specific activities of LESSEE in the Premises.

b. LESSOR shall hold LESSEE harmless and indemnify LESSEE from and assume all duties, responsibility and liability at LESSOR's sole cost and expense, for all duties, responsibilities, and liability (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 in any way related to: a) failure to comply with

any environmental or industrial hygiene law, including without limitation any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene concerns or conditions as may now or at any time hereafter be in effect, unless such non-compliance results from conditions caused by LESSEE; and b) any environmental or industrial hygiene conditions arising out of or in any way related to the condition of the Property or activities conducted thereon, unless such environmental conditions are caused by LESSEE.

30. CASUALTY. In the event of damage by fire or other casualty to the Premises that cannot reasonably be expected to be repaired within forty-five (45) days following same or, if the Property is damaged by fire or other casualty so that such damage may reasonably be expected to disrupt LESSEE's operations at the Premises for more than forty-five (45) days, then LESSEE may, at any time following such fire or other casualty, provided LESSOR has not completed the restoration required to permit LESSEE to resume its operation at the Premises, terminate this Agreement upon fifteen (15) days prior written notice to LESSOR. Any such notice of termination shall cause this Agreement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Agreement and the Parties shall make an appropriate adjustment, as of such termination date, with respect to payments due to the other under this Agreement. Notwithstanding the foregoing, the rent shall abate during the period of repair following such fire or other casualty in proportion to the degree to which LESSEE's use of the Premises is impaired.

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

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

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

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

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

36. SUBLEASING. LESSEE may sublease any portion of the Premises for collocation at its sole discretion, upon notice to LESSOR. Any sublease that is entered into by LESSEE shall be subject to the provisions of this Agreement and shall be binding upon the successors, assigns, heirs and legal representatives of the respective parties hereto. The term "Sublease," "Sublet," "Sublessee" and any other similar term shall apply to any situation by which LESSEE allows a third party use of the Premises for collocation, whether it be by formal sublease, license or other agreement. All rights and responsibilities of LESSEE set forth in this Agreement shall be enjoyed by and binding on any Sublessee.

a. In the event LESSEE subleases any portion of the Premises to a company operating communications facilities and uses incidental thereto, any Sublessee shall be required to pay to LESSOR on the same day rent is due a monthly collocation fee of \$250.00. The collocation fee shall commence on the first day of the month following commencement of

construction by each collocator. The LESSEE shall not be responsible to the LESSOR for the collection or payment of rents by the Sublessee to the LESSOR, and the LESSEE shall have no liability to the LESSOR in the event of failure of payment by Sublessee. In this event: (i) the LESSEE shall have no liability of any nature to the LESSOR for failure to sublet all or any part of the Premises to any or all potential Sublessee(s), and (ii) at LESSOR's request, LESSEE will provide LESSOR with a three-party agreement to be executed by the LESSEE, its Sublessee, and LESSOR to confirm direct payment obligation from the Sublessee to the LESSOR and to indicate LESSOR has been notified of the sublease. A sample of this three-party agreement is attached hereto as Exhibit "C."

b. Notwithstanding any other provision of this Agreement, the LESSEE shall not be required to obtain approval from the LESSOR for the Subletting of the Premises or part thereof. The LESSEE shall have the sole right to determine whether it will Sublet any portion of the Premises or whether it will sublease to any specific Sublessee.

c. The rental provisions of this section shall not apply to any subletting of the Premises: (i) for public emergency and/or safety systems purposes (i.e. police, ambulance and/or fire), that may be required or ordered by any governmental authority having jurisdiction over LESSEE or the Property; and/or (ii) to LESSEE's principal, affiliates or subsidiary of its principal. The LESSEE or any Sublessee shall not be required to pay any amount or license fee to the LESSOR in connection with the subletting for public emergency and/or safety system purposes that may be required or ordered by any governmental authority having jurisdiction or to LESSEE's principal, affiliates or subsidiaries of its principal. Notwithstanding any other provision of this Agreement, the LESSEE shall not be required to obtain any approval from the LESSOR for the subletting for public emergency and/or safety system purposes or for a subletting to LESSEE's principal, affiliates or subsidiaries of its principal.

[SIGNATURE PAGE FOLLOWS]

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

WITNESS:

\_\_\_\_\_

**LESSOR:**  
CITY OF YORK

By: \_\_\_\_\_  
Name: C. Kim Bracey  
Title: Mayor  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: Robert F. Lambert  
Title: Controller  
Date: \_\_\_\_\_

WITNESS:

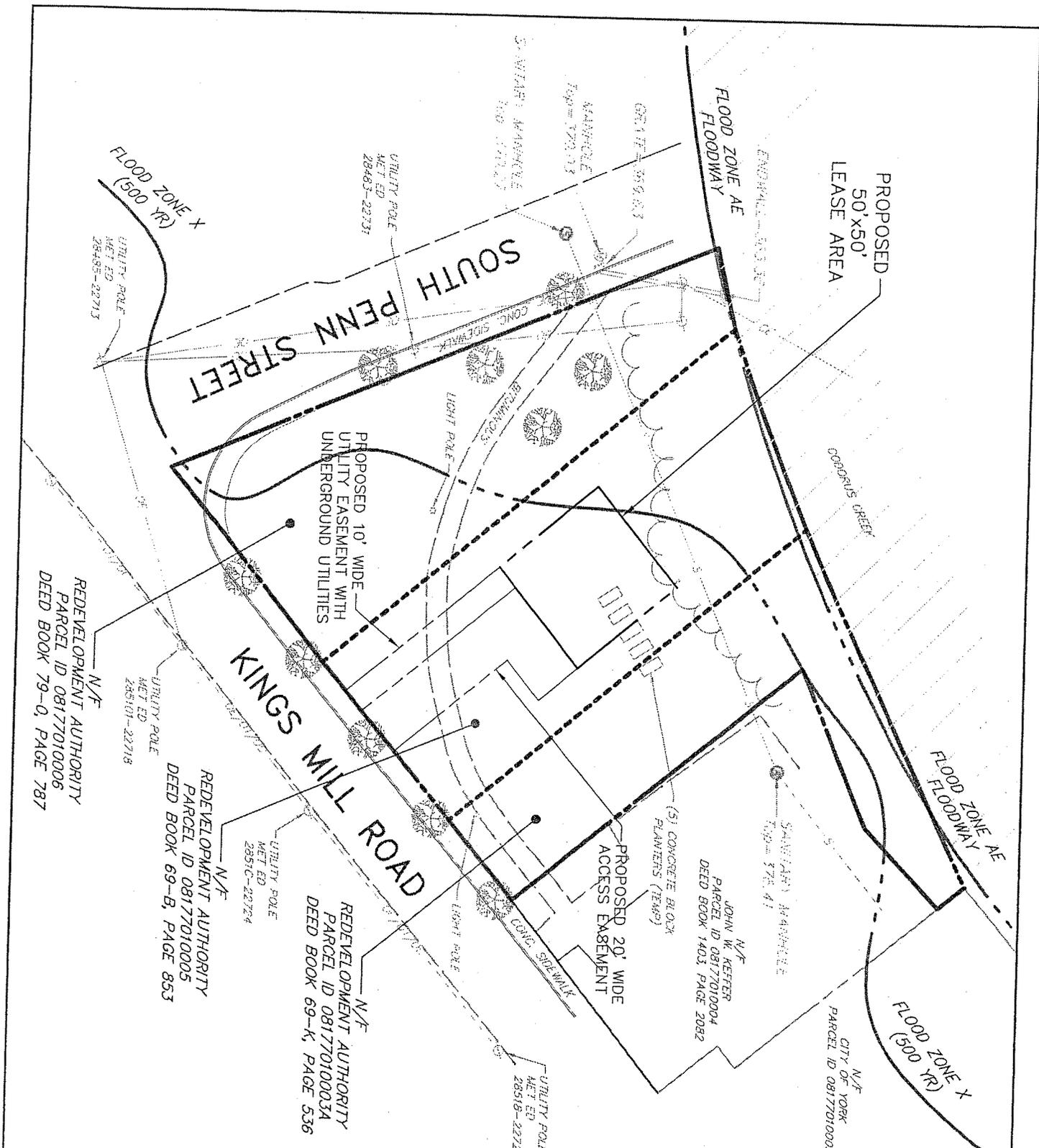
\_\_\_\_\_

**LESSEE:**  
CELLCO PARTNERSHIP  
d/b/a Verizon Wireless

By: \_\_\_\_\_  
Name: David R. Heverling  
Title: Area Vice President Network  
Date: \_\_\_\_\_

Exhibit "A"

(Sketch of Premises within Property)



Coordinates: LAT: 39°57'10.79" N LONG: 76°43'59.32" W	Site Address: 377 Kings Mill Rd York, PA 17401
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LEASE EXHIBIT A  
SHEET 1 OF 1  
HARTLEY

City of York  
York County, PA

**RETTEW**  
RETTEW Associates, Inc.  
5031 Richard Lane, Suite 111, Mechanicsburg, PA 17055  
Phone (717) 897-3551 • Fax (717) 897-6853

DRAWN BY: RAW  
DATE: 06/13/14  
SCALE: 1"=50'  
DWG. NO. 041802469

Exhibit "B"

(Survey)

Exhibit "C"

(Form of Three Party Agreement)

(Form of Three Party Agreement)

THREE PARTY AGREEMENT

This Agreement made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_, with its principal offices located at \_\_\_\_\_, hereinafter designated "LESSOR" and \_\_\_\_\_ d/b/a Verizon Wireless, with its principal offices located at 180 Washington Valley Road, Bedminster, New Jersey, 07921, hereinafter called the "LESSEE" and \_\_\_\_\_, with a principal mailing address of \_\_\_\_\_, hereinafter called "Sublessee".

WHEREAS, LESSOR and LESSEE entered into an Option and Lease Agreement dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, hereinafter referred to as "Lease", with respect to a parcel of land located in \_\_\_\_\_, hereinafter referred to as "Premises";

WHEREAS, LESSEE and Sublessee have or are considering entering into a Sublease Agreement "Sublease" with respect to part of the Premises; and

WHEREAS, LESSOR, LESSEE and Sublessee desire to confirm and specify certain of the rights and obligations with respect to subleasing of the Premises.

NOW, THEREFORE, in consideration of the premises and intending to be legally bound hereby, LESSOR, LESSEE and Sublessee agree to the following:

1. LESSOR hereby confirms the right of the LESSEE to sublease and consents to the LESSEE's subleasing of part of the Premises to the Sublessee.

2. In the event LESSEE subleases part of the Premises to Sublessee, the Sublessee shall be required to pay to LESSOR an amount equal to \_\_\_\_\_ and No/100 Dollars (\$\_\_\_\_\_) per month in addition to the amounts required to be paid by Sublessee to LESSEE under the Sublease Agreement. The Sublessee shall pay the foregoing amounts directly to the LESSOR and the LESSEE in accordance with the time schedule for payment as set forth in the Sublease. The payment from the Sublessee shall be made to the LESSEE in accordance with the provisions of the Sublease and the payment from the Sublessee shall be made to the LESSOR at the address specified above, unless the LESSOR advises the Sublessee of another address or other payee upon thirty (30) days written notice. In the event the Sublessee fails to make payment to the LESSOR of any rental amount as set forth herein, the LESSOR may give Sublessee written notice of such non-payment at the address set forth above. Notice must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested or by commercial carrier, provided the carrier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following carrier's receipt from sender. The notice shall be deemed received by the Sublessee one day after it is delivered to a commercial carrier as set forth in the preceding sentence and three days after sent by certified mail or upon actual signed receipt by the Sublessee, whichever is earlier. After

receipt of such notice, the Sublessee shall have thirty (30) days in which to cure any non-payment. In the event that Sublessee fails to cure the non-payment within the time period set forth, such non-payment shall be deemed a breach of the Sublease, in which event either the LESSOR, at its option, or the LESSEE, at its option, may seek to enforce any and all remedies against the Sublessee respecting the Sublease, but in no event may LESSOR seek to terminate the Sublease. LESSEE will have no responsibility or liability to LESSOR if Sublessee fails to make payment to the LESSOR as set forth herein. Additionally, any non-payment by the Sublessee to the LESSOR shall not affect or negate in any way the Lease or LESSEE's rights to the Premises.

3. The LESSEE shall have the sole right to determine whether it will sublet any space to the Sublessee. The LESSEE shall have no liability of any nature to the LESSOR for failure to sublet any and or all of the Premises to the Sublessee.

4. The terms "Sublease", "sublet", "Sublessee" and any other similar terms shall apply to any situation by which the Sublessee comes upon the Premises for co-location, whether it be by formal sublease, license or other agreement.

5. Except as modified herein, all other terms and conditions of the Lease and Sublease shall remain in full force and effect. In the event of any contradictions between the terms of this Agreement and the Lease or Sublease, the terms of this Agreement shall prevail.

IN WITNESS WHEREOF, the undersigned have set their hands and seals the date and year first written above.

LESSOR

LESSEE

Verizon Wireless  
d/b/a Verizon Wireless,

By: EXHIBIT ONLY \_\_\_\_\_

By: EXHIBIT ONLY \_\_\_\_\_

SUBLESSEE

\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



hundred (2,500) square feet (the "Land Space"), together with the non-exclusive right (the "Rights of Way") for ingress and egress, seven (7) days a week twenty-four (24) hours a day, on foot or motor vehicle, including trucks over or along a twenty (20') foot wide right-of-way extending from the nearest public right-of-way, Kings Mill Road to the Land Space, and a ten (10') foot wide right-of-way for the installation and maintenance of utility wires, poles, cables, conduits, and pipes over, under, or along one or more rights of way from the Land Space, said Land Space and Rights of Way (hereinafter collectively referred to as the "Premises") being substantially as described herein in Exhibit "A" attached hereto and made a part hereof. The Property is also identified as Tax Parcel No. 08-177-01-0005.00-00000 and is further described in Instrument No. 2014050199 as recorded in the Office of the Recorder of Deeds in and for York County, Pennsylvania.

3. LESSEE has the right of first refusal to purchase the Premises during the initial term and all renewal terms of the Agreement.
4. The terms, covenants and provisions of the Agreement, the terms of which are hereby incorporated by reference into this Memorandum, shall extend to and be binding upon the respective executors, administrators, heirs, successors and assigns of LESSOR and LESSEE.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, hereunto and to a duplicate hereof, LESSOR and LESSEE have caused this Memorandum to be duly executed on the date first written hereinabove.

WITNESS:

\_\_\_\_\_

**LESSOR:**  
CITY OF YORK

By: \_\_\_\_\_  
Name: C. Kim Bracey  
Title: Mayor

By: \_\_\_\_\_  
Name: Robert F. Lambert  
Title: Controller

WITNESS:

\_\_\_\_\_

**LESSEE:**  
CELLCO PARTNERSHIP  
d/b/a Verizon Wireless

By: \_\_\_\_\_  
Name: David R. Heverling  
Title: Area Vice President Network

COMMONWEALTH OF PENNSYLVANIA )  
 ) ACKNOWLEDGMENT  
COUNTY OF YORK )

I, \_\_\_\_\_, a Notary Public for said County and State, do hereby certify that **C. KIM BRACEY** personally came before me this day and acknowledged that she is the Mayor of **CITY OF YORK**, and that she, as Mayor, being authorized to do so, executed the foregoing **MEMORANDUM OF LAND LEASE AGREEMENT** on behalf of **CITY OF YORK**.

WITNESS my hand and official Notarial Seal, this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

COMMONWEALTH OF PENNSYLVANIA )  
 ) ACKNOWLEDGMENT  
COUNTY OF YORK )

I, \_\_\_\_\_, a Notary Public for said County and State, do hereby certify that **ROBERT F. LAMBERT** personally came before me this day and acknowledged that he is the Controller of **CITY OF YORK**, and that he, as Controller, being authorized to do so, executed the foregoing **MEMORANDUM OF LAND LEASE AGREEMENT** on behalf of **CITY OF YORK**.

WITNESS my hand and official Notarial Seal, this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

**Not**

**Not**

COMMONWEALTH OF MASSACHUSETTS )

COUNTY OF WORCESTER )

**ACKNOWLEDGMENT**

I, \_\_\_\_\_, a Notary Public for said County and State, do hereby certify that **DAVID R. HEVERLING** personally came before me this day and acknowledged that he is the Area Vice President Network of **CELLCO PARTNERSHIP** d/b/a Verizon Wireless, and that he, as Area Vice President Network, being authorized to do so, executed the foregoing **MEMORANDUM OF LAND LEASE AGREEMENT** on behalf of **CELLCO PARTNERSHIP** d/b/a Verizon Wireless.

WITNESS my hand and official Notarial Seal, this \_\_\_\_ day of \_\_\_\_\_, 2014.

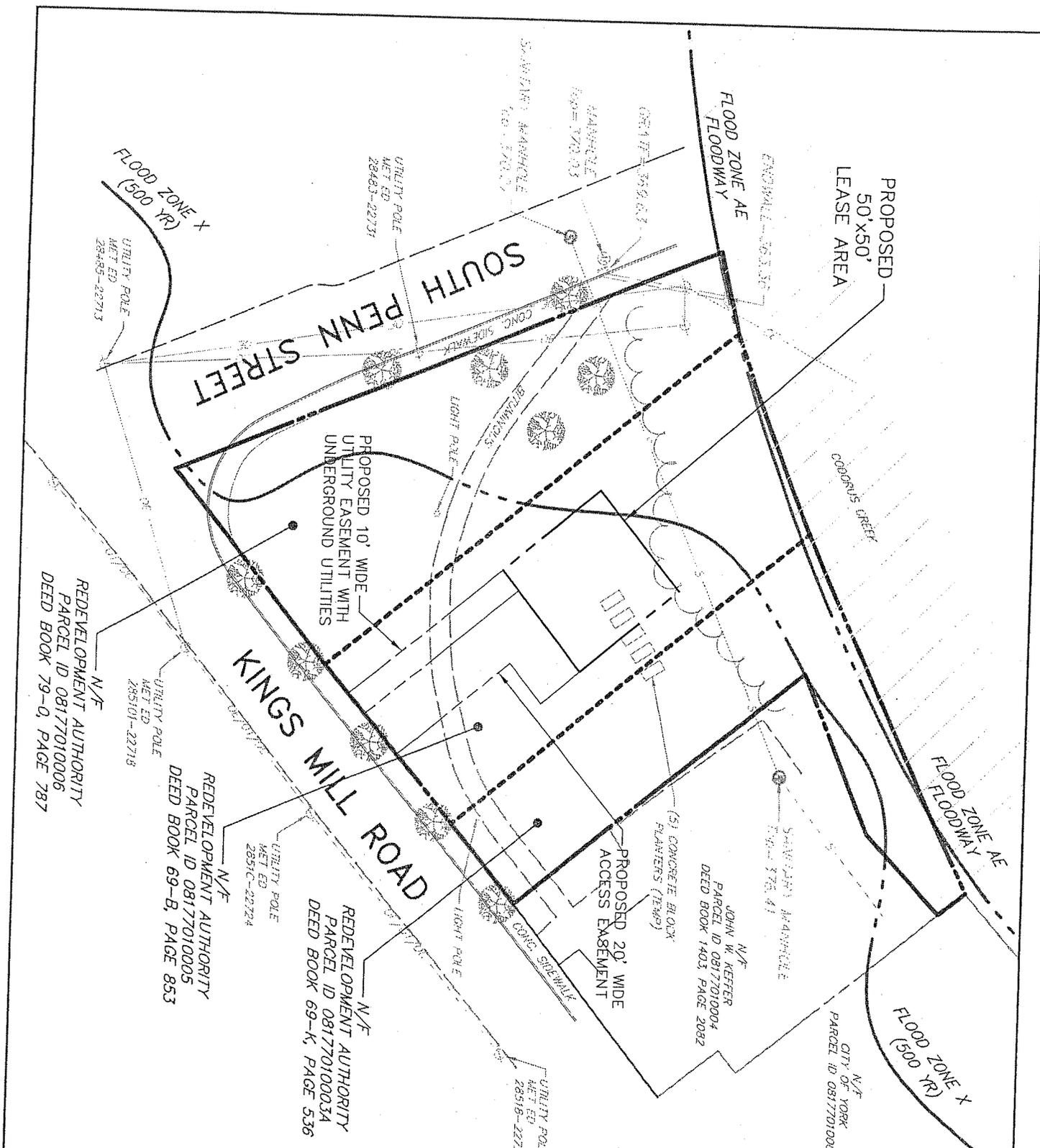
\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

Exhibit "A"

(Sketch of Premises within Property)



<b>Coordinates:</b> LAT: 39°57'10.79" N LONG: 76°43'59.32" W	<b>Site Address:</b> 377 Kings Mill Rd York, PA 17401
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LEASE EXHIBIT A  
SHEET 1 OF 1  
**HARTLEY**

City of York  
York County, PA

**RETTEW**  
RETTEW Associates, Inc.  
2031 Richard Lane, Suite 111, Mechanicsburg, PA 17055  
Phone (717) 697-3551 • Fax (717) 697-8953

DRAWN BY:	RAW
DATE:	06/13/14
SCALE:	1"=50'
DWG. NO.	041802469

Duncan Masemore  
Verizon Wireless  
4642 Jonestown Road  
Suite 200  
Harrisburg, PA 17109

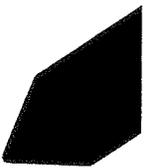
Dear Mr. Masemore:

Cellco Partnership d/b/a Verizon Wireless is hereby authorized to file any necessary zoning, land development and permit applications with the City of York for any approvals required for the construction of a wireless communications tower facility on the property located at 377 Kings Mill Road, City of York, York County, Pennsylvania.

Sincerely,

CITY OF YORK

By: \_\_\_\_\_  
Name:  
Title:



SITE NAME: YOR Hartley  
SITE NUMBER: 20130984814  
LOCATION CODE: 280484  
ATTORNEY: James M. Strong  
DATE: 1/5/2015

## SITE ACCESS AGREEMENT

This Site Access and Indemnity Agreement (this “**Agreement**”) is executed by CELLCO PARTNERSHIP d/b/a Verizon Wireless (the “**Licensee**”), whose principal business address is 180 Washington Valley Road, Bedminster, NJ 07921, and CITY OF YORK, (the “**Owner**”) whose mailing address is 101 South George Street, P.O. Box 509, York Pennsylvania 17405.

### BACKGROUND

As part of Licensee’s investigations and consideration pertaining to the suitability of that certain real property (the “**Property**”) located in York County, Pennsylvania, as more fully described in Exhibit “A”, attached hereto and incorporated herein, for the placement, maintenance and use of a communications facility and appurtenant uses, the Owner has agreed to grant to Licensee and other persons, as described herein, a license, among other things, to conduct environmental inspection, testing and sampling activities on the Property.

The purpose of this Agreement is to memorialize the understandings of Licensee and Owner regarding the foregoing investigations, including without limitation, the terms and conditions of the environmental testing and sampling to be conducted by Licensee’s authorized agents, contractors, consultants and employees, and to enter a site access license to implement same.

NOW THEREFORE, in consideration of the mutual promises, covenants, undertakings, and other considerations set forth in this License, Licensee and Owner agree as follows:

1. **Ownership & Effect.** Owner hereby represents to Licensee that: (1) Owner is the owner of the Property; (2) Owner has exclusive and absolute control over the Property and has not granted to another party the right to use the Property; and (3) Owner is under no legal obligation to restrict Licensee’s access or use of the Property in a manner inconsistent with the terms of this Agreement. The Owner hereby grants a license that is limited in purpose and scope to the least amount of access which is required to undertake and fully complete the investigations contemplated herein, and this Agreement does not represent a lease or create in Licensee, any interest in the Property or any other property owned by the Owner or create a partnership, joint venture or any association or relationship between the Owner and Licensee.

2. **Access to Property and Owner’s Consent.** Owner grants to Licensee and its agents, advisors, employees, consultants, representatives, and independent contractors, including environmental contractors and consultants hired directly or indirectly by Licensee (collectively, the “**Licensee Representatives**”), the right, but not the obligation, of ingress to, egress from, and access under, above, and through, the Property for the purpose of allowing the Licensee Representatives to: (1) conduct radio tests, including the placing of radio broadcast/receive equipment on the Property for necessary periods; and (2) conduct physical, structural and geotechnical testing; and (3) conduct environmental inspections, tests, collect samples of soil, water, soil vapor, indoor air, building materials and other substances, including in regard to painted surfaces, sufficient samples of paint by removing it from the structure for laboratory analysis, and perform any other environmental assessment activities that they reasonably determine to be appropriate; and (4) establish wetland and other natural system jurisdictional delineations

in cooperation with the appropriate governmental agencies; and (5) conduct boundary and other surveys deemed necessary by Licensee, in Licensee's sole discretion. Without limiting the generality of the foregoing, the Licensee Representatives may drill into the soil, drill through pavement, remove reasonable amounts of soil, install and sample monitoring wells, and perform other tests, actions, procedures, and treatments to assess (A) the environmental condition of the Property and (B) past or present compliance with all environmental, health and safety laws applicable to the Property and (C) the business operations conducted on the Property and (D) the structural, electro-mechanical, radio broadcast/receive, or other attributes of the Property necessary to assess its suitability as a communications facility. The Licensee Representatives shall undertake all activities on the Property in compliance with applicable laws and shall use commercially reasonable efforts to minimize the extent and duration of any interference with Owner's business operations on the Property. As between the Owner and the Licensee, the cost of all such activities shall be the responsibility of Licensee.

3. **Advance Notice.** Before undertaking any activity on the Property, Licensee Representatives shall give Owner reasonable advance notice, either orally (by telephone or in person), or in writing, of planned activity that can reasonably be expected to require invasive activities into the Property's subsurface, including notice of the areas of the Property that are expected to be materially affected by any sampling, monitoring, installation, or similar action. Notwithstanding anything contained herein to the contrary, 48 hours advance notice given by the Licensee to the Owner shall constitute reasonable advance notice for purpose of this Agreement.

4. **Installation, Sampling, and Removal.** Owner shall cooperate with the Licensee Representatives regarding all installation, monitoring, sampling, removal, and related activities that Licensee Representatives desire to conduct on the Property. Owner shall cooperate in locating buried utilities and improvements on the Property at the request of any agent or contractor of Licensee and shall assist the Licensee Representatives in avoiding impacts to such buried or concealed features. At the Owner's specific request, Licensee Representatives shall use commercially reasonable efforts to schedule its activities to avoid times of peak business activity on the Property. Owner authorizes Licensee Representatives to obstruct temporarily, but for a reasonable period of time, access to, or use of, limited areas of the Property for the purpose of safety, operation of equipment, testing and sampling activities, and installation or removal of monitoring wells. Licensee Representatives may use any electrical or other utility outlets or connections on the Property to conduct its activities. Licensee Representatives shall split all samples with Owner upon Owner's request, so long as Owner pays for any and all additional cost incurred by the Licensee Representatives in this regard. After completing the activities contemplated by this License, Licensee shall ensure that Licensee Representatives remove their equipment and restore any part of the Property that was affected by its activities to a condition that is substantially similar to the condition of the Property at the time immediately preceding the commencement of said activities.

5. **Indemnification.** (a) Licensee shall indemnify and hold harmless Owner from damage to the Property to the extent caused by any of the Licensee Representatives as a result of the activities of Licensee Representatives on the Property. Owner shall promptly notify Licensee and the affected contractor or party in writing of any damage to the Property that has allegedly been caused by any Licensee Representatives pursuant to any activity of Licensee Representatives on the Property, and Licensee shall not have any liability or obligation to indemnify or hold harmless Owner for any damage to the Property unless Licensee receives from Owner written notice of the damage within 30 days of the alleged damage. Licensee's obligations to indemnify and hold harmless pursuant to this agreement are also conditioned upon (a) Licensee being provided with the opportunity to fully manage any indemnified matter as it deems appropriate (including any required remediation or defense of claims) with employees, agents, contractors, consultants and attorneys of Licensee's choosing and the reasonable cooperation of

{A4282742:1}

any indemnified party (including the signing of any properly completed forms that will allow for the continued current use of the property). Before it will be liable to provide any monetary payment to Owner for any indemnified damage to the Property, Licensee and the affected Licensee Representatives shall have the right to restore the part of the Property that has been damaged, using contractors and consultants selected by them. The site access granted to the Licensee and/or Licensee Representatives pursuant to this Agreement extends to any repair or restoration work required to remediate any damage to the Property that is indemnified pursuant to this Section. (b) Owner hereby agrees to indemnify and hold Licensee and the Licensee Representatives harmless from: (1) penalties, legal actions, or suits from regulatory or third party sources the basis of which are not directly related to the actions or inactions of the Licensee or Licensee Representative, and (2) any type of cost, expense or liability the basis of which are not directly related to the actions or inactions of the Licensee or Licensee Representative and (3) any other damages or injuries to Licensee Representatives persons and/or property which arise from or relate to: (i) any existing hazardous waste, pollutant or hazardous substance presence or release associated with or related to the Property, (ii) any act or omission of Owner or Owner's tenants, invitees, licensees or other Owner-authorized persons, (iii) any condition or other appurtenance of the Property which was not fully disclosed to Licensee Representatives as to its nature, location and peril, or (iv) any misrepresentation in or breach of warranty of this Agreement.

6. **Confidentiality and Test Results.** Owner understands and acknowledges that the environmental testing to be undertaken herein may create legal duties applicable solely to Owner if conditions of pollution are discovered. Licensee has advised the Licensee Representatives and its contractors to make laboratory test results, wetland and other surveys, and sample locations available to Owner upon Owner's request. However, any reports prepared by Licensee's contractors are confidential, and Licensee may, but is not obligated to provide its confidential reports, other than laboratory test reports and sample locations, to Owner. Owner acknowledges and agrees that it is the sole and lawful owner of any samples that are taken during the activities undertaken pursuant to this License, and any investigation-derived media (i.e., drill cuttings, well purge water) generated by the investigation, and that this media may require off-site disposal based upon test results. Owner agrees to execute all manifests as requested by Licensee Representatives for proper disposal. The cost of off-site disposal of media will be paid for by Licensee or the appropriate Licensee Representative, not Owner.

(a) Owner understands and acknowledges that when it is provided test results regarding the environmental condition of the Property, that Owner may have obligations to report such conditions to the appropriate regulatory agency(s). Licensee accepts no responsibility for such reporting, as Licensee does not own, operate, control or otherwise have any interest in the Property at the time of "discovery" of any such condition.

(b) None of the test or inspection results are warranted or guaranteed for any reason whatsoever. Owner understands and acknowledges that any investigation performed by Licensee is solely for the purpose of Licensee obtaining comfort with the condition of the property. The inspections are not intended to comply with any regulatory requirements or to uncover all contamination or conditions that may exist at the time of the inspections. Owner shall not rely upon the test and/or inspection results as being accurate or sufficient for any particular purpose.

7. **Termination.** This Agreement may be terminated at any time by mutual written agreement of the parties or otherwise, shall terminate automatically on the earlier of: (1) execution of a lease agreement for any part of the Property between Licensee and Owner, or (2) the date of January 5, 2016.

{A4282742:1}

8. **Waiver; Modification; Severability.** An extension, amendment, modification, cancellation, or termination of this Agreement will be valid and effective only if it is in writing and signed by each party to this Agreement, except as provided otherwise in this Agreement. In addition, a waiver of any duty, obligation, or responsibility of a party under this Agreement will be valid and effective only if it is evidenced by a writing signed by, or on behalf of, the party against whom the waiver or discharge is sought to be enforced. Whenever possible, each provision of this Agreement should be construed and interpreted so that it is valid and enforceable under applicable law. However, if a provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, that provision will be deemed severable from the remaining provisions of this Agreement and will not affect the validity, interpretation, or effect of the other provisions of this Agreement or the application of that provision to other circumstances in which it is valid and enforceable.

9. **Assignment; Third Party Beneficiaries.** Neither the entry of this Agreement or any action taken by Licensee hereunder shall create any third party beneficiary or third party beneficiary rights.

10. **Legal Matters.** The validity, construction, enforcement, and interpretation of this Agreement are governed by the laws of the Commonwealth of Pennsylvania and the federal laws of the United States of America.

11. **Notices.** Except for oral notices specifically authorized in this Agreement, every notice, consent, demand, request, and approval required or permitted by this Agreement will be valid only if it is in writing, delivered personally or by e-mail, telecopy, commercial courier, or first class, postage prepaid, United States mail (whether or not certified or registered and regardless of whether a return receipt is requested or received by the sender), and addressed by the sender to the intended recipient at its address set forth in the first paragraph of this Agreement, or to such other address as the intended recipient may designate by notice given to the sender in accordance with this section. A validly given notice, consent, demand, request, or approval will be effective on the earlier of its receipt, if delivered personally or by e-mail, telecopy, or commercial courier, or the third day after it is postmarked by the United States Postal Service, if delivered by first class, postage prepaid, United States mail. Each party promptly shall notify the other of any change in its mailing address or telephone contact number stated in this Agreement.

12. **Complete Agreement; Survival.** This Agreement records the entire understanding between the parties regarding the subjects addressed in it and supersedes any previous or contemporaneous agreement, understanding, or representation, oral or written, by either of them.

13. **Execution and Effectiveness.** The parties may execute this Agreement in counterparts. Each executed counterpart will constitute an original document, and all executed counterparts, together, will constitute the same agreement. This Agreement will become effective upon the last signatory's delivery of the fully executed document to the other party, and the last signatory shall fill in the "Executed" date below prior to such delivery.

(Signature Page to Follow)

EXECUTED: \_\_\_\_\_, 20\_\_.

**OWNER:**

CITY OF YORK

By: \_\_\_\_\_  
Name: C. Kim Bracey  
Title: Mayor  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: Robert F. Lambert  
Title: Controller  
Date: \_\_\_\_\_

**LICENSEE:**

CELLCO PARTNERSHIP  
d/b/a Verizon Wireless

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

The undersigned "Licensee Representative" has reviewed this Agreement and hereby agrees to comply with all obligations pertaining to, and imposed on, Licensee Representatives contained herein.

Agreed to and accepted by:

TRILEAF CORPORATION

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**Exhibit "A"**

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