

SECOND AMENDMENT TO
LEASE AGREEMENT
(BU 823980)

THIS SECOND AMENDMENT TO LEASE AGREEMENT (“Second Amendment”) is made effective this ____ day of _____, 2018, by and between the CITY OF PENSACOLA, a Florida municipal corporation (“Lessor”), and T-MOBILE USA TOWER LLC, a Delaware limited liability company (“Lessee”), by and through CCTMO LLC, a Delaware limited liability company, its Attorney-in-Fact.

WHEREAS, Lessor and Digiph PCS, Inc., an Alabama corporation (“Digiph”), entered into a Lease Agreement dated June 28, 2000 (as amended and assigned, the “Lease”), whereby Lessor leased to Digiph a portion of that property (said leased portion being the “Subject Property”) located at 3200 East Lakeview Avenue (Tax Parcel # 33-1S-30-0501-000-001), Pensacola, Escambia County, State of Florida, and being further described in Book 543, Page 296 in the Escambia County Clerk’s Office for the Escambia County Circuit Court (“Clerk’s Office”), together with those certain access, utility and/or maintenance easements and/or rights of way granted in the Lease; and

WHEREAS, Lessor and Eliska Wireless Ventures, Inc. (“Eliska”), as successor in interest in the Lease to Digiph, entered into that certain First Amendment to Lease Agreement dated March 28, 2001 (“First Amendment”), whereby the parties amended the description of the Subject Property; and

WHEREAS, Lessee is successor in interest in the Lease to Eliska; and

WHEREAS, the term of the Lease commenced on June 1, 2000, and has an original term, including all renewal terms, that will expire on May 31, 2025 (“Original Term”), and Lessor and Lessee now desire to amend the terms of the Lease to provide for additional renewal terms beyond the Original Term, and to make other changes.

NOW THEREFORE, in exchange for the mutual promises contained herein, Lessor and Lessee agree to amend the Lease as follows:

1. Any capitalized terms not defined herein shall have the meanings ascribed to them in the Lease. The recitals in this Second Amendment are incorporated herein by this reference.

2. Section 2 of the Lease is amended by adding the following to the end thereto:

Thereafter, LESSEE has the option to renew this Lease for five (5) additional five (5)-year renewal terms, which LESSEE may exercise by providing written notice to LESSOR of its intent to renew not less than sixty (60) days prior to the end of the then current term, extending the total term of this Lease to May 31, 2050, unless sooner terminated as may be provided for in this Lease.

3. Section 4 of the Lease is amended by the following:

(a) Deleting the first sentence in its entirety and replacing it with the following:

As consideration for the right to exclusively use and lease the Subject Property, if, after full execution of the Second Amendment to this Lease, LESSEE subleases, licenses or grants a similar right of use or occupancy in the Subject Property to an unaffiliated third party (each a “**Subtenant**”), LESSEE agrees to pay to LESSOR thirty percent (30%) of the rental, license or similar payments actually received by LESSEE from each such Subtenant (excluding any reimbursement of taxes, construction costs, installation costs, or revenue share reimbursement) (“**Revenues**”). For any existing Subtenant for which LESSEE is paying twenty percent (20%) of Revenues, such amount shall be increased to thirty percent (30%) upon full execution of the Second Amendment to this Lease. Lessee shall have no obligation for payment to LESSOR of such share of rental, license or similar payments if not actually received by LESSEE. Non-payment of such rental, license or other similar payment by a Subtenant shall not be an event of default under this Lease. LESSEE shall have sole discretion as to whether, and on what terms, to sublease, license or otherwise allow occupancy of the Subject Property and there shall be no express or implied obligation for LESSEE to do so. LESSOR acknowledges that LESSOR shall have no recourse against LESSEE as a result of the failure of payment or other obligation by a Subtenant.

On June 1, 2019, in addition to the Revenues received by LESSOR pursuant to this Section 4, LESSEE shall pay annual rent (“**Rent**”) to LESSOR in the amount of Twelve Thousand and 00/100 Dollars (\$12,000.00). Commencing on June 1, 2020, and on the anniversary of that date each year thereafter (the “**Adjustment Date**”), the annual Rent, excluding Revenues, shall increase based on the Consumer Price Index published by the Bureau of Labor and Statistics of the United States Department of Labor for all Urban Consumers, US City Average, All Items, Not Seasonally Adjusted, Base Period 1982-84=100 (“**CPI-U**”) indicator and shall be determined by dividing the CPI-U indicator, published three (3) months prior to the Adjustment Date, by the CPI-U indicator published one (1) year and three (3) months prior to the Adjustment Date, and multiplying the resultant number by the annual lease rental amount of the most recent Rent. In no event shall the increase in Rent calculated for any one (1) year period exceed three percent (3%) of the most recent Rent. In the event of a decrease in the CPI-U indicator, the Rent will not decrease but will remain the same as in the previous year.

4. Section 17 of the Lease is amended by deleting Lessee’s notice addresses and inserting the following:

If to LESSEE:

T-Mobile USA Tower LLC

c/o CCTMO LLC
Attn: Legal Department
2000 Corporate Drive
Canonsburg, PA 15317

With a copy to:

T-Mobile USA Tower LLC
12920 S.E. 38th Street
Bellevue, Washington 98006
Attn: Leasing Administration

5. The Lease is amended by adding a new Section 33 to the end thereto:

33. **RIGHT OF FIRST REFUSAL.** If LESSOR receives a bona fide written offer that it intends to accept from a third party seeking an assignment or transfer of rent payments associated with this Lease (“Rental Stream Offer”), LESSOR shall immediately furnish LESSEE with a copy of the Rental Stream Offer. LESSEE shall have the right of first refusal, to be exercised within thirty (30) days after it receives such copy, to acquire the same interest as in the Rental Stream Offer by providing notice of its intent to exercise such right on the same terms and conditions as in the Rental Stream Offer, excluding any terms or conditions of the Rental Stream Offer that are (a) not imposed in good faith, or (b) directly or indirectly designed to defeat or undermine LESSEE’s possessory or economic interest in the Subject Property. Such writing shall be in the form of a contract substantially similar to the Rental Stream Offer and may, at LESSEE’s discretion, provide for a due diligence period of sixty (60) days unless a longer due diligence period is provided in the Rental Stream Offer. If LESSEE chooses not to exercise this right by failing to provide written notice to LESSOR within the thirty (30) day period or providing notice of LESSEE’s intent not to exercise its right of first refusal to match the Rental Stream Offer, LESSOR may assign the right to receive rent payments pursuant to the Rental Stream Offer, subject to the terms of this Lease. If LESSOR attempts to assign or transfer rent payments without complying with this provision, the assignment or transfer shall be void. LESSEE shall not be responsible for any failure to make payments under this Lease and reserves the right to hold payments due under this Lease until LESSOR complies with this provision. LESSEE shall have the right, at its sole discretion, to assign its right of first refusal provided for herein to any person or entity, either separate from an assignment of this Lease or as part of an assignment of this Lease. Such assignment by LESSEE may occur either prior to or after LESSEE’s receipt of LESSOR’s notice and the assignment shall be effective upon written notice to LESSOR.

6. As additional consideration for amending the Lease in accordance with this Second Amendment, Lessee agrees to pay to Lessor Five Thousand and 00/100 Dollars (\$5,000.00) within sixty (60) days of full execution of this Second Amendment by both parties.

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

(a) Lessor is duly authorized to and has the full power and authority to enter into this Second Amendment and to perform all of Lessor's obligations under the Lease as amended hereby.

(b) Except as expressly identified in this Second Amendment, Lessor owns the Subject Property free and clear of any mortgage, deed of trust, or other lien secured by any legal or beneficial interest in the Subject Property, or any right of any individual, entity or governmental authority arising under an option, right of first refusal, lease, license, easement or other instrument other than any rights of Lessee arising under the Lease as amended hereby and the rights of utility providers under recorded easements.

(c) Upon Lessee's request, Lessor shall discharge and cause to be released (or, if approved by Lessee, subordinated to Lessee's rights under the Lease as amended hereby) any mortgage, deed of trust, lien or other encumbrance that may now or hereafter exist against the Subject Property.

(d) Upon Lessee's request, Lessor shall cure any defect in Lessor's title to the Subject Property which in the reasonable opinion of Lessee has or may have an adverse effect on Lessee's use or possession of the Subject Property.

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

(f) Lessor agrees to execute and deliver such further documents and provide such further assurances as may be requested by Lessee to effect any release or cure referred to in this paragraph, carry out and evidence the full intent and purpose of the parties under the Lease as amended hereby, and ensure Lessee's continuous and uninterrupted use, possession and quiet enjoyment of the Subject Property under the Lease as amended hereby.

(g) Lessor acknowledges that the Subject Property, as defined, shall include any portion of Lessor's property on which communications facilities or other Lessee improvements exist on the date of this Second Amendment.

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

9. IRS Form W-9. Lessor agrees to provide Lessee with a completed IRS Form W-9, or its equivalent, upon execution of this Second Amendment and at such other times as may be reasonably requested by Lessee. In the event the Subject Property is transferred, the succeeding Lessor shall have a duty at the time of such transfer to provide Lessee with a completed IRS Form

W-9, or its equivalent, and other related paper work to effect a transfer in rent to the new Lessor. Lessor's failure to provide the IRS Form W-9 within thirty (30) days after Lessee's request shall be considered a default and Lessee may take any reasonable action necessary to comply with IRS regulations including, but not limited to, withholding applicable taxes from rent payments.

10. In all other respects, the remainder of the Lease shall remain in full force and effect. Any portion of the Lease that is inconsistent with this Second Amendment is hereby amended to be consistent with this Second Amendment. All of the provisions hereof shall inure to the benefit of and be binding upon Lessor and Lessee, and their personal representatives, heirs, successors and assigns. This Second Amendment may be executed in two or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument, it being understood that all parties need not sign the same counterparts.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Lessor and Lessee have signed this instrument under seal, and have caused this Second Amendment to be duly executed on the day and year first written above.

LESSOR:

Attest:

City of Pensacola,
a Florida municipal corporation

Print Name: _____

By: _____ (SEAL)

Print Name: _____

Title: _____

Witnesses:

Print Name: _____

Print Name: _____

IN WITNESS WHEREOF, Lessor and Lessee have signed this instrument under seal, and have caused this Second Amendment to be duly executed on the day and year first written above.

LESSEE:

Witnesses:

Ebony Gee
Print Name: Ebony Gee

Nicole Arlette Benton
Print Name: Nicole Arlette Benton

T-Mobile USA Tower LLC,
a Delaware limited liability company

By: CCTMO LLC,
a Delaware limited liability company,
its Attorney in Fact

By: *Lisa A. Sedgwick* (SEAL)
Print Name: Lisa A. Sedgwick
Title: Senior Transaction Manager

Prepared Out of State.

Return to:
Crown Castle
1220 Augusta, Suite 500
Houston, Texas 77057

Tax Map #: 33-1S-30-0501-000-001

MEMORANDUM OF SECOND AMENDMENT TO
LEASE AGREEMENT

THIS MEMORANDUM OF SECOND AMENDMENT TO LEASE AGREEMENT (“Memorandum”) is made effective this ____ day of _____, 2018, by and between the CITY OF PENSACOLA, a Florida municipal corporation (“Lessor”), with a mailing address of PO Box 12910, Pensacola, FL 32521, and T-MOBILE USA TOWER LLC, a Delaware limited liability company (“Lessee”), by and through CCTMO LLC, a Delaware limited liability company, its Attorney-in-Fact, with a mailing address of c/o Crown Castle USA Inc., 2000 Corporate Drive, Canonsburg, Pennsylvania 15317-8564.

WHEREAS, Lessor and Digiph PCS, Inc., an Alabama corporation (“Digiph”), entered into a Lease Agreement dated June 28, 2000 (as amended and assigned, the “Lease”), whereby Lessor leased to Digiph a portion of that property (said leased portion being the “Subject Property”) located at 3200 East Lakeview Avenue (Tax Parcel # 33-1S-30-0501-000-001), Pensacola, Escambia County, State of Florida, and being further described in Book 543, Page 296 in the Escambia County Clerk’s Office for the Escambia County Circuit Court (“Clerk’s Office”), together with those certain access, utility and/or maintenance easements and/or rights of way granted in the Lease; and

WHEREAS, Lessor and Eliska Wireless Ventures, Inc. (“Eliska”), as successor in interest in the Lease to Digiph, entered into that certain First Amendment to Lease Agreement dated March 28, 2001 (“First Amendment”), whereby the parties amended the description of the Subject Property; and

WHEREAS, Lessee is successor in interest in the Lease to Eliska; and

WHEREAS, the term of the Lease commenced on June 1, 2000, and has an original term, including all renewal terms, that will expire on May 31, 2025 ("Original Term"), and Lessor and Lessee now desire to amend the terms of the Lease to provide for additional renewal terms beyond the Original Term, and to make other changes; and

WHEREAS, Lessor and Lessee made and entered into a Second Amendment to Lease Agreement of even date herewith ("Second Amendment") and pursuant to the terms of, and for that consideration recited in, the Second Amendment, the parties wish to hereby amend certain provisions of the Lease, and provide this Memorandum as notice thereof, as follows:

1. Lessor does hereby lease and grant unto Lessee, its successors and assigns, the Subject Property for five (5) additional five (5)-year renewal terms beyond the Original Term, such that the Original Term and all renewal terms of the Lease may last for a term of fifty (50) years, expiring on May 31, 2050, unless sooner terminated as provided in the Lease.

2. The Subject Property is a portion of that property located at 3200 East Lakeview Avenue (Tax Parcel # 33-1S-30-0501-000-001), Pensacola, Escambia County, State of Florida, and being further described in Book 543, Page 296 in the Clerk's Office. A description of said Subject Property is attached hereto as Exhibit A.

3. If Lessor receives a bona fide written offer that it intends to accept from a third party seeking an assignment or transfer of rent payments associated with the Lease ("Rental Stream Offer"), Lessor shall immediately furnish Lessee with a copy of the Rental Stream Offer. Lessee shall have the right of first refusal, to be exercised within thirty (30) days after it receives such copy, to acquire the same interest as in the Rental Stream Offer by providing notice of its intent to exercise such right on the same terms and conditions as in the Rental Stream Offer, excluding any terms or conditions of the Rental Stream Offer that are (a) not imposed in good faith, or (b) directly or indirectly designed to defeat or undermine Lessee's possessory or economic interest in the Subject Property. The details of the right of first refusal granted to Lessee in the Second Amendment are provided in the Second Amendment.

4. This Memorandum contains only selected provisions of the Second Amendment, and reference is made to the full text of the Lease and the Second Amendment for their full terms and conditions, which are incorporated herein by this reference. Except as otherwise provided in the Second Amendment and this Memorandum, the terms and conditions of the Lease remain in full force and effect. This Memorandum may be executed in two or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument, it being understood that all parties need not sign the same counterparts. A copy of the Lease and its amendments are located at the office of the Lessee.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Lessor and Lessee have signed this instrument under seal, and have caused this Memorandum to be duly executed on the day and year first written above.

LESSOR:

Attest:

City of Pensacola,
a Florida municipal corporation

Print Name: _____

By: _____ (SEAL)

Print Name: _____

Title: _____

Witnesses:

Print Name: _____

Print Name: _____

STATE OF _____)

) SS:

COUNTY OF _____)

The foregoing Memorandum of Second Amendment to Lease Agreement was signed, sealed, delivered, and acknowledged before me this ____ day of _____, 2018, by _____ (Title), of the City of Pensacola, a Florida municipal corporation, for and on behalf of the city who [] is personally known to me or who [] produced a _____ as identification.

(Seal)

Notary Public

Print Name:

My Commission Expires: _____

IN WITNESS WHEREOF, Lessor and Lessee have signed this instrument under seal, and have caused this Memorandum to be duly executed on the day and year first written above.

LESSEE:

TENANT:

Witnesses:

T-MOBILE USA TOWER LLC
a Delaware limited liability company

Print Name: _____

By: CCTMO LLC,
a Delaware limited liability company
its Attorney in Fact

Print Name: _____

By: _____ (SEAL)

Print Name: _____

Title: _____

STATE OF _____)

) SS:

COUNTY OF _____)

The foregoing Memorandum of Second Amendment to Lease Agreement was signed, sealed, delivered, and acknowledged before me this ____ day of _____, 2018, by _____ (Title), of CCTMO LLC, a Delaware limited liability company, as Attorney in Fact for T-Mobile USA Tower LLC, a Delaware limited liability company, for and on behalf of the company who [] is personally known to me or who [] produced a _____ as identification.

(Seal)

Notary Public
Print Name:

My Commission Expires: _____

EXHIBIT A

The Subject Property is a portion of the following described property located at 3200 East Lakeview Avenue (Tax Parcel # 33-1S-30-0501-000-001), Pensacola, Escambia County, State of Florida, and being further described in Book 543, Page 296 in the Clerk's Office:

BEGINNING at the intersection of the north line of Fifteenth Street (Lakeview Avenue) and the East line of Watson Avenue prolong as shown on map of East Pensacola Heights, as recorded in Deed Book 77, page 520 of the public records of Escambia County, Florida; thence along the North line of Fifteenth Street S 86°48' E 239.8 feet to an iron pipe; thence N 03°12' E 800 feet to an iron pipe; thence N 86°48' W 800 feet to an iron pipe; thence S 03°12' W 800 feet to an iron pipe on the north line of Fifteenth Street; thence along the north line of Fifteenth Street S 86°48' E 560.2 feet to the point of beginning, containing 14.69 acres, more or less, and located in Escambia County, Florida;

LESS, EXCEPT AND RESERVING unto the UNITED STATES OF AMERICA, its successors or assigns, along with the unrestricted right of ingress and egress, a parcel of land described as follows:

COMMENCE at the intersection of the north right of way line of Lakeview Avenue (formerly 15th Street) with the northerly extension of the east right of way line of Watson Avenue as shown on the map of East Pensacola Heights, as recorded in Deed Book 77, page 520 of the public records of Escambia County, Florida; thence N 86°48' W along the North right of way line of Lakeview Avenue 142.53 feet; thence N 03°12' E 241.23 feet to the point of beginning, hereafter referred to as "Point A," thence N 69°17' W, 200 feet; thence N 20°43' E, 200 feet; thence S 69°17' E, 200 feet; thence S 20°43' W 200 feet to the point of beginning.

The above described parcel lies within Section 2 and Section 5, Township 2 South, Range 29 West, Escambia County, Florida, and contains .92 acre, more or less.

ALSO RESERVING unto the UNITED STATES OF AMERICA, its successors and assigns, along with the unrestricted right of ingress and egress, a power cable easement ten (10) feet in width, more particularly described as follows:

A strip of land ten (10) feet wide lying five (5) feet to the right and left of the following described line:

COMMENCE at "Point A" as described above; thence N 69°17' W 94.68 feet to the point of beginning of said centerline; thence S 44°06' W, 296 feet to the end of said easement.

AND ALSO RESERVING unto the UNITED STATES OF AMERICA, its successors and assigns, along with the unrestricted right of ingress and egress, an easement covering ground radials ten (10) feet wide extending from the tower as follows:

N 41°45' W a distance of 39 feet beyond the Government plot; N 03°12' E a distance of 60 feet beyond the Government plot; N 48°12' E a distance of 55 feet beyond the Government plot; S 86°48' E a distance of 43 feet beyond the Government plot; S 41°48' E a distance of 33 feet beyond the Government plot.